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Minna Viuhko, Anni Lietonen,
Anniina Jokinen and Matti Joutsen (eds.)

EXPLOITATIVE SHAM MARRIAGES: EXPLORING THE LINKS BETWEEN HUMAN TRAFFICKING AND SHAM MARRIAGES IN ESTONIA, IRELAND, LATVIA, LITHUANIA AND SLOVAKIA

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EXPLOITATIVE SHAM MARRIAGES: EXPLORING THE LINKS BETWEEN HUMAN TRAFFICKING AND SHAM MARRIAGES IN ESTONIA, IRELAND, LATVIA, LITHUANIA AND SLOVAKIA

Minna Viuhko, Anni Lietonen, Anniina Jokinen and Matti Joutsen (eds.)

Project: Preventing human trafficking and sham marriages:
A multidisciplinary solution (HESTIA)

Helsinki 2016

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LIST OF ABBREVIATIONS

AHTT – Anti-Human Trafficking Team

AIA – Administrative Immigration Arrangements for the Protection of Victims of Human Trafficking

CEDAW – Committee on the Elimination of Discrimination against Women

CJEU – Court of Justice of the European Union

CL – Criminal Law

ECHR – European Convention on Human Rights

EEA – European Economic Area

EU – European Union

GNIB – Garda National Immigration Bureau

GNPSB – Garda National Protection Services Bureau

GRETA – Council of Europe Group of Experts on Action against Trafficking in Human Beings

HRC – habitual residence condition

HSE – Health Services Executive

ILO – International Labour Organization

INIS – Irish Naturalisation and Immigration Service

LFT – NGO Living For Tomorrow

NRM – National Referral Mechanism

NGO – non-governmental organisation

OCCB – Organised Crime Combating Board of the Main Criminal Police Board of the State Police

OCMA – Office of Citizenship and Migration Affairs

RIA – Reception and Integration Agency

TCN – third-country national (a person who is not a citizen of the EU or EEA)

UNODC – United Nations Office on Drugs and Crime

FOREWORD

Trafficking in human beings is a topical issue across the world, and different public authorities, law enforcement agencies and non-governmental organisations carry out unceasing work to reduce it. However, none of the countries in the world has fully eradicated trafficking in human beings, although we are very well aware of its causes and the reasons for its intrinsic existence. We are still unable to combat it fully, since the demand promotes the supply as the result of the development of the global economy and migration processes. There is a demand for cheap labour force, sexual services, and human resources intended to be used for criminal purposes. This demand promotes the expansion of illegal activities carried out by organisers of trafficking in human beings and recruiters, as a result of which people from different groups of society suffer: both those who end up being exploited and their relatives, and society in general. It is the duty of the government to work and cooperate with the non-governmental sector and society in order to purposefully counteract those promoting trafficking in human beings. It is necessary to keep informing the public, educate specialists, find and punish the guilty, and provide assistance, support and protection to the victims of trafficking in human beings.

Countries around the world are making considerable efforts to reduce the phenomenon of trafficking in human beings and protect people from abuse. Society is regularly informed about trafficking in human beings. Despite the efforts to prevent and combat trafficking in human beings, most often it involves dealing with the consequences of trafficking in human beings, mainly providing assistance to the victims. More anti-trafficking efforts related to prevention and prosecution have to be dedicated to approaching society and punishing traffickers. In the age of rapid development of modern technologies, which the criminals endeavour to use in order to attain their illegal goals, practitioners working in the anti-trafficking field have and always will have important means at their disposal to counteract the criminal business – knowledge, skills, the wish to improve, creative potential and incentive to continue the fight against trafficking in human beings.

Exploitative sham marriage is abuse of a person, and the team of the HESTIA Project partner countries has been working for two years to ensure an evidence-based (facts and figures) analysis of the situation and a universal training methodology for experts and practitioners to have effective tools at their disposal for fighting this form of abuse.

The HESTIA Project has already had a real impact on counter-trafficking actions in the countries of the project partners. National discussions and regional trainings for multidisciplinary groups of experts and practitioners as well as wide informative anti-trafficking activities were implemented in Estonia, Ireland, Latvia, Lithuania and Slovakia, which led to a shared understanding of the phenomenon of exploitative sham marriages and to the improvement of national legislation. The Project Report elaborated by the European Institute for Crime

Prevention and Control, affiliated with the United Nations (HEUNI) clearly identifies the links between trafficking in human beings and sham marriages, provides information on recruitment, transportation, exploitation and identification of and assistance to the possible victims, as well as conclusions and recommendations at the European Union level to encourage the European Union Member States to strengthen their policy framework, international cooperation, victim assistance, awareness-raising, training of different professional groups as well as provision of further research and data collection.

I wish everyone could be aware, well-informed and attentive, and avoid indifference, since we can make the situation better by reporting, cooperating and providing assistance.

Lāsma Stabiņa

Manager of the HESTIA Project "Preventing Human Trafficking and Sham Marriages: A Multidisciplinary Solution"

National Anti-Trafficking Coordinator, Ministry of the Interior of the Republic of Latvia

HAPPILY EVER AFTER? FROM SHAM MARRIAGES TO HUMAN TRAFFICKING

Minna Viuhko, Anni Lietonen and Anniina Jokinen

1. Introduction and objectives of the project

In recent years, concern over sham marriages as a form of exploitation in human trafficking has increased in Europe. The problem of sham marriages and subsequent exploitation has been identified in several EU Member States. According to Donovan et al. (2015), cases are being detected in which traffickers recruit women with the promise of well-paid jobs and in some of the more extreme cases, women are coerced into marriages with third-country nationals. There are also indications that organisers previously acting mainly as smugglers are becoming traffickers and/or exploiters (see Europol 2014). The study at hand deals with sham marriages between EU nationals and third-country nationals that include exploitative elements. It should be highlighted, however, that the majority of marriages between third-country nationals and EU-citizens are genuine marriages, although sometimes they are incorrectly considered as, or suspected of being, sham marriages. Furthermore, while not all sham marriages feature exploitative elements or links to human trafficking, some of them do.

"Preventing human trafficking and sham marriages: a multidisciplinary solution (HESTIA)" is a transnational project that focuses on the links between human trafficking and sham marriages. The project was carried out between January 2015 and December 2016 with the financial support of the Prevention of and Fight against Crime Programme of the European Union.[1] The participating countries were Estonia, Finland,[2] Ireland, Latvia, Lithuania and the Slovak Republic.[3] The project was coordinated by the Ministry of Interior of the Republic of Latvia, and the project partners were the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI) in Finland, the Immigrant Council of Ireland, the NGO Caritas Lithuania, the NGO Living for Tomorrow in Estonia, the Shelter Safe House in Latvia and the Ministry of Interior of the Slovak Republic.[4] Each partner took care of the project activities at the national level, except for the Latvian Ministry of Interior which

[1] Grant Agreement No. HOME/2013/ISEC/AG/THB/4000005845

[2] Finland refers here to the location of HEUNI. The field work was not carried out in Finland.

[3] Also the United Kingdom and Cyprus were invited to join the project but Ireland was the only destination country from where an entity willing to participate in the project application was found.

[4] The associate partners are the State Police of the Republic of Latvia, the Ministry of Foreign Affairs of the Republic of Latvia and the Department of Justice and Equality in Ireland.

also coordinated the overall project activities, and HEUNI which led and coordinated the research activities.

The main objective of the HESTIA project was to look into the phenomenon of human trafficking and sham marriages, to provide a more concrete definition of sham marriages as a form of human trafficking, and initiate comprehensive action for its prevention. This is being done through several project activities, with this joint research being one of the main activities. Furthermore, national meetings were organised to discuss sham marriages and their links to trafficking in human beings, and to gather a diverse group of experts and practitioners in order to discuss the scope of the problem at a national level. In addition, the project includes a training component in which the research results will be utilised in the development of training materials for a large variety of different professionals working with persons vulnerable to human trafficking. A round of pilot trainings will be organised in Estonia, Ireland, Latvia, Lithuania and the Slovak Republic in order to enhance the capacity of the professionals and to raise their awareness of exploitative sham marriages and the links to human trafficking. This will ultimately enhance multidisciplinary cooperation against human trafficking and contribute to the prevention of exploitation and trafficking. Furthermore, the project seeks to disseminate the findings widely across the Europe and implement several activities during the EU Anti-Trafficking Day, as well as organise a final conference where the results and recommendations of the project will be discussed.

The research component of the HESTIA project aims to shed light and create a shared understanding of an evolving form of trafficking in human beings which is related to the organisation of sham marriages and the subsequent exploitation of persons. This exploitation may have different purposes, such as sexual exploitation, forced labour or domestic servitude. The joint research report explores the links between sham marriages and trafficking, and discusses the definition of the phenomenon in question. The research is specifically focused on sham marriages in the context of human trafficking (and not sham marriages as such), where the element of exploitation is essential. It also provides new information on the vulnerabilities, factors, methods and channels that facilitate sham marriages resulting in trafficking in persons. The phenomenon of exploitative sham marriages is linked to trafficking for forced marriages and the use of marriage as a form of recruitment of victims of trafficking. The phenomenon in question is very much gendered in nature. The (potential) victims are women originating from EU countries while the majority of the third-country nationals involved are men.

Human trafficking in general is a crime where the collection of data is impaired not only by the hidden nature of the crime but also by the wide scope of definitions and concepts that might be applicable (COM 2016). Therefore, this project did not focus only on court cases, or cases that have come to the attention of authorities, but also utilized cases identified by NGOs, other organisations and the media. The project has utilized a pilot methodology developed by HEUNI in a previous project focusing on trafficking for forced labour (FLEX),

a methodology that is based on collecting information from a large variety of sources in order to overcome the hidden nature of the criminality in question. The FLEX project produced a methodology which is locally applicable and incorporates both qualitative and quantitative information sources (see Jokinen et al. 2011a, 314−316).

The research covers a variety of research questions. The research explores:

1) What are the links between (the organisation of) sham marriages and trafficking criminality?
2) How do persons concluding sham marriages end up in situations of exploitation or trafficking in persons?
3) What forms of exploitation do the victims encounter?

Furthermore, the research concentrates on structural issues, such as the legislation and the identification of and assistance to the victims. The study aims at identifying:

4) What are the weaknesses of the system/legislation/administrative procedures that enable trafficking in the context of sham marriages?
5) What can be done to enhance the identification of cases and victims (of trafficking in human beings and serious exploitation)?
6) What could be done to improve assistance provided to victims?

Finally, the study discusses prevention and asks:

7) What can be done to prevent exploitation?

This report consists of five individual country reports from Estonia, Latvia, Lithuania, Ireland and the Slovak Republic,[5] as well as this introduction which summarises the main findings from the country studies and provides an overall analysis of the phenomenon. The introductory and summarising section of the research report at hand (the first part of this report) has been written by HEUNI. First, the different terms and concepts used in the research are presented and explained, and the general legislative framework is provided. Next, previous research literature is presented in order to provide a basis for shared understanding of the phenomenon and to discuss the wider context of marriage-related migration. The next chapter provides a detailed description of data sources and research methods utilized in the research, as well as a consideration of ethical issues in research relating to human trafficking. Following this, a summary of the national findings is provided in order to present the main outcomes of the research and to highlight the commonalities and differences between the countries. Next, the links between human trafficking and sham marriages are discussed. Finally, conclusions and a number of policy

[5] The research in the respective countries has been conducted under HEUNI's guidance. However, each country report, including the findings and recommendations, appear under the responsibility of the respective authors.

recommendations are made in order to improve actions against exploitative sham marriages at the EU level.

2. Concepts and definitions

This research focuses on sham marriages between non-EU nationals and EU citizens who have the right to move and reside freely in an EU country other than that of their nationality.[6] The terms that describe the validity of marriages are set out in the civil law provisions in all five countries covered in the HESTIA project. The conditions for valid marriages in general include the partners being above a specific age and having the ability to give fully informed consent to the conclusion of the marriage, and that this consent is not invalidated by coercion, duress, violence or threat or by other lack of capacity, e.g. if the person suffers from psychosocial disabilities (Psaila et al. 2016).

The question of what constitutes a genuine marriage and what is a sham marriage is of course very relevant. According to most sources, it is *the intention* that distinguishes a sham marriage from a genuine marriage. According to the European Commission (2014) handbook on addressing the issue of alleged marriages of convenience between EU citizens and non-EU nationals, *a genuine marriage* is characterised by the intention of the married couple to create together a durable family unit and to lead an authentic marital life, whereas a *sham marriage* is concluded for the purpose of obtaining the right of free movement and residence under EU law. In general, different countries and sources use the terminologies in different ways but, nonetheless, generally in order to refer to similar phenomena, and to describe the different intentions of concluding a marriage, especially as regards sham marriages and marriages of convenience (COM 2016). Depending on the context, several different terms can be used as synonyms for sham marriage, such as *marriage of convenience, fictitious marriage, fake marriage, false marriage* and *bogus marriage.*[7]

A term that is often used, particularly in official documents,[8] is "*marriage of convenience*" and this is probably the closest parallel term for "*sham marriage*". In this context, a "marriage of convenience" is commonly understood as "a marriage contracted for the sole purpose of conferring a right of residence under EU law on a non-EU national who would otherwise not be able to benefit from such a right" (COM 2014). Thus, the purpose of the marriage is to legalise the stay of a third-country national in the European Union.

Although the above-mentioned terms appear to be similar, they may have somewhat different meanings or at least dissimilar connotations. For example, the terms *fictitious, fake* and *false marriage* may imply that the marriage would not be "real". However, the marriages studied in the HESTIA project are all

[6] Marriages between two EU citizens fall outside the scope of this project, as do marriages between two non-EU nationals residing in the EU.

[7] In general, these terms (and their equivalents in the different languages in the European Union) are not necessarily recognised in law, but are used in policy documents, sociology and criminology to refer to the phenomenon.

[8] European Council Resolution on the Combating of Marriages of Convenience (1997).

formally valid marriages regardless of the terminology that might appear in the national reports. It is only the motive for concluding the marriage that is "false". Thus, it can be said that the marriages are not "fictitious" or fake in the sense that there would be no "real" marriage. However, the marriages are not "genuine" in the sense that the purpose of the marriage is something other than love, or the intent to establish a family and live an authentic marital life. Therefore, the marriages studied in the project are formally valid, but not "genuine".

In an attempt to categorise the terminology related to the phenomenon, the European Commission handbook (2014) suggests that it is useful to distinguish legally valid marriages from those that are contracted by using fake documents. The EC suggests that the terms *fake, false, bogus* and *fictitious marriages* should refer to marriages contracted by using fraudulent documentation, for instance forged marriage certificates. *Marriages of convenience*, *sham marriages*, *forced marriages* and *marriages by deception* are marriages concluded with legally valid documents but in these types of marriages the motives for concluding the union differ. It is also possible that both spouses are willing accomplices, freely consenting to enter into a relationship designed to abuse EU law (*marriages of convenience* and *sham marriages*), or the EU spouse is deceived by the non-EU spouse to believe that the marriage is a genuine marital relationship, but in reality the aim is to abuse EU law (*marriage by deception*). (COM 2014.)

Beyond the specific scope of the HESTIA project, a variety of terminology is used to distinguish between different marriage arrangements that are less common in the EU but still used in many places around the world. *Arranged marriages* are marriages where a third party (e.g. parents or guardians) takes a leading role in the choice of the partner, with the consent of both spouses. An arranged marriage is a genuine marriage if it is a result of the free will and wish of the spouses. The idea of free will and consent to marry is somewhat of an abstract concept, as they are, in these cases, often rooted in traditions. In principle, marriages legally entered into anywhere in the world must be recognised in the EU. However, Member States are not obliged to recognise marriages prohibited by their legislation (e.g. polygamous marriages). (COM 2014.)

There is no official internationally agreed definition of *forced marriage* but this can be described as a situation where a marriage is entered into without the free and full consent of one or both parties, because of threats, deception and coercion (FRA 2014). These are elements that are typically considered to be present in trafficking situations. Under the concept of forced marriage, there can be more specific forms including *servile marriage*, which involves a person being sold, transferred or inherited into marriage, and *child marriage* which is a form of a forced marriage since children are by definition incapable of consent or of exercising the right of refusal (Lyneham and Richards 2014, 3). Forced marriages are also primarily understood to have links with practices among certain ethnic communities or minorities. The perpetrators are usually the parents, family members, or members of the extended family (FRA 2014).

In addition to the above-mentioned terms, the term *protection marriage* is used when one motivation behind a sham marriage is related to expressions of protest, such as persons marrying migrants for political or idealistic motives or simply out of the desire to help or provide protection (Econ Pöyry 2010).

In reality the various definitions and concepts presented here are likely to overlap. However, in this research sham marriage should be distinguished from arranged marriages and forced marriages. In this study the focus is particularly on sham marriages that have been contracted with the primary motive of giving a non-EU citizen a residence permit in the EU. As the project is interested in particular in sham marriages related to trafficking (i.e. sham marriages in the context of human trafficking / trafficking in human beings for the purpose of sham marriage), a concept that encompasses the exploitative element was needed. The project partners developed the term "*exploitative sham marriage*" at the beginning of the project. The term refers to *sham marriages that include elements of exploitation*. The study covers both cases that include elements of exploitation but are not actual trafficking, and also cases that can be defined as trafficking (i.e. "trafficking for (the purpose of) sham marriages"). In practice, it is not easy to draw a line between different forms of exploitation. In the HESTIA project, the term "exploitative sham marriage" is understood to cover different cases of sham marriages with subsequent exploitation, and the phenomenon is approached from a wider sociological perspective rather than as a legal category or concept defined in law.

An important and essential aspect in defining these different concepts and phenomena is the difference between sham marriage and trafficking in persons as regards the subject of the offence. A sham marriage is a crime or an act against the state, whereas trafficking is a crime against the person. A parallel can be drawn with human smuggling in this regard. There is no victim in human smuggling; it is only the state whose laws are violated in the process. In the project we are focusing on the exploitation of persons. Furthermore, the difference between forced and exploitative sham marriage is relevant. We are not only focusing on whether the potential victims are initially forced to marry a third-country national but rather the subsequent exploitative elements and circumstances during the entire process, both during the recruitment and at the destination country, before and after concluding the marriage. The term "exploitative sham marriage" seeks to highlight the circumstances of exploitation that prevent the person from leaving the situation, and the subtle forms of control of movement and elements that show a dependency of the victims on the husbands, recruiters or organisers of these marriages. Sometimes the cases studied involve force already at the outset of the activities (e.g. during recruitment), and thus some of the cases studied can be defined as forced marriages, but sometimes they do not. A person may be willing to conclude a sham marriage, but later on s/he will be exploited. In fact, the role of an EU citizen as the spouse (primarily women) may change from that of a perpetrator (of a (minor) offence or fraud against the state) to that of a victim (of exploitation, or in severe cases, of trafficking in persons).

It should also be noted that the project involves partners from six countries, using six languages (English, Estonian, Finnish, Latvian, Lithuanian and Slovak), and that this has resulted in a conceptual challenge. Each partner (with the exception of Ireland) had to find appropriate terms in their national language that could be used alongside the English terms. In addition, the terms used at the national level may be different from the terms used at the EU level. For example, "fictitious marriage" is used as a synonym for sham marriage in Latvia, but at the EU level, fictitious marriage can be defined as a marriage that has been concluded by using fake documents. Furthermore, Slovakia primarily uses the term "forced marriage" in their research report, instead of the term "exploitative sham marriage".

3. The legal framework and international instruments

Several international instruments and legal frameworks govern action against trafficking in persons. The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children is the first global legally binding agreement related to trafficking. The Protocol supplements the UN Convention against Transnational Organized Crime. As of December 2015, 169 parties have ratified the Protocol, including Latvia (2004), the Slovak Republic (2004), Estonia (2004), Lithuania (2003) and Ireland (2010) (UNODC 2015).

The United Nations Trafficking Protocol is considered as the first overarching and as the leading definition of trafficking in human beings. Its purpose is to prevent and combat trafficking in persons, to protect and assist the victims of such trafficking, and to promote cooperation among States Parties in order to meet those objectives (Art 2.) According to the Protocol:

> "Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;"

The crime of human trafficking is thus defined in quite a complicated manner, where especially the exploitation can take many forms such as sexual exploitation, forced labour and removal of organs. Forced labour is defined in ILO Convention No. 29 of 1930, which prohibits the illegal exaction of forced or compulsory labour. According to the ILO Forced Labour Convention, "forced or compulsory labour" (Art. 2) shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily. The ILO has listed the following elements that describe the loss of rights or privileges that point to a forced labour situation (ILO 2005, 20–21):

- Physical or sexual violence or the threat of such violence.
- Restriction of movement of the worker e.g. through confinement or through preventing contact with the host community.
- Debt bondage or bonded labour e.g. rising from the process of recruitment and transportation.
- Withholding wages or refusing to pay the worker at all.
- Retention of passports and identity documents.
- Threat of denunciation to the authorities.

While the UN Trafficking Protocol does not mention marriage as a potential form of exploitation, its open-ended definition of human trafficking was specifically designed to be inclusive of new forms of trafficking as they arise (MacLean 2013). Irrespective of the form of exploitation in question, it must also be highlighted that the consent of the victim to the intended exploitation is considered irrelevant when any of the listed means have been used (Art 3b).

The Council of Europe Convention on Action Against Trafficking in Human Beings of 2005 defines trafficking largely following lines similar to the UN Protocol, but gives emphasis specifically to the protection of victims of trafficking and to the safeguarding of their rights. It is a legally binding instrument that aims to prevent trafficking, to protect its victims and to promote international cooperation on action against trafficking in human beings. The Convention applies to all forms of trafficking, whether national or transnational and whether or not connected with organised crime (art. 2). A special monitoring body, GRETA, has been set up to monitor the implementation of the Convention. Estonia, Latvia, Lithuania, Ireland and the Slovak Republic have all ratified the Convention.

The European Union action on Trafficking in Human Beings notes that human trafficking is specifically prohibited by Article 5 of the Charter of Fundamental Rights of the European Union. Among the most recent steps forward has been the adoption of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. The Directive defines trafficking in persons as follows (Art. 2.1):

> "The recruitment, transportation, transfer, harbouring or receipt of persons, including exchange or transfer of control over that person, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation."

While the Directive does not explicitly mention forced marriage in the minimum list of types of exploitation set out in it,[9] it is suggested in the preamble that the definition of trafficking in human beings should also cover forced marriage as a form of exploitation.[10]

Other policy measures that complement the trafficking directive include the EU legislation on the right of victims of human trafficking to reside in the EU (Directive 2004/81/EC), on sexual exploitation of children (2011/92/EU), and on sanctions and measures against employers who knowingly employ third-

[9] "Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs (Art.2.1 Directive 2011/36/EU)."

[10] Recital 11 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims and replacing Council Framework Decision 2002/629/JHA, OJ L 101/1 of 15 April 2011.

country nationals who are staying in the country illegally (Directive 2009/52/EC). Additionally, Council Directive 2002/90/EC, which defines the facilitation of unauthorized entry, transit and residence, lists measures to be taken to combat illegal immigration both in connection with unauthorized crossing of the border in the strict sense and for the purpose of sustaining networks which exploit human beings. The EU Internal Security Strategy in Action (COM 2010) further addresses trafficking in human beings, along with the EU Plan on best practices, standards and procedures for combating and preventing trafficking in human beings (2005/C 311/01) and the Commission working document on the Evaluation and monitoring of the implementation of the EU plan (European Commission 2012). (European Commission 2016.)

The EU has a mandate to ensure that citizens and foreigners moving within its borders are protected. The Victim's Directive (Directive 2012/29/EU) establishing minimum standards on the rights, support and protection of victims of crime, ensures that persons who have fallen victim of crime are recognised, treated with respect and receive proper protection, support and access to justice. The EU Member States were to implement the provisions of the Directive into their national laws by 16 November 2015. The Directive also requires that the Member States ensure appropriate training on victims' needs for those officials who are likely to come into contact with victims and encourage cooperation between Member States and coordination of national services of their actions on victims' rights.

All the five participating countries are bound by conventions on international human rights, such the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), which recognises trafficking as well as forced marriages as human rights violations. The states parties are committed to the human rights principles and values, which in turn guide the work of government actors. Furthermore, the Council of Europe Convention on preventing and combating violence against women and domestic violence (the so-called Istanbul Convention) states that the parties to the Convention shall take the necessary legislative or other measures to ensure that the intentional conduct of forcing an adult or a child to enter into a marriage is criminalised (Council of Europe 2011). Estonia, Ireland, Latvia, Lithuania and Slovakia have not ratified the Convention as of yet.

The right to move and reside freely within the European Union is also one of the fundamental freedoms enshrined in EU law and is a cornerstone of European integration. The EU Citizenship Directive (Directive 2004/38/EC) entitles every EU citizen and their spouse to travel, work and live in any EU-28 country[11] without special formalities for the first three months, other than holding a valid identity card or passport. After the first three months, EU citizens need to fulfil

[11] Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

certain conditions, depending on their status in the host country, in order to have the right to reside. Students and other economically non-active persons, such as retired persons, and their families have the right to reside for longer than three months only if they have comprehensive health insurance and sufficient financial resources for themselves and their family so as not to become a burden on the social security system of the host Member State.

Persons seeking employment may reside for up to six months without conditions and possibly longer if they show that they have a genuine chance of finding a job. After five years, EU citizens and their family members obtain the right to permanent residence (COM 2013). EU countries may adopt the necessary measures to refuse, terminate or withdraw any right conferred by the Directive in the case of abuse of rights or fraud, such as marriages of convenience or forged documentation.

4. The current situation and previous research on exploitative sham marriages and their links to trafficking in human beings

Despite the fact that NGOs and investigating journalism have identified cases of sham marriage involving exploitation and features of trafficking in persons, despite a world-wide campaign to fight human trafficking, and despite a growing body of research on trafficking for sexual and labour exploitation, very little research has been conducted on sham marriages for exploitative purposes. Before the HESTIA project, there have been no joint research or policy measures initiated at the European level as regards the exploitative elements of sham marriages and their potential links to human trafficking. There is, however, some research on related issues, such as forced marriages and human trafficking. This research will be briefly described in this chapter.

While marriages of convenience in order to obtain residence permit for third-country nationals in the EU is a recognised phenomenon, sham marriages as a potential form of trafficking in persons is a relatively recently identified form of exploitation (see also Donovan et al. 2015). Data collected by the European Commission[12] on victims of human trafficking from the Member States covering the period 2013−2014 suggests that the most widespread form of trafficking in Europe is sexual exploitation (67 % of registered victims), followed by labour exploitation (21 % of registered victims), and other forms of exploitation (12 % of registered victims), which include e.g., trafficking for forced begging, domestic servitude, criminal activities, forced marriage, sham marriage, or organ removal. Member States are increasingly reporting forced marriages and sham marriages, and cases where people fall victim to multiple forms of exploitation, in the context of trafficking in human beings (COM 2016).

Although victims include a broad range of people across all ages, genders and backgrounds, the statistics clearly show that the majority of victims are women and girls (Psaila et al. 2016). According to statistical data from Eurostat, Europol and the United Nations Office on Drugs and Crime (UNODC), the strongest gender difference is found in trafficking for sexual exploitation where 96 % of reported victims are women and girls. Also other forms of exploitation of victims of trafficking include a strong gender dimension, such as exploitation in domestic work, and forced and sham marriages. (Walby et al. 2015.) The identified cases of forced marriages in the EU almost uniformly involve women and girls as victims (see Psaila et al. 2016).

[12] The latest Eurostat report on trafficking in human beings was published in 2015 and covers the period 2010−2012. The data collected through Eurostat for the Commission report on the progress made in the fight against trafficking in human beings is the latest data that has been collected, and covers the years 2013−2014. The figures in the Commission report are largely consistent with the trends in the previous Eurostat report (COM 2016).

The increased recognition of sham marriages as a type of exploitation of victims of trafficking in human beings is also demonstrated by the fact that Europol issued an Early Warning Notification (2014) which notes an increase in contributions linking marriages of convenience to trafficking in human beings. Europol (2014; 2016) has identified mostly Eastern European countries as the countries of origin of EU citizens who contract such marriages. According to Donovan et al. (2015), traffickers recruit women from Eastern Europe with the promise of well-paid jobs into marriages with third-country nationals. This allows the groom to apply for a residence permit and subsequently, further exploit the "bride" for domestic servitude and/or sexual exploitation. In some of the more extreme cases, women are outright coerced into marriages with third-country nationals.

According to Europol (2014; 2016), the difference between sham marriages that have elements of exploitation, and classical marriages of convenience, is that the status of the bride shifts from that of perpetrator to that of victim. The brides may first willingly enter into a marriage, but then the conditions change, or they may be lured on false pretences (such as the promise of a well-paid job) and then forced into a marriage. Europol (2016, 29) refers to these as forced sham marriages. In some forced sham marriage cases, the victims have been kidnapped, brought to the country of destination against their will, and coerced into marriage. Europol further notes that identification is a challenge, calls for frontline staff to be aware of the signs, and emphasises the increased need to enhance cross-border cooperation. In the investigations, the available intelligence may not be able to give real insight into whether the bride is an accomplice (facilitation of illegal immigration) or a victim (trafficking in human beings), i.e. whether a trafficking element is hidden behind the crime of facilitation of illegal immigration. (Ibid.)

The Anti-Slavery International's (ASI) research project RACE (2014) focused on studying trafficking in human beings for the purpose of forced criminal exploitation in the United Kingdom (UK), the Czech Republic and the Netherlands. The report identified sham marriage as one of the forms of trafficking for forced criminality. The report further emphasised how trafficked persons can be exploited through a wide range of criminal activities and they may also be exploited through multiple activities concurrently (such as through sexual exploitation, domestic servitude, or other forms of forced labour).

The RACE project identified the UK as a destination country where cases of trafficking for forced sham marriage[13] had been identified. The sham marriages had involved EU-national women being trafficked into the UK and forced to marry a non-EU-national in order for the latter to gain residency in the UK. The specific examples included two separate cases where Slovak females were trafficked to UK with the intention to force them to marry foreign nationals. Furthermore, the report (2014) identified a case in the Czech Republic in which two women were trafficked to the UK for the purposes of forcing them into sham

[13] The term used in the RACE project, "forced sham marriage", has also been used by Europol.

marriage and prostitution. The two mentally disabled women were physically and psychologically abused, forced into prostitution and domestic servitude, as well as forced to marry Vietnamese men in order for them to obtain a residency permit. (Ibid.) (See also the examples of media articles related to exploitative sham marriages that have been identified in the UK.[14])

Research on forced marriages from a gender perspective by Psaila et al. (2016) has determined that a vast majority of victims are female in cases of trafficking for forced marriage uncovered in the EU Member States. The cases have usually been linked to the victim's poor financial situation and low employment prospects. All five HESTIA partner countries were mentioned in the report in reference to cases in which female EU citizens were identified as having been trafficked to another Member State and forced (after they revoked their initial consent) to enter into a marriage of convenience with a third-country national. Another trend involves young Latvian women, single mothers, or women with disabilities being persuaded with false promises of well-paid jobs in the destination country. After arrival, it was revealed that the jobs did not exist and the women were forced into a marriage. Similar cases have also been detected in the UK, which usually involve Eastern European females trafficked to the UK for the purpose of marrying Asian males without a residency permit. The victims are often brought to the UK on the promise of legitimate employment. The identified cases had often involved also other forms of exploitation such as sexual exploitation. (Ibid.)

The links between trafficking criminality and marriages have also been identified beyond Europe. Research by Lyneham and Richards (2014) has identified cases of exploitation in Australia occurring in connection with marriage and partner migration. The research revealed cases of women who had experienced exploitative scenarios after having migrated to Australia to marry men who were Australian citizens. The partners had met in a variety of ways, from arranged marriages, family connections, to online introductions or dating services. The research also noted that even though all the women had consented to their marriages, they were possible victims of trafficking since consent to the crime of trafficking is irrelevant where coercion, threat, and/or deception have been used to obtain consent. The women in this research were deceived regarding who they were to marry, the nature of the marriages, and what was expected of them once arriving in Australia. (See Box 1 as an example from the research of how marriage and partner migration have indeed been used to facilitate trafficking of persons into Australia; Lyneham & Richards 2014.) In

[14] See the following examples of media articles: http://www.theguardian.com/uk-news/2013/oct/10/four-jailed-trafficking-bradford-burnley;
http://www.cps.gov.uk/london/press_releases/three_sentenced_for_exploitation_and_sham_marriage_offences_in_london/;
http://www.cambstimes.co.uk/news/four_guilty_of_exploitation_and_assisting_in_arranging_sham_marriages_1_4467054;
http://www.aljazeera.com/programmes/peopleandpower/2015/04/passport-thee-wed-150429154250997.html

terms of the HESTIA project, the circumstances differ, since the initial motivation for concluding these marriages was bringing the victims to Australia in order to exploit them sexually or for forced labour. The victims were recruited through fraud and deception. As found also in the HESTIA project, the marriage was concluded for the purpose of gaining a right to reside in a specific country, but in the Australian case the residence permit was for the victim, not for the perpetrator.

Box 1. Trafficking in connection with marriage migration in Australia

Country of origin Philippines – Country of destination Australia

In R v Kovacs, heard in the Supreme Court of Queensland, the Crown alleged that Zoltan and Melita Kovacs arranged and paid for an Australian citizen to travel to the Philippines to marry a woman with the intention of bringing her to Australia to work in their takeaway shop and in their residence as a child-minder and domestic helper. Once in Australia, the woman worked in the shop for 12 hours each day for five and a half days per week. For this she received very little pay. When not working, she was required to provide child care for three small children and perform household duties. She tried to escape her situation, but was effectively enslaved by the Kovacs through 'a combination of unpaid labour, continuing sexual assaults, verbal threats and abuse, exploitation of her situation of vulnerability, control over her movement and confiscation of her passport. Following a retrial in the Supreme Court in 2010, Zoltan and Melita Kovacs were found guilty of slavery offences under s 270.3(1) of the Criminal Code 1995 (Cth), and were sentenced to four and eight years of imprisonment, respectively (Schloenhardt & Jolly 2010; Lyneham & Richards 2014, 6).

Another finding of the Australian research was that cases of human trafficking involving partner migration are often identified only as cases of domestic violence. This leads to the application of provisions of the law related to domestic violence rather than human trafficking and exploitation, which in turn raises important considerations for the proper identification of and appropriate responses to this form of trafficking in persons (Lyneham and Richards 2014). The victims/survivors had experienced a wide range of abusive behaviour (physical, psychological, economical abuse). The violence was perpetrated by the husbands or their extended families, which was coupled together with the victims'/survivors' own vulnerability as migrants (limited English and isolation). The exploitation included indicators of human trafficking, such as assertions of ownership, debt bondage, deprivation of liberty, threat of deportation, labour exploitation, confiscation of passports, and domestic servitude. It was also reported that children, both those who had migrated to Australia and those who had been born in Australia in the relationships, were exploited and abused. (Ibid.)

Marriage migration is often presented as a strategy for social mobility for women from developing and transitional countries. However, popular culture and academics often describe this as a choice made out of lack of opportunities by women who sacrifice themselves for the good of their family (Tyldum & Tveit 2008). As with labour migrants, marriage migrants are vulnerable to exploitation in the sex industry or in the labour market (MacLean 2013). Marriage migration is discussed in this report only briefly, because even though there are similarities

between sham marriage and exploitation, marriage migration is still quite a different phenomenon from marriages that are concluded solely to circumvent immigration law.

Tyldum and Tveit (2008) studied the vulnerability and risk in marriage migration from Russia and Thailand to Norway by analysing the relationship between human trafficking and marriage migration. In the personal narratives of women who had been interviewed for the research, there is little that resembles the ideals of marriage but more like domestic and sexual servitude where marriage is used as a means of control. The women interviewed in the study were often totally dependent on their husbands after they had moved to Norway, had little or no social contacts, and were in a situation of economic dependency. Some women were left on their own to learn how to manage in Norwegian society, while others were purposefully hindered in their attempts to gain independence, which resulted in so-called forced dependency. Furthermore, women in forced dependency situations often faced physical and psychological abuse. (Ibid.)

Tyldum and Tveit argue that following the UN Palermo Trafficking Protocol definition, the act, the means and the purpose of trafficking can be fulfilled when analysing the situation of the women in question. The element of force becomes evident in the form of (forced) dependency as the person has no networks, no language skills and no idea where to seek help, which result in their being in a vulnerable position. The women interviewed in the study also reported that their husbands had threatened them with divorce and subsequent deportation if they did not comply with their demands. These circumstances can lead to situations that could be classified as domestic servitude. Elements of exploitation include physical abuse and rape, as well as domestic and sexual servitude. Of course one of the main challenges in identifying cases of human trafficking in the context of marriage migration is to determine to what extent an exploitative purpose can be shown. It is difficult to prove that someone had an intention to control and exploit their spouse for domestic servitude or sexual services already at the outset of the marriage. (Ibid.)

5. Data and Methods

The research utilised qualitative methods in combination with statistical data. The national researchers carried out qualitative semi-structured interviews with representatives of e.g. NGOs, law enforcement and other relevant state and municipal agencies, as well as representatives of embassies (more detailed information on the sectors and organisations represented in the national studies are provided in the individual country reports). In some of the countries involved in the project, it was also possible to interview identified victims/migrants who had concluded sham marriages and experienced exploitation. The researchers collected and analysed, if possible, cases of sham marriage which would include indicators of trafficking (e.g. by utilising court/pre-trial investigation materials or case descriptions provided by NGOs and/or embassies). They were also advised to collect additional information/data from online forums and other sources, such as the media. In addition, the national researchers were asked to prepare a short overview of the current legislative framework and existing practices in their respective countries relating to sham marriages and trafficking, to collect relevant statistics, and to map out any relevant literature, policy papers or other complementary materials and cite these in the research report. The data covers mainly the years 2010−2015.

Each country also organised a national roundtable meeting before the actual data collection period to help to identify experts.[15] The meetings also served as a platform for establishing contacts and for collecting information on the public discourse and awareness of exploitative sham marriages and their links to human trafficking in the five countries. A representative of HEUNI attended all five national meetings in order to gain an improved understanding of the framing of the phenomenon in the national contexts.[16] The discussion in the meetings was lively and a considerable amount of information was shared, but also some differences could be noted in terms of awareness and the focus of the discourse.

Representatives of HEUNI trained the national researchers and provided advice and guidance to the researchers throughout the project's research phase. HEUNI also provided the framework for the interviews and the draft structure for the research reports. HEUNI's researchers read and commented on the national report drafts several times. Although the national reports have been written as part of the joint HESTIA project, ultimately each report should be treated as its own entity and the authors of each country report are alone responsible for their own report, including the findings and recommendations presented in each national report.

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[15] Some partners noted that it was not easy to find interviewees and/or experts to attend the roundtables because people do not necessarily identify themselves as experts of a "new"/newly identified phenomenon such as sham marriages in the context of trafficking.

[16] The HEUNI representative used an interpreter in the four meetings conducted in Estonian, Latvian, Lithuanian and Slovakian. No interpretation was needed for the Irish national meeting, which was held in English.

Despite the joint framework and instructions given, the content of the national reports varies somewhat between the countries, and the reports differ in style. As the different countries have different legislation, a different system in place to identify and assist victims of trafficking, and a large variety of different actors are involved in the anti-trafficking field, it was impossible to collect a similar data set in the countries. In addition, the availability of and access to the data vary in different countries. The nature and the source of the data of course have an impact on the findings of the study. For example, pre-trial investigation material on one hand and the case descriptions provided by NGOs on the other are different kinds of data, where the focus, perspective and the aim of the data is very different. Pre-trial investigation files are produced by the police and focus on the perspective of the organisation of criminal activities, whereas the NGO data are produced by the NGO workers and the focus is on the victims. It is also probable that cases that proceed to the pre-trial investigation phase, and particularly to court, are the most serious and/or the most evident cases. Many complicated cases might fall outside the category of e.g. trafficking in human beings. The NGOs are more flexible in deciding which cases fit into the category of exploitation and who can access services directed e.g. for trafficked persons.

A furthermore reason for differences among the national reports is that the national researchers had different educational and professional backgrounds, as well as different affiliations. Some worked at research institutes, others at NGOs, and others at governmental bodies. Thus, the perspectives of the authors of the national reports differ from one another.

All partners have collected the data that was available to them and that was found relevant for the study. The researchers tried to carry out interviews with all the relevant actors and experts. Expert interviews were conducted in every country, but differences developed in respect of who (the sectors/professions) have been interviewed. Interviews with victims of exploitative sham marriages were carried out only in Ireland and Latvia. No interviews of the perpetrators (e.g. traffickers or organisers of the criminal activities) were conducted in any of the countries. Table 1 presents an overview of the data collected in the countries involved in the project (for more details, see the country reports). The data were collected during the summer and autumn of 2015.

Table 1. Collected data from the participating countries.

Data Source	Estonia	Lithuania	Latvia	Ireland	Slovakia	Total
Expert interviews	9	17	17	14	15	72
Convictions	1	0	0	0	3	4
Pre-trial investigations	0	3	0	0	7	10
Case descriptions by local NGOs	8	0	5	8	7	28
Case descriptions by embassies	0	0	0	6	0	6
Interviews with victims	0	0	3	1	0	4

Semi-structured thematic interviews were utilised in the data collection. The national researchers were encouraged to conduct the interviews face-to-face and to record them with the permission of the interviewee. However, not all interviews were carried out face-to-face, but for example by telephone. Furthermore, all interviews were not recorded; in some, only notes were taken. The interview questions were mainly open-ended, covering agreed-upon common themes. Free-flowing discussion was encouraged with a certain level of flexibility in what questions to ask and in which order. Altogether, 72 expert interviews were conducted, varying from nine to 17 interviews conducted in a given country.

HEUNI drafted a separate interview framework for victims and experts (see Appendices 1 and 2). These frameworks covered partly the same questions and topics. The topics covered in the expert and victim interviews included the recruitment of the victims/people involved, travel to and arrival in the destination country, life and exploitation in the destination country, work in the destination country (victim interviews), perpetrators (traffickers, organisers of (exploitative) sham marriages, husbands) and organisation of sham marriages (expert interviews), identification of victims (expert interviews), help and assistance to the (potential) victims, and prevention. Based on the common interview framework in the English language, the national researchers were asked to translate the questions into their national languages and were encouraged to modify them so that they were suitable for each interview.[17] Furthermore, Ireland used a template for documenting the case studies. The template had partly the same questions as the interview framework and it was given to certain NGOs and embassies which documented the cases. Latvia used client files and stories written by the clients of NGOs that help victims of trafficking.

From among the five partner countries, Estonia is the only country which could use a court case of human trafficking involving a sham marriage in their

[17] It has to be noted that the interviews have been conducted in national languages but the quotes have been translated into English for the research report. It is evident that the content and in particular the nuances of the replies change to some extent when they are translated.

research. As regards pre-trial investigation materials, Lithuania and Slovakia were the only countries that were able to utilize them since in other countries there either was no available information (e.g. in Estonia, pre-trial materials are classified, and thus would not be available for research purposes) or the researchers were not able to identify cases with the matching criteria being investigated by the police. Due to the limited amount of available information and officially documented cases, the HESTIA project mostly relied on collecting case examples from NGOs and local embassies in order to get more information on the links between trafficking in persons and sham marriages. Also media materials (news articles etc.) were utilised in order to supplement the understanding of the phenomenon.

The HESTIA project utilised a variety of data sources in order to overcome the hidden nature of the phenomenon and the differences in awareness at the national level (see also Jokinen et al. 2011a on the pilot methodology developed by HEUNI). However, it has to be noted that the country reports are based quantitatively on quite a small amount of data and thus the results cannot be generalized as such. On the other hand, the partners have collected as extensive data as possible given the methodological challenges related to the phenomenon in question. The data collected in the project is also unique, and this kind of data has not been collected in the EU Member States before. At the same time, it must be acknowledged that the data is not all encompassing and it has some real limitations due to the extent of and perspective on the topic it covers. Since four out of the five countries studied are mainly origin countries, there is a greater focus on recruitment and victim aspects than on perpetrator and organisational aspects.

The challenges related to the methodology are partly the same as the methodological challenges related to the study of human trafficking (or other sensitive topics and hidden crime) in general. The cases are not easy to find, disclose and investigate. (Potential) victims do not come forward and they are not willing to tell about exploitation they have encountered. Also, statistics on these kinds of crime are not very reliable and/or informative. (On the problems related to the trafficking statistics, see e.g. Jokinen et al. 2014.)

Furthermore, doing research on exploitative sham marriages entails a number of other issues beyond those that are relevant to trafficking research in general. The conceptual issues that were presented in the previous chapters have resulted in several methodological difficulties. For example, not only the definition but also the "status" of sham marriage (as an offence, an administrative issue, a reason to annul or refuse a residence permit or something else) varies in different countries and may not be very clear. Furthermore, making the distinction between exploitative sham marriages and forced marriages proved to be problematic in some of the countries. Also, the "status" of persons involved is often unclear to some extent: who should be seen as the victim and who as the perpetrator?

Since there is a lack of clear understanding of the phenomenon and concepts related to sham marriages, the question of "what to study and how to study it" had to be thoroughly reflected on. In the course of the project, we had to decide

what kind of cases to include and what to exclude. What kind of data should be collected? Who, for example, is an expert on "exploitative sham marriages"? The methodology had to be developed for the project, and in the development work, we utilized pilot methodologies used in previous trafficking studies carried out by HEUNI (see Jokinen et al. 2011a, 314−316). This methodology allows for describing the phenomenon in a broad sense, and extends to cases beyond those that are known cases of trafficking or that can clearly be defined as trafficking in legal terms. In addition, the project partners were encouraged to collect descriptions of potential or suspected cases of exploitative sham marriages and trafficking, i.e. situations where there is merely an indication that it might be trafficking, in order to allow for a more vivid discussion on the links between these two phenomena. The focus of the methodology was thus not solely on the trafficking process, but it also incorporated a focus on whether situations of (exploitative) sham marriages include elements of trafficking or other exploitative or negative outcomes.

However, the lack of officially identified cases and low level of awareness in some countries resulted in problems in finding concrete examples of the phenomenon. The topic has not been studied much, and particularly among the EU Member States there is a huge lack of research on the linkages between sham marriages and human trafficking. Therefore, it is difficult to compare the research findings to earlier studies and to reflect on them.

Ethical issues

There are many important ethical issues that need to be considered when doing this kind of research. Human trafficking and similar exploitation is a very delicate matter, and particular sensitivity is needed especially when discussing the experiences of victims or interviewing them. The researchers in each country informed the interviewees (both experts and victims) on the project and asked for permission to carry out the interview and record it. The anonymity of the interviewees and persons in the case studies was protected inter alia by deleting their names from the interview quotes and case descriptions.

One also needs to be careful of how one talks and frames this phenomenon. Researchers may, partly unintentionally, label people or groups of people, and the research may also have counterproductive consequences. In this kind of study, there is the potential for further stigmatising certain groups of people, such as, on the one hand, "third-country nationals" (especially men) and on the other hand, women from certain countries or certain areas, and with certain background (related to issues such as poverty, substance dependency, mental disabilities, lack of education etc.). However, in order to obtain a comprehensive picture of the phenomenon and in order to prevent it, and in order to target training and awareness raising activities, it is necessary to uncover information on the underlying causes or factors.

Furthermore, the results of the study can be used for purposes that may be harmful e.g. for third-country nationals. Closed borders or stricter border control

have partly resulted from the fear of potential negative consequences for the EU Member States caused by the increased number of asylum seekers or other third-country nationals seeking to enter the EU. The fear of the abuse of immigration laws may be so strong among authorities of the EU Member States that an abuse of the system gets far more attention than does abuse of persons. These issues and questions need to be taken into account also when reporting the research findings.

6. Findings from the national studies

In this chapter we present the main findings from the five country reports. First, we provide an overview of the main points regarding the national systems that govern action against trafficking, existing legal challenges, as well as the extent of identified exploitative sham marriages. Next, the recruitment methods of persons into exploitative sham marriages are summarised, focusing on the circumstances that increase the risk of exploitation among women who agree or are forced to conclude a sham marriage. This is followed by information on the organisation of travel and conditions after arrival to the destination country that exposes the victim for and allows exploitation to take place. Lastly this chapter presents issues in identification of, and assistance given to, the possible victims, as well as prevention of exploitative sham marriages. The following chapters include key findings and examples from the five participating countries. Detailed case examples and descriptions can be found in the national reports.

It should be noted that depending on whether a country is a country of origin or a destination country, the reports have slightly different emphases. Ireland can be seen as a destination country for exploitative sham marriages whereas the other four partner countries in this project are countries of origin. As a consequence, the Irish report places more emphasis on immigration issues, and for example the Estonian report focuses on recruitment practices as a country of origin. Therefore, not all sections below have as much details from all the countries studied. However, in order to present a balanced view of the phenomenon, we have sought to use all country reports to the same degree in producing this overview.

6.1 Overview of the current situation in the five countries

Each national report includes a discussion of its own national legal framework (i.e. legislation concerning human trafficking, migration, family reunification and sham marriages) along with other national systems (guidelines, action plans, assistance for victims) that define and shape preventative action against trafficking in human beings. In all five countries covered by this report, the crime of human trafficking has been criminalised in the national legislation. The definitions of trafficking in the respective countries largely follow the UN Trafficking Protocol, the EU Directive as well as the Council of Europe Convention on trafficking in human beings. Estonia criminalised trafficking in human beings in 2012. In Ireland, the Criminal Law (Human Trafficking) Act was enacted in 2008 and amended in 2013 to include forced labour, forced begging and forced engagement in criminal activities. In Latvia, the criminal law section on human trafficking was amended in 2012, with the inclusion of forcing a person to commit criminal offences, and further amended in 2014, when the concept of vulnerability was redefined. In Lithuania, a definition of human trafficking was introduced in 2000, when it was officially recognised in the Criminal Code. In 2005, the Lithuanian Criminal Code was amended by adding an article concerning forced labour as a form of exploitation, and in 2013 forced

begging and forced criminality were included in the provisions. In Slovakia, the criminal offence of trafficking from 2005 was amended in 2013 to include forced marriage as constituting a specific form of trafficking.

The legislation and policy measures addressing sham marriages vary among the countries. Identifying sham marriages, as well as exploitative sham marriages, is largely dependent on a given country's legislative approaches and formal identification procedures, as well as on common definitions and understanding of the phenomenon.

Concerns that some sham marriages include exploitation of vulnerable EU citizens, and even indicators of trafficking, have been identified by the media, NGOs, consular services and authorities in all partner countries. For example, the Latvian embassy in Ireland observed an increase in Latvian women coming in distress to seek help from the embassy from 2009 onwards. This came after an increase in e.g. Latvian and Estonian women marrying third-country nationals in Ireland from 2004 onwards, after the countries had joined the EU. First the phenomena were viewed as an issue of violations of migration laws, but later the connections to human trafficking began to become more visible.

The EU residence permit applications have recently been the subject of various legal challenges in Ireland. In 2015 the Irish Marriage Act entered into force, with amendments to the Civil Registration Act 2004 allowing the registrars in the Civil Registration Services the power to form an opinion on whether an intended marriage constitutes a marriage of convenience. Also, in Estonia sham marriages are defined in the Civil Law.

In 2013, Latvia criminalised sham marriages, i.e. marriages which have been concluded with the aim of ensuring a third-country national the possibility of acquiring the right to reside in Latvia, in another EU Member State, the European Economic Area or the Swiss Confederation. The regulation allows the possibility of initiating criminal proceedings also in those cases where sham marriages have been concluded outside Latvia. Also in Slovakia, sham marriages are criminalised relating to the offence of smuggling, and are considered as offences against public order. Depending on the legal definitions, the possible state responses to identified cases of sham marriages vary from annulment of the marriage to fines, bans on entry into the country, or imprisonment.

For all the participating countries, the HESTIA project is the first attempt to systematically evaluate and address exploitative sham marriages and their links to human trafficking. In the absence of common terminology and of ways to address this phenomenon, the available statistics collected for the national reports vary, and thus it should be recognised that they are not comparable[18] and they provide only a limited understanding of the phenomenon. The countries were tasked to collect data on trafficking cases recorded by the national NGOs and embassies abroad, cases recorded by the police, as well as statistical

[18] On the problems related to the trafficking in human beings statistics, see e.g. Jokinen et al. (2014).

information on prosecutions and convictions. If available, the national reports also include statistical information on the volumes of identified sham marriages and on the nationalities linked to them. Statistical information in the national reports should also be viewed within the context of the population of a given country.[19]

In Ireland it seems that there is a clear pattern of men from the Indian sub-continent (Pakistan, India and Bangladesh) marrying EU-national women from Portugal and Eastern European countries (mainly Latvia, Romania, Hungary and Estonia). Based on the national report of Ireland, since 2004 – when Latvia joined the EU – more than 1600 marriages have been registered in Ireland between citizens of Latvia and third-country nationals. However, it is not possible to estimate the portion of sham marriages out of the total number of these marriages. The Estonian embassy in Ireland has recorded on the average 45 to 50 marriages per year between Estonian nationals and third-country nationals. Also the other national reports have identified a high proportion of men from India and Pakistan involved in the marriages concluded in Ireland.

Between the years 2011 and 2015 the Latvian diplomatic missions abroad have provided assistance to 365 possible victims of human trafficking. The available statistics do not include detailed information on whether the cases are linked to sham marriages. However, suspicion regarding a close link to sham marriages is based on the experience of the consular staff, statistics on marriage, and other information collected by the Latvian Embassy in Ireland. In Latvia, in 2014, a total of 38 victims received social rehabilitation services (including victims who started rehabilitation in the previous year) from among whom 15 victims were identified as having been exploited through sham marriages. In Latvia, between 2013 and 2015 there have been on the average ten criminal proceedings per year on the basis of sham marriage. There have been a few cases of human trafficking involving forced marriage between 2010 and 2015 in which criminal proceeding has been initiated. In 2014, 223 inspections had been conducted in Latvia regarding the cohabitation of spouses, and in 48 cases sham marriages were suspected. In Slovakia, between the years 2010 and 2014 there were a total of 21 persons included in the victim assistance programme who were identified as victims of "trafficking in human beings for the purpose of forced marriage".

In Lithuania between 2010 and 2015, on the average 25 marriages per year were identified as sham, involving third-country nationals and Lithuanian nationals. In Lithuania, sham marriages are not criminalised and as a result there are no pre-trial investigations related solely to sham marriages. There have been three pre-trial investigations, however, which include elements of trafficking and exploitation in connection with sham marriage. Statistics collected by NGOs in Lithuania have recorded 135 potential victims of human trafficking in 2014. In the same year, 24 pre-trial investigations were initiated concerning human trafficking, of which three have included a suspicion of links with exploitative

[19] The approximate population in the countries included in this project: Estonia 1,3 million; Ireland 4,7 million; Latvia 1,9 million; Lithuania 2,8 million; and Slovakia 5,4 million.

sham marriages. The Estonian Migration Bureau suspected ten marriages of being sham marriages in 2010 and 35 in 2011. However, none of these cases were confirmed as sham marriages. Around twenty cases of trafficking in human beings[20] have been registered per year in Estonia in 2012−2014, and in 2014, one of the cases was related to human trafficking for organisation of sham marriage (Ministry of Justice of Estonia 2016).

6.2 Recruitment of women into exploitative sham marriages

The country reports identified primarily local, often young women[21] as targets of recruitment into exploitative sham marriages. In addition to young women in their 20s, also women from other age groups were identified. The targeted women often had social and financial difficulties. The Estonian research noted that all recruited women had Estonian citizenship, some being Estonian speaking while others belonged to the Russian-speaking minority. In Slovakia, also the Roma were recruited into exploitative sham marriages. In general, the background of the women recruited into exploitative sham marriages resembled the background of many other trafficking victims. However, it cannot be stated that there would be a certain profile of victims of human trafficking.

All five country reports outlined that women are recruited for sham marriages mainly via social networks as well via the Internet. The recruitment methods identified in all five country reports could be divided into direct and indirect recruitment methods. The *direct recruitment* is small-scale and often carried out face-to-face by unorganised recruiters, such as family members, friends, employers and acquaintances who receive financial compensation for a successful recruitment. The recruiters especially target women who are in financial difficulties, have a history of social exclusion, a low level of education, lack language skills, have diagnosed mental disabilities, or come from a dysfunctional family background.

The Irish research found extreme poverty to be the major motivating factor in agreeing to enter into sham marriages. In the identified cases there was a considerable number of young single mothers and also women whose children had been taken away by social services. In all cases discussed in the Irish report, the recruiters had some kind of pre-existing connection with the recruited, e.g. they were a member of the family, a friend, a boyfriend, and in one case even an official in the city council in the country of origin.

Indirect recruitment here refers to online recruitment which is mass-scale, with hundreds of messages posted online via social media, chat rooms or migration forums. The deceptive messages either promise a well-paid job abroad, or more

[20] § 133, § 133[1], § 175.

[21] We use the term “women” here, since all persons recruited into sham marriages identified in the country reports were female. The Slovakian research found one media article where the recruited person was a male. However, the article did not indicate what forms of exploitation or links with trafficking would have been present.

directly search for women who are willing to conclude a sham marriage with a third-country national for financial compensation with no negative repercussions. The online recruiters are often (allegedly) female, and in addition to advertising, traffickers also use the Internet to interact with potential victims using social media as a recruitment tool. Online recruiters aim to recruit several women at the same time. The Latvian research found that currently the indirect online recruitment methods are becoming more popular than direct recruitment methods. Also "genuine" marriage offers are found online. It is likely that traffickers will increasingly utilise the Internet, since it seems to work especially to the advantage of traffickers. The Latvian and Estonian research revealed that victims of exploitative sham marriages are recruited also while they are visiting abroad and sometimes the marriages are also concluded outside the EU.

It should be highlighted in this connection that victim blaming might easily happen in cases where women seemingly voluntarily enter into sham marriages or take up job offers that seem too good to be true. However, it is important to note that the consent of the trafficked person becomes irrelevant whenever any of the 'means' of trafficking are used, in other words whenever a trafficker uses coercive, deceptive or abusive action, the initial consent of the victim has been rendered meaningless. As discussed e.g. in the Lithuanian research, the more visible forms of exploitation (economic, psychological, physical, and sexual violence) start in the destination country, but the less visible forms of exploitation (taking advantage of social, psychological and economic vulnerabilities) start already in the origin country.

In those cases of either indirect or direct recruitment where women "seemingly voluntarily" agreed to conclude the sham marriage for financial compensation, the recruiters had given them deceptive information about what would happen after the marriage would be concluded. For example, according to the research in Ireland, certain women were told that they would be able to choose whether to return to home or not, and if they chose to stay they would be assisted in finding housing and jobs (babysitting, cleaning etc.). Another way to persuade the women to conclude a sham marriage, found in the Estonian research, was by convincing them that they would be able to file for a divorce in a few months after the conclusion of the marriage. In reality divorce can be costly (possible lawyer fees and administrative costs), it might require specific terms such as separation periods, and a party filing for divorce is usually required to seek separation in the country where the marriage was contracted. Legal experts interviewed for the Estonian research stated that if a woman enters into a sham marriage in Ireland, it can be problematic for her to file for divorce in Estonia.

According to earlier research (see Spapens et al 2014) recruiters describe the prospective grooms as wealthy, handsome, respectful, and grateful, while the prospective bride may be led to believe that she will have power over her future husband as she is from an EU country and he is not. The research also noted that the main attractions of sham marriages are the promises made to women by recruiters that create the illusion of considerable gain made with little effort. The woman is told that there will be a job waiting for her, but when she arrives she

finds herself in a situation where her options become very limited and concluding a sham marriage seems to be the best option. (Ibid.)

The national reports, e.g. Ireland, also identified cases where the recruited women were completely unaware of any sham marriage arrangements. A Latvian woman was invited to Ireland by her friend for a visit and after arrival she was forced to conclude a sham marriage. The Slovakian research also described a case where women were transported to the destination country against their will by using physical and psychological violence. Other recruitment tactics identified in the five national research reports included promises of giving the women a unique experience and the opportunity to visit a new country and see the world.

The Latvian and Estonian research reports also discussed cases where the line between an exploitative sham marriage and a real marriage is difficult to define. In these cases, the deceiving partner pretends to have a genuine relationship and the desire to get married with the intention to create a traditional family unit with the woman. However, the real goal is to migrate to another country. The deception is often exposed once the residence permit is secured, e.g. after having children together, which is often the point when the behaviour of the deceptive spouse becomes more violent. It is especially challenging to intervene early enough, or even identify these cases as exploitative sham marriages, since the elements of exploitation, and the means used, are subtler and the illusion of a real relationship might be kept for several years, with possibly a common child involved. It is more likely that both the officials and the women themselves see the situation as domestic violence rather than as an exploitative sham marriage.

Both female and male recruiters were identified. One identified group of organisers were the third-country nationals who had concluded sham marriages themselves in the past. There was only a limited amount of information available on the recruiters, the organisers and their specific role and relationship in exploitative sham marriages. Based on the research reports, however, the organisation of sham marriages is systematic in the sense that recruiters operate in the origin countries targeting specific groups of young women coming from the most socially and economically vulnerable groups of society, and they use varying degrees of deception. At least some of the organisers are usually located in the intended country of destination and are in control of accommodation and marriage arrangements with prospective third-country nationals. The Lithuanian and Estonian research found that it is common to use as recruiters to sham marriages women who had agreed to a sham marriage themselves, or their relatives or acquaintances. This is one way for the actual organisers to avoid legal responsibility. The research reports were not able to find much information on the third-country nationals, and questions remain on how the organisers get in touch with the husbands in the first place.

6.3 Travel to and arrival in the destination country

All four countries of origin reported that the victims travelled to the destination country using cars, boats, planes or busses. The destination countries in the identified cases were not only Ireland, but also Austria, Belgium, Cyprus, Denmark, Germany and the United Kingdom. As stated in the Latvian and Estonian research reports, the regulations related to the conclusion of marriages (as well as divorce procedures) between EU nationals and non-EU nationals determine why some countries are destination countries more often than others.

All the research reports found that the women were met (usually at the airport) either by the organisers, middlemen, the grooms, or by the groom's relatives. It was rare that the recruiters would have travelled together with the women. The women either travelled alone, with a friend, or when several women were recruited at the same time, they also often travelled as a group. Also, the Lithuanian research found that not only did the women travel together, but also the conclusion of sham marriages was often organised so that several "couples" were married at the same time.

According to the Latvian research, the reason why the grooms are met only in the destination country is likely due to expensive flights and complicated travel arrangements. The reports did not contain information on how the prospective husbands had initially come to the destination country and what their residential status was before the marriage was concluded (tourist, student, worker, asylum seeker, undocumented migrant etc.).

All the national reports found that the travel tickets were commonly bought by the organisers, and sent to the women e.g. via e-mail. The women often found themselves in a situation where they were indebted to the recruiters, and this was used to threaten them in case they had second thoughts about going through with the planned sham marriage. The Irish research found that none of the women were aware prior to arrival of the nationality of the prospective spouse.

The Lithuanian and Slovakian research described the women as often being in a vulnerable position in the wedding ceremonies, since they were not able to communicate with their prospective husband due to a language barrier, and no interpreters were present at the events. The organisers attended the weddings as witnesses. The Lithuanian research described the weddings as ceremonial where the traditions of the husband were honoured. The wedding party was said to have a role in making the women easier to control as it made them feel important, celebrated and needed. Logistically the organisation of sham marriages included two phases: the women would first travel to the destination country to register for the marriage and then come back after a three-month reference period for the wedding ceremony. The Irish report stated that the women who stayed in the destination country during this period were at a high risk of exploitation. It was common that the women were prepped for the discussions with immigration officials beforehand and often also the recruiters stopped contact after the conclusion of the marriage. The Irish research also found that marriage proceedings and papers were arranged by the prospective husbands.

6.4 Exploitation in the destination country

In most cases the victims began to become aware of the reality of the situation in the destination country. All the research reports identified various forms of exploitation, and different control methods. Threats and psychological control, sexual and physical violence, financial control, and economic violence were used to control the women. Furthermore, the reports identified exploitative elements, such as deprivation of personal freedom and restrictions of movement, confiscation of identification documents, poor living conditions and/or lack of possibilities to influence the living arrangements and so on. The (prospective) wives were made dependent on the (future) husbands and/or the organisers in many ways. The exploitation and control identified in the cases studied are to a large extent similar to those in other forms of human trafficking, such as trafficking for sexual and labour exploitation. A parallel can also be drawn to patterns of intimate partnership violence and/or domestic violence.

All the reports found that in many of the identified cases of exploitative sham marriages the women were commonly housed in apartments which were shared with a number of strange men and also by other women. The living arrangements were set up by the recruiters/organisers. The women were usually unable to communicate with the men due to the lack of a common language. The Estonian research more specifically found that the women were also forced to stay in the accommodations also after the marriage had been concluded.

After arrival in many cases women started receiving threats towards their well-being, and possibly towards the well-being of their children (from previous relationships). According to the Estonian and Slovakian research, at this stage certain women had started to second-guess their decision to conclude the sham marriage. The organisers/husbands reacted to this with threats to e.g. tell the families of the women about the sham marriages. Physical and psychological violence, control and isolation were used if the women refused to conclude the sham marriage as agreed. In other cases, e.g., as described in the Lithuanian research, the confinement, threats and abuse could begin immediately after arrival in the country. The country reports were unable to uncover whether the sexual abuse was intended from the beginning, and as urged in the Irish research, this is an area for future research.

Economic violence was also used as means of control, since the women were often economically dependent on either the recruiters or the husbands. The travel and living costs were often used as a means to create a situation of debt bondage. According to the national reports, in very few cases did the women receive any of the money promised to them and the financial transactions occurred between the organiser and the prospective husbands. The Slovakian and Lithuanian research also found that identification documents and possible other possessions such as mobile phones were usually confiscated from the women. Because many of the women had a history of financial problems, they were usually dependent on their husband and/or the organisers for even basic sustenance. There is not enough information on how often the women in question were able to, or even allowed to, work or find any employment.

According to, e.g., the Latvian and Estonian research reports, the victims of exploitative sham marriages often experienced physical, sexual and psychological violence in the destination country by their future husbands already before the conclusion of marriage. The women were sometimes also told that they were in debt for the housing arrangements, and required to perform unpaid domestic labour in the house where they lived. Physical violence included pushing, pulling and beating with objects. Also, children from previous relationships were subjected to violence. The victims were prohibited from leaving the house and they were unable to contact relatives. In several cases the future husbands demanded that the women perform their 'wifely duties' and forced them to provide sexual services. Furthermore, in some cases the women were not allowed to use contraception and they were forced to have a baby, as becoming a father would strengthen the grounds for a third-country national to receive a residence permit in the EU.

In order to ensure the women agreed to conclude the sham marriage, they were told that they would be able to return home after the wedding. The women were also threatened with criminal liability by both the future husbands and the recruiters and told that if they admitted to having concluded a sham marriage they would likely be viewed as participants in the crime. The Latvian research also found that some women were forced to engage in criminal activities such as stealing or to recruit other women for sham marriages. The Slovakian research found that in some of the identified cases of trafficking for forced marriage, the women were sexually abused by the husbands and/or forced into prostitution after being forced to conclude the marriage.

The results show that very severe abuse and means of control have been used against the women by the (prospective) husbands and/or by the organisers. However, the country reports do not have much information on the motives of the husbands to exploit the women. It is clear that the motive for the (prospective) husbands to conclude a sham marriage was getting the residence permit. As for recruiters and organisers the motive was to make money. The motivation to abuse the women sexually and physically is not that clear, since the third-country national husbands were more or less dependent on the women and their residence permit was dependent on (the conclusion of) the marriage. However, for example, the report from Ireland noted that sometimes the third-country national husbands may be exploited as well, in a way that advantage was being taken of their desire to obtain a residence permit. According to the Lithuanian report, sometimes the third-country nationals did not understand the full scale of how they were being used to make profits. In general, the reports do not include much information on the third-country national spouses, their role, action and motives. The data is very victim-centred, and lacks detailed information on the offenders.

According to the Lithuanian report, the profile of the offenders who organised sham marriages was not different from the profile of the offenders who are involved in more "traditional" forms of human trafficking. The organisers were both third-country nationals and Lithuanian citizens who were looking for third-

country nationals to marry Lithuanian citizens in the destination country. The research reports noticed that the recruiters often had the same nationality as the women recruited for the sham marriages. The Latvian research stated that most sham marriages should be seen as organised activity and that they were organised by groups of people, instead of individual persons. There were persons who took care of recruitment, persons who organised the activities – the ones who benefited from the activities – and then there were the prospective husbands – the ones who paid for obtaining the residence permit. Often, the organisers operated in the destination country and the recruiters in the country of origin of the prospective wives. Also the Irish study indicated that the recruitment and exploitation of women was highly organised. However, it is not very clear whether actual organised criminal groups had a role in organising exploitative sham marriages. It seems that the activities were often systematic but not necessarily organised by the members of organised criminal groups. Viuhko and Jokinen (2009; Jokinen & Viuhko 2013) have stated earlier that operations of human trafficking and related exploitation may be very well organised and systematic, without being committed by actual organised criminal groups.

The country reports do not include much information on the profits obtained through the criminal activities, but it is quite clear that the ones who profited from the activities were the organisers and the recruiters. The third-country nationals may have paid large sums of money to get the residence permit and in order to improve their life and to be able to support their family members in the home country. The women were often left without the money promised to them for concluding the marriage.

6.5 Identification of and assistance to the possible victims

Cases of exploitative sham marriages were identified by the social services, NGOs responsible for identifying and giving assistance to victims, embassies in the destination countries, and the police. The consulates and embassies in the destination countries played an important role in identifying possible victims.

In the identified cases of exploitative sham marriages, the victims often themselves sought help from the embassies.[22] This happened either before or even a long time after the conclusion of the sham marriage. The Latvian research, for example, found that assistance was sometimes sought only after a significant amount of time had passed, in some cases after several years. Also in the Estonian research, it was found that most often the cases came to the attention

[22] In general, the victims of trafficking do not often seek help themselves, at least from the authorities. The fact that many of the victims identified in this study sought help themselves may stem from the fact that the threshold to seek help from the embassy may be lower compared to actual victim services. Also, it may be easier to ask help from the embassy than from e.g. the police. The women have not necessarily identified themselves as actual victims (of trafficking). Furthermore, the cases that have been identified are only a small share of all cases of exploitation and probably there are a huge number of victims of exploitative sham marriages who have not sought for help.

of the officials when the women encountered problems in trying to file a divorce. The victims would have needed assistance in legal matters. For example, problems may have arisen in respect of paternity issues if children had been born outside the sham marriage.

The country reports mentioned several issues that made identification of victims challenging. Strong emphasis was placed on a lack of understanding and on the absence of information on the indicators of exploitation and trafficking in connection with sham marriages, especially in smaller cities and more rural areas. As a result of the lack of knowledge and specific identification measures, women who concluded sham marriages could be perceived as perpetrators of a crime rather than as victims of exploitation. In the cases of exploitative sham marriages, the focus of the authorities might have been on the crimes against the state instead of identifying forms of exploitation and possible links to trafficking. The topic of immigration and sham marriages is sensitive, as the public can hold certain attitudes and prejudice towards the persons in question. The Lithuanian research highlighted that there was a lack of victim-sensitive attitudes, in both countries of origin and destination which might have led to victims being viewed more easily as offenders. In cases which had started with the women voluntarily concluding the sham marriages, the identification of victims might have been further impaired by attitudes related to 'blaming the victim', which is common especially in relation to sexual exploitation. This can also affect the women's willingness to seek help themselves.

All research reports also highlighted the problem of victims not identifying themselves as victims. This is a relatively common issue as regards human trafficking in general. Therefore, it would be important that the persons affected have a possibility to receive assistance from sources (such as NGOs) other than "official" assistance systems for the trafficking victims. Often, accessing the national assistance programmes for victims of trafficking require cooperation with the authorities and/or on-going criminal proceedings, which can be problematic in cases such as those described here. Often official assistance also requires that the woman ends all ties to the perpetrators, which might be difficult if the perpetrator is also the father of her children. The Latvian research also referred to the problems of investigating cases of exploitative sham marriages, in which women recruited by acquaintances of family members might be reluctant to disclose information about the perpetrator to the law enforcement officials.

Regarding victim identification, the Lithuanian research highlighted the NGOs' recommendation to increase training both nationally and locally. The training should be systematic and should be tailored to each sector involved in the prevention of trafficking in human beings and sham marriages, from the law enforcement sector to educational and health care professionals. The concept of vulnerability must be brought into the discussion more strongly.

The lack of formal identification procedures makes the identification of exploitative sham marriages especially challenging. However, experts and officials did report having at their disposal certain measures aimed at preventing

sham marriages and were aware of possible warning signs and indicators which could suggest that a marriage is a sham; together with features of human trafficking or severe forms of exploitation, these could point to a relevant situation.

Embassies have an important role in identifying victims, and should ensure that these persons receive an adequate response to their needs. Regardless of the significant role that embassies have in identifying victims of exploitative sham marriages, the Estonian report highlighted that embassies cannot function as a law enforcement authority. However, it would be important to train consular and embassy staff on features of human trafficking and ensure that they know to whom they can refer potential victims for assistance. For example, the Irish research underlined the importance of making psychological support, protection and legal advice immediately available to victims. Also, the data regarding marriages recorded by embassies abroad should be shared systematically with the relevant authorities of the countries in question.

The national reports highlighted the need to intensify international cooperation, based on some already existing good experiences with cross-country cooperation and joint investigation teams. Collecting evidence for criminal investigations would be easier and more efficient through cross-country cooperation, which brings together law enforcement authorities from countries of origin and destination.

6.6 Prevention of exploitative sham marriages

Since exploitative sham marriages and their links to trafficking are a relatively newly identified phenomenon, authorities and law enforcement practitioners face several challenges. Currently there are no specific means of prevention focusing on exploitative sham marriages or improving identification of potential cases. For example, the Estonian report mentions that improved identification of sham marriages could help prevent exploitative sham marriages. The minimum waiting period between the filing of the marriage application and concluding the marriages should be long enough for the officials to be able to verify the authenticity of documents. However, the marriages are often concluded in the destination countries, which complicates identification in countries of origin. Identification is also challenging due to many of the potential victims being unwilling to come forward and ask for help in the fear of the consequences of initially agreeing to conclude a sham marriage.

The prevention of exploitative sham marriages and trafficking in general needs long term strategies and financing. Awareness raising and campaigns should target the groups who are most at risk. Innovative online prevention campaigns would need to take into account the more common online recruitment tactics. All the national reports also emphasised the importance of organising topical educational initiatives directed at the groups at greatest risk in society. Young women with secondary and vocational education are targeted most often by recruiters. Municipalities, schools and social services need to be active

participants in the fight against trafficking. The NGOs operating in the five countries organise awareness raising campaigns and preventative activities, but project-based activities alone are not enough. The preventative measures should be systematic and regular.

The Lithuanian report noted that the prevention measures should be constructed – in both destination and origin countries – so that they would incorporate a more in-depth understanding of vulnerabilities, especially poverty and gender inequality as driving forces. Prevention is not only a question of setting up anti-trafficking policies but also policies addressing the root causes, such as reduction of poverty, equal opportunities and public security, are important.

7. Exploring the links between human trafficking and sham marriages

In this chapter we analyse the links between human trafficking and (exploitative) sham marriages. First, it must be noted that the majority of sham marriages probably do not include elements of exploitation and a minority even among exploitative sham marriages can be argued to be related to human trafficking as such. Indeed, it would be difficult to say that a pure sham marriage where both parties consent to marry with the purpose of providing one partner with an immigration advantage, after which the two part their ways harmoniously, would be related to human trafficking criminality in any way. A parallel can be drawn here to migrant smuggling: the only victim of such a crime is the state.

At the same time, it is of course important to note that initial consent to sham marriage should be deemed irrelevant if the subsequent circumstances in the country of destination are exploitative and, for example, deception has been used, making the case trafficking-related.

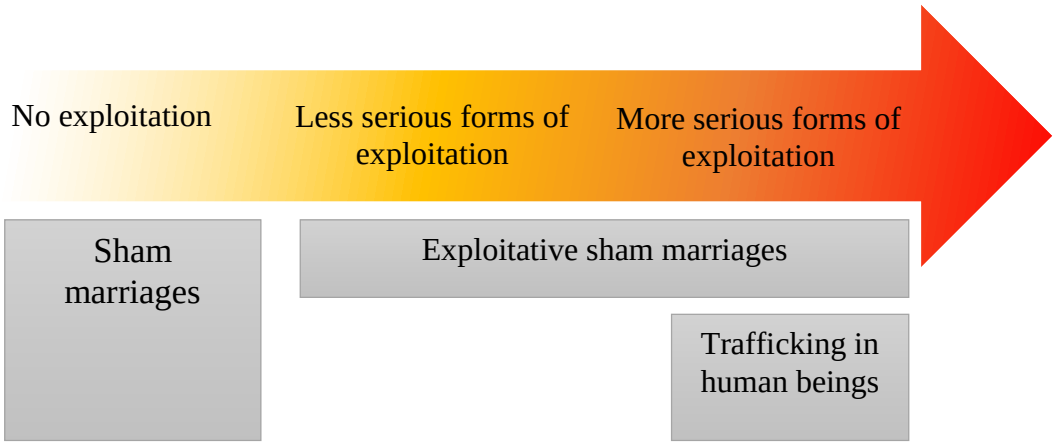
In all of the five countries studied, the researchers were able to identify different forms of exploitation which had taken place in the context of sham marriages concluded between female EU citizens and male third-country nationals. Arguably some of the identified cases include instances of serious and continued exploitation, sexual and physical violence, limitations of personal freedom and movement, and confiscation of identity documents. When looking at these cases and the definition of trafficking in persons, it is quite obvious that some of them include all the necessary elements (the act, the means and the purpose) for defining them as trafficking-related. In the following, these elements are analysed in greater detail.

The five country studies give convincing evidence that the methods of recruitment for exploitative sham marriages and for human trafficking are often the same: the victims are lured with false promises and fake job offers and opportunities. Furthermore, the cases where the women know that they will conclude a sham marriage, also resemble those cases of prostitution-related trafficking where the women know about the prostitution but the conditions in the destination country differ from their expectations and the promises given to them. Also the target groups are often the same, with a focus on young or inexperienced persons in an insecure position with financial difficulties, social problems and a history of marginalisation. Furthermore, the lack of language skills and social networks make the women recruited for sham marriages vulnerable to further abuse and exploitation in the destination country. One should neither underestimate the importance of money nor the chance to see the world as a motivation for entering such a situation. To a person coming from the poorest parts of the Baltic countries or Slovakia, a promise of e.g. a thousand euros and a chance to travel to Ireland in order to conclude a marriage is an attractive offer and a huge sum of money.

Ultimately, the element of exploitation is the key when it comes to exploring the links between human trafficking and sham marriages. If the women concluding sham marriages with third-country nationals receive money for the sham marriages, but do not become exploited in a concrete way (e.g. sexual exploitation, limited freedom of movement, confiscation of papers, threats), it is difficult to argue that there are links to human trafficking in such cases. However, the project partners have identified a huge variety of exploitative elements or negative consequences that these women have encountered as a result of concluding a sham marriage. Thus the national reports have also included cases of exploitative sham marriages which do not necessarily have clear links to human trafficking but illustrate the diversity of the phenomenon and the diverse problems encountered by the women that might result from concluding a sham marriage.

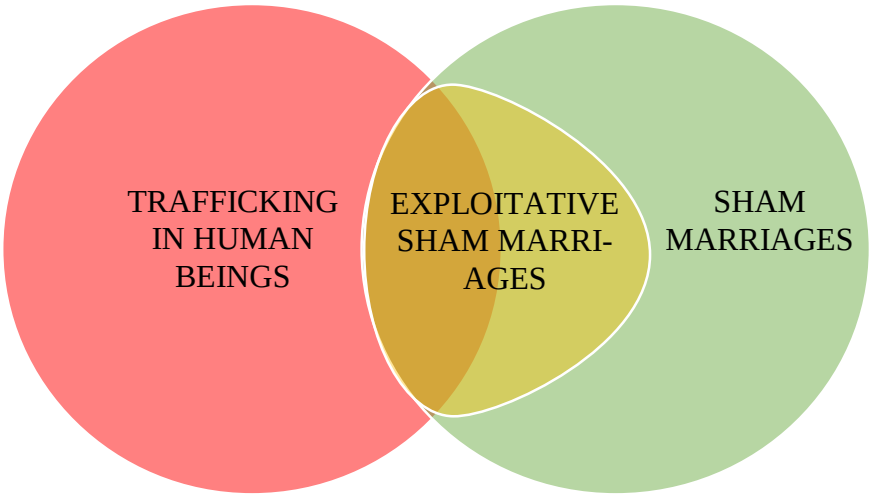
But where to draw the line between negative consequences, domestic violence, exploitation and trafficking? When does a case of exploitative sham marriage turn into a case of human trafficking? When trying to draw the line between mere exploitation and human trafficking, several researchers have used the concept of a continuum of exploitation to illustrate the issue. This continuum consists of situations and acts ranging from less severe to more severe forms of exploitation. Trafficking is the most severe form of exploitation while subtler forms of coercion represent less serious forms of exploitation (see Andrees 2008).

Picture 1. The continuum of exploitation in the context of (exploitative) sham marriages.



Thus individual forms of exploitation on their own do not make the case one of human trafficking. However, if the forms of exploitation start to pile up, the more serious the case becomes. While majority of sham marriage cases are not trafficking-related, there is a proportion of cases that could arguably be related to trafficking (see picture 2 below).

Picture 2. Trafficking in human beings, exploitative sham marriages and sham marriages.



Especially in the context of trafficking prevention it is useful to look at the wider context. David (2010) has argued that less serious forms of exploitation can be a breeding ground for more serious acts, leading up to trafficking. This could mean that if exploitation in the context of sham marriages is not identified and recognised by authorities, this might lead to increased impunity and ultimately trafficking. Moreover, it must be pointed out that human trafficking is by its nature a process rather than a single event where the victim is pressured in a comprehensive manner (Jokinen et al. 2011b). A situation that starts as a simple sham marriage can change over time, and less serious forms of exploitation can turn into more serious forms of exploitation and trafficking. The victim might depend on her/his exploiter due to debts resulting from travel arrangements, accommodation or basic sustenance, or because of her/his poor language skills, psychosocial factors or other such circumstances. In fact, the dependent status and insecure state of the victim may be exploited both in the context of recruitment and in the sham marriage itself. From the victims' perspective, it is essential to make an overall assessment of their experience. Therefore, attention should be paid to all constituent elements that render the situation such that a person is in fact unable to leave it (Jokinen et al. 2011b).

It must also be kept in mind that the situation of sham marriages is especially complicated, because when concluding a sham marriage, the women themselves may also break the law, depending on the national legislation. Thus, they could be seen as perpetrators rather than as victims by the law enforcement authorities in the first place. This is the case also with other forms of trafficking. For example, in cases related to trafficking for sexual exploitation and pandering, the role of procured women is sometimes unclear. They may be seen as perpetrators (traffickers, pimps) although they might actually be victims of trafficking themselves (see e.g. Viuhko & Jokinen 2009). The Anti-Slavery International report (2014) has analysed trafficking for sham marriages in the wider context of trafficking for forced criminality. The women may be very reluctant to seek

help and report potential cases of exploitation to the police in circumstances where the women have broken the law themselves. Also stigma and fear of authorities and threats may be used to keep the victims from contacting any outsiders and from seeking assistance.

The sham marriages and trafficking cases identified in this study are very particular. Traditionally, marriage-related trafficking has taken place in a context where a third-country national woman is brought to a country of destination and exploited there by the nationals of that country (e.g. Lyneham & Richards 2014; Tyldum & Tveit 2008). In such circumstances the women are automatically in a weaker position than their native spouse because their residence permit is dependent on their marriage in the first place. Tyldum (2013) has separated "the position of power" and "the position of dependence" and argued that the third-country national women who are married with a Norwegian spouse are dependent on their husbands due to the fact that they are living in a foreign country and lack language skills. Tyldum also notes that the dependence may be created by structural mechanisms and is not necessarily a consequence of a spouse's action. However, "(t)his dependence creates opportunities for exploitation" (ibid., 109).

In the HESTIA study, in turn, the women are EU citizens and they marry third-country nationals whose Schengen visas are dependent on their marriage. The dependency created is thus at least slightly different, because it is not in the interest of the men to threaten the women with divorce, and most likely both parties are in a new country, in a vulnerable position without the automatic benefit of knowing the native language and national systems in place. Indeed, one of the questions that remains unanswered based on the findings of this study is the role and motivation of the husbands. Is it always the husbands who are the exploiters? What kind of promises have been made to them by the organisers? Why are they exploiting the women on whom they are dependent in order to maintain access to Schengen visas? Are also they themselves in situations of debt due to large fees paid to the organisers of the sham marriages? And ultimately who are the organisers and how systematic are their operations? Unfortunately, the research did not provide sufficient data on these factors. Thus, we can only speculate on the similarities between the organisation of human trafficking and sham marriages and on the possible overlaps in the structures in place.

Is there a phenomenon called trafficking for sham marriage? One could argue that (sham) marriage has certainly been used as a recruitment method in cases of human trafficking (see also Lyneham 2013; Lyneham & Richards 2014). Let us explore a scenario where a woman is promised a thousand euros for concluding a sham marriage in Ireland. She agrees to marry a man and travels to Ireland, concludes the marriage and is then exploited in forced prostitution or in domestic servitude without necessarily having any contact with her "husband". Here, the sham marriage is clearly just a means of recruitment, just like a job offer. What, then, about a situation where the same woman agrees to the marriage and travels to Ireland, but decides to withdraw, and is coerced or blackmailed to conclude

the sham marriage anyway because of the incurred costs of her travel arrangements? Is that not already a case of forced marriage, because she does not consent out of her free will? What about if the same woman agrees to the sham marriage, concludes it and then ends up living with her "husband" for several years, having a genuine relationship with him and having children together with him? Is that not a genuine marriage after all, even if it started as a sham, and even if it is exploitative? Where can we draw the line between a genuine marriage with domestic violence, and exploitative sham marriage? Similarly, Lyneham and Richards (2014) have noted that crimes related to trafficking and marriage migration are often deemed domestic violence. The boundaries between different forms of exploitation, as well as between different forms of (sham) marriages, are not always clear.

The national reports identified several forms or scenarios of sham marriages. For example, the Estonian study divided the marriages into four categories: marriage by deception, "business" sham marriage, deceitful sham marriage and exploitative sham marriage. Each type can be characterised by the level of awareness and understanding of the parties involved in (organising) the marriage about the real intentions to contract the marriage. Deception is used in all of these types of marriages, despite the business sham marriage where both parties have given their consent to the marriage and intentionally seek, e.g., immigration advantage or financial gain. In other types of the marriages one party is deceived either about the authenticity of the marriage and/or its conditions. The Latvian study made a distinction between marriages including more severe forms of exploitation, all types encompassing more or less coercion. In one of the identified types, a person is forced to conclude a marriage (forced sham marriage), in another type a person initially consents to the marriage but then afterwards s/he is deceived and/or is subjected to violence. In the third type, a person is deceived into believing that the marriage is genuine but then later on it turns out to be fraudulent and the person is subjected to exploitation. It is not always clear where to draw the line between these different types of sham and/or exploitative sham marriages. Some of them include clear elements of exploitation and even trafficking, and some of them do not.

Lyneham and Richards (2014) have argued that in Australia, marriage and partner migration have been used to facilitate trafficking, and often such cases are identified only as cases of domestic violence rather than of human trafficking. They further argue that exploitation in connection with marriage can be viewed as a separate category from sexual exploitation and labour exploitation, namely the "exploitation of the very personhood of the victim" and suggest that this "distinct form of human trafficking involves the exploitation of the victim's:

- labour (in the form of domestic servitude, forced labour outside the home, or both);
- body (in the form of sexual servitude to their intimate partner and/or lack of control over childbearing); and
- self (in the form of loss of freedom and psychological bondage)" (ibid., ix).

This is an interesting argument, but a controversial one. Indeed, some of the cases identified in the country studies include such elements, but is the marriage itself a form of exploitation or is it merely a coercive mechanism that facilitates exploitation? Also contrary to the Australian study, the cases identified by the HESTIA partners as most relevant often had clear indications of force already at the early stages of the recruitment process. In the end there is a fine line between forced marriage and coercive recruitment into sham marriage. Exploring the argument made by the Australian researchers would warrant further analysis and in-depth data.

Finally, let us consider the prevention aspect. Trafficking in human beings and sham marriages both take place in certain contexts. One could argue that the root causes for both are similar and interlinked. Poverty, social exclusion, marginalisation, corruption, unemployment, lack of education opportunities, weak social protection and lack of legal and safe migration channels all contribute to situations where human trafficking occurs or where there is a demand for sham marriages to legalise the migration status of certain people. Certainly it must also be acknowledged that human trafficking especially in connection with (exploitative) sham marriages is very much a gendered phenomenon that affects especially women. Their vulnerability is further increased due to gender-based violence, unequal access to the job market, the gender pay gap and feminisation of poverty, among others. It has been suggested that such structural inequalities mean that women are also potentially less likely to see their experience as exploitation, but rather that they are fulfilling their role as caregivers and service providers (Bearder 2015). This would thus further decrease the willingness of the victims of exploitative sham marriages to seek help and disclose their experiences. Trafficking prevention should focus on addressing and taking into account these specific factors that facilitate exploitation of people. Furthermore, according to Spapens et al. (2014), recruitment and agreeing to engage in sham marriages can be better understood if viewed in its historical context. During the Soviet era in Latvia and other former Soviet republics, it was not uncommon to arrange marriages to ensure financial security and material gain. This mentality allows for the replication of these historical practices to some extent. (Ibid.)

At the same time there is a risk that preventative policies and measures are used to assert power and control over certain marginalized and groups at-risk both within the EU as well as in third countries. Certainly xenophobia, racism, islamophobia and discrimination exist within the EU countries. It might be easier to claim that all marriages between underprivileged women from selected EU Member States and third-country national men from certain countries are inherently risky and should be avoided, restricted or prevented. Indeed, the dilemma here is that arguably both groups – the women and the men – are structurally in a vulnerable or weak position. Therefore, it is important to introduce transparent and non-moralising policies which would empower the groups at risk and help gain their trust rather than introduce stricter controls and long investigations into the legitimacy of the marriage plans of individual EU citizens and third-country nationals. There will never be a one-size-fits-all

solution when it comes to trafficking prevention, as there is a huge variety in the types of victims and in the spectrum of trafficking vulnerability (Brunovskis & Surtees 2015, 13).

Stricter border control and questioning of the authenticity of marriages concluded between EU-citizens and third-country nationals may result in unintended and/or counterproductive consequences and even human rights violations. Charsley and Benson (2012) state that in the United Kingdom the government's aims of significantly reducing immigration through 'managed migration' has resulted in attempts to identify more accurately and combat marriages of convenience and sham marriages. The efforts to identify sham marriages run the risk of creating a simplistic binary between genuine and sham marriages, which does not account for the diversity of marital practices (e.g. arranged marriages that do not have a pre-existing romantic relationship). While attempting to identify sham marriages, policy makers have to take into consideration the European Convention on Human Rights which states that 1) Everyone has the right to respect for his private and family life, his home and his correspondence; 2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. (Ibid.)

It is important to acknowledge that indeed exploitative sham marriages exist and they might result in and lead into situations of serious exploitation and ultimately trafficking in human beings. The links cannot be denied. It does seem that in many of the cases the exploiter is the husband, or the husband and their relatives, including the organisers of sham marriages. At the same time, we cannot say that sham marriages are inherently exploitative or that all instances of exploitative sham marriages are linked to human trafficking. All cases must be analysed individually, focusing on the totality of the situation of the person and the circumstances in question. Sometimes also the line between different forms of exploitation is thin, and it is difficult to say whether a person is ultimately exploited for sham or forced marriage, for domestic servitude or for forced criminality, for example.

It must also be noted that even if the person concluding a marriage fits a certain profile, it does not mean that they would automatically be exploited. Thus, restricting the rights of an individual because authorities know better, does not work as a realistic solution to the prevention dilemma. As Brunovskis and Surtees (2015, 13) remind us, "it is important to keep in mind that people are trafficked not because they are vulnerable, but because someone decides to exploit them" (ibid). This means that more focus should be put on empowering people and making sure that they have access to help and assistance, rather than trying to decide what is best for them.

8. Conclusions and recommendations

8.1 Conclusions

The study at hand has explored the links between sham marriages and human trafficking. The project partners in Estonia, Ireland, Latvia, Lithuania and the Slovak Republic carried out empirical research on the situation in their country. The task was not easy due to methodological and ethical issues related to human trafficking studies in general and to challenges in relation to studying exploitative sham marriages in particular. The project team developed the concept of *exploitative sham marriage* to refer to sham marriages (or marriages of convenience) that include exploitative elements. In all five countries different kinds of (sham) marriages and subsequent exploitation were identified. Some of the identified cases included very clear elements of force, coercion, deception and exploitation, and even human trafficking, and some of the cases could be or have been defined as trafficking in human beings or e.g. as forced marriages. However, the project was interested also in cases that encompassed exploitative elements but were perhaps not trafficking cases in the legal sense. This wide perspective towards sham marriages and subsequent exploitation allowed us to analyse and discuss the (fine) lines between different forms of exploitation.

The empirical findings from the five countries included information on recruitment for sham marriages, travel and other practical arrangements, exploitation and control aimed at the potential victims, identification of the victims, assistance provided for the victims, and prevention of exploitative sham marriages. Due to the fact that four partner countries are primarily origin countries for exploitative sham marriages, the findings contain more information on the (prospective) wives and recruitment tactics than information on the perpetrators and actions taking place in the destination countries. All five countries identified similar features of exploitation, but the reports also included some country-specific details.

The study raised several questions of which some remained unanswered. It would be interesting and important to get more information on the third-country national spouses, their situation and potential victimisation, but also their motives to exploit their EU national (prospective) wives. In terms of the role and "status" of both the EU national women and the third-country national men, further research is needed. Sometimes it is not clear who should be seen as a victim, and who as a perpetrator, and misinterpretations regarding the role of the different parties involved may lead to further negative consequences for the parties to the marriage and, for example, to violations of rights or lack of assistance and victim support. Also, more information is needed on the organisers of the exploitative sham marriages and on the other parties involved in the activities. Furthermore, the project involved only one destination country, namely Ireland, and research from other destination countries would be very welcome.

One of the ethical issues raised during the project was necessity to reveal the background, such as the nationality, of the persons involved. The starting point for the project was to explore the situation primarily of women from certain countries who become exploited in certain other countries. Despite the starting point, however, we were open to examining different kind of situations and backgrounds, and we tried to cover as diverse data as possible. Although the study entails gathering information on the background of all the parties involved in the activities, the aim was not to label certain nationalities, minorities or groups of people as being either victims or perpetrators. In order to understand the phenomenon, to prevent it and to help the potential victims, it would be difficult to conceal the origin and destination countries or information on the background of persons involved. It has to be remembered, however, that such details as the countries of origin of the potential victims or potential perpetrators, or the destination countries for exploitation, are not something permanent but instead they may change over time. We also have to remember that the main reason for the trafficking phenomenon is not the vulnerability – or the "profile" – of the victims but the fact that some people decide to exploit them (see also Brunovskis and Surtees 2015).

Essential questions when studying and discussing human trafficking and related exploitation – in the context of sham marriages, but also in relation to other forms of trafficking – are questions dealing with human rights. For example, in the prevention of sham marriages, restrictive immigration policies may appear as an attractive solution to the problem. However, preventing people from moving and migrating might have unintended and counter-productive consequences that not only restrict people's rights but also make them even more prone to exploitation and to the use of dubious and even illegal means to migrate. Furthermore, the question of whose rights should be protected, whose rights restricted and at what price, is relevant.

8.2 Recommendations at the EU level

Based on the findings of the project, several EU-level recommendations can be made. In addition to the recommendations below, each of the country reports includes a set of national recommendations which are not repeated here.

Recommendations pertaining to the policy framework at the EU-level:

- The EU Member States should develop targeted policies to empower populations at risk of being trafficked and to address gender discrimination and other root causes that render them vulnerable to exploitation.
- The EU Member States should ensure that their policies do not hinder the free movement of their citizens and do not breach or limit their citizens' fundamental rights under the guise of trafficking prevention.
- The EU Member States should provide legal migration channels and strengthen possibilities to migrate safely, instead of introducing stricter

border control measures and long investigations into the legitimacy of the marriage plans of individual EU citizens and third-country nationals. By creating more legal channels for migration, the EU Member States could prevent irregular migration and thus decrease the demand for using sham marriages as a means of gaining immigration advantage.

- The EU Member States should ensure that all preventative actions implemented in their territory take into consideration both the national and the local contexts, and are adapted to meet the changes occurring in the forms of human trafficking.

Recommendations pertaining to the strengthening of international cooperation:

- The countries of origin and destination should increase cooperation in order to prevent exploitative sham marriages e.g. through cooperation between national rapporteurs and coordinators at the EU level and from the third countries.
- The law enforcement authorities of the countries in question should consider the need, where appropriate, of setting up international joint investigation teams between the countries of origin and destination, in order to improve the investigation process and secure better evidence of the crime.
- Increased information sharing between population registries in the EU Member States could help avoid cases of bigamy and increase identification of sham marriages. Streamlining and standardising marriage registration requirements and processes in different EU Member States would also allow better elimination of weaknesses and gaps of national systems which are exploited by the offenders.

Recommendations pertaining to victim assistance and outreach work:

- The EU Member States should ensure that long-term support is available to meet the specific needs of victims of human trafficking and exploitative sham marriages. The assistance available should be inclusive, gender-specific, victim-sensitive and available in multiple languages.
- Outreach work and engagement with populations at risk to be trafficked is needed in order to improve identification of relevant cases and to prevent trafficking and exploitative sham marriages. Such work would best be organised via NGOs, as they have the best chance of gaining the trust of the persons at risk of being trafficked. Such work should take place both in the countries of origin and destination.

Recommendations pertaining to awareness raising:

- The EU Member States should organise awareness raising activities in order to inform EU citizens of their rights related to free movement, working abroad (in another EU Member State) and services available for the EU citizens.

- The EU Member States should organise targeted awareness raising activities on the risks of human trafficking and sham marriages. Such activities should be implemented in particular in areas and locations where recruiters are operating. The awareness raising should focus on offering easy-to-access and practical information on sham marriages and human trafficking. The information should be disseminated in multiple ways, utilising both social media as well as more traditional channels. Especially young people should be informed about the possible risks of entering into sham marriages or accepting promises that seem too good to be true.

Recommendations pertaining to the training of different professional groups:

- Awareness should be increased among criminal justice professionals, teachers, health, social and other professionals and NGO workers dealing with populations at risk on exploitative sham marriages. Local actors could help in identifying potential victims of exploitative sham marriages and human trafficking as well as recruiters or exploiters operating in their communities.
- Consular and diplomatic staff of the EU Member States should receive regular training on human trafficking and its different forms, including forced marriages and exploitative sham marriages. The work of the Latvian embassy in Ireland demonstrates that this is an important way of improving identification of potential victims. The embassies of the EU countries should also cooperate with the embassies of the relevant countries of origin of third-country nationals in order to increase awareness of the problem and to address it in more comprehensive and concrete ways.
- Regular training is also needed in other sectors, such as among law enforcement officials, immigration office staff, social service sector employees and teachers. The training should be systematic and individualised to each sector involved in the prevention of trafficking in human beings and sham marriages.

Recommendations pertaining to further research and information collection:

- More research is needed regarding the organisation of sham marriages and in order to understand how the recruiters, organisers and other relevant parties operate. More information is also needed on how the third-country nationals come to the destination country in the first place, and what their "status" was before the marriage (whether they have, for example, a tourist or a student visa, work permit or whether they were e.g. asylum seekers). Furthermore, more information is needed on how they are recruited, where this takes place and what kinds of sums of money they pay to organisers and whether they also end up in situations of debt bondage or labour exploitation because of these marriage fees. It would also be of importance to find out whether there are links between smuggling operations and sham marriage organisers.

- Embassies and consulates should collect information on marriages registered in the host country, when one of the marriage partners is their national. Where there are indications of sham marriages, the embassies and consulates should keep the matter under review and consider whether further measures are required.

References

Andrees, Beate (2008): Forced Labour and Trafficking in Europe: How people are trapped in, live through and come out. Working Paper. Special Action Programme to Combat Forced Labour. Geneva: ILO.

Anti-Slavery International (ASI) (2014): RACE in Europe Project – Trafficking for Forced Criminal Activities and Begging in Europe, Exploratory Study and Good Practice Examples. [online] Available at: http://www.antislavery.org/english/what_we_do/trafficking/race_in_europe_project.aspx [Accessed 10 December 2015].

Bearder, Catherine (2015): Report on implementation of the Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims from a gender perspective (2015/2118(INI)), European Parliament Committee on Women's Rights and Gender Equality.

Brunovskis, Anette & Surtees, Rebecca (2015): Reframing trafficking prevention. Lessons from a "Positive Deviance" approach. Fafo-report 2015:21. FAFO & Nexus institute.

Charsley, Katharine & Benson, Michaela (2012): Marriages of convenience or inconvenient marriages: regulating spousal migration to Britain. Journal of Immigration, Asylum and Nationality Law, 26(1), p.10−26.

COM (2010): Communication from the Commission to the European Parliament and the Council - The EU Internal Security Strategy in Action: Five steps towards a more secure Europe. COM/2010/0673 final of 22.11.2010, available at: http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=URISERV:jl0050&from=EN

COM (2012): Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016. COM/2012/0286 final of 19.6.2012, available at: http://ec.europa.eu/home-affairs/doc_centre/crime/docs/trafficking_in_human_beings_eradication-2012_2016_en.pdf

COM (2013): Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Free movement of EU citizens and their families: Five actions to make a difference. COM/2013/0837 final of 25.11.2013, available at: http://ec.europa.eu/justice/citizen/document/files/com_2013_837_free-movement_en.pdf

COM (2014): European Commission staff working document: Handbook on addressing the issue of alleged marriages of convenience between EU citizens and non EU nationals in the context of EU law on free movement of EU citizens. COM/2014/ 0284 final of 26.9.2014, available at: http://ec.europa.eu/justice/citizen/files/swd_2014_284_en.pdf

COM (2016): Report from the Commission to the European Parliament and the Council. Report on the progress made in the fight against trafficking in human

beings (2016) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. COM/2016/0267 final of 19.5. 2016, available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-human-beings/docs/commission_report_on_the_progress_made_in_the_fight_against_trafficking_in_human_beings_2016_en.pdf

David, Fiona (2010): Labour Trafficking. AIC Reports Research and Public Policy Series 108. Canberra: Australian Institute of Criminology.

Donovan, Anna, Jokinen, Anniina, Polatside, Vineta, Muraszkiewicz, Julia, Weatherburn, Amy, Hoff, Suzanne, Rijken, Conny & Tamas, Adelina, (2015): TRACE Deliverable D6.2: Future trends in human trafficking in Europe. TRACE Project. [online] Available at: http://trace-project.eu/wp-content/uploads/2016/01/TRACE_D6.2_Future-trends-in-human-trafficking-in-Europe_FINAL.pdf [Accessed 26 August 2016].

Econ Pöyry (2010): Marriages of Convenience: A Comparative Study. Rules and Practices in Norway, Sweden, Germany, Denmark and the Netherlands. Commissioned by the Norwegian Directorate of Immigration (UDI).

European Commission (2016): Together Against Trafficking in Human Beings. EU Actions Explained. [online] Available at: http://ec.europa.eu/anti-trafficking/citizens-corner-eu-actions-explained/eu-actions-explained_en [Accessed 13 September 2016].

European Union Agency for Fundamental Rights (FRA) (2014): Addressing forced marriage in the EU: legal provisions and promising practices. Luxembourg: Publication Office of the European Union.

Europol (2014): Early Warning Notification. Marriages of Convenience: A link between facilitation of illegal migration and THB. [online] Available at: https://www.europol.europa.eu/sites/default/files/publications/ewn_2014_8_public_fp_phoenix_fp_checkpoint_marriages_2.pdf [Accessed 18 August 2015].

Europol (2016): Situation Report. Trafficking in human beings in the EU. The Hague.

Eurostat (2015): Statistical working papers: Trafficking in Human Beings. 2015 edition. Luxembourg: Publication Office of the European Union.

Hughes, Donna (2004): The Role of marriage agencies in the sexual exploitation and trafficking of women from the former Soviet Union. International Review of Victimology 11(1), p. 49−71.

International Labour Organisation (ILO) (2005): Human trafficking and forced labour exploitation. Guidance for legislation and law enforcement. Special action programme to combat forced labour. Geneva: ILO.

Jokinen, Anniina, Ollus, Natalia & Aromaa, Kauko (2011a) (eds.): Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia. HEUNI Report Series No. 68. Helsinki: HEUNI.

Jokinen, Anniina, Ollus, Natalia & Viuhko, Minna (2011b): Work on any terms: Trafficking for forced labour and exploitation of migrant workers in Finland. In Jokinen et al. (eds): Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia. HEUNI Report Series No. 68. Helsinki: HEUNI.

Jokinen, Anniina & Viuhko, Minna (2013): The extent of organised crime involvement in Finnish human trafficking cases. In Töttel, Ursula, Bulanova-Hristova, Gergana & Büchler, Heinz (eds.): Research Conferences on Organised Crime at the Bundeskriminalamt in Germany (Vol II). Organised Crime – Research and Practice in Western and Northern Europe 2011–2012. Köln: Wolters Kluwer Deutsland GmbH, Luchterhand.

Jokinen, Anniina, Viuhko, Minna, Nikkilä, Miia, Joutsen, Matti, Campana, Paolo & Benito, Demelsa (2014): Trafficking in human beings: report on enforcement statistics, with accessible factsheets. In Maffei, Stefano and Markopoulou, Lenga (eds.): FP7 Research project for new European crimes and trust-based policy. Vol. 2. EPLO.

Lyneham, Samantha (2013): Forced and servile marriage in the context of human trafficking. Research in Practice Series No.32. Canberra: Australian Institute of Criminology.

Lyneham, Samantha & Richards, Kelly (2014): Trafficking in persons involving marriage and partner migration to Australia. Research and Public Policy Series. Canberra: Australian Institute of Criminology.

MacLean, Douglas (2013): Commercial Marriage Trafficking - Uncovering a Growing New Form of Transnational Human Trafficking, and Shaping International Law to Respond, in UC Davis Journal of International Law and Policy. [online] Available at: http://works.bepress.com/douglas_maclean/1 [Accessed 15 February 2016].

McLeod, F. (2014): Human Trafficking and Modern Day Slavery – an affront to human dignity. Griffith Journal of Law & Human Dignity 2(1), p. 144−173.

Ministry of Justice of Estonia (2016): Kuritegevus Eestis. Availabe at: http://www.kriminaalpoliitika.ee/et/statistika-ja-uuringud/kuritegevus-eestis.

Psaila, Emma, Leigh, Vanessa, Verbari, Marilena, Fiorentini, Sara, Dalla Pozza, Virginia & Gomez, Ana (2016): Forced Marriage from a Gender Perspective. Study for the European Parliament Committee on Women's Rights and Gender. Policy Department: Citizens' Rights and Constitutional Affairs.

Schloenhardt, Andreas & Jolly, Jarrod (2010): Honeymoon from hell: human trafficking and domestic servitude in Australia. Sydney Law Review 32(4), p. 671−692.

Spapens, Toine, Tamas, Ana-Maria, Lulle, Aija, Durieux, Hugo, Polatside, Vineta, Dragota, Cristina, Constantinou, Angelos & Muraszkiewicz, Julia (2014): TRACE: Deliverable D1.3: A report concerning the macro and micro analyses of human trafficking. Available at: http://trace-project.eu/wp-content/uploads/2014/11/TRACE_D1.3_Final.pdf [Accessed 26 August 2016].

Tyldum, Guri & Tveit Marianne (2008): Someone who cares – A study of vulnerability and risk in marriage migration from Russia and Thailand to Norway. Fafo Report.

Tyldum, Guri (2013): Dependence and Human Trafficking in the Context of Transnational Marriage. International Migration 51(4), p. 103−115.

Viuhko, Minna & Jokinen, Anniina (2009): Human trafficking and organised crime. Trafficking for sexual exploitation and organised procuring in Finland. Helsinki: HEUNI Publication Series No. 62.

Walby, Sylvia, Apitzsch, Birgit, Armstrong, Jo, Balderston, Susie, Follis, Karolina, Francis, Brian, Kelly, Liz, May-Chahal, Corinne, Rashid, Awais, Shire, Karen, Towers Jude & Tunte, Markus (2015): Study on the gender dimension of trafficking in human beings - Final report. [online] Available at: http://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/study_on_the_ gender_dimension_of_trafficking_in_human_beings._final_report.pdf [Accessed 15 August 2016].

Warner, Elizabeth (2004): Behind the Wedding Veil: Child Marriage as a Form of Trafficking in Girls. American University Journal of Gender, Social Policy & the Law 12(2), p. 233−271.

International conventions and EU legislation

Convention on the Rights of the Child, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990), available at: <http://www2.ohchr.org/english/law/crc.htm>

Council of Europe Convention on Action against Trafficking in Human Beings (2005), CETS No 197, available at: https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168008371d

Council of Europe Convention on preventing and combating violence against women and domestic violence (2011) CETS No. 210, available at: https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168046031c

Council Directive 2002/90/EC (28 November 2002) Defining the facilitation of unauthorized entry, transit and residence, available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:328:0017:0018:EN:PDF

Council Directive 2003/86/EC (22 September 2003) On the right to family reunification (OJ L 251/12, 3 October 2003) available at: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003L0086& from=EN

Council Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to

move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68.

Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.

Council Resolution on the Combating of Marriages of Convenience (4 December 1997), available at: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31997Y1216(01)&from=EN

Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.

Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.

Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA.

Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.

European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) (4 November 1950), available at: http://echr.coe.int/Documents/Convention_ENG.pdf

European Union Charter of Fundamental Rights, 2000/C 364/01, available at: http://www.europarl.europa.eu/charter/pdf/text_en.pdf

United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, opened for signature 15 November 2000, 2237 UNTS 319 (25 December 2003), available at: http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf

Appendix 1. Interview framework for experts

Background of interviewee

- How does your work relate to sham marriages and/or trafficking in persons?

Concrete cases

- Have you encountered concrete cases of sham marriages which have included features of trafficking/exploitation? (Please tell me more…)
- What happened and how did you come into contact with such a case?

Recruitment

- How are the women recruited?
  - Who are the women?
  - What motivates the women to conclude sham marriages?
  - What are they promised?
  - How much money (or other gifts etc.) is promised for concluding a sham marriage?

- How are the men (husbands) recruited?
  - Who are the men? What motivates them?
  - What are the men promised?
  - Are the men recruited in Europe or in their home country or in a country of transit?
  - Are there links to smuggling (of migrants) operations?

- Who are the recruiters (background information)?
  - What motivates them?
  - Are the activities organised?

- Does the recruitment take place online or in real life?
  - Does online recruitment differ from recruitment in real life?
  - Who organises online recruitment and posts advertisements online and/or grooms the victims into accepting a (sham) marriage?

- In what language are the advertisements written?
- Where are the advertisements posted? Are they shared also via social media?

Transportation/travel

- How do women travel to country of destination? What about the men (husbands)?
  - Do they pay and book their own travel tickets or does someone do it for them? Who? How is travel organised?
  - Do the women travel independently or are they accompanied?
  - What instructions are the women/men given on where to go after arrival?

Arrival

- What happens after the women arrive in the country of destination?
  - Do they meet their future husband before the wedding?
  - Who organises the wedding? Where is the wedding organised?
  - Are the women forced/pressured to marry?
  - What happens after the wedding?
- Do the women who enter into sham marriages receive the money promised?

Life in the destination country and exploitation

- What do the women do in [destination country]?
  - Where do they live? With whom?

- What forms of exploitation do the women encounter?
- What indicators of human trafficking and /or exploitation are present?
  - Violence (physical, sexual, psychological)?
  - Threats?
  - Economic violence (e.g. taking loans in her name, controlling the use of or access to money, debt bondage)?
  - Is their freedom of movement limited? Are their passports taken away?

- Can they keep contact with their family and friends?
- Are the women subjected to any forms of sexual exploitation and/or forced prostitution?

- Have you encountered cases where the women were exploited in domestic servitude/ in labour?

- Have you encountered cases where the men were exploited or were e.g. in debt bondage or in a situation of labour exploitation?

- Who is the exploiter/exploiters?
  - Is it the husband, the organiser or someone else?
  - What is their modus operandi?
  - What motivates them?

Organisation of sham marriages

- How are (exploitative) sham marriages organised?
  - Who are the organisers of sham marriages? Are they different from recruiters?
  - Are the activities systematic/organised? Is there a hierarchical structure in place? Are there links to organised criminal groups?

- How do organisers of sham marriages make their profits?
  - Where does the money come from? (From the men who are willing to pay for marriage in order to receive a residence permit in the EU? From exploiting the women in prostitution/work/domestic servitude?)
  - What happens to the profits? Is the money laundered?
  - Do the organisers pay the women recruited for concluding sham marriages a proportion of the profit made, or do they keep the money they received from the husbands?

- Have you noticed any trends regarding possible increases or decreases in the number of sham marriages concluded? Has the number of exploitative sham marriages changed in the recent years? Why?

Identification of victims & assistance

- Do you think the relevant actors are able to identify victims of exploitative sham marriages?

- How are the victims identified?
  - Do the victims seek help themselves or how are they discovered? Who identify the victims? The authorities? The embassies? NGOs?
  - Where and in which circumstances are the victims identified? Does your organisation do outreach work to find victims?
  - What happens after the identification is made?

- How is assistance to victims organised?
- Is assistance provided to victims sufficient?
- What could be done to improve assistance provided to victims?

Prevention

- What should be done to prevent exploitative sham marriages?
  - What has already been done?
  - What are the gaps in the system that allow this to happen?
  - Do you think the current legislation is sufficient?

- Is training needed?
  - What issues should training cover?
  - Who should be trained?

- When do think an exploitative sham marriage turns into a case of trafficking in persons?
- Do you have anything to add?

Appendix 2. Interview framework for victims

In the beginning of the interview:

Introduce the project and the aim of the interview (give her/him an information sheet of the project).

Tell her/him that the interview will be referred to in the research report, but it will be done anonymously.

Make sure that the interviewee knows that they can refuse to answer any question or the interview can be stopped or paused any time.

Ask her/his permission to record the interview.

***

RECRUITMENT

- How did you end up in marrying a third-country national?
- How did you hear about the chance to get married? [How did you end up in the situation of exploitation?]
- Who suggested the marriage to you? How and where (in person, online etc.)?
- What were you promised for the marriage? Money? Other gifts? Love/Chance to see the world/Better life etc.? Were you promised something else (work etc.)?
- Did you have to pay something for the recruiter/organiser of the marriage?
- Why did you decide to agree the suggestion of concluding a sham marriage? [What was your motivation?]
- Did you talk about your plans with anyone before deciding to leave your home country?
- Were you aware of the potential risks involved (harmful consequences to you or your family)?
- Were you aware that concluding a sham marriage might be an offence in [home country] or in [destination country]?

TRAVEL

- How did you travel to [destination country]?
- Who organised the travel? Who bought the tickets?
- Did you pay something for the travel?

- Did you have to borrow money to be able to travel to [destination country]? How much? Where did you borrow the money?
- Did you travel with somebody?
- Did someone meet you at the airport/railway station/harbour etc? Who?

ARRIVAL IN THE DESTINATION COUNTRY

- What happened after your arrival in [destination country]?
- How and where did you meet your husband for the first time?
- Who organised the wedding? Where was the wedding organised?
- What happened after the wedding?
- Did the situation in [destination country] correspond to what you were promised (at recruitment)? Did you receive the money promised?

LIFE IN THE DESTINATION COUNTRY / EXPLOITATION

- What did you do in the destination country (work etc.)?
- With whom did you live? Where?
- What kind of living conditions you had? Were you satisfied with the living conditions/your circumstances?
- Did you get to know any local people? Did you learn the local language?
- Did you keep up contact with your family and friends in [home country]? Was the contact restricted?
- Were you able to do anything you wanted or did you have to ask permission from your husband (or someone else)?
- Did your husband (or someone else) give you tasks/household chores/work to be carried out? [NOTE TO INTERVIEWER: any potential elements of domestic servitude are of interest]
- Were you threatened or pressured? How? By whom?
- Were you forbidden to leave the house or were you locked up?
- Did you have your passport/ID?
- Were you physically abused (e.g. hit/slapped/pushed, pulled your hair..)?
- Were you exploited sexually (incl. were you made to take part in any form of sexual activity or were you unable to refuse)?
- Were you allowed to use contraception?
- Do you have children? (Do you have children with the man you are/were married to in [destination country]?)

- Were the children with you in [destination country]?
- Were they threatened somehow?
- Did your husband (or any other person) threaten to take the children away from you or hurt your children?
- Did you feel scared of/in the situation?
- Did you tell anyone about your situation?

WORK [in case the person has been exploited in work]

- Did you work [in the destination country]?
- Where? (Who was your employer?)
- Did the work correspond to what you were promised?
- Did you get paid for the work?
- What were the working conditions like?
- Were you controlled/pressured/threatened by your employer?
- Were you able to leave the job when you wanted (quit the job at will)?

HELP AND ASSISTANCE

- How was the situation resolved?
- Did you get help? What help did you get?
- Did you seek help yourself? Where?
- Are you satisfied with the help you got?
- Do you know if your case has been investigated and/or prosecuted? If so, do you know how the case is proceeding? How did the authorities hear about the situation?
- Did you get a divorce? How was it organised?

PREVENTION

- Have you heard about others who have had similar problems while getting married/staying/working in [destination country]?
- What should be done to warn people about the problems they may face after entering (sham) marriages?
- What would you say to a woman who was in your situation?
- Do you have anything to add?

LINKS BETWEEN THE INVOLVEMENT OF ESTONIAN WOMEN IN SHAM MARRIAGES ABROAD AND TRAFFICKING IN HUMAN BEINGS

Olena Valdenmaiier & Sirle Blumberg

1. Introduction

Sham marriages have increasingly gained attention over the past few years because the right to family reunification may be misused as one of the routes to settlement in the EU (European Migration Network 2012, 9). The tension between freedom of movement within the European Union and increasingly restrictive immigration and employment regulations for third-country nationals can lead to an increase in the number of fraudulent schemes promising to facilitate migration through abuse of EU migration legislation.

Sham marriages are typically identified as an offence against the state. Such a perception implies that both parties to the marriage are seeking to gain an advantage from the union. Despite the fact that the number of identified cases of sham marriages in general is relatively low, reports about the involvement of organised criminal elements in their facilitation is worrying (COM 2013). Law enforcement agencies in different Member States have identified criminal schemes that link sham marriages to trafficking in human beings. EU citizens are recruited in their home countries (mostly Eastern European countries) with promises of financial gain and then trafficked to the destination country to be coerced into sham marriages with third-country nationals (Europol 2014). In this case, the status of EU citizens that become the sponsors of third-country nationals through sham marriage shifts from being perpetrators to becoming victims. A difficult social and economic situation at home might encourage women from "new" EU Member States to look for opportunities to migrate to the "West", thus alleviating the recruitment process (Spehar & Shmulyar Gréen 2014).

The primary focus of this report is on providing a better understanding of the exploitative dimension of sham marriage arrangements. Estonian citizens were previously found to have been recruited for sham marriages abroad, which are meant to legalize the status of third-country nationals wishing to obtain residence permits in other Member States. With that in mind, we can infer that Estonia serves as a source country for people who are recruited in sham marriages for the purpose of migration fraud, including exploitative sham marriages, in other EU countries.

The organisers of sham marriages usually target vulnerable groups in Estonia with the purpose of further deception and exploitation. As reported in the latest population survey on attitudes toward human trafficking in Estonia, the dishonest means used in luring people into going abroad have become much more subtle and difficult to detect than before. Due to the increase in fraudulent practices, it is increasingly difficult for young people to avoid being deceived (TNS Emor 2014).

According to the research, besides what is typically considered to be trafficking in human beings (for example, women brought to the host EU country and forced to marry someone), organised criminal groups may exploit the positions of vulnerability among EU spouses (such as poverty, outstanding debt, homelessness, drug addiction, unemployment or psychological vulnerability) in order to have them enter into a sham marriage. In cases where EU citizens are trafficked, they may not always realize that their vulnerability has been exploited and they may protect those who have misused them (for example, when a heavily indebted person is promised financial reward) (COM 2014, 13).

It is clear that better understanding of recruitment practices, the existing legislative framework and regulations relating to sham marriages and trafficking, as well as manifestations of this exploitation, are essential to gaining a better understanding of the phenomenon of exploitative sham marriages.

This report has been prepared as a part of the HESTIA project: “Preventing human trafficking and sham marriages: A multidisciplinary solution.” The project has been carried out with the support of the "Prevention of and Fight against Crime Programme" run by the Directorate-General of Home Affairs of the European Commission.

2. The national context of sham marriages and human trafficking

Estonia is regarded primarily as a country of origin of EU citizens who are recruited to conclude sham marriages and who end up in situations of increased vulnerability and exploitation. The examples of sham marriages that have been encountered suggest that most of the women return to Estonia shortly after the contraction of the marriage. This means that a very limited amount of information is available on the instances of exploitation and activities of the organisers of sham marriages in the destination countries. For that reason, the report focuses predominantly on recruitment practices. According to Kaska & Asari (2012), Estonian citizens commonly enter into sham marriages in order to earn extra money or to help an acquaintance.

The majority of marriages to foreign citizens contracted in Estonia were signed with citizens of Ukraine and Russia. These two nationalities are also the most commonly encountered among people suspected of concluding sham marriages in Estonia. The authorities also reported encountering marriage applications involving citizens of Egypt, India and Pakistan who desired to get married to Estonian residents and where the authenticity of the intentions of marriage was unconvincing (Kaska & Asari 2012).

In order to understand the phenomenon in question, it is also important to gain an understanding of current legislation and migration trends in Estonia. Immigration on the basis of family reunification is one of the most common grounds for settling in Estonia. The number of new residence permits for settling with a spouse in Estonia has increased steadily in recent years. In 2012, 691 first-time applications for family reunification residence permits and 1274 applications for the extension of residence permits granted on the basis of family reunion were filed in Estonia. In 2014, the number of applications for residence permits increased to 830 for first-time applicants and 1790 applications for an extension (see Table 1).

Table 1. Applications for residence permit on grounds of family reunification in Estonia[1]

Year	First-time applications	Applications for the extension of a residence permit
2012	691	1274
2014	830	1790

In the processing of residence applications, the Estonian Migration Bureau suspected 10 marriages of being sham marriages in 2010. The corresponding

[1] Source: Police and Border Guard Board. https://www.politsei.ee/et/organisatsioon/analuus-ja-statistika/statistika/index.dot

number in 2011 was 35 marriages (see Table 2). During the same period, 2010 to 2011, none of the applications for residence permits from third-country nationals were refused on the grounds of suspicions of sham marriage (Kaska & Asari 2012).

Table 2. Potential sham marriages identified during the process for an application for a residence permit in Estonia[2]

Year	Suspected sham marriages	Termination of residence permit on the grounds of sham marriage suspicions
2010	10	0
2011	35	0

However, a lack of formal identification procedures for sham marriages makes it impossible to evaluate the scale of the problem in Estonia. Despite this, the mass media and other channels of communication (e.g. the website of the Internal Security Service) have been used to warn Estonian women about entering into marriages of convenience either for money or by accident (i.e. through being misled into one).

Current legislation determines that spouses of Estonian citizens or third-country nationals residing in Estonia are eligible either for a one-year residence permit if their marriage has lasted less than three years, or for a three-year residence permit if the marriage was contracted more than three years prior. A third-country national who has been granted a temporary residence permit for settling with a spouse and who has lived in Estonia at least five years based on this permit, can have her or his permit extended for up to five years at a time. At the same time, a third-country national wishing to settle in Estonia with a spouse who is citizen of another EU country is eligible for a five-year right of residence already when applying for the first time.

The stakeholders suggest that obtaining the right of residence as a family member of an EU citizen is one of the key motivations for foreigners to conclude a sham marriage. Nevertheless, until now Estonian authorities have not suspected any of the marriages of EU citizens to third-country nationals to be of a sham nature[3]. This can be partially explained by the fact that despite the significant increase in the number of EU citizens registering their residence in

[2] Source: Police and Border Guard Board.

[3] The paragraph uses the term "EU citizens" in relation to citizens of other Member States, who live in Estonia. In this case, spouses of EU citizens would apply for family reunification under the Citizen of the European Union Act and not under the Aliens Act. Migration authorities report separately on potential cases of sham marriages of Estonian inhabitants to third-country nationals (see Table 2) and marriages of EU citizens to third-country nationals (reports claim that none of those marriages were suspected of being of a sham nature).

Estonia, a very small fraction of them are accompanied by family members holding third-country citizenship. In 2014, 3043 citizens of other Member States registered their right of residence in Estonia and 45 residence permits were issued to the family members of EU citizens (see Table 3), of whom 72 % were women (Asari, Maasing & Luik 2015).

Table 3. Registration of the right of residence of EU citizens and their family members in Estonia in 2014 (first-time applications)[4]

Gender	EU citizens	Family members of EU citizens with right of residence
Male	1836	15
Female	1208	30
Total	3044	45

Similar conclusions were reached in previous research on abuse of the right of family reunification. The researchers suggested that in relation to citizens of the European Union and their spouses, no suspicions of sham marriages were raised, which could be due to the relatively small share of such marriages in family reunion applications (Kaska & Asari 2012).

For the purposes of this report, we define sham marriages as a marriage contracted for the sole purpose of enabling the person concerned to enter or reside in a Member State (Council Directive 2003/86/EC (Article 16(2b)). However, the absence of common operational indicators for sham marriages in general and exploitative sham marriages in particular may be one of the factors preventing the authorities from identifying instances of abuse. Therefore, a clear understanding of the phenomenon of sham marriages and its potential links to trafficking in human beings is crucial for the development of effective preventative measures against (exploitative) sham marriages in the future.

2.1 Structural procedures for the registration of marriage and the identification of sham marriages

In order to obtain the right of residence in the European Union on the grounds of family reunification, a third-country national needs to provide a document certifying that the applicant and the person inviting him or her are married. In this case, the possible ways to register a marriage to a foreigner can be divided into two main categories:

[4] Source: Police and Border Guard Board.

- Contracting marriage in the home country of the EU spouse (citizens and long-term residents of Estonia marrying foreign citizens in the Republic of Estonia)
- Contracting marriage abroad (the marriage is registered either in another European country (the destination country) or in a third country (the homeland of the third-country national)).

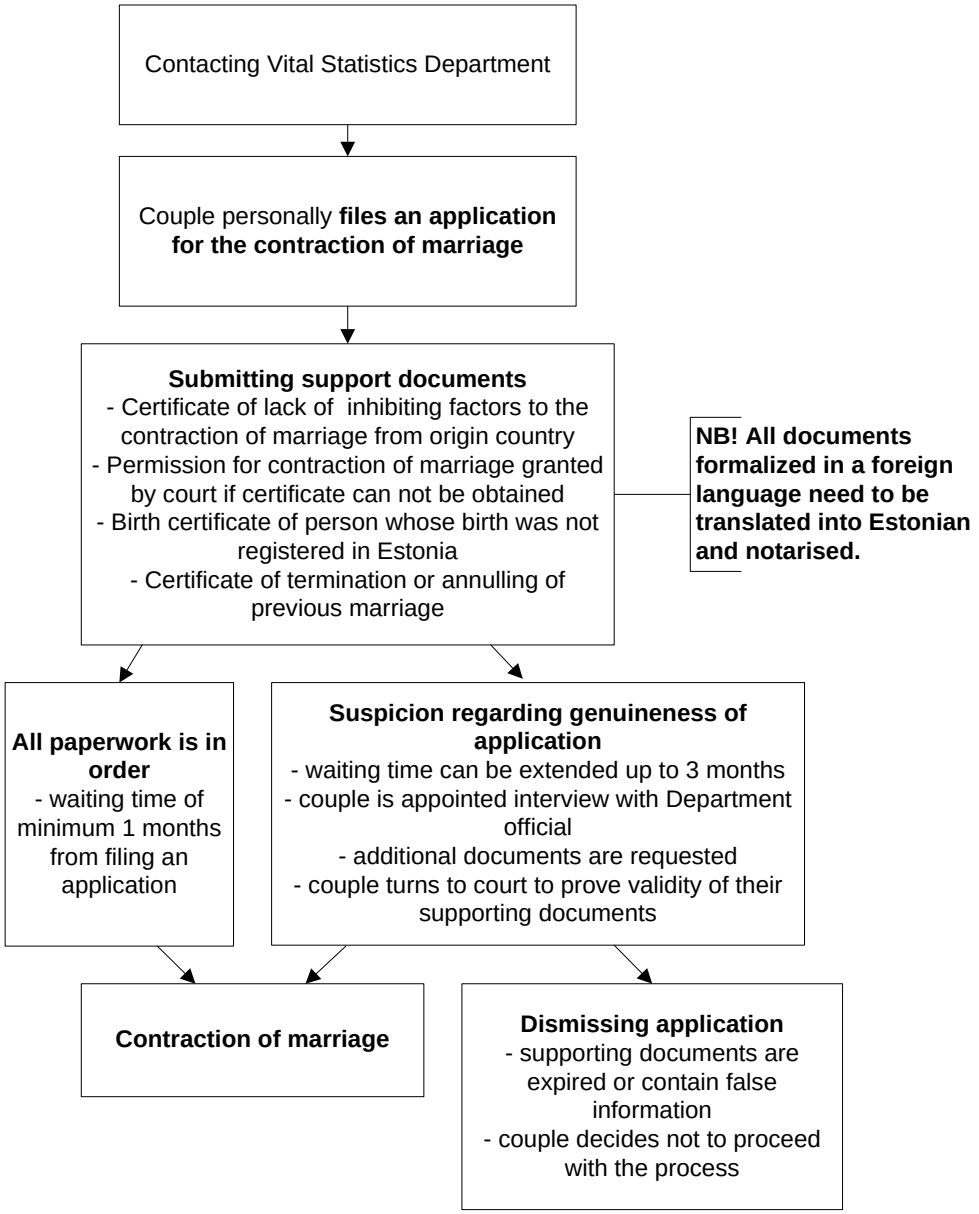
Evidence suggests that Estonia is primarily a country of origin of EU citizens who are recruited to conclude sham marriages abroad. Sham marriages registered abroad demonstrate greater prevalence of instances of abuse and deception compared to the sham marriages contracted in Estonia. Additionally, these types of marriages are not generally included in statistics of potential sham marriages in Estonia (see chapter 2). With this in mind, it is important to understand the specific aspects of the different marriage registration procedures and their impact on the prevention and identification of sham marriages.

Gaining a clear understanding of marriage procedures involving foreign citizens is crucial to identifying the advantages and disadvantages posed by the current Estonian legislation in the context of the prevention of sham marriages.

According to the Family Law Act (PKS, (RT I, 29.06.2014, 105) § 1 section 1), in Estonia marriage can be contracted between a man and a woman who are both 18 years of age and older. In special cases a person of at least 15 years of age may be granted permission to marry.

Prospective spouses wishing to register their marriage must submit an application in person to the Vital Statistics Office together with their identity documents. Additionally, a person whose birth was not registered in Estonia needs to present his or her birth certificate. A prospective spouse who is a citizen of a foreign country also needs to provide a certificate stating that there are no factors inhibiting the contraction of marriage. The certificate should be presented together with an Estonian translation certified by a notary, a consular officer or a sworn translator. This document is valid for six months from the date of issue. Previously married applicants are required to provide a document certifying the termination or annulment of their preceding marriage (see Figure 1).

Figure 1. Contracting a marriage with a foreign citizen in the Republic of Estonia.[5]



If suspicions of sham marriages become apparent during the registration of the marriage, information about it is forwarded to the Police and Border Guard Board and to other law enforcement agencies. In this case, the Estonian authorities can conduct house visits or run background checks and interviews with the spouses. However, experts point out that applications are usually dismissed on the grounds of insufficient or false information. This is because,

[5] Source: http://www.tallinn.ee/eng/Contraction-of-marriage

according to the Family Law Act ((PKS), § 9 section 1), only the court can decide that a marriage is a sham marriage.

According to current regulations, a citizen of Estonia wishing to marry a foreign citizen abroad must apply for a certificate confirming the person's capacity to be married. Such a certificate is issued by the Vital Statistics Office and should contain the name of the prospective spouse together with the name of the country where such a marriage will be contracted. However, the interviewed stakeholders also mentioned that they had encountered situations where a person applying for such a certificate could not provide the name of their prospective partner or would apply for more than one certificate over a period of several months.

Estonian regulations oblige citizens of Estonia to inform the state authorities about marriages registered abroad. Marriage certificates need to be translated into Estonian, notarised, and entered into the population register of Estonia. However, it is clear that in the case of sham marriages contracted abroad this procedure is not followed. Data provided by the Ministry of Foreign Affairs suggest that only around 30 percent of marriages entered into by Estonian citizens in Ireland are later entered into the population register of Estonia.

2.2 Legislation and relevant actors addressing sham marriages and human trafficking in Estonia

The concept of sham marriages is determined by the civil law of the Republic of Estonia. According to the Estonian Family Law Act, situations where "it is not the intention of one or both parties to perform the obligations arising from the marital status, but the marriage is contracted with other intentions, in particular with an aim to obtain a residence permit for Estonia" may be deemed to be a sham marriage, but only by the decision of a court.

The Aliens Act provides that one of the requirements for obtaining a residence permit in order to settle with a spouse in Estonia is that the marriage is not a sham (VMS, (RT I, 23.03.2015, 8) § 138). The Citizen of the European Union Act also lists sham marriage among the reasons for refusal to grant a temporary right of residence (ELKS, (RT I, 23.03.2015, 13) § 26). However, the research was not able to identify any cases where this provision was used for annulment of potential sham marriages involving citizens of Estonia. Instead, spouses might choose to file for divorce in order to terminate the sham marriage. The relatively simple divorce procedures in Estonia might also render it a less attractive country for the organisers of sham marriages. Estonia holds no minimal requirement for the period of separation before a divorce application can be filed, and after the divorce third-country nationals would no longer be entitled to a residence permit on the grounds of family reunification.

According to the Estonian Penal Code, trafficking takes place when a person is put in a situation where she or he is forced to work under unusual conditions, engage in prostitution, beg, commit a criminal offence or perform other disagreeable duties, or by keeping a person in such a situation, if the act is

performed through deprivation of liberty, violence, deception, threats to cause damage, or by taking advantage of dependence on another person or the helpless or vulnerable situation of the person. Separate provisions on trafficking and criminal offences related to trafficking in human beings were added to the Penal Code in April 2012 (KarS, (RT I, 25.09.2015, 7), § 133, § 133[1], § 133[2], § 133[3], §138-140, §175). In general, Estonian trafficking law is in line with Council Directive 2011/36/EU;[6] however, legislation regulating support and assistance to victims requires further clarification (Agarmaa & Leps 2012).

Estonia has already adopted a third national action plan that lists the prevention and combating of human trafficking among its objectives. The current Development Plan and Strategy for Reducing Violence covers the period from 2015 to 2020 (Justiitsministeerium 2015). Guidelines for identifying victims of trafficking were first developed in 2009 and are currently being updated to include the latest changes in Estonian law, and are scheduled to be published in 2016.

Several agencies in Estonia are involved in the identification of victims of human trafficking and exploitative sham marriages and in the provision of support services for victims.

The Police and Border Guard Board, and more specifically its Citizenship and Migration Bureau, has the competence to grant, extend, refuse or terminate a temporary residence permit or residence right in Estonia. In situations where the authorities are uncertain about the authenticity of a marriage (e.g. tip-offs, absence of cohabitation, lack of a common language), additional interviews with spouses and house visits may be set up in order to determine if there is organised family life.

The Ministry of Foreign Affairs and its foreign missions serve as a contact point for Estonian citizens in need of assistance and help abroad. Apart from providing consular services and protection to Estonian citizens, Estonian diplomatic missions often perform identification of potential victims of trafficking. Consular officials have experience in referring potential victims of trafficking for further assistance to NGOs in Estonia and in the destination countries. The Estonian embassies also collect information about the marriages of Estonian citizens registered abroad and forward information to the Estonian Vital Statistics Office. Department officials then enter the data into the Estonian Population Register.

The Vital Statistics Office is responsible for the registration of marriages in Estonia and issuance of civil status certificates confirming the marital status of applicant as single, divorced or widowed. This certificate is used if a marriage is registered abroad.

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[6] Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on Preventing and Combating Trafficking in Human Beings and Protecting its Victims, and Replacing Council Framework Decision 2002/629/JHA.

The Estonian National Social Insurance Board is the central contact point for services intended for victims of trafficking in human beings.

In Estonia, two NGOs are active in the field of human trafficking. NGO Living for Tomorrow (LFT)[7] is involved in the prevention of human trafficking and provision of victim assistance. It also runs the Human Trafficking Prevention and Victims Help Hotline Service to inform people about opportunities, conditions, rules, and risks of work, study and marriage abroad, and to assist victims. The Hotline service is anonymous and free of charge and available for all residents of Estonia, including undocumented migrants. Services provided by LFT to victims of trafficking are available without having to undergo an identification process. The Atoll Centre and VEGA Centre of the Lifeline NGO offer shelter and legal, psychological and social counselling to women involved in prostitution and victims of human trafficking for the purposes of sexual exploitation. At the moment, in order to use their services, victims of trafficking must be formally identified by law enforcement authorities.

Social welfare institutions that are run by municipalities are responsible for providing services (i.e. treatment, nursing, education and therapy) and care for individuals who are underage, elderly, disabled or are not coping socially.

[7] The authors of this country report work at the NGO Living for Tomorrow.

3. Data and methods

Data for the research was obtained through several channels:

- Interviews with experts who either are engaged in the development of a number of social policies, including the identification and prevention of sham marriages, or have directly encountered women engaged in sham marriages in their line of work.
- Case studies including, among others:

  o Analysis of a court case demonstrating the link between sham marriages and human trafficking;

  o Cases of sham marriages directly reported to the Human Trafficking Prevention and Victims Help Hotline by women who entered into sham marriages. Descriptions of these cases were based on information obtained during personal consultations with the women.
- An examination of media materials covering topics of sham marriages.

3.1 Interviews with experts

Most of the data for this research was collected by interviewing experts representing different institutions. Apart from experts who are involved in the National Anti-Trafficking Network and governmental organisations, we also decided to interview representatives of the media, non-governmental organisations, actors in municipalities, and legal practitioners in order to gain a clearer understanding of the national context of the phenomenon of sham marriages and the forms of exploitation and abuse encountered by the women recruited into sham marriages. A total of nine experts were interviewed. One of the experts was interviewed two times over the period of three months in order obtain the latest information on the collected case studies. The experts were principally identified during the Estonian National Roundtable organised in Tallinn in April 2015 within the framework of the HESTIA project. Face-to-face interviews were conducted from September to November 2015. Conversations were recorded and partially transcribed, with eight interviews conducted in Estonian and two interviews in Russian. Extensive notes were also taken during the interviews. Direct quotes from the interviews are used in the following chapters of this report. The quotations were kept as authentic as possible during translation from Estonian and Russian into English. The experts interviewed for the study have remained anonymous and are employed by government and law enforcement agencies, the welfare and legal sector, and the media and non-governmental sector. A list of the institutions represented can be found in the references.

The interviews with the selected experts were semi-structured, combining a standard predetermined list of questions with a free-flowing conversation to allow additional topics to be identified according to the expertise and

background of the interviewees. The main topics covered during the interviews included:

- Professional experience in relation to sham marriages and/or human trafficking;
- Organisation of sham marriages and recruitment practices encountered by the experts;
- Forms of exploitation experienced by the potential victims;
- Current mechanisms and challenges in identification and prevention of sham marriages.

3.2 Case studies

Another method applied in the study was an analysis of cases of sham marriages that featured indicators of deception and/or exploitation. In the period 2010 to 2015, we have identified one court case matching the established criteria for trafficking in human beings involving sham marriages (Judgment of the Viru County Court, 1-14-5250, 13 June 2014). This case resulted in the conviction of the offender for trafficking in human beings involving two or more persons, and for fraud (see Box 5).

This case is the first time that recruitment into a sham marriage was prosecuted under the trafficking provision in Estonia. Regrettably, most of the case information, including the identity of the victims, has been sealed on the decision of the court and only a summary of the court decision was made publicly available.

No relevant pre-trial investigations were analysed in this study, since the Personal Data Protection Act classifies this information as sensitive personal data. In such cases, the authorities cannot share the information with a third party without the consent of the person involved.

Additionally, several stakeholders and service providers (municipality welfare services and NGOs) who were engaged in the social care sector and prevention of trafficking in human beings collected information on encountered cases of sham marriages featuring elements of deception and abuse.

Due to the limited number of court cases on the topic, analysis of these cases is also included in the research. Although these cases were not formally identified as human trafficking by law enforcement, analysis of the cases is essential to understanding the phenomenon of sham marriages and the current situation in Estonia.

A short overview of the analysed cases is provided below. The cases are arranged in chronological order, allowing us to observe a change in the trends. The first identified cases of sham marriages in 2010 featured Cyprus and the Netherlands as destination countries and involved only Estonian-speaking women. These cases could be characterised by the fact that women were not initially aware they were travelling abroad to enter into sham marriages. In contrast, later cases

featured Russian-speaking women who were recruited into sham marriages in Ireland, Italy, the UK, etc. In those cases, the women were aware from the outset that they were being recruited into sham marriages.

Box 1. "Trapped in Cyprus"

A young woman from Estonia was offered a job abroad by another Estonian woman. Recruitment took place via the Internet and the offer included free flight tickets to the destination country. She and her sister accepted the offer and travelled to Cyprus.

Upon arrival in Cyprus, the organisers, who were of South Asian origin, placed the women in an apartment that housed men from South Asia (India and Pakistan) and they were coerced into marriage to third-country nationals. The organisers also confiscated the women's passports. The women could not leave the apartment on their own and had to sleep in the same bed as the third-country nationals, although they denied having sexual relationships with them. The women were not able to provide any additional information on the activities of the organisers in the destination county.

Eventually, the sisters managed to escape the apartments and recover their documents with the help of male acquaintances whom they had met immediately right upon arrival in Cyprus. After that, one of the sisters decided to stay in Cyprus, while the other decided to return to Estonia and contacted the Estonian Embassy in Athens to obtain help in returning home. However, the embassy advised the woman to contact her family back in Estonia in order to organise her travel.

During the year of the incident (2010), the Ministry of Foreign Affairs received several complaints from Estonian women facing similar problems in Cyprus.

The story was published in the Estonian newspaper, Eesti Päevaleht[8].

Box 2. Recruitment into sham marriages via an offer of employment

In 2010 a young Estonian woman K. from P. [town in Estonia] was contacted by her female childhood friend, who informed her of a possibility to go and work in The Hague, in the Netherlands. According to the offer, a woman from Estonia, M., was looking for young women to work in a bar. In August, K. travelled to the Netherlands.

Upon arrival, M. took K.'s personal documents, stating that she needed them to arrange K.'s work permit. K. was placed in an apartment with a man who was supposed to keep her under constant surveillance. During the first two weeks, M. and the other organisers were very friendly with K., organised regular parties and posted many pictures of them spending time together on Facebook. However, after K.'s documents were taken away, she learned that in reality there was no job for her there. Instead, M. tried to force K. to marry a Turkish citizen, who wanted to obtain an EU residence permit. M. told K. to memorise information from a piece of paper listing the name, date of birth and other personal information about the prospective spouse.

K. refused to conclude the marriage and tried to contact her family to help her return to Estonia, since she did not have money to purchase the ticket herself. K.'s mother said that she could not help her in this situation.

[8] Ibrus, Kadri (18 June 2010) Neiu põgenes Küproselt vangist. Eesti Päevaleht.

K. was kept in the Netherlands for a total of two months under the control of M. and the man living in the same apartment. During this period, she was raped twice and as result of this became pregnant. Eventually, K. managed to get hold of her ID card and sent an e-mail about her situation to the Estonian media, who forwarded information about K.'s situation to the Estonian Human Trafficking Prevention and Victims Help Hotline. After this K. was assisted to the Estonian embassy in the Netherlands were she was also interviewed by the Dutch police, who identified her as potential victim of trafficking. The police also escorted K. to the airport, since she claimed to be interested only in going back home.

Upon her arrival in Estonia, K. was received by representatives of Estonian anti-trafficking NGOs who informed her of the available assistance options. K. refused the assistance and has instead returned to her hometown. According to the experts, this kind of behaviour is very common among people who have experienced sexual violence and other kinds of psychological trauma.

After her return to Estonia, K. reported experiencing nightmares and other health issues. She also started receiving text messages with threats from the organisers in the Netherlands. At that point, K. contacted the Hotline herself and agreed to receive psychological assistance.

After the threats continued, K. also agreed to cooperate with the police in Estonia to investigate the case. Unfortunately, the trafficking provision had not yet been introduced in Estonia in 2010, and the receiving party in the Netherlands used the photos previously posted on Facebook to deny controlling K. and coercing her into the sham marriage.

The case was reported by the Estonian Human Trafficking Prevention and Victims Help Hotline Service. (Hotline case 2537, October 2010)

Box 3. Trafficking for purposes of exploitative sham marriage

A young woman (U.S.) was reported missing by her family in Estonia. She had left the country and later contacted the Estonian embassy herself.

U.S. was staying in Cyprus and was reportedly planning to marry a third-country national, C.R., who was from South Asia. Nevertheless, a few months later, the woman confessed to being coerced into marrying another foreigner, S.S. During that time, U.S. was locked in an apartment and was held under constant surveillance in order to prevent her from running away. In addition to this, her husband S.S. was violent towards her. After her husband in Cyprus had learned that she had contacted the Estonian consulate in Greece, he threatened to kill her. U.S's family reported having strained relationships with her and not having money to finance her return home.

The woman had been previously diagnosed with schizophrenia and had been unemployed for several years. Additionally she had taken a 2000 euros bank loan.

The case was reported by the Ministry of Foreign Affairs of the Estonian Republic and assisted by the Estonian Human Trafficking Prevention and Victims Help Hotline Service. (Hotline case 2773, April 2011). The woman was also identified as a victim of trafficking by Cyprus law enforcement.

Box 4. Recruitment in vocational schools

In 2012 M.E. was studying in a vocational school in town R. A female schoolmate she was visiting over a weekend offered to help her earn some extra money. M.E was introduced to another woman, L.P., who claimed that M.E. could earn up to 2000 pounds by travelling to the UK and marrying a third-country national there. She took a copy of M.E.'s identity documents and introduced her to a man who would accompany her on the trip.

A few weeks later, M.E was being rushed to go to the UK. However, M.E. changed her mind and refused to participate in the scheme. M.E. told recruiters that her passport had just expired and she could not leave the country. At first, the recruiters offered to help her with the renewal of the documents, but later started to pressure her into agreeing to the marriage, and threatening that M.E. would need to reimburse the costs related to the organisation of her trip to the UK. The female friend who had initially told M.E. about the opportunity to enter into a sham marriage regularly sent her text messages threatening that something bad might happen to her unless she followed the initial agreement.

To escape the threats M.E left town R. and moved to another town P. At the same time, she contacted the Human Trafficking Prevention and Victims Help Hotline seeking assistance. While staying in P., M.E. tried to submit a statement to the local police department. However, despite being aware of the threats that M.E. had received, the police in P. dismissed her testimony stating that since no action had taken place, the elements of the crime were absent, and attempting to organise sham marriages was not considered a criminal offence in Estonia. After that incident, the Hotline consultants lost touch with M.E. and her phone number was taken out of service. No further information is available regarding this case.

Additionally, in 2013, recruiter L.P. was found guilty of human trafficking and sentenced as part of a criminal group accused of bringing undocumented Vietnamese migrants to Estonia.

The case was reported by the Estonian Human Trafficking Prevention and Victims Help Hotline Service. (Hotline case 3267, June 2012)

Box 5. "2 tickets to Dublin"/Recruitment of brides in Estonia

According to the summary of the court decision in the case 1-14-5250, the Prosecution alleged that a 29-year-old woman, J.R. (an Estonian citizen), was recruiting women in her hometown to travel abroad for the purposes of entering into sham marriages with third-country nationals looking to obtain an EU residence permit. The case was heard in the Viru County Court on 13 June 2014 and was also reported by the Estonian media.

The defendant was prosecuted for exploiting the difficult financial situation of R.S (who lived in a low-income family that had three children) and V.B. (who lived in an orphanage and had five younger siblings) by means of deception. J.R. organised their trip to Dublin to enter into sham marriages with foreigners who wanted to legalize their stay in the country, promising the women good financial reward (V.B. was promised 800 euros and R.S. 1600 euros).

Upon arrival in the destination country, the women were separated and V.B. was informed that she had to travel further abroad. Thereafter, she managed to escape her

captors, while R.S. was subjected to sexual harassment and was coerced into entering into sexual relationships during the first night upon arrival.

The court findings stated that J.R. knowingly placed R.S. and V.B. in a situation where they were forced to perform unlawful and disagreeable duties, were dependent on the receiving party and could not leave the destination country without the consent and assistance of the receiving party, since they neither possessed tickets to return home nor had money to purchase tickets themselves. The women did not receive the money promised to them by the recruiter.

During the period from 01 January 2013 to 28 February 2014 the defendant received a total of 11 822 euros from different unspecified parties abroad via Western Union transfers. At the same time, J.R. applied for social assistance funds, while being registered as an unemployed person without permanent income, thus providing false information about her financial situation.

J.R. pleaded guilty to fraud and human trafficking offences and agreed to conciliation proceedings, under which punishment of 3 years of imprisonment under § 133 subsection 2 and 1 year under § 209 section 1 of Penal Code would not be enforced if the defendant did not commit new offences during the trial period.

Judgment of the Viru County Court, 1-14-5250, 13 June 2014. The story was also reported in the Estonian newspaper, Den za Dnjom[9].

Box 6. Sham marriages registered in third countries

A young woman from Estonia, I.M., who was working and living in Italy, turned to the Estonian embassy in Rome at the end of 2014 to renew her passport. During the visit to the embassy, several men of Egyptian nationality accompanied her while she made an enquiry about documents she needed to marry a third-country national. Further interviews revealed that she did not yet know the name of her future fiancé, who supposedly was also of Egyptian nationality. After receiving a tip about the possible sham marriage preparation from the embassy, the Human Trafficking Prevention and Victims Help Hotline contacted the woman. Consultants phoned her several times before I.M. replied herself; during the conversation, they informed her about the potential risks and negative consequences associated with involvement in a sham marriage. The woman was also encouraged to contact the hotline if any further assistance was needed. The hotline consultants were also left with the impression that I.M. had little knowledge or understanding of the marriage registration procedures and that the process was organised and coordinated by a third party.

In January 2015, I.M. contacted the Estonian embassy again to seek assistance in preventing her husband from entering Italy. She had earlier travelled to Egypt and there had married an Egyptian man, H., who now wanted to migrate to the European Union. She was enquiring about possibilities to end the marriage, as the man was only interested in the marriage as a means to facilitate his migration.

After receiving the information, the Hotline Service tried contacting I.M., but her phone was answered by a man who referred to himself as her friend and spoke English with a heavy non-Italian accent. After calling back several times, I.M. finally answered the

[9] Kablukova, Irina (21 August 2014) Põgenevad pruudid. Den za Dnjom.

phone herself and she was given information about the general legislation on marriage termination and about the fact that her divorce might need to be granted by the Egyptian authorities. The woman appeared overwhelmed by the complexity of the legal issues and stated that she had difficulties in communicating with her husband. Later she mentioned that she planned to enlist the help of another Egyptian friend who promised to negotiate with her husband about the possibility of filing for a divorce in Egypt. In order to ensure the woman's safety, communication with I.M. was conducted in Russian so that it would only be understood by her and could not be monitored by the person who answered her phone earlier. Several days later another foreign man called the hotline number from I.M.'s phone, making enquiries about what kind of number it was.

It turned out later that the promises of divorce were not true, since in February 2015 I.M. sent a letter to the Estonian embassy, stating that she was afraid to refuse to help her spouse come to Italy, because she was being kept under surveillance and something bad might happen to her. The woman appeared very distressed and fearful of seeking help from the Italian authorities, since she had initially consented to enter into a marriage that turned out to be sham.

Due to the fact that woman was continuing to live and work in Italy, information on the case was forwarded to an NGO that was involved in the prevention of human trafficking in Italy. No further information is available regarding this case.

The case was reported by the Estonian Human Trafficking Prevention and Victims Help Hotline Service. (Hotline case 3983, January 2015)

Box 7. Identification of potential sham marriages contracted in other Member States

A young woman, M., who grew up in an orphanage, contacted municipal social services to transfer her parental rights to her sister, since she was planning to move abroad and leave her child in Estonia. After a few months, the social services were informed by the Ministry of Foreign Affairs that M. had registered a marriage in Ireland to a third-country national from South Asia. When M. returned home in spring 2015, the social services reached out to her to learn more about the marriage.

In the beginning, M. was open to cooperation and disclosed that she was staying in Ireland with her husband in an apartment shared by several different families. M. claimed that during her stay in Ireland she submitted an application to an educational institution to improve her English in order to improve her employment opportunities in the future. She also claimed that her husband had bought her ticket to Estonia and that she was staying in touch with him over the phone. M. explained that she had to stay with her husband until he obtained a residence permit and after that, they would apply for divorce right away. The social service representatives informed M. that such promises were impossible, since according to Irish legislation a divorce application could only be submitted after four years of marriage.

At the same time, M. disclosed that she was pregnant with her husband's child, but had told no one about it and had come to Estonia to have an abortion in secret. The social services were not able to identify whether the baby was a result of consensual sexual relations.

In the meantime, the residence permit of M.'s husband had been annulled in Ireland, and M. started accusing the social services of manipulating her statement and stated that her marriage to the third-country national was genuine. During this time, M. was coordinating her actions with a person in Ireland, who she referred to as "her husband's lawyer". M's actions were also assisted by someone in Estonia, since within a short period of time she personally managed to submit statements and complaints to different institutions all over Estonia, while having no means to organise and finance such travel. M. was trying to pressure the social services into issuing a statement confirming the genuineness of her marriage to the third-country national.

The social services had received a visit from M. and the third-country national who was introduced as her husband, although after the annulment of the Irish residence permit, M's husband could not have legally entered Estonia without a valid residence card of a family member of an EEA national. M. stated that he had travelled to Estonia to prove that their marriage was not a sham and they planned to go back to Ireland together to build a family life there.

The case was reported by the municipality welfare services in Eastern Estonia.

Box 8. "Fast money and an easy divorce"

In 2013, 20-year-old J.Z., a woman from K.J [a town in Estonia] was facing significant financial problems. She was approached by an acquaintance, A.R., who grew up in the same town, but had since moved to Ireland and was now visiting her family in Estonia. A.R. offered J.Z. 2000 euros to marry a third-country national in Ireland and promised that a divorce would be finalised within months. J.Z. visited Ireland twice and stayed there for a few days. The recruiter A.R. provided tickets and J.Z. stayed with A.R. during her visits to Ireland. In Ireland A.R. was cohabitating with an older third-country national, whom she referred to as her partner.

During the second visit to the destination country J.Z. married a third-country national, but since she spoke no English, they were not able to communicate with one another. Thereafter, J.Z. received the promised reward and returned home. A.R. promised to inform her about the progress of the divorce. However, instead of confirming the promised divorce, the recruiter ceased all communication with J.Z. In 2015 information about J.Z.'s marriage in Ireland was forwarded to Estonia and J.Z. learned that her marriage had still not been dissolved. At that time J.Z. was also pregnant with the child of her Estonian partner, and was worried about potential paternity issues, since the identity of her child's father was different from the identity of her legal spouse. Despite recent changes in the Family Law Act, which allow paternity of a child to be registered to another male as a result of his personal statement, such a statement was never requested by the Vital Statistics Officials, and instead, J.Z.'s husband was recorded as the child's father on the birth certificate. Upon learning about not being included on the birth certificate, J.Z.'s partner abandoned her and the child; she was also forced to move out of the apartment she had previously occupied with her new partner, as all of the living expenses had been covered by her partner. The case was reported by the Estonian Human Trafficking Prevention and Victims Help Hotline Service. (Hotline case 4179, October 2015)

3.3 Media materials

Media materials covering topics relating to sham marriages published in Estonia during the period 2010 to 2015 were systematically collected and analysed during the project. Additionally, the media materials that were collected were cross-referenced with the cases of sham marriages described above identified by other actors, allowing us to determine whether any additional information could be obtained.

Online archives of four major Estonian newspapers were searched for the purpose of this study: Eesti Päevaleht, Eesti Ekspress, Postimees, and Õhtuleht; and in addition, the original articles that appeared in Russian in the newspapers Den za Dnjom and MK-Estonia were also collected. Data from websites publishing sham marriage advertisements in Russian were also collected and analysed at this stage.

A search of relevant publications was conducted using several keywords:

- sham marriage or fictitious marriage,
- business marriage,
- human trafficking + marriage,
- migration + marriage,
- fraud + marriage,
- exploitation + marriage,
- forced marriage,
- marriage for money, etc.

We discovered that journalists had interviewed a number of women who had been involved in sham marriages, and in the articles they presented descriptions of recruitment practices that could not be obtained otherwise. For instance, journalists were often interested in learning about the occurrence of such phenomena by posing as potential sham marriage seekers online, demonstrating a wide range of such offers and recruiting practices implemented by sham marriage mediators.[10] Most commonly, the articles covered stories of women from Estonia who agreed to marry third-country nationals for money and who had encountered problems in the process. One of the articles published by MK Estonia in September 2015[11] also claims to present a record of a personal experience of a young woman who agreed to enter into a sham marriage with a third-country national. The story described in the article contained many inconsistencies and in general presented sham marriages in a positive light.

[10] Petrova, Irina (20 September 2013) Журналистка попыталась фиктивно выйти замуж и оказалось, что этот бизнес у нас процветает. MK-Estonia.

[11] MK-Estonia (9 September 2015) Откровенно: девушка из Эстонии рассказала, как она решилась на фиктивный брак с иностранцем.

Interviewees pointed out that this article could actually be presenting a record of a story told by a recruiter.

Despite the fact that the topic of sham marriages received coverage in all the media sources analysed, the identified sources can still be characterised by a simplistic approach to the matter, reporting only limited aspects of the stories. The media materials were used mainly as a source of background information on the current situation regarding sham marriages, but information on the specific cases of sham marriages have also been derived from the media. These publications are listed in the references and included in the footnotes. In the following chapters, direct quotes from some articles are presented. The quotes have been modified to conceal the identities of the persons interviewed. Features allowing the identification of sensitive information have been removed. Otherwise, the excerpts were kept as authentic as possible during the translation from Estonian into English.

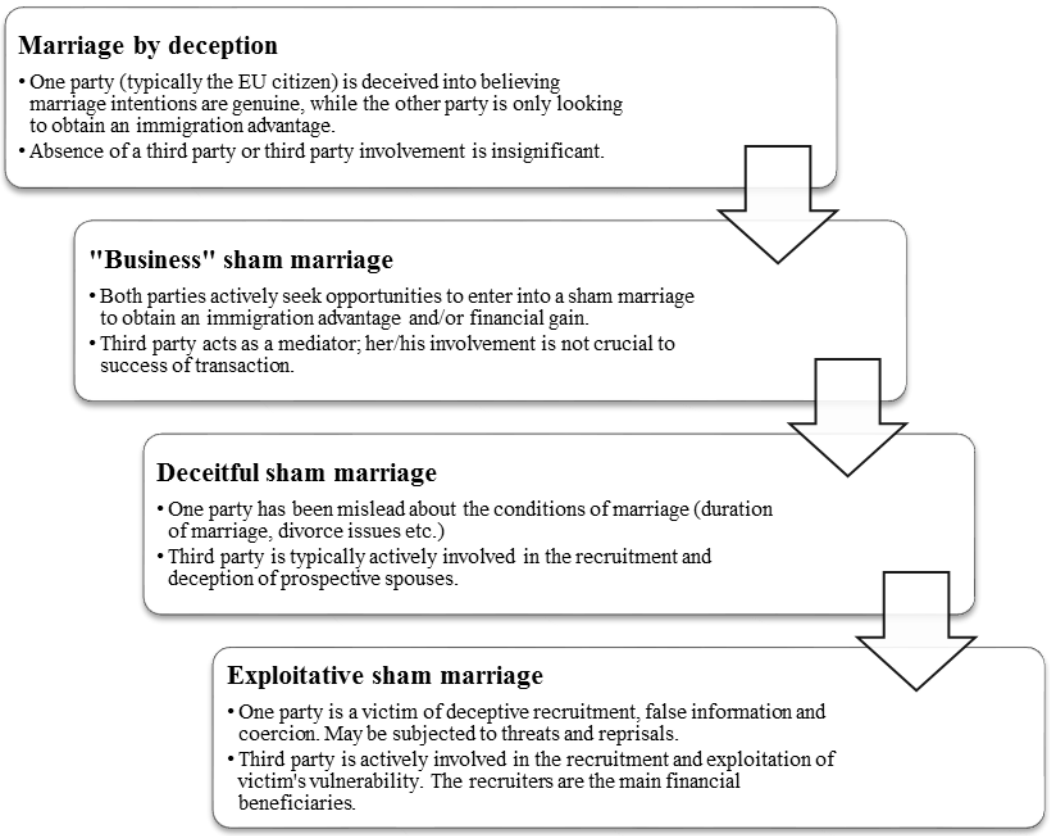
4. Types of sham marriages

In order to understand the processes connecting sham marriages for immigration purposes with human trafficking, we need to gain a clearer understanding of the phenomenon of sham marriages. During the data collection, stakeholders referred to several types of sham marriages. With that in mind, it is clear that the term itself needs further clarification.

The data suggest that there exists a range of sham marriage scenarios, ranging from informed consent or financial gain to deception and forced marriage. Based on examples of sham marriages presented by the experts, we have divided these into four main types.

Each type can be characterised by the level of awareness and understanding of each participating party (i.e. the prospective couple, the recruiter in the country of origin and organisers in the destination country) about the real intentions to contract marriage. Based on these criteria, we will further refer to the following types: marriage by deception, "business" sham marriages,[12] deceitful sham marriages, and exploitative sham marriages.

Figure 2. Types of sham marriage scenarios.



[12] The term "деловой брак" ("business marriage") is widely spread on internet forums in advertisements featuring sham marriage offers (i.e. http://www.kosmopolit.ru/marriage/).

In addition to this, the role of organisers in the facilitation of sham marriages is significant for this research. Each of the above-mentioned sham marriages features different degrees of involvement of third parties. Their contribution might vary from offering consultation services to actively recruiting prospective brides and grooms whose vulnerability might be exploited in the process.

"Marriage by deception" can be characterised by the different ways in which the partner may be deceived. In these cases, one of the potential spouses considers the relationship genuine and enters into the marriage with the intention of building a family life. The deceiving partner is typically only interested in obtaining migration benefits and relocating to another country. Furthermore, it is not uncommon for the deceiving party to be economically dependent on his or her sponsor. Among the cases of "marriages by deception" encountered by the interviewees in general, the sponsors were typically Estonian women of different ages. They belonged either to the Estonian- or to the Russian-speaking population. The deception was often exposed once the migration advantage was not achieved or when the desired migration status had finally been obtained. Although the deceived party can face exploitation as a result of their marriage, it is very difficult to prevent or identify such unions at an early stage, as it is impossible to know what will happen in the future. This type of sham marriage rarely involves a third party, and instead the parties handle the arrangements without an outside facilitator.

A *"business" sham marriage* is the most commonly encountered type of fraudulent marriage. This situation can be defined as involving the informed consent of two adults to get married in order to receive certain benefits. In the context of this research, the benefits would involve exchanging immigration advantage rights for some defined financial compensation. EU citizens agree to marry third-country nationals in exchange for an agreed payment. These proposals are often advertised as "business marriage" offers on a number of Internet forums and social media discussion groups (e.g. Facebook, VK.com etc.) on migration. Based on this, we have chosen to adopt the term to allow us to distinguish them from the other forms of sham marriages. In situations of "business" sham marriage, potential spouses are mutually aware of the fraudulent nature of the marriage. A third party might be involved in the facilitation of marriage registration and may provide mediation services requested by both parties to marriage. Cases where a third party claims to represent an organisation that combines the services of a marital agency with legal migration assistance were commonly encountered by the interviewed stakeholders. Those involved in this type of sham marriage can face a number of immigration and criminal penalties (e.g. charges of fraud, breach of immigration laws, annulment or revocation of right of residence etc.).

Although *deceitful sham marriage* shares a number of common features with "business" sham marriages (i.e. an EU citizen concludes a sham marriage with a third-country national in exchange for a financial reward), it is important to note that in deceitful sham marriage, one of the parties receives misleading and deceitful information on the conditions of the marriage. In these types of sham

marriages, a third party is typically responsible for the recruitment of EU citizens. The recruitment process often employs a number of deceiving tactics to secure their consent to the marriage (providing false examples of previous instances of arranged sham marriages, delivering false information on the duration of the marriage and legislation in the destination countries, exaggerating the amount of the potential financial reward). Even though no concrete exploitation takes place, EU citizens encounter a number of negative consequences as a result of their involvement in deceitful sham marriages, such as financial difficulties, complicated divorce procedures, an inability to terminate the marriage without consent of their spouse, etc.

Finally, the fourth type of sham marriage presents the greatest interest in terms of this research. *Exploitative sham marriages* have many features in common with the crime of human trafficking. Organising these marriages is more complex, because in order to ensure the consent of EU citizens to marriage, various dishonest means are used during the recruitment, transportation and reception of individuals (fraud, deception, abuse of vulnerability, threats, coercion, etc.). The role of third parties is the most crucial in ensuring successful registration of marriage. Furthermore, organisers in the destination country can facilitate the exploitation of victims (for example, forcing women to conclude the marriage). Typically, the victims of such marriages are young women from the most vulnerable parts of Estonian society (ethnic minorities, women living in rural areas, women facing financial difficulties etc.), who were then transported abroad to marry third-country nationals from South Asia and/or North Africa they had never met before. Even though third-country nationals entering into sham marriages might themselves be vulnerable to exploitation (e.g. having to pay large sums of money to organisers of sham marriages, becoming indebted etc.), the data collected on exploitative sham marriages involving Estonian citizens did not provide reliable evidence of this.

5. Recruitment of women into sham marriages

Since Estonia is a country of origin, the study focuses mainly on the different types of exploitative recruitment practices leading Estonian citizens into sham marriages. Due to the limited availability of information on the forms of exploitation experienced by the Estonian women involved in sham marriages in the destination countries, we aim to identify the risk factors that place the women in a position where they become vulnerable to exploitation and, ultimately, trafficking.

The collected information demonstrates that young women from Estonia are actively recruited into sham marriages abroad. Offers are made via personal connections and social networks, both online and in real life. According to the persons interviewed, in areas where sham marriage reports are more common (i.e. the Ida-Virumaa region and Tallinn), entire communities seem to be aware of the phenomenon. Young women who participated in lectures on human trafficking in vocational schools in different towns in Estonia often mention knowing someone who received a proposal to enter into a sham marriage abroad (LFT 2014).

Proposals of sham marriages are easily found on the Internet, migration forums being the most popular source. Additionally, potential brides are actively scouted on social media by recruiters, who introduce themselves as females located either in Estonia or in the destination country. It is important to note that recruiters typically belong to the same ethnic group or even come from the same community as the potential victims and have earlier migrated to the destination country. For instance, in cases reported from Ida-Virumaa, both the women who entered into sham marriages and the recruiters belonged to the Russian-speaking community.

In other examples described by the interviewees, young women might initially be invited to visit a female friend who had moved to live abroad, and during the visit they are introduced to an opportunity to contract a sham marriage. All formalities regarding the signing of the marriage are then arranged by the organisers in the destination countries, and the women rarely stay in the destination country for more than a week at a time. One of interviewees from the welfare sector stated that many stories told by women involved in sham marriages sound similar:

> "If you start interviewing them [interviews conducted by the expert with women who concluded sham marriages abroad], then usually they tell a similar story: 'I [woman who entered in sham marriage abroad] went for a visit [to the destination country], an offer was made, the offer specifically concerned a lump sum of money or this sum is divided into parts. ... they meet then in front of this agency, I do not know if it is a Vital Statistics Office or some other, there will be a contact person [the organiser] with this man.' And then I [the expert] have not heard from any of those women that they had met this man [the man they married] before. They meet right before submitting this marriage application." (Interview with Expert 1)

However, it has proved to be very difficult to obtain concrete details regarding the event, because the process of marriage registration seems to pass relatively quickly and requires minimal involvement by the women. The women participating in these marriages know only what they are told and everything else is arranged by the third party. Additionally, an inability to speak the foreign language in question prevents them from obtaining any supplementary information in the destination country on their own, which in turn prevents them from comprehending the impact and the significance of their actions.

> "They do not know, not one of them has acknowledged that this was a sham marriage, the concept. They believe that they were asked to do a favour and this does not lead to any consequences. Since this action happened in Ireland, they are hundred percent sure that the information about it is not going to reach Estonia." (Interview with Expert 1)

Although the majority of potential victims are female, the interviewed stakeholders also reported that several marriages of Estonian men to third-country national women from South Asia were suspected of being shams. The marriages were typically signed right before the expiry of the foreigners' visa and the spouses did not live together after the marriage. In one case, the Estonian husband was later found living in a shelter for homeless people in the destination country and in another the man returned to Estonia immediately after the registration of the marriage.

The interviews with the experts demonstrated that the organised action of third parties had a significant role in all phases of the recruitment. The major involvement of recruiters in the organisation of sham marriages, together with a lack of language skills and poor awareness about the legal consequences of such actions, allow for easy deception of the victims and indicate a high likelihood of exploitation.

5.1 Rationale for engaging in sham marriages abroad

The experts pointed out that Estonian women entering into sham marriages might feel that a marriage signed abroad is a much safer option compared to agreeing to a similar arrangement in their home country.

> "There is always going on a search for a country with lower demands, and there is always a search for a country that is far away from the homeland, assuming that no one will learn about it." (Interview with Expert 2)

The case studies analysed here also confirm the claims made by the non-governmental organisations in Estonia that the majority of sham marriages involving Estonian citizens are organised in such a way that the registration of the marriages takes place abroad. The experts also suggested that certain gaps in legislation and regulative norms in the destination countries might offer certain advantages for people looking to contract sham marriages.

> "Their [in Cyprus] legislation is in a way predisposed to registration of such sham marriages. In a sense there is some sort of gap in the legislation regarding the issue

> of sham marriages. That is why criminal groups are using this country now." (Interview with Expert 5)

In addition to the factors cited above, the duration of marriage registration procedures may be another aspect determining the attractiveness of a certain country for the organisation of sham marriages. Simplified procedures in Cyprus were mentioned as an example of procedures in such countries.

> "The mayor right away grants you the right to get married immediately, you need to stay in Cyprus for a week and nothing more is needed." (Interview with Expert 2)

Estonian stakeholders also pointed out that the role of the officials in the destination country cannot be underestimated. Media reports referred to a case where an undocumented migrant was able to register a marriage with an Estonian woman in Cyprus.[13] Various reports of bribes being used to secure the aid of the authorities in circumventing migration regulations are also regularly encountered in the media and mentioned by the stakeholders.

The experts pointed out that the organisers of sham marriages might seek to abuse gaps in cross-institutional cooperation and information exchange in the destination country. For example, registries containing migration details of applicants might not be linked with the civil registries, thus making it difficult to verify the validity of the residence permit claim and the validity of the marriage application.

> "They have different registers, and different agencies do not see the same information that others see ... Because of this they do not see the whole picture." (Interview with Expert 8)

This allows us to conclude that the organisers might advertise the possibility of entering into a sham marriage abroad as a safe, attractive opportunity, claiming that information about it will never reach the bride's home country. Poor awareness of their rights and a lack of reliable information on legal procedures help deceive victims about the possible consequences of sham marriages.

5.2 Recruitment via social networks

The organisers of sham marriages enlist different social networks during the recruitment of women into sham marriages in their countries of origin. The organisers in the destination countries may receive suggestions about potential "brides" from the recruiters in Estonia. Direct and targeted proposals seem to play a particularly important role in the recruitment of the most vulnerable groups of women.

The collected data shows that in most of the sham marriages encountered, Estonian women became involved in the process through their fellow nationals. Female recruiters from Estonia claim to have either previously concluded sham marriages themselves or to know somebody who has been able to improve their

[13] Tagel, Liisa (11 April 2013) Küprosel abielu vangis. Postimees.

financial situation by marrying a third-country national abroad. The recruiters promise a financial reward upon signing the marriage contract, and they might promise regular financial compensation from their "husbands" in destination countries. Nevertheless, it is not only local social networks in Estonia which are involved in the process of recruitment; migrant communities in the destination countries are crucial to the facilitation of sham marriages.

Experts confirm that the women often receive sham marriage offers from acquaintances and friends, who present it as a lucrative opportunity to earn easy money, without having to face any consequences. One of the interviewees, who has personally encountered women involved in sham marriages, mentioned that usually an invitation to travel abroad to conclude a sham marriage comes from a familiar person.

> "They receive an invitation [to travel to the destination country and enter into a sham marriage there] from a familiar person, but then, if we start to investigate further, this acquaintance turns out also to be an acquaintance of a previous acquaintance ... sort of connecting everything in one network." (Interview with Expert 1)

This notion of familiarity and a sense of trust allows for the women to be recruited into sham marriages in the illusion of safety, as recruiters claim to have the women's best interests at heart. However, further investigation confirms that such acquaintanceship is very superficial and can neither guarantee fulfilment of previous arrangements nor ensure the women's protection from further exploitation. Women have little information about the organisers, recruiters and prospective husbands, since they rarely know more than a name and a telephone number. The recruiters generally stop answering the phone right after the marriages are registered. Evidence also suggests that the majority of women involved in potential exploitative sham marriages did not receive the money promised to them by the recruiters.

Recruitment via social networks is a common practice among young women belonging to the Russian-speaking population. They are used to relying on information provided by members of the community (friends, colleagues, neighbours, etc.), rather than through official sources. For instance, the experts mentioned several cases where the initial suggestion about the possibility of entering into a sham marriage abroad came from acquaintances attending the same vocational school as the recruited woman (see Box 4).

Women were also encouraged to enlist other female friends for a sham marriage, since this way they could all benefit financially from concluding a sham marriage and would not have to travel alone.

One of the earliest identified cases of deceptive recruitment of Estonian citizens into sham marriages took place in Cyprus (see Box 1). Two young Estonian women received an attractive offer promising free travel and a job in a hotel from a girl introduced to them by their friends. However, upon arrival in Cyprus it became clear that there was no job available for them and instead, the women were placed in an apartment with men from South Asia and informed that they had been brought to the island to enter into marriages with the men staying at

the apartment. In addition to the use of deceptive recruitment, the case also implies the use of coercion in the process of securing women's consent to enter into sham marriages.

5.3 Recruitment via the Internet

Although proposals to engage in a sham marriage were often made through social networks in real life, the role of the Internet in the initiation and facilitation of the recruitment process should not be underestimated. Recruiters located in destination countries actively communicate with the potential brides via a number of social media and online communication services.

Other strategies for online recruitment include the posting of advertisements on various forums and thematic groups on social media. The experts interviewed and media reports all confirm that it is not unusual to encounter sham marriage proposals posted online, which feature both males and females promising to assist the migration of third-country nationals in exchange for financial reward. One of the interviewees brought several examples of such online posts.

> "In general, the advertisements are posted by the persons themselves: 'A person [inhabitant of the European Union] without bad habits is interested in entering in marriage to obtain a residence permit in the European Union etc.' Some posts advertised additional prospects, like the possibility to move to England after the registration of marriage. The amounts of desired financial reward were different, ranging from 2500 to 5000 euros." (Interview with Expert 3)

Advertisements collected for the purposes of this research were posted on websites targeting Russian-speaking internet users and were all written in Russian. The posts usually contained many grammatical mistakes and the sentences were badly constructed. They claimed to be posted either directly by third-country nationals looking for a prospective partner to enter into sham marriage or by Estonian citizens offering to conclude sham marriages in exchange for financial reward.

Advertisement 1. An example of an advertisement for a prospective partner for sham marriage.[14]

Marriage. Looking for a woman for a business marriage in UK or Ireland. Not interested in other countries. 25 thousand euros. xxxxx@yandex.ru

The data also revealed that both Estonian and Latvian residents are actively offering their "services" in assisting sham marriages on the same websites.

[14] Source: http://www.kosmopolit.ru/marriage

Advertisement 2. An example of an advertisement for a sham marriage offer.[15]

A. [female name]
Age: 19
E-mail: xxxxx@gmail.com
Country: Latvia
Good day! Citizen of Latvia/EU! Girl 19 years! Offer sham marriage! Answer to e-mails: xxxxx@gmail.com

Interviewees said that the anonymity of such posts makes it difficult to identify the person behind it. They provided a number of examples demonstrating that misleading and deceiving tactics are a common component of Internet recruitment. In reality, third-party facilitators can moderate several different posts from prospective "brides" or "grooms" with European citizenship.

An interviewee from the media sector referred to evidence obtained during an experiment that was conducted for an article on sham marriages. In this case, the journalist was posing as a female student from a non-EU country whose studies were now finished and who was looking to conclude a sham marriage in order to continue living in Estonia. She responded to e-mails listed in the Russian adverts allegedly posted by the prospective grooms, but in actual fact a third party, who handled all the communication, replied to the e-mails.

> "It was certainly a bit surprising, because the journalist was writing to a man and a woman replied. The woman [the person who replied to the journalist's e-mail] wrote that she was running a matchmaking agency, and she was handling everything for the man. That she had a database of potential clients and if I was not interested in the marriage offer, she already had other women interested in marrying the man. It was like a marital agency." (Interview with Expert 3)

Internet recruitment offers third-party facilitators and recruiters the opportunity not only to disguise themselves, but also to create an attractive online persona that evokes trust in potential victims. Open forums and private announcements also allow them to retain a necessary degree of anonymity, making it hard to identify the person or group of people behind the advertisement. Mediators might claim to represent an agency, or they may operate only on first-name basis, but this information can rarely be verified by the people entering into sham marriages.

> "Because on Internet nobody knows you, nobody sees you, you can be anyone." (Interview with Expert 3)

These findings allow us to suggest that online recruitment is very commonly used to facilitate "business" sham marriages, because in this case Estonian

[15] Source: http://fiktiv-brak.narod.ru/

citizens were actively looking for opportunities to conclude sham marriages with third-country nationals in exchange for a financial reward.

5.4 Recruitment tactics and profiles of recruiters

Based on the analysed cases of sham marriages (see chapter 3.2), we conclude that Estonian women were initially approached by Estonian female recruiters. However, interviewed stakeholders suspected that the process is typically too complex to be a single-person operation. Information suggests that the recruitment process must involve a search for women willing to sign a sham marriage for a certain financial reward, as well as a search for third-country nationals wishing to gain migration privileges in exchange for money.

An interviewed media representative reported having communicated online with one of the recruiters. The recruiters claimed to have everyone's best interests at heart, trying to gain trust and establish emotional connections with women agreeing to enter in sham marriages. The experts also noted that recruiters typically claim to have everything under control and to be knowledgeable about the issue, praising women for agreeing to sham marriages.

> "She acted like a kind caring aunty, who treats you like a niece, gives some recommendations, advice. I was left with the impression that the woman is older than me, and that she was offering guidance in a way 'Here my dear, this is the way it will all go, no, you do not need to worry. You do not want to send your photo? No? Do not worry, do not send it then. Let me show you, here is how you can do it.'" (Interview with Expert 3)

Recruiters might also be located outside of Estonia. In this situation, they strongly depend on local social networks and common acquaintances to help identify potential "brides" who can then be reached online with an offer to travel abroad to conclude a sham marriage and to receive compensation for their efforts. The women typically only know the user name of the social media profile used by the recruiter to communicate with them.

> "Not one of them is able to identify this person with a full name. They only say where they have met, meaning through the social network." (Interview with Expert 1)

Some experts suggest that in some cases Estonian women married to third-country nationals in the destination countries might choose to become recruiters themselves.

> "In fact, they are there on the spot, often they are the same women who have been already married themselves to third-country nationals." (Interview with Expert 8)

Recruiters who come from the same community as the potential brides are presented with greater opportunities to find suitable candidates. Female recruiters often claim to have concluded sham marriages themselves while facing no problems in the process. This tactic is supposed to reassure the women that the promises of financial reward are legitimate and real. Since the majority of targeted women are unable to speak a foreign language, recruiters are also

responsible for any direct communication with the organisers and "potential husbands" in the destination countries.

Recruiters are regularly rewarded for convincing women to contract sham marriages abroad. The court decision cited above notes evidence that the female recruiter received over 11000 euros from different parties over a period of 13 months (Judgment of the Viru County Court, 1-14-5250, 13 June 2014). However, the limited information on the organisation of sham marriages makes it impossible to determine the average fee paid to recruiters in Estonia.

In general, the limited information on recruiters and organisers of sham marriages in destination countries may hinder the process of identification of exploitative and misleading aspects of sham marriages. The authorities in Estonia usually come into contact only with Estonian women who entered into sham marriages abroad and do not have the full picture of the activities taking place in the destination countries. The information obtained from the case studies also allows us to conclude that the actions of the recruiters are coordinated and could potentially be connected to wider criminal networks facilitating various illegal migration schemes (see Box 4).

5.5 Characteristics of women recruited into sham marriages

The stakeholders interviewed during the research pointed out a number of specific characteristics shared by women involved in sham marriages. This section describes the circumstances that increase the vulnerability of the women and might result in dependency on recruiters and organisers in the destination countries.

According to a study published by the European Migration Network, a majority of sponsors suspected of contracting sham marriages in Estonia had Estonian citizenship (over 85 %), while in the remainder of the cases the spouses had Russian citizenship and were permanently residing in Estonia (European Migration Network 2012).

In terms of the sham marriage cases analysed for the purposes of this research, all the women held Estonian citizenship. The ethnic background of the women recruited into sham marriages differs. The first identified cases of sham marriages in Cyprus and in the Netherlands involved solely Estonian women who were usually recruited via deceptive job offers to work abroad, whereas later reports from Ireland demonstrate a shift in the target group with most of the women belonging to the Russian-speaking minority. The social background of women who travelled abroad to enter into a sham marriage is not completely homogenous. Although the majority of women came from rural areas and small towns, the latest reports show that women residing in Tallinn are suspected of having entered into sham marriages in Ireland.

In terms of age, women entering into sham marriages can be divided into two main groups:

- younger women in their early twenties who are offered money to travel abroad to conclude a sham marriage;
- older women over 40 years old who enter into sham marriages in Estonia, although they are not always aware that they are entering into sham marriages, meaning that these cases may also be identified as marriage by deception.

Experts noted that the young women targeted by recruiters were facing a number of social and financial difficulties in their lives. Most of them come from low-income backgrounds and might depend on social services and welfare support to support themselves in Estonia. Their educational level is relatively low; on average, they have obtained basic secondary education with vocational training.

The case studies also revealed the same: women involved in sham marriages are often clients of social services in Estonia and thus belong to vulnerable population groups.

> "We have already known this family before in some way. They come out from somewhere, whether they are applicants for support or they are registered in the child protection side, this very same girl is coming out now, who is an adult already." (Interview with Expert 1)

Experts from the welfare sector reported that a significant share of sham marriage cases encountered in Eastern Estonia involved women with special needs:

> "Here are also those kinds of girls or women who have psychological disorders or mental disabilities, who attend educational institutions with simplified learning programs." (Interview with Expert 1)

Interviewees often mentioned that the women who entered into sham marriages lack social skills and knowledge of legal procedures to be able to understand the consequences of participation in sham marriage. Women perceive a sham marriage as a safe opportunity to earn money that has nothing to do with their life in Estonia.

> "She believes that this paper, this action will not reach Estonia, this does not affect her life, does not impose any obligations, nothing is involved in it." (Interview with Expert 1)

Additionally, interactive discussions on human trafficking organised by the NGO Living for Tomorrow (LFT 2014) in vocational schools in different parts of Estonia demonstrated that young women were familiar with the topic of sham marriages and reported knowing other women who have concluded such marriages. The discussions also revealed a number of misconceptions regarding sham marriages. For instance, participants were not aware that:

- a (sham) marriage concluded abroad is legitimate not just in the country of registration, but also in Estonia;
- in order to ensure a successful application for a residence permit in a destination country, the marriage must last for an extended period of time and not just a few months as promised by the recruiters;

- since their marriage is legally binding, all of the official procedures for the termination of marriage need to be followed, and thus divorce or annulment can be granted only by a court, which is a process that can take a lot of time in cases where one of the parties is not willing to terminate the marriage.

All of the above-mentioned characteristics result in a significant group of women who are easy prey to deception by the recruiters. The analysed data revealed that during the recruitment process women were promised up to several thousand euros for marrying a third-country national abroad and the marriage was only supposed to last for some months; however, in the cases of exploitative sham marriages these promises were never fulfilled (see Box 5).

5.6 Characteristics of migrants seeking to conclude sham marriage

Evidence suggests that the demand to enter into the EU by whatever means available is growing in migrant communities, especially in situations where legal migration opportunities are rare and not always accessible. Sham marriages to citizens of Estonia or other EU countries allow citizens of third countries to apply for residence permits on the basis of family reunification as spouses of EU citizens.

Both media reports and interviews with the experts suggest that the majority of migrant men who are interested in contracting a sham marriage with citizens of Estonia come from South Asia (i.e. India, Pakistan, and Bangladesh) and are looking for opportunities to obtain a residence permit in the European Union. Evidence suggests that destination countries can change over time: as has been seen, the first cases of sham marriages involving Estonian citizens were identified in Cyprus, while most recently almost all of the identified cases feature the UK and Ireland as countries of destination.

The handbook on the issue of alleged sham marriages between EU citizens and non-EU nationals (COM 2014, 36), identifies a number of indicators suggesting abuse of the right of family reunification. For instance, migrants seeking to enter in sham marriage are more likely:

- to have been unsuccessful in previous entry or residence applications through other migration channels;
- to have previously migrated irregularly to an EU country;
- to be currently residing irregularly in an EU country;
- to be currently faced with the imminent expiry of their legal residence in an EU country.

This coincides with the information presented by the experts. According to them, third-country nationals looking to enter into sham marriages can be divided into two main groups based on their physical location. The first group consists of migrants who are already residing in the destination countries, but are faced with

the imminent expiry of their visa or residence permit, while the second group of migrants reside outside the European Union.

> "I would not say that 100 % of them are residing in Europe, the majority yes, but there are also those who want to leave their country, and then they either use facilitators or look for a bride on their own." (Interview with Expert 5)

Experts pointed out that the migrants might enlist their own ethnic community in the desired destination country to assist in the search for a prospective EU spouse (see Box 6). This suggests that often the organisers responsible for facilitation of sham marriage registration in destination countries may belong to the same nationality as the men wishing to migrate to the European Union.

In cases where third-country nationals reside outside the European Union, organisers might arrange for potential brides to travel to the grooms' home countries in order to get married there. As the interviewees mentioned, such a scenario might be particularly attractive in countries where only husbands have the right to initiate divorce proceedings.

> "Usually, for example in Egypt, it is essential for the husband to be willing to start the divorce procedure, not for the wife." (Interview with Expert 5)

The identified cases of sham marriages involving Estonian women demonstrate that third-country nationals relied heavily on the help of a third party in the search for potential brides/grooms from other EU countries. In these cases, the migrants covered all the costs incurred by the organisers and possibly met their bride/groom for the first time only during the marriage registration procedures.

Interviewees also noted that usually there is a significant age difference between men and women contracting sham marriages:

> "Men there are in their thirties or a little over forty, and women here are a little over twenty." (Interview with Expert 1)

The experts pointed out that in addition to obtaining a residence permit, a sham marriage might offer additional advantages to third-country nationals by making them eligible for certain social benefits in the destination countries. This can also potentially place third-country nationals in situations where they are subjected to exploitation for the purposes of social benefit fraud in the destination country. However, in order to affirm or reject this claim, more data need to be collected in destination countries.

We were not able to establish a clear link between human smuggling and sham marriages in Estonia. This may be due to the fact that the cases of sham marriages that were identified took place outside Estonia, and for that reason the connection to human smuggling might be more prominent in destination countries with higher rates of irregular migration. On the other hand, those suspicions cannot be totally ignored, since some of the collected information suggests that organisers of sham marriages might also be involved in the smuggling of undocumented migrants. The experts pointed out that in one of the case studies (see Box 4), the female recruiter who offered sham marriages to

young females was later found guilty of human trafficking as part of a criminal group accused of bringing undocumented Vietnamese migrants into Estonia.

> "We had a case where sham marriage was offered. The facilitator was located in one town, and the girl who received the offer was from another town in Estonia and in the end girl refused to sign the marriage. But then it became apparent that this facilitator, this female matchmaker, she was found guilty of human trafficking, that is she was engaged in the organisation of the transportation of [undocumented] Vietnamese migrants to Estonia." (Interview with Expert 5)

Since most sham marriages to third-country nationals in our data took place outside Estonia, it is clear that information about the mechanisms for recruitment of migrants into sham marriages is very limited. Due to the lack of a common language, Estonian women were not able to communicate with their spouses and thus could not provide any comprehensive information on the recruitment of the migrant spouses.

6. Travel to and arrival in the destination country

The case studies and interviews with experts show that the majority of sham marriages involving Estonian women took place abroad. The women were usually recruited into sham marriages through promises of financial reward and reported not to possess the means to cover the cost of travel to the destination country.

Experts referred to examples where Estonian women were involved in marriages that were registered both in the destination countries (Cyprus, Ireland) and in third countries (e.g. Egypt), typically the home country of the husband.

However, determining the place of registration of marriage in advance has proven complicated, as organisers are known to deceive potential sponsors during the recruitment process:

> "Often when women are asked to marry third-country nationals in Ireland, then this marriage is not always registered in Ireland." (Interview with Expert 5)

The interviewees reported that women recruited in Estonia are usually promised that the organisers in the destination countries will take care of travel arrangements and arrival in the destination country. However, in reality they receive only limited details and information on the travel plans, and the promises made by the recruiters in Estonia are often discovered to be false upon arrival. The experts also pointed out that it might be problematic to obtain sufficient information on the organisation of sham marriages.

> "There are facilitators [...]. This is organised crime. However, the thing is that a lot of agencies are not aware of the existence of this problem and because of this we do not get all the information." (Interview with Expert 8)

The women recruited into sham marriages reported having their tickets purchased by the organising party and then sent to them via the Internet. The interviewed experts mentioned cases where prospective brides received either a one-way or a return plane ticket via e-mail and then travelled on their own to another European Union country with the purpose of entering into marriage with a third-country national. In a situation where several women were recruited simultaneously, it was not uncommon for them to travel together to the destination country.

After arriving in the destination country, the Estonian women were picked up by the person responsible for the facilitation of the sham marriage. Often this person was the same recruiter who had made the primary offer or was someone sent by them.

> "The very same person [female] who is kind of making this offer through social media , this very same person or someone sent by her, is picking women up [at the destination country]. Overall, it has been done in a way that she receives a call, she has her phone with her, she receives a call and then at the airport they meet each other." (Interview with Expert 1)

The women often referred to this trip as a short visit to see a friend abroad. In cases where the marriage took place in Ireland, it was common for the women to visit the country twice, and their visit rarely lasted more than a week. The women reported that during their stay in the destination country, they were accommodated in a place they referred to as "an apartment where many people live". They were placed in their own private room and rarely interacted with other foreigners living there, partially due to the lack of foreign language skills. If the women were recruited by a female acquaintance living in the destination country, they might have been hosted by the recruiter herself.

Interviewees mentioned that the women travelled from Estonia without any money to support themselves. To their friends or family, the women might have referred to this trip as a "vacation", since the person who had picked them up at the airport also showed them around and took them to different places. During the first days in the destination country, the recruiters tried to leave a positive impression about the country.

> "Those first days are made as pleasant as possible for her, and so that she would be interested in staying in the country. They have reported receiving job offers, that after all everything is so great and beautiful there and people are paid huge salaries." (Interview with Expert 1)

According to experts, the women reported being offered unskilled positions and household jobs, such as babysitting. However, we were not able to obtain sufficient information to confirm the employment of Estonian women involved in sham marriages in the destination countries, since commonly, offers are made right before the woman enters into marriage and are never followed through.

The scenarios encountered suggest that once the marriage is contracted, the parties to the marriage might be moved to the same apartment, where they will live in different rooms. The women are left in the hands of their spouses with whom they often cannot communicate and who should then purchase a return ticket for the women to return to Estonia. In many of the cases encountered, the recruiters typically cease all contact with the couple after the contraction of the marriage.

The evidence also suggests that not all sham marriages are registered in the European Union. In situations where third-country nationals are residing outside the EU, the brides might be transported to a third country in order to conclude a marriage there. Examples of such instances often mention the important role of religious marriage registration traditions in the Islamic states (i.e. Egypt, Pakistan).

> "They [women] are later transported to the third country and there the marriage is registered. And then it is very complicated to dissolve this marriage that was registered in the third country with the citizen of the third country." (Interview with Expert 5)

The information collected allows us to suggest that the strong involvement of a third party in the organisation of transportation and the arrival of Estonian women in the destination country constitutes evidence of the organised nature of such sham marriages.

7. Indicators of deception and exploitation of women involved in sham marriages

This study has focused on Estonian citizens who have entered into a sham marriage with third-country nationals seeking to migrate into European Union. Despite the fact that evidence of coercion is not apparent in all of the identified cases and most of the women consented to the marriage, the initial offer to enter into a sham marriage always came from a third party. Additionally, means of deception, abuse of vulnerability and various threats were actively used against the women during the recruitment process, allowing us to conclude that their initial consent to enter into a sham marriage can be deemed irrelevant.

Previous studies on human trafficking involving marriage also show that the initial consent of victims/survivors to their marriage does not necessarily mean that the women were not trafficked (Lyneham & Richards 2014). The economic situation of the women not only motivated them to engage in the migration fraud, but also resulted in their becoming dependent on the organisers of the sham marriage, thus increasing their vulnerability to exploitation and other negative consequences of sham marriages.

The recruitment of Estonian women into sham marriages follows a typical scenario: a person facing significant economic and social challenges is offered an opportunity to quickly improve her/his financial situation by entering into a short-term marriage with a foreigner abroad; and the promise is made that the marriage would be dissolved within a matter of months, thus leaving the person free to move on with his or her life. However, in reality people are misled on a number of issues, including the possibility of terminating the marriage without delay. They can also be subjected to threats and means of control that prevent them from leaving the marriage.

The information also suggests that potential victims are often chosen due to their inability to comprehend the situation or to give informed consent to the proposed marriage. This suggests that women from Estonia are recruited into sham marriages abroad with a high probability of exploitation.

> "Let's say that money is paid for this, the fact that ethnically they come from totally different cultures, nothing connects them; additionally, those women are facing severe financial difficulties." (Interview with Expert 1)

In the following sections, we examine indicators that imply the existence of exploitation of Estonian women entering into sham marriages with third-country nationals abroad as well as other negative consequences faced by women. The data collected in Estonia did not provide any information on instances of exploitation of third-country nationals in destination countries. For that reason, we suggest that this topic needs further investigation in the future. Furthermore, in order to examine the potential links between exploitative sham marriages and human trafficking, we have utilized in the analysis the relevant indicators of trafficking defined by ILO (2009):

- Use of fraud and deception
- Abuse of vulnerability
- Use of violence and coercion
- Living conditions and other indicators of exploitation

Additionally, we have tried to explore other negative consequences experienced by the women who had concluded sham marriages.

7.1 Fraudulent and deceptive means of securing the consent of women to sham marriages

Various means of deception have been used in the process of recruitment into sham marriages. According to ILO (2009), aspects of fraud include deception about travel and recruitment conditions as well as about employment and education opportunities in the destination country. The case studies we collected and analysed reveal that elements of deceptive recruitment were present in most of the sham marriages involving Estonian citizens and played a significant role in ensuring the women's consent to travel to the destination country.

The persons interviewed mentioned the promise of financial reward among the main factors motivating Estonian women to engage in sham marriages. Nevertheless, only in one of the identified cases of sham marriages was it possible to obtain verbal confirmation from the woman herself that she had received this reward (see Box 9).

Evidence suggests that some of the Estonian citizens who were recruited into sham marriages in Cyprus and in the Netherlands were initially promised employment in the country of destination (see Box 1 and Box 2). Young women from Estonia agreed to travel to Cyprus in response to an employment offer promising them a lucrative position. The women were also provided with one-way plane tickets. In reality, upon their arrival, it became clear that there was no work for them and they had been brought there to marry third-country nationals.

One of the media articles covering a story of a sham marriage describes a case where a young woman from south Estonia was approached by an Estonian female on the Estonian social media website Rate.ee. The young woman was promised help in finding a job in Cyprus in exchange for a promise to marry an undocumented migrant, who would later apply for a residence permit on grounds of being married to an EU citizen.

> "Although M. says now that the thing seemed suspicious and "too good", she still succumbed to it and started packing suitcases. M. tried explaining why she was interested in this offer: 'Who would not be interested, when there is an economic recession here, when it is very hard to find a job, you receive such an offer ... The

promised salary was 900 euros (a little over 14 000 EEK)'" Eesti Päevaleht, 03 May 2010.[16]

This suggests that, apart from promises of financial reward for entering into the marriage, the women can also be lured into sham marriages with promises of the possibility of employment in the destination country. The experts noted that it is not uncommon for the recruiters to advertise various employment opportunities in the country where the marriage is to be registered. However, in the cases identified as sham marriages, such employment promises were never fulfilled.

> "Expert: And then a job offer arrives right away, that you can start working there for instance, but who among them went to work? Not one, as far as I am aware.
>
> S.B.[interviewer]: But what kind of an offer?
>
> Expert: Unskilled work, dishwashing somewhere. Then in two cases, they were offered a babysitting job, but to babysit for the same woman who brought them [to the destination country]". (Interview with Expert 1)

The women recruited into sham marriages seem to possess limited information on official proceedings, and all marriage formalities are arranged by the third party, who usually promises a quick and easy divorce. Unfortunately, it does not take long for the women to be confronted with a different reality: it becomes clear that there are few employment positions available without the ability to speak the local language, and hopes for divorce vanish along with the recruiters, who disappear right after the marriage is contracted.

The data revealed that some of the women coerced into sham marriages in Cyprus were not initially aware that they were being recruited into sham marriages. However, in most of the identified cases the women were actually informed that they were being recruited to enter into a sham marriage. Despite this, it became clear that promises made during the recruitment process were highly deceptive and prevented the women from giving informed consent to participation in the activity. Other factors, including vulnerability and the socio-economic situation of victims, will be discussed in the following sections.

7.2 Abuse of vulnerability

During the interviews, several experts pointed out a number of elements that allow us to deduce the high vulnerability of victims of exploitative sham marriages. Elements that were mentioned included the victims' poor socio-economic circumstances in Estonia, lack of education, inadequate awareness of legislation, a difficult life situation and emotional and psychological issues.

According to Statistics Estonia (2015), in 2013 8 % of the Estonian population lived in poverty, with their average monthly disposable income falling below 205 euros. The absolute poverty rate was the highest among children and young people (aged 0–24) and among persons of pre-retirement age (aged 50–64) (10

[16] Eesti Päevaleht (03 May 2010) Heaukseid Eesti neidusid meelitatakse illegaalidega abielluma.

% in both age groups). In addition, every third person with a basic or lower education lived in poverty.

Recent trends also show that the majority of potential victims of exploitative sham marriages belong to the Russian-speaking community, the socio-economic situation of which is typically less stable than that of the Estonian-speaking community.

It is clear that vulnerability does not necessary lead to exploitation. Nevertheless, recruiters might prefer to target people in difficult situations, thus knowingly abusing their vulnerability. Abuse of vulnerability is particularly significant in situations where the women involved in sham marriages were primarily diagnosed with mental disabilities and their ability to comprehend the concept of immigration fraud via sham marriage was possibly limited due to their poor mental and psychological health.

The experts reported that women recruited to marry third-country nationals share a number of common traits and the overall number of identified sham marriages does not seem to be diminishing:

> "Expert: It keeps on spreading and spreading, the number of marriages does not decrease. I wonder myself how many of those girls will continue … and they keep on getting younger, they are all already only eighteen, nineteen years old. Every year brings a new group of eighteen-nineteen year olds.
>
> SB [interviewer]: So you see more of this age group at the moment?
>
> Expert: Young, very young. Eighteen, nineteen, twenty-two, something like that … All of them either come from families with many children, their parents are alcoholics, and they grew up in orphanages, they are drug addicts, became parents at a very young age, for example one of them [woman concluding sham marriage] had her first child at sixteen. They are socio-economic victims in the sense that they cannot cope with the income they have in Estonia." (Interview with Expert 8)

Several social service workers pointed out that all of the women recruited into sham marriages reported experiencing significant financial difficulties at the time they were approached by recruiters.

In some of the identified cases the women personally knew the recruiters from before; they referred to them as female acquaintances belonging to the same community. This proximity and familiarity allowed the recruiters to access information about the complicated personal circumstances of potential brides, such as coming from poor families, experiencing a lack of employment opportunities in the place of origin, economic problems, etc. In several cases, the women and the recruiter have come from the same town and the marriage to a third-country national abroad was presented as an easy opportunity to earn some money.

> "If her [woman concluding sham marriage] only income is a disability pension and there are court bailiffs sitting at her door and half of it is taken away, then it is impossible to live on 100 euros per month. This, that, maybe she wanted to borrow money from someone and was told that to get the money, she must do this [conclude sham marriage], and nobody can know about it." (Interview with Expert 1)

These pre-existing relationships with the recruiters render victims vulnerable to further abuse and are one of the motivations for keeping the whole sham marriage arrangement a secret. As pointed out before, victims receive false information about the legal status of the proposed activities and recruiters do their best to support the idea that the marriage registered abroad will not have any influence in Estonia.

Although the women involved in sham marriages refer to it as an opportunity to visit the destination country with all expenses covered by the third party, in a situation where the person does not speak the language of the destination country, the assistance of recruiters from Estonia might easily turn into a situation of control or even exploitation. In such cases, the women are not capable of communicating with the authorities in the destination country or with their prospective spouses (see Box 8).

We also suggest that recruiters may play on the emotions of the women in order to motivate them to consent to sham marriages in the first place. One of the case studies (see Box 4) features a story in which the primary offer of a sham marriage came from a female friend of the young woman M.E, whom she met while studying at the same vocational school. After M.E. refused to travel abroad and proceed with the sham marriage, the same friend constantly got in touch with her, trying to pressure her into changing her mind. Eventually M.E. was forced to leave town and change her phone number in order to avoid the threats.

> "In this situation, M.E. was particularly vulnerable and frightened, since she was living in the same dormitory with one of her recruiters, who also had all of her contact details. The Hotline experience demonstrates that this type of behaviour is very common. The situation renders them helpless and the women are not capable of providing clear statements. In this case, it becomes crucial for the specialists to notice signs of potential vulnerability and abuse and investigate the situation further." (Interview with Expert 5)

In previous chapters, we have pointed out that in many sham marriage cases, the recruiters target victims with either some sort of mental illness or learning disabilities. These individuals can be considered particularly vulnerable, since their ability to comprehend crucial information on their own is limited. The risk of exploitation and trafficking of these women can increase in situations where psychological vulnerability coexists with financial problems. As an example of such events, we can refer to the case of an Estonian woman who had previously been diagnosed with mental illness and had a debt of several thousand euros. The woman was reported missing and after a while she contacted the Estonian consular service to report her location in Cyprus. The woman had been recruited for a sham marriage with a third-country national and was later identified as a victim of human trafficking by Cypriot law enforcement (see Box 3).

Abuse of vulnerability takes place not only during the recruitment process, but also after the registration of the marriage in the destination country. However, this topic requires further investigation. An inability to speak foreign language might also prevent women from turning to the authorities both abroad and in Estonia (in situations where the women belong to the Russian-speaking minority

and have poor Estonian language skills). Similarly, they are unable to communicate with the third-country nationals they married, thus decreasing the chances of negotiating the conditions of termination of the marriage.

7.3 Use of violence and coercion

A key feature of exploitative sham marriages is that the person is subjected to different forms of control that deprive her/him of certain aspects of personal freedom. At times, the use of coercive practices and violence is explicit enough for us to state that the women were coerced into entering into the sham marriage. However, it is crucial to remember that exploitation can also take place in cases of sham marriages where spouses have 'willingly' entered into the marriage. Measures preventing a person from terminating a sham marriage may be considered a manifestation of the deprivation of personal freedom. With this in mind, we will try to analyse different aspects of coercion exercised against the victim by the recruiters in Estonia and the organisers in the destination countries, which may occur throughout the duration of a sham marriage, beginning with coercive recruitment and ending with mechanisms preventing victims from terminating the marriage.

The indicators of trafficking in human beings developed by the ILO (2009) highlight violence against the victim, confiscation of documents, isolation and surveillance among the strongest indicators of coercion. Other forms of control include threats of violence or denunciation to the authorities and the withholding of money. Although not all of the indicators are necessarily present in the cases of sham marriages analysed here, the presence of several indicators is usually sufficient for positive identification of a coercive dimension.

Several indicators of coercion are evident in one of the first cases of sham marriage involving Estonian citizens (see Box 1). Upon arrival in Cyprus, the Estonian women were confined by the receiving party, they were placed under constant surveillance and had their documents retained by the organisers. Only after that did the women learned about the deception regarding the initial job offer and that in reality they had been brought to the country to marry third-country nationals. The women's refusal to conclude a sham marriage resulted in further surveillance and confinement, and they tried to organise their escape. Unfortunately, the women were not able to turn directly to the Estonian diplomatic mission, since the closest embassy was located in Greece. These circumstances created a situation where it took several weeks for the women's request for help to reach the Ministry of Foreign Affairs. Despite the fact that the women eventually managed to recover their documents and escape the place of confinement, they were left with no financial resources to return home and had to seek employment on the island in order to sustain themselves. This led to a situation in the new workplace where one of the women reported being subjected to sexual abuse. The case also helps to illustrate the vulnerability of women who were recruited into sham marriages abroad to other forms of abuse.

Another case of a potentially exploitative sham marriage in Cyprus included several coercive elements imposed on a woman who had been diagnosed with a mental illness (see Box 3). In this case, an Estonian woman admitted to being coerced into a sham marriage with a third-country national. She also reported incidences of violence perpetrated by her husband and his constant surveillance of her. She faced threats against her life after the husband learned of her communication with the authorities. Of all the case studies analysed for the purposes of this study, this case was the only one in which the victim of the exploitative sham marriage was formally identified as a trafficking victim in the destination country. Unfortunately, we were not able to obtain further information regarding the investigation process implemented by the Cypriot law enforcement agencies, and the case did not lead to a trafficking conviction in Estonia.

Even in situations where the women deny that physical violence had been used against them, experts usually suspect that other forms of violence might have been used against the women.

> "We have asked if they experienced physical violence, and they denied it. Certainly, there was psychological and emotional violence. I suspect that at some point there could have been instances of sexual violence as well." (Interview with Expert 1)

Different threats may be used not only to secure the initial consent of the women, but also to guarantee their continued consent during the preparation stage of the sham marriage. In a case where a young woman was recruited for sham marriage in the United Kingdom by her schoolmate (see Box 4), evidence of coercion only became apparent after the woman tried to withdraw her initial consent to travel abroad and to proceed with the plan.

This case also helps illustrate the presence of the extensive organised network involved in the arrangement of sham marriages, since during the recruitment process, the woman was introduced to another female recruiter in Estonia responsible for the organisation of the paperwork and travel, and a man who was supposed to accompany her on the trip to the destination country.

While collecting the data, we managed to identify one case that has led to a court judgment regarding recruitment of women into sham marriages (see Box 5, Viru County Court, 1-14-5250, 13 June 2014). The victims of deceptive recruitment were also subjected to constant surveillance, confinement and sexual harassment. The court decision stated that the recruiter knowingly placed the women in a situation where they were forced to perform unlawful and disagreeable duties. The women did not receive the financial reward promised to them during the recruitment process; they were left without any means of organising their return home; and they were rendered dependent on the perpetrators.

The threat of informing the women's family about the marriage can be used as one wayto impose control over them, since as pointed out by the experts, the women typically conceal the fact of their involvement in a sham marriage from their family and friends in Estonia. This situation may also prevent the women

who concluded sham marriages from contacting the authorities on their own and may create the impression that the scale of the problem is smaller than it is in reality.

> "I have not encountered any severe consequences, meaning people do not turn to us with this. I think people are just afraid of the shame and condemnation or think 'How could I be so stupid to get myself involved in it and now I will be exposed to ridicule'. Because our people are this way, then even if they are right, they are afraid of censure by society, afraid to seem too stupid." (Interview with Expert 3)

Thus, we suggest that threatening the women with informing their families about the sham marriage that they have concluded, control over the women's finances in the destination country, withholding of money, and dependency on exploiters (e.g. inability to speak a foreign language, social and economic dependency, difficulties in understanding rules and regulations in a foreign country) are typically used as effective measures for control and should be considered indications of coercion.

7.4 Living arrangements and other aspects of exploitation

The information collected about the living arrangements of victims of exploitative sham marriages in the destination country was relatively limited. However, in none of the identified cases were the women able to control or choose the location or conditions of their accommodation. Accommodation was set up either by organisers in the destination countries, if the women were staying in the apartment with the organisers until the registration of marriage, or by the husbands, when the women relocated to the space occupied by their husbands after the registration of the marriage. The apartments where the women were placed were usually shared with several other migrant families. While the situations described do not in themselves prove exploitation, a lack of control over living conditions makes the women dependent on the organisers in the destination countries and thus prone to other controlling measures.

Shared accommodation with the husband in the destination country may be crucial in creating the impression of genuine family life during the residence permit application process. However, as suggested by the interviewed NGO representative it is important to note that such an arrangement also allows the husbands to monitor the women more carefully, enabling them to control and supervise the women's private life.

> "During this time [upon arrival] the woman is well cared for, so that she so would not leave, would not run away back to her home country. Such a sham marriage is contracted in the destination country and after that the woman must, depending on the country, she must live with her pretended husband for a certain period of time. It is important for the husband to demonstrate, both in social media and in real life that their marriage is genuine, not a sham and that there is love and that they want to be together. And then this man rents an apartment in which they cohabit together. It all depends on the cultural background of the man, where he is from … and here violence can occur … As far as we know from women who contacted us, these

husbands were violent towards their spouses; there were also instances of sexual harassment and sexual violence towards the wife." (Interview with Expert 5)

Experts suggested that in situations where victims are staying in the destination country for an extended period of time, they might be also involved in some form of unpaid domestic labour in the house where they live. A lack of control over their living situation places the women in circumstances where the organisers and the husbands can supervise their movement. According to the interviewees, in other cases the women may be told that they are in debt to the husband for the provision of accommodation.

7.5 Legal issues and negative consequences faced by women involved in exploitative sham marriages

Despite the fact that the sham marriage cases analysed here are of a deceitful nature and were initially contracted with the sole purpose of obtaining an EU residence permit, they cannot simply be deemed illegal. Each of the cases could be characterised by formal respect for the law, since the marriages were always contracted in accordance with national regulations on marriage. Therefore, such marriages are valid marriages, where both parties have legally become spouses and have the right to all the relevant privileges and benefits. With that in mind, it is important to note that termination of such a marriage must be performed in accordance with the legislation of the country where the marriage was concluded.

According to the general principles of private international law, a party filing for divorce is usually required to seek separation in the country where the marriage was contracted. Legal experts stated that if a woman enters into a sham marriage in Ireland, it can be problematic for her to file for divorce in Estonia:

"If a person wishes to divorce in Estonia or an Estonian client turns to me, it is actually very complicated. A claim should generally be submitted to the court in Ireland, although to the best of my knowledge divorces in Ireland are extremely complicated. Perhaps we can put it this way, if this foreign citizen is not interested in divorce, then it is nearly impossible to obtain this divorce in Estonia." (Interview with Expert 4)

According to the research, Estonian women who have concluded sham marriages have encountered a number of legal issues and unintended negative consequences from such marriages. The problems are typically related to the termination of marriage, paternity and custody issues, financial obligations and potential criminal charges for participation in migration fraud schemes. Although the potential legal problems are a common risk accompanying any illicit activity, in cases of sham marriages it is important to explore these elements in order to better understand the phenomenon of sham marriages.

For example, complicated and lengthy divorce procedures can be used as a measure of control, which when combined with the vulnerability of the targeted victims will guarantee their consent to the marriage for an extended period of time.

The interviewees pointed out that Estonian citizens involved in sham marriages in Ireland are promised that the marriage to the third-country national will be dissolved within a matter of months. However, in reality divorce can be granted only if the parties filing for divorce have been living apart from one another for four out of the preceding five years before the application is made.[17] Some experts also suggest that sponsors might have been provided with forged divorce papers, leaving them convinced that the marriage is no longer valid.

The experts from the legal sector pointed out that organisers might be particularly interested in arranging sham marriages in countries where marriages are not only easy to register, but also difficult to dissolve, thus allowing third-country nationals to hold on to their immigration advantage for a longer period of time. Additionally, a demand for an extended separation period can also limit the women's options for dissolving sham marriage, thus leaving them trapped in the situation.

The organisers of sham marriages are reported to take advantage of favourable conditions in countries where women have little possibility of initiating legal separation. This is particularly significant when either the marriage or the divorce takes place in third countries. Practical experience shows that such divorces might not be valid in all countries, although both parties might believe that the marriage has been terminated. For instance, Islamic divorce is not currently recognised in Estonia and legal practitioners mention a number of complications with such cases.

> "One example of the case that we have been proceeding for over a year now: there is an Estonian citizen, whose husband is from Pakistan. The man went to Pakistan, got divorced there, but Estonia does not recognise the divorce. Already preparation of the documents raises many questions. The last hope is that we can legalise the Pakistani divorce papers through the Ministry of Foreign Affairs." (Interview with Expert 4)

The financial situation of the victims can pose another limitation to seeking divorce, since examples brought forward by experts imply that the cost of divorce proceedings in other EU countries is very significant and can add up to thousands of euros in legal fees. Evidently, this might lead to a situation where the women stay trapped in the deceitful sham marriage for as long as their spouses consider it suitable for them.

> "The reason that it is not preferred to divorce for instance in Ireland, lies in the fact that it is extremely difficult to receive a divorce there. If in Estonia the termination takes few months, I have heard that in Ireland it takes years." (Interview with Expert 4)

The interviewed experts also confirmed instances of divorce applications filed in Estonia by third-country nationals living in Ireland. All of those marriages were contracted in Ireland between Estonian citizens (all female) and third-

[17] Source: http://www.citizensinformation.ie/en/birth_family_relationships/separation_and_divorce/divorce_decrees.html

country nationals from the Middle East and South Asia (specifically, Pakistan and Iran). The husbands contacted Estonian legal firms to file for divorce after being married for approximately two years, and handled the divorce proceedings remotely without attending a court hearing. Also, all of the legal costs were covered by them. The husbands could file divorce applications in Estonia based on the fact that their spouses were no longer living with them and had since returned to Estonia.

> "The general principle is always that a claim can be submitted to the district court where my client's counterpart lives. A divorce action can also be submitted based on the last place of common residence of the spouses. Basically, if the man wants to, he can file for a divorce in Ireland, because presumably they have last lived together in Ireland. However, it does not make sense to get a divorce in Ireland because it takes a lot of time." (Interview with Expert 4)

Based on this, it may be argued that divorce procedures play a significant role in guaranteeing the sponsors' commitment to sham marriages. Deception in this area is common, and the women concluding sham marriages are often deceived and have very little knowledge about the possible complications related to getting out of a marriage with a third-country national. They rarely comprehend the fact that the marriage might last for years. The women are misled by the recruiters who often promise divorce within a few months after the registration, leaving the impression that the marriage will not have any impact on the victim's personal life.

> "This girl, who is six months pregnant with her Estonian boyfriend, was influenced in the same way. She was contacted through that Odnoklassniki [Russian-language social network] and was told that you need money and you will get a divorce in half a year, that there is no problem." (Interview with Expert 8)

Difficulties with the termination of the marriage in this case can be combined with paternity registration problems, because in general the women recruited into sham marriages are young women who might start new relationships in Estonia in the very near future. For that reason, custody and paternity issues will become more common if the women give birth to children fathered by other men while still being legally married to a third-country national abroad.

The interviewees pointed out that the women might believe that the duration of the sham marriage and the rights and obligations of the parties to the marriage are regulated by some sort of a "service contract" that the organisers allegedly signed with the third-country nationals paying for the facilitation of the marriage.

> "This male has paid some kind of sum, there is some kind of agreement signed ... that there is some kind of contract signing this agreement and that male is paying for the provided service." (Interview with Expert 1)

Nevertheless, experts said that talks of this type of agreement may be part of the deceitful strategies implemented by the organisers to ensure the women's consent to the marriage.

The shared financial responsibility of the spouses can also lead to a number of problems if, for example, one party is not able to perform his or her obligations (e.g. bank loans).

> "Furthermore we have encountered cases in our line of work where the husband can apply for some loans using the name of his wife and she will be responsible for these loans … She does not know or even think about this." (Interview with Expert 5)

The data shows that, in the identified cases of sham marriages, the women entering into sham marriages were misled during the recruitment process and faced a number of unintended negative consequences in the process, including complicated divorce proceedings, financial problems and other legal issues.

8. Challenges of identification and prevention of trafficking-related exploitation

The collected data shows that the identification of victims is often crucial in assessing the deceitful and/or exploitative dimension of sham marriages. However, in practice, formal identification of the exploitative sham marriages and their links to trafficking in human beings proves to be challenging, due to the complexity of the legal status of sham marriages and recognition of victims of human trafficking.

Despite a lack of formal procedures for the identification of potential sham marriages, the experts interviewed mentioned the existence of a number of practices used by officials of the Vital Statistics Department. These practices rely on a multilevel filter system and the process begins with a legally established minimum waiting period of one month between the filing of the application and the contracting of the marriage. The interviewed officials reported increasing the processing time of suspicious applications in order to allow them to acquire additional supporting documents and to verify the authenticity of the submitted information.

These measures are meant to discourage applicants from contracting a sham marriage. In the event that the submitted information proves to be false, the individuals are subject to prosecution. However, the punishment for providing false statements usually is a relatively small fine and cannot be considered an effective preventive measure.

The expert from the Vital Statistics Department mentioned that extensive involvement of mediators in the organisation of marriage is often considered to be one of the warning signs indicating deceptive intentions. Some of the interviewees mentioned encountering mediators who accompany prospective couples during the marriage application procedures in Estonia, claiming to offer facilitation and interpretation services. However, in the view of the authorities, these mediators seem rather to be linked to migration support services than to the organisation of sham marriages. In recent years, the presence of such mediators during marriage application procedures in Estonia has significantly decreased. This may have been caused by the requirement that the couple is present in person throughout the entire marriage registration process.

The experts pointed out that the relatively low number of marriages contracted in Estonia between citizens of other Member States and third-country nationals may be due to the more complicated process of marriage procedures in these cases.

> "Very few [marriages are registered in Estonia between citizens of other EU countries and third-country nationals], because the country of citizenship is one, the country of residence is another and that is for both parties, this kind of a mix. As far as I can remember we had one case here recently, we were discussing it and worrying about how to proceed with it, which country should then provide those certificates

and documents, those certificates [certificates stating that there are no factors inhibiting the contraction of marriage]." (Interview with Expert 2)

The information received implies that cases of exploitative sham marriages involving Estonian citizens have currently been identified only in certain European countries, suggesting that the organisers typically target countries with favourable conditions. A combination of gaps in legislation allowing for easier registration of marriage together with timely and complicated divorce procedures are typically mentioned by NGO representatives as key factors.

"If some sort of scheme can be traced, meaning where women are invited to, to which countries, then there exist gaps in the legislation of those countries and these gaps are abused." (Interview with Expert 5)

Data obtained during interviews with experts suggests that most of the cases of exploitative sham marriages identified in Estonia featured Cyprus, the United Kingdom and Ireland as destination countries. This information also correlates with the stories reported by the media.

"In Ireland alone there are over one hundred of these cases [sham marriages involving Estonian citizens]. 'During the last three years in Ireland, Estonian citizens have concluded 40-50 sham marriages per year,' said the Estonian consul in Dublin." Pealinn, 25 January 2016.[18]

Although not all cases analysed in this research constitute trafficking and exploitative sham marriages, it is important to pay more attention to the misleading and deceptive practices implemented in the process of recruitment and organisation of sham marriages. These cases are typically reported after the women's return to Estonia, by the welfare services in municipalities and by NGOs responsible for the prevention of human trafficking and assistance to victims of trafficking.

According to the experts from the law enforcement sector, a thorough examination of sham marriage cases is crucial to identify elements of human trafficking.

"All of the criminal cases involving elements of human trafficking are addressed as a priority nowadays and we monitor them carefully. We try to investigate those as fast as possible and provide victim assistance during the criminal procedures. For instance if any witness wishes to remain anonymous, then this option is also available." (Interview with Expert 6)

"Furthermore, all of the criminal elements mentioned in the trafficking provision of Estonian Penal Code can be applied [if a person is forced to work under unusual conditions, engage in prostitution, beg, commit a criminal offence or perform other disagreeable duties]. On the other hand, if sham marriage takes place in another country where this action is not considered a criminal offence, then we cannot state that the person was forced to commit a criminal offence. In this case, we must submit an application for legal aid to the country where the marriage was signed, to clarify

[18] Rattus, Sirje (25 January 2016) Võltsabiellu meelitatud tüdruk riskib kogu oma elu vussi keerata. Pealinn.

whether, according to their legislation, the act is a criminal offence or not." (Interview with Expert 6)

This research focuses on cases in which sham marriages might be linked to human trafficking. With that in mind, we will try to describe circumstances in which situations of exploitation have been brought to the attention of the authorities and victim support providers.

In order to identify victims of exploitative sham marriages and to assess the existence of exploitation, the sham nature of the marriage needs to be confirmed. In theory, the Family Law Act states that decisions regarding the sham nature of a marriage can be made only by a civil court (PKS, (RT I, 29 June. 2014, 105) § 9 section 1, point 6).

At the same time, no operational indicators of a sham marriage have been adopted on the state level. This means that the authorities in Estonia cannot make a formal identification of a sham marriage. The authorities managing residence permit applications point out that it is difficult to give a clear definition of a situation where "sham marriage" can be used as grounds for a refusal to issue or extend a residence permit in Estonia.

> "It is possible to refuse to grant or extend a temporary residence permit on the basis of sham marriage if both parties admit it or we have gathered enough evidence to prove it. We do not have a general rule, since all the cases are different and so are the different solutions." (Interview with Expert 9)

However, in cases of sham marriages contracted abroad this scenario is highly unlikely, since third-country nationals rarely come to Estonia and their goal is to obtain a residence permit in other EU countries (e.g. Ireland, the UK, and Cyprus).

According to the persons interviewed, women recruited into deceitful and exploitative sham marriages abroad rarely report their circumstances and try to conceal information about the marriage. In these circumstances, Estonian diplomatic missions abroad become a veritable fount of information on the instances of potential sham marriages contracted outside of the country. Estonian consular services can also insert data from the marriage certificates of Estonian citizens issued by another state into the Estonian Population Registry. In the event the information on a marriage to a third-country national is not added to the Estonian Population Registry by the couple themselves, further investigation might be initiated to explore whether the couple is currently living together abroad or if the Estonian citizen has returned to Estonia. However, it is also worth mentioning that the procedure is not regulated by any legislative framework and its success depends solely on the personal expertise and resources of the different stakeholders.

> "Our embassies cannot play the role of an investigative agency. That is why, regarding this phenomenon [sham marriages of Estonian citizens registered abroad], we would like to bring together different stakeholders, for instance an investigative agency of one country with an investigative agency of another country. Of course, the embassies can provide support in the event of arrival of a new case, but as a matter of fact, the involvement of the embassies in this kind of cross-border

cooperation might eventually become optional. If a person needs a civil status certificate, then why not, but concerning identification of potential sham marriages I do not see the involvement of the embassies should stay at the same degree it is nowadays.

Certainly, such process would require an international agreement, allowing a migration supervision agency from one country to communicate directly with a migration supervision agency of another country. And then they could engage social workers or conduct control raids in order to implement joint measures to combat illegal migration, since the sham marriage phenomenon is one of the aspects facilitating it." (Interview with Expert 7)

We also need to point out that it might take up to several years before information about marriages registered abroad reaches Estonia, and in cases of on-going criminal investigations, this timing can be crucial. The cited court case (Box 5) revealed that the prosecution had encountered significant difficulties in obtaining information on events that took place in the destination countries, and the court reached a verdict based solely on evidence collected in Estonia. The female recruiter was found guilty of human trafficking for having recruited two Estonian women into sham marriages abroad, thus knowingly placing them in a situation where they were forced to perform unlawful and disagreeable duties. However, during the investigation, the authorities were not able to acquire official confirmation from Ireland on whether the victims' marriage to the third-country nationals was in fact concluded in Ireland.

Suspicions of a sham marriage might arise in cases where a person is seeking assistance in getting a divorce. As mentioned before, the victims' difficult economic situation might make them dependent on exploiters and this may be one of the motivations to keep the whole sham marriage arrangement a secret. However, even if service providers suspect exploitation, without formal identification, women concluding sham marriages would be perceived by law enforcement rather as witnesses to a crime, or even as perpetrators.

Formal notification of victims of human trafficking is currently defined by the Victim Support Act (OAS, (RT I, 15 March 2014, 24) § 3 section 1^1). It states that "a victim of human trafficking is a person in the case of whom criminal proceedings have been commenced with regard to the criminal offence committed against him or her based on the elements of the criminal offence specified in §§ 133-133^3, 138-140 or 175 of the Penal Code." This arrangement has proven to set a very high threshold for the identification of victims, and limits their access to some state-provided services. Stakeholders also reported that several amendments might be introduced to the Victim Support Act in 2017 to improve access of victims to the services.

It must be stated that the collected data stresses the importance of efficient cooperation of different actors for successful identification of trafficking-related sham marriages. Collaboration between the source and destination countries is also crucial to obtaining essential information for crime investigations and understanding the organisational mechanisms of cross-border sham marriages.

Our data on misleading and exploitive practices implemented by the recruiters and organisers of sham marriage also allowed us to identify potential challenges to establishing efficient prevention mechanisms. These include a lack of complaints from potential victims; difficulties in detecting and proving exploitation; the lucrative nature of sham marriage offers; and a lack of coordinated and accountable activities involving relevant actors.

The interviewed experts stressed that potential victims are hesitant to contact any authorities to request help regarding their involvement in sham marriages. The NGO representative interviewed confirmed that the women would rather seek legal consultation and assistance in escaping the marriage.

> "We have encountered cases of different types of sham marriages [marriage by deception, deceitful and exploitative sham marriages] and also cases in which it was important to prevent the marriage. In those cases, the marriage was not yet registered, but everything was leading to it. And we have also received phone calls to the hotline regarding instances where a marriage to a third-country national has been registered in a third country. The women contacting us were mainly interested in legal help." (Interview with Expert 5)

Interviewees pointed out the importance of topical educational initiatives directed at informing vulnerable groups about the risks of exploitative sham marriages. Our cases demonstrate that young women with secondary and vocational education seem to be targeted most often by recruiters. Up until now, the topic of sham marriages has been included in occasional lectures on human trafficking prevention for students at vocational schools in Estonia conducted by the NGO Living for Tomorrow. However, such lectures are not systematic, nor do they cover all vocational schools. At the same time, the topic is not covered by the family life education curriculum, which is obligatory for every secondary school pupil.

Currently, there are no state actors that would specifically focus on exploitative sham marriages in the context of human trafficking, even though most of the interviewed experts noted that they had encountered situations that might be identified as potential exploitation within the context of sham marriages. According to the current Development Plan for Reducing Violence for the period 2015–2018, actions on the prevention of human trafficking and assistance to victims of trafficking do not list any specific measures targeting exploitative sham marriages. However, the persons interviewed pointed out that the issue could potentially be integrated into other anti-trafficking activities.

The role of law enforcement in the prevention of sham marriages is very limited at the moment, since existing legislation in Estonia does not foresee any criminal responsibility for organising sham marriages. For that reason, cases of sham marriages without clear signs of coercion might be perceived as an abuse of civil law, rather than a criminal offence.

9. Conclusions and recommendations

In recent years, the instances of involvement of Estonian citizens in sham marriages have increased significantly. Alarmingly, some of those cases share many common elements of trafficking in human beings. Nevertheless, public awareness of sham marriages and the potential connection to human trafficking remains relatively low.

Despite the relatively low number of sham marriages contracted in Estonia, the trends point to an increasing number of young women from Estonia being recruited into sham marriages that are registered in other European countries with the promise of easy profits. The most popular destination countries for the organisation of sham marriages involving Estonian women were Cyprus and Ireland, followed by occasional cases in the United Kingdom, the Netherlands and Italy.

Various means of deception, abuse of vulnerability and a number of threats are actively used against the Estonian women during the recruitment process. The sham marriages encountered were registered abroad and the third-country nationals who were suspected of being party to the sham marriages have never entered Estonia. For that reason, obtaining information on the occurrence of those marriages might be difficult and usually is possible only after information about marriages concluded abroad is forwarded to the Estonian Population Registry.

The collected information revealed that the women involved in sham marriages possess different levels of awareness about the conditions of the marriage. Based on this, several types of sham marriages were identified:

- marriages by deception, where one party believes the marriage intentions to be genuine;
- "business" sham marriages, where both parties actively seek to benefit from the marriage, by gaining either financial reward or migration preferences;
- deceitful sham marriages, where one of the parties has been misled about the conditions of the marriage during the recruitment process;
- exploitative sham marriages, where one party (generally a woman holding an EU passport) is actively recruited into the marriage through deception, coercion or abuse of vulnerability, and is subjected to different forms of exploitation in the process.

Deceitful and exploitative sham marriages might share some common features and it is not always clear whether an individual case should be identified as mere migration fraud with unintentional negative consequences for women with EU citizenship, or as an instance of exploitation with elements of trafficking in human beings. In order to draw a distinction between the two, thorough investigative practices must go hand in hand with efficient cooperation between

the different stakeholders. The evidence of exploitation becomes visible only over a longer period of time, since women involved in sham marriages typically start seeking assistance when they want to terminate the marriage.

The information collected also provides compelling evidence of the major involvement of a third party in the organisation of the sham marriages. Female recruiters who claim to have previously entered into sham marriages themselves have approached Estonian women on social media, presenting it as an easy way to make money. The financial reward that is promised to the women for marrying a third-country national during the recruitment process is never paid to the victims of exploitative sham marriages. The recruiters disappear after the contraction of the marriage, leaving sponsors trapped in the matrimony and not being capable of obtaining a divorce on their own.

Additionally, many online groups dedicated to advertising individuals offering and looking for EU citizens to enter into sham marriages were encountered on Russian-language social media. We were not able to locate corresponding Estonian-language social media groups. Although the identified cases of sham marriages featured women of both Estonian and Russian ethnicities, the latest cases allow us to suggest that at the moment the Russian-speaking population in Estonia is more actively recruited into sham marriages abroad. Stakeholders also reported instances of Estonian women involved in prostitution and with histories of drug abuse being targeted by the recruiters with offers to enter in sham marriage' However, we were not able to obtain detailed information on the ethnicity of these women.

Our cases of exploitative sham marriages demonstrated a number of elements evident in the exploitation of the women, allowing us to explore links between sham marriages and trafficking in human beings. According to Article 2(3) of Directive 2011/36/EU, exploitation includes, as a minimum, the exploitation or prostitution of others or the use of other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs. In contrast to the traditional notion of sham marriage as a crime against the state, exploitative sham marriages incorporate a number of basic elements of trafficking in human beings (e.g. act, means and purpose) and should be perceived as a crime against the person. The process begins with the act of recruitment and transportation of Estonian women to the country of destination. Unfair means of coercion and deception are used to constrain the women's freedom of choice and control them. Finally, the operation is executed with the purpose of exploitation of the women by forcing them to perform unlawful and disagreeable duties (i.e. conclude a sham marriage). Despite a relatively low number of convictions for trafficking in human beings in Estonia, several forms of trafficking have been identified by the law enforcement authorities since the introduction of the updated provision on human trafficking in 2012. The crimes that qualified as trafficking offence in Estonia during 2012–2015 also featured the first sham marriage related court case in Estonian legal practice. In this case, a woman recruiting Estonian women into sham marriages abroad was found

guilty of human trafficking under § 133 subsection 2 of the Penal Code for placing two or more persons in an exploitative situation (see Box 5). The court decision stated that the two women recruited for sham marriages in Ireland were forced to perform unlawful and disagreeable duties, were dependent on the receiving party and could not leave the country without the consent and assistance of the organisers. This example allows us to refer to existing case law when demonstrating links between exploitative sham marriages and human trafficking.

Additionally, two more cases of exploitative sham marriages demonstrated evidence of coercion and violence against Estonian women by the organisers (see Box 2) and by the spouse (see Box 3) in the destination countries. The women mentioned in those case studies were identified as potential victims of trafficking by law enforcement agencies in the destination countries. Unfortunately, both cases took place before the introduction of the trafficking provision in Estonia and could not be formally identified as trafficking cases.

With regard to suspected sham marriages to third-country nationals that were registered in Estonia, the foreign spouses were primarily citizens of Russia, Ukraine and Georgia. However, according to the stakeholders interviewed, none of these marriages indicated the existence of deception or coercion and respectively could rather be identified as "business" sham marriages. The involvement of third parties (recruiters and organisers) in the organisation of those marriages was not established.

Based on our analysis, we have compiled the following recommendations, which could be included in the National Development Plan for Reducing Violence, engaging the Ministry of Justice, the Ministry of Social Affairs, the Ministry of Education, and NGOs involved in the prevention of human trafficking and provision of assistance to the victims:

- Examine the possibility of modifying Estonian legislation in order to establish the criminal responsibility of facilitators of sham marriages (the current practice situates the victim's testimony as primary evidence, creating a heavy burden on the victim).
- Include indicators of exploitative sham marriages into the pre-existing national guidelines for the identification of victims of trafficking in human beings.
- Organise annual multi-institutional training for specialists (law enforcement, municipal social workers and consular officers) in order to facilitate the exchange of experiences on the issues of prevention of trafficking in human beings and identification of exploitative sham marriages.
- Apply preventative measures specifically developed for trafficking in human beings involving sham marriages and organise educational events on the issue for national minorities, students of vocational schools and minors in the foster care system.

References

Agarmaa, M., & Leps, A., (2012): Inimkaubanduse direktiivi ülevõtmise analüüs. [Analysis of adoption of the Directive on trafficking in human beings.] Kriminaalpoliitika analüüs. Nr 4/2012. Tallinn.

Asari, E.-M., Maasing, H., & Luik, E., (2015): Eestisse seaduslikult sisserännanud välismaalaste profiilide kaardistamine ning nende vastavus Eesti tööjõuturu vajadustele. [Mapping profiles of legal immigrants in Estonia and their compliance with the needs of the Estonian labour market.] Tallinn: Sisekaitseakadeemia, 2015. https://www.siseministeerium.ee/sites/default/files/dokumendid/Uuringud/Kodakondsus_ja_r2nne/2015_profiilide_uuringu_lopparuanne.pdf

European Migration Network (2012): Marriages of convenience and false declarations of parenthood: Misuse of the right to family reunification. Luxembourg: EUR-OP.

EUROPOL (2014): Early Warning Notification. Marriages of convenience: A link between facilitation of illegal immigration and trafficking in human beings, noting an emerging trend. https://www.europol.europa.eu/sites/default/files/publications/ewn_2014_8_public_fp_phoenix_fp_checkpoint_marriages_2.pdf

COM (2013): 837 final. Communication from the Commission to the European Parliament and the Council. Free movement of EU citizens and their families: Five actions to make a difference. Brussels, 25 November 2013, http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013DC0837&rid=1

COM (2014): 604 final. Communication from the Commission to the European Parliament and the Council. Helping national authorities fight abuses of the right to free movement: Handbook on addressing the issue of alleged marriages of convenience between EU citizens and non-EU nationals in the context of EU law on free movement of EU citizens. Brussels, 26 September 2014. http://ec.europa.eu/justice/citizen/files/swd_2014_284_en.pdf

Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification.

Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

ILO (2009): Operational indicators of trafficking in human beings. Results from a Delphi survey implemented by the ILO and the European Commission. Revised version of September 2009. Geneva: ILO. http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_105023.pdf

Justiitsministeerium (2015): Vägivalla ennetamise strateegia 2015–2020. [Strategy for Preventing Violence 2015–2020.] Tallinn. http://www.kriminaalpoliitika.ee/et/vagivalla-vahendamise-arengukava/vagivalla-ennetamise-strateegia-2015-2020

Kaska, V., & Asari, E.-M. (2012): Perekonna taasühinemise õiguse kuritarvitamine: fiktiivabielud ja põlvnemise kohta valeandmete esitamine Euroopa Liidus ja Eestis. [Abuse of the right to family reunification: sham marriages and false declarations of parenthood in European Union and Estonia.] ERV TEMAATILINE UURING 2012. Tallinn: Sisekaitseakadeemia, 2012. http://www.sisekaitse.ee/public/Turundus/PDFid/2012/Uuring-perekonna-taasyhinemise-6iguse-kuritarvitamine-2012.pdf

Lyneham, S., & Richards, K. (2014): Human trafficking involving marriage and partner migration to Australia. Canberra, ACT: Australian Institute of Criminology.

LFT (2014): Projekti lõpparuanne: Loengud kutsekoolides õppivatele noortele inimkaubanduse teemadel. [Final project report: Lectures on human trafficking for young people studying in vocational schools.] http://lft.ee/admin/upload/files/Kutsekoolide%20IK%20loengud%202014.pdf

Spehar, A., & Shmulyar Gréen, O., (2014): Caught in the Vulnerability Trap: Female Migrant Domestic Workers in the Enlarged EU. Baltic Worlds, Vol. 7(4).

Statistics Estonia (2015): Every fifth person in Estonia lives in relative poverty. News Release No.13, 29 January 2015.

TNS Emor (2014): Eesti elanikkonna teadlikkuse uuring soopõhise vägivalla ja inimkaubanduse valdkonnas. [Attitudes of Estonian inhabitants in relation to gender-based violence and human trafficking.] Tallinn, Tellija: Sotsiaalministeerium.

Legislation

Aliens Act (VMS, (RT I, 23 March 2015, 8))

Citizen of the European Union Act (ELKS, (RT I, 23 March 2015))

Family Law Act (PKS, (RT I, 29 June 2014, 105))

Penal Code (KarS, (RT I, 25 September 2015, 7))

Victim Support Act (OAS, (RT I, 15 March 2014, 24))

Court judgments

Viru County Court, 1-14-5250, 13 June 2014

Press articles

Eesti Päevaleht (03 May 2010) Heauskseid Eesti neidusid meelitatakse illegaalidega abielluma. http://epl.delfi.ee/news/eesti/heauskseid-eesti-neidusid-meelitatakse-illegaalidega-abielluma?id=51275375

Ibrus, Kadri (18 June 2010) Neiu põgenes Küproselt vangist. Eesti Päevaleht. http://epl.delfi.ee/news/eesti/neiu-pogenes-kuproselt-vangist?id=51278169

Kablukova, Irina (21 August 2014) Põgenevad pruudid. Den za Dnjom. http://www.postimees.ee/2894909/pogenevad-pruudid

MK-Estonia (9 September 2015) Откровенно: девушка из Эстонии рассказала, как она решилась на фиктивный брак с иностранцем. http://www.mke.ee/sobytija/otkrovenno-devushka-iz-estonii-rasskazala-kak-ona-reshilas-na-fiktivnyj-brak-s-inostrantsem

Petrova, Irina (20 September 2013) Журналистка попыталась фиктивно выйти замуж и оказалось, что этот бизнес у нас процветает. MK-Estonia. http://www.mke.ee/sobytija/zhurnalistka-popytalas-fiktivno-vyyti-zamuzh-i-okazalos,-chto-etot-biznes-u-nas-protsvetaet

Rattus, Sirje (25 January 2016) Võltsabiellu meelitatud tüdruk riskib kogu oma elu vussi keerata. Pealinn. http://www.pealinn.ee/koik-uudised/voltsabiellu-meelitatud-tudruk-riskib-kogu-oma-elu-vussi-keerata-n161274

Tagel, Liisa (11 April 2013) Küprosel abielu vangis. Postimees. http://www.postimees.ee/1198412/kuprosel-abielu-vangis

Websites advertising sham marriage offers

http://www.kosmopolit.ru/marriage

http://fiktiv-brak.narod.ru/

Interviews

Municipality Welfare Centre in Ida-Virumaa (Expert 1), September and November 2015.

Tallinn Vital Statistics Office (Expert 2), September 2015.

Journalist writing for an Estonian newspaper published in Russian (Expert 3), September 2015.

Lawyer with experience in international divorces (Expert 4), September 2015.

Representative of NGO “Living for Tomorrow” (Expert 5), September 2015.

Viru District Prosecutor's Office (Expert 6), October 2015.

Estonian Ministry of the Foreign Affairs, Consular Affairs Department (Expert 7, Expert 8), October 2015.

Police and Border Guard Board, Citizenship and Migration Bureau (Expert 9), October 2015.

EXPLOITATIVE SHAM MARRIAGES AND HUMAN TRAFFICKING IN IRELAND

Catherine Cosgrave, Monica O'Connor and Nusha Yonkova

1. Introduction

In recent years, there have been growing concerns, most notably by policy makers, that family reunification entitlements may be misused as a route into settlement in the European Union (EU).[1]

In Ireland, the issue of sham marriage has been the subject of much political debate and legal controversy, as have the measures that have been introduced by the Irish authorities in their attempts to prevent and address perceived abuses of the domestic immigration system by individuals entering in marriages for the sole purpose of gaining residence entitlements in Ireland.[2] There has been widespread media coverage of various operations, such as Operation Charity[3] and, more recently, Operation Vantage[4], conducted by An Garda Síochána (the Irish police) to intervene in individual cases and to investigate sham marriage operations.[5]

Whilst some concerns had been expressed regarding exploitation of vulnerable EU citizens,[6] until recently issues related to sham marriage have generally not

[1] EMN Report Misuse of the Right to Family Reunification (2012) available at http://bookshop.europa.eu/en/marriages-of-convenience-and-false-declarations-of-parenthood-pbDR3212278/

[2] INIS Press Release 'Sham marriages leading to abuses of EU freedom of movement rights', 9 June 2011, available at http://www.inis.gov.ie/en/INIS/Pages/PR11000007

[3] 'Few Legal Means to Restrict Rise in Bogus Unions', Irish Times, 17 August 2010, http://www.irishtimes.com/news/few-legal-means-to-restrict-rise-in-bogus-unions-1.638680

[4] '200 Gardaí involved in nationwide searches in massive sham marriage probe', The Irish Independent, 25 November 2015 http://www.independent.ie/irish-news/200-gardai-involved-in-nationwide-searches-in-massive-sham-marriage-probe-34233842.html See also: 'Gardaí arrest 11 in suspected sham marriage scam', The Irish Times, 26 November 2015.

[5] Operation Vantage commenced in August 2015. The operation has focused on the disruption of the organisers and facilitators behind this process and it is reported that a number of investigations are underway. Further information on Operation Vantage is provided throughout the report, in particular in Chapter 2.3 and Chapter 2.4.

[6] See, for example, http://brophysolicitorsimmigration.blogspot.ie/2011/09/eu-treaty-rights.html

been linked with human trafficking.[7] However, in the past few years, authorities and non-governmental organisations (NGOs) across Europe have identified cases presenting to consular and other services, such as refuges, where there are indicators of trafficking.

To date there has been little or no research examining the nature or scale of the problem. Consequently, in 2014, the European Commission provided project funding to undertake research regarding the situation in five EU countries – Latvia, Lithuania, Estonia, the Slovak Republic and Ireland, which is the only destination country included in the research project. The Immigrant Council of Ireland Independent Law Centre (ICI), an organisation that has been to the fore in identifying the issue of human trafficking for the purposes of sexual exploitation in Ireland and seeking to ensure that the rights of victims are protected fully, undertook the research for this Ireland country report.

At the outset, it is important to note that this is an area of law and policy where there have been many legislative and administrative changes, as well as Irish police operations, in recent months. The research for this report was conducted throughout 2015 and is based on the limited information that was available in Ireland at this time. It reflects the position until December 2015.

[7] Existing research regarding trafficking has focused on trafficking for the purposes of sexual exploitation in the sex industry. See, for example, Kelleher et al., Globalisation, Sex Trafficking and Prostitution: The Experiences of Migrant Women in Ireland (ICI, 2009).

2. The legal framework relating to sham marriage and trafficking in Ireland

2.1 Introduction

In Ireland, as with all EU Member States, EU citizens and their family members are permitted to enter and reside in Ireland in accordance with the provisions of the EU Citizenship Directive.[8] Chapter 2.2 sets out the general legal framework governing applications for residence in Ireland by third-country family members of EU nationals and the specific measures, including the powers of civil marriage registrars, to prevent alleged abuses. The entitlements to enter and reside are, of course, not absolute and applications may be and are refused in some instances. It is clearly not the case that all marriages between EU citizens and third-country nationals, including failed asylum seekers or those who may be unlawfully residing, are sham and, equally, residence applications may be refused on other grounds where there are no concerns arising regarding the bona fides of the family relationship.

As previously noted, until recently issues related to sham marriage have not been linked with trafficking and there are entirely separate legislative and administrative measures introduced to give effect to Ireland's international obligations to combat human trafficking, in particular the EU Trafficking Directive.[9] For this reason, chapter 2.3 sets out the relevant anti-trafficking legislation, as well as the Administrative Immigration Arrangements for the protection of suspected victims of human trafficking.

2.2 Legal framework relating to sham marriage

The entry and residence of EU citizens and their family members in Ireland is regulated by Directive 2004/38/EC, as transposed into national law by domestic regulations, the European Communities (Free Movement of Persons) Regulations 2006 and 2008 (the Regulations).[10]

In respect of third-country national (TCN) family members, an in-country application for a residence card must be made to the Irish Naturalisation and

[8] Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

[9] Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.

[10] European Communities (Free Movement of Persons) (No. 2) Regulations 2006 and 2008 (Statutory Instrument No. 656 of 2006) (Irish Regulations 2006 and 2008) and the European Communities (Free Movement of Persons) (Amendment) Regulations 2008 (Statutory Instrument No. 310 of 2008) (Irish Regulations 2008) (referred to as the Irish Regulations 2006 and 2008). In December 2015, revised European Communities (Free Movement of Persons) Regulations 2015 (Statutory Instrument No. 548 of 2015) (2015 Regulations) were published. These new Regulations will revoke the 2006 Regulations but will not be commenced until 1 February 2016.

Immigration Service (INIS) and there is also a registration requirement with the Garda National Immigration Bureau (GNIB). The relevant residence application and registration requirements are set out in Regulation 7 of the Regulations and applications must contain the particulars set out at Schedule 2. As a matter of administrative practice, family members are required to submit an application form, together with necessary original supporting documentary evidence, including evidence of identity of the applicant and the EU citizen family member, evidence of their relationship, evidence of their residence in Ireland and evidence of the current activities of the EU citizen.[11] There is no information publicly available regarding how the applications are considered by the INIS once received. The Regulations do not specifically empower the Minister for Justice and Equality or immigration officers acting on behalf of the Minister to require the applicant and their family member to attend for an interview in the course of processing the application but service providers report that this does happen at least in some cases.

Applications for residence permits may be refused. Article 27 of the Directive, as transposed by Regulation 19(1) of the Regulations, provides that interference with rights is permitted on grounds of public policy, public security or public health. These grounds should not be invoked to serve economic ends and any restrictions must comply with the principle of proportionality and be based exclusively on the personal conduct of the individual concerned. Personal conduct must represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society and any such threat must be identified within three months of the date of arrival in the territory.

In addition, under Article 35 Member States may adopt the necessary measures to refuse, terminate or withdraw any right conferred by the Directive in the case of abuse of rights or fraud, such as marriages of convenience. Any such measures shall be proportionate and subject to the procedural safeguards provided for in Articles 30 and 31 regarding notification of decisions and access to both judicial and administrative redress to procedures to appeal against or seek review of any decision taken against a person on grounds of public policy, security or health. In respect of Article 35, measures to tackle abuse of rights or fraud in Ireland, Regulation 24 of the Regulations provides for the immediate cessation of rights where it is established that a person to whom the Regulations apply has acquired rights by fraudulent means. Regulation 24(2) provides that "fraudulent means" includes marriages of convenience. The term 'marriages of convenience' itself, however, is not defined in the Regulations (see further chapter 2.2.2 below).

2.2.1 Sham marriage and judicial scrutiny

The processing of EU residence permit applications, including decisions to refuse to grant residence cards, has been the subject of various legal challenges

[11] See the information provided by the EU Treaty Rights Section, INIS available at http://www.inis.gov.ie/en/inis/pages/eu%20treaty%20rights

in Ireland. When the Directive was first transposed into Irish law, Regulation 3(2) made the right of residence of TCN family members conditional upon their prior lawful residence in another Member State. This requirement, which was not provided for in the Directive, was argued by the Irish authorities as a necessary measure to combat sham marriage, (referred to as 'marriages of convenience') and was the subject of legal challenge before the Irish and European Courts. In *Metock,*[12] which did not in fact concern an alleged 'marriage of convenience', the Court of Justice of the European Union (CJEU) ruled that this requirement was contrary to the Directive, and amending Regulations were introduced.

Decisions to refuse to grant a residence card have also been the subject of a number of Irish High Court decisions, including *Tagni*.[13] The case concerned a failed asylum seeker who applied for a residence permit on the basis of his marriage to an EU citizen exercising freedom of movement for work purposes and the decision of the High Court examined various issues, including the required time-frame for decisions at first instance and, if refused, on appeal. Edwards J. [judge] held that the six month time limit provided for by Article 10 of the Directive is mandatory and must be respected in all cases. In the case that

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[12] Case-127/08 Metock and others v Minister for Justice, Equality and Law Reform [25 July 2008], available at http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62008CJ0127. This case concerned four TCNs who had initially unsuccessfully applied for political asylum in Ireland and then married EU citizens who resided in Ireland. Their applications for residence cards as spouses of EU citizens were refused by the Irish authorities on the ground that they did not satisfy the condition of prior lawful residence in another Member State, as laid down in Irish law. The decisions of the Irish authorities were challenged and the Irish High Court, after finding that none of the marriages in question was a marriage of convenience, referred the cases to the European Court of Justice for a preliminary ruling on the interpretation of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States in order to establish whether the Directive precludes legislation of a Member State which makes the right of residence of a national of a non-member country subject to the conditions of prior lawful residence in another Member States and acquisition of the status of spouse of a citizen of the Union before his/her arrival in the host Member State. The Court determined that the Directive does not make its application conditional on the beneficiaries, family members of a citizen of the Union having previously resided in a Member State. The Court found that if EU citizens were not allowed to lead a normal family life in the host Member State, the exercise of their guaranteed freedoms would be seriously obstructed, since they would be discouraged from exercising their rights of entry into and residence in that Member State. The Court observed that Member States could refuse entry and residence on grounds of public policy, public security or public health, the refusal being based on an individual examination of the particular case. The Court also observed that the Member States could refuse any right conferred by the Directive in the case of abuse of rights or fraud. The Court also held that a non-Community spouse of an EU citizen who accompanies or joins that citizen can benefit from the Directive, irrespective of when and where their marriage took place and of how that spouse entered the host Member State. The Court stated that the Directive did not require that the EU citizen must have already founded a family at the time when he moves, in order for his family members to enjoy the rights established by the Directive. The Court also stated that it made no difference whether the family members of an EU citizen enter the host Member State before or after becoming family members of the citizen.

[13] Tagni v Minister for Justice, Equality and Law Reform [2010] IEHC 85.

the Minister is uncertain regarding the genuine nature of an application for a residence card on the basis of a suspicion that the claim may be fraudulent, but the applicant has provided required documentation, the Minister has no choice but to grant the residence card within the six month time-frame. If clear evidence of fraud subsequently emerges, the Minister may then take steps to revoke the residence card.

The issue of 'marriage of convenience' was raised in the Irish courts in the case of *Izmailovic,*[14] which concerned a challenge to an objection lodged at short notice by An Garda Síochána to a proposed marriage between an EU citizen and her Egyptian fiancé on the grounds that it was a marriage of convenience and that the matter was being investigated by the GNIB. One issue considered was whether the ground of objection, a suspected marriage of convenience designed to circumvent the immigration rules, came within the scope of Section 58(1) of the Civil Registration Act 2004.[15] It was determined that the power to object was confined to impediments to marriage in the sense in which that term had been traditionally used, namely prohibited degree of relationship, incapacity, age, marital status and gender.[16] The High Court determined that even if well intentioned, An Garda Síochána was not empowered to prevent the solemnisation of a marriage on the grounds that they suspect that the marriage is one of convenience. Although no application for a residence permit had been made or refused in the particular case, the court nonetheless did make a number of observations regarding the residence entitlements provided for under the relevant Regulations.

The Court held that as the law stood at that time any review of the marriage to ascertain if it is a marriage of convenience is one which, having regard to the terms of the Regulations, can only take place *after* (and not *before*) the fact of solemnisation. Hogan J. [judge] stated that "this is clear from the actual language of Article 24 of the 2006 Regulations itself, since it provides that where it is established that a person to whom the Regulations apply "*has acquired* any rights or entitlements under these Regulations by fraudulent means" then "that person *shall immediately* cease to enjoy such rights or entitlements." The italicised words thus envisage an administrative review of whether the marriage is a marriage of convenience *after the event*… and must also be hedged in with appropriate procedural safeguards." Such a marriage would be a valid marriage for all purposes other than EU Treaty rights. The question of whether the TCN family member could be deprived of the *prima facie* benefits of the marriage for the purposes of the 2006 Regulations is one which is committed to a senior

[14] Izmailovic & Anor v The Commissioner of An Garda Síochána [2011] IEHC 32.

[15] Section 58 sets out the grounds upon which a marriage may be objected to: http://www.irishstatutebook.ie/eli/2004/act/3/section/58/enacted/en/html#sec58

[16] Until the introduction of the Marriage Act 2015, it was not possible for two people of the same sex to enter into a marriage in Ireland.

official of the Minister by Article 21 of the Regulations in the manner envisaged by Article 31 of the Directive.

2.2.2 Recent legislative developments

Since the judgment in *Izmailovic*, and perhaps following the conclusions and recommendations to Ireland arising from the Universal Periodic Review 2011,[17] the Civil Registration Act 2004 has been amended and marriage and civil partnerships of convenience are now defined. Section 3 of the Civil Registration (Amendment) Act 2014[18] provides that a marriage (or civil partnership) of convenience means where at least one of the parties to the marriage is a third-country national and enters into the marriage solely for the purpose of securing an immigration advantage for at least one of the parties to the marriage.[19]

Under this legislation, registrars in the Civil Registration Service have the powers to form an opinion on whether an intended marriage constitutes a marriage of convenience and, consequently, if there is an impediment to the marriage. Section 18 of the 2014 Act (amending Section 58 of the 2004 Act) sets out the criteria that the registrars may consider in forming an opinion as to whether an intended marriage would constitute a marriage of convenience, which include:

a) whether the parties to the intended marriage speak a common language,

b) the period prior to the relevant notification of the intended marriage during which the parties to the intended marriage were known to each other,

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[17] UN Human Rights Council Report of the Working Group on the Universal Periodic Review – Ireland 2011 available at: http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/175/20/PDF/G1117520.pdf?OpenElement

[18] Available at: http://www.irishstatutebook.ie/eli/2014/act/34/enacted/en/html

[19] The recently published 2015 Regulations, referred to above at footnote 8, also define a 'marriage of convenience'. Regulation 28(6) provides that "marriage of convenience" means 'a marriage contracted, whether inside or outside the State, for the sole purpose of obtaining an entitlement under (a) the Council Directive or these Regulations, (b) any measure adopted by a Member State to transpose the Directive, or (c) any law of the State concerning the entry and residence of foreign nationals in the State or the equivalent law of another state'. Regulation 28(5) provides the Minister for Justice with powers to determine whether a marriage is a 'marriage of convenience' and indicates the matters that the Minister may take into account in order to make such a determination, which mirror those provided for in the Civil Registration Act. Where the Minister has reasonable grounds for considering that the marriage is a marriage of convenience, he or she may send a notice to the parties to the marriage requiring the persons concerned to provide, within the time limit specified in that notice, such information as is reasonably necessary, either in writing or in person, to satisfy the Minister that the marriage is not a marriage of convenience (Regulation 28(2)). The Minister may refuse to grant or revoke a residence permit on the basis of fraud or abuse of rights, including a marriage of convenience (Regulation 27(1) and (4)).

c) the number and frequency of meetings of the parties to the intended marriage prior to the notification of the intended marriage,

d) if the parties to the intended marriage have lived together in the past or if they currently live together,

e) the extent to which each party to the intended marriage is familiar with the personal details of the other party,

f) the extent to which each party to the intended marriage intends to continue an existing commitment to mutual emotional and financial support of the other party to the intended marriage,

g) the immigration status of one or each of the parties to the intended marriage who is a foreign national,

h) other than in a case where money is paid as a dowry as appropriate to the culture of one or each party to the intended marriage, if money was paid as an inducement for the marriage,

i) if one or both of the parties to the intended marriage has previously been the subject of an objection under the provisions of the legislation, and

j) any other information regarding the intended marriage which gives reasonable grounds for considering the marriage to be a marriage of convenience.

If a registrar forms an opinion that an intended marriage would constitute a marriage of convenience based on the criteria listed above, or receives an objection that the intended marriage is one of convenience and forms the opinion that grounds for the objection possibly exist and need to be investigated, the matter shall be referred to a Superintendent Registrar. If, following investigation, the Superintendent Registrar decides that based on evidence, the proposed marriage constitutes a marriage of convenience, then a marriage registration form will not be issued and the Department of Justice and Equality shall be notified. Where there is an objection to the marriage, Section 58 of the 2004 Act provides that the parties to the intended marriage must be notified of the objection, the grounds of the objection, the investigation and that solemnisation of the marriage will not proceed until the investigation is completed. If it is ultimately decided that there is an impediment to marriage, then a party to a proposed marriage may appeal to the Circuit Family Court against the decision.

Following the enactment of the legislation the Minister for Justice and Equality stated that it would 'strengthen the arm of the State in tackling marriages of convenience and associated immigration abuses'.[20] The legislation did not in fact enter into force until August 2015. Shortly after the commencement of the legislation it was reported that registrars were not willing to comply with the

[20] INIS (26 January 2015). 'Immigration in Ireland – 2014'. Press Release. Available at http://www.inis.gov.ie/en/INIS/Pages/Immigration%20in%20Ireland%20%E2%80%93%202014

new measures due to a lack of consultation[21] and need for registrars to be provided with adequate training.[22]

It therefore remains to be seen whether the legislation, including the newly published 2015 Regulations, will have the effects intended by the Minister or whether they will also be the subject of a constitutional legal challenge before the courts on grounds of, for example, a disproportionate interference with the protected right to marry or that the burden to prove the marriage is a sham is on the State rather than the parties to the marriage to provide it is genuine.[23] In this regard, although mindful of concerns regarding allegations of exploitation, commentators have raised questions as to whether the proper point of control then, should be at the granting of residency to already married couples and not at the point of the marriage contract.[24]

2.3 Legal regulation of trafficking in Ireland

2.3.1 International obligations

Ireland acceded to the UN Convention on the Elimination of Discrimination (CEDAW) on 23 December 1985. In 2010, Ireland ratified both the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, which supplements the United Nations Convention against Transnational Organized Crime (the Trafficking Protocol), and the Council of Europe Convention on Action against Trafficking in Human Beings. The Convention entered into force in Ireland on 1 November 2010. Ireland is also a signatory to the European Convention on Human Rights which has been incorporated into Irish law at a sub-constitutional level by the European Convention on Human Rights Act 2003.

Ireland[25] is bound by the EU Trafficking Directive.[26] Other relevant applicable EU legislation includes Directive 2004/80/EC relating to compensation to crime

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[21] 'Marriage registrars fail to comply with rules on sham unions', Irish Times, 24 September 2015, available at http://www.irishtimes.com/news/politics/marriage-registrars-fail-to-comply-with-rules-on-sham-unions-1.2365149

[22] 'Effective ban on marriages of Irish to non-EU citizens lifted', Irish Times, 3 December 2015 available at http://www.irishtimes.com/news/social-affairs/effective-ban-on-marriages-of-irish-to-non-eu-citizens-lifted-1.2453269

[23] See, for example, the recent UK Court of Appeal judgment in Agho v SSHD [2015] EWCA Civ 1198 and commentary.

[24] 'Preventing Marriages of Convenience in Ireland', Human Rights Blog 18 August 2010, available at http://humanrights.ie/children-and-the-law/preventing-marriages-of-convenience-in-ireland/

[25] Ireland opted out of Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.

[26] Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims.

victims. It was not considered necessary to introduce new legislation to implement this Directive as it was considered that it was "implemented via the existing national scheme of compensation for personal injuries criminally inflicted".[27] That scheme is operated by the Criminal Injuries Compensation Tribunal and provides for out of pocket expenses only.

Directive 2012/29/EU of the European Parliament and the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime came into effect on 16th November 2015. In July 2015, the Minister for Justice and Equality published the Heads of Criminal Justice (Victims of Crime) Bill, which is intended to transpose the Victims' Directive into Irish law but which, to date, has not been enacted. When enacted, victims of crime and their families, including victims of trafficking in human beings, will have enhanced rights to recognition, privacy, information and protection.

2.3.2 Domestic legal framework

As Ireland is a dualist state, international law requires incorporation into domestic Irish law in order to have direct legal effect. To give effect, in whole or in part, to Ireland's international obligations, the Criminal Law (Human Trafficking) Act 2008 was enacted.

The legislation provides the criminal legislative framework for the prosecution of traffickers and criminalises the forms of trafficking in human beings covered by the Trafficking Protocol and the Council of Europe Convention, which includes labour and sexual exploitation. In accordance with Section 1 of the Act, 'labour exploitation' includes enslavement of the person or subjecting him or her to servitude or a similar condition or state, and 'sexual exploitation' includes the production of pornography, the prostitution of the person, the commission of various sexual offences against the person as identified in the Sex Offenders Act 2001 or otherwise causing the person to engage or participate in any sexual, indecent or obscene act.

The anti-trafficking legislation was subsequently amended in 2013 by the Criminal Law (Human Trafficking) Amendment Act 2013 to include forced labour, forced begging and forced engagement in criminal activities. The legislation provides for penalties of up to life imprisonment and, at the discretion of the court, an unlimited fine.

2.3.3 Identification, support and assistance to victims of trafficking

The 2008 Act does not provide for the identification of victims of trafficking and the rights of victims of trafficking to support and protection have not been placed on a statutory footing. These were provided for separately in the *Administrative Immigration Arrangements for the Protection of Victims of Human Trafficking*

[27] See Dáil Question 1106, 26 January 2006 of Ruairi Quinn TD to the Minister for Justice and the Minister's Response https://www.kildarestreet.com/wrans/?id=2006-01-25.3735.0

(AIAs),[28] published in 2008 by the Department of Justice and Law Reform (now Department of Justice and Equality) and updated in March 2011. The AIAs were originally intended to be a temporary measure pending the enactment of the Immigration Residence and Protection Bill 2010. However, this draft legislation has not progressed and there are currently no published Government plans to place the protections of victims of trafficking on a legislative basis.

The AIAs provide for the issuing of a 60 day recovery and reflection period, a six month renewable temporary residence permission on condition of cooperation with authorities in an ongoing investigation, voluntary repatriation and changes of status to longer term status, after certain conditions have been met. Identified victims of trafficking are issued with a temporary residence permit, which enables them to access social protections and benefit payments, employment and education/training.

However, the AIAs are of limited scope and are stated to only apply where a foreign national is identified as a person suspected of being a victim of human trafficking and the Minister for Justice and Law Reform is required to consider that person's immigration status in the State. Additionally, the AIAs apply to a foreign national who is identified as a suspected victim of human trafficking, that is, where there are reasonable grounds for believing that he or she is a victim of an offence under Sections 2 or 4 of the Criminal Law (Human Trafficking) Act 2008 or Section 3 (other than subsections (2A) and (2B)) of the Child Trafficking and Pornography Act 1998. For the purpose of the AIAs a 'foreign national' means a person from outside the European Economic Area (EEA). In practice, therefore, EU citizens and individuals who have applied for international protection are effectively excluded from accessing the social protections and other benefits envisaged for victims of such crime.

Arising from the EU Citizenship Directive, there are no restrictions placed on EU citizens accessing the labour market. However, the right of residence for economically inactive EU citizens may be subject to restrictions and, access to social welfare payments, other than discretionary welfare payments, is prevented due to habitual residence condition (HRC) requirements under social welfare legislation.[29] This may lead to difficulties for EU citizen victims of trafficking in accessing appropriate social protections, as they may wrongly be considered to be an EU citizen exercising free movement who does not meet the HRC conditions, as opposed to a victim of trafficking accessing their entitlements provided for under Article 11 of the EU Trafficking Directive.

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[28] Available at http://www.inis.gov.ie/en/INIS/Administrative%20Immigration%20Arrangements%20for%20the%20Protection%20of%20Victims%20of%20Human%20Trafficking%20-%20March%202011.pdf/Files/Administrative%20Immigration%20Arrangements%20for%20the%20Protection%20of%20Victims%20of%20Human%20Trafficking%20-%20March%202011.pdf

[29] See: http://www.welfare.ie/en/Pages/Habitual-Residence-Condition--Guidelines-for-Deciding-Offic.aspx

In this regard, it is important to note that when a person is identified as a suspected victim of trafficking under the AIAs, there is no written judgment in the individual case setting out the factors in the case resulting in a positive identification. A qualifying foreign national is issued a temporary residence card but an EU citizen will not be issued with any written confirmation of the position. The absence of statutory protections for victims of trafficking and the restrictions arising from current AIAs have been the subject of criticism, in particular by international monitoring bodies.[30] In particular, the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA) Committee Report 2013[31] urged the Irish authorities to ensure that all victims are properly identified and can benefit from the assistance protection measures contained in the Convention, in particular by amending the relevant regulations to allow asylum seekers, EEA nationals and Irish nationals to be formally identified as victims of trafficking and guaranteeing that identification is not contingent on the suspected victim's co-operation in the investigation. The GRETA report also noted and raised concerns that the majority of victims of trafficking are either asylum seekers or EEA nationals and recommends that the Irish authorities ensure that all possible victims of trafficking are offered a recovery and reflection period, as well as all the measures of protection and assistance envisaged.

In addition to international monitoring, the question of effective transposition of the EU Trafficking Directive has been the subject of legal proceedings in Ireland and, in a recent judgment of the High Court, the current victim identification process had been deemed to be inadequate.[32] Since this judgment in April 2015, there have been no formal amendments to the current victim identification process.

Aside from the identification process, the Anti-Human Trafficking Team (AHTT) of the Health Service Executive (HSE) is responsible for developing individual care plans for victims of trafficking under the statutory national action

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[30] Report by Maria Grazia Giammarinaro, OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, following her visit to Ireland from 30 January to 2 February 2012 http://www.osce.org/secretariat/99775?download=true

Trafficking in Persons Report 2015 http://www.state.gov/documents/organization/243559.pdf

[31] GRETA (2013) Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Ireland available at http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2013_15_FGR_IRL_public_en.pdf

[32] P. v Chief Superintendent of the Garda National Immigration Bureau & Ors [2015] IEHC 222. In this case, the applicant had spent almost three years in detention in prison, much of that time waiting for a decision on her application to be recognised as a victim of human trafficking. See IHREC, 'IHREC calls for immediate action to protect victims of human trafficking following High Court Judgment', [press release], 15 April 2015, http://www.ihrec.ie/news/2015/04/15/ihrec-calls-for-immediate-action-to-protect-victim/

plan 2009−2012.[33] Potential victims are referred to this service from the GNIB and the team then assesses and plans care with the individual according to his or her particular needs. Many of their general health and social welfare issues are addressed such as housing, finances, medical concerns, family issues, social welfare benefits etc. Some persons are deeply traumatised by their experiences and a longer rehabilitation and journey of care is necessary. Staff also support persons through the investigation process with GNIB and liaise with all the statutory and NGO services who can offer additional support to victims of trafficking.[34] Potential or suspected victims of trafficking are provided with the same accommodation and ancillary services as those provided to newly arrived asylum seekers, namely Direct Provision reception centres, which are arranged by the Reception and Integration Agency (RIA),[35] a functional unit of the INIS, a division of the Department of Justice, Equality and Law Reform. The Legal Aid Board provides legal aid and legal advice to potential and suspected victims of trafficking in both civil and criminal cases.[36]

Finally, there is little information available regarding perpetrators in Ireland, as there have been few trafficking cases generally and there are no published information regarding any convictions in sham marriage cases.

2.4 Conclusions

The attempts to introduce effective measures to address sham marriage and trafficking provided for under the relevant Directives are proving a challenge for the Irish authorities. The EU Citizenship and Trafficking Directives have not been transposed entirely, effectively or correctly, as evidenced by some of the case law that has emerged in the Irish and European courts. It remains to be fully seen whether Operation Vantage and the new powers conferred on marriage registrars will be implemented and deemed effective in their objectives of addressing sham marriage and abuses of the immigration system. It is likely that EU free movement, residence entitlements, sham marriage and effective responses to victims of trafficking will continue to be the subject of political debate and legal challenge, both domestically and regionally, particularly in light of Ireland's failure to transpose the relevant Directives correctly.

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[33] National Action Plan to Prevent and Combat Trafficking of Human Beings in Ireland 2009-2012.

[34] http://www.hse.ie/eng/services/list/5/sexhealth/whp/Anti_human_trafficking_team.html

[35] http://www.ria.gov.ie/en/RIA/Pages/Background

[36] http://www.legalaidboard.ie/lab/publishing.nsf/content/Human_Trafficking_Legal_Advice_and_Aid

3. Research into sham marriage in Ireland

3.1 Introduction

In this section the findings of the research into sham marriage with possible links to human trafficking in Ireland are presented. The aims of the research were to:

- Explore the links between sham marriages and trafficking in persons
- Provide new information on the vulnerabilities, factors, methods and channels that facilitate sham marriages resulting in trafficking in persons
- Utilise both qualitative approaches and statistical information to examine the phenomenon

3.2 Methodology

The present research conducted in Ireland is part of a transnational research study led by the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), which developed the research framework for the production of comparable reports from Estonia, Latvia, Lithuania, Ireland and the Slovak Republic. The international research constitutes an essential aspect of the programme of work under the EC ISEC funded initiative "HESTIA Preventing Human Trafficking and Sham Marriages: A multi-disciplinary solution" led by the Latvian Ministry of Interior in partnership with among others the Immigrant Council of Ireland as well as the Department of Justice and Equality in an associate partner capacity.

Fourteen semi-structured thematic interviews were conducted with key stakeholders including NGO front-line services, statutory service providers, embassy staff, An Garda Síochána and representatives of the Department of Justice Anti-Human Trafficking Unit and the INIS (a full list of the agencies is contained in Appendix 1). The interviews were all conducted face to face and were recorded where consent was given with the main points subsequently transcribed. Where consent was not given for recording, handwritten notes were taken. It was possible to interview only one victim of exploitative sham marriage. The difficulty in relation to interviewing victims in Ireland is that those who come forward for help in this country have limited rights in relation to State services or welfare payments which would enable them to remain in Ireland. It appears that those seeking help directly from embassies are generally supported to return immediately and the embassies work closely with the specialist services and police in the origin country. In some cases, women are referred or seek help from Irish NGOs who provide support and services for as long as they can, before the person returns to their home country either voluntarily or with the help of the State. Key informants are also aware that many women may not present to embassies or services, they may have remained in Ireland with the support of friends but do not wish to have contact with the authorities and/or may have returned home.

Following the interviews, it was decided that the best way to gain a deeper understanding and a more comprehensive picture of the phenomenon was for front-line practitioners to document each case and provide the researcher with the written material. The research questions were formulated into a template by the researcher, to serve as a guide regarding the most pertinent information (see Appendix 2). The template was also designed to ensure that the information gathered was, in so far as possible, consistent across the different agencies and practitioners. Case studies were provided by the Latvian (5) and Lithuanian (1) embassies, and these represented a sample of the cases of exploitative sham marriage highlighting common elements that they had observed. NGOs provided further cases, which comprised all of the cases of exploitative sham marriage to which they had responded. These NGOs include the specialist NGO Ruhama which responds to women engaged in prostitution and women trafficked to Ireland for sexual exploitation (5); a domestic violence shelter Adapt, which has extended its service to respond to women at risk of trafficking and sham marriage (1); the Immigrant Council of Ireland Independent Law Centre, which provides support and legal advocacy and representation to migrants in Ireland (1) and Doras Luimni, a migrant support and advice centre (1). Thirteen case studies were submitted in writing following the guidelines. One interview with a victim was obtained. She was approached by her support worker in an NGO requesting her participation in the research. The researcher travelled to meet her in an anonymous location of her choice near her home. She was assured of complete confidentiality and was asked to describe her experience following a similar format of questions used in the case study template.

Statistical data was obtained from the Latvian and Estonian embassies and the INIS. The findings of an internal piece of research carried out by the Latvian Embassy were also provided. Chapter 3.3 provides the background and data illustrating the emergence of sham marriage in Ireland. A number of requests for information were sent to relevant Irish authorities, such as the Chief Marriage Registrar, the Director of Public Prosecutions, the GNIB, the EU Treaty Rights Section of the INIS and the Courts Service. INIS provided valuable data, in addition to accepting an interview with a high-ranking representative of the agency for the purposes of this research. Media reports on current Garda operations were included.

Chapter 3.4 provides the findings of the interviews, the case studies and the observations of those seeking to provide support and protection to women subjected to exploitation. Data analysis was conducted according to the themes identified at the initial stages of the HESTIA research, primarily patterns of recruitment in the origin country, arrival in the destination country, the experience of exploitation in Ireland, the knowledge and experience of front-line responders and (where known) what subsequently happened to the women. Ethical guidelines were strictly adhered to.

It should be noted that an important limitation of the research arises in relation to the nature of the response of An Garda Síochána to allegations of serious criminal offences that are documented in this Report; notably in chapter 3.4. It

is important to note that this research is confined only to examination of the question of investigation of potential offences of human trafficking and that even where individuals were not identified as victims of human trafficking that other serious offences may have been the subject of investigation by An Garda Síochána. Data limitations preclude the provision of any information in this regard as it was not possible to determine in almost all cases the nature of the investigation that were actually carried out.

3.3 Findings from interviews and quantitative data on the emergence of sham marriage in Ireland

3.3.1 The understanding of the term sham marriage

Many interviewees expressed the view that the term sham marriage is problematic. It is generally understood to connote an equal consensual marriage which is contracted in order to circumvent immigration regulations. In a typical scenario, a TCN pays a significant amount of money to an EU citizen in order to submit an application for residency under the EU Citizenship Directive on the grounds of marriage. One party benefits financially and the other in relation to residency. Thus the only deceived party is the State. Respondents recognised that this was an illegal act and was a deliberate attempt to deceive the immigration authorities. However, all respondents believed that sham marriage, when understood or defined in this manner, may constitute a crime against the State, but not a crime against the person.[37] As such, it fails to indicate either the negative consequences or in some cases the severe exploitation and crimes that may arise for one side of the contract, primarily young women:

> "People talk about, that is women themselves and service providers, business, forced, sham, arranged marriages ... there is a need to clarify these different kinds of marriages but most of all there is a need to examine the outcomes, the impacts and the harm for women." (NGO service manager)

> "It is critical to capture all the criminal acts including rape, false imprisonment and threats to the person which may occur in the context of sham marriage, not simply the sham marriage itself." (Anti-Human Trafficking Unit)

Thus the term 'exploitative sham marriage', when suggested by the researcher, was welcomed and considered to be a more helpful term when seeking to indicate the potential for or the presence of exploitation. Most respondents also believed that even where there was no evidence of exploitation, the negative consequences ensuing for women were neither foreseen by the women themselves nor understood by the authorities. They had seen the legal consequences for example of prolonged divorce proceedings, paternity issues

[37] In accordance with Regulation 25 of the 2006 Regulations, it is an offence for a person to assert an entitlement to any rights under the Regulations on the basis of information which he or she knows to be false or misleading in a material particular. The Regulations provide, on summary conviction, for a fine not exceeding 5,000 euros or a term of imprisonment not exceeding 12 months, or both.

and financial difficulties arising for women, and believed that these should also be highlighted by the research. Consequently, agreement was reached with participants that the main focus of this inquiry was on the investigation of cases of exploitation, in particular where there was evidence and indicators of trafficking, whilst also highlighting unforeseen and negative consequences for women that did not fit within an exploitative framework commonly associated with human trafficking crimes.

3.3.2 Sham marriage emerges as an issue of concern

On accession of Latvia to the European Union in 2004, within one year the Latvian Embassy began to notice a high proportion of Latvian women marrying third-country nationals in Ireland. In the early years, it appeared to be a business arrangement where well-informed and educated Latvian women in the 25 to 35 age bracket were agreeing to a sham marriage for considerable amounts of money. Between 2004 and 2008 the estimated amounts involved were between 3,000 and 10,000 euros. The Latvian Embassy was concerned that this constituted a serious abuse of the EU Citizenship Directive providing for freedom of movement, referred to in chapter 2. They brought their concerns to the attention of the Irish authorities on numerous occasions, including departmental officials and politicians, highlighting a number of factors which were facilitating this in Ireland including:

- Lack of legislation in relation to sham marriages
- Insufficient information sharing, e.g. no notification about marriages concluded in Ireland to the embassies
- No restrictions on getting married while residing illegally in the State
- No obligation to submit proof of marital status from the country of origin
- No rights for marriage registrars or Gardaí (Irish Police Force) to intervene in cases of suspicious marriages, even in cases where the bride and groom communicate with each other by using an interpreter during the marriage registration ceremony
- The embassy was surprised at what they perceived was a general lack of interest in addressing this issue. They were repeatedly informed by the authorities that under Irish and European law, people had the right to marry and that there was nothing the Irish State could do to intervene on suspicion of a sham marriage. The embassy recorded the figures to indicate the scale of the problem:
- Since 2004 more than 1600 marriages have been registered in Ireland between citizens of Latvia and third-country nationals.
- Since 2006 approximately 2000 third-country nationals have applied for a residence permit as a family member of an EU national at the INIS, based on a marriage with a Latvian citizen. It is likely that the difference between 1600 and 2000 can be explained by the fact that some of the marriages between citizens of Latvia and third-country nationals have

been registered outside Ireland (Pakistan, Nigeria and India, as well as other EU countries, including Denmark, Cyprus, Spain and Sweden).

The embassy was also becoming increasingly aware at that time of the negative consequences and potential legal complications that were arising for women who had contracted a sham marriage. Latvian women had no realisation that obtaining a divorce in Ireland for the most part took up to five years and that failure to declare a sham marriage contracted in Ireland when later wishing to marry in Latvia, could result in women being culpable of bigamy. Furthermore, serious complications in relation to paternity were also arising for women at a later stage as they were marrying and having children within a second marriage that was not valid, and therefore paternal rights remained with the third-country national through the sham marriage. Despite repeatedly raising these issues, it was conveyed very clearly to the embassy by the Irish officials that it was their responsibility to prevent their citizens from engaging in this activity, not the responsibility of the Irish State. As noted above (chapter 2), the Irish authorities did in fact take some measures to intervene and object to some marriages taking place but these actions were deemed to be unconstitutional.

3.3.3 The changing pattern of sham marriage

From 2009/2010 onwards, a very different pattern emerged which gave rise to heightened levels of concern at the Latvian Embassy. The profile of young women presenting to and seeking help from the embassy was of far younger women with low levels of education and little or no English. They noticed that many of the young women came from very large, impoverished families and many had been placed in care at a young age. At the time of leaving Latvia many were lone parents with very low income and worryingly, some were presenting with mental disabilities, as described the by the Latvian Embassy representative:

> "We were responding to distress calls on a twenty-four-hour basis. Women arriving at the embassy were much younger, more vulnerable with very little education or English. They were frightened and distressed, did not have any knowledge of Ireland and had experienced severe forms of control and exploitation, including rape and sexual assault. In increasing numbers, we were seeing young women with mental disabilities and mental health problems."

The embassy staff realized that what was demanded was a far more heightened response to this issue by the embassy itself, the Latvian authorities, service providers in Ireland and Latvia, and the police of both jurisdictions. Eventually the General Register Office in Ireland introduced guidelines in registry offices, and prospective brides were sent to the embassy in order to certify the authenticity of the birth certificate, or asked for consular or other support in relation to the marriage with citizens of third countries with the purpose of obtaining a residence permit within the EU. This enabled the embassy to get a much clearer picture of what was happening.

The embassy carried out their own research into the profile of Latvian citizens who were potential and current participants of sham marriages from October 2010 to August 2013. The research was based on the data available for 500

Latvian citizens who visited the embassy regarding a planned marriage. The main findings of the research provided by the embassy were:

- Approximately 450 of these Latvian nationals arrived in Ireland shortly before the registration of marriage
- 104 of these Latvian nationals registered or planned to register the marriage before reaching 20 years of age; in 2011, there were 27 women seeking formalities at the embassy between the age of 18–19
- In 185 cases the women were from large families, where there were four or more children; in nine cases where there were more than 10 children in their families
- In 167 cases Latvian nationals had children before their marriage; in 71 cases two or more children
- In 40 cases before entering into the marriage, children have been left in Latvia without proper legal formalities; in 28 cases out of 40, children were born to underage mothers
- In 29 cases the cases involved sisters; in two of these cases the women were twins, in five cases three sisters married third-country nationals
- The average bride did not receive anything other than food, shelter, clothes and a mobile phone or computer from their prospective husband; the only money changing hands that the women could discern was €1000–4000 being paid to the sham marriage organisers by potential husbands
- Apart from Riga, which is the place of residence for 53 of the brides, the origin of women is strongly dominated by 5 regions – Liepaja (40), Valmiera (30), Jelgava (27), Bauska (26) and Saldus (22), which are recognised as regions with high levels of poverty; altogether 17 municipalities are represented.

Further information provided by the embassy revealed that in 2012, they identified four cases in which Latvian nationals with signs of disability planned to register a marriage with nationals of third countries. In four other cases mothers and daughters were married with nationals of third countries, in one case a mother, daughter and aunt. In 2012, when 75 consular assistance cases were registered, these included 18 cases of repatriation of pregnant women and 9 minor children. In three cases the women were pregnant with another man`s child when getting married (shortly before giving birth) to the third-country national. In five cases while being married to the third-country national, data entered into the birth certificate contains details of a father – another man, not the husband. In four cases an inspection was carried out regarding what is called ‘double-marriage’. In three cases out of the 500 the Latvian nationals involved in sham marriages were men.

The embassy also began to document the nationalities of the third-country nationals involved and found a statistically significant number of men from the

Asian sub-continent marrying Latvian women in Ireland. Table 1 indicates the top three nationalities marrying Latvian women.

Table 1. Latvian marriages to third-country nationals.

1st Party	2nd Party	Total 2009	Total 2010	Total Jan-Sep 2011	Total 2012	Total 2013	Total 2014
Latvia	Bangladesh	20	17	11	16	7	3
Latvia	India	80	37	10	15	18	22
Latvia	Pakistan	257	143	39	56	65	76
Total		357	197	60	87	90	101

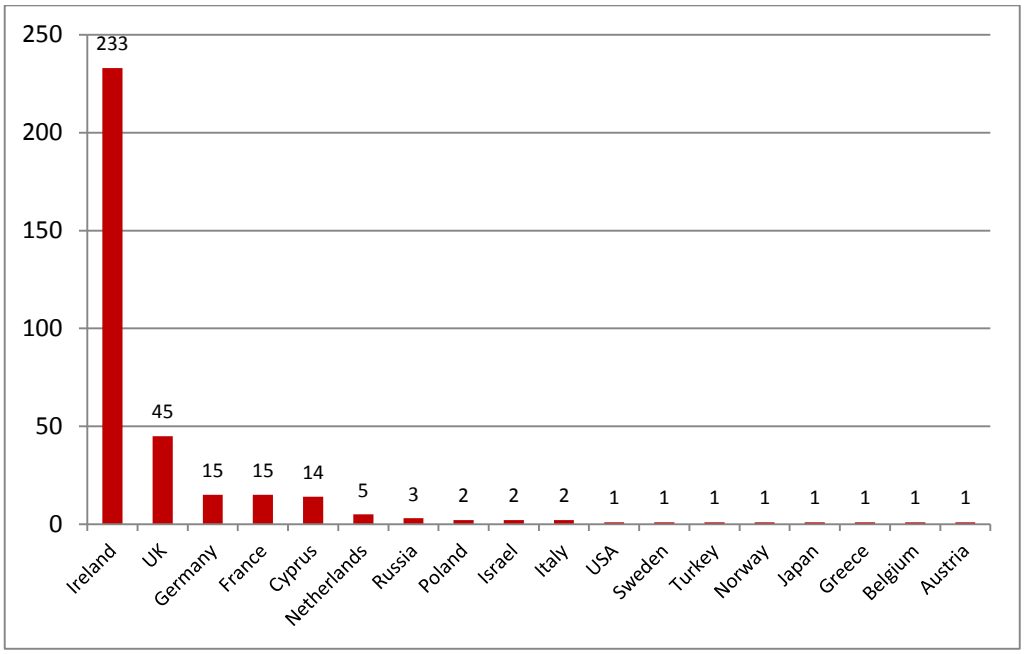
3.3.4 Sham marriage and trafficking in human beings

The Latvian Embassy recognised that there was clear evidence of a highly organised system of targeting, recruitment and intentional deception in the origin country, i.e. Latvia; organised travel to a destination country, i.e. Ireland; and increasing evidence being disclosed of severe levels of exploitation of these women in Ireland: the three elements of trafficking in human beings as defined under the UN Trafficking Protocol. The embassy experienced huge frustration with the Irish authorities, who refused to recognise the indicators of trafficking. The embassy staff were repeatedly told by the GNIB, the agency with responsibility for identification of victims of trafficking, that sham marriage was not in the legislation and thus not within their remit. This issue will be returned to in chapter 3.5.1.

In April 2013, the Latvian Government introduced a law criminalising those who entered into a sham marriage[38] alongside a number of preventative measures including information and education campaigns and materials. The authorities with responsibility for anti-trafficking strategies also initiated investigations into the intersection of sham marriage with trafficking and worked closely with specialist services to provide a range of intensive support for women where exploitation was suspected. Identification as a victim of trafficking ensured that women could receive full rights and protection under Latvian anti-trafficking measures and services. Chart 1 (information provided by the Latvian Embassy) indicates the high level of identification of victims of trafficking (VOT) in Latvia who had been exploited in Ireland.

[38] Section 285/ Amendment to the Criminal Law of Latvia: Ensuring in Bad Faith with a Possibility to Acquire the Right to Stay in the Republic of Latvia Legally, other Member State of the European Union, Member State of the European Economic Area or the Swiss Confederation.

Chart 1. Number of identified (including potential) human trafficking victims in Latvian missions abroad.



The table clearly indicates the very high number of women exploited in Ireland relative to other European countries. It is important to note that no woman who was subjected to exploitation within the context of a sham marriage was identified as a victim of trafficking by the Irish authorities at that time.

3.3.5 The emergence of other EU nationals affected by exploitative sham marriage

3.3.5.1 Estonia

Since 2009, the Estonian Embassy has also been concerned regarding the number of Estonian nationals marrying third-country nationals in Ireland. Although the numbers are estimated to be between 45 and 50 per year, an embassy official pointed out that as Estonia only has a population of 1.3 million, this figure is quite high. The embassy staff has also seen the same pattern of men from the Asian sub-continent being disproportionately represented in the figures. Table 2 (information supplied by the Estonian Embassy) shows a similarly high proportion of men from India and Pakistan involved in these marriages with Estonian women in 2014, as was evident in the figures supplied by the Latvian Embassy.

Table 2. Estonian marriages to third-country nationalities in Ireland in 2014.

First Party Nationality	Second Party Nationality	
Estonia	Bangladesh	2
Estonia	Brazil	2
Estonia	China	1
Estonia	Czech Republic	1
Estonia	Estonia	2
Estonia	India	18
Estonia	Ireland	10
Estonia	Ivory Coast	1
Estonia	Kenya	1
Estonia	Latvia	2
Estonia	Mauritius	4
Estonia	Moldova	2
Estonia	Nigeria	1
Estonia	Pakistan	25
Estonia	Poland	3
Estonia	Romania	2
Estonia	Ukraine	2

Since 2009, the Estonian Embassy and social services in Estonia have also seen the same shifting pattern as observed by the Latvian Embassy. Initially, they found it was mainly Estonian women who were living and working in Ireland entering what appeared to be a marriage of convenience for financial gain. However, in more recent years they have also identified the targeting and recruitment of young women from particularly impoverished regions of Estonia. The representative of the Estonian Embassy expressed her concern regarding the high proportion of Russian-speaking girls and young women from families who have experienced disadvantage in relation to employment and discrimination:

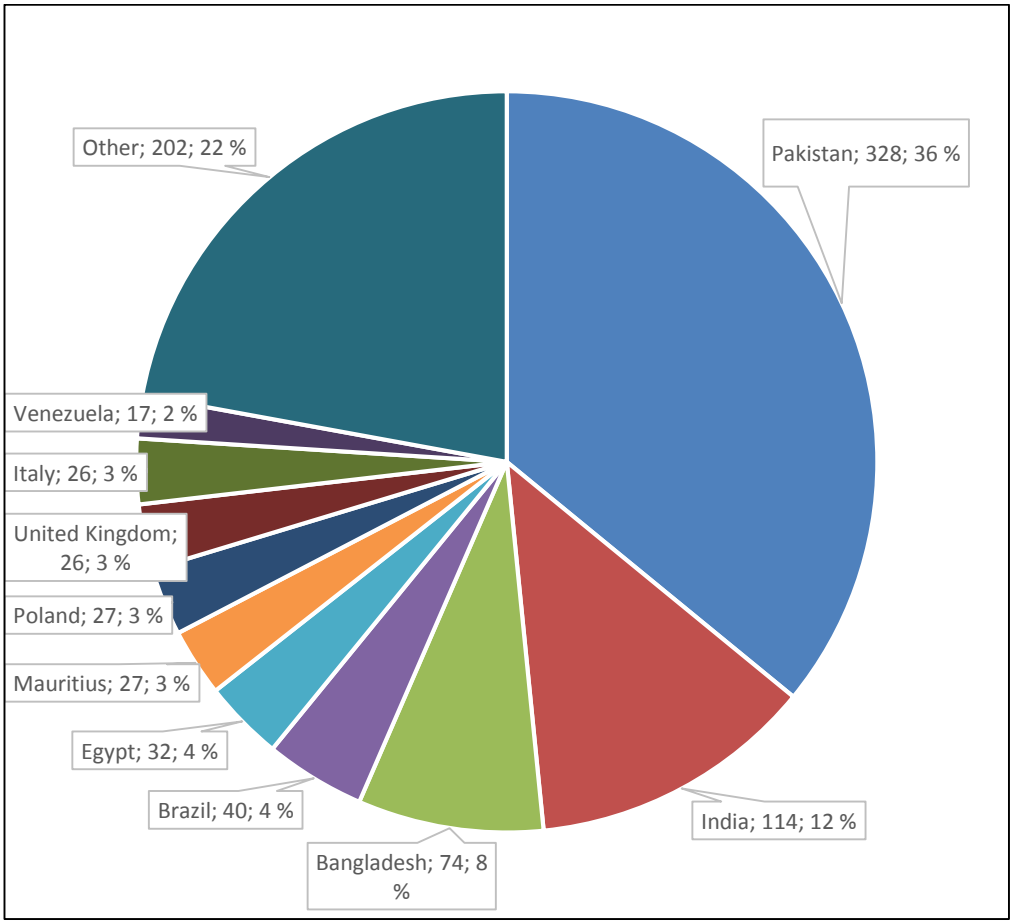
> "Many of these girls are very young, very vulnerable and have already been involved with social services due to being in care or early/teen pregnancies. We are increasingly seeing clusters of girls from the same area, the same town and even from the same educational establishment being recruited. In one case it was the mother of one of the girls who was recruiting her daughters' friends".

The embassy official stated that the social services in Estonia are deeply concerned regarding the number of young pregnant and single mothers involved and in recent years have also come across cases where the young woman in question has a mental disability. The Estonian social workers and the embassy have also expressed their concern to the Irish authorities that this constitutes a form of trafficking in human beings, with very little response.

3.3.6 Other nationalities

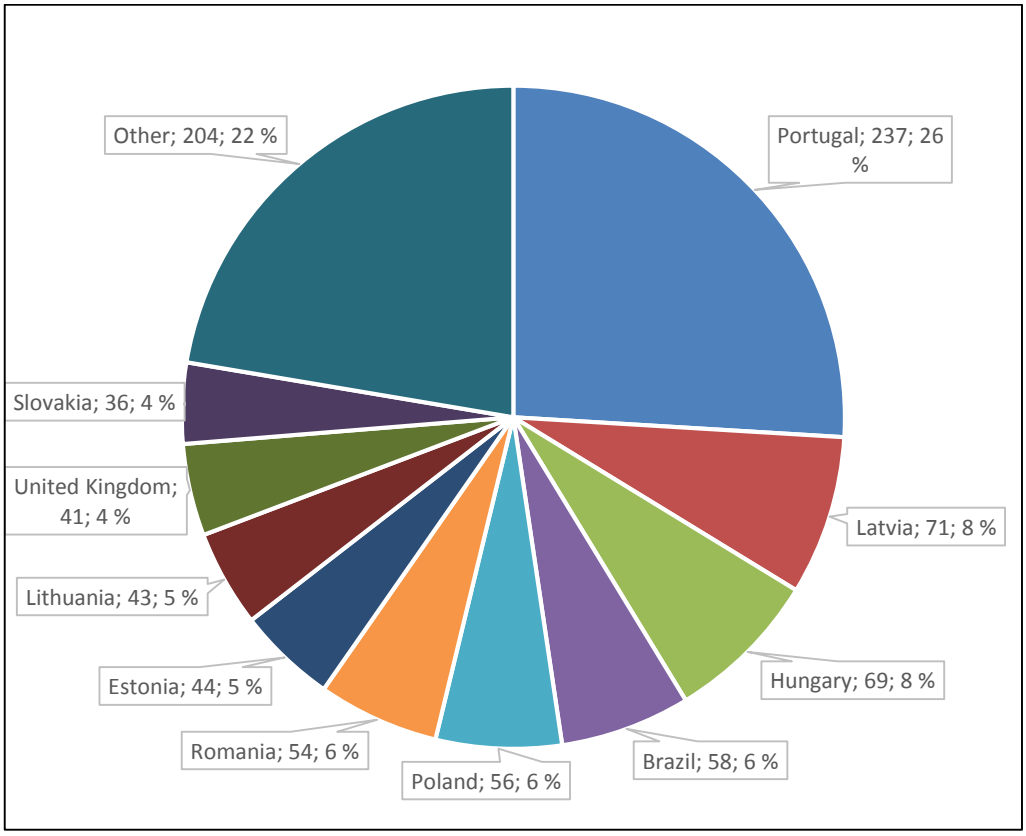
In 2015, the INIS carried out an investigation called Operation Vantage into the numbers of third-country nationals marrying EU nationals in Ireland. The following data was provided by INIS for this research. In a nine-month period between 01 November 2014 and 31 July 2015 a total of 1,697 marriages were recorded by the General Register Office as having taken place between EU and non-EU nationals. Marriages between two non-EU nationals were not included as they do not fall within the remit of Operation Vantage, as no immigration advantage can be secured on the basis of the marriage under the EU Citizenship Directive. For the purposes of this analysis all marriages involving Irish nationals were also excluded which account for 783 marriages (484 Irish males, 299 Irish females), since the focus was on the Citizenship Directive measures, which do not apply to non-mobile own citizens. The remaining 914 completed marriages were analysed. Chart 2 indicates the top 10 nationalities for the 1st party males (i.e. males who were a party to/engaged in the marriage).

Chart 2. Top ten nationalities for the 1st party males (N; %).



The figures indicate a similar pattern found by the embassies. Pakistani nationals account for the largest group of males at 328 (or 36 %), followed by Indian nationals at 114 (12 %) and Bangladeshi nationals at 74 (or 8 %). There are also high figures of certain other nationalities emerging, including men from Egypt and Mauritius, where an immigration advantage could be gained by marriage. The majority of males were non-EU nationals (731 males or 80 %). The investigation found that the average age for the males was 30 years old and noted that 50 of the 913 males (or 5 %) stated that they were previously married and now divorced. Chart 3 indicates the figures in relation to the 2nd party females (i.e. females who were party to/engaged in the marriage):

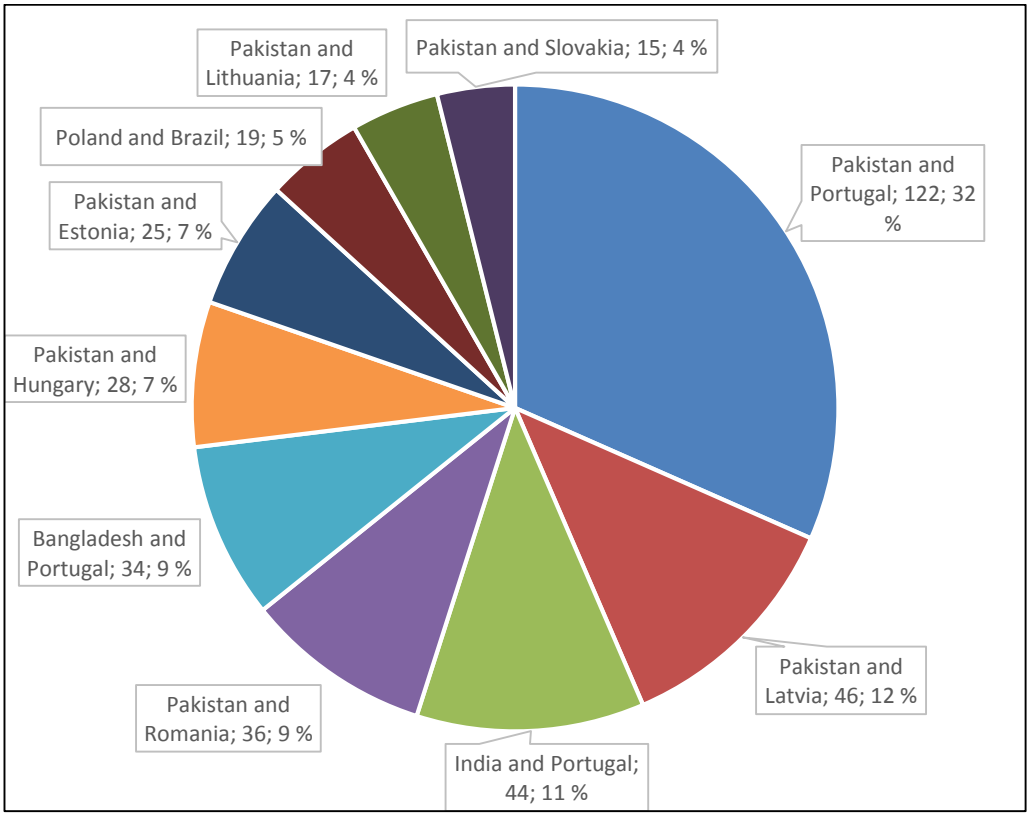
Chart 3. Top ten nationalities for the 2nd party females (N, %).



Whilst the data on 1st party nationals reflects the trends witnessed by the Latvian and Estonian embassies, Chart 3 shows some surprising trends in the nationality of the women. There are clearly a hugely disproportionate number of Portuguese nationals arising in recent times. They account for the largest group of females at 237 (or 26 %), followed by Latvian nationals at 71 (or 8 %) and Hungarian nationals at 69 (or 8 %). The chart also indicates very high numbers of women from the other new Member States of the EU, including Hungary, Poland, Lithuania, Romania and Slovakia. The majority of females were EU nationals (731 females or 80 %). The average age for the female was 28.2 years old. 93 of the 913 females (or 10 %) stated that they were previously married and now divorced.

Chart 4 indicates the nationalities most represented for marriages in the period under examination (a total of 913).

Chart 4. Most represented nationalities (N, %).



There is a clear pattern of males from the Indian sub-continent (Pakistan, India and Bangladesh) marrying EU national females from Portugal and Eastern European countries (mainly Latvia, Romania, Hungary and Estonia). The INIS believe that a significant proportion of these weddings may be marriages of convenience in order to secure an immigration advantage for the males in question.[39] This gives rise to concerns that perhaps the comprehensive measures initiated by the Latvian Embassy and authorities and the Estonian Embassy and authorities following suit, has led to the targeting and recruitment of women from other countries. The representatives of the Portuguese Embassy expressed their serious concern regarding this trend and that young vulnerable women were at risk of exploitation:

> "Portugal has been severely hit by the financial crisis and austerity measures and we believe young impoverished women might be easily deceived and recruited into this form of exploitation and these women would be very vulnerable".

The Portuguese Embassy has not dealt directly with any women seeking assistance but is very open to learning from the experience of other embassies. They were informed by a concerned person of a case involving a young

[39] However, no information has been provided by the INIS regarding the numbers of entry visa application and/or residence permit applications that have actually been refused on the grounds of alleged or actual sham marriage.

Portuguese woman and an Indian national that they immediately reported to the General Register Office but they received no feedback in relation to the case. The embassy would welcome more cooperation with the Irish authorities in initiating preventative and legal measures to protect young Portuguese women.

3.3.7 Conclusions

It was the persistent work of the Latvian Embassy in consistently highlighting this issue that has placed this issue on the political agenda in Ireland. The commitment of the staff to documenting the experience of women presenting to them has provided invaluable knowledge and information. They described how they tirelessly brought these issues to the authorities in Ireland with little effect and when faced with negative and unhelpful responses they sought to provide protection, support and financial help to the victims themselves. They worked with NGOs, state services and police forces in their own country leading to the identification of a high proportion of women as victims of trafficking, ensuring access to appropriate supports and protection. The Estonian Embassy has followed suit in raising these issues, and they are also working with social services in their own country to intervene early and try to prevent this form of exploitation. However, Operation Vantage highlights that the figures remain very high and are extremely concerning in indicating the rise of new vulnerable nationalities being targeted for sham marriage.

3.4 Findings in relation to women's experience of exploitative sham marriage

This section contains the analysis of case studies, combined with the observations and experience of those directly responding to women who had been subjected to exploitation. As stated in chapter 3.2 the front-line practitioners in the Irish NGOs documented all the cases of sham marriage they had responded to where there was evidence of exploitation, whilst the cases supplied by the embassies were a sample of the cases they had responded to where there was exploitation. All case studies were documented according to the guidelines and submitted in writing to the researcher. This section provides a more in-depth understanding of individual women's experience of exploitation and the experience of front-line services and embassies in seeking to protect and support women presenting to them for help and/or women referred to them. All the material and quotes are drawn from the written case studies and from interviews with front-line responders. However, it is worth noting that since Ireland is a destination country, there is evidence of concrete exploitation in this jurisdiction but very little knowledge of the outcomes for women when they return to their own countries. The country of origin of women included Bulgaria (2), Estonia (1), Czech Republic (1), Latvia (8), Lithuania (1) and Poland (1). They were aged between eighteen and thirty-nine years at the time of recruitment. All names used in this section are pseudonyms.

3.4.1 Early life experience

The early lives of women indicate numerous risk factors which made them vulnerable to being targeted for exploitation. Extreme poverty was a common factor in their childhoods and in the lives of most of the women at the time of being approached. Any exploration and knowledge gained by responders and services in relation to their background stories indicate domestic violence, neglect, family breakdown and sexual abuse leading to many of them being placed in foster care and/or institutional care at a young age. Table 3 indicates the age women were when they were recruited and the early life experience of women, where it was known or disclosed.

Table 3. Age at time of recruitment for sham marriage and early life experience.

Case number	Age when recruited	Poverty	Family break-down	Child sexual abuse	Care/foster care/ orphanage	Teen or early pregnancy	Learning difficulty	Very low level education	No/little English skills	Child in care
1	21	■	■	■	■	■		■	■	
2	19	■	■				■	■	■	
3	18	■	■		■	■		■	■	■
4	39	■	■		■	■		■	■	
5	18	■	■						■	
6	29	■	■		■	x 2	■		■	x 2
7	27	■	■		■				■	
8	27	■	■						■	
9	21	■	■		■		■		■	
10	18	■	■		■				■	
11	19	■	■			x 2			■	x 2
12	36	■	■						■	
13	25									
14	21	■	■		■			■	■	

■ - present ☐ - absent

Table 3 highlights the multiple overlapping risk factors which created the context of vulnerability for women being recruited for sham marriage and exploitation. There is a remarkable consistency in relation to childhood poverty and family breakdown, with eight girls being placed in care, seven in orphanages and one girl in foster care. Teenage pregnancy was disclosed in five cases, with babies being taken into care in three cases; in two of those, the girls had given birth to a second child who was also taken into care.

> "Anna's father began abusing her when she was a young child which resulted in her being taken into care. While in care she became pregnant at 17 so dropped out of school. When she left care she and her baby had nowhere to live and she had no job so she moved in with her mother, her sister and her boyfriend and their children."

The vast majority of women had very little education and no workable knowledge of English. In recent years first responders have also seen a worrying number of girls and young women with learning difficulties and mental incapacity:

> "Clara is from a very poor background, raised in care and has learning difficulties. She had a child at 16 who was placed in care in her home country and she is now a single mother with a young child."

There is also evidence that the recruiters targeted more than one girl in the same family or girls in the same orphanage, who had experienced socio-economic disadvantage:

> "Valia was one of four sisters from a socially disadvantaged family, all of whom were involved in sham marriages. Prior to coming to Ireland parental rights to her two daughters were terminated because she was not able to take proper care of the children. Using her vulnerability, at the age of 19 years, she was recruited and invited to join her sisters in Ireland to get married to a Pakistani national."

> "Nadia was one of four very young women recruited who had been in the same orphanage. She was 18 and living in social care when she was contacted by a girl who had been in the orphanage and persuaded to come to Ireland."

3.4.2 Situation at the time of recruitment

At the time of being approached, all of the women were in financial difficulty and most were severely impoverished and living in difficult circumstances. Women were living in unsuitable accommodation, crowded situations with families, in hostels and care centres:

> "Bella had no parents, no family and was raised in an orphanage until she was 18 years of age. When it was time for her to leave she had no accommodation, no job and a poor education level. She was befriended by a couple who used to visit – she thought they were nice and they offered her a better life and work in Ireland."

Another concerning aspect of these cases is the number of young lone mothers (5) who were struggling to rear children with very little financial resources albeit with some support from social services, and the number of women who were suffering from loss of a baby being placed in care.

> "Maria suffers from a mental disability since childhood. She was studying in a social care centre and struggling to care for a six-month old baby when she was approached by her brother's former wife."

> "Frea was living alone in a hostel for homeless people. She had been treated for a mental health condition. She had recently given birth to a boy who was subsequently taken into care."

3.4.3 Targeting and recruitment

Respondents who had directly responded to women in services and embassies believed there was ample evidence of deliberate, organised and systematic recruitment of the girls and women. The profile of women described above indicates the vulnerability of the women presenting to them and the lack of resources or capacity to organise travel and accommodation in Ireland. These women were intentionally approached with varying degrees of deception involved, and the organisation of their tickets and travel arrangements clearly demonstrates that this is not random or opportunistic. The pattern would appear to be a highly organised system operating between recruiters in the origin countries, organisers in Ireland and prospective third-country national husbands. Table 4 indicates the pattern of recruitment.

Table 4. People by whom women were recruited.

Case number	Family	Friend	Friend of family	Visitors to orphanage	Mother of a friend	Official	Acquaintance	Internet friend	Unknown
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									
13									
14									

-yes - no

It is worth highlighting that in all cases there was some pre-existing connection between the recruiter and the women, and no one was approached by a complete stranger. The most typical method of recruitment was that a member of the family, a friend of the family or a friend introduced the idea of travelling to Ireland and the possibility of money, a job and a new life. The recruiters were male and female and were all from their own country. These included a relation

of the boyfriend of a woman's sister, the former wife of a woman's brother, the mother of a friend, in two cases visitors to the care home/orphanage, and friends or acquaintances. In one case it was an official in the city council.

> Dana knew a man who was employed by the City Council in the capital city of her home country. He introduced her to a man from India who goes there occasionally in cooperation with the city council official looking for girls to bring to Ireland. They introduced her to another man who lives in Dublin and owns a PC shop, and as she has skills in computers and web design she was offered a job.

In two cases the women were recruited on social media sites, again by friends. It would appear that the recruiters worked with either other recruiters of the same nationality who were resident in Ireland or directly with third-country nationals. However, key informants for this study had limited information on recruiters and organisers. In a further two cases the recruiter was a woman of their own nationality married to a third-country national in Ireland, arranging this for a friend or relation of their husband.

3.4.4 Motivation for migrating

The biggest motivating factor for women was extreme poverty and the need for some money to improve their lives. There was no need for coercion, as the women were easily deceived into believing that Ireland offered hope of a better life. This hope was the most common reason women gave to front-line responders for making the decision to migrate. The young women were attracted by the lure of a Western European life, the promise of jobs, money, accommodation and the possibility of living in a new country with opportunities for them and their children. Table 4 indicates the reasons women gave to the services for accepting the offer to come to Ireland, the organisation of their travel and who met the woman in Dublin: recruiters (RC) or third-country nationals (TCN).

Table 5. Motivation, travel and arrival in Dublin.

Case number	Hope of better life	Offer of a job	Money	Awareness that she would enter into a sham marriage	Travel tickets organised	Met in Dublin by
1						
2						TCN
3						TCN
4						TCN
5						Friend
6						RC
7						TCN
8						Friend
9						TCN
10						TCN
11						Sister
12						
13						RC
14						RC/

- yes - no

Note: In case 8 the woman thought she was visiting a friend.

The stories women were told vary. Some were told it was a job, for example as an au pair or in a shop, and there was no mention of sham marriage. Others were told it would be a business marriage for which they would be paid after which they would be provided with alternative accommodation and facilitated to move on and establish a life in Ireland or if they wanted, to return to their home country. In only two cases was an amount of money specified.

> "My sister had a boyfriend who had a cousin in Ireland who he said wanted to get married. He said I would get a job and accommodation and I would get money for the marriage." (Rada)

> "Anna was told that all she had to do was marry someone. She was promised 4,000 euros on completion of the marriage ceremony and that she would be able to get a job easily in Ireland."

In one case the woman believed it was an arranged marriage and hoped to have a real marriage. In another, the young woman was just coming to visit a friend and had no idea she was being recruited for a sham marriage.

3.4.5 Arrival in Ireland

When the women arrived in Ireland there were generally two scenarios. They were either met at the airport by organisers who were of their own nationality (both men and women), or by the potential husband. None of the women were aware prior to arrival of the nationality of the prospective spouse. They were brought to accommodation where in most cases there were a number of men living:

> "Elli disclosed having been deceived by a female friend who had invited her to come visit her in Ireland. When she arrived there was a male from her home country waiting in Ireland who brought her to an apartment. Then he left and the two Pakistani men arrived."

Suddenly the woman was placed in the position that she was in a strange country, with very little English skills, living in a house with a number of men who only spoke English. Women were immediately in a situation of economic dependency, isolation in a strange country with no access to help or services and very little English skills. Rada describes her different emotions at that time:

> "It was my first time out of my country. A girl from my own country and a man met me at the airport and brought me a long way to a small town and said I would be living in this house with these men … I was shocked because they were brown skinned and there were three of them. I had learned a little English in school but I could not really say anything to them and could not understand them … I feel like I want to change my mind … I don't know anyone … every night in bed I thought of how I could go home."

3.4.6 Experience of exploitation in Ireland

The service providers and embassy staff documented multiple forms of exploitation experienced by women. But it is important to note that in many cases our knowledge of the levels and forms of exploitation are limited because of the short time women spent in Ireland which was not sufficient for a full disclosure of what had happened to them to the service provider. Due to lack of identification as victims of trafficking and regulations in relation to welfare, there were no options of remaining for a longer period of time (this is elaborated upon in chapter 3.5.1). Therefore, this cannot be regarded as a comprehensive or systematic recording of all forms of abuse to which women were subjected. Despite this, Table 6 indicates the high level of exploitation disclosed and the clear indicators of trafficking present in these cases.

Table 6. Forms of Exploitation.

Case number	Case number	Rape/ sexual assault	Rape/sexual assault by multiple perpetrators	Physical abuse	Psychological abuse/fear	Domestic servitude *	Control of movement	Papers taken	Threats to family	Prevented contact with family
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
11										
12										
13										
14										

- present - absent

Note: In case 8 early intervention prevented potential sexual exploitation and in case 12 there were cameras in the bedroom although no sexual assault took place.

Table 6 indicates the high number of women who were subjected to rape and sexual assault by an individual man and in many cases by multiple perpetrators. In all cases the perpetrators were their potential third-country national husbands and/or friends of their potential husbands. For most women these sexual assaults were repeated over weeks, months and in some cases years:

> "I was living in a house with five men … there was especially one man who kept coming to my room every second day and even though I locked my door he got in … I told the man who I was to marry but he did nothing."

> "Clara was a very, very vulnerable and very young woman living with numerous men and while she did not report rape she has described being 'passed around' a group of men and having sex with all of them."

All women expressed feelings of fear and distress and manifested the traumatic impacts of severe psychological abuse. Some women found it difficult to name or identify the sexual acts that were demanded of them as rape and sexual assault. They were isolated and controlled and the majority of women were subjected to physical violence, especially if they tried to resist or escape:

> "When Petra returned to Ireland having married her husband in his own country she was subjected to psychological abuse – being left on her own, being locked into the house, having her I.D, her personal public service number and bank cards taken from her, being refused medical intervention when necessary and not having any finances. She was also subject to physical assault when she tried to escape. One of the men who lived in the house sexually propositioned her regularly and eventually another man raped her. The rapes continued over a number of weeks. Since she has escaped many threats have been made to her and her family."

> "When her baby son was just one month old Nadia's husband arrived home intoxicated and attacked her, dragging her into the bathroom by her hair and trying to kick her. He attacked her small daughter as well. Physical, emotional and sexual abuse was common when the husband was under the influence of alcohol."

Some women disclosed how their papers or passport was taken and their movements very directly controlled and monitored. However, all of the women were clearly in an extremely dependent and controlled situation with little or no access to outside support or help. In three cases women experienced domestic servitude where they were forced to carry out all the cleaning and cooking and mind children for long hours with no remuneration:

> "Anna had to do all the cleaning of the house and they would not allow her to have food so she had to sneak small amounts of food at night. She was put into a situation of complete dependence and felt she could not leave. She was raped repeatedly by her future husband and the other men in the house. This all took place before the marriage ceremony."

One case documented by a service provider illustrates the multiple forms of brutality and violation one very young, eighteen-year old girl was subjected to by numerous perpetrators:

> "When Bella came to Ireland she worked for a wealthy third-country national family as their au pair and domestic worker. She was not allowed out at all, she had to cook and clean and mind the children and worked 20-hour days. Sometime later this family invited a number of men of the same nationality to the house and she was told she had to marry one of them. She was made to dress up for the men and the highest bidder, a man in his fifties took her away to marry her. She had to do the same in his house. She cooked and cleaned for him but this man raped her over and over again, every day. He also subjected her to very inhuman and degrading sexual practices. He later sold her to another man who did the same."

Petra was older and more educated and she was not physically or sexually assaulted yet she also found herself in a very frightening and distressing situation. The potential employer met her at the airport but he was accompanied by a second man whom she was told was to be her roommate and that there would be no private room as she had been promised:

"When she arrived in Dublin there was a second man whom she was told was to be her roommate and no private room that she had been promised. After about two weeks she learned that her roommate's visa was to expire in September 2014 and the first man started persuading her to marry him. When she refused they started treating her badly. She wasn't receiving her post anymore and they had taken her bank card that had been sent to her. They were also reading her emails and some of the stuff she had saved on her g-drive. Then they installed cameras in her bedroom more like he was monitoring all her movements. Finally, when she still refused to marry him they became very angry and threw all her stuff outside and told her to leave."

3.4.7 Pregnancy and child protection

Many interviewees raised serious questions regarding the welfare of young mothers and their children, and the responsibility of the State in relation to child protection. In two of the cases studies women became pregnant during the time they were being sexually abused within the context of exploitative sham marriage:

"Clara has a learning disability and was very vulnerable. She was given by her 'husband' to another man. She then became pregnant and had a baby – it is not clear whether the father of the baby was her 'husband'-to-be or another man. There were serious concerns regarding her capacity to parent but on return to her own country she has been placed in a mother and baby home."

"Maria arrived in Ireland with her son, a six months old infant. Nine months later she escaped with the help of the embassy. She told the embassy`s staff and GNIB that she was sexually abused and was pregnant with her husband's baby. She and her son were repatriated with assistance from a shelter where she had a baby boy."

In other cases, although the prospective/sham marriage husband was not the biological father, establishing paternity was seen as something to be used in relation to applying for residency:

"After two months of residing in Ireland, Nadia discovered she was pregnant with a child from a man at home. No sexual relation had occurred with the prospective sham marriage husband in Ireland but he said he was willing to adopt the child and take care of them both. She married him and gave birth to a son. The husband pushed her to write him down as the father of the child, which she, in fear, did."

"Jalna travelled to Ireland with her small daughter and was placed in a house with her prospective husband and seven other men. She married and he successfully applied for the EU Treaty Rights. As this marriage was false from the beginning, she started a real relationship with another third-country national and became pregnant. She and her underage daughter suffered abuse and violence from this man, even during her pregnancy. He collected the child benefit and she was kept in helpless conditions, even without the possibility to top-up her mobile phone so she could not contact anyone. She escaped from the home after two years and came to the embassy asking for help. This man has since married another woman from her own country and was subsequently granted residency in the State on this basis. A further issue is that on the birth certificate of her baby, issued in Dublin, it is her husband who is registered as the father, which he had demanded."

The Estonian Embassy expressed concern regarding cases where very young women, who were struggling with parenting, remained in Ireland with the husband and his community, and maintained no contact with the embassy or social services. Serious child protection concerns were reported to the authorities in two cases.

Interviewees also described the pressure placed on some women to return to their husbands after they had given birth to a baby, including women who had returned to their own country. The men tried to persuade them that things would be different now and that they would be looked after. Rada explains what happened to her after she had left:

> "After I had been helped by a friend to escape and had reported what the men did to me to the police, the men were still trying to get me to come back with constant messages on my Facebook. My husband and his friends kept saying they had not done anything, that all would be fine, that he needed his visa and if I came back all would be fine and I could live with other girls when I came back."

Interviewees believed that even in cases where they were not the biological fathers, the men clearly regarded paternity as a benefit in assisting in the renewal of residence permits in Ireland.

3.4.8 Indicators of trafficking

There are clear indicators of trafficking for sexual exploitation in cases documented for this research. There is strong evidence of targeting and abuse of vulnerability, deception and exploitation in the destination country. All of the key informants believe there was systematic targeting and recruitment and many of the women accessing their services also spoke about other women who they knew were being recruited. In some cases they had been asked to approach other women in their home country who they could ask to come to Ireland. Their travel was organised and there was clear cooperation between the recruiters in the origin country and the organisers in Ireland. There was also a deliberate intention to exploit, and in the vast majority of cases documented above, the exploitation was severe and ongoing. The forms of exploitation were multiple and overlapping, including sexual, physical, and psychological abuse, and clearly the women were controlled and isolated.

As we have seen in Chart 1, investigations into cases of women exploited in Ireland have resulted in a high number of women being identified as victims of trafficking in Latvia. What this study also indicates is that in some cases it may be difficult to establish that the sexual exploitation was the *primary* motive or *intention* of the recruiters. Nevertheless, young vulnerable women ended up in extremely precarious situations with numerous unknown men, where there was ample opportunity to sexually exploit them. Whether the sexual abuse was intended from the beginning as part of the sham marriage contract is unknown and it may be opportunistic rather than planned. This issue needs further investigation.

However, what can be stated is that there is no evidence of concern or intention to protect these young women from that possibility, and when it occurred there was no attempt by recruiters or by the potential husbands to stop it. Furthermore, even where it may not be possible to prove that the sexual exploitation was the intention of the recruiters or traffickers, these women were subjected to serious indictable criminal acts in Ireland. Consequently, recourse to psychological support, protection and legal advice should be immediately available.

3.4.9 The organisation and financial transaction of sham marriages

As the interviews and case studies reveal, the organisation of sham marriages involves recruiters who would appear to be the same nationality as the women; organisers in Ireland who are both the same origin country nationals as the women and third-country nationals; and the prospective husbands who are third-country nationals. The known nationalities of the prospective husbands were Bangladeshi (1), Egyptian (1), Indian (2), Pakistani (8) and Turkish (1). It would appear that the financial transaction is between the organisers and the prospective husband, what some women describe as a 'finder's fee'. Garda information released on 25 November 2015 as part of the continuing Operation Vantage would indicate that there are huge profits being accrued by the organisers, with up to 20,000 euros being paid by prospective husbands. In one house that was searched in the course of the operation, 30,000 euros was seized along with false identity documents, driving licences and marriage certificates, providing more evidence of the organisation behind these activities.[40] At this time there are no completed prosecutions in Ireland, and therefore limited information is available in relation to the financial transactions.

The women in this study did not seem to have any knowledge of these financial transactions and of the huge amount of money changing hands. The evidence from key informants and case studies would suggest that in very few cases did women receive any money, and where any money was paid to them it was minimal to meet their basic needs of food and accommodation. The marriage proceedings and papers were arranged by the prospective husbands and very little of this legal process seemed to be understood by the women. Rada explains:

> "My business husband arranged all the papers … I don't understand anything … they brought in a translator[41] to the ceremony but they didn't ask me anything about my situation. They should have asked me how I was … was I okay?" (Rada)

It is worth noting that the registration of the marriage and the ceremonies where they occurred, took place in numerous locations in Ireland, particularly outside Dublin city in small towns. This may indicate a deliberate attempt to spread the

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[40] See Garda Press Release, Operation Vantage - Investigation into Sham Marriages and Immigration Issues, 25 November 2015 available at: http://www.garda.ie/Controller.aspx?Page=16224. See also: '11 arrested over marriage-of-convenience fraud' available at http://www.rte.ie/news/ireland/2015/1125/749111-marriages/

[41] To be understood as 'interpreter' in this particular context.

marriages around the country as it would be less likely to be noted as suspicious. Key informants also pointed out the number of marriages which occur outside the country.

In some cases, it is clear that women come to Ireland for the registration and interview and then return home, only coming back three months later to Ireland for the ceremony.[42] The case studies and the interviews with key informants indicate that it is the women who remain here during the required three month notice period who are highly at risk of exploitation:

> "It is our experience that the shorter the time women were in Ireland the better … as the three months unfolded, the potential for exploitation, particularly sexual exploitation, occurred." (Latvian Embassy representative)

As stated in chapter 3.4.6, placing young vulnerable women in a house with numerous unknown men created a context that was highly conducive to predatory sexual behaviour.

3.4.10 Exploitation of the prospective husband

This research sought to investigate where crimes against the person are committed and it has revealed that severe and extensive crimes against the person have been committed against a very high proportion of women who were recruited for sham marriage. However, it must be acknowledged that the prospective husband is also being exploited in the sense that advantage is being taken of his desire to obtain residency in Ireland. Of course, this person is seeking to circumvent immigration regulations, but the crime is against the State and there is no intentional harm directed at another person. A number of respondents interviewed for this research also raised their concerns that there is some evidence that both parties to the marriage could be victims of different forms of exploitation. One service provider noted that in a recent presenting case the alleged sexual exploitation of the EU citizen was not perpetrated by her spouse but rather by the organisers and others living at the same address and that the victim believed that her husband was also being exploited in employment by the organisers. The issue of groups of men working with false papers in concentrated areas of employment with no recourse to legal rights and vulnerable to labour exploitation was also highlighted by the representative of the INIS:

> "The Department is concerned that fabricated employment is a significant contributing factor to this problem and this raises the question of the potential for labour exploitation of the prospective husband."

[42] For a marriage to be legal in Ireland, the parties to the proposed marriage must give a minimum of three months notification to a Registrar in person of their intention to marry. More information is available at: http://hse.ie/eng/services/list/1/bdm/marriagesinireland/

3.5 The response to women subjected to exploitative sham marriage in Ireland

The vast majority of women documented in this study sought help directly by calling the Latvian Embassy or presenting to their staff, usually following a prolonged period of exploitation. The figures provided by the embassy in chapter 3.3 indicate the huge pressure on the embassy to provide extensive levels of support, protection and financial aid to women reaching out to them for help in the absence of any state support from Irish authorities. In some cases, where the embassy was informed of or called by a woman at risk they were able to persuade the Gardaí of the seriousness of the situation and enlisted their help in meeting women and getting them to safety. The internet was used in some cases to make contact by the woman herself or by a friend on social media:

> "We were informed by a shelter in Latvia that a young woman had contacted them to say she had received a call for help on social media from a friend who had travelled to Ireland to work on the invitation of a childhood friend to work. Now she was in danger of being sold to her husband's friend, a third-country national for marriage. The embassy contacted her mobile and told her to leave and make her way towards the embassy as she was living within close proximity, and the Gardaí picked her up." (Representative of the Latvian Embassy)

The Lithuanian Embassy also described their response when a woman contacted them via e mail:

> "We wrote her a detailed reply on how to approach the Garda in the town where she lived, gave her contacts, and some English expressions, gave her the number of our on-duty phone number to call any time. We kept with her communicating via email and mobile phone until we could get her securely home to Lithuania."

The embassy staff was dealing with women who were frightened and distraught with no resources and knowledge of any service in Ireland from which they could seek help for themselves and their children. For the most part, the women just wanted to go home as the Latvian Embassy representative explained:

> "Very young women were arriving at the door of the embassy with nothing, no money, no papers. Often they were pregnant or had young children with them. Most of them just wanted to go home so we would organise papers, book flights, and drive them to the airport. We would contact the police and NGO services in Latvia and they would meet them at the airport and bring them to a shelter."

Over time the embassy built up very good relationships with the key front-line services, including the local shelter, which was very willing to provide emergency accommodation if a flight could not be organised immediately. In some cases, Irish NGOs who were working with women who had presented or been referred directly to them, were in contact with the embassy. They worked with them to ensure the women could return safely with NGO and police support, ensuring their needs were met and the exploitation was recorded and documented in Latvia. The service manager of one of the core services commented specially on this intervention and how important it is for women to know that their own embassy and country recognise the crimes committed against them:

> "The support this woman received from her embassy was really positive. It is very important for a victim of crime to know that their country is trying to assist and respond to them abroad. The fact that this particular embassy is very aware of this problem of sham marriage makes it easier to respond to the victim because they are not 'denying' that this happens. They have a return home programme which offers various supports that are vital for victims."

For the women who reached Irish services directly, some escaped and ran to the local Garda station, others had been befriended by a woman of their own nationality and brought to the Gardaí, and in one case the woman went to the local family resource centre several times and then disclosed what was happening and they referred her to a refuge. The interviewees in front-line services describe the women presenting to them as profoundly traumatised, and manifesting similar levels of fear and distress to trafficked and prostituted women and women escaping domestic violence.

> "Anna presented as a young woman who cried a lot, had physical palpitations, recurrent and intrusive thoughts and she could not sleep at night. When she did sleep she had nightmares. She experienced suicidal thoughts and bouts of anger and depression."

> "Bella was terrified and very frightened initially. Her behaviour was very childlike and she gravitated towards children as she felt that she could only trust children. Her behaviour was very sexualized and a lot of her responses and negotiation skills were highly sexualized."

> "Clara was particularly vulnerable as she did not seem to understand or have the capacity to understand how she had been exploited. She did not trust state services as her first child been taken into care meant that she was afraid that her new child would also be taken from her."

Specialist services in Ireland provided a wide range of supports and interventions including provision of basic things such as toiletries and clothes, in-depth psychological support, safe accommodation and ongoing advocacy for welfare and housing, legal advice and advocacy. In one case where a woman was offered accommodation in a women's refuge, the refuge staff described the highly intensive work involved:

> "Frea was very distressed and fearful so we secured a translator[43] and carried out a needs assessment which took a long time as she was traumatised. Then we followed up with general medical care and maternity care in the local hospital. We managed to secure emergency payments for her on compassionate grounds even though she did not fulfil the habitual residency condition. She was offered hostel accommodation in Dublin prior to being repatriated but her pregnancy was too far advanced for her to travel. We petitioned INIS to continue to support her financially while she remained in the refuge until her baby was born and they agreed. She returned home some months later to a mother and baby home."

In the rare case where it is possible for women to stay in Ireland in the long term the specialist service Ruhama provided an enhanced service of immediate

[43] To be understood as an 'interpreter' in this particular context.

intensive crisis support followed by access to education and training and support to move on to independent living in private rental accommodation:

> "We provided a one-to-one caseworker who worked very closely with Anna, building up a relationship of trust and supporting her to make a full disclosure to An Garda Síochána. Her caseworker referred her out to a number of other services for support (including sexual health and legal) and referred her into Ruhama's Education and Development Programme. Over a period of two and a half years she did English classes, computer classes, literacy classes, personal development and preparation for employment. We worked to secure welfare and private rented accommodation. When she first presented to the service she was completely subservient and unable to make decisions for herself following the multiple traumatic abuse she had suffered. She is now a confident, outgoing and assertive young woman, who is in control of her life and her future."

Women clearly have multiple needs which demands a complex response involving multiple agencies including medical and health care, welfare, sexual health services, rape crisis centres, and in many cases, interpreting services. Despite the lack of an overall policy or willingness by the state to respond to exploitation within the context of sham marriage, the service manager in an NGO praised the commitment of individual social workers, health professionals and Gardaí:

> "The social worker worked very hard for on this case and went above and beyond because she felt the case was so volatile and the woman and her baby were very high risk. She arranged a multi-disciplinary case conference which was very useful as all stakeholders were able to state what they were doing in relation to the case."

> "The Garda response too was very positive and commendable. Her case was taken by female Gardaí and they were the first to interview her. They were very sensitive and empathetic which meant that the young woman felt she could talk. These Gardaí had previous experience of cases where sexual exploitation had taken place and in addition at least one of the Gardaí had specialist interview skills. As a result, the young woman felt that she was believed and supported so that she could tell her story more fully."

In one case, intervention was thanks to the alertness of the maternity hospital staff:

> "They noticed that she was controlled by the man accompanying her and that she could not communicate with him as they did not share the same language. They contacted the medical social worker and later the community social work team who gained her trust over a period of time and then intervened as they had serious concerns for her and the baby."

Despite this good practice of individuals, the failure of the state to afford any rights or entitlements for these vulnerable women to protection, safety, appropriate accommodation or legal advice, was found to be deeply frustrating by the service providers. The four NGOs which provided case studies for this research are highly skilled and experienced in recognising the indicators of trafficking, and believe there was ample evidence to have the women identified as victims of trafficking.

3.5.1 The response of the state in Ireland

The failure of the GNIB to recognise the clear indicators of trafficking being reported to them is perhaps not surprising given the overall ineffectiveness of the identification process in Ireland.[44] Despite the introduction of specific legislation, national structures and dedicated Garda and Departmental units to address trafficking in human beings, the Irish State has been consistently criticised for the failure to identify victims of trafficking by international monitoring bodies, as outlined in chapter 2. The majority of victims of trafficking in Ireland are denied the benefits of a recovery and reflection period because they are asylum seekers or EU nationals, as they are deemed to have existing permission to remain in the State. Therefore, as key informants commented, even if the women in this study were regarded as victims of trafficking, the fact is that as they are EU citizens, and therefore they would not have been formally identified as a victim of trafficking under the current AIAs.

It is important to note that where someone is regarded as a potential victim of trafficking, they can be offered protection, support and accommodation without being formally identified by the State. However, formal identification is critical for victims in establishing their entitlement to rights. Without formal identification there is no legal entitlement to recovery and reflection periods and temporary residence permits with all the legal rights accruing from these permits, including welfare support, accommodation, access to education and employment long term residency rights. Furthermore, the placement of potential victims in the inappropriate and unsafe accommodation of direct provision hostels for asylum seekers has also been severely criticised in the international monitoring reports, as referred to in chapter 2. Consequently, one has to caution that even for those identified, the intervention and support from the State is unsatisfactory. In the few cases where women were regarded as at risk and in need of emergency accommodation it was the direct provision hostels that were offered as accommodation, leading in some cases to re-victimisation:

> "It can be very difficult to begin real work on a woman's confidence if she is living in direct provision. The fact that this young woman was an EU national and was housed in direct provision meant that she was potentially a further target for sham marriage and/or sexual exploitation." (NGO service manager)

> "In one case the Gardaí insisted that because of a perceived threat to her safety the young woman should be moved from our accommodation – single gender, walled, alarmed with gates that are locked at 10pm - to an open direct provision hostel – mixed gender. This was not suitable accommodation for this young woman." (NGO service manager)

The barriers created by the habitual residence condition for EU nationals referred to earlier mean that there is no entitlement to be placed in a women's refuge and receive a welfare payment. Once again some individual welfare officers will

[44] See the Irish High Court decision in P. v Chief Superintendent of the Garda National Immigration Bureau & Ors [2015] IEHC 222, as referred to above.

provide emergency payments on compassionate grounds, enabling refuges to offer accommodation and support for at least a period of time:

> "In this case the domestic violence refuges provided temporary shelter for the woman and her baby but because she did not have a payment they could not keep her indefinitely. In general, it is impossible to get a social welfare payment for women, despite their being EU citizens. I think that any woman/man who comes forward and says they are a victim of exploitation should be given a payment – at least while their complaint is being investigated. Surely a safe place to stay should be a priority for any victim-centred approach." (Anti-trafficking officer, Migrant Rights NGO)

It would appear that the response of the GNIB when questioned about their refusal to identify women as victims of trafficking was that because sham marriage was not specifically named in the trafficking legislation, and consequently they had no remit to intervene in these cases. But even taking one instance where the woman was of very limited mental capacity, she had disclosed rape and sexual assault[45] and had clearly been brought to Ireland by organisers for exploitation, it is hard to understand why these were not identified as clear indicators of trafficking for sexual exploitation, regardless of the presence of sham marriage.[46]

> "I believe that where the three main indicators of trafficking (UN Convention) are evident – movement, coercion, exploitation – then the woman should be immediately [provided] a recovery and reflection period and all rights under the Administrative Immigration Arrangements which would mean that she is given a social welfare payment. It is also critical that she would not have to go into direct provision, where her recovery is hindered. The State should follow the example of Women's Aid in Northern Ireland – where a number of units of accommodation are reserved for victims of trafficking in safe secure refuges and then at a later stage have access to private rented accommodation" (NGO service manager)

The failure to identify the women as victims of trafficking and to provide long term shelter and welfare also resulted in no investigations being carried out[47], which as one interviewee says has serious consequences for other women:

> "Because the details of the exploiters (recruiter, transporter, and exploiter) were not taken seriously by Gardaí, this organised exploitation could potentially have harmed/trapped other vulnerable women who had less agency/autonomy than our

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[45] It must be noted that further information in relation to any investigations into crimes different from human trafficking, such as rape and sexual assault, was not available in this case.

[46] The weaknesses regarding the current identification of victims of trafficking were highlighted in Chapter 2. See endnote above.

[47] It should be noted that an important limitation of the research arises in relation to the nature of the response of An Garda Síochána to allegations of serious criminal offences that are documented in this Report; notably in section 2.4. It is important to note that this research is confined only to examination of the question of investigation of potential offences of human trafficking and that even where individuals were not identified as victims of human trafficking that other serious offences may have been the subject of investigation by An Garda Síochána. Data limitations preclude the provision of any information in this regard as it was not possible to determine in almost all cases the nature of the investigation that were actually carried out.

client. The men in the house in Dublin had asked the woman to find other girls in her home country, and that they didn't need to speak English as well as she did. They were effectively asking her to be a recruiter. She refused." (Anti-trafficking officer, Migrant Rights NGO).

Flaws in the identification process have been recognised by all key stakeholders in Ireland and it is intended that a formal review process will be initiated.[48] All informants in this study, including the AHTU and the Gardaí have expressed their support for more effective mechanisms to be introduced:

"We welcome a review of the identification process. We believe it is very important that there is a written set of procedures and protocols that works for all of us, especially the victims. This can include cognisance of the requirements of the new EU Victim's Directive which can be built into a new identification process." (Garda Inspector with responsibility for trafficking)

Recent developments also indicate a move towards a more victim-centred approach with the establishment of the Garda National Protection Services Bureau (GNPSB) which will have responsibility for the investigation of all sexual crimes including trafficking for sexual exploitation, and the bureau has a strong focus on the protection and support of victims. As part of Operation Vantage described earlier, a number of women have been identified as victims of exploitative sham marriage and as potential victims of trafficking. Ten cases involving Bulgarian and Lithuanian women have been referred to the Anti-Human Trafficking Team (AHTT) of the Health Service Executive. The Manager of the AHTT welcomes the referrals to the Unit and the recognition of the women as potential victims of trafficking. The women have a similar profile as previously described in the research, coming from impoverished regions, and in particular from marginalised ethnic communities. But she also expressed her concern regarding the extreme vulnerability of some of the women and the challenges facing them as a service in responding to their needs:

"We are finding that many of the women have a mild intellectual disability so even trying to get them to understand that these men are using [them]her for immigration purposes, rather than that [they] are loved, is very difficult. We also have to be very sensitive in exploring the issues of sexual abuse and exploitation. And some women refuse to engage with the Gardaí, they just want to stay with the men. They have so few options at home, brought up in care, no family support, very few social services so even repatriation is not necessarily a solution. I worry that they are just falling through the cracks of every service and are highly at risk of being further exploited." (Manager of the WHS and the AHTT)

These recent developments indicate that there is an increasing recognition of the intersection of sham marriage, exploitation and trafficking in Ireland, the need

[48] See Appendix A List of Actions in the draft Second National Action Plan to Prevent and Combat Human Trafficking in Ireland 2015 available at: http://www.blueblindfold.gov.ie/website/bbf/bbfweb.nsf/0/29C249CB6AC1762880257E760047573B/$File/Second%20National%20Action%20Plan%20-%20June%202015.docx

for an enhanced and improved response by the state and, positively, that changes are already taking place in practice.

As noted earlier in the report, Operation Vantage was commenced in August 2015. Recent information provided by An Garda Síochána for inclusion in this report indicates that in excess of 50 persons have been arrested under Operation Vantage and are pending prosecution before the courts or removed from the State. It is further reported that the Operation has focussed on the disruption of the organisers and facilitators behind this process and a number of ongoing criminal investigations with other European agencies are underway. This process has been facilitated through the use of Eurojust and Europol and a number of State agencies. An Garda Síochána expressed recognition of the excellent working relationship with each European Embassy in Ireland who provide valuable assistance towards this Operation, in particular, the Latvian and Estonian embassy officials who have been a fundamental part of the progress to date.

4. Conclusions

This national qualitative study reveals the prevalence of exploitative sham marriage in Ireland. Case studies and interviews indicate that a highly organised system of targeting, recruitment and exploitation of very vulnerable young women from EU countries has been pervasive for many years. The case studies provide some in-depth information of what women are being subjected to in the context of exploitative sham marriages. They have disclosed appalling stories of rape, sexual assault, physical and psychological abuse which have devastating consequences for their health and wellbeing. There is evidence that all the indicators of trafficking are present in many of the cases, including targeting of vulnerability, deception, movement, control and exploitation, yet these cases have not been identified as trafficking cases in Ireland. As stated in chapter 2 of this report, the identification system for victims of trafficking in Ireland is seriously flawed.

It is because of the persistent work of the Latvian Embassy over a number of years that this abuse of human rights was uncovered. Embassy officials have provided protection, support and financial help to these women when no help or protection was forthcoming from the Irish State. They brought these issues to the attention of authorities in Ireland with little effect and it is the work of their own services / NGOs and police forces they have relied on to provide support and, in many cases, identify these women as victims of trafficking. The Estonian Embassy states that it has followed suit in also raising these issues, and they have also worked with social services in their own country to intervene early and try to prevent this form of exploitation.

The NGO specialist services in Ireland have been at the forefront of responding to the needs of all victims of trafficking, and the case of women subjected to exploitative sham marriage is no different. They have delivered a wide range of supports to meet the complex needs of this vulnerable group of women. They are highly skilled in risk assessment, recognising the indicators of trafficking and understand the traumatic impacts of severe exploitation on the women presenting to them. However, the failure of the authorities to formally identify these women, as well as other EU citizens and asylum seekers, as victims of trafficking crimes, and to provide appropriate safe accommodation, especially for victims of sexual violations, continues to frustrate their efforts to deliver best practice responses. The current AIAs, in addition to excluding the EU nationals and asylum seekers, also operate exclusively for the purposes of investigating and prosecuting offences and not for the purpose of ensuring that all victims receive adequate protection and support regardless of co-operation with criminal investigations. Furthermore, the AIAs do not take the special needs and vulnerabilities of individual victims into account.

It is in the interest of the Irish State to prevent sham marriages but it is also the responsibility of the State to ensure the provision of early intervention to victims of any crime. Where crimes against the person have been committed in this jurisdiction it is incumbent upon the State, particularly under the EU Trafficking

Directive, to ensure that victims of those crimes are given legal advocacy and representation to enable them to bring cases to court. Early legal intervention has proven to be critical in enabling victims of trafficking and other crimes to access safety and protection and also to act as witnesses in criminal proceedings.[49] The perspective, knowledge and information in the origin country and the destination country may be different, as currently in-depth disclosure for the vast majority of victims is taking place in services in the origin country.

However, there were a sufficient number of cases in Ireland where the evidence was clearly available. Embassies were systematically documenting the details of cases and presenting them to the Irish authorities and some women spent considerable periods of time in NGO support services to allow disclosure of exploitation and human trafficking indicators to be recorded. Yet this has not resulted in formal identification of women in these situations as victims of trafficking and little is known regarding any consequent investigation of the exploitation experienced. Investigations cannot happen if women have no recourse to protection and support services in Ireland which inevitably leads to the perpetuation of the exploitative scheme and abuse of women. Without victims remaining in Ireland to act as witnesses with the support of the State and the services, no prosecutions will be obtained and the recruiters and traffickers will remain at large and free to repeat the crimes.

Recent developments however, indicate a willingness to reform the overall response to trafficking in Ireland and in particular the identification process. Furthermore, the inclusion of human trafficking under the newly established Garda National Protection Services Bureau (GNPSB)[50] is very welcome, which makes it an opportune time to consider a more effective response to all victims of crime in Ireland including victims of trafficking and exploitative sham marriage.

[49] The Immigrant Council of Ireland leads on an EC ISEC funded programme on early legal intervention for victims of trafficking in five EU Member States, see: www.earlylegalintervention.eu

[50] The Garda National Protection Services Bureau will be responsible for the investigation of sexual crime against adults and children, domestic violence and trafficking for sexual exploitation.

5. Recommendations

To provide the wider context, this research report has necessarily outlined information regarding the overall regulation of sham marriage and human trafficking in Ireland. However, the recommendations outlined below are specifically and exclusively focused on the issue of exploitative sham marriage where there are indicators of trafficking.

Reform of the identification process for victims of trafficking in Ireland

It is recommended that the review of the identification process for victims of trafficking is carried out with utmost urgency. It is also recommended that the renewed arrangements will lead to the following process:

- When a designated first responder/agency/Garda identifies a person as a potential victim of trafficking, including victims of exploitative sham marriage, the person would be immediately referred to a designated specialist support service where a risk and needs assessment would be carried out.
- The person should also have access to appropriate emergency accommodation, especially for victims of sexual abuses, in-depth support and legal advice at the earliest opportunity.
- Where the first responder provides reasonable grounds to suspect that the person has been trafficked, a referral should be made under the National Referral Mechanism (NRM) for a recovery and reflection (R&R) period, conferred regardless of the immigration status or the nationality of the victim. This would include EEA nationals and asylum seekers, and it should involve the issue of a residence permit where such is required. This R&R should be issued within five days enabling the service/agency to offer on-going protection and support.
- The purpose of the R&R period is to allow time for the persons involved to recover from their traumatic experience and to take an informed decision about the future, including whether they wish to co-operate with the authorities and police in Ireland. If they wish to do so they should be referred to the Garda National Protection Services Bureau (GNPSB) and accompanied to make a statement.
- If during those interviews the GNPSB believe there is evidence to trigger an investigation, or in cases where the personal circumstances linked to age, health, pregnancy, nature of abuse and trauma require that the person remains in Ireland, the person should be formally identified as a victim of trafficking by way of written communication to the victim and her legal representative.
- As an alternative to GNPSB, a referral should be made to a panel of accredited experts who would be able to formally identify a person as a victim of trafficking crime, where a submission to this effect has been made by the victim or her legal representative.

- In the case of a victim who does not have permission to be in the State, including asylum seekers, then they should be issued with a temporary residence permit to ensure they are granted the full set of rights and supports designated to trafficked victims in the State, including the right to private residence, vocational training and work.

Provision of supports to victims of other crimes against the person

In the case where there is insufficient evidence of trafficking but there is evidence that crimes against the person have been committed including, assault, sexual assault and rape, the person should be acknowledged as a victim of crime and provided with appropriate supports for the exploitation experienced. Similar arrangements need to be in place as for victims of trafficking, which allow for that person to remain in Ireland and have access to support and welfare for the duration of the investigation. In the case of EU citizens, the habitual residence condition needs to be waived in order for that person to have access to refuge provision, private rented accommodation and welfare support.

Resources for first responders

The work with victims of trafficking and exploitative sham marriage is complex and resource intensive. It is essential that service providers have sufficient resources to provide best practice responses including appropriate safe accommodation and a wide range of supports. Early legal intervention by specialist legal practitioners must also be resourced as such intervention is critical for victims to access their rights and entitlements and to enable successful prosecutions.

Training for General Registrars and immigration officers

Special training for General Registrars and immigration officials is needed to enable better identification of suspected victims, including in recognising subtler forms of exploitation such as may occur within exploitative sham marriages and to ensure that the implementation of law and administrative procedures in respect of marriages and the processing of residence applications by third-country nationals generally are applied in a proportionate and non-discriminatory manner.

Bilaterals/police/NGO co-operation between the origin states and Ireland

International human rights provisions highlight the importance of coordination and inter-agency mechanisms for tackling trafficking, based on partnerships between public authorities, law-enforcement agencies and NGOs. There should be cooperation between the Member States to monitor this and other emerging trends, to identify victims of trafficking and other crimes, to provide appropriate supports and to develop effective law enforcement responses and measures to

prevent exploitation. In order to facilitate the informed nature of this necessary inter and intra states cooperation, the EUROSTAT report should pay special attention to emerging and less recognised forms of exploitation in trafficking, such as the one occurring in the context of marriage, and respectively, efforts should be made at the EU level to gather statistical information capturing these new trends with a view to informing timely prevention.

Data and further research

To assist evidence-based policy making and evaluate the effectiveness of law and administration, the Irish authorities should collect and publish data annually on the number of visa and residence permit applications made, the number of visa applications and residence permits granted and refused as well as on the reasons for refusals; any such data should be disaggregated by showing nationality, gender and age of the applicants and their family members.

Bibliography

An Garda Siochana (2015, August 10). Operation Vantage - Investigation into Sham Marriages and Immigration Issues. Retrieved from http://www.garda.ie/Controller.aspx?Page=16224

Bardon, S. (2015, September 24). Marriage registrars fail to comply with rules on sham unions.

D'Arcy, C. (2015, December 3). Effective ban on marriages of Irish to non-EU citizens lifted.

Department of Justice and Equality (2009). National Action Plan to Prevent and Combat Trafficking of Human Beings in Ireland 2009-2012. Dublin:DJE.

EC ISEC project "Early Legal Intervention for Victims of Trafficking" Immigrant Council of Ireland. Retrieved from www.earlylegalintervention.eu

Enright, M. (2010, August 18). Preventing Marriages of Convenience in Ireland. Blog Human Rights in Ireland. Retrieved from http://humanrights.ie/children-and-the-law/preventing-marriages-of-convenience-in-ireland/

European Union, European Migration Network. (2012). Misuse of the Right to Family Reunification: Marriages of Convenience and false decelerations of parenthood. Belgium: European Commission. Retrieved from file:///C:/Users/Temenuga/Downloads/DR3212278ENC_002.pdf

European Union, Directive 2004/38/EC of the European Union and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC. Retrieved from http://www.solvitireland.ie/eu-treaty-rights-information-/official-journal-229.pdf

European Union, DIRECTIVE 2011/36/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA. Retrieved from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF

GRETA (2013), Council of Europe first monitoring report on Ireland. Retrieved from https://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2013_15_FGR_IRL_public_en.pdf

IHRC (2015, April 15). IHREC calls for immediate action to protect victims of human trafficking following High Court Judgment. Retrieved from http://www.ihrec.ie/news/2015/04/15/ihrec-calls-for-immediate-action-to-protect-victim/

Interviews aimed at identifying possible sham unions had been halted over training issue. The Irish Times. Retrieved from http://www.irishtimes.com/news/social-affairs/effective-ban-on-marriages-of-irish-to-non-eu-citizens-lifted-1.2453269

Irish Naturalisation and Immigration Service (June 9th 2011). Sham marriages leading to abuses of EU freedom of movement rights. Retrieved June 21st, 2016, from http://www.inis.gov.ie/en/INIS/Pages/PR16000007

Irish Naturalisation and Immigration Service (January 26th 2015). Immigration in Ireland – 2014. Retrieved June 21st, 2016, from http://www.inis.gov.ie/en/INIS/Pages/Immigration%20in%20Ireland%20%E2%80%93%202014

Izmailovic & Anor v The Commissioner of An Garda Síochána [2011] IEHC 32.

Kelleher at al (2009). Globalisation Sex Trafficking and Prostitution: The Experiences of Migrant Women in Ireland. Dublin: Immigrant Council of Ireland.

Legislation (Statutory Instrument S.I. No. 656 of 2006 European Communities [Free Movement of Persons] (No. 2) Regulations 2006). Retrieved from http://www.inis.gov.ie/en/INIS/SI656of2006.pdf/Files/SI656of2006.pdf

Metock and others v Minister for Justice, Equality and Law Reform. Case-127/08 [25 July 2008]. Retrieved from http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62008CJ0127.

NAP (2015), Draft National Action Plan on Combatting and Preventing Trafficking in Human Beings. Dublin: DJE. Retrieved from http://www.blueblindfold.gov.ie/website/bbf/bbfweb.nsf/page/RADN-9Y2H3C135052-en/$File/Second%20National%20Action%20Plan%20-%20June%202015.pdf

Officials not co-operating with contentious new measures due to 'lack of consultation'. The Irish Times. Retrieved from http://www.irishtimes.com/news/politics/marriage-registrars-fail-to-comply-with-rules-on-sham-unions-1.2365149

O'Reilly, B. (2015, November 25). 200 gardai involved in nationwide searches in massive sham marriage probe. The Irish Times. Retrieved from http://www.independent.ie/irish-news/200-gardai-involved-in-nationwide-searches-in-massive-sham-marriage-probe-34233842.html

OSCE (2012), Monitoring report on Ireland .Vienna: OSCE. Retrieved from http://www.osce.org/secretariat/99775

P. v Chief Superintendent of the Garda National Immigration Bureau & Ors [2015] IEHC 222.

Smyth, J. (2010, August 17). Few legal means to restrict rise in bogus unions. The Irish Times. Retrieved from http://www.irishtimes.com/news/few-legal-means-to-restrict-rise-in-bogus-unions-1.638680

Tagni v Minister for Justice, Equality and Law Reform [2010] IEHC 85.

UN (2011), UN Human Rights Council Report of the Working Group on the Universal Periodic Review. Retrieved from http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/175/20/PDF/G1117520.pdf?OpenElement

United States Department of State Trafficking in Persons (2015), Country narratives. Ireland. Retrieved from http://www.state.gov/documents/organization/243559.pdf

Appendix 1. List of participants

The authors wish to thank the following for their participation in the research, for facilitating interviews, providing data and documenting case studies.

Embassy representatives

Embassy of Latvia

Embassy of Estonia

Embassy of Lithuania

Embassy of Portugal

Non-Governmental Organisations

Ruhama

Adapt Domestic Abuse Services

Immigrant Council of Ireland

Doras Luimni Migrant Advice Centre

State agency representatives

Residence Division, Irish Naturalisation and Immigration Service

Women's Health Service and the Anti-Human Trafficking Team, Health Service Executive

Garda National Protective Services Bureau

Anti-Human Trafficking Unit, Department of Justice and Law Reform

We would also like to sincerely thank Rada for sharing her personal experience of exploitative sham marriage.

Appendix 2. Template for documenting case studies

Case number:

Organisation:

Profile of the woman

- Age
- Nationality (or region)
- Background
- Vulnerability/risk factors (such as poverty, raised in care, learning difficulty, mental health issues, history of sexual abuse, lone parenthood)
- Level of understanding of the English language

Direct recruitment

- How was the woman recruited?
- Did she meet the recruiters?
- Did she know them already?
- Were they organised do you think and had they recruited other girls/women?
- What motivated her to agree to come to Ireland?
- Did she know it was a sham marriage?
- Was she told who she would be marrying?
- What was she promised? (Including money (or other gifts etc.) new life, job.)

Online recruitment

- Does online recruitment differ from recruitment in real life as described above?
- Who organised the online recruitment and posted advertisements online and/or groomed the victim into accepting a (sham) marriage?
- In what language were the advertisements written?
- Where are the advertisements posted? Are they shared also via social media?

Transportation/travel

- How did she travel to Ireland?
- Who paid and booked her tickets?

- Did she travel independently or was she accompanied?
- Was she met at the airport? By whom?
- Or what instructions was she given on where to go after arrival?

Life in the destination country and exploitation

- What happened after she arrived in Ireland?
- Where was she brought to/accommodated?
- Did she meet her future husband?
- What nationality was he?
- Were there other men in the accommodation?
- Did she immediately feel vulnerable/frightened /threatened?
- Did she tell anyone?
- How long was she in Ireland before the planned marriage?
- Was she subjected to any forms of exploitation prior to the marriage or after the marriage and what indicators of human trafficking and /or exploitation were disclosed? Can you please specify in detail if there was:
    - Physical and psychological abuse
    - Sexual violence, rape and sexual assault by the proposed husband/other individual men
    - Commercial sexual exploitation and prostitution
    - Domestic servitude and labour exploitation
    - Threats to her or her family
    - Economic violence (e.g. taking loans in her name, controlling the use of or access to money, debt bondage)?
    - Freedom of movement limited/passport taken away
    - Preventing contact with their family and friends

The sham marriage

- Who organised the wedding?
- Do you think there was systematic organisation of many girls/women?
- Where was the wedding organised?
- Did she feel forced/pressurised to marry?
- Were false documents produced at the registrar's office?
- Was she asked any questions by the registrar?
- What happened after the wedding?
- Did she receive any money promised?

The men

- Were they already resident in Ireland?
- Do you know their legal status?
- Do you know their income level?
- Was his/their purpose immigration/residency in Ireland?
- Was the purpose sexual exploitation? (or both above)
- Do you know if the man/men paid a third party?
- Who do you think profited financially from the sham marriage?

Identification of victims & assistance

- How did the woman seek help?
- Did she seek help herself or was she identified by an agency as at risk?
- Who referred her to you?
- Can you describe the impact of this experience on her?
- Can you describe the response you made?
- What other agencies responded/were involved?
- What were the difficulties in providing an effective/sufficient response?
- What was the outcome for her?

Improved response in Ireland

- What do you think worked well in the response by agencies/the State to this woman?
- What do you think could have been done differently in this case in Ireland which would have improved the outcomes for this woman?

Any other information or comments you would like to include

Appendix 3. Case study of interviewee

"Rada" is a Latvian national. She grew up in a small town in Latvia. She was sexually abused by a close relative from age 6 to 16. A social worker at her school in Latvia found out and informed Latvian police. She was taken into care and placed with a foster family in Latvia at that point. At age 17 she gave birth to a son, who was placed in care also.

When Rada was 19, a Latvian acquaintance, "Jane", who was living in Ireland, encouraged her to move to Ireland. Rada was told she would have a job, money, and a place to live in Ireland, but that she would have to marry a man in a "business marriage". The man, "Joe", agreed to pay Jane to "get him a wife", and Jane arranged to have Rada transported to Ireland. Joe was to pay Jane 1000 euros and Rada 4000 euros. He never paid either of them any money.

Rada traveled to Ireland in September 2008 for the purpose of marrying Joe and the marriage took place in July 2009. When Rada arrived, Joe took away her passport, did not provide her with a job or money as promised, and kept her locked up in the house most of the time.

On arrival in Ireland, Rada was taken to a house, which had multiple men living in it, including Joe. At least two of Joe's friends raped her shortly after she arrived in Ireland. Between her arrival and July 2009, Rada was moved between several addresses and subjected to sexual violence and physical and emotional abuse by Joe as well as his friends. One of Joe's friends raped Rada many times over the months she was held captive by them. She was often not fed properly and would eat leftovers that she could find in the house.

After the civil marriage in July 2009, Rada was moved to a new house with her husband where she was locked in the bedroom for 6-7 hours a day, and never left the house for at least one week.

A concerned citizen became aware of her situation and offered to help her get out. Rada agreed and left with the woman, who took her to the Gardaí. The Gardaí asked if Rada wanted to report the men for abuse, but she declined initially out of fear.

A friend of the concerned citizen brought Rada to Dublin where she was put in contact with an NGO for support. Representatives from the NGO accompanied Rada to report what had occurred to An Garda Síochána and to make a statement. Rada made an official statement over the course of four interviews in the period December 2009 to February 2010. During the interviews she gave a detailed account of the above, including identities of the perpetrators and descriptions of the houses where she was kept and where the abuse occurred. The Gardaí took Rada to the area where she had been kept to see if she could remember and identify any of the homes or locations where she had been held and where the abuses took place. She was able to identify and locate most of them. Rada was provided with temporary accommodation at a Direct Provision Reception Centre for asylum-seekers. Rada subsequently secured work herself in another part of the country and moved there in 2010.

In November 2014, a request was made on Rada's behalf by another NGO to find out further details of the investigation into Rada's case. The NGO was informed that there was a 'criminal investigation of 'various alleged crimes' and that a file was referred to the DPP. However, an order of no prosecution was made. Rada received no further information and no reasons were provided.

Since Rada has made great progress in rebuilding her life and finding happiness. She is in a stable relationship with a new partner, with whom she has a young child born in 2012. She enrolled in further Adult Education for the 2012/2013 academic year. With NGO supports, she was able to access accommodation in 2011 and has been receiving social welfare since 2013.

HUMAN TRAFFICKING AND SHAM MARRIAGES IN LATVIA

Inese Šūpule

1. Introduction

In Latvia links between human trafficking and sham marriages have been identified. However, not all sham marriages can be considered to be human trafficking. The present report aims to characterise those forms of human trafficking that are linked to sham marriages and to identify where signs of exploitation can be discerned. The main concept used in the report is exploitative sham marriage (in Latvian, ekspluatatīvas fiktīvas laulības). The aim of the project is, on the basis of national reports, to contribute to the creation of a uniform international understanding of this form of human trafficking – human trafficking with the aim of involving a person in a sham marriage. In addition, the aim is to formulate national and European Union (EU) level policy recommendations, based upon the findings of the study on this form of human trafficking.

The various designations of this type of marriage that have been used in Latvian until now (Vucāne 2015) are not applicable to this particular phenomenon – a sham marriage in which exploitation can be identified. For example, the concept of "forced marriage" (in Latvian – piespiedu laulība) narrows down the understanding and does not describe the phenomenon of exploitative sham marriage comprehensively, since an exploitative sham marriage can occur also in a case where the person involved initially agreed to conclude a sham marriage, but later was deceived and subjected to exploitation.

To characterise the concept of "exploitative sham marriage", it must be split into two parts. "Sham marriage" and "exploitation" are the two concepts that serve as the basis for the new concept and its interpretation. In this report the understanding of the concept "sham marriage" is based on the provisions of Latvian legal regulation. Pursuant to section 60 of the Civil Law, a sham marriage is a marriage that has been concluded without the intention of establishing a family. On the other hand, section 285^2 of the Criminal Law (CL), which entered into force on 1 April 2013, provides that only those sham marriages shall be subject to criminal liability which have been concluded with the aim of ensuring third-country nationals the possibility of acquiring the right to reside in the Republic of Latvia, another EU Member States, a state of the European Economic Area or the Swiss Confederation. The approach taken by CL section 285^2 complies with the EU Council Resolution of 4 December 1997 on measures to be adopted on the combatting of marriages of convenience, and this understanding has been used in the report and in interpreting the concept of an "exploitative sham marriage".

In interpreting the concept of "exploitation", it should be noted that the definition included in CL section 154² complies with the understanding of exploitation included in the United Nations Convention on Transnational Organised Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and it is understood as involving a person in prostitution or other type of sexual exploitation; forcing a person to perform work, provide services or commit crimes; keeping a person in slavery or other forms similar to it or keeping a person in servitude; and illegal removal of a person's tissues or organs. Usually in cases of sham marriages, exploitation of a person for commercial purposes is not observed (forced labour or involvement in prostitution). Instead, it may entail keeping a person in slavery or other similar forms of labour exploitation as well as sexual exploitation of a person for non-commercial purposes, and forcing a person to commit criminal offences, inter alia, to conclude a sham marriage, which in accordance with Latvia's legal regulation is a criminally punishable act. The main objective of the report is to describe the features of exploitative sham marriages on the basis of an analysis of concrete cases and the experience of experts in Latvia.

The first part of the report characterises the situation in Latvia with respect to human trafficking and sham marriages on the basis of the already available information. The characterisation comprises a description of the legal regulation and the amendments that were introduced to it in 2010–2015. A summary of the available diverse statistical data from 2010 to 2015 is presented, using the data provided by rehabilitation services, the police, the Office of Citizenship and Migration Affairs (OCMA), and the Consular Department of the Ministry of Foreign Affairs. A brief description of the system for combatting human trafficking and sham marriages has been prepared on the basis of various sources, including, among others, Guidelines for Prevention of Human Trafficking, 2014–2020 (Cilvēku tirdzniecības pamatnostādnes 2014.-2020.gadam, 2014).

The second part of the report is an overview of the outcomes of the research conducted in the summer and autumn of 2015. The study was conducted by using qualitative research methods, which do not provide information on the quantitative aspect of the phenomenon under observation, but do provide an in-depth understanding of the particular phenomenon of exploitative sham marriages. The questions asked included what features characterise such marriage, how is it organised, and which groups of people are most subject to the risk of exploitative sham marriages, and why.

To find answers to these questions, five cases of exploitative sham marriage were analysed, based upon the documents of social rehabilitation service providers and in-depth interviews with the victims of exploitative sham marriages. In addition, 15 in-depth interviews were conducted with 17 experts who deal with the issues of human trafficking and sham marriages on a daily basis.

2. The national context of sham marriages and human trafficking

2.1 Legal regulation and amendments 2010–2015

2.1.1 Sham marriage

Sham marriage is a phenomenon that can manifest itself in many different ways. Not all cases of sham marriages are subject to criminal liability or should be considered as being a crime. In Latvia, those cases of sham marriages that have been concluded not with the aim of establishing a family, but with the purpose of ensuring someone the possibility of acquiring the legal right to reside in the Republic of Latvia, another EU Member State, a state of the European Economic Area (EEA) or in the Swiss Confederation are considered to be subject to criminal liability.

Ensuring in bad faith a possibility to a person to acquire the legal right to reside in the Republic of Latvia, another EU Member State, a state of the EEA or in the Swiss Confederation was criminalised in the Criminal Law by the amendments of 13 December 2012 (CL Section 285), which entered into force on 1 April 2013. The substantiation of the amendments to legal regulation were directly linked to the increase in the number of exploitative sham marriages, observed both by the police and by Latvian embassies abroad, as well as by providers of social services in Latvia.

Box 1. Legal Regulation: Sham Marriage

Criminal Law

Section 285.[2] Ensuring in Bad Faith the Possibility to Acquire the Legal Right to Stay in the Republic of Latvia, another Member State of the European Union, a Member State of the European Economic Area or the Swiss Confederation

(1) For a person who provides in bad faith a possibility to acquire the legal right to stay in the Republic of Latvia, another Member State of the European Union, a Member State of the European Economic Area or the Swiss Confederation, the applicable punishment is deprivation of liberty for a term up to three years or temporary deprivation of liberty, or community service, or a fine.

(2) For a person who provides in bad faith a possibility to acquire the legal right to stay in the Republic of Latvia, another Member State of the European Union, a Member State of the European Economic Area or the Swiss Confederation, if it has been committed for the purpose of acquiring property or if such a possibility is ensured for two or more persons, or if it has been committed by a group of persons, the applicable punishment is deprivation of liberty for a term up to five years or temporary deprivation of liberty, or community service, or a fine, with or without confiscation of property. (the wording of the law of 13 December 2012, which entered into force on 01 April 2013.)

Sham marriages between a Latvian citizen and a third-country national with the aim of ensuring a person the possibility to acquire the legal right to reside in Latvia or in any other EU Member State are concluded both in Latvia and in other states. However, there are grounds to consider that the number of sham

marriages concluded in Latvia is small, compared to the number of sham marriages concluded between Latvian citizens and third-country nationals abroad: in Ireland, the United Kingdom, Cyprus, Greece and elsewhere. Both the OCMA and the State Border Guard pay attention to suspicious cases in Latvia and, if there are grounds to consider that the marriage has been concluded fictitiously (to receive a residence permit in Latvia), the foreigner may be refused the residence permit or its registration (renewal). In addition, a resident permit may be annulled. This is provided for by the provisions of the Immigration Law and binding regulations. In particular, para 13 of section 34(1) of the Immigration Law provides that the issuing or registration of a residence permit may be refused if there is a reason to believe that a foreigner has entered into a marriage of convenience in order to receive a residence permit in Latvia. In many cases it is difficult to prove the intention to conclude a sham marriage. For this reason, the possibility of issuing a residence permit and subsequent annulment of it is envisaged, if the suspicion regarding a sham marriage has been proven to be true. In legal regulation this is envisaged by para 6 of section 35(1) of the Immigration Law. In such cases additional interviews and verifications by the State Border Guard are conducted, but this applies only to those cases where the sham marriage is concluded in Latvia.

The OCMA, the State Border Guard or the Security Police are informed by employees of Civil Registry Offices about suspicious marriages with foreigners. Pursuant to the provisions of section 18(4) of the Law on Registration of Civil Status Documents, "an official of the General Registry Office is entitled to determine another time for registering the marriage, which is no less than a month, but no longer than six months from the day when the submission was accepted, in order to check the presented and submitted documents."

Latvian case law provides that a person who has entered into a sham marriage, but later wants to annul it, has the possibility to submit a claim in civil law procedure requesting that the marriage be recognised as void as of the moment it was concluded. This is envisaged by section 60 of the Civil Law, and this is used also in those cases where a marriage has been concluded with third-country nationals.

Box 2. Legal Regulation: Declaring a Marriage Annulled

Civil Law

Section 60

A marriage that has been entered into fictitiously, i.e., without the intent to create a family, shall be declared annulled. (with amendments introduced by the Law of 29 November 2012, which entered into force on 01 January 2013)

As the concept is used in the Criminal Law, a sham marriage is a type of crime that is different from human trafficking, since the object of the crime is not a person, but state administrative procedures. However, it must be underscored that sham marriages may be linked to crimes of human trafficking in a number of ways:

1) One of the types of exploitation in human trafficking cases is forcing a person to commit a crime; i.e., to enter into a sham marriage (in case the person had not been informed about the plans to conclude a sham marriage, but thought that he or she was going to another country to work; this should be considered as a case of forced marriage, which pursuant to United Nations Supplementary Convention on Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 7 September 1956 should in turn be considered as an institution similar to slavery);
2) Elements of a human trafficking case can be observed in a situation where a person who has entered into a sham marriage voluntarily may be deceived and subjected to exploitation after recruitment for a sham marriage. This is a situation in which a person initially had agreed to conclude a sham marriage, but afterwards did not in fact receive remuneration, was forced to conclude a sham marriage and was subjected to other forms of exploitation (see more in chapter "Research outcomes").

2.1.2 Human trafficking

In Latvia the concept of human trafficking has been defined in CL section 154^2, pursuant to which the crime of human trafficking comprises three elements: the action, the means and the purpose.

The Criminal Law defines the following actions as characterising human trafficking crime: recruitment, transportation, transfer, concealment, accommodation or reception. The means are violence, threats, abduction by deceit, taking advantage of a person's dependence on the offender or her vulnerability or helplessness, or by giving or obtaining material benefits or benefits of another nature.

The purpose of human trafficking is exploitation, which is understood as:

a) involvement of a person in prostitution or in another kind of sexual exploitation;
b) compulsion of a person to perform labour, to provide services or to commit criminal offences;
c) holding of a person in slavery or other similar forms thereof or keeping a person in servitude;
d) illegal removal of a person's tissues or organs.

In the period from 2010 to 2015 a number of amendments were introduced to section 154^1 and CL section 154^2 on human trafficking.

1) Amendments of 13 December 2012 to CL section 154^1, which entered into force on 1 January 2015, have changed the scope and form of punishment, lowering the minimum punishment. For example, the first part of CL section 154^1 previously provided for a punishment with

deprivation of liberty from three to eight years. Currently, however, the minimum is no longer defined, and punishment with deprivation of liberty up to eight years is envisaged. The second part comprises additional punishment: probation supervision.

2) Amendments of 13 December 2012, which entered into force on 1 April 2013, provided for changes in the enumeration of acts of human trafficking, including also accommodation, as well as expanding the understanding of the concept of exploitation, by providing that also forcing a person to commit criminal offences is to be deemed exploitation. This means that a person can be released from criminal liability if the criminal offence has been committed at the time when the person was subjected to human trafficking and was forced to commit the criminal offence. The aim of these amendments is to protecting the human rights of victims, prevent repeated victimisation and encourage victims to become involved in criminal proceedings as witnesses against the offenders.

3) Amendments of 25 September 2014, which entered into force on 29 October 2014, introduced changes to CL section 154², by including in it the concept of vulnerability. Here the status of vulnerability is defined as circumstances in which the person has no other real or acceptable choice but to submit to exploitation.

Box 3. Legal Regulation: Human Trafficking

Criminal Law

Section 154[1]. Human Trafficking

(1) For a person who commits human trafficking — the applicable punishment is deprivation of liberty for a term up to eight years, with or without confiscation of property.

(2) For a person who commits human trafficking if it has been committed against a minor, or if it has been committed by a group of persons pursuant to prior agreement,—

the applicable punishment is deprivation of liberty for a term of three years and up to twelve years, with or without confiscation of property and with or without police supervision for a term up to three years.

(3) for a person who commits human trafficking if it has endangered the life of a victim or serious consequences have been caused thereby, or it has been committed involving particular cruelty or against an underage person, or it has been committed by an organised group, — the applicable punishment is deprivation of liberty for a term of five years and up to fifteen years, with or without confiscation of property and with or without police supervision for a term up to three years.

(25 April 2002 wording of the law with amendments introduced with the law of 16 December 2004, 13 December 2007, 08 July 2011, 13 December 2012 and 14 March 2013, which entered into force on 01 April 2013. See para 11 of the Transitional Provisions).

Section 154[2]. Meaning of Human Trafficking

(1) Human trafficking is the recruitment, transportation, transfer, concealment, accommodation or reception of persons for the purpose of exploitation, committed by using violence or threats or by means of deceit, or by taking advantage of the dependence of the person on the offender or of his or her state of vulnerability or helplessness, or by the giving or obtaining of material benefits or benefits of another nature in order to procure the consent of such person, upon which the victim is dependent.

(2) The recruitment, transportation, transfer, concealment, accommodation or reception of a minor for the purpose of exploitation shall be recognised as human trafficking also in such cases, if it is not connected with the utilisation of any of the means referred to in paragraph one of this section.

(3) Within the meaning of this section, exploitation is the involvement of a person in prostitution or in other kind of sexual exploitation, the compulsion of a person to perform labour, to provide services or to commit criminal offences, the holding of a person in slavery or other similar form thereof (debt slavery, serfdom or compulsory transfer of a person into the dependence upon another person), and the holding a person in servitude or also the illegal removal of a person's tissues or organs.

(4) Within the meaning of this section state of vulnerability means using the circumstances when a person does not have another actual or acceptable choice, only to submit to exploitation.

(25 April 2002 wording of the Law with amendments that were introduced with the Law of 13 December 2012 and 25 September 2014, which entered into force on 29 October 2014.)

2.2 Description of the System: Institutions Involved and Their Responsibilities

2.2.1 National policy guidelines

The Guidelines on Human Trafficking, 2014–2020 define the implementation of national policy in preventing and combatting human trafficking in Latvia (Cilvēku tirdzniecības pamatnostādnes 2014–2020, gadam, 2014). This is a medium-term policy-planning document which defines the principles, actions and responsible institutions for preventing human trafficking. In general, the Guidelines on Human Trafficking, 2014–2020 continue the policy that was defined in the previous policy-planning documents on preventing human trafficking (Program for Preventing Human Trafficking 2004–2008; Program for Preventing Human Trafficking 2009–2013).

The Guidelines on Human Trafficking, 2014–2020 are based upon four internationally recognised principles of policy against human trafficking: 1) prevention; 2) protection of victims; 4) criminalisation, prosecution and adjudication; and 4) national and international level cooperation of competent institutions and organisations. The description of the system below is organised according to the principles of the policy against human trafficking referred to above.

2.2.2 Prevention

The main task of measures for preventing human trafficking is to decrease the possibility that a person could become a victim of human trafficking. Therefore the most effective line of preventive actions is organising targeted informative and educational events for those groups which can be most easily influenced and subjected to exploitation. The preventive measures implemented in Latvia can be divided into three groups:

1) education at schools;
2) informing the general public;
3) educating specialists.

In Latvia, the Ministry of Education and Science is involved in ensuring prevention at the institutions of education, where this topic is included in the curriculum.

Informing the general public about the problems and risks of human trafficking in Latvia is not organised in a systematic way, since regular state financing is not allocated for this. Public awareness campaigns are primarily implemented by non-governmental organisations, which attract financing to the extent that they can, and in the form of projects. Specialists of state institutions support information campaigns and participate in such activities as lecturers or by providing information. Projects by non-governmental organisations (NGOs) are based upon very diverse sources of financing, among which the financing allocated by the United States Government and regular support to projects by the Riga City Council deserve special mention.

Similarly, on the national level the training of specialists who would be able to identify victims of human trafficking is not organised in a sufficient scope. Projects implemented in Riga can be mentioned as a positive example (financing by the Fund for Maintaining Public Order of the Riga City Council), where since 2010 every year as many as 100 specialists of the Riga City Council (social workers, employees of municipal police and social pedagogues from schools in Riga) participate in training. Unfortunately, similar initiatives have not been launched in sufficient scope outside Riga. In Latvia, sufficient state budget resources for organising the training of specialists are not granted.

2.2.3 Victim protection

The Social Services and Social Assistance Law envisages that victims of human trafficking receive social rehabilitation services that are paid for out of the state budget. The law defines a victim of human trafficking as a person who has been recognised as a victim in a criminal offence amounting to human trafficking, or to whom the State Police has issued a statement that he or she is a victim of human trafficking in a foreign state, as well as a person who has been recognised by a provider of social services as complying with the criteria of victim of human trafficking.

The Ministry of Welfare bears the responsibility for organising the provision of social rehabilitation services and the administration of the finances allocated by the state. Before social rehabilitation services can be paid for by the state, an assessment needs to be made of whether or not a person fulfills the criteria of a victim of human trafficking. For this purpose, the service provider establishes a special commission, which includes a social worker, a psychologist, a lawyer, an official of the State Police, and, if necessary, other specialists. The rehabilitation program for victims of human trafficking ensured by the state lasts 180 calendar days. In addition to this, a person may receive five consultations by a service provider (a consultation lasts one hour) within two years after the course has been completed, unless the person in question receives support that is provided during criminal proceedings. The support that is provided during criminal proceedings after the course of services has been completed includes psycho-social assistance (including individual consultations with a lawyer, a social worker, a psychologist), interpreter's services, assistance in drawing up legal documents and, if necessary, representation at court, not exceeding 150 hours annually.

In Latvia, assistance and services to victims of human trafficking are provided by two NGOs, the Shelter "Safe House" and the Resource Centre for Women "Marta". From 2007 to 2015 the services paid for by the state to victims of human trafficking were provided by the Shelter "Safe House", and in 2007, 2015 and 2016 the provider was the Resource Centre for Women "Marta".

It is possible to report on human trafficking cases or request assistance by using a number of assistance and informative hotlines. Anyone can report information about possible cases of human trafficking by using the emergency number 112 or by contacting the Organised Crime Combating Board of the Main Criminal Police Board of the State Police (OCCB) or an NGO which provides support to victims of human trafficking.

The Shelter "Safe House" runs a hotline service designed to decrease human trafficking, and which educates callers about what action should be taken in a particular situation. It is one of the resources available if assistance is needed in human trafficking cases in Latvia or abroad. Also the Resource Centre for Women "Marta" maintains a free informative hotline on weekdays from 10.00 to 18.00 to provide assistance and support in difficult life situations.

The Consular Department of the Ministry of Foreign Affairs provides a toll-free information phone line for travellers, providing advice on safe travelling, work abroad and other consular issue, as well as a 24-hour line for emergencies: death, severe diseases, disasters, etc.

2.2.4 Combatting human trafficking

Identifying, combatting and preventing human trafficking is the task of the OCCB. The State Border Guard has the task of controlling compliance with the regulations on arrival in, residing in, leaving and transiting the territory of the

Republic of Latvia by foreigners. This applies also to those foreigners who have married or intend to marry Latvian nationals.

The employees of both the State Police and the State Border Guard receive regular training on issues of preventing human trafficking and identifying victims of human trafficking, since it is important to improve the ability of police officers and border guards to identify possible victims of human trafficking.

The supervision of investigation and prosecution in criminal proceedings that are linked to human trafficking is carried out by prosecutors of the Specialised Prosecutor's Office for Organised Crime and Other Branches.

In describing the case law in human trafficking cases on the basis of section 154^1 of the Criminal Law, it must be highlighted that these cases typically have a large number of victims and that court hearings are frequently postponed, because the victims have not come to the court or are abroad. The legal proceedings are also frequently suspended because the accused persons are hospitalised due to illnesses. Due to these reasons the legal proceedings take a very long time. This is the main reason why the total number of sentenced persons is small, compared to the number of criminal proceedings that have been initiated or adjudicated by a first instance court. The court rulings between 2009 and 2013 show that in general within this period ten persons have been accused of committing a crime envisaged by section 154^1 of the Criminal Law, of which five have been found guilty and have been sentenced, and five persons have been found not guilty (Liholaja 2014).

2.2.5 Cooperation between competent institutions and organisations

Cooperation between institutions and organisations to prevent human trafficking and sham marriages is ensured by a working group that has been established to coordinate the implementation of the Guidelines on Preventing Human Trafficking, 2014–2020. The working group was established by Order of the Prime Minister No. 307 on 25 August 2014. However, it should be noted that a similar working group operated also at the time when the previous development policy-planning documents were in force and, correspondingly, when it coordinated the implementation of the policy-planning document that was valid during the period in question.

The working group has the task of coordinating the actions of institutions of public administration, local governments and non-governmental organisations in implementing the Guidelines on Preventing Human Trafficking, 2014 – 2020, as well as ensuring effective exchange of information and concerted actions in preventing human trafficking and providing support and social services to victims of human trafficking. In total, 32 representatives from state institutions and non-governmental organisations have been approved as members of the working group.

2.3 Statistical information

To characterise the prevalence of sham marriages that are related to crimes of human trafficking in Latvia and the scope of involvement by Latvian citizens in these offences, different statistical information[1] is used. It is important to stress that the detected crimes and identified victims of sham marriages are only a part of those who might be involved.

Statistical information on human trafficking victims is collected by those who provide social rehabilitation services to human trafficking victims. According to the information provided by the NGO "Shelter "Safe House"", from 2007 until 2014 the NGO provided social rehabilitation services to 113 persons, of whom 59 had been linked to sham marriages. In 2014 there were 27 officially recognised victims of human trafficking, of whom 15 (again, more than a half) had been exploited in situations of sham marriages. These statistics show that more than a half of the identified human trafficking cases in Latvia are linked to the phenomenon of sham marriage. In this regard one must take into consideration that Latvian citizens become involved in sham marriages predominantly abroad, not in Latvia, but the recruitment of people for sham marriages takes place in Latvia (Latvia is traditionally a country of origin), and also, most often Latvian citizens seek assistance from Latvian institutions, not from those of other countries. The fact that the identified victims are only a part of all victims is also indicated by the statistics collected by the Shelter "Safe House" regarding consultations provided over the 7/24 hotline in 2014: all in all, advice had been provided in 220 cases on various issues, and in 63 of these cases the advice was linked to sham marriages.

The statistics collected by the Shelter "Safe House" on the recipients of social rehabilitation services paid for by the state in 2013 and 2014 reveals that the main types of exploitation faced by victims of human trafficking from Latvia are involvement in sham marriages, sexual exploitation and labour exploitation (Table 1). Most often the victims seek assistance from the Shelter "Safe House" or seek assistance through Latvian embassies abroad.

[1] The reference period in every particular case is provided according to the available information.

Table 1. Statistics collected by the Shelter "Safe House" about the recipients of social rehabilitation services paid for by the state.

	2013	**2014**
Total number of new victims of human trafficking	19	27
Total number of all victims that have received services in the year in question, including also those who started rehabilitation in the previous year	33	38
Gender		
Women	32	30
Men	1	8
Type of exploitation		
Sham marriages	17	15*
Sexual exploitation	8	
Labour exploitation	8	12*
Institution which identified and referred the victim for the provision of social rehabilitation services		
State Police	3	1
Latvian embassies	8	6
Social services	4	1
NGO "For Vidzeme Free from Human Trafficking"	0	4
Contacted himself or herself	7	14
States where human trafficking cases involving Latvian citizens have been detected	Ireland United Kingdom Cyprus	Ireland United Kingdom Brazil, Greece Cyprus Germany Sweden

* Victims identified in the year in question

Source: Society "Shelter "Safe House"".

Latvian embassies abroad collect statistical information about the number of those Latvian nationals abroad who turn to Latvian embassies for assistance in a situation where human trafficking is suspected.

During the last five years (from 2011 until 30 June 2015) the Latvian diplomatic missions abroad have provided assistance to 365 possible victims of human trafficking (Table 2). Most often assistance has been sought at the Latvian Embassy in Ireland (two thirds of all cases, or 241 cases). The second Latvian embassy where assistance is sought most frequently is in the United Kingdom (14 % of all cases, or 53 cases), and the Latvian Embassy in Greece ranks as third (5 % of all cases, or 17 cases). This statistics do not comprise detailed information regarding whether or not the cases are linked to sham marriages. However, suspicion regarding a close link to sham marriages is caused both by the experience of consular staff and also the study conducted by the Latvian Embassy in Ireland (see below), as well as the available statistical information about the very high number of marriages concluded with third-country nationals, where the third-country nationals have requested residence permits on the basis of being married to a Latvian citizen (Table 5).

Table 2. Assistance provided at Latvian diplomatic missions abroad to possible human trafficking victims 2011–30 June 2015.

Latvian diplomatic missions abroad	**2011**	**2012**	**2013**	**2014**	**2015, I–VI**	**TOTAL**
United States	0	0	1	0	0	1
Austria	0	0	1	0	0	1
Belgium	0	1	0	0	0	1
Denmark	0	0	0	0	1	1
France	12	0	1	2	0	15
Greece	0	7	7	1	2	17
Italy	1	1	0	0	0	2
Israel	0	0	2	0	0	2
Ireland	89	74	47	22	9	241
Japan	0	0	0	1	0	1

Latvian diplomatic missions abroad	2011	2012	2013	2014	2015, I–VI	TOTAL
United Kingdom	2	19	14	10	8	53
Netherlands	2	0	0	3	5	10
Norway	0	0	0	1	0	1
Poland	0	2	0	0	0	2
Turkey	0	0	1	0	0	1
Germany	5	7	1	2	0	15
Sweden	1	0	0	0	0	1
TOTAL	**112**	**111**	**75**	**42**	**25**	**365**

Source: Consular Department of the Ministry of Foreign Affairs.

The statistics regarding the phenomenon of sham marriages collected by the State Police pertains, first of all, to criminal proceedings that have been initiated on the basis of CL section 285^2, which entered into force on 1 April 2013, and, secondly, on the basis of CL section 154^2 on human trafficking (Table 3).

In 2013, 7 criminal proceedings were initiated in Latvia on the basis of CL section 285^2, in 2014, 13 criminal proceedings, and in 2015, 11 criminal proceedings (the OCCB data as of 11 December 2015). In the criminal proceedings that have been initiated, 16 persons have been recognised as suspects (14 women and 2 men) in 2015.

To turn to CL section 154^2 on human trafficking, one of the criminal proceedings initiated in 2010 and one of the criminal proceedings initiated in 2014 involved forced marriage, and two of the criminal proceedings initiated in 2015 involved forced marriage. The representatives of the State Police stated that during 2011–2013 more cases had been investigated. However, the cases were not forwarded for criminal proceedings, because the presence of exploitation, which would allow these cases to be defined as human trafficking cases, could not be proven. Since CL section 285^2 entered into force on 1 April 2013, similar cases are forwarded for judicial proceedings on the basis of CL section 285^2.

Table 3. Criminal proceedings that have been initiated on the basis of section 154^2 of the Criminal Law on human trafficking, 2009–2014.

Year	Criminal proceedings initiated	Suspects	Criminal proceedings forwarded for adjudication	Persons against whom criminal proceedings have been forwarded for adjudication
2009	3 (2 for forced marriage, 1 for sexual exploitation)	4 (2 men and 2 women)	3	10 persons
2010	(2 for sexual exploitation, 1 for forced marriage)	4 (2 men and 2 women)	3	4 persons (3 men, 1 woman)
2011	0	0	0	0
2012	3 (sexual exploitation)	2 persons (2 men)	1	1 person (1 man)
2013	5 (sexual exploitation)	6 (5 men and 1 woman)	1	1 person (1 man)
2014	1 (forced marriage, sexual exploitation, forced labour)	14 (10 men and 4 women)	0	0
2015	3 (2 for forced marriage, 1 for sexual exploitation)	9 (3 men and 6 women)	2	12 persons (8 men, 4 women)

Source: State Police, the OCCB.

On the basis of CL section 154^1, in 2015 three criminal proceedings have been initiated in Latvia (two cases involving forced marriage, and one involving sexual exploitation). Nine persons have been recognised as suspects (three men and six women). Two criminal proceedings have been transferred for criminal prosecution (against 12 persons; 4 women, 8 men). Two persons have been recognised as victims of human trafficking; an adult woman with signs of vulnerability and one underage girl.

The representative of OCCB underscores that they initiate criminal proceedings in case of sham marriages on the basis of CL section 154^1 on human trafficking. The OCCB has developed an approach for qualifying these as human trafficking crimes. The most important aspects that characterise crimes of human trafficking linked to sham marriages are, first of all, that they are organised by a group of persons involving contractors, organisers, recruiters and go-betweens. Secondly,

there are signs that these crimes have been committed with the purpose of financial gain, and a person's vulnerability is abused. Thirdly, victims are exploited by being forced to provide compulsory services (sham marriage), but since the amendments to CL which entered into force on 1 April 2013, it can be qualified as forcing to commit a criminal offence; i.e., ensuring in bad faith to a person the possibility of acquiring a legal residence permit in accordance with CL section 285^2 (sham marriage) (Table 4).

Table 4. Approaches to qualification in criminal proceedings initiated by OCCB on the basis of CL section 154^1 in cases involving sham marriages: acts, means, purpose.

Acts	Means	Purpose: types of exploitation
Recruiting, transporting, transferring, accommodation or reception	**A person's vulnerability, threats, abduction with deceit,** giving or receiving material or other kinds of benefits	a) **compulsory service** b) **forcing to commit criminal offences** (in particular: ensuring in bad faith to a person the possibility of acquiring a legal residence permit, in accordance with CL section 285^2)*

* Qualification which became possible after amendments to the Criminal Law of 13 December 2012 and that entered into force on 1 April 2013.

The statistics reviewed above predominantly refer to sham marriages that have been concluded abroad, but the OCMA and the State Border Guard examine cases where it is suspected that a sham marriage is concluded in Latvia. Pursuant to an established procedure, in cases of suspecting sham marriages with third-country nationals, the OCMA representatives turn to the State Border Guard with the request to conduct inspections at the spouses' places of residence. In 2014 the State Border Guard conducted 223 inspections regarding spouses' cohabitation, and in 48 cases sham marriages were suspected. During the ten years following 2004, a total of 38 temporary residence permits have been annulled on the basis of a sham marriage in Latvia, of which 19 were annulled over the last five years. It must be added that in the period from 2011 to mid-2015 seven persons have turned to court to appeal the decision to annul a residence permit or the refusal to issue it. In four of these seven cases, the court rejected the appeal, but three cases are still being adjudicated.

Table 5. Total number of temporary residence permits in Latvia annulled on the basis of a concluded sham marriage in 2009–2014.

Year	Number of annulled temporary residence permits	Nationality of persons whose temporary residence permits were annulled
2009	6	Russia (2), Georgia (3), Armenia
2010	5	Russia (2), Armenia (2), Ukraine
2011	5	Pakistan, South Africa, United States, Turkey, Russia
2012	5	Russia (4), Cameroon
2013	3	Kazakhstan, Pakistan, Ukraine
2014	1	Jordan

Source: Office of Citizenship and Migration Affairs.

Until now the largest share of sham marriages with Latvian citizens concluded abroad has been observed in Ireland. This is the reason why marriages of Latvian citizens in Ireland have been the focus of more attention, and the Consular Department of the Ministry of Foreign Affairs collects information provided by Irish institutions on marriages between Latvian citizens and third-country nationals that have been concluded in Ireland. These marriages are concluded primarily with citizens of Pakistan, India and Bangladesh, and therefore statistics regarding Latvian citizens' marriages is collected about these countries.

The available statistics (Table 6) shows that in recent years the largest number of marriages concluded between Latvian citizens and third-country nationals was in 2009, when 257 marriages with citizens of Pakistan, 90 marriages with citizens of India, and 20 marriages with citizens of Bangladesh were concluded in Ireland, a total of 367 marriages. To compare, in 2014 in Ireland 225 marriages were concluded with third-country nationals, and citizens of Pakistan continued to be the largest group with whom Latvian citizens (mostly women) concluded marriages (76 marriages in 2014).

Over the last six years (2009–2014) a total of 1262 marriages have been concluded with third-country nationals in Ireland, of which approximately 50 % were with citizens of Pakistan, and 14 % with citizens of India. It must be underscored that all these marriages are not sham marriages or marriages in which exploitation occurs. However, persons who provide social rehabilitation services to victims of human trafficking and staff members of Latvian diplomatic missions abroad voice concern that, possibly, a large part of these marriages are nevertheless fictitious, for one or for both parties. Suspicion of a sham marriage is particularly strong when the spouses do not co-habit and meet only once a year to visit the migration services in a particular country to extend the residence permit.

Table 6. Number of marriages concluded between Latvian citizens and third-country nationals in Ireland in 2009–2014.

Nationality of the third-country national	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**Total** (2009–2014)
Pakistan	257	143	56	28	65	76	625
India	80	37	15	5	18	22	177
Bangladesh	20	20	16	9	7	–	72
Other	*	45	37	66	113	127	388
Total	**357***	**245**	**124**	**108**	**203**	**225**	**1262**

* Regarding 2009 information is provided only about marriages concluded with citizens of Pakistan, India and Bangladesh.

Source: Consular Department of the Ministry of Foreign Affairs.

In the period from October 2010 until August 2013 the Latvian Embassy in Ireland conducted a study entitled "Social profile of Latvian citizens – potential and current participants of sham marriages". For the purpose of the study, the Embassy surveyed Latvian citizens who had turned to the Embassy in Ireland in connection with a planned marriage to a third-country national. The summary of the study (Buša 2015) shows that 90 % of the total of 500 respondents had arrived in Ireland shortly before concluding the marriage. This fact causes concern about the possibility of sham marriages, as it can be assumed that the couples in question had not dated, co-habited or even known one another for long before the marriage.

Secondly, it must be noted that in 104 cases (21 %) these were young women who had not even reached the age of 20. In a rather large number of cases more than one member of the same family planned to get married to a third-country national at the same time: sisters (29 cases), or a mother and a daughter (four cases). This is not impossible, but it might raise suspicion of a sham marriage. In more than 185 cases (37 %) the women who are planning to get married to a third-country national came from large families, with four or even more children. In 167 cases (33 %) the future brides already had children, and in 71 cases two or more children.

In the study, three cases were identified where it was suspected that a male citizen of Latvia had concluded a sham marriage with a third-country national abroad (Buša 2015).

3. Description of the Study

To characterise the phenomenon of exploitative sham marriages in Latvia, two qualitative research methods were used. First of all, in-depth interviews with experts who encounter problems with human trafficking and sham marriages were conducted, and secondly, five cases of exploitative sham marriages have been analysed. To ensure comparability of the study outcomes with those of other countries involved in the HESTIA project "Preventing Human Trafficking and Sham Marriages: a Multi-disciplinary Solution" (Lithuania, Estonia Ireland and Slovakia), the research methodology developed by the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), guidelines on interviewing experts, as well as on interviewing the victims of exploitative sham marriages, were used.

The semi-structured thematic interviews cover the following research topics: the profile of the victims of exploitative sham marriages, patterns of victim recruitment, travelling to and arrival in the destination country, life in the destination country and exploitation, organising sham marriages, identifying victims and providing assistance, and the opinion of the interviewed experts and victims of exploitative sham marriages on necessary preventive measures. These topics constitute the basis for further presentation of the study, which is based upon analysis of information provided by experts, as well as information obtained from the cases of and interviews with the victims of exploitative sham marriages.

The study was conducted during the summer and autumn of 2015.

3.1 Expert interviews

A total of 15 in-depth interviews were conducted with 17 experts. The persons interviewed were experts from the Ministry of Foreign Affairs, the Ministry of Justice, the Office of Citizenship and Migration Affairs, the Prosecutor's General Office, the State Police, the Riga City Civil Registry Office, providers of social rehabilitation services (the Shelter "Safe House" and the Resource Centre for Women "Marta"), as well as representatives of the social services of a number of local governments and the NGO "For Vidzeme Free from Human Trafficking".

Eleven interviews with experts were conducted face-to-face, and four interviews were conducted by phone. These latter were interviews with experts outside Riga: representatives of social services of local governments and the NGO "For Vidzeme Free from Human Trafficking". All the interviews were conducted in Latvian. However, Latvian was not the first language for all the experts. The amount of information gathered on the phenomenon of exploitative sham marriages in expert interviews differed considerably in accordance with the particular competence of the informant. The interviews conducted with

representatives of the NGOs Shelter "Safe House"[2] and the Resource Centre for Women "Marta", as well as with representatives of the State Police and the Prosecutor's General Office, were particularly informative, as these experts had direct experience with cases in which elements of exploitative sham marriages could be detected. The other experts predominantly have faced this phenomenon indirectly or occasionally, and therefore they have been cited to a lesser degree. All interviews with experts were audio recorded, and part of the interviews was transcribed. The quotes used in the report have been translated into English. The interviews conducted with the representatives of the NGOs Shelter "Safe House" and the Resource Centre for Women "Marta" are quoted as "an interview with a provider of social rehabilitation services". The interviews conducted with the representatives of the State Police and the Prosecutor's General Office are quoted as "an interview with a representative of the police/prosecutor's office". The interviews conducted with the representatives of the Ministry of Justice and other experts with a legal education and expertise in human trafficking, but not providing social rehabilitation services, are quoted as "an interview with an expert – a lawyer".

3.2 The case studies

All cases refer to persons who have received assistance at the NGO Shelter "Safe House" and who have been defined as victims of human trafficking. The case studies of five exploitative sham marriages combine analysis of documents and interviews with the victims of exploitative sham marriages in those cases where the documentary information was insufficient for analysis.

The documents analysed were those included in client files of the NGO Shelter "Safe House", which include a written description of the experience by victims of exploitative sham marriages, and information gathered during the process of social rehabilitation. At the outset, all the documents were analysed and the information provided by victims in written form was coded according to themes defined in the methodology. After the analysis of documents, information that was missing was gathered by asking questions directly of victims. In one case the interview has been done face-to-face, in one case by phone, and in one case via Skype. In two cases the victims were not contacted personally. No recording and transcribing were provided. In all cases the main source of information are files written personally by victims before the program of social rehabilitation, and this has been included in the quotes from the victims. The case information was prepared by a representative of the NGO Shelter "Safe House" in order to guarantee full anonymity and to avoid re-traumatising the victims.

In all five cases sham marriages had been concluded abroad, and the victim of the exploitative sham marriage moved from Latvia to the destination country (in four cases to Ireland, and in one case to Germany). Two persons turned directly to the NGO Shelter "Safe House" for assistance after they had returned to Latvia,

[2] The NGO Shelter "Safe House" is a partner in the HESTIA-project.

while others received support for returning to Latvia from the Latvian Embassy in Ireland. The Latvian Embassy had also advised them to turn for help to the NGO Shelter "Safe House".

In two cases the sham marriage with a third-country national had been recognised by the court as void from the moment it was concluded (court decision based on section 60 of the Civil Law). In the other three cases documents have been submitted to court, and currently the court is considering whether or not to recognise the sham marriage as void. The time of actual exploitation was between 2012 till 2014.

A short description of each case is provided in Box 4.

Box 4. Cases of exploitative sham marriages included in the study

Case 1. A woman, 35 years, divorced, three children, living with a divorced Latvian husband in Ireland, lived in Latvia in the countryside. Worked as a baby-sitter in a family of a Polish woman and a third-country national in Ireland. The third-country national offered a fictitious marriage to his brother, and promised payment for this. Before the marriage to her employer's brother, the woman started living with him. The woman was not allowed to leave the room she was allocated, was not allowed to get in touch with relatives and friends, was given food once per day, was forced to provide sexual services to the future husband, was promised that she would be allowed to return to Latvia after the marriage ceremony. The sham marriage was recognised as void (court decision based on section 60 of the Civil Law).

Case 2. A woman, 20 years, unmarried, no children, lived in Latvia in the countryside. After graduating from the secondary school, worked as a dressmaker for a very low salary. An acquaintance offered a well-paid job in Germany, without specifying what kind of job. When the woman arrived in Germany, she was told that there was no job and that she had to marry a third-country national. Remuneration was promised for concluding the marriage and "releasing her from debt"; i.e., she would not have to repay the money for the plane ticket, but, if she would not agree, threats were made that she would be left at the airport without money and she would not be able to return to Latvia. Her documents were seized and her possibility of leaving the apartment was restricted. She was not allowed to get in touch with her relatives and friends. After pleading it for a long time, she was bought an economy class ticket to Latvia and she returned to Latvia. Documents submitted in court and currently the court is considering whether or not to recognise the sham marriage as void.

Case 3. A woman, 20 years, unmarried, no children. lived in Latvia in the countryside. A friend invited her to Ireland and offered a job there. There was no job in Ireland, and the woman was told that she was in debt and therefore had to marry a third-country national. After the sham marriage was concluded the woman returned to Latvia, but after some time the fictitious husband demanded that she return to Dublin to confirm the existence of the marriage. On this occasion her documents were taken away and she was sexually abused, and she and her minor daughter, who had been born from a relationship in Latvia, were beaten. The woman's half-sister has also concluded a sham marriage. Documents submitted in court and currently the court is considering whether or not to recognise the sham marriage as void.

Case 4. A woman, 22 years, unmarried, a 6 months old child. Lived in Latvia in the countryside. The woman came from a large family living in poor material conditions. Was recruited for the sham marriage by a relative who promised the woman and her child a better life and a job in Ireland. When she arrived in Ireland, she was forced to marry a third-country national. The woman was subjected to sexual exploitation and threats, and both she and her small child were beaten. Two more children were born in this sham marriage. The sham marriage was recognised as void (court decision based on section 60 of the Civil Law).

Case 5. A woman, 19 years, unmarried, no children, grew up in a child care institution. Lived in Latvia in a small town. The woman was offered a job in Ireland in social media. When she came to Ireland, she was met by two third-country nationals and it turned out that there was no job. The woman was introduced to another third-country national, who courted her and proposed marriage. After their wedding the husband's attitude changed, her documents were seized, she was controlled, physically abused (kicked, her hair pulled) and forced to engage in sexual relationships, as the result of which a child was born. Documents submitted in court and currently the court is considering whether or not to recognise the sham marriage as void.

4. Research Outcomes

4.1 Recruiting victims

4.1.1 Patterns of victim recruitment

The cases of victims of exploitative sham marriages and interviews reveal a number of patterns in recruiting victims of exploitative sham marriages. There are cases in which a woman's trust is misused to recruit her for a sham marriage, and she is deceived. In such cases the victim is initially told that she would be offered some kind of job abroad and the possibility to earn money; however, upon arriving in the destination country, it turns out that there is no job:

> "My acquaintance S. offered a well-paid job, without saying concretely what kind of job, in Germany, no need to know German. I agreed and flew together with S. to Germany. S. paid for the plane ticket because I had no money. But it was not mentioned before that I would have to return the money." (Victim 2)

In a situation where a woman has travelled to a foreign country without knowing the language of this country, and the ticket has been paid for by the recruiter, psychological pressure is exerted upon the woman, and it is emphasised that she is in debt to the recruiter and therefore she must conclude a sham marriage, or, to phrase it differently, the woman is driven into debt bondage:

> "At the airport we were met by two men of dark complexion, and following a conversation with them S. told me that there was no job, but I had to marry one of them. I did not agree, but S. insisted that her friends should not be disappointed. [I was] promised 2000 EUR for concluding the marriage, and I would not have to return the money for the plane ticket. If I did not get married, I would be left at the airport without money and would not be able to return to Latvia. I became afraid because I was abroad for the first time, did not speak German. That is why I agreed to the sham marriage." (Victim 2)

These cases should be recognised as forced sham marriages, in which a woman, through deceit, manipulation, lack of language skills, is forced to conclude a sham marriage without being promised any remuneration whatsoever. She is forced to conclude a sham marriage to repay the debt caused by the travel costs:

> "My friend I. invited me to visit her in Ireland and promised to find a job there. I. bought the plane ticket. [...] In Dublin I lived with I. She made excuses that at the moment the job had been taken by someone else, and I had to wait until it would be vacant again, or I. would look for another opportunity. [...] I. also reminded me that she had covered all the travel costs, and I was in debt to her, and that I had to repay this debt. I did not understand that I was being manipulated, and therefore I agreed to conclude the marriage." (Victim 3)

In another case the woman was directly told that she had been bought for marriage in order to ensure a residence permit to the husband. Psychologically and economically dependent upon others, women give in to such pressure:

> "When I, using a dictionary, tried to ask where my job was, my future husband answered that I had come here to get married, that he had paid for me and that I had to get married to him." (Victim 4)

There are also cases in which women have intentionally and voluntarily concluded sham marriages, and in such cases the fact that women had been in an economically difficult situation and had needed money had been used. However, in the case of exploitative sham marriage these women are deceived, the money is not paid, and they are subjected to various types of exploitation:

> "I worked as a baby-sitter in a family of a Pole and a Pakistani man in Ireland, and was paid a very low salary – 75 euros per month. The Pakistani man offered to me to marry his brother, and since I really needed the money, I agreed. The offer was to pay 400 EUR for concluding the marriage. I was not aware of the risks that could arise after concluding such a marriage." (Victim 1)

In the interviews, the providers of social rehabilitation services stated that recently women who become involved in sham marriages voluntarily most often are not paid and are deceived, or the payment is very small:

> "Over the years the amounts have become extremely small. [...] For a woman "to fall for the bait" of an offer of a sham marriage, three, four thousand euros are offered for concluding the marriage, but there are no guarantees that they are going to get these amounts. After the marriage has been concluded, the recruiter quickly adds up his costs and tells the woman: "Yes, of course, four thousand, but you had to pay for the travel, get food, you did not work yourself, I kept you, and also the apartment costs should be split in half, you live there, don't you? And, look, what a phone I bought for you, and a new computer." (An interview with a provider of social rehabilitation services)

No remuneration for concluding a sham marriage is paid to those women, who are deceived because they believed that it was a case of a genuine marriage with a third-country national, since they had formed this impression after the initial courting and the promise to marry:

> "No job was found in a week's time, as was promised, and neither within a month. I was introduced to a man of Indian origin, who was very friendly, attentive, caring, and he quickly won my trust and attachment. After some time he proposed marriage to me and offered to live with his uncle. I agreed, because I was in love with him. [...] I was in love, I hoped that I would have a happy family life." (Victim 5)

The recruitment approach, in which a sham marriage is not offered, but instead the illusion of a real relationship is created, is very advantageous to third-country nationals, since they do not have to pay for concluding a sham marriage. The interviewed providers of social rehabilitation services believe this to be a very widespread strategy of recruitment. In such cases it is very difficult to prove that the woman has been used, because the woman believes that the marriage was a genuine one, not a sham. However, a number of features point to the fact that the marriage had been genuine only for one party, since the prospective husband has hastened the woman into marriage and to giving birth to a child (a child in common with a Latvian citizen is sufficient grounds for receiving a EU residence permit), but the most important – the relationship – is subordinated to visiting migration services to receive the residence permit:

> "Girls really fall in love, they dream of a real family, in particular those who have lived for many years at an orphanage. The potential bridegrooms make an effort to court the girls, woo them, are attentive and caring, well, since what do Latvian guys

need after a party – to get married? Getting married, showing one's feelings are not in vogue in Latvia. But here – those bridegrooms are very hot-blooded, will say three times per day that he loves her, they do not want sex before marriage. The dream of every girl. The wedding, the white dress. And he is handsome." (An interview with a provider of social rehabilitation services)

In general, recruiting predominantly takes place by addressing a particular individual directly in person or by using social media. It is important to underscore that often persons who are known to the victim are involved in recruiting – an employer, an acquaintance, a friend, relatives, but there are also cases where girls are recruited by strangers via social media. A situation in which the recruiter is a relative or friend is more traumatic for the victims of an exploitative sham marriage, since women are deeply hurt by being betrayed by someone close to them:

"The most traumatic but not the most frequent case is when the recruiters are friends, relatives of these women, people with psychopathic behaviour; they feel no empathy and care only for their own benefit. It is traumatising, since the victim trusts these people and the feeling of betrayal causes lots of suffering." (An interview with a provider of social rehabilitation services)

"She was recruited by her sister, who lives in Ireland. Went to her sister, there was no job – a classic scheme, and then the sister suggested a marriage. On the very next day different men were brought to see the woman – different guys – those who were more brazen took greater liberties. The woman understands that this would not end well, and flees." (An interview with a provider of social rehabilitation services)

The fact that the recruiter is known to the victim does not mean that he or she is not involved in an organised criminal group. Both interviews with experts and the victims reveal that those acquaintances who are engaged in recruiting try to involve also other women in sham marriages:

"The recruiter was an acquaintance who was living abroad. And it is known that this was not the only victim. There had been attempts to invite also other girls to come abroad. It looks like a criminal group. The police are investigating this case." (An interview with a provider of social rehabilitation services)

Recruitment on social media is more extensive and mass-scale. Tens or hundreds of e-mails or messages are sent, and only some "fall for the bait:"

"These are social media and the Internet. The numbers of those who are approached are much larger than of those who agree. The recruiters approach, by considering such factors as poverty, inability to assess the situation, needs. [...] Ads are deceitful – about jobs, education." (An interview with a provider of social rehabilitation services)

Interviews with persons who provide social rehabilitation services reveal that some of the victims of exploitative sham marriages also become involved in recruiting future victims. Sometimes they do this voluntarily, hoping to get paid for recruitment, sometimes they are simply used. For example, the victims' social media profiles are used:

"She herself had recruited two girls. She was forced to do it. She herself is in a sham marriage. Unfortunately, there is intentional recruiting in which a person is aware of

what she is doing, but there are cases where the person does not know that she is being used as a recruiter/ go-between. When using social media, you may be unaware of having participated in recruiting." (An interview with a provider of social rehabilitation services)

4.1.2 Groups of population that are subject to the greatest risk of becoming victims of exploitative sham marriages

In Latvia the majority of identified victims of human trafficking and exploitative sham marriages are women. This does not exclude the possibility that men also are victims; however, they have not been identified. As regards the age of identified victims, it must be noted that women belonging to various age groups become victims of exploitative sham marriages. However, a trend can be discerned that most often these are young women, approximately 20 years old, and also that most often these are women with basic or uncompleted secondary education. Many of them do not know the language spoken in the particular country and the lack of language proficiency renders them rather helpless abroad:

"I was taken to an apartment to my potential bridegroom. I could not speak with the bridegroom, because I do not speak English. We communicated by using Google Translator." (Victim 2)

The interviews with the providers of social rehabilitation services reveal that those who have grown up in dysfunctional families, where parents had addiction problems, where children suffered from violence in the family, and where parents neglected their children, are subject to a greater risk of becoming a victim of an exploitative sham marriage. Also interviews with the victims of exploitative sham marriages reveal that lack of support within the family is one of the risk factors for falling into the nets of recruiters:

"I had nobody to talk to, my mum did not care what I did, and she just wanted to have me off her neck." (Victim 3)

Girls who have grown up in child care institutions (out-of-family care institutions) are a special risk group, because they have a pronounced need for family relationships, which is combined with poor social skills: not all girls are able to differentiate between the desired and the real, and they can be easily manipulated:

"Those who have grown up in orphanages have one more factor which is stronger – an excessive need for a relationship. And it does not matter if the person is rich or poor, educated or less so. If someone has an excessive need for relationships, this is already a risk factor. [...] Emotional, psychological risks – negative experiences with relationships, which makes the need for positive relationships more acute. There can be situations of crisis when we become more vulnerable." (An interview with a provider of social rehabilitation services)

In many of the identified cases the victims of exploitative sham marriages are persons who have been diagnosed with a moderately severe or severe intellectual disability, which is also an essential factor, since the helplessness of these

persons and their inability to assess the situation adequately, and inability to seek help is abused:

> "In this case only one girl was forced to conclude a marriage, others managed to escape. All the girls had been told that they would go abroad to work, and all the girls had an intellectual disability. They had been told that they would go to London, will lead a beautiful life, and earn good money. They were going away to work. When they came, they found out that they would have to conclude sham marriages with Pakistani men." (An interview with a representative from the police/ prosecutor's office)

The women who are recruited for sham marriages are predominantly from lower income levels, and their complicated economic situation is used to manipulate them (sham marriages concluded as the result of fraud). A low income is an important factor also when the women are provided an incentive for becoming involved in this transaction (sham marriages with informed consent, hoping to receive remuneration), and also in situations in which the man is trying to convince her that his feelings are genuine:

> "They are abused by making them economically dependent upon the recruiter or the go-between, or other vulnerabilities are used. Women are cheated by the men – they show emotions, and the women believe that the relationship is genuine." (An interview with a provider of social rehabilitation services)

In many exploitative sham marriage cases where the women initially agreed to the transaction of concluding a sham marriage, their main incentive was money. The women hoped that immediately after getting married they would receive money and would be able to leave, but in reality many face threats and violence both before and after concluding the sham marriage:

> "What follows from the materials in the criminal case: they dream of a better life, of getting crazy money – two, three thousand, immediately after concluding a marriage, and then returning to Latvia. But they have to stay there. In some cases they are beaten, treated cruelly, they cannot return to Latvia, back home, they are coerced emotionally and psychologically." (An interview with a representative of the police/ prosecutor's office)

In general, it can be concluded that the probability of falling into recruiters' nets is higher for certain vulnerable groups of people:

- ➢ women with a low level of education;
- ➢ women who have grown up in child-care institutions (out-of-family care institutions);
- ➢ women who have grown up in dysfunctional families, in which adequate parental care was not provided (parents with addiction problems, violence in the family, large families, parental neglect);
- ➢ women who have been diagnosed with a moderately severe or severe intellectual disability;
- ➢ women who have grown up in poor economic conditions (poverty, bad living conditions);

➢ women who are bringing up children alone.

Quite often the victims of exploitative sham marriages are subject to a number of risks. However, these risk factors are not shared by all.

4.2 Travelling and arriving in the destination country

Different EU and EEA countries have different legal frameworks and approaches to the regulation and control over marriages to third-country nationals. This determines why in some countries sham marriages between Latvian citizens and third-country nationals are more frequent. According to the opinion of the majority of experts, until now Ireland was one of the countries with the most liberal and uncontrolled approach, since until recently there were no restrictions in Ireland on marrying a third-country national who was residing there illegally. Documents proving his or her status were not required (regarding whether he or she has or has not been married before). Neither the police, nor officials registering the marriage had the right to delay the marriage in order to verify the status of the particular spouses in cases of suspicious marriages (for example, the spouses lacking a common language). Furthermore, a sham marriage with a third-country national was not an act subject to criminal punishment in Ireland.

In recent years both Latvia and Ireland have amended their legislation. On 13 December 2012, section 285^2 was added to the Latvian Criminal Law, defining liability for ensuring in bad faith to a person the possibility to acquire the legal right to reside in Latvia, another Member State of the EU, a country of the EEA or the Swiss Confederation, since this regulation envisages a possibility to initiate criminal proceedings also in those cases where sham marriages have been concluded outside Latvia.

In Ireland, in turn, the situation improved considerably with regard to the control of the procedure of marriage. On 18 August 2015 amendments to the Irish Marriage Act entered into force, with a view to eliminating sham marriages. In the future the employees of the Registrar of Marriages will have to pay special attention to those couples of whom one is a citizen of a European Union Member State, but the other is a third country citizen. If the employees of the Registrar of Marriages find this couple suspicious, an investigation will be initiated, and if the suspicion proves to be true, the marriage will not be registered and the Department of Justice and Equality will be informed about the particular case. This information has been disseminated also to Latvian citizens in Ireland. This was done by the Irish Department of Social Protection in cooperation with the portal of Latvians in Ireland "Baltic – Ireland" (Kārkliņa 2015).

Changes in the regulation regarding registration of marriages and sham marriages are the reason why the typical models of organising sham marriages are changing. Latvian experts have repeatedly expressed the opinion that due to changes in the regulation on sham marriages Latvian citizens are recruited less often, and also that marriages are not organised in Ireland, but in another country

where the regulation on marriages does not envisage special control with regard to marriages to third-country nationals.

The information entered into the victim's files and provided during the interviews reveals that women travel by air to a particular country, where they get to know the bridegroom and often conclude the marriage. The plane tickets are bought by the recruiter, i.e., the person who promised to find a job in the particular country or a contact person linked to the recruiter. The fact that the women have not covered their own travel costs is often used against them as an additional argument when forcing them to conclude a sham marriage:

> "I had no job, but I had to get married. They did not promise me money for getting married, they promised to release me from debt [for travel costs to the particular country]." (Victim 3)

If the recruiter had been an acquaintance or a friend, then she/he accompanied the woman during the trip. In other cases the recruited women fly alone, and are met at the airport by a friend or the future bridegroom, or his relative.

> "My sister-in-law bought the ticket, put me on the plane and told me that at the airport I would be met by a man who will help me with a job and living. ... I flew alone. I was met by my future husband." (Victim 4)

In some other cases several recruited "brides" flew from Latvia and were met by the future bridegrooms or their relatives:

> "At Dublin airport I and one more girl from Latvia were met by two Indians. They promised to find me a job and arrange a PPS number." (Victim 5)

The cases of victims of exploitative sham marriages, as well as the interviews, reveal that recruitment for sham marriages also takes place abroad. It must be emphasised that travelling to Latvia is expensive and complicated for third-country nationals, in particular if he resides in Ireland or the United Kingdom illegally. That is why "bridegrooms" meet their "brides" for the first time abroad, not in Latvia. If the women are accompanied by someone on the trip, these are most often go-betweens or recruiters, or other recruited women.

4.3 Life in the destination country and exploitation

4.3.1 Types of violence

The collected data reveal that the types of exploitation that women involved in sham marriages have faced are diverse. The data shows that women have experienced physical violence, sexual violence, psychological violence, and economic violence. In many cases more than one type of violence is present.

4.3.2 Physical and sexual violence

A number of interviews with the victims of sham marriages reveal that women are subject to sexual violence. Their husbands told them that they should perform "her duties as a wife". Neither condoms nor any other means of contraception were used. If women do not want to have sexual relationships, they are

threatened with violence if they do not obey, or they are forced through the use of violence:

> "I had to do what my husband told me to do, perform my duties as a wife. If I did not obey, my husband beat me." (Victim 4)

> "My husband sexually abused me, forcing me to have sex whenever he wanted to." (Victim 3)

Physical violence against women is manifested in various degrees of severity. Women are pushed and pulled around, and they are beaten with some objects. Also children from previous relationships are subjected to violence:

> "If I did not obey, he used physical force – pulled at my hair, kicked me." (Victim 5)

> "Very often my child and I had nothing to eat, my husband was beating us. [...] I went nowhere because my husband was jealous, told that only whores walked around alone." (Victim 4)

One of the cases of a victim of an exploitative sham marriage and the interview revealed that the woman had been seriously exploited already before the marriage; i.e., her future husband prohibited her from leaving her room, getting in touch with her relatives and friends, food was not provided in sufficient quantity, and she had to provide sexual services to her future husband. Involvement in a sham marriage was presented as the possibility for returning to Latvia and ending the violence. This particular case has clear indications of human trafficking with the aim of forcing the woman to enter into a sham marriage and ensuring the third-country national a residence permit in the EU:

> "Before marriage to the Pakistani man I started living at his place. I was given a room and I was not allowed to leave it. I was given food once per day, and I had to give sexual services to the future husband. I no longer wanted to get married, but I was depressed, and I suffered from emotional and sexual abuse. I was prohibited from getting in touch with relatives and friends. I was promised that after concluding the marriage I would be able to return to Latvia. Therefore, to escape from violence, I agreed to marry." (Victim 1)

4.3.3 Psychological violence

Psychological violence and threats are observed in all cases of exploitative sham marriages. The women are threatened that the child who has been born as the result of the sham marriage will be taken away, they are threatened with eviction from their home, that they would have to repay some kind of debt or that in Latvia they would be criminally liable for concluding a sham marriage:

> "My husband constantly threatened me with something." (Victim 4)

> "Threatening to demand repayment of money. Of taking away the child. Of eviction from home. Restricting finances. Threatening with criminal liability in Latvia – the information obtained from the Embassy [on criminal liability for concluding a sham marriage] was used [by the husband] to make threats." (An interview with a provider of social rehabilitation services)

Psychological violence is manifested also in the form of total control. The women's right to freedom is ignored, they are forced to eat and behave in a certain way, they can not leave the apartment, and they can not contact their friends and relatives.

> "I was not allowed to leave the apartment, and they [the husband and his relatives] convinced me that it was dangerous. They demanded that I give away my passport, promising to make it available as soon as I would need it, so I gave it away. [...] I was not allowed to get in touch with my relatives and friends. I was not allowed to leave the apartment alone." (Victim 2)

> "My husband strictly controlled my every step. I could not leave the house without my husband's permission. My husband regularly made scenes, reproached me for my style in clothes." (Victim 5)

If a child is born in a sham marriage, he or she often is used to manipulate the woman – the woman is not allowed to take the child with her to Latvia, and threats are made to take the child away:

> "Her freedom of movement is restricted, in particular if there are children. One of the classic cases when the child is used for manipulation: "You cannot take the child, I'll take the child away from you, you cannot go to Latvia, take the child out of the country without my permission." Of course, the woman will not leave the child, there [abroad] she has no means of subsistence, because of the child she cannot get to Latvia – this restriction can also be manifested as: "You can go, the child will stay." And the woman stays. They create circumstances in which there is no other choice but to stay." (An interview with a provider of social rehabilitation services)

4.3.4 Economic violence

Also economic dependence is encountered in almost all cases of exploitative sham marriages. Information obtained from victim and providers of social services shows that victims usually have no means of subsistence, do not work, cannot find a job, and are dependent on the recruiters or the bridegroom/ husband. This is an important aspect, since it decreases the woman's ability to resist and to leave her husband:

> "If the woman resumes working, she may tell about what is happening at home at work. Secondly, when working, she is independent, because she has her own income and may earn money for a return ticket and fly away. When she is not working, she is completely subject to her fictitious husband." (An interview with a provider of social rehabilitation services)

The common way to control the woman is to restrict her independence by keeping her materially dependent on the husband. Questioning the situation or opposing the husband may easily lead to other forms of violence:

> "Economic violence is identified most often when a woman is made materially dependent on the formal husband – he keeps her, cares for her, accompanies her. And, if the woman wants to do anything independently, she is not allowed to do that, and at that point any other type of violence can start. [...] Through this economic, social isolation, the woman is not allowed to be an equal partner, neither according to European cultural assumptions, nor Eastern. [...] When the woman starts resisting,

then it turns out that the marriage is not genuine." (An interview with a provider of social rehabilitation services)

Another type of exploitation that is encountered is forced labour, when the woman is made to work in the family's company without remuneration, or she is the maid in the house:

"There's also forced labour, for example, there is a café on the ground floor of the house, and their apartment is on the first floor. They work from morning till night in that café. Her working hours are not regulated, she has no official employment relations, just sometimes given something. And she cannot escape anywhere, because the documents have been taken away." (An interview with a provider of social rehabilitation services)

Providers of social rehabilitation services note that women are forced to engage also in some illegal activities, for example, recruiting other women for sham marriages or stealing:

"There has also been forced stealing. The man forced the woman to go and steal, she stole, and he was selling those things." (An interview with a provider of social rehabilitation services)

There have been cases in which the woman has become the holder of a credit card that is used by the husband, but the repayment claims for the loan are sent to the woman:

"When the couple marries, a so-called "family bank card" is taken out, and the girl is the official holder of the credit card. After two years she returns to Latvia, and then letters start arriving, that she has borrowed money in Ireland and is failing to repay it. Unfortunately, it turns out that the man has borrowed money a number of times. Even though the woman and the man have not been co-habiting for a long time, he still uses the possibility to take out loans, but the woman continues to be the formal re-payer of loans." (An interview with a provider of social rehabilitation services)

In cases of exploitative sham marriages the woman is most frequently isolated from others and is constantly supervised. Rather than forced to go to work outside the house, she is never left alone since then the risk of her starting to resist increases. The woman is placed in situations of unequal power relations, which are used against her. Women are subjected to total control. They are not allowed to walk around on their own and to get in touch with her relatives and friends.

The findings made in a study by Australian researchers (Lyneham & Richards 2014) on human trafficking and marriages in Australia can be applied to the cases of exploitative sham marriages in Latvia, i.e. that in these forms of human trafficking the most typical form of exploitation is neither labour nor sexual exploitation, but exploitation of the very personhood of the victim.

Exploitation of the personhood of the victim comprises exploitation of the victim's body (provision of sexual services, control over reproduction by the abuser, control over the victim's body in a broader sense), psychological slavery,

loss of freedom, and exploitation for labour (domestic servitude or forced labour outside home).

4.3.5 Children and exploitative sham marriages

According to the experiences of social rehabilitation providers, there is a certain group of third-country nationals who take specific measures to pressure the women to have children with them, since a common child ensures the possibility of claiming a residence permit in the EU, even if the marriage ends in divorce:

> "They met, and the woman got pregnant very quickly. He wanted to marry her immediately, but she said no, we've just met. But when she became pregnant – well, all right, let's get married, have a family. This man had the aim to achieve pregnancy as fast as possible so that the child in common would bind her." (An interview with a provider of social rehabilitation services)

In situations in which the marriage had been fictitious only for one of the parties, the man may become violent towards the woman after the child is born, since the woman is no longer important for ensuring the residence permit:

> "And when the marriage is concluded in a hurry, and the child is there, the situation changes, and the "loving" husband turns abusive and is no longer interested in the family. You have to look at the situation, see whether it is a voluntary marriage, whether deceit has been used." (An interview with a provider of social rehabilitation services)

In those cases when the woman had believed the marriage to be genuine, she often does not want to admit that the third-country national concluded the marriage only in order to get the residence permit. The relatives, social services or providers of social rehabilitation services are the ones that notice a number of features indicating that the marriage is a sham:

> "There was a case in which relatives sought help, and one social service had become involved [a social service of municipality], but the woman herself did not admit that the marriage was not genuine. There were all signs that the woman had been recruited for a sham marriage, but she refused to admit it. She said, "I have a good marriage, I love him, I'll go back". As an observer you see violence there, and also the quick procedure in concluding the marriage. Specialists see signs of human trafficking, but she is in the stage of "rose-tinted glasses", does not see herself as a victim, exploited. […] And if there is a child, that decreases the wish to get a divorce." (An interview with a provider of social rehabilitation services)

The providers of social rehabilitation services underscore that in such cases one must be aware that the illusion may be maintained for a number of years, since getting a permanent residence permit is a long process, but that, of course, makes it difficult to prove that the marriage has been concluded only to obtain the residence permit:

> "The sham marriage cannot be proven immediately. To obtain these residence permits, they have to live in marriage for 5 years. So a person can be very nice for 4–5 years, since the wife must show [to the Immigration Department] that they lead a good life, in harmony. And then, when the aim is reached and the permanent

residence permit has been obtained, the husband is no longer like he used to be before that." (An interview with a provider of social rehabilitation services)

To prove that such a marriage should be defined as an exploitative sham marriage, the providers of social rehabilitation services list criteria that characterise sham marriages that initially seem genuine, but in fact are deceitful on the side of one party. First of all, the marriage is organised very soon after the meeting. Secondly, the formalities for the residence permit are settled. Thirdly, a change of behaviour is observed very soon after the marriage; courting is replaced by violence and control. Fourthly, the attitude changes in connection with the need to visit migration services to settle residence permit formalities/ to extend the residence permit.

4.3.6 Concluding marriages and applying for residence permits

Marriages are concluded in various places. One of the factors which determine where the marriage will be concluded officially, is how simple or complicated it is to conclude a sham marriage in the particular country of residence. For example, until now it was comparatively easily done in Ireland, and therefore marriages were concluded there. It is more complicated in Germany, and therefore the sham marriage would be concluded in another country; in the particular case below, in Serbia:

"I was taken to Serbia, where high up in the mountains, in the presence of two witnesses, the marriage was concluded. The passport was with my bridegroom all the time. After the marriage the spouse wanted sexual relations, but I refused. Immediately after the wedding we lived separately in Serbia." (Victim 2)

The cases of victims of exploitative sham marriages included in the study and the interviews show that in Ireland marriages are concluded at the Irish Marriage Registrar, but information provided by experts reveal that in a number of cases weddings are organised at the Islamic Cultural Centre in Dublin and the Islamic Centre of Galway.

In several interviews the victims of exploitative sham marriages share their experience that after the wedding they had to go to the migration board of the particular country so that the husband in the sham marriage could obtain a residence permit. The interviews reveal that the women are prepared in advance so that they would provide the right answers to questions asked by migration services and would be able to convince them that the marriage is genuine:

"After the wedding I had to go together with my husband to some kind of immigration office, to get a residence permit for him." (Victim 3)

"To ensure the credibility of the marriage I had to learn about the family tree, customs." (Victim 2)

In those cases in which the women return to Latvia after concluding the sham marriage, they must occasionally return to the particular country to reconfirm that the marriage is genuine. The cases analysed and the interviews reveal that in some cases exploitation starts at this stage:

> "When I was in Latvia, the fictitious husband time and again phoned me and ordered me to return to Dublin, because he needed proof that his wife was living together with him. Threatening and frequent phone calls, e-mails, threatening to tell everything to my boy-friend in Latvia, made me go to Ireland for the second time. [...] The second time the husband took away my passport. [...] Physical and emotional violence started. [...] I turned for help to the Irish police, and I was placed together with the child at a crisis centre." (Victim 3)

Both the analysed cases and the interviews with experts reveal that victims of exploitative sham marriages are drawn into a cycle of violence: after one incident of violence the husband begs for pardon, the woman believes him and returns, and then after some time is again subjected to violence:

> "The husband begged for pardon and tried to deceive me so that I would return, and I believed him and returned. But violence continued, and I was repeatedly thrown out into the street with my minor daughter, without any means of subsistence." (Victim 3)

> "The husband received a residence permit and became even more aggressive and violent towards the children and me." (Victim 4)

In a number of cases it follows from what was said by the interviewed victims that the women had been registered as employed, but in fact did not work:

> "In a couple of weeks we returned to Germany and I was fictitiously employed." (Victim 2)

> "Formally I had a job, but actually did not work." (Victim 5)

The opinion has been voiced by providers of social rehabilitation services that third-country nationals, in order to ensure the possibility of residing in the EU, have established a network of various fictitious institutions in order to create the impression that they are studying or working in the EU. For example, references have been made to the existence of fictitious institutions of higher education and fictitious jobs. Our interviews do not reveal the purpose for which these fictitious institutions have been established. This is probably a topic for another study.

4.4 Tendencies, recruitment and organisation of exploitative sham marriages

The statements made in the interviews with experts show that, in general, during the last two years the number of exploitative sham marriages has slightly decreased when compared to the year 2009. The experts hold that the decrease in the number of sham marriages has been facilitated by, firstly, active preventive measures and public awareness-raising; secondly, active work of the responsible institutions in identifying, combatting and preventing human trafficking, inter alia, amendment to the Criminal Law with section 285^2, which entered into force on 1 April 2013:

> "The year 2009 saw a huge "boom" when very many girls went and got married. But no one really knew whether that was human trafficking. Then campaigns were launched in which we were telling about the way it happened and that it was a huge risk. After implementing various preventive measures, we can conclude that

prevention has given us a lot. In Latvia we have a very good understanding of what a sham marriage is. In addition to social campaigns [fostering public awareness-raising], in 2013 amendments were introduced to the Criminal Law. CL section 285[2] significantly decreased the number of sham marriages. I believe that this, to a large extent, changed the situation." (An interview with a provider of social rehabilitation services)

The number of criminal proceedings involving sham marriages, in turn, has increased, and there are two reasons for this. First of all, there are many criminal proceedings initiated while investigating recruiting for sham marriages (before somebody has become a victim of exploitation). Secondly, as society in general is better informed, recruiting for sham marriages is being reported to the police more frequently:

"An increase is observed with regard to sham marriages, but it is difficult to separate it from human trafficking, because in many instances the case is initiated when recruiting is being investigated. Without coming to the marriage itself or exploitation. It is more frequently reported, people are better informed, girls are becoming less tolerant with regard to such cases." (An interview with a representative from the police/ prosecutor's office)

As regards methods of recruitment, experts note that at present forced sham marriages are encountered less frequently. On the contrary, fraud and abuse of the vulnerability of victims are seen more often. Likewise cases in which the illusion of a genuine relationship is created, which makes human trafficking more difficult to prove, are encountered more often:

"Now these methods are becoming more sophisticated. More often a relationship, as it were, is established, less open violence. Often creating an illusion of a relationship." (An interview with a provider of social rehabilitation services)

Methods of recruitment have also changed. Previously go-betweens were more frequently used in recruiting, but now attempts are made to organise recruitment without go-betweens, to decrease the costs, and the victims are approached in different ways on the Internet:

"The mechanism of recruitment has changed. Previously the proposal to marry a foreigner came from a go-between, for example, a brother, a friend, a partner, but now this path of recruitment has become too expensive for the potential fictitious husbands, and they write these offers themselves, using social media. Such "copy-paste" letters can be sent out to 100 persons, and someone will probably respond. It is possible to approach anyone on Skype, and that is no longer indirectly, when a person, possibly, sends out letters on behalf of someone else. Social media are used to the utmost, thus saving money, because there's no need to pay the go-between." (An interview with a provider of social rehabilitation services)

Experts also note that more frequently marriages are organised outside the EU, as then it is easier to avoid various control procedures. Similarly, experts hold that in recent years the number of Estonian and Lithuanian citizens who are involved in sham marriages has increased:

"If the fictitious husbands understand that they might come under the police radar, then they take their brides to Pakistan, India, Serbia, and Croatia and get married there. The certificate of marriage received abroad is translated into English, stamps

are put on, and they go to England and say: "Look, this is my wife". The document is legalised through embassies, and then: "Please give me the residence permit". The police officers say that the criminal world is always a couple of steps ahead, it evolves, and they always have to invent something new. There was enough time for that, while legal regulation was amended." (An interview with a provider of social rehabilitation services)

"Changes in Latvian legislation force changing the tactics for concluding sham marriages. Therefore many potential couples travel to get married outside the EU. Currently in Ireland there are more Estonians and Lithuanians among those concluding sham marriages." (An interview with a provider of social rehabilitation services)

The trends characterised by experts allow concluding that a sham marriage remains a common form of human trafficking in which Latvian citizens are involved. However, the methods of recruitment change and the role of the Internet increases, as well as the location that is selected for concluding the marriage changes, and more often marriages are organised outside the EU.

4.4.1 Is it organised crime?

The interviewed experts suggest that most cases of sham marriage should be recognised as organised activity, since organisers of sham marriages, recruiters, go-betweens and bridegrooms who receive residence permits are involved in it:

"It is organised. It is a scheme, a method. It is not the case that someone just thought of it and wrote on the Internet." (An interview with a provider of social rehabilitation services)

There are cases without obvious signs that recruiting is an organised activity. But there are also cases that clearly show that several persons are being recruited for sham marriages, and a number of organisers with allocated responsibilities have been involved. In this particular case there was a recruiter on the Internet, another contact person who organised the trip, and there were two "brides" travelling together, who were met at the airport by representatives of the bridegrooms:

"G. from portal "Draugi" ["Friends"] offered me to go to Ireland. [...] The trip was organised by Z., she also paid for the tickets. We flew together with a girl from T [a settlement in a rural area]. We were met by two men of Indian origin." (Victim 5)

In some cases also the living arrangements in the destination country allow concluding that a case of forced sham marriage is a part of organised activity. For example, in one case characterised by a provider of social rehabilitation services, the apartment was shared by four or five couples, in each of which the husband was a Pakistani but the wife was from one of the EU countries:

"In this case there were also girls from other countries, each locked up in her room. They were not allowed to communicate among themselves. They were wives of Pakistani citizens. It is an obvious case of human trafficking." (An interview with a provider of social rehabilitation services)

Representatives of the police and the prosecutor's office who were interviewed in the study expressed different opinions with regard to the issue, whether the crimes related to exploitative sham marriages were committed by a group of persons pursuant to prior agreement or by an organised group. It must be concluded that cases may differ. The features that show that the crimes have been committed by a group of persons pursuant to a prior agreement (qualified elements of the crime) are that horizontal, not vertical hierarchy is observed in the groups, i.e., hierarchical roles cannot be distinguished, and self-organisation is evident:

> "In the meaning of the Criminal Law, organised crime groups are hierarchical groups characterised by vertical hierarchy. In these cases we see horizontal hierarchy in these groups. The links between the members of the group and also with the go-betweens and the organisers are not as permanent and strong as in the case of a group with vertical hierarchy. We cannot strictly differentiate between hierarchic roles. In the case of vertical hierarchy, there is a leader; here such cannot be identified. It is rather self-organisation. Consequently it is difficult for us to qualify this crime as organised crime. The prosecutor's office points out to us that this is a crime committed by a group of persons." (Interview with a representative of the police/ prosecutor's office)

However, it can be definitely stated that the majority of exploitative sham marriages should be recognised as crimes that have been committed by a group of persons, not individually, since it can be established during the investigation that there are persons who organise, there are persons who recruit and who transport and who receive, and the future husband.

> "Initially it seems that those were isolated cases, but it is clear that on that side there are people who organise, who supply husbands. Women who recruit other women are sought in Latvia. A complete transnational organisation. Firstly, the party in Pakistan looks for those who are ready to pay or to borrow to get to Europe and become legal. They are met, accommodated, wives are supplied. By finding a local government [abroad, not in Latvia], which is ready to "turn a blind eye". Then work on the girls, to force them to marry." (An interview with an expert – a lawyer)

The ones who profit from these crimes are the organisers of marriages and recruiters, but the payers are third-country nationals, who obtain a residence permit, and their family:

> "Recruiters and go-betweens get the largest profit. A recruiter's main role is to recruit the girl and ensure that she travels to a particular EU state, where the marriage is concluded. Whereas the other members of the chain – go-betweens – organise that the person is met, accommodated, they create the artificial debt, plus, they look for the other party – the third-country national." (An interview with a provider of social rehabilitation services)

Unfortunately, the study does not reveal the amount of money that recruiters are paid for recruiting and organisers for organising, but as regards the origin of the necessary resources, the experts are of the opinion that the necessary money is collected from family members, who hope that the bridegroom, by obtaining a residence permit in the EU, will be able to support them and facilitate the moving of other family members to the EU.

4.4.2 Motivations behind sham marriages from the perspective of the third-country nationals

The majority of the experts interviewed hold that the main driving force behind why third-country nationals use sham marriages to obtain a residence permit in the EU, is the wish to increase the prosperity of their family and their community. In many cases third-country nationals who are trying to obtain residence permits in the EU come from countries that are overpopulated and comparatively poor. Moving to an EU country is associated with increasing not only the prosperity of the particular individual, but also that of the entire extended family.

> "Perhaps the whole village gives the money to the chosen one, sends him to Europe, where his task is to obtain the residence permit as fast as possible. Collecting money in communities is typical. Communities are strong. Relatives hope that he will settle in and then will invite other family members to Europe." (An interview with a provider of social rehabilitation services)

One of the experts stresses that "the European wife" who ensures the possibility to receive a residence permit, is not perceived as a genuine wife, unless she gives up European life style and traditions:

> "Relationships with relatives are maintained, other members of the clan are involved, to escape the poverty that prevails there. These people are not ready to give up their culture, and the European wife, unfortunately, is only a European wife, but the real wife is chosen from their own culture. There are cases in which the fictitious husband says: "you will give birth to my child and convert to my religion, otherwise you will remain just a Eurowife. I shall take care of you, but I shall marry as my true wife only the one chosen by my parents." (An interview with a provider of social rehabilitation services)

Experts emphasise that quite often third-country nationals from such countries as Pakistan, India and Bangladesh have a very different culture and for them collective values are more important than individual values. Therefore, upon settling in the EU, they maintain close ties with their family members and facilitate in all possible ways their moving to the EU.

4.5 Types of exploitative sham marriages in Latvia

As a summary of the cases of exploitative sham marriages examined in the previous sections, three main types of exploitative sham marriages can be identified that are encountered in Latvia:

1) Human trafficking in which a person is forced to conclude a sham marriage (forced sham marriage);
2) Human trafficking in which a person initially agreed to conclude a sham marriage, but afterwards was deceived and subjected to violence;
3) A sham marriage in which a person was initially made to believe that the marriage was genuine, but after some time it turned out to be fraudulent and the person is subjected to exploitation.

A summary of the features of these three types of exploitative sham marriages, on the basis of the previously conducted analysis, is provided in Table 7.

Table 7. Types of exploitative sham marriages encountered in Latvia and their features.

	Types of exploitative sham marriages		
	Human trafficking in which a person is forced to conclude a sham marriage (forced sham marriage)	Human trafficking in which a person initially agreed to conclude a sham marriage, but afterwards was deceived and subjected to violence	A sham marriage in which a person was initially made to believe that the marriage was genuine, but after some time it turned out to be fraudulent and the person is subjected to exploitation
Recruitment	Fraud and deceit: initially offering a job abroad, upon arrival is forced to conclude a sham marriage	Fraud with regard to the way in which the transaction will be concluded: money is not paid, must co-habit, the person is subjected to violence	Fraud and deceit: an illusion of a genuine relationship is created
Vulnerability of the victim	The vulnerability of the victim is an essential aspect in all cases. The most frequently encountered aspects of vulnerability are poverty, adverse conditions in the family (dysfunctional family), low level of education, diagnosed moderately severe or severe intellectual disability, poor social skills.		
Types of exploitation	Diverse types of exploitation are encountered: 1) Involvement in commission of a criminal offence – a sham marriage, sometimes also other unlawful activities; for example, recruiting other victims, stealing; 2) Forced to provide sexual services; 3) State of slavery, restriction of a person's freedom: may not leave her room, may not get in touch with her relatives and friends, must accept foreign traditions, etc., situations of psychological and physical violence, total economic dependence, life under the shadow of constant threats.		

Proving the existence of human trafficking	If it is possible to prove that a person was forced to conclude a marriage (went abroad with intention to work), then it is comparatively easy to prove a case of human trafficking. The person is recognised as a victim of human trafficking.	If it is possible to prove that a person has been deceived, remuneration for concluding a marriage has not been received, and if it can be proven that the person has suffered from exploitation, the case of human trafficking can be proven. In some circumstances the person can be recognised as a victim of human trafficking.	It is very difficult to prove a case of human trafficking, since the victim herself may not admit for a long time that the relationship has not been genuine, it is difficult for the victim to believe that she has been deceived, sometimes the victim is dependent upon the relationship (both psychologically and economically), a long period passes (three to five years) before it is admitted that the marriage had not been genuine and the victim is able to see exploitation and the obtaining of the residence permit as the true aim of the sham marriage.

Significant features that allow identification of a case of exploitative sham marriage	1) Elements of exploitation; 2) Formalities for receiving a residence permit on the basis of marriage are being settled; 3) Victims are forced to conclude the marriage by the use of threats, the victim's vulnerability and violence; 4) Marriage is organised outside Latvia in a country with minimum control over the procedure for concluding a marriage; 5) In the majority of cases the bride's parents, relatives and friends do not participate in the wedding ceremony.	1) Elements of exploitation; 2) Formalities for receiving a residence permit on the basis of marriage are being settled; 3) Victims are deceived (do not get paid) and are forced to conclude a sham marriage (or affirm it), by the use of threats, the victim's vulnerability and violence; 4) The onset of pregnancy and the birth of a common child is facilitated in all possible ways (contraception is not used in the intimate relationship); 5) Marriage is organised outside Latvia in a country with minimum control over the procedure for concluding a marriage; 6) In the majority of cases the bride's parents, relatives and friends do not participate in the wedding ceremony.	1) Elements of exploitation; 2) Formalities for receiving a residence permit on the basis of marriage are being settled; 3) Proposal to marry immediately after becoming acquainted; 4) Facilitates in all possible ways the onset of pregnancy and the birth of a common child (means of contraception are not used in the intimate relationship); 5) Marriage is organised outside Latvia in a country with minimum control over the procedure for concluding a marriage; 6) In the majority of cases the bride's parents, relatives and friends do not participate in the wedding ceremony.

4.6 Seeking assistance

Interviews with the victims of sham marriages reveal that women seek assistance in the most diverse ways. Some women have turned for help to the police of the state in question or the Latvian diplomatic mission:

> "I could not bear my husband's violence and turned to the police. The police placed me in a crisis centre and contacted the Latvian embassy." (Victim 3)

Some women have turned to the social services of a local government in Latvia for assistance:

> "I asked for assistance from a local government in Latvia, and they, together with the Embassy and the Safe House helped me to return in Latvia." (Victim 4)

The providers of social rehabilitation services note that victims of human trafficking, including the victims of exploitative sham marriages, sometimes seek assistance themselves; they come to the provider of social rehabilitation services and call the hotlines:

> "One thing is, people seek assistance themselves, and the other way is the hotline. Since 2013 it operates on 24-hour basis. Someone phones and asks, for instance: "I have a friend, she has now gotten married…" and the story is told. And then we understand that it is not about a friend, this is a story about the caller, and the person wants to find out what to do. Most often we ask to come and visit us for a consultation face-to-face." (An interview with a provider of social rehabilitation services)

However, the experience of providers of social rehabilitation services shows that most often the victims of exploitative sham marriages are identified by the Latvian embassies, in particular, the Embassy of Latvia in Ireland:

> "The largest number is from embassies outside Latvia, in particular from Ireland, since Ireland used to be the country chosen by immigrants, where these fictitious relationships could be formalised in the simplest way." (An interview with a provider of social rehabilitation services)

In other cases relatives or friends are those who advise the victims of exploitative sham marriages to seek assistance. The providers of social rehabilitation services note that very often the relatives and acquaintances of the victims of exploitative sham marriages are the ones who try to convince the woman in question to become involved in the rehabilitation program in order to receive the necessary assistance:

> "After returning to Latvia I told an acquaintance about what I had been through, and I got information from her about the possibility to receive help from the Shelter "Safe House". My acquaintance also gave me the e-mail of a lawyer, and I sent her my story." (Victim 1)

> "In general, those cases in which victims themselves look for help are less frequent. More often relatives are the ones who seek it or convince them that they need assistance. It is also possible that a recruiting network is detected, and then the police offer this assistance" (An interview with a provider of social rehabilitation services)

In some cases assistance is sought after considerable time has elapsed, after 5–6 years or when the woman understands that she needs assistance in order to

dissolve the sham marriage. Sham marriages are not dissolved through divorce, but declared void by the court on the basis of section 60 of the Civil Law from the moment they were concluded. Providers of social rehabilitation services highlight that for those women who had believed that the marriage had been genuine, it is particularly difficult to admit that the other party concluded the marriage only in order to obtain a residence permit. They only later found out that the recruiter had been paid for recruiting them for the sham marriage:

> "Marrying those women who are truly in love and have started living in a dream world, is not too expensive for the fictitious husband, since there is no need to pay the go-betweens [..].After some time the man "turns his coat", that is, starts beating, raping, and renting her out to a friend. It is even more difficult for this girl. The clients have said: "It was shocking for me when I found out that money had been paid for me, that he had bought me." (An interview with a provider of social rehabilitation services)

The women themselves are not always aware that they could be recognised as victims of human trafficking. If they seek assistance, they usually come with another problem. There are also cases where women refuse assistance because they do not want to consider themselves as victims of human trafficking.

4.7 Identifying victims and providing assistance

The identified victims of human trafficking receive social rehabilitation services covered from the state budget. The providers of these services, the Shelter "Safe House" and the Resource Centre for Women "Marta", are experienced in their field. In general, the range of services paid for by the state is rather broad, including individual consultations with a lawyer, a social worker and a psychologist. The social rehabilitation program lasts up to 180 days, and the financing allocated for it is assessed as being sufficient:

> "180 days is the longest service, compared to any other social rehabilitation service paid for by the state. To those for whom this number of days is insufficient, support groups are offered, as well as possibilities for receiving assistance and support via the hotline. The state has ensured not only the minimum of support, but a rather large amount of support also following social rehabilitation." (An interview with a provider of social rehabilitation services)

The fact that both the State Police and the provider of social services have the right to identify victims of human trafficking must be seen as a positive fact. This means that also in those cases where the victim does not want to cooperate with the police, social rehabilitation services paid for by the state can be provided to her:

> "In situations in which human trafficking is identified, Latvian legal acts allow the police to conduct the assessment (and grant the status of a victim of human trafficking), and this can be done also by the institution that provides social rehabilitation services." (An interview with a provider of social rehabilitation services)

If a person refuses to be recognised as a victim of human trafficking, assistance is not refused, but other financing is obtained for it:

> "The cases of sham marriages are those in which the girls choose not to cooperate with the police, they choose not to betray the recruiter (which may be a brother, a friend, a partner), but they receive rehabilitation from us." (An interview with a provider of social rehabilitation services)

Assistance to victims of exploitative sham marriages abroad is provided also by the Latvian embassies. They predominantly ensure support abroad and return to Latvia. After his or her return, the victim can continue receiving social rehabilitation services as the result of communication with a provider of social rehabilitation services, the social services of a local government and the police.

Victims of exploitative sham marriages admit that their experience is very traumatic. They are reluctant to tell others about what happened and want to forget it all, the sooner the better:

> "It is difficult to tell anyone about this situation, because I never thought that something like that could happen to me. I want to forget it as soon as I can and not return to this stage in my life. I would not wish for anyone to end up in such a situation in life." (Victim 1)

Providers of social rehabilitation services actively cooperate with the police and with embassies to facilitate investigation of cases and punishment of recruiters, or at least expulsion from the EU. For example, if the case is not defined as human trafficking, but the marriage has been recognised as being void from the moment it was concluded, information is sent to Latvian embassies abroad so that the information would be forwarded to the migration services and the expulsion of the third-country national in question from the EU is facilitated:

> "We send that request to the Embassy, and the Embassy gets it translated and sends it to the migration service so that the person loses the grounds for residing in that state. That is our aim, to have the fictitious husband expelled from the EU. Of course, he may attempt to get into other states, try to find other ways, but our aim is to break the chain of recruiting." (An interview with a provider of social rehabilitation services)

It is more complicated to expel the particular third-country national from the EU in the case of a sham marriage, if a child has been born in this marriage. In such cases the rights of the child envisage that the child has the right to maintain a relationship also with the father, and these are the grounds for allowing the father to stay in the EU. For this reason many third-country nationals who have married Latvian citizens very willingly try to conceive children in the sham marriage (they avoid using contraception), since these are permanent links and this third-country national cannot be deported from the EU:

> "If there is a child, then the woman is no longer needed. He may reside in Europe on the basis that the child is a European citizen. Both parents have equal rights to communicate with the child. Because of the child he may stay here." (An interview with a provider of social rehabilitation services)

One of the reasons why providers of social rehabilitation services try to support the punishment of recruiters and expulsion of the bridegrooms in sham marriages from the EU is that the victims of exploitative sham marriages repeatedly end up in situations of exploitation and must be provided assistance repeatedly.

4.8 Preventing human trafficking that is aimed at involving sham marriages

4.8.1 Preventive informative measures

Experts were able to point to many ways in which more work should be done to decrease the number of exploitative sham marriages in Latvia. One of the most significant aspects mentioned was that the preventative measures should be regular:

> "Prevention should be regular. If prevention is not regular, the recruiters will always come up with new ways for recruiting people and another target group which can be used in different forms of human trafficking, among these – involving in sham marriages." (An interview with a provider of social rehabilitation services)

At the moment a lot is being done in Latvia to ensure preventive measures. In this regard two projects implemented by the Shelter "Safe House" should be mentioned: the project "Multidisciplinary Initiatives for Restricting Human Trafficking", where in 2014 young people were educated at schools and youth centres (1347 students/ adolescents), and also local government employees were trained (76); the project "Promoting Innovative Anti-Trafficking Approaches in Latvia": 1356 students and 198 faculty members at schools and social care institutions were trained. The Resource Centre for Women "Marta", in turn, in 2014 within the framework of the project "Safety Compass – Signposting Ways to Escape Trafficking", financed by European Commission program "Prevention and Fight against Crime", organised training for emergency hotline operators, involving 205 professionals from all regions of Latvia. The emergency hotline operators were informed about the topical issues of human trafficking, the legal regulation and the national referral mechanism, and they were provided an insight into and developed understanding of the way a victim of human trafficking might think and act, as well as of post-traumatic stress syndrome. Here information is provided only about some of the projects and achieved outcomes implemented in 2014. However, it must be noted that all the preventive measures that have been implemented are projects, but regular and systematic state financed work is needed:

> "Educating society; educating those specialists who are in contact with the risk groups. Custody courts, pedagogues, groups of lawyers, that is, educating specialists. To keep society informed through regular events. Projects are not enough, a state program is needed." (An interview with a provider of social rehabilitation services)

One of the main aims of preventive measures is to increase the level of awareness of society in general and of risk groups in particular, of the risks involved in going abroad, as well as the risks involved in sham marriages in particular, if

these are concluded with third-country nationals who come from a very different culture:

> "Prevention. It should be discussed more with society in general, on TV, radio, advertising, so that people would know about it. More and more girls are going, believing that they will make a good profit, but the consequences that follow…" (An interview with a representative of the police/ prosecutor's office)

Experts emphasise that information should be provided in the most diverse ways, so that society in general and representatives of risk groups in particular would be more cautious and would take care in those cases where a sham marriage could be suspected, in view of the known features of sham marriages: marriage is hastened immediately after getting acquainted, marriage is linked to the residence permit in the EU of a third-country national, and others.

> "About informing, it should continue not only as one-off campaigns, but institutions could inform those who are planning to leave Latvia that it is possible to leave their contact info at the Consular Register. Inform more vulnerable target groups which might plan on leaving, about the risks." (An interview with a provider of social rehabilitation services)

> "We should work with the potential victims so that they would be able to assess the risks, to take the correct decision." (An interview with a provider of social rehabilitation services)

The women who have become victims of exploitative sham marriages admit that in their case trusting people they knew and believing in false promises had been the key factors. Therefore their main recommendation is to verify information before leaving Latvia and find out before leaving where to turn for assistance:

> "I recommend not trusting promises, because later you have huge problems." (Victim 1)

> "Do not accept false declarations of love and promises of a happy life." (Victim 5)

> "I recommend not trusting even close friends, verifying information before leaving Latvia, collecting information, where to turn for assistance, if this would be needed." (Victim 2)

Those women who themselves had agreed to become involved in a sham marriage admit that it had not been a wise decision, leading to many problems, and therefore people should be informed about such cases so that others would not commit the same mistake:

> "It should be discussed a lot, people should be informed, not to do such foolish things like I did. [...] I really regret what I did, I would never do it again." (Victim 5)

This leads to the conclusion that the public should be constantly told about cases of sham marriages, about their typical features, about the adverse consequences of sham marriages, and also about the possibilities of seeking assistance if one has ended up in a problematic situation.

4.8.2 Training of specialists

An important line of work that should be continued is educating professionals, and this need pertains to different types of professionals. In assessing the competence of various professional groups on the issue of human trafficking and exploitative sham marriages, the experts consider that currently in Latvia social workers are the best-educated professionals, but that training should be provided also to school teachers, judges, prosecutors and police officers; unfortunately, some judges and prosecutors are reluctant to participate in such training:

> "The situation with the education of social workers is the best, they are sufficiently well trained. [...] Judges. [...] It is very complicated to work with them. Last year a seminar was held for candidates for the office of a judge. Unfortunately, judges did not participate in a single seminar, and also the Latvian Juridical Training Centre trains only judges' assistants or those who are preparing to run for the office of a judge." (An interview with a provider of social rehabilitation services)

According to a provider of social rehabilitation services, it is difficult for the police to detect cases of exploitative sham marriages, since they cannot be generalized and the victims might be reluctant to disclose information. This indicates that there is a need to train police officers to improve their capability to identify the possible links between human trafficking, sham marriages and the role that domestic violence might play in these scenarios. The police officers also need to be aware of possible help and assistance systems available for the victims. The attitudes towards the police and previous encounters with the police may also be a factor determining the level of cooperation and willingness to disclose evidence:

> "Human trafficking is a specific crime. It is not a case of taking something, stealing and fleeing. There are a number of aspects. And, sometimes when turning to an ordinary police station, they do not even recognise such cases, do not imagine that it could be human trafficking. The other aspect, they have heaps of cases at police stations. The police officers admit it themselves, unofficially, they have too many cases to review, and their workload is excessive. That is the reason why, if the report of an offence does not point to some atrocity, they refuse to accept this report. […] It is also important how the victim explains what is written in the report. Even when talking to us, the victim tries to mitigate the abuser's guilt. Perhaps because of her character or emotional dependence on the abuser she is unable to explain all the facts." (An interview with a provider of social rehabilitation services)

It must be highlighted that, when assessing the work of the police, the persons interviewed gave a very positive opinion regarding the competence of OCCB specialists and their contribution to the investigation of human trafficking cases. However, they also observed what amounts to a lack of understanding at times among the employees of municipality police:

> "If a human trafficking case goes to the particular police department which works with these cases on a daily basis, they understand everything, they identify and investigate the case. Another attitude is seen in ordinary stations, they do not dig into the heart of the matter." (An interview with a provider of social rehabilitation services)

Experts give a very positive assessment of the work done by Latvian embassies abroad, and of cooperation with them. The Embassy of Latvia in Ireland is the one which has helped many victims and does a lot to inform people about the risks of sham marriages, but there are good examples of support provided also by other Latvian embassies. For example, providers of social services noted the support provided by the Embassy of Latvia in Greece, where the Embassy in cooperation with the Greek police helped a Latvian citizen to get away from the exploiter:

> "In one case support was provided by the Embassy in Greece in a very successful way. Relatives contacted the Embassy. Its employee phoned the girl and asked her to give her phone to a passer-by, to call the police, and thus the girl went to the police station and under protection. There was, though, one problem. The girl spoke neither English nor Russian, but we found a solution to the communication by involving the Embassy staff and our own employees as interpreters. The police was very responsive, they were ready to take the girl to her temporary place of residence so that she could get her personal belongings." (An interview with a provider of social rehabilitation services)

In order to have this kind of cooperation in practice, it is very important to have all the parties involved informed about the issue of exploitative sham marriages and the types of action that should be done in a situation like this, how to provide assistance. The experience in Latvia shows that many institutions have very successful cooperation. To ensure cooperation also in the future, it is essential that all professional groups which might come into contact with victims of sham marriages (police officers, social workers, the staff of embassies, migration services and marriage registry offices), at the slightest suspicion of a case of exploitative sham marriage (for example, spouses do not speak a common language and are able to communicate only through a go-between), would inform the potential victim about the risks of sham marriages and where to turn for help. To provide information that the particular person needs, they should be able to recognise suspicious situations and also the possible victim, and therefore training is needed:

> "One must be able to recognise human trafficking cases. A social worker will not always be able to identify specific indicators of human trafficking; one must learn to do it. And it is a huge support if there is a professional at the social service who has heard about human trafficking. In such cases cooperation in dealing with social welfare issues is more successful." (An interview with a provider of social rehabilitation services)

> "Specialists should be educated, for example, employees of custody courts and the municipal police, so that they would be able to recognise human trafficking cases. And also prosecutors should participate in training, to receive additional information about the psychological state of victims, since understanding of this might be helpful in making the decision. After all, human trafficking cases are not routine cases." (An interview with a provider of social rehabilitation services)

4.8.3 Changes in the legal regulation contributing to the understanding of human trafficking and possible vulnerabilities

Many experts consider that the legal regulation that has been currently established in Latvia is good, and the amendments during recent years – CL section 285^2 and the concept of vulnerability in CL section 154^2 – are regarded as being particularly positive (for a more detailed explanation, see section 2.1. Legal regulation and amendments to it: 2010–2015):

> "I believe that this law is very good for Latvia. It is a matter of being able to apply it. ... For example, now the concept of vulnerability was put in CL section 154^2. It is very good. Now it is possible to prove that a girl was forced, if she is intellectually disabled." (An interview with a provider of social rehabilitation services)

> "About that vulnerability. I found out about it when going to seminars. A judge from Lithuanian said that there was such a feature as vulnerability in Lithuanian legislation. I was waiting all the time, when we would have it. I had one criminal case, I tried to prove that the girls who went abroad were in a state of helplessness, they were unable to understand, they were unable to do the correct thing. It is very good that this concept has been approved with us. I believe that it will make our work much easier." (An interview with a representative from the police prosecutor's office)

As regards using the concept of vulnerability in practice, some experts have a very positive opinion, while others take a more sceptical approach and note that one must learn how to use this new regulation, and the case law should be seen and analysed, how a person's vulnerability is interpreted:

> "If the state of vulnerability is used, we shall see what kind of scope will be given to this concept by practitioners. The law does not provide an exhaustive content to this concept; it will be developed in case law. The way her helplessness is used." (An interview with an expert – a lawyer)

In general, the inclusion of the concept of vulnerability into the Criminal Law section on human trafficking will in the future allow referring cases to CL section 154^2 on human trafficking. Until now, if a woman had concluded a sham marriage voluntarily, but later had been deceived and subjected to exploitation, these cases were heard on the basis of CL section 285^2 (on ensuring in bad faith to a person the possibility to obtain the legal right to reside in Latvia, another Member State of the EU, a state of the EEA or the Swiss Confederation):

> "We'll see how this vulnerability, which we put into human trafficking, as a measure could transfer more situations from CL section CL 285^2 to human trafficking. We'll see about exploitation, the way practitioners think." (An interview with an expert – a lawyer)

A number of experts emphasise that it is too early to assess how the new regulation on a person's vulnerability functions, since there is no case law. The practice will develop only through legal proceedings, appeals and judgments by the Supreme Court, on how to interpret this concept of vulnerability, because at the beginning rather widespread uncertainty and different interpretations can be seen:

> "About vulnerability. It is rather disputable. We'll know after case law develops. Everyone is waiting for the first cases and the first judgments. Because one prosecutor sees a crime, another does not. Until the Supreme Court provides a summary on the issue. It is like that the police takes one perspective, the prosecutor another one, but the judge yet another." (An interview with an expert – a lawyer)

To develop uniform practice and have less contradictions and different interpretations in the work of the police, the prosecutors and judges, common training and seminars are needed in order to discuss those issues that have been interpreted differently and to know what should be proven and what kind of evidence should be collected:

> "Whenever a new section is adopted, training, seminars are needed. To know what should be proven and what kind of evidence should be collected." (An interview with a representative of the police/ prosecutor's office)

The interviews with experts reveal that the legal regulation on human trafficking is interpreted differently in the work of police, prosecutors and judges. The police have experienced cases where the operation of recruitment networks detected by the police is not interpreted as a crime, because there are no victims. The judges do not classify as criminal offences those cases that have been initiated on the basis of detected recruitment, but only as an attempt to commit a crime, and it is also difficult to classify these as human trafficking cases (therefore these are cases on the basis of CL section 285^2), and the aspect of a person's vulnerability is not taken into consideration.

In 2009–2010 there were cases in which the police investigated for an entire year, collecting materials, but the prosecutor made a decision stating that there were no elements of crime in these cases. Different interpretations of the legal regulation on human trafficking was one of the factors that facilitated the drafting and adoption of CL section 285^2, since the previous regulation restricted the police officers in taking any measures to combat exploitative sham marriages that could not be classified as forced marriages.

> "The problem that was identified in 2009–2010: there was an investigation, a large-scale and complicated one, and, indeed, vulnerability was involved, intellectual disability of the girls involved. The prosecutor simply said that he was terminating the case, since there was no corpus delicti [no elements of the offence], and nowhere does the Criminal Law make a reference to sham marriages. The argument that there had been criminal activities was not taken into consideration. The case was really large-scale. Worked on it for a year, a huge case, and then it turns out that it has not been put into the Criminal Law, that this concept does not exist. [...] Very unpleasant that the police officers do the work and the prosecutor says that there were no grounds for initiating a case." (An interview with an expert – a lawyer)

Pursuant to the regulation currently in force, in those cases which involve forced sham marriages, human trafficking charges are brought (section 154^2 of the Criminal Law), but if the marriage has been concluded voluntarily, then section 285^2 of the Criminal Law is applied:

> "In my criminal cases there are episodes in which involvement in sham marriages was voluntary, but some cases involved the use of force. Where it was by force, I

brought charges for human trafficking. If CL section 285^2 comprised references to forced sham marriages, there would be no need for us to bring human trafficking charges." (An interview with a representative of the police/ prosecutor's office)

Disagreements among police officers and prosecutors, as well as constant calls for help from the Embassy of Latvia in Ireland facilitated both the elaboration of CL section 285^2 and the improvement of the legal regulation on human trafficking, and in 25 September 2014 amendments on vulnerability were introduced to CL section 154^2.

"Someone sees it as a crime, someone else does not. The police hold that if this person comes and says that she was forced, then, yes, this could be a case of the state of vulnerability. But if the person was caught and only then starts saying that she had been forced, had been helpless, then it is no longer a state of vulnerability. [...] Then we'll have empty prisons, all thieves and murderers will say that they were forced, they had been threatened. Thus, practice is needed, in what cases it can be applied and when it cannot. The primary question: what is going to be the evidence?" (An interview with an expert – a lawyer)

Compared to the understanding among those working in the prosecutor's office and the police, the understanding of the definition of human trafficking encountered among providers of social rehabilitation services is even broader. They try to prove that also a voluntary sham marriage in which the person had been deceived or her vulnerability had been abused, should be considered as a case of human trafficking:

"We have a dispute with the police about it, since they stick to the definition and the words. We propose that the criteria for recognition should be modernised, in view of the fact that the element of coercion slowly disappears and deceit is seen more often." (An interview with a provider of social rehabilitation services)

There is a tendency among providers of social rehabilitation services to be quite suspicious about marriages between Latvian citizens and citizens of particular countries, for example Pakistan and Bangladesh. Many of providers of social rehabilitation services think that a high proportion of these marriages are not genuine in our understanding. However, they also admit that not all marriages with third-country nationals should be considered fictitious and linked to exploitation. One should examine whether recruitment has taken place, whether deceit occurred, whether a person's vulnerability was used and whether the marriage is linked to obtaining a residence permit.

"Not all marriages to a third country citizen are fictitious, they can be also genuine. However, violence is possible also in such a marriage. Therefore these issues are suspicious: there is recruitment, using the state of vulnerability, deceit and the aim of getting a residence permit." (An interview with a provider of social rehabilitation services)

The experts hold the opinion that pure sham marriages in which the spouses live separately and there is neither violence, nor threats, should not be recognised as exploitative sham marriages:

> "A pure sham marriage: no beatings, the fictitious spouses live separately. But as soon as elements of exploitation, violence appear, it can be identified as human trafficking." (An interview with a provider of social rehabilitation services)

Experts also note that situations which many providers of social services in Latvia consider to be human trafficking, are treated in other countries as cultural differences and discord in the family, failing to identify the link between the marriage and obtaining the residence permits, and abuse of the legal regulation on migration:

> "Every state takes a different perspective on such marriage. The Irish and the British see that as cultural differences and discord in the family: nothing to be done, the spouses are not getting on; no human trafficking to speak of. In Latvia it is identified because the aim was not to form a family, but to obtain a residence permit in the EU on the basis of the concluded marriage." (Interview with a provider of social rehabilitation services).

In general, the main problem and challenge that is linked to the legal regulation is that there is a lack of clear understanding among police officers, prosecutors and judges on how to apply the provision on vulnerability. Furthermore, case law is lacking and therefore the section in the law that defines vulnerability is not currently used to its full extent.

4.8.4 Increasing understanding at the EU level

Interviews with Latvian experts reveal that they have repeatedly encountered a lack of understanding among experts and professionals in other EU countries about types of human trafficking and the need to combat sham marriages that have been concluded in order to ensure residence permits to third-country nationals. Some experts point out very directly that some countries have a very liberal approach to violations of migration rules (the presence of third-country nationals in the country without legal grounds), and also do not really recognise features of human trafficking in cases of exploitative sham marriages. Comparatively, Latvia and Portugal are mentioned as the countries that have been most active in trying to draw the attention of other countries to this problem:

> "There are countries that do not want to deal with this issue at all, but Latvia and Portugal are trying to set other countries in motion .. [...] Europe is extremely inert. That is the greatest problem." (An interview with an expert – a lawyer)

However, in recent years certain changes in attitude and improvements have been observed. In particular, during the last year successful cooperation with Irish institutions, including the Irish Garda (police), has been developing since the Irish side is proposing to work on joint investigations. In view of the fact that the Latvian Embassy in Ireland and the OCCB have tried to draw Ireland's attention to these problems already since 2006, it could be said that they have succeeded in their effort. It is very important that in Ireland a specialised department has been established to work with sham marriages, which allows dealing with this problem in a more targeted way. In Latvia it would be advisable

to establish a specialised department at the prosecutor's office, dealing only with combating human trafficking, in order to make the prevention of human trafficking in Latvia more successful:

> "Now we receive a proposal from the Irish colleagues to form joint investigation teams with them to deal with sham marriages. [...] They have established a specialised department which will have only one line of work: sham marriages, possibly, in connection with human trafficking, a specialised department. [...] Not only with us, it is also like that abroad, an ordinary police officer is less active in investigating crimes of human trafficking. [...] For effective detection and investigation of human trafficking crimes, the Latvian police lack human and technical resources, and also financing. Before that is in place, astonishing results cannot be expected." (An interview with a representative of the police/ prosecutor's office)

Many Latvian experts emphasised in the interviews that they had encountered situations where partners of cooperation in other countries treat third-country nationals in very good faith, and proper inspections to establish the true situation were not conducted. One example is linked with the case in which there was an attempt to collect child support payments through the Maintenance Guarantee Fund, but the responsible civil servants in Ireland took the man at his word, without any proof, that he had been providing means of subsistence to his children:

> "There was a case in which we requested child support payments through the Maintenance Guarantee Fund. The father of the child lives in Ireland. We sent a request to the Irish authorities. The employees of the Irish institutions met with the father, who affirmed orally that he was sending money to the child once per month. We were informed that the father was helping with child support. Unfortunately, the Irish institutions did not verify whether there was proof of him doing this. Believe anything that is said. On the basis of information received from the Irish institution, the woman cannot receive any benefits from the Maintenance Guarantee Fund." (An interview with a provider of social rehabilitation services)

This particular case cannot be generalised, but several experts do hold the opinion that Latvia, compared to many other EU countries, has stricter controls over the legality of third-country nationals residing on the territory of Latvia and of compliance by foreigners with Latvian legal regulation. Experts who express their opinion about this issue share the view that it is in the interests of the state and its citizens to ensure stricter control over migration and to work more actively to decrease illegal immigration, based on sham marriages. However, Latvia alone cannot implement this. A common understanding is needed at the EU level.

5. Conclusions and Recommendations

5.1 Types and features of exploitative sham marriages

The study reveals three main ways of involving women in **exploitative sham marriages.** Firstly, elements of human trafficking can be identified where a person has been forced to conclude a sham marriage (forced sham marriage). Secondly, there are elements of human trafficking in cases and indication of an exploitative sham marriage in which a person has initially agreed to conclude a sham marriage but she has later been deceived and subjected to violence. The third type of exploitative sham marriages is a sham marriage in which a person has created an impression for another person that the marriage is genuine. The marriage is later revealed as fraud and can be determined to be a unilateral sham marriage where it is a sham marriage only for one part, but genuine for the other.

The common features of all three types of exploitative sham marriages are linked to mechanisms of recruitment. In all cases fraud and manipulation with the victim's state of helplessness occur; the victim's vulnerability is used. In the case of forced sham marriages, fraud is used to lure the victim away from Latvia (most often by promising a well-paid job somewhere abroad). However, in cases of a voluntary sham marriage, fraud is observed with regard to the way transaction is conducted: the victims believe that they will receive money immediately after marriage and will be able to return home, but in reality the money is not paid. In addition, the woman must live together with the "husband" in order to convince the migration services that the marriage is genuine. During this period, the person is subjected to violence. In the case of a unilateral sham marriage, the victim is misled by the illusion of a genuine relationship.

The victim's vulnerability is a common feature in all three types, and the most frequently encountered multiple overlapping risk factors are poverty, disadvantageous family circumstances (dysfunctional families), a low level of education, diagnosed moderately severe or severe intellectual disability, and poor social skills. The types of exploitation may differ from case to case, but the most frequently encountered ones are:

1) involving a person in the commission of a criminal offence: a sham marriage, or sometimes participation in other criminal activities, such as recruiting other victims or theft;
2) provision of forced sexual services to the "husband", and sometimes also to his relatives or friends;
3) state of slavery: restricting a person's freedom of movement, total control (may not leave her room, may not get in touch with her relatives and/or friends), must accept foreign traditions, subjected to psychological or physical violence, total economic dependence, being threatened constantly.

With regard to the three types of exploitative sham marriages identified in Latvia, there is no consensus among experts that all of these could be recognised as human trafficking. However, in Latvia the majority of experts recognise the

first two types as human trafficking. It must be noted with regard to the second type that it is not always possible to provide the evidence needed to recognise it as human trafficking, and also in other countries this is not always considered to be human trafficking.

The third type is the most complicated one. In the case of a unilateral sham marriage. it is very difficult to prove that the marriage is not genuine and that this is a case of human trafficking, because, firstly, victims themselves rarely want to admit that their marriage had not been genuine and that they had been deceived. Secondly, having children within these relationships creates the illusion of a traditional family. Thirdly, because problems and violence are often observed only after a number of years into the marriage, this makes it difficult to trace back to the moment of recruitment, and arguments could be made that these are "just" cases of domestic violence.

At the same time, there are specialists among Latvian experts who emphasise that Latvia has experience in identifying the features of fraud and of sham marriage, which are:

- elements of exploitation can be identified;
- the sole grounds for the residence permit granted to the third-country national is marriage to a Latvian citizen;
- marriage was proposed immediately after the two became acquainted;
- the third-country national facilitates the onset of pregnancy and the birth of a common child in all possible ways, since a common child is sufficient grounds for applying for a residence permit in the EU;
- marriage is organised outside Latvia in a state that has a minimum of control over the procedure for concluding a marriage;
- in the majority of cases the bride's parents, relatives and friends do not participate in the wedding ceremony.

5.2 Main problems and challenges in preventing exploitative sham marriages

In view of the fact that the number of deceitful exploitative sham marriages in which the victim initially agrees to cooperate is on the rise and the number of forced sham marriages is decreasing, one of the main challenges is to prove that this has been a case of human trafficking by using the existing definition of human trafficking.

In order to make better use of the definition of human trafficking in the legal regulation, amendments to CL section 154² were prepared, including provisions on the concept of vulnerability. However, the statements made by a number of experts show that there is a lack of clear understanding among police officers, prosecutors and judges on how to apply this new concept of vulnerability. There is no case law, and therefore the provisions made in the law on the status of vulnerability are currently not used to the full extent.

The second most pressing challenge for Latvia is the fact that until now the measures designed to prevent human trafficking, aimed at educating the members of society, have been primarily implemented in the form of projects. Up to the present, the national program has not allocated stable financing intended to ensure regular prevention measures.

Thirdly, it must be noted that both amendments to legal regulation and increasing awareness in society and in some risk groups should be linked to regular training of different professional groups, in order to ensure a uniform understanding of the issue and cooperation with various institutions. To implement this kind of cooperation, it is very important that all the parties involved are informed about the problem of exploitative sham marriages and what should be done in this case, how to provide assistance.

Fourthly, some experts identify certain differences among EU states in respect of the control of marriages and immigration of third-country nationals based on marriages. There are countries that do not pay much attention to violations of migration regulations (third-country nationals residing in the state without an appropriate legal basis), as well as to regulations on marriage with third-country nationals. There are also countries in which human trafficking and exploitative sham marriages are not recognised as such. This situation is abused by third-country nationals, who see a possibility to use the institution of marriage in order to obtain a residence permit in the EU. In view of the fact that EU migration control may be implemented only when all EU states are cooperating, a common understanding of the problem of exploitative sham marriages is needed at the EU level in order to decrease illegal migration based on sham marriages.

5.3 Recommendations

5.3.1 On the national level

1. Examination of the possibility of including the concept of "exploitative sham marriage" in Latvian legal regulation. One of the solutions would be to include this concept in the definition of the concept of exploitation in the third part of CL section 154².
2. Organisation of training seminars for prosecutors and judges in order to promote a uniform understanding of the concept of human trafficking, vulnerability and exploitative sham marriage, and the application of Latvian legal regulations.
3. Establishment at the prosecutor's office of a specialised department for combating human trafficking.
4. Increasing the capacity of the OCCB and ensuring that all modern technologies are available for their use.
5. Improving the capacity of the municipal police to identify victims of human trafficking and expanding their knowledge about actions to take in such cases, by organising training for employees of municipal police.

6. Continuing the organisation of training for specialists and implementing a systemic approach in order to facilitate informing specialists of all regions and local governments.
7. Facilitating the capacity of all professional groups who potentially might come into contact with a victim of human trafficking so that they would be able to identify the victims more efficiently.
8. Increasing the awareness in society in general, and among target groups in particular, about the risks that are linked to sham marriages with third party nationals. Ensuring that information campaigns are systematic and conducted within the framework of the implementation of the Guidelines on Human Trafficking, 2014–2020.

5.3.2 On the international level

1. Facilitating recognition of the phenomenon of "exploitative sham marriage" on all levels by organising international discussions, seminars, conferences and cooperation projects.
2. Facilitating the understanding within the EU countries about the need to implement stricter control over marriages of EU citizens with third-country nationals, ensuring that it is impossible for third-country nationals who reside illegally in the particular country to marry, requiring documents that prove the marital status of the person (has or has not been married before).
3. Facilitating the understanding within the EU countries of the need to delay the conclusion of suspicious marriages in situations where there are grounds to consider that the marriage could be fictitious: those applying for registration of marriage are unable to talk to one another, and they do not know anything about each other. To provide for the possibility that in the case of suspicious marriage the applicants are interviewed separately.
4. Criminalising the conclusion of sham marriages with third-country nationals in all EU Member States.

List of sources and literature used

Buša, Vija (2015): Presentation: Sham marriage – a form of human trafficking? Experience of the Embassy of Latvia in Ireland. Presented on 09 June 2015. Brussels.

Cilvēku tirdzniecības pamatnostādnes 2014.-2020.gadam [Guidelines on Human Trafficking, 2014–2020]. Apstiprinātas ar MK 2014.gada 31.janvāra rīkojumu Nr.29. Available: www.iem.gov.lv/files/text/Pamatn.pdf (Last viewed 30 November 2015.).

Civillikums [Civil Law]. *Valdības Vēstnesis*, Nr. 41, 20 February 1937.

Civilstāvokļa aktu reģistrācijas likums [Civil Registry Law]. *Latvijas Vēstnesis,* Nr.197 (4800), 14 December 2012.

Imigrācijas likums [Immigration Law]. *Latvijas Vēstnesis,* Nr.169, 20 November 2002.

Kārkliņa, Dace (2015): *Īrijas likumdošana vēršas pret fiktīvām laulībām* [Irish legislation takes action against sham marriages]. Published: 19 August 2015. Available at: http://baltic-ireland.ie/2015/08/32868/ (Last viewed 30 November 2015.).

Krimināllikums [Criminal Law]. *Latvijas Vēstnesis*, Nr.199/200(1260/1261), 08 July 1998.

Liholaja, Valentija (2014): Tiesu prakse kriminālllietās par cilvēku tirdzniecību [Court practice in criminal cases on trafficking in human beings]. Latvijas Republikas Augstākā tiesa, Krimināllietu departaments. Available at: http://at.gov.lv/lv/judikatura/tiesu-prakses-apkopojumi/kriminaltiesibas/ (Last viewed 30 November 2015).

Lyneham, Samantha; Richards, Kelly (2014): Human trafficking involving marriage and partner migration to Australia. Australian Institute of Criminology, Reports, Research and Public Policy Series, 124. Available at: http://www.aic.gov.au/media_library/publications/rpp/124/rpp124.pdf. (Last viewed 30 November 2014).

Padomes 1997.gada 4.decembra Rezolūcija par pasākumiem fiktīvu laulību apkarošanai [Council Resolution of 4 December 1997 on measures to be adopted on the combating of marriages of convenience]. *Oficiālais Vēstnesis*, Nr.382, 16 December 1997.

Papildu konvencija par verdzības, vergu tirdzniecības un verdzībai līdzīgu institūtu un paražu izskaušanu [Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery]. Pieņemta Apvienoto Nāciju Organizācijas Eiropas mītnē Ženēvā 1956.gada 7. septembrī. Available at: http://m.likumi.lv/doc.php?id=73632 (Last viewed 30 November 2015).

Par Apvienoto Nāciju Organizācijas Konvencijas pret transnacionālo organizēto noziedzību Protokolu par cilvēku tirdzniecības, jo sevišķi tirdzniecības ar sievietēm un bērniem, novēršanu, apkarošanu un sodīšanu par to [United Nations

Convention against Transnational Organised Crime. Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children]. *Latvijas Vēstnesis*, Nr.66 (3014), 28 April 2004.

Par darba grupu Cilvēku tirdzniecības novēršanas pamatnostādņu 2014.-2020.gadam īstenošanas koordinēšanai [About working group for coordination of implementation of the Guidelines on Human Trafficking, 2014–2020]. Ministru prezidenta rīkojums Nr.307. *Latvijas Vēstnesis,* Nr.167 (5227), 26 August 2014.

Sociālo pakalpojumu un sociālās palīdzības likums [Social Services and Social Assistance Law]. *Latvijas Vēstnesis,* Nr.168 (2743), 19 November 2002.

Vucāne, Astrīda (2015): Fiktīva laulība cilvēktirdzniecības kontekstā: terminoloģijas problēmas [Sham marriage in trafficking context: terminology problems]. *Jurista vārds*, Nr. 45 (897), 35−38. lpp.

EXPLOITATIVE SHAM MARRIAGES AND TRAFFICKING IN HUMAN BEINGS IN LITHUANIA

Karolis Zibas

1. Introduction

Trafficking in human beings is one of the most profitable large-scale crimes in the European Union (EU) and the world. As the official EU document entitled 'The EU Strategy towards the Eradication of Trafficking in Human Beings' (2012) states, every year trafficking in human beings brings tens of millions of euros in income to criminal groups. Trafficking in human beings is considered a manifestation of slavery,[1] a grave assault on individual freedom and dignity, and therefore, a very serious crime that is in direct opposition to modern, European democratic principles. The consequences and causes of such crimes can be tackled only with the help of close international cooperation (COM (2012)286).

For a long time, trafficking in human beings has involved phenomena such as sexual exploitation, illegal adoption, forced labour, and trafficking in organs. However, as the flow of international migration has intensified, trafficking in human beings is involving new phenomena. The concerns of the EU are not only about trafficking in human beings. In discussions in the EU on trafficking in human beings, concerns have arisen concerning the phenomenon of sham marriages, which may involve organised crime and may lead to exploitation (Vermeulen and De Bondt 2014:79; EUROPOL 2014). Today trafficking in human beings remains a major challenge in the EU largely because of the latent nature of the crime, [2] new (often hidden and quickly changing) forms of recruitment and the adaptability of organised crime to national and regional policies. [3]

At the EU level, the phenomenon of sham marriage is not new. Sham marriages have mostly been treated as a crime against the state. This crime is mainly considered to be a violation of migration laws, since it aims at specific goals: a

[1] The concepts of human trafficking and slavery are closely related (ILO 2015).

[2] According to Sirgedienė (2012), up until now the data that has been collected on trafficking in human beings is fragmented, concerns other crimes, covers different periods and is not comparable. For this reason it is impossible to evaluate the scope of trafficking in human beings. In addition, the hidden nature of the crime results from the fact that victims do not always identify themselves as victims, do not apply for assistance and/or above all do not report the crimes.

[3] According to Žiobienė (2006), most organised crime groups are quick and flexible in adapting to changing economic, social and legal conditions. In their activities, they take advantage of gaps that exist in national legislation.

permit to reside in one of the EU Member States or the taking advantage of the freedom of movement within the Schengen zone. [4] In distinction from the basic form of sham marriage, however, exploitative sham marriage, especially if it is to be considered as one of the potential forms of trafficking in human beings, is a crime against a person. Therefore, the blameworthiness of the crime (as compared with sham marriages) is much greater, but the initiation of the pre-trial investigation process and gathering of evidence is significantly more complicated.

As stated in the EU communiqué, the issue of sham marriages exists in all Member States. However, the problem manifests itself differently across countries, even if in all countries the nature of the activities of organised crime networks with regard to sham marriages raises concern (COM (2014)604). According to Europol data, organised crime networks are arranging sham marriages between EU citizens and third-country nationals. In this area, the priority need is to fight cases involving trafficking in human beings (COM(2013)837).

According to the United States Trafficking in Persons Report (2015), Lithuania is a source and transit country for women and girls who are recruited for prostitution and sexual exploitation in Western Europe. Lithuania is also considered a source country for males who are subjected to labour trafficking. In addition, Lithuania has become a source country for children and adult trafficking victims who are forced to engage in criminal activities in some of the Nordic countries, France, the Netherlands, Spain and the United Kingdom. Even though Lithuania is considered a source and transit country for trafficking victims, it has been observed that Lithuania is also a destination country for women who are brought for sexual exploitation and prostitution. So far, exploitative sham marriages are not recognised in Lithuania as a significant form of trafficking in persons. The organisation of sham marriages has not been criminalised in Lithuania. For this reason, the identification of victims, the initiation and organisation of pre-trial investigation, assistance for victims and recognition of the crime itself are very complex tasks indeed.

In Lithuania, the relationship between exploitative sham marriages and trafficking in human beings has not yet been analysed. However, one can find a lot of information about this topic in the mass media. In particular, diverse information can be found from electronic media channels in the United Kingdom and Ireland, countries where sham marriages are recognised as a major challenge. Moreover, recently the relationship between exploitative sham marriages and human trafficking has become a topic of expert discussions.

This research has been conducted as a part of the project 'Preventing human trafficking and sham marriages: a multidisciplinary solution' (HESTIA). The goal of the research (referred to below as HESTIA research) is to disclose the relationship between (exploitative) sham marriages and the crime of human

[4] Such an approach (sham marriage as a violation of migration law) prevails in Lithuania.

trafficking. Exploitative sham marriages are a new and under-researched topic in Lithuania. However, in the light of cases that have come to the attention of NGOs, [5] exploitative sham marriages as a phenomenon are not new.

The goal of this research is to analyse a relatively new form of human trafficking, i.e. exploitative sham marriages, and reveal the relationship between this form of exploitation and the crime of trafficking in human beings.[6] In aiming to fulfil this goal, policy and secondary data analysis (policies that are put into practice, research that has been conducted, and statistics that can be accessible) has been conducted which serves as a basis for disclosing and evaluating the situation of exploitative sham marriages in the general context of human trafficking. In addition, qualitative research was carried out during which 17 experts were interviewed. Nine of these experts represented non-governmental organisations, and crisis centres, and eight represented law enforcement institutions and courts (see Section 3: Research Methodology). The information provided by the experts allowed a deeper understanding of the phenomenon.

[5] Caritas Lithuania, Missing Persons' Families Support Centre, Klaipeda Social and Psychological Services Centre.

[6] It is not the aim of the research to characterise challenges in the wider context of national policies in respect of all forms of human trafficking and exploitation in Lithuania. This kind of analysis has been conducted for example in Ollus et al. 2013; Sirgedienė 2012; 2015.

2. The national context of human trafficking and exploitative sham marriages

2.1 Institutional and legislative structure relating to the fight against human trafficking

Trafficking in human beings is defined in Article 147 of the Criminal Code of the Republic of Lithuania as follows: "he/she who sold, bought or in other ways transferred or acquired, recruited, transported or kept a human being in captivity by means of physical violence or threats or otherwise deprived the person of the ability to resist, or using the victim's dependence or vulnerability, or deception, or accepting or paying money or receiving or providing other benefit to the person who in fact controls the victim, if the perpetrator knew or intended that the injured person, irrespective of whether he/she agreed to this, should be exploited for slavery or similar conditions to slavery, prostitution, pornography or other forms of sexual exploitation, forced labour or services including forced begging, involvement in criminal activity or for other forms of exploitation." [7]

This Article is supplemented by paragraph 1 (exploitation for forced labour and services) and paragraph 2 (profiting from person's forced labour or services). Even though exploitative sham marriage has not been distinguished as a form of exploitation in the Criminal Code of the Republic of Lithuania, in the context of criminal prosecution, three pre-trial investigations have been initiated that concern exploitative sham marriages[8] (see 2.3.1 Pre-trial investigations).

A definition of human trafficking was introduced in Lithuania in 2000, when it was officially recognised in the Criminal Code of the Republic of Lithuania (No. 89-27. No. X-272 of 25 October 2000) that trafficking in human beings is an offence against the person (or as it is stated in the Code, an offence against the freedom of the person). It was the growing scope of trafficking criminality which prompted lawmakers to include it as an offence in the Criminal Code. The human trafficking laws of Lithuania are formulated in line with the international legal framework.

In 2005, the Criminal Code was amended (No. 81-2945. No. X-272 of 30 June 2005) by adding an article concerning forced labour as a form of exploitation. Therefore, until 2012, according to the Criminal Code of the Republic of Lithuania, prostitution, pornography and forced labour constituted aims of exploitation. Finally, in 2012, new amendments of the Criminal Code were introduced (No. VIII-1968 of 26 September 2000), which made provisions for new forms of exploitation: forced begging and forced criminality. The Criminal Code also foresees criminalisation of profiting from or involving another person in prostitution (articles 307 and 308). Currently the Criminal Code of the

[7] Unofficial translation.

[8] The term "forced marriage" is used by the Operational Activity Unit of the Lithuanian Criminal Police Bureau citing statistical information about initiated pre-trial investigations in the area of human trafficking.

Republic of Lithuania does not define (exploitative) sham marriages as a separate crime or a form of exploitation in human trafficking.

The main legal acts of the Republic of Lithuania that concern trafficking in human beings are the following:

Criminal Code of the Republic of Lithuania (No VIII-1968 of 26 September 2000):

- Article 147 (human trafficking);
- Article 147(1) (exploitation for forced labour or services);
- Article 147(2) (profiting from another person's forced labour or services);
- Article 157 (child trafficking);
- Article 307 (profiting from another person's prostitution) and 308 (forced prostitution).

The Code of the Administrative Violation of the Republic of Lithuania (No ADM of 12 November 2015):

- Article 182(1) (engagement in prostitution or profiting from the prostitution of others).

2.1.1 Institutional structure

The Ministry of the Interior of the Republic of Lithuania is responsible for the governmental policies in fighting against human trafficking, including the control of activities of different government institutions and non-government organisations and conducting surveys in evaluating the effectiveness of government policies and actions against human trafficking. Lithuania has a three-level system of coordination and prevention (Sirgedienė 2012). The first level consists of the national coordinator, whose role is to organise activities and coordinate the functioning of the system.[9] The second level is also coordinated by the Ministry of the Interior. This level is represented by inter-departmental working groups, which consist of experts from the Ministry of the Interior and other institutions that implement programmes of national prevention and control aimed at combating human trafficking. According to Sirgedienė (2012), non-governmental and international organisations (such as the International Organisation for Migration and Lithuanian Caritas) are not included in the working group, even though both organisations are actively engaged in implementing actions against human trafficking. The third level consists of law enforcement institutions, where authorities cooperate with representatives of municipalities, non-governmental organisations, social workers, social pedagogues, psychologists, etc. At this level, non-governmental organisations

[9] It should be noted that the national coordinator from the Ministry of the Interior was appointed in 2007, but he resigned in 2010. For unknown reasons, a new coordinator has not been appointed.

play an important role by implementing actions against human trafficking and supporting victim reintegration.

2.1.2 Legislative structure

Lithuanian institutional and political responses to the crime of human trafficking have been changing depending on the changes in the forms of human trafficking; in other words, the policy framework has been implemented according to an ad hoc principle. In the first Programme for Human Trafficking and Prostitution Control and Prevention 2002–2004 (No. 62 of 17 January 2002), the specific focus was on trafficking for sexual exploitation and prostitution. The second Programme for Human Trafficking Prevention and Control 2005–2008[10] (No. 558 of 19 May 2005) brought attention to tasks of broader scope and acknowledged various forms of exploitation. The Third Programme for Human Trafficking Prevention and Control 2009–2012 (No. 1104 of 9 September 2009) highlighted new challenges; therefore, the goals and tasks were related to prevention and control, protection of victims, and international and intersectoral collaboration.[11]

After a ten-year period implementing long-term anti-trafficking programmes, it was decided to change political course by including anti-trafficking measures in a more general Governmental programme. Therefore, on 14 November 2012 the Government adopted "The inter-institutional action plan for the implementation of the national crime prevention and control programme for 2013–2015" (No. 1381 of 14 November 2012). This programme encompassed measures and priorities dealing with different types of organised crime, where anti-trafficking measures were one of the priorities with an aim to strengthen anti-trafficking efforts. According to Sirgedienė (2015), the following institutions have prepared actions for this priority direction, allocated budget money and implemented them: the Ministry of Interior, the National Police Department, the Ministry of Social Security and Labour, the Ministry of Foreign Affairs and the Lithuanian Labour Exchange. [12]

In analysing the programmes referred to above, it is important to underline a few aspects of this new action plan. First, some of these measures were never

[10] This Programme is the continuation of the Programme for Human Trafficking and Prostitution Control and Prevention 2002–2004.

[11] The aim of the programme is to effectively and consistently solve problems related to the prevention and control of trade in people at the state level. Goals: to stop and combat trafficking in human beings; to defend the rights of victims who suffered from the trade in people and provide them with complex assistance; to guarantee efficient functioning of the systems of assistance to victims and witness protection; to assure effective international cooperation of competent Lithuanian and foreign state institutions and nongovernmental organisations in the fight against human trafficking.

[12] The Lithuanian Labour Exchange is an executive agency under the Ministry of Social Security and Labour. It is responsible for the provision of labour market services to jobseekers and employers and the implementation of active labour market policy measures.

implemented or, due to a lack of funding, were implemented only to a limited extend. Second, since 2013, determining the modus operandi and regulatory mechanisms for the fight against human trafficking in Lithuania has been based on the common measures rather than, as was the case earlier, on long-term strategies and action plans. Regulations based on this new initiative to include anti-trafficking measures in a more general Governmental programme raise essential questions about the effectiveness of anti-trafficking efforts. Third, the permanent secretary of the Ministry of Interior of Lithuania was appointed as the national coordinator for the prevention and fight against human trafficking in the implementation of the Programme for Human Trafficking Prevention and Control 2005–2008. Unfortunately, after this national coordinator resigned in 2010, a new coordinator has not been appointed. [13] Fourth, since 2013 the Public Security Policy Department of the Ministry of the Interior was commissioned to collect, analyse, evaluate and summarise information about the situation in respect of human trafficking and the methods being used to fight human trafficking. This report was also expected to summarise the results and provide explicit suggestions regarding the effectiveness of the current programme. It was to be submitted to the Minister of the Interior. Eventually, the institution (the Ministry of the Interior) which is responsible for implementation of anti-trafficking policies, performs functions of overall communication and reporting, which means that the same institution at the same time performs functions of implementation and evaluation.

At the EU level, solutions to human trafficking issues are a priority task, requiring coordination between governmental institutions and nongovernmental organisations as well as a set of common, explicit actions to combat human trafficking and its consequences. As a response to human trafficking, the EU established a set of anti-trafficking initiatives with long-term priorities (such as the EU Strategy Towards the Eradication of Trafficking in Human Beings 2012–2016; and Directive 2011/36/EU). In distinction from EU priorities, Lithuania has arguably shifted its anti-trafficking policies from a long-term proactive strategy to reactive measures. In July 2013 the Government dismantled the anti-trafficking police unit. The responsibilities of this unit were transferred to the police section investigating serious crimes. These steps have been criticized as indications that human trafficking is not a political priority on the government agenda (see Chapter 4.12 General policy response to human trafficking and exploitative sham marriages). Not surprisingly, the most recent US Trafficking in Persons Report (2015) emphasises that efforts in the fight against human trafficking do not really meet even minimal requirements in Lithuania. The report stresses that investigators, police, prosecutors, and judges do not receive sufficient training to more consistently apply the anti-trafficking statute or to treat victims appropriately. Protection of victims is implemented in a negligent

[13] The national coordinator was authorised to report to the Government and Parliament about the implementation of the programme and the status of human trafficking in Lithuania; coordinate implementation of the programme; and maintain relationships between government institutions, non-governmental and international organisations.

way, government funding for organisations assisting victims does not cover all expenses. Government institutions do not undertake any measures to identify victims among vulnerable groups in the society; it does not always direct victims to the organisations that provide assistance. However, the strongest critique in the report concerns policy coordination. The report states that the government does not have a formal coordinating structure that would organise efforts at all government levels. In addition, there is a lack of a standardised system which would provide specialised assistance to victims.

In summarising the above, there is no legal definition in Lithuania of exploitative sham marriages (including in the Criminal Code of the Lithuanian Republic) nor are they defined in political programmes, action plans or strategies. In this case, the biggest challenge is that the organisation of (and participation in) sham marriages has not been criminalised in the Criminal Code of Lithuania.[14] Therefore, it is not surprising that exploitative sham marriages, as well as other forms of exploitation, have not been prioritised in the political agenda.

2.2 Overview of project-based activities

In Lithuania, trafficking in human beings is actively tackled by non-governmental and international organisations, which assist (potential) victims of human trafficking. Lithuanian Caritas, Save the Children, the Missing Persons' Families Support Centre, the International Organization for Migration, the Women's Issues Information Centre, the Klaipėda Social and Psychological Services Centre and other organisations not only provide needs-based assistance to victims of human trafficking, but also implement preventative work.

In 2014, the Ministry of Social Security and Labour allocated funding for five non-governmental organisations to implement activities related to victim support and assistance. A recent report (Sirgedienė 2015) states that in implementing the projects financed by the Ministry of Social Security and Labour in 2014, non-governmental organisations provided assistance to 133 persons (50 males and 83 females), out of whom 80 were victims of human trafficking, including 30 males and 9 minors; 13 persons were provided with a shelter (temporary housing services), 41 persons were victims of forced prostitution, 49 persons became victims abroad, 37 persons cooperated with the judicial system; assistance was also provided to 53 persons in a risk group that was identified as consisting of potential victims of human trafficking. [15] However, exploitative sham marriages have not constituted a priority activity area for non-governmental organisations.

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[14] According to Sipavičienė and Jeršovas (2012), Lithuanian national policies do not distinguish sham marriages as a process that raise a special threat in the area of illegal migration (Sipavičienė and Jeršovas 2012). It is therefore not surprising that methodological landmarks on how to conduct investigation are missing.

[15] For more information on measures for fighting human trafficking, see the report 'Situacija kovos su prekyba žmonėmis srityje Lietuvoje. 2014 metai' [Situation in the area of trafficking in human beings in Lithuania. 2014].

Even so, in recent years some of the activities of non-governmental organisations have begun focusing on different forms of human trafficking. It is also important that these activities are not limited only to implementation of preventative measures and victim protection. Special attention is given to inter-sectoral cooperation. It is illustrated by the projects carried out by Caritas Lithuania which include e.g. 'European Communities Against Trafficking (ECAT)', 'Lithuanian Society Against Trafficking in Persons: the Model of A Systematic Approach', 'A systematic human trafficking prevention model: interdepartmental cooperation'[16] and other projects related to the enhancement of inter-sectoral cooperation as well as bringing attention to different forms of human trafficking: forced labour, sexual exploitation, forced criminality and organisation of exploitative sham marriages. It should be noted that the project 'Preventing human trafficking and sham marriages: a multidisciplinary solution' (HESTIA)[17] is the first attempt to systematically evaluate and address exploitative sham marriages in Lithuania.

In 2013–2015 the Vilnius Office of the International Organization for Migration implemented the project 'Fighting trafficking crimes by increasing social responsibility.' This project was accompanied by the information campaign 'Trafficking in human beings: an increase in the variety of forms' as well as training for social services providers.[18] The Missing Persons' Families Support Centre,[19] the Women's Issues Information Centre[20] and the Klaipėda Social and Psychological Services Centre[21] were directly involved in implementing the project activities.

2.3 Statistical data available relating to trafficking in human beings and sham marriages

2.3.1 Pre-trial investigations

According to data collected by the Operational Activity Unit of the Lithuanian Criminal Police Bureau, in 2013 there were 23 pre-trial investigations that were initiated concerning trafficking in human beings. By 2014, the situation in Lithuania had not changed noticeably, as 24 pre-trial investigations concerning human trafficking were initiated. During the first three quarters of 2015, 16 pre-trial investigations were initiated in Lithuania (see Table 1 for an overview).

[16] For more details see: http://www.anti-trafficking.lt/page/musu-projektai

[17] For more details see: http://www.heuni.fi/en/index/researchareas/humantrafficking/hestia-preventinghumantraffickingandshammarriagesamultidisciplinarysolution.html

[18] For more details see: http://prekybazmonemis.lt/apie-projekta/

[19] For more details see: http://www.missing.lt/index.php/lt/home/prekyba-zmonemis

[20] For more details see: http://www.moteruinformacijoscentras.lt/projektai/

[21] For more details see: http://www.moteriai.lt/projektai/

Table 1. Pre-trial investigations in 2013–2015.

Article of the Criminal Code	**2013**	**2014**	**2015***
Article 147 – Human trafficking	16	20	9
Article 157- Child trafficking	5	2	5
Articles 147 and 157	1	1	
Article 147(1) exploitation for forced labour or services	1		1
Articles 157 and 147(1)		1	
Article 147(2) profiting from another person's forced labour or services			1
TOTAL	**23**	**24**	**16**
Note: The articles of the Criminal Code of the Republic of Lithuania (No. VIII-1968 of 26 September 2000) that regulate the crime of human trafficking are 147 (trafficking in human beings), 147(1) (exploitation for forced labour or services), 147(2) (profiting from forced labour or services), 157 (buying or selling children), 307 (profiting from another person's prostitution), 308 (forcing another person into prostitution). Forced begging and criminal activities are included in article No. 147, without a specific sub-article. * January – September			

Out of the pre-trial investigations recorded in 2013, seven investigations were conducted on trafficking for forced criminal activities, six on trafficking for sexual services (prostitution and pornography), and four on trafficking for forced labour. The other investigations concerned other aims of exploitation. The main countries of destination to which the victims were transported were Germany (seven pre-trial investigations registered in Lithuania), the United Kingdom (seven pre-trial investigations registered in Lithuania), Lithuania, Denmark, France, the Netherlands and Norway (one registered pre-trial investigation in each).

In 2014, for the first time in Lithuania, a pre-trial investigation was initiated based on Article 147(2) of the Lithuanian Criminal Code, i.e. the use of forced labour or services. 11 pre-trial investigations conducted in 2014 were a result of suspicions of trafficking for forced criminal activities, seven of trafficking for prostitution, two of trafficking for forced labour, two of trafficking for prostitution and forced criminal activities, one of forced labour and forced criminal activities, and one of trafficking for sham marriage (Article 147). Three pre-trial investigations concerned suspicions of internal trafficking in human beings, and the others were cases of international trafficking. The most popular country of destination was Germany (six pre-trial investigations registered in Lithuania). Other countries of destination were the United Kingdom and France (three registered pre-trial investigations in Lithuania each), Sweden (two pre-

trial investigations), Armenia, Denmark, the Netherlands, Spain and Switzerland (one pre-trial investigation registered in Lithuania per each country). Two pre-trial investigations did not identify the country of destination.

Out of 16 pre-trial investigations that were conducted in 2015, six were initiated on the basis of suspicions of trafficking for sexual exploitation (prostitution), five on trafficking for forced criminal activities, one on trafficking for forced labour, one on trafficking for prostitution and criminal activities, and two on trafficking for sham marriage.

It should be noted that in 2014, just as was the case in 2013, most pre-trial investigations concerned forms of trafficking other than trafficking for sexual exploitation, which had previously been the focus of pre-trial investigations. From 2013 onwards there has been a gradual rise in the number of cases concerning trafficking for criminal activities (including children trafficked for criminal activities). This trend can be explained by the changes in the Criminal Code of the Republic of Lithuania, since it was amended to include new forms of exploitation; forced begging and forced criminal activities in 2012.

Starting in 2014, a new form of exploitation has emerged which is linked to sham marriages, and until the end of 2015, there have been three pre-trial investigations into suspicions of such marriages. These cases are discussed in more detail in Chapter 4.

2.3.2 Number of marriages between Lithuanian citizens and third-country nationals in Lithuania

The trend in the number of third-country nationals married to Lithuanian citizens from 2000 to 2014 is changing. During a 14-year period, 6329 marriages were concluded between Lithuanian citizens and citizens of the Russian Federation, 3200 with citizens of Belarus, and 2589 with citizens of Ukraine (these three groups consist the largest share of migrant population in Lithuania), followed by 737 citizens of Turkey, 236 of Albania, 251 of Egypt and 227 of Lebanon (see the statistics in Annex 2). However, one common trend could be identified: in 2004–2005, the number of marriages with third-country nationals had increased (a fact which may be related to EU integration processes in 2004), while in 2009–2010, this number started to decrease or stabilised (which could be explained by global economic changes, since at the same time general immigration to Lithuania significantly decreased).

It is necessary to consider a few important factors when analysing this data. First, differences can be noticed when such marriages are analysed based on the gender and the legal status of migrants (EU and non-EU citizens). More Lithuanian men are married to third-country nationals, while more Lithuanian women are married to citizens of other EU Member States (Blažytė 2015). Second, the increase in the number of marriages between Lithuanian citizens and third-country nationals in 2004–2005 can be illustrated by the expansion of the EU in 2004, when Lithuania became more attractive as a country of destination. Third, the database includes marriages registered in Lithuania and in Lithuanian

embassies abroad. However, a presumption can be made that not all Lithuanian citizens register marriages that were made abroad. Therefore, the numbers given in Annex 2 are not completely accurate.

2.3.3 Number of marriages recognised as sham

The number of marriages in the Republic of Lithuania between third-country nationals and Lithuanian citizens from 2010 to 2015 that were identified as sham (Annex 3) shows certain dynamics. In 2010, 30 marriages were identified as sham; in 2011, 33; in 2012, 14; in 2013, 16; and in 2014, 32 marriages. It should be noted that this number includes only marriages registered in Lithuania between Lithuanian citizens and third-country nationals, which, based on the court decision, were proclaimed as sham marriages. It is important to emphasise the difference between pre-trial investigations on exploitative sham marriages (see 2.3.1 Pre-trial investigations), which were concluded abroad, and marriages (discussed in this chapter), which were concluded in Lithuania under the procedures of family reunification, stipulated in the Law on Legal Status of Aliens[22] (No. IX-2206 of 29 April 2004) (see 2.4.1 Migration and family reunion). In the first case, there are three pre-trial investigations where exploitation was identified. However, no court decision has yet been made. In the second case, there are many court decisions, but no exploitation has occurred.

Organisation of such sham marriages which were concluded in Lithuania under the procedures of family reunification, is not criminalised in the Lithuanian legal system. This number does not include marriages that were registered in other EU Member States between Lithuanian citizens and third-country nationals. Data analysis by citizenship shows that a higher proportion of sham marriages is with those third-country nationals who most often migrate to Lithuania (Belarus, Russia, and Ukraine). Still, due to the small numbers, it is not purposeful to make more detailed conclusions.

2.4 Problematics of definitions

Problems of exploitative sham marriages (as well as other forms of exploitation and trafficking in human beings) should be analysed taking into account immigration and emigration processes. In the first case, attention should be paid to marriages that are concluded in Lithuania between permanent residents of Lithuania and third-country nationals. In the second case, the focus should be on marriages concluded abroad between permanent residents of Lithuania and third-country nationals. The HESTIA research is the first attempt to analyse links

[22] When a spouse or a registered partner arrives and applies for a residence permit based on a family reunion, the Migration Department and the Migration Boards evaluate whether the marriage (or the registered partnership) is not a sham. Evaluation is undertaken if the marriage or registered partnership was made within the five years preceding the issuing of the application to issue or the submission of the changed residence permit and, at the same time, if the marriages raises valid suspicions (Sipavičienė and Jeršovas 2012).

between sham marriages and human trafficking in Lithuania. Eventually, the Lithuanian case emphasises the emigration perspective, since all three pre-trial investigations which were initiated in Lithuania are connected to marriages concluded abroad.

2.4.1 Migration and family reunion

'The Law on the Legal Status of Aliens' (No. IX-2206 of 29 April 2004) provides that family reunion is a ground for entry into and residence in the Republic of Lithuania by family members of a non-EU citizen who is a legal resident of Lithuania with the purpose of preserving the family, irrespective of whether the family relations arose before or after the foreigner's entry. Legislative regulation of family reunion in Lithuania allows the acquiring of permits for temporary and permanent residence in Lithuania. Part 5 of paragraph 1 of Article 43 of this law provides that a permit for temporary residence in Lithuania may be issued on the basis of family reunion, if the foreigner's spouse or the person with whom a registered partnership agreement is signed and who is a citizen of Lithuania or a foreigner who has a residence permit resides in Lithuania. Part 4 of paragraph 2 of the same Article provides that if a temporary residence permit is issued to a foreigner in compliance with point 5 of paragraph 1 of this Article, it should be evaluated in accordance with the procedure established by the Ministry of the Interior whether the marriage or registered partnership is made out of convenience. Part 3 of Article 53 provides that a permanent residence permit in Lithuania is issued if a foreigner entered into Lithuania together with a citizen of Lithuania as his/her family member.

If a citizen of Lithuania marries a third-country national in another EU Member State, the legislation of that Member State or EU laws is applied. More precisely, a residence card for a family member of an EU citizen is issued based on Directive 2004/38/EB of the European Parliament and of the Council of 29 April 2004, regarding his or her right to free movement and residence within the territory of the Member States. Since all three pre-trial investigations analysed later in this report are connected with exploitation in the territory of the United Kingdom, it is important to emphasise that this directive was incorporated into UK legislation on 30 April 2006.

2.4.2 Sham marriages and exploitative sham marriages

According to EU legislation, a marriage is considered a sham when it is concluded only for the purpose of the opportunity to use the right of freedom of movement and reside in the EU. Therefore, the Member States can implement necessary measures to refuse, cancel or annul any rights that were bestowed due to any marriage, if those rights were abused or gained in a fraudulent manner (COM(2014)604). Article 16(2b) of Directive 2003/86/EC defines a 'marriage of convenience' as a marriage contracted for the sole purpose of enabling the person concerned to enter or reside in an EU country.

Analysing the phenomenon of sham marriages in Lithuania, Sipavičienė and Jeršovas (2012) indicate that a marriage or registered partnership is defined as a sham when it is made with the purpose of receiving permission to reside in the Republic of Lithuania. Kudinavičiūtė-Michailovienė and Sagatys (2012) state that a sham marriage is a fiction of a marriage, an imitation when a marriage is made 'just for the eyes, without the purpose of creating legal family relations.'

However, definitions of sham marriages can be criticised. According to Jakulevičienė and Biekša (2009), "one of the indicators in recognising a sham marriage in Lithuania is that members of the family had never met before the marriage." However, the authors emphasise that this requirement does not take into account traditional practices that are widespread in foreign countries. Therefore, such a definition could be considered overly wide in the context of a sham marriage. In addition, such an indicator does not take into consideration new trends such as marriages arranged over the internet.

2.4.3 Forced marriage, vulnerability and exploitative sham marriage

In seeking to find the most suitable term to define the relationship between sham marriages and human trafficking, it is important to discuss the terms 'forced marriage' and 'exploitation', since exploitation is the essential element of human trafficking. Forced marriages often include elements of trafficking in human beings, which is considered as a violation of fundamental rights and of the principle of freedom and autonomy. Forced marriages could also be contracted with the purpose of obtaining an EU right of residence. Such forced marriages can thus be considered as marriages of convenience (SWD (2014)284). According to the European Union Agency for Fundamental Rights (FRA 2014), forced marriage is marriage without consent. It is a form of domestic violence. It violates the right to freely decide whether, when and whom to marry.

Different interpretations of the definition are provided in the Lithuanian literature. According to Augutienė (2014), a forced marriage is understood as an exploitation of a person by coercion and blackmail, by creating an illusion of a happy family life, by promising large sums of money, when people are forced into marriage and, later, they are exploited in that marriage. In this case, Augutienė emphasises taking advantage of a woman's psychological, social, emotional and physical vulnerability as a means of coercion or deception. As can be seen from this definition, an essential element of forced marriage is exploitation, in which exploitation is defined as 'a state in which the person concerned has no real or acceptable alternative but to submit to the coercion' (The EU rights of victims of trafficking in human beings 2013).

With consideration to the above-discussed concepts, this research uses the concept of exploitative sham marriage, with an emphasis on exploitation as an essential element of human trafficking.

3. Research methodology

3.1 Research methods

In order to conduct research on the connection between human trafficking and (exploitative) sham marriages, the semi-structured thematic interview method was used. This form of interviewing is one of the most widely applied methods in qualitative research used for collecting information provided directly by the respondent to the researcher. Questions are typically open-ended and the goal is to ask the same questions of all the respondents.[23] Over the course of conducting semi-structured interviews, changes in the structure of the interview and the sequence of questions are likely to occur due to various reasons (e.g., how the situation develops in the course of an interview, or the social and demographic characteristics of the respondent). Nonetheless, the interviewer must focus on the interview questions that were identified beforehand, which, depending on how the interview flows, the researcher will introduce even if it is necessary to improvise new techniques (for example, asking additional questions or requesting an additional interview).

Qualitative methods reveal tendencies such as dominant attitudes, experiences, values and perceptions. The research method used to analyse connections between human trafficking and exploitative sham marriages reveals certain features in the current framework. First, the number of pre-trial investigations that have been initiated (three in total) allows using the advantages of qualitative research (expert interviews and a semi-structured questionnaire) effectively. The low number of pre-trial investigations allowed interviewing the majority of experts involved in a particular investigation (for example, one or two social workers, one pre-trial investigation investigator and one prosecutor). Second, the number of experts working in the area of human trafficking in Lithuania is not high. Therefore, qualitative methods provide an effective means of establishing the criteria for research sampling and, at the same time, changing the course of the research, if necessary. Third, the selection of experts, the review of anti-trafficking policies, the researcher's notes and communication with non-governmental organisations allow for a deeper insight into the connections between human trafficking and exploitative sham marriages, regardless of the interpretational limits of qualitative research data.

3.2 Target group and selection of the experts

The selection of the experts for the interviews was determined after taking into account 1) all pre-trial investigations on exploitative sham marriages that were identified in Lithuania; 2) data on different forms on human trafficking (including exploitative sham marriages) provided by non-governmental organisations, and 3) the current system for implementing policies to combat

[23] However, the questions were adjusted according to the specific target group (for example, social workers, prosecutors, judges).

human trafficking. Based on the information it was possible to identify the experts with professional experience of different forms of exploitation, including exploitative sham marriages. Considering the low number of pre-trial investigations on exploitative sham marriages, such adjustment was necessary.

Fifteen interviews were planned with the experts from various institutions, which were subdivided into two categories. The first category included non-governmental organisations, and crisis centres that work in the area of prevention and assistance to victims (e.g. social workers, psychologists, project managers, etc.). The second category included law enforcement institutions (police, prosecutor's office with specialised officers, pre-trial investigation investigators) and courts (judges). In the scheme for the primary selection, seven interviews with experts were planned from the first category, and eight interviews with experts from the second category.

This selection criterion was chosen for several reasons. First, the research aimed to find a balance of differences in opinion between the positions of non-governmental organisations and judicial institutions regarding human trafficking and exploitative sham marriages. Second, only the experts who have the most experience in the fight against human trafficking (including in organising victim protection) were chosen. Third, consideration was taken of the importance of interviewing experts working at different levels: pre-trial investigation investigators, prosecutors, social workers, and national level experts. Fourth, interviews were conducted with experts from different cities and towns: Vilnius, Kaunas, Klaipėda, Alytus, Panevėžys and Tauragė. In this way, an attempt was made to incorporate local and national levels in the research.

The interviews were conducted in the Lithuanian language. All the interviews were recorded and transcribed (in this report, the quotes have been translated into English). The majority of the interviews have been carried out face-to-face, while the rest of them were conducted by telephone. The length of the interviews varied between 22 to 84 minutes. The average length of the interview was 45,5 minutes. As so far there are only pre-trial investigations on exploitative sham marriages (based on article 147), and no court cases, there was no possibility of using official pre-trial investigation material. Due to the same reason, interviews were not conducted with the victims.

The selection criteria that were chosen were implemented successfully, evidenced by the fact that 17 experts were interviewed during the research: nine representing non-governmental organisations, State institutions and crisis centres (N), and eight representing judicial institutions and courts (P). (Details regarding the area of activity of the experts who participated in the research and interview codes in provided in Table 2.)

Table 2. Area of activity of the experts who participated in the research and interview codes.

Area of activity	Code	Number of experts
Non-governmental organisations, budgetary institutions and crisis centres that work in the area of prevention and victim assistance (social workers, psychologists and project managers)	N	9
Judicial institutions (police, prosecutor's office): officers, pre-trial investigation investigators, prosecutors; courts (judges)	P	8
TOTAL		17
Note: each citation in the text from an expert interview is marked by a code. For example, N-1		

3.3 Research tools and data analysis

In conducting qualitative interviews with the experts, interview frameworks that were prepared in advance were used. Taking into consideration the area of activity that the experts are engaged in (non-governmental organisations, government institutions and national level expertise), different frameworks were used, with the purpose of not losing important data, and extracting as much as possible from the information provided by the experts.

For this reason, a large dataset was accumulated in an effort not to 'lose' important data. The data were analysed following the principles of qualitative data analysis. In analysing the data, the main themes were extracted, analytical categories were defined, data inter-relationships were analysed, premises were systematised, conclusions and recommendations were formulated and evidence for these recommendations was provided. In analysing the qualitative research data, quotations that best illustrate the research results, arguments, opinions and problematics, were provided.

3.4 Cases in which pre-trial investigations were initiated

In this sub-chapter, cases of exploitative sham marriages are presented. In Chapter 4, the same cases are discussed in detail, emphasising different stages of trafficking in human beings: recruitment, exploitation, logistics, the profiles of the victims, the characteristics of the suspected perpetrators; and finally, policy developments and preventative actions.[24] The information on these cases was received during the expert interviews. As all pre-trial investigations are ongoing, it was not possible to use official pre-trial investigation material.

[24] Since pre-trial investigations are currently in progress, at present the available information is fragmentary.

Box 1. Case No. 1

The Klaipeda region law enforcement institutions initiated one of the pre-trial investigations, when the authorities from the United Kingdom received an inquiry about suspected perpetrators. At the same time, in the small Lithuanian town, a young woman contacted the police and said that she had been taken to the United Kingdom by means of deception when she was promised a job at a factory for the sorting of clothes. Together with a female suspect, the woman was taken to the United Kingdom in a minivan. The costs for the trip were covered by an unknown third-country national, who did not speak Lithuanian. The victim saw how money was dropped on the bed [by the suspected woman], out of which she [the suspected woman] took 200 pounds and handed it to the victim. The woman did not understand what was happening then. In the evening, the third-country national, who had paid for her trip, started harassing her sexually and demanded sexual services from her [at that stage, he did not demand marriage]. The woman did not speak English, but managed to elude him. The woman did not have her phone and her identity card, since also these were taken from her during the trip to the UK. Later, the woman asked the third-country national if she could use his phone to call her friend who lived in the small Lithuanian town. Since her friend had acquaintances in Ireland, the victim was able to contact them and they phoned the London police to give the approximate location of the victim.

The police arrived, set the victim free and, at the same time, released another young female who was being held in the same apartment. The London Metropolitan Police started an investigation. In Lithuania, on the same basis, a criminal investigation was started, which later grew into a joint international investigation. Therefore, Lithuanian judicial institutions started a pre-trial investigation. It was later discovered that young women from the Klaipeda region had been systematically recruited, sold and transported to the UK, where they would be married to third-country nationals for a certain sum of money. So-called intermediaries would receive a portion of the payment. They would take one third of the total sum. The remaining portion of the sum would go to the woman. Afterwards, these women would return to Lithuania, but from time to time, they would have to appear before migration officers regarding the truthfulness of marriage. Therefore, before marriage the so-called groom and the bride would be given information about each other so that they would learn it, absorb it, and answer correctly each time they would have to appear at the migration office. In the United Kingdom, at the end of the investigation, a cohabiting couple (Lithuanian citizens) and a third-country national were sentenced for trafficking in human beings for organising sham marriages. The woman was sentenced to 10 years in prison, her cohabitant was sentenced to 6 years in prison and the third-country national (who 'bought' the bride) was sentenced to 5 years in prison.

The information provided above is only one part of the larger case (which was initiated in the UK). The other part (as a follow-up of the case, initiated in the UK) is a continuation of the same investigation in Lithuania, which involves other young women who have not been identified yet and whose numbers, according to the data of representatives of judicial institutions, could be greater. There were three women who were officially recognised as victims of trafficking in the UK, but initially there were more. However, some of them refused to cooperate. At the time of writing, law enforcement institutions are investigating how these three women are connected to the case in the UK.

Box 2. Case No. 2

A pre-trial investigation was initiated by law enforcement institutions in one Lithuanian town, where three young women were identified as having been victims of exploitation (in organising sham marriages). A person in one of the town's sub-districts contacted the police, having suspicions that a young woman was being sexually exploited. The police investigated and during the collection of information discovered that the woman had been taken abroad by the same man who had sexually exploited her. The victim told the police that one time she went abroad with one woman, and later with another. The police started looking for the other women. In total, three victims were identified. All the women were from the countryside, and they were all related in one way or another. An inquiry regarding sexual exploitation was made on behalf of one of the three women who had a mental disability. According to representatives of non-governmental organisations, the woman who had a mental disability was naive and trusting. There were two other women who were working on the farm for the same man. These two women met when they were both transported to the United Kingdom to conclude sham marriages. They were told that 'you will go there, you will meet guys, you will get married, will stay a little, in two weeks we will take care of the documents, you will get the money and we will bring you back to Lithuania'. A Lithuanian citizen accompanied them to the United Kingdom, but he was not the same man who recruited them. Upon their arrival in the United Kingdom, other Lithuanian citizens (a man and a woman) met the women. The women lived in a flat together with three or four third-country nationals. The above mentioned woman with a mental disability (who had been sexually exploited in Lithuania) was sexually abused also in the UK.

After two weeks, the women returned to Lithuania. They did not get the money as they were told that not all documents had been taken care of. Instead, the money would be given to them after the marriage had been concluded. After some time, the woman with the mental disability, together with another woman, were transported to the same place abroad. The women stayed for two weeks until the documents were taken care of. Finally, a conflict between the Lithuanian intermediaries and third-country nationals started, so the women were brought back to Lithuania and the sham marriages were not concluded.

According to social workers, one of the victims came from a rather well-established family, but moved to live in the village at her boyfriend's place. Another woman was from a poor family. Her parents had an alcohol dependency. The woman grew up in orphanages and child welfare institution. She had a tendency to consume alcohol; she would occasionally work. According to the representatives of non-governmental organisations, "money and 'seeing the world' were the main motive for accepting the offer, since the recruiters promised the women a reward and an opportunity to see the United Kingdom. All three women were recruited separately. The organisers were Lithuanian citizens of different ethnicities; the clients were third-country nationals (Pakistanis). There was an intermediary in the United Kingdom; she was a Lithuanian citizen who looked for 'clients' for sham marriages. It was discovered during the investigation that the women knew the recruiters who talked to them, accompanied them and drove them. One of them went to the United Kingdom with them.

Box 3. Case No. 3

An investigation on exploitation and intention to organise sham marriage is being conducted in Lithuania. According to the representatives of law enforcement institutions, the organisation of marriage, the interview in the migration office and payment are very similar to the other investigation initiated in Klaipeda region. During the investigation, it was revealed that a young woman was involved in sham marriage in the United Kingdom. The intermediary in organising the marriage was a Lithuanian citizen. It should be noted that in this case the intermediary gave all the money to the women who got married. However, after that, exploitation emerged. This woman left Lithuania to get married on her own will, but in the United Kingdom, her future husband brought her home and locked her in the basement before the marriage registration and interview in the migration office. She phoned a representative of Caritas Lithuania to ask for help and was able to provide an approximate address of the place. The police came but could not find her. After a while, the woman who was kept in the basement phoned the police again and asked them to come once again. The woman said that she heard the police when they arrived the first time. After coming a second time, the police freed her and referred her to the Lithuanian embassy, which then returned her to Lithuania. Currently, the law enforcement institutions are working to find out how many victims could be in the United Kingdom. According to the representatives of law enforcement institutions, there should be around 7-8 women in this investigation, women who were married in the United Kingdom.

> "I [social worker] told her, 'if something happens, you call me or write me'. In the evening, she wrote me that he came. I tried calling her, but she kept not answering. She had been taken to the basement. Apparently, he planned a sham marriage and she started resisting. I asked her, 'what will you do now?' She said that, 'he is upstairs, I am in the basement.' She did not understand where she was and she was screaming and crying. She said, 'he won't let me out.' The man only had begun to bring her water; he yelled at her, she did not understand anything. The police were dispatched when it was determined where she was kept, they came, asked that man if she was there. He said no, so they turned around and went back. Then I called her, she was screaming into the phone, saying 'he is going to take me somewhere. He packed my things, I hear, he is making noises upstairs.' Really, I could hear how he was coming downstairs and yelled at her, she was screaming, crying. Then I called the police again, I told him they have left, so they initiated some kind of a red alert and they came and caught him, but he was already dragging her into the car. It is not clear how it would have all ended up." (N: 11 August 2015)

This case shows that a sham marriage might be concluded on a voluntarily basis and might not be considered as a form of exploitation or human trafficking. However, after the agreement was made and even after money was paid, exploitation occurred. In this case, international cooperation and a timely response provided an effective response.

However, as research revealed, many cases has not reached the stage of pre-trial investigation. Here is an example of one of many cases that has not reached the stage of pre-trial investigation:

Box 4. Case No. 4

A young woman received an offer on the internet to go to work as a nanny in Ireland, to watch a child. She agreed and she was paid for her trip. Even though she made some money by watching the child, upon her return to Lithuania she had to pay back the debt for travel ticket. She did not have the money so she agreed to go to Ireland once again. For one week, she lived in a house where third-country nationals resided, but there were no children in that house. The recruited woman asked why there were no children, as she would like to start her job. She was told that she needed to get used to the environment, get to know the town while the children were at their grandmother's place. They would return in a week and work would start then. One week passed by but nothing changed. One day the recruited woman accidentally caught the recruiter talking to the third-country nationals about marriages. One of the nationals wanted to get married for a specific payment. The woman understood that something was wrong and she managed to escape.

The following chapters encompass the main aim of the research, which is to disclose the relationship between exploitative sham marriages and the crime of human trafficking. Chapter four presents the research results on exploitative sham marriages and trafficking in human beings in Lithuania (challenges related to statistical data, recruitment mechanisms, the profile of suspected perpetrators, the socio-demographic profile of the victims, main travel routes, organisation of exploitative sham marriages, forms of exploitation in the destination countries, etc.). Chapter five presents the conclusions of the research and national policy recommendations.

4. Exploitative sham marriages and trafficking in human beings in Lithuania: research findings

4.1 Problematics of statistics and definitions

The lack of a higher number of investigations in to sham marriages is due to the fact that it is not criminalised. As a consequence, individual acts of exploitation usually are not identified. It could be assumed that if exploitative sham marriages would be criminalised, the number of pre-trial investigations will increase.

Statistics presented by non-governmental organisations reveal more than the official statistics collected by governmental institutions. For example, Lithuanian Caritas identified 120 (potential) victims of human trafficking in 2013 and 135 victims in 2014.[25] Usually, unofficial statistics are higher than official ones (as statistics from NGOs also partly include different information than criminal justice system statistics). Research has revealed that, due to various factors (non-criminalisation of specific forms of exploitation, lack of coordination, prejudices against victims and failure to recognise a crime), cases of human trafficking (including exploitative sham marriages) do not reach the pre-trial investigation and court stages:

> "It is a fact that in reality it does not work. When we talk about the legal base – it is not the main problem. The problem is that we do not implement what we already have. We have a Criminal Code definition of human trafficking, with all the criteria listed. We have enough cases in which Lithuanians are being trafficked, so why do we not have any case law? It means that we do not have a system, if we do not have court cases with victims." (N: 30 July 2015)

When summarising the problematic of statistical data on exploitative sham marriages and human trafficking in Lithuania, it is important to emphasise the limited amount of data concerning sham marriages. Therefore, at present, statistical data do not allow for making deeper analysis or generalisations. However, several challenging aspects can be emphasised. First, the number of pre-trial investigations does not reveal the reality of the situation. This fact is an illustration of the so/called dark figure and of the hidden nature of trafficking in human beings (for example, Aronowitz 2009; Hepburn and Simon 2013). This is also illustrated by the data from Lithuanian Caritas on victim support (and comparing this data with the data received from the Lithuanian Criminal Police Bureau) as well as the argument made by representatives of law enforcement agencies and courts about political priorities and human resources in the field of human trafficking:

> "If there were more employees … there would be more cases started … no doubt." (P: 21 September 2015)

[25] It can be presumed that the number of victims is higher as there are other organisations working in the field of victim support, such as the Missing Persons' Families Support Centre, the public organisation Klaipėda Social and Psychological Services Centre, the Association of HIV/AIDS Affected Women and Their Families, and the Men's Crisis Centre.

> "Without collecting information, we very much ignore the number of Lithuanians who became victims. I do not even talk about those Lithuanians who stayed in Great Britain providing testimony, stayed and then became residents. I hear that the anti-trafficking centre in London mentions 560 Lithuanians victims in one case, 40 victims in another. That was about labour exploitation. Today, even the Minister of the Interior begins with statistics when talking about the problem, and he makes his own conclusions, based on statistics. He says the phenomenon is not growing; it is just new forms appearing. It means, statistics is important, so if suddenly someone calculated and told him that there were not 24 victims but 124, how flustered would the minister become? How flustered would we all become? And maybe, it would not be 100 people or 200 or even more than a thousand?" (N: 13 July 2015)

Second, only partial information is available from Lithuanian non-government organisations and state institutions, because most information about sham marriages can be found in the institutions of the destination countries (in this case, the United Kingdom or Ireland). Undoubtedly, one could do a more detailed analysis of the situation if Lithuanian diplomatic missions (i.e., the embassies and consular offices) would start collecting and analysing information on (exploitative) sham marriages abroad. Third, even though sham marriages (as violations of immigration laws or as a crime against the state) have existed since 2004, when Lithuania became an EU Member State and, at the same time, a transit country for third-country nationals,[26] exploitative sham marriages (as a crime against the person) did not appear in the statistics on pre-trial investigations until 2014. Research has shown that this does not mean that exploitative sham marriages did not exist in Lithuania prior to 2014. Such marriages have been recorded and witnessed by representatives of non-government organisations:

> "It has been three years … that we hear about this theme intensively. The first case was in Lithuania, a woman married a Kazakh, in a Lithuanian town, it was all fiction, and then huge problems arose because it was a sham marriage, she was vulnerable, a mother of many children, she needed help very much. She was not able to get divorced, and the two witnesses to her marriage were a lawyer, known by the town folk, and a representative of the municipality. He [the husband] took out some loans and disappeared, and she suffered for many years, could not divorce him and I think she still has not divorced him. This was the first case, then stories from Great Britain started pouring in. We had a case in the other town. The case is connected to violence. A girl, a student, rather naive, was raped very roughly. It was a gang rape and she was locked in, we had to take her to psychiatric [place] and still she practically could not stand up on her feet. There were cases with other forms of violence and exploitation, when a document was taken and one had to serve as a

[26] The role of Lithuania as a transit country for third-country nationals trying to enter the EU has been noted by the Lithuanian media: 'Fiktyvios santuokos su lietuvėmis – nelegalų vartai į Europą' ['Sham marriages with Lithuanian women – the gateway to Europe for illegal immigrants']: http://lietuvosdiena.lrytas.lt/-12319961941230204912-fiktyvios-santuokos-su-lietuv%C4%97mis-nelegal%C5%B3-vartai-%C4%AF-europ%C4%85.htm; 'Landa į Lietuvą – fiktyvi santuoka' ['The passage to Lithuania – sham marriage']: http://kauno.diena.lt/naujienos/kaunas/miesto-pulsas/landa-i-lietuva-fiktyvi-santuoka-670385; 'Nelegalai siekia fiktyvių santuokų' ['Illegal immigrants seek sham marriages']: http://lzinios.lt/lzinios/Mokslas-ir-svietimas/Nelegalai-siekia-fiktyviu-santuoku; others.

slave to all the relatives of husband, to be married to more than one person. There were fears about being forced into prostitution. Threats from a groom that if you do not do something you may end up in prostitution." (N: 13 July 2015)

Fourth, even though considering that human trafficking is an international crime (connected to processes of immigration and emigration), research has revealed trends of internal human trafficking. Such a trend was discussed by representatives of law enforcement agencies and courts. In this case, the definition of exploitative sham marriages becomes broader. However, it is not yet seen from the statistics:

"It started a long time ago in our centre. We have had suspicions about these sham [marriages]. First, it all started ten years ago in prisons. Here, inside, in Lithuania. If you are sitting [in prison] for having committed some crime, then having a small child, being a father lessens the penalty and allows conditional release – then sham marriages appeared first, when our girls would go into town to take care of some business and would return having married a prisoner [a Lithuanian citizen]." (N: 27 July 2015)

"So far, we have been looking at international trafficking in people. We do not look into local [practices]. We have started a couple of investigations, we will see how the court will look at them. For an article on human trafficking you do not need to take the person out, he can stay at home." (P: 15 October 2015)

However, the internal or international nature of exploitative sham marriages is not the only challenging aspect. The application of the definition is much more challenging. It can be illustrated by the views of the law enforcement institutions and non-governmental organisations regarding how to apply various aspects of this concept:

"There are many questions because of the terms, sham and forced marriage. A sham marriage may not be forced, while claims of forced marriage may be fictitious as there is no initial, overt element of coercion, exploitation. […] Since they got married everything is somewhat legal, in the eyes of lawyers, the marriage has been concluded, but after that, there is exploitation in that marriage, either sexual or with the purpose of forced labour or turning to domestic servitude." (N: 23 July 2015)

"I think it is most difficult for them and for us to understand where fictitiousness begins; when the marriage is concluded. At first sight, everything rather happens without any violations, nobody will notice any coercion or threats. Only in a later stage does the victim realise that she has been caught in a net. Everybody says, maybe that's private family matters, maybe it is voluntary. Also, if it is coercion, then we have to identify what kind of human trafficking this is." (P: 14 July 2015)

Finally, the international nature of sham marriages brings another important aspect, related not only to the emigration perspective (the focus of this research), but also to immigration processes and the potential for sham marriages. Even though this research focuses on exploitative sham marriages concluded abroad, an interview was conducted with the specialists from the Migration Board of the Vilnius County Police Headquarters, who collect information about suspicious marriages concluded in Lithuania between Lithuanian and third-country nationals under the procedures of family reunification. Although marriages recognised as sham (see Annex 3), do not have indications of exploitation or

human trafficking, the research revealed that organisation of exploitative sham marriages which were concluded abroad, and marriages which were concluded in Lithuania under the procedures of family reunification, have some similarities, especially recruitment schemes:

> "There are suspicions about the Pakistani, mostly they select girls who have some physical disability. Maybe not so much mental, there are no such [cases], but who have some signs of physical disability. We've observed such [cases], and they are introduced and somehow they are able, the same person brings them. It seems that at first they do not speak English so he [recruiter or intermediary] participates in conversations as a interpreter … But these are only suspicions and completely unverified . . . How many such marriages I have seen, namely the Pakistanis find these girls. Either with a disability, or orphans, or from an orphanage or foster homes. The parents have died, an apartment has been left. Those girls are not beauties by any standards." (P: 28 September 2015)

4.2 Recruitment

Some of the experts stated that they did not see a big difference between recruitment for exploitative sham marriages and other forms of trafficking (sexual exploitation, forced criminality), since in all cases recruiters attempt to exploit the vulnerability of (potential) victims and their psychological problems (not only mental disability but also risk behaviour, dependence on alcohol or psychotropic substances), the family situation (victims who grew up in orphanages and child welfare institutions, families with only one parent and impoverished families, single mothers) and socioeconomic status (poverty, unemployment, low levels of education). However, there are differences. For example, in the cases of exploitative sham marriages, recruiters use less alluring tactics since, according to social workers, there is no need to use the 'lover boy' method. It is enough to offer a good payment, good conditions and an opportunity to see the world. These promises to potential victims who experience poverty and live in rural areas are especially effective. Besides, as representatives of non-governmental organisations say, in recruiting victims for exploitative sham marriages, personal contacts and the Internet are important: social media (Facebook), dating sites and advertisements. Employees who work with victims of exploitation note that there are many people in Lithuania who are lonely, have psychological problems, and almost 'live' in social media and on dating sites. This pattern of behaviour can become a serious cause for recruitment.

According to representatives of law enforcement institutions, a phenomenon that was widespread in 2011 was that citizens of the UK would go to Latvia on their own, visit local strip-tease clubs and other places, where they could find vulnerable young women. The men saw that such women easily fell for different forms of recruitment. It was suggested to the women that they go to the UK 'for a visit' and then they were offered sham marriages to third-country nationals. According to the experts, no phenomenon of this nature was recorded in Lithuania, or, at least, it was not captured by NGOs nor in the statistics.

However, this does not mean that such a recruitment scheme did not exist in Lithuania.

According to the representatives of non-governmental organisations and law enforcement institutions, for offenders, recruitment for exploitative sham marriages is easier than recruitment for other forms of exploitation, since (potential) victims feel 'safer', and recruiters have more opportunities to provide incentives. In addition, the women not only do not feel threatened, but they are also seduced with complex arguments: easy earnings, decent 'work' conditions, an opportunity to see a new country and experience adventures. Easier modes of recruitment influence the development of the phenomenon and extend the areas for recruitment even to unexpected places: that is, as opposed to large urban places, rural villages are potential sites for recruitment (see citation below). In addition, as shown by the research data, it is often women who have been involved in sham marriages themselves who recruit new women. This way a network is created that covers previous and current victims and organised criminal groups:

> "The tactics that they use is referred to as so-called multipliers. For example, the case in one Lithuanian town, where our victim became the accused one. Other cases that did not reach the pre-trial investigations … the girl would go to the village where she lived (or another such place) and convincingly explain that everything that happened to her is fine, 'everything ended well for me, so the same will happen to you'. Another thing that draws my attention is very massive recruitment, very large numbers of recruiters. I remember one more case which did not reach the investigation level since the victim decided that she had nothing to say. For example, some women met in the hospital [and] suddenly they started to recruit for marriage." (N: 13 July 2015)

One of the essential aspects of recruitment is the professionalism of the offenders. According to the representatives of non-government organisations, victims often do not understand exactly for what they are being recruited. Potential victims might get an impression that everything is happening by chance, when in reality everything is planned in advance, to make it look convincing.

> "Victims may completely fail to understand how they are being recruited, since they do not see the whole chain. It appears to them [that] something came up when in reality everything was planned, roles were directed, visits at home, an unexpected flat tire … Victims think that it is accidental and then you see, when you read the case and talk to the investigator, that everything was planned, a long time ago." (N: 13 July 2015)

According to the representatives of non-governmental organisations that work in the area of victim protection, one recruitment technique which connects the circle of family, friends and acquaintances is gaining popularity. This kind of recruitment is especially observed in the organisation of exploitative sham marriages. It seems that not only family members and friends, but also neighbours get involved in the recruitment network. According to the experts, all persons participating in the network receive payment for recruiting victims. Besides, networks of acquaintances and different means of recruitment allow

access to (potential) victims individually and employ measures that are meant for a specific victim. For example, if a victim is well-educated, certain kinds of measures are used; if a victim is not educated completely different means of recruitment are applied.[27] Besides, in this way the recruiters start to know their victims personally. It means that an opportunity emerges to take advantage of vulnerability not only in a general sense, but also of specific weak spots of the woman, such as her interests, psychological barriers (such as risk behaviour, stress, psychological disorder, etc.), the victim's life history, etc. This way a recruiter and a (potential) victim become so-called best friends:

> "One needs to read the messages that they write. It is hard to believe. They write for two weeks, they become such best friends, it is such hard work … they really do their work and you would think that they have graduated in psychology. They adapt to each girl and they write 'hi, my little friend, what are you doing? How are you today, was your mom messing up your brain or not? It must be really hard for you, I transferred 20 pounds into your account, buy something for yourself. How are you feeling today?' In this sense, it is going through the emotional side, the side of creating a connection and a relationship. She writes to someone else 'do you have cigarettes to smoke or, perhaps, your mother took all your money? You know that you are my friend? It is so cool here and I am waiting for you … is everything ok with you?' They know what to write to everyone. And, perhaps, they read what she [the victim] wrote about herself [in social media or dating sites], so they ask about their intimate circumstances, relationships with friends, ex-boyfriends, one of them was even told not to worry that she was dumped, everything is ok, you will come, you will see how much money you will have, he will be jealous when you come back. They approach everyone … it is total manipulation." (N: 11 August 2015)

Considering all these aspects of recruitment, it can be stated that there is no one general recruitment scheme. The recruitment measures are instead individualised and adapted to each victim. Even though the means of recruitment are different depending on the victim's social and demographic characteristics, the general economic argument remains the same:

> "Recruitment for sham marriages and other forms of exploitation rely on the same argument, economic benefit. Of course, when you recruit for forced labour, it is one thing, when you recruit for marriage, you promise other things. Recruitment itself, the nature of it, the method is very similar." (N: 11 August 2015)

According to the interviewed pre-trial investigation investigators, the nature of recruitment can vary depending on different forms of exploitation. For example, if recruitment is for forced criminal activity, then recruiters look for asocial persons with a 'criminal bent'. For sham and exploitative sham marriages, recruiters look more for the element of social and economic vulnerability since they offer easy money without having to work at all. In this case, not asocial persons, but economically deprived women with two or three children, no

[27] The level of awareness and education is disclosed during the recruitment. As was indicated by social workers and prosecutors, sometimes recruitment takes time. Therefore, recruiters are becoming familiar with the victim. In such cases, perpetrators get to know the 'weakest spots' of the victim.

husband, living in the countryside, are recruited. According to the investigators, 'playful means' can be used for recruiting students, who can be tempted by 'additional' earnings and adventures:

> "There are vulnerable persons, mothers of many children, who do not have husbands, who have 3 or 4 children, piles of loans or live in the countryside. Those are being talked into it, offered, here you go, you will get married, you will receive money, your life will improve, and you will be ok. That is recruitment." (P: 21 September 2015)

One more recruitment method is to recruit recruiters rather than victims. For example, human traffickers in the United Kingdom are interested in luring local young women from Lithuania into the United Kingdom and, rather than exploiting them, employing them as recruiters. This way the network of recruiters expands (Lithuanian women return to Lithuania to recruit) and the actual organisers and perpetrators avoid responsibility:

> "During the investigation, it turns out that those girls are not recruited by a third-country national who does not speak Lithuania, but by other Lithuanian girls who make friends with them and talk them into coming to Germany, Great Britain or other countries. The third-country national says 'I am not at fault, we met, we were friends, but I have no connections to human trafficking', even though they have the whole control, everything goes through them." (P: 14 July 2015)

With the increased level of access to the internet, the potential for recruitment online is increasing. If the Internet does not play a decisive role in the last stages of recruiting, it plays a decisive role in establishing the first contact. Later more people (offenders and victims) can join the 'recruitment chain':

> "The recruitment usually begins online and only later the circle expands. The one who marries is being offered, she says, I will pay you, you find friends – they get lured in." (P: 16 July 2015)

Recruiters use different online recruitment approaches for different victims. Internet serves as a tool to make an initial contact with the victim; for example, through social media and dating portals. Usually, recruiters are Lithuanian citizens and speak Lithuanian.

4.3 Exploitation of vulnerability

Since establishing the proof of vulnerability and exploitation constitutes an especially important part of pre-trial investigations, it is important to analyse how representatives of different governmental institutions and non-governmental organisations understand the aspects of vulnerability and exploitation. The research shows that most of the experts admit that vulnerability and exploitation (or exploitation of vulnerability of a victim) start not in the destination country after the sham marriage is concluded, but already during the time of recruitment when recruiters take advantage of the vulnerability of the victim. So to say, exploitation is emerging before the recruitment as (when) perpetrators are looking for vulnerable people. This shows that experts working

in the area of human trafficking adequately understand the essential element in the crime of human trafficking.

> "Recruitment itself, exploitation is the moment of recruitment, and that is recognised as trafficking in human beings. Advantage is being taken in terms of vulnerability and inability. Psychological moments come into play." (N: 30 July 2015)

> "Exploitation begins from the moment when a victim is being recruited and 'hooked', when she begins to want that trip. We realise that it is exploitation from the very beginning. I speak as a human being: exploitation is when they see such [a person] and make her an offer, already when they hook such a person, there is already the start of exploitation, then they start to explain to her, [they] create a story [about] how well you will live. Her well-being is their least concern. It is the manipulation of a person." (P: 16 July 2015)

Other experts illustrated the aspect of exploiting vulnerability not only during the recruitment in the country of origin but also during the interaction with the victim in the destination country, when the victim has already concluded the sham marriage, but had not yet received payment. Eventually, it becomes even easier for the perpetrators to manipulate the victim.[28] It should be noted that such offenders not only promise a reward, but in some way they 'invest' in the victim by buying clothes, telephones, giving money for small expenses. In this way, victims are groomed for further criminal activities.

> "It is manipulation of a person. It depends on the girl, her character. Let us say, I have 1000 pounds. Here … take 200, you will visit your mother, father … buy a telephone for your younger sister and, when you return, I will give you the money. Why not trust me? I emphasise, this is manipulation and manipulation can be with love, money, the fact that there are no ties in Lithuania, the family is all drunks, you have nothing … only one girlfriend is needed. So they search …" (P: 16 July 2015)

According to representatives of law enforcement institutions, exploitation is the way to bend the victim's will, especially when recruitment is done by taking advantage of a difficult financial situation. In proving trafficking in human beings, it is necessary to find evidence of the means, the act and the purpose: the recruitment, transportation and the purpose of exploitation. In the case of exploitative sham marriages, it is most difficult to prove the purpose of the exploitation. Therefore, according to the experts, little is known about the circumstances in the cases that do not come to the attention of the officials, when victims are locked up, raped or sexually abused, their freedom is limited and they are not allowed to return to their country of origin, their documents are taken away.

On the other hand, often victims do not understand that by concluding a sham marriage they might be violating the law. Besides, they do not understand that the purpose is to take advantage of them. The victims think that the recruiters are giving them an opportunity, which in turn is taken advantage of by the recruiters. However, one of the major issues arises when acquaintances from a

[28] By not giving the money, perpetrators are trying to maintain ties with the women. For example, for recruitment of other women.

circle of friends are recruiting. In that case, victims are under the impression that the acquaintances or friends are doing them a favour:

> "They do not understand that they [the victims] are committing a crime; they do not understand very well that somebody wants to take advantage of them. They think that there is an opportunity, that they found a friend who sees how it is hard on them … And here, one day the friend offers, here I get everything organised, make the documents, go, if you want … I brought 10000 litas [2900 euros] home after getting married and look how well off I am … how well I live and I do not need social welfare payments." (N: 30 July 2015)

According to representatives of non-governmental organisations, when the network of perpetrators catches the victim, everything is being done to exploit the victim as much as possible. This fact demonstrates the complex nature of exploitation, connected to forcing the victim to take out loans, restrict his or her movement, take away personal documents, etc.

> "The other side … the recruiters … are really good psychologists. They know really well when to push and when to frighten. I judge this by the fact that now, in the media, when they started [advertising] our hotline, we have never received calls for help because of prostitution, but we did receive a few calls for sham marriages and labour exploitation. However, all of them … the victims … essentially stayed there to live, but out of that horror, everything was so nice in the beginning, so indescribably nice, that a husband was so wonderful but now she walks with bruises, she is locked up and without a passport … In my opinion [the social worker], the perpetrators know very well how to act and put the pressure on the victim. One thing is clear: all the benefits are being squeezed out of them, if social welfare payments can be taken, they will take them, if a loan can be taken it will be taken." (N: 3 July 2015)

When talking about exploitation of vulnerability, the experts emphasised that there are many poor people in Lithuania who are easy targets for recruiters due to financial and social vulnerability. Therefore the 'market' for recruitment is large. Besides, easily accessible statistical data (see the quotation below) make the offenders' job easier, since it is easy to find information about persons at social risk on internet portals of state institutions.

> "There is a big target group – open statistical data, how many orphans, how many without care, how many children at social risk, boys, and girls. You open [sites of] the Department of Statistics, the Ministry – here you go, the whole market, even by territory. What … they do not know how to read? If they know how to make money, they know how to read. Then they orient themselves – there are many orphans in that area, there is a children's home – that is the territory, they actively work." (N: 27 July 2015)

4.4 The profile of the suspected perpetrators

According to the representatives of law enforcement institutions, the profile of offenders who organise exploitative sham marriages in essence is not different from the profile of offenders who are involved in more traditional forms of trafficking and exploitation. In fact, it is mostly the same people who recruit different victims for different forms of exploitation. That means that even though

exploitative sham marriage is a relatively new form of exploitation in Lithuania, offenders have plenty of experience in recruiting victims for other forms of exploitation.

According to the experts, the biggest share of the money goes to the organisers. For example, a third-country national pays about 5000 pounds for a marriage, while the victim mostly receives about 1000 pounds (or less) and the intermediaries receive 4000 (however, sometimes the victim does not receive any money). This sum does not go to one person since, according to representatives of non-governmental organisations and law enforcement institutions, the trafficking is mostly controlled by organised criminal groups. According to the experts, it does not necessarily have to be big groups. On the contrary, it is mostly small groups consisting of only a few persons. Eventually, money goes to different people in the network: recruiters (in Lithuania), intermediaries (acting in both the country of destination and the country of origin) and, finally, the organisers (acting in the country of destination, which in the Lithuanian case is the UK).

> "It has always been an organised crime, because traffickers are very rarely working alone. There are networks, a certain kind of a system, there is no difference between them; they see a person as a commodity. You either are selling that person for forced criminal activity, or forced marriage – the more ways you can sell, the better. You have one person and you see where you can [sell] – for sexual exploitation or forced marriage – you sell where you can. Those new forms, I think, we are only discovering them now. They have probably existed for a long time." (N: 30 July 2015)

In analysing the structure of organised criminal groups, it should be observed that recruiters and organisers often work in the destination countries, where sham marriages are designated to take place. The experts say that the organisers are people who have good connections with 'supply and demand' and who can serve as liaisons. Mostly the criminal groups consist of Lithuanian citizens who are looking for a supply, or 'brides', and third-country nationals, who create the demand for sham marriages, or 'grooms', who become the main source of income for offenders. According to the pre-trial investigators, large groups work in the cases of sexual exploitation, while smaller groups[29] organise exploitative sham marriages.

Non-governmental organisations which cooperate with law enforcement institutions of the United Kingdom noticed that in organising exploitative sham marriages, there are so-called 'centres' where the criminal activities are coordinated. These hubs have 'working groups' that consist of EU citizens (mostly from Eastern Europe) and third-country nationals. These centres search for third-country nationals, who need an EU citizen to marry, and women, who would not only be the 'brides', but later would join the processes of recruiting. The experts note that gradually these hubs involve wider and wider criminal networks. Besides, the size of criminal groups depends on how big the demand

[29] Neither organised groups nor individual efforts.

is. If there is a lot of demand, then a bigger supply is needed. Therefore, more people join the ranks of recruiters. Still, according to the officials, it is not a 'traditional' organised crime that works in big groups.

> "The network is incredibly wide since many women get offers. I can say that Lithuanian women always participate, but I cannot tell where the brain [of the operation] is. It is not so simple. They are organised in that some brain is really managing, organising, or, at least, controlling some territory. They also look for intermediaries, who do this work and know how to do it, who have access to the continent of Eastern Europe." (N: 13 July 2015)

> "They arrange things ahead of time, they divide roles. Everything depends on demand. If the demand is so big, an organised group of two, three, five persons can be formed who collect, search, recruit and transport young women. Everything depends on demand." (P: 16 July 2015)

When analysing the profile of the perpetrators, it is important to emphasise that the crime of human trafficking is not a specific phenomenon that has nothing in common with other crimes. Trafficking in human beings often interacts with other forms of organised crime. According to the representatives of law enforcement institutions, different groups of organised crime have gradually begun to get involved in the crimes of human smuggling and trafficking.

> "I had a chance to ask one drug-courier personally … he has been tried a few times for transporting drugs and now he was caught for smuggling – it was not a case of human trafficking, but human smuggling. I had a chance to see him in court. We asked why he changed his profile, his answer was very simple, 'I get the same amount for trafficking one kilogram of cocaine as for smuggling two Vietnamese, but the risk is much lower'. He says, 'if you catch me with one kilogram of cocaine, it will not seem too little for me – 8 years or more [in prison]. For the Vietnamese I will get 3 years, but the money is the same'." (P: 15 October 2015)

The last quotation might illustrate not only the big shift in criminal groups, moving from drug trafficking to human trafficking or human snuggling. It conjures a dark picture of the near future relating to the so-called refugee crisis in Europe and elsewhere. The large flows of asylum seekers, the unsafe conditions in refugee camps and the big infrastructure of organised crime (with big investments coming from the migrants themselves) result in human smuggling and human trafficking become interconnected processes, which, unfortunately, are becoming more and more intense.

4.5 Socio-demographic profile of the victims

Trafficking in human beings is a complex crime. Therefore, in analysing it one needs to pay attention to such factors of vulnerability as unemployment, poverty, education, social and family status, etc. The victims of this crime mostly come from vulnerable groups of society. Still, according to Žiobienė (2006), the victims of human trafficking can be people of any age, gender or social status. However, the victims are usually people who are socially disadvantaged, naively believing in the opportunity to emigrate and get a well-paid job to improve their

living conditions. This is confirmed by the views of the experts who participated in the research:

> "Such things are not comprehensible for the regular public, but it is very important for mentally challenged victims … here she was a pawn, an object of mockery, but there she gets everything, she is told 'you are so incredible, wonderful'. It is enough for her, so when she returns to Lithuania, she is ready to interest a few others from her school. The lowest, most primitive feelings are played." (N: 3 July 2015)

Much is known about the social and demographic profile of human trafficking victims. According to the experts who participated in the research, the indicators of victims of exploitative sham marriages are similar to those of other forms of exploitations –sexual exploitation, forced crime. Even though every person and every victim is unique, there is a frequent indicator – social and economic vulnerability. This fact was confirmed by the experts, who emphasised that poverty, social exclusion, mental challenges (as a follow-up to economic deprivation) and structural unemployment are the indicators that are usually being sought by the perpetrators:

> "You cannot exploit an economically, psychologically, socially stable person, you cannot talk this person into doing these things, no chance of that. They take [people] from villages, families with large sizes, and young single mothers with young children. They live in a small village of the region and here they are being given an offer to go abroad. She may not have been beyond Vilnius and here she is given an offer to go abroad – it looks very enticing. Everything is much simpler." (P: 16 July 2015)

In this case, it is important to emphasise the aspect of complexity of vulnerability that is related to particular indicators of vulnerability. Most victims live in poverty and are uneducated. Therefore, they are not able to recognise the recruitment schemes that are used on them. Besides, such victims do not understand what the consequences of human trafficking are.

> "There cannot be any other motives as there is no love, there is nothing, and they are being offered more than they can get in Lithuania. Those girls do not have a twelfth-grade education. Imagine, she is being offered 1000 euros, she cannot imagine what she can buy for that money. Besides, they are not told that it will be hard to divorce, that there would be piles of problems. They are not told about this. She is told, 'let us stay together for a month or two, you will get 1000 euros, maybe you will even fall in love, maybe will stay together'." (P: 16 July 2015)

Even though the main indicators of vulnerability are similar to the profiles of victims of other forms of exploitation, the extent of vulnerability is different. In other words, the victims of exploitative sham marriages are economically, socially and psychologically vulnerable, but the level of vulnerability is not the same as for those victims who end up in prostitution or are recruited for criminal activity. So to say, the victims of exploitative sham marriages to a certain extent are less vulnerable than the victims of forms of exploitation such as prostitution or forced criminality.

As observed by the representatives of non-governmental organisations, in principle many people can become victims of exploitative sham marriages, since recruitment mechanisms can conceal the deceptive marriage:

> "Mostly there is the attitude in society that the victim has this profile: I live in some remote village, I have alcohol problems and my financial situation is very difficult. Yet, the opposite profile can also occur. For example, I can be an educated woman and I can get this offer … you will fall in love, will go to another country, your passport is taken away from you, documents are taken away and they tell you, 'sit here' … When speaking about the profile of victims, mostly it is young women, under the age of 25. Not necessarily uneducated or of low intellect. Anybody can be a victim of human trafficking. However, people who belong to a risk group constitute a higher percentage." (N: 30 July 2015)

As we can see from the social and demographic characteristics of the potential victims of exploitative sham marriages, women from socially and economically vulnerable environments can be trapped. However, the extent of vulnerability is different for those who are trafficked for sexual and labour exploitation. Therefore, it is necessary to take into account these differences, especially while implementing preventative actions.

4.6 Organisation of exploitative sham marriages

Since there are only three relevant pre-trial investigations relating to exploitative sham marriages initiated in Lithuania, there is not much information about the organisation of sham marriages in the country of destination. However, the research data allows us to make a general conclusion about the organisation of sham marriages in the destination country. Usually, the organisers (coordinators) of sham marriages are both foreigners (third-country nationals) and Lithuanian citizens in the United Kingdom who are looking for third-country nationals to marry other Lithuanian citizens . Women from Eastern or Central European countries act as recruiters or intermediaries. There is evidence that, after concluding a sham marriage, women are also trapped in the network of human trafficking and, eventually, search for other young women who would be interested in concluding sham marriages. After concluding sham marriages, the foreigners also become intermediaries for other foreigners, who need residence permits to live in the EU. According to the views of representatives of law enforcement institutions, the main organisers are residing and operating not in Lithuania, but in the United Kingdom, Ireland, the Netherlands or other EU Member States.

According to representatives of non-governmental organisations, sham marriages are organised very systematically. Conclusion of several sham marriages are being organised all at once, they all have the same participants (for example, the same witnesses or 'guests' in the "celebrations"). Often, third-country nationals and Lithuanian women enter into a sham marriage without an understanding of a common language, nor are there any interpreters present. In some cases, the organisers prepare a celebration which is enjoyed by the recruited women. These wedding parties are often organised following

husbands' tradition. The same people attend the parties. The organisers not only organise the parties, but also take wedding pictures and conduct other rituals that are characteristic of weddings.

> "They organise a celebration. Those girls like it even more, so they make a celebration for them. Yes, they do it mostly according to the customs of those men, but the girl can wear a white wedding gown. A bridal dress is bought for them and all the parties are attended by the same people. Those who are getting ready to get married and those who have married, they all participate in the same party. They take pictures. Really they organise a celebration, everybody gets drunk in a friendly fashion, and eat in some little room. I think there is a photograph where they get tied together according to some customs – they even conduct those rituals so it all seems more credible." (N: 11 August 2015)

According to social workers, even though organising celebrations may appear unnecessary (especially, taking into account that usually women do understand that the marriage is a sham)[30], celebrations of this kind are an especially important means of keeping victims under control, as they begin to feel 'important and needed'. Such an attachment of a victim to the perpetrator is especially important in view of luring the women into further organisation of exploitative sham marriages and recruiting victims:

> "Getting married is not significant. What is most important is being accepted. That they are in a joint circle, that they go to each other's weddings, and that they have friends. They think of it as being accepted, a common company, that they are visited, that they are brought alcohol. They think that somebody accepted them. Nobody anywhere accepted them before and here it is nice, a cool company who accepts, and we are all friends." (N: 11 August 2015)

4.7 Main travel routes, transportation and arrival in the destination country

Exploitative sham marriages employ different logistics than other forms of exploitation and human trafficking. In distinction to victims of sexual exploitation and forced criminality, victims of exploitative sham marriages usually travel back and forth between their country of origin and their country of destination. Offenders are not able to take care of all necessary documents for a sham marriage in one visit. Besides, the women are mostly not accompanied by anyone (see 4.3 Exploitation of vulnerability); they go on their own and upon returning to Lithuania, they bring clothes and other things to their relatives. The methods for transporting victims for sham marriages and for other forms of exploitation are similar: busses, minivans and planes. In all the pre-trial investigations discussed above, the victims were taken to the United Kingdom.

> "Nobody would accompany them. They would buy tickets for them; the victims do not use their own money to travel; the trip is paid by the inviting side, the so-called groom. In some cases it is plane tickets, or a minivan that runs between Lithuania and the United Kingdom. They go to the place where they agreed to meet; they are

[30] However, not always.

being met in all cases, so they do not get lost. As much data as we had in these cases, there was no force used with these women except for one case, when a woman was locked in a basement, in other cases they were greeted, provided with a place to live with full support." (P: 21 September 2015)

4.8 Forms of exploitation in the destination countries

According to the representatives of law enforcement institutions and non-governmental organisations, exploitation begins at the time of recruitment in Lithuania, when recruiters exploit the potential economic, social, and psychological vulnerabilities of victims. However, when the victims arrive at the country of destination, a different kind of exploitation, i.e., physical exploitation, begins. Upon arrival at the destination country, victims begin to realise that everything is not developing in the way that had been planned and agreed. For example, the people who come to meet them are completely different than whom they met on social media sites (Facebook) or dating portals; they are taken to an apartment where third-country nationals live and they are given sheets of paper with all the information that they have to memorise; their documents are taken away.

"Mostly they see that they are greeted by a face completely different than what was on Facebook … a beautiful picture of an actor … someone [the future husband or one of the organisers] who barely speaks English comes, he takes her to an apartment and there the story begins. She is shown her little place, she is handed, as they say, a fairy-tale [a story made up by the recruiters to learn by heart and to tell to the migration officers]. A few pages are printed out, she has to memorise those pages and then the waiting begins. Her document is immediately taken away from her and everything begins." (N: 13 July 2015)

As observed by social workers, offenders treat the women differently depending on their social and demographic profile. Therefore, the forms of exploitation are also different: from restriction of the freedom of movement and domestic servitude to sexual exploitation. In addition, victims are being talked into finding other women who would be able to come to the United Kingdom for sham marriages. In other cases, there is no obvious exploitation, so it is not always possible to prove that exploitation has taken place.

"That young woman who finds herself without knowing the language, without any social skills in a foreign country, and she comes under the influence of a third-country national – perpetrators can see who is sitting in front of them. They can calculate to what degree they can play with that person. If they see that she does not even understand what and how, then they know that they can exploit her in other ways, too. There is a person who is under their power, they are not tied by any mutual interests, not any love – it is a fact that they can exploit her, but it also depends on the woman. The degree of exploitation depends on the character of the women, her inner intellect, ability to stand up for herself, if she is as obedient as a sheep then they will take advantage of her. It depends, also, on how she behaves, her understanding of the situation. There are many nuances which you need to evaluate individually." (P: 16 July 2015)

As was observed by the representatives of law enforcement institutions, even judicial officers in the United Kingdom or Ireland do not identify cases of sham marriages as a form of human trafficking. Sometimes, these kind of marriages are identified as an infringement of migration laws. In those cases, both sides are punished: the organisers of such marriages and the spouses (men and women).

However, exploitation in the country of destination is often directly related to the processes of recruitment in the country of origin. For example, if potential victims are promised money and material things in the country of origin, then the whole sum is not given in the country of destination. The organisers give them a little bit at a time (they buy them clothes, give them a few pounds) with the purpose of 'taming' and 'tying' the victim in the long run. It is not surprising then that the women, having not received the payment, return to Lithuania and later go back to the United Kingdom again. In time, the situation changes and in addition to psychological means of control, the physical exploitation of the victims begins. Their documents are taken away from them, their freedom of movement is limited, they are sexually harassed, and threats are made against the well-being of the victims' children.

> "Her document is taken away from her and she is told that her document will be in our hands from now on. She cannot leave the house alone and she is under the constant monitoring of the organisers of sham marriages. Sexual services may be demanded of her; of course, this was not told her in the initial agreement. Suddenly, she sees the other side. I start noticing that when after the first trips they return, they bring all kinds of little things. You can see targeted exploitation; they take their children's photos [to have as much information as possible], you can simply see that some information is needed [which later will be used against the victim]. She has to bring her documents, whatever documents she has." (N: 13 July 2015)

Social workers who work with victims say that exploitation may not be visible at first sight, but after detailed analysis of victim recruitment, transportation and the life story in the country of destination, a completely different picture emerges and different means of exploitation can be identified. As mentioned earlier, perpetrators sexually exploited a young woman who had a mental disability. In another sham marriage case related to forced labour, the victim was forced to do household tasks and live in inhuman conditions. The consequences of domestic servitude in this case resulted in psychological trauma:

> "We had one case where she was doing household tasks, but she was turned into a complete servant for the whole tribe, she served them, did laundry for all of them, cooked, slept like an animal on the floor. Practically, she returned having gone out of her mind, completely gone. Because I think she had some mental disorder, but she came back completely not herself." (N: 13 July 2015)

Parallel to labour and sexual exploitation, victims experience psychological means of control and threats. The perpetrators not only rape, but threaten the women to force them into the networks of prostitution. Given this data it can be stated that the exploitative element in sham marriages can often entail different forms of exploitation such as sexual exploitation or forced labour. It can therefore be argued that sham marriages that include such elements of exploitation should be seen as a form of human trafficking. In such instances it

is not different from other forms of human trafficking. In the most serious cases, sham marriage includes different forms of exploitation (forced labour, sexual exploitation, restriction of freedom of movement, psychological violence, confiscation of passports etc.) which would fit under the definition of human trafficking if combined with the act of recruitment and the means used. Therefore, in fighting this phenomenon, it is imperative to consider the general context of human trafficking, the profiles of the victims and the preventative framework in place.

In summary, it can be argued that it is not necessary to separate exploitation in the countries of origin and destination, since exploitation in the country of destination is a kind of continuation of exploitation in the country of origin. So to say, the exploiter is different, but the process of exploitation is ongoing. If exploitation is considered not from the perspective of victim vulnerability, but from the perspective of organised crime, then the exploitation becomes even clearer as, according to prosecutors, sometimes it is easier to reveal the crime when the structure of organised crime is investigated, not the vulnerability of the victim. From the means of recruitment and transportation up to the organisation of sham marriages, exploitation is there, and the crime should be seen as trafficking in human beings. According to the representatives of the law enforcement institutions, it should not be important whether a victim is given a portion of the payment or not. In any case, the person is being exploited due to her vulnerability; a group of perpetrators (recruiters, intermediaries and crime coordinators) use deception and force in order to make a profit.

Besides, as observed by the representatives of non-governmental organisations, in certain situations other participants – third-country nationals – may also be considered to be victims. According to the experts, third-country nationals do not always understand that they are being used to make a profit. However, the data does not include more information on the issue.

4.9 Identification of crime and victim support system

One of the major challenges in the area of human trafficking is the identification of crime and the provision of victim support. According to the representatives of law enforcement institutions, most victims are identified when the negative consequences of sham marriages become apparent; for example, when women cannot obtain a divorce. In such cases, women start understanding that they were cheated and that they were used. According to the experts, often these women begin to feel angry that they were deceived; they were taken advantage of just like commodities in meeting the needs of other people.

Unfortunately, victims do not always understand that they are really victims. A portion of the women believe that they themselves are partners in crime (the perpetrators persuade them of this). Therefore, they do not identify themselves as victims. In this case, the crime of trafficking in human beings is not identified. On the other hand, especially vulnerable women do not want to communicate with the police since, according to social workers, they have been threatened by

the perpetrators. Threats are made using various arguments related to the well-being of the children (the children's documents are taken away) or pressure is exerted on the victim in other ways (for example psychological violence).

Challenges of this nature are apparent in those cases where exploitation is not identified in the country of destination, in other words when the victim herself does not understand that she was exploited. In other cases, where the exploitation is obvious and victims themselves try to ask for help. usually women realise that they are being exploited and they communicate with law enforcement institutions and non-governmental organisations (see for example, case no. 2 in Chapter 3).

Non-governmental organisations in Lithuania receive information about victims in different ways. According to the experts, there are a few ways information is received: the International Organisation for Migration, law enforcement institutions, other non-governmental organisations in Lithuania, and countries of destination, where exploitation occurs. Organisations, which work in the area of prevention of human trafficking and victim assistance, seek to intervene when they receive credible information that someone is being victimised. However, the organisations operating in Lithuania only play an intermediary role, since the most important role in the processes of victim identification and crime recognition of exploitative sham marriages is played by the institutions in the countries of destination (in the case of Lithuania thus far, the United Kingdom).

> "Yes, but the marriage is not concluded here, it is concluded elsewhere. So, how are they supposed to identify this forced marriage? Only by seeing the victim they can identify. For example, in Great Britain, when that fact happens, it is not registered here anywhere, you can understand it only from the stories of the victim. So here, we are without a victim … You register a victim and then you can register a forced marriage … I think that the source for identifying sham marriages is the offices of local social services. Having received even the tiniest scraps of information, even if not the most accurate, we jump to check it, dig into it, raise noise and ask what, where, how does this behaviour seek to justify itself – we dig something out." (N: 13 July 2015)

Trafficking in human beings is an international crime which extends to different countries (of origin, transit, and destination) and various criminal groups. Therefore, identification of the crime, especially in the case of exploitative sham marriages, becomes an especially problematic task in several respects. Frequently, these marriages are interpreted by law enforcement institutions only as sham marriages; eventually, they are treated as a crime against the state due to the violation of migration laws (in other words, trafficking in human beings is 'hidden' under the processes of international migration). In this way, the victims are not identified and the crime of human trafficking is not recognised. Second, government institutions working in the countries of origin and destination do not always adequately and effectively respond to concrete cases of exploitation. Third, non-governmental organisations and municipality institutions working at the local level often do not understand the content of the crime – i.e. the elements of the crime in general, and indicators of trafficking in particular.

> "When we did training in Raseiniai and Naujoji Akmenė, we really saw how taken aback they were and we saw that it was worth it for us to take pains over this hard work for two days, because they completely do not understand, do not understand and identify like they should. Ireland also has a hard time in identification, maybe in England they are more flexible, but judging by the newspaper articles and numbers, by how many of our nationals have been put in prison [for sham marriages], they hardly see anything beyond economic deception." (N: 13 July 2015)

The research revealed that since Lithuania is a country of origin for victims of human trafficking, identification of victims, recognition of the crime and assistance to victims are especially problematic. There is still a lack of adequate information about what the crime of human trafficking entails, and about its complexity in particular in small towns and villages. Practitioners working at the local level do not fully understand the scale of the crime and that the assistance provided to victims is not effective. All these issues can be illustrated by the already discussed lack of financing, the low political priority given to the phenomenon, and the absence of coordination. Eventually, when talking about identification of a crime and assistance to victims, it serves no purpose to mark out exploitative sham marriages as a specific form of exploitation since, according to the representatives of non-governmental organisations and law enforcement institutions, the challenges remain the same with regard to other forms of trafficking as well. Until the structural problems (financing, strategy, education, and coordination) are resolved, it is naive to expect that problems of exploitative sham marriages (as well as other forms of exploitation) would be effectively resolved.

> "Assistance to victims … it is really not sufficient and really not effective. As much as we would like, it is very hard for us to cover all of Lithuania … In the provinces [i.e., rural areas], I think there is no help and it is very complicated. That assistance … in the provinces is not even ready" … "Non-governmental organisations are not very obligated. They receive funds from the ministry, they are obligated to perform some actions, but they are not obligated to expand, to be proactive – completely unobligated. The quality of their work is not checked or questioned." (N: 13 July 2015)

Parallel to the abilities of different countries to recognise the crime of human trafficking, it is very important to talk about international cooperation. As the research has revealed, international cooperation is not always effective due to a few reasons. The first reason is the varying interpretations of the problematic contexts within which human trafficking occurs (for example, different understanding of poverty and vulnerability, different approach towards migration and mobility). Second, due to the current lack of flexible methods for cooperation, a great amount of resources must be spent on initiating international investigations teams. Third, there is a lack of human resources. Fourth, there are different roles that countries play in the processes of international migration (for example, the United Kingdom and Lithuania). The variety in migration experiences creates understandings that are noticeably different from one country to the next. For example, Lithuania is a country of emigration and at, the same time, it is a country of origin for human trafficking victims. The United Kingdom, in turn, is a country of destination for immigration and, at the same

time, a country of destination for human trafficking victims. Therefore, it is not surprising that indicators to be used in the recognition of crime are different between these two countries. According to the representatives of law enforcement institutions, international cooperation is not always as effective as would be desired:

> "In essence, yes, we make identifications through the investigatory process. It is stated in our case that [this one] girlfriend got married to such and such a citizen, this girlfriend got married to that … I also heard that this other one got married too. We have dug up those rumours, we have made an inquiry through Interpol and received answers that our women really got married to certain citizens. There are ten of them, it seems. Some time ago, we sent inquiries to Britain, that they give us an answer how those marriages were or were not certified; we also asked what the conditions were and how everything happened. We do not have any answers from them. Therefore, we do not know now if they were really victims or they got married on their own will." (P: 21 September 2015)

In some particular cases, identification of sham marriage as a form of exploitation or human trafficking, is more complicated due to the relation of the phenomenon to international migration. In fact, 'the market' (the EU as a pull factor for immigration from third countries), which creates the demand for sham marriages, and freedom of movement within the EU, which creates the supply for such marriages, stimulated the so-called 'migration industry', which further complicates identification of sham marriages.

> "In order to talk about the crime, there has to be coercion with regard to another person. And here, if we take only arrival and departure – there does not seem to be coercion. It is tangible only when the woman finds herself abroad in the hands of traffickers and then it starts – either the documents are taken or she is forced, beaten up, threatened, drawn into debt, then some nuances start when you can feel that your freedom is restricted. However, while she is in transit, even though the provisions of international law say that even giving your consent does not eliminate the crime of trafficking in human beings, it will not be enough to prove, you need more interconnections. In my opinion, it is a much-unregulated thing, that free movement of persons, it is not prohibited." (P: 14 July 2015)

4.10 Prejudices and negative attitude towards victims

One of the problems in identifying victims and identifying the crime is prejudices and negative attitude towards victims that are shared by governmental institutions and courts. As was revealed by the research, in Lithuania there is still a lack of a victim-sensitive attitude regarding exploitation and victims of exploitation: children, women, men who are being exploited in different forms of human trafficking. According to the representatives of non-governmental organisations, prejudice and stereotypes with regard to victims of different forms of exploitation persist in Lithuania. If the discourse concerns trafficking in children for forced criminal activities, sometimes the victims are seen as offenders. A similar situation characterises victims of prostitution. These issues were emphasised in the United States Trafficking in Persons Report (2015) as well as in this research:

> "Victims of sexual violence. Here comes a young woman, 22 years old, in the district of a Lithuanian town, she was raped when she came home on the last bus, she was walking down the path, it seems somewhere on the outskirts of a forest. A car stopped, she was dragged into the car and gang raped. She came to write her statement and she was told, 'child, where were you going at night? How were you dressed? A short summer skirt?'… The investigator is asking these questions. That girl is a student … the stereotype is that she provoked. Those men could not drive past without raping. And attorneys are staring at you – well, no, they couldn't." (N: 16 July 2015)

Social workers who are working with victims illustrated the dominating stereotypes with regard to victims of different forms of exploitation. According to the experts, the prevailing views towards victims of sexual exploitation (see the quotation above) are slowly moving into the field of exploitative sham marriages, where the belief is that victims go voluntarily to the countries of destination, without considering the extent of poverty and vulnerability. According to officials and social workers, this attitude is not correct, since an important aspect of human trafficking is missing – exploitation of vulnerability in the recruitment procedures.

> "With regard to sham marriages, this attitude used to be stereotyped also in the field of prostitution, that [victims] want that themselves, go on their own … now it is sham marriages, that they were stupid, wanted to make money, to get money for nothing. The girls went there and showed themselves. It really is a stereotypical attitude, an unwillingness to go into the details of the situation." (N: 30 July 2015)

One of the solutions to this problem is education and training which, according to the representatives of non-governmental organisations, should be carried out at the national and local levels and should be individualised, according to the activities of experts working in anti-trafficking field. In addition, training is necessary not only for law enforcement officers and judges but also for professionals working in institutions of education and healthcare. It is understandable that the fight against human trafficking includes not only judicial institutions, but also sectors such as healthcare and education.

> "Cases of human trafficking – the person went voluntarily. Or cases of sexual coercion – she was guilty herself, she dressed in a provocative manner, she talked provokingly, why did she have to be walking when it was late at night and dark? This attitude is shared by the judges as well. We come to the point where we need to do training about new forms of human trafficking – it is always a relevant topic. The entire judicial and law system, starting with the police officers, regular patrol officers, who go to the scene of the crime, investigators, prosecutors, judges – they all need training. I would even say that training needs to be organised initially not together, but individually … Also for physicians – if there are forced marriages, childbirths, miscarriages … For teachers, at schools. Our schools do not have any education with regard to questions about violence against women, sexual exploitation." (N: 30 July 2015)

According to the research data, parallel to the attitudes of law enforcement officials working at the local level, social workers working with victim support and other practitioners, as well as courts of first instance, do not properly identify the crime of trafficking in human beings and its different forms. Representatives

of both law enforcement institutions and of nongovernmental organisations confirmed this fact.

> "It is very difficult to try these cases in the courts since … in the courts, they look sceptically at it. Let us say, those so-called victims. Those victims, there are cases here in the courts where they are simply afraid to appear in the court session … They are physically shaking, they are afraid, they do not want to go to the court session, they send a letter to the court that they will only testify if the court organises the examination in a different way [than exposing her to the public]. Of course, there are possibilities to do it with the assistance of video technologies, but the victim refuses to stand in the courtroom together with those perpetrators. The law also provides for this possibility but courts do not look at that and it is not interesting for them so they refuse saying, 'no, you bring her here, we want to examine her in court.' Why it is needed, I do not know, but the courts act that way. Then they beat off any desire of those victims to testify, then you do not understand what is going on, but it is as it is and what is most important is that you cannot change anything." (P: 21 September 2015)

In order to illustrate the prejudices and negative attitude of courts towards victims, it is relevant to discuss the concept of vulnerability which, unfortunately, is not always understood adequately. As the research revealed, taking into account different forms of human trafficking, there is no common understanding of the vulnerability of the victim and the kinds of ways in which they are victimised. Thus the public (and often official) attitude towards victims is flawed.

> "Courts do not understand the problem very well. We had a court decision last summer, where the court of appeal changed it. The criteria of vulnerability was argued using the fact that the victim does not have a job and does not have a place to live, poor education, parents in jail, life in orphanages, the father a former prisoner. The victim was taken from an orphanage, conflicts started at home again. Eventually the victim was kicked out of her home. Not having a place to live, slept under balconies, did some occasional work for farmers and so forth. And this is how I tried to prove vulnerability to the court, using this aspect, but the court said, what kind of vulnerability is this? This is how most residents in the countryside live, this is not any kind of vulnerability." (P: 21 September 2015)

Some officials argued that the biggest problem is not the concept of vulnerability, but the organisation of pre-trial investigations. If strong evidence that explicitly shows exploitation of the victim's vulnerability is collected during the pre-trial investigation, then the court, carrying out its functions, will evaluate the vulnerability of the victim adequately. The vulnerability and the fact of exploitation can be clearly shown by the evidence collected. Unfortunately, pre-trial investigations do not always work well.

> "If we, as a police and prosecutor's office, do not demonstrate that these are the signs of trafficking in human beings and still seek to escalate it to a case of exploitation, but do not base our position on any legal argumentation, then it will be hard. We need to do it in such a way that the signs of human trafficking would be clearly visible and they would say – it was a transaction, she is vulnerable … We need to look for such cases where forms of human trafficking are visible and clear." (P: 16 July 2015)

Both representatives of judicial institutions and non-governmental organisations agree that the court system of Lithuania is focused on the suspects, and is not sensitive to victims. In combating the crime of human trafficking and working with the exploitation of victims and, especially, in initiating judicial procedures, this problem is even more evident. It should be noted that it is not only a problem related to overall policy response against human trafficking. On the contrary, the problem is related to the general fight against organised crime. However, when it comes to human trafficking, even though there is a possibility for victims to testify outside the court, this practice is not always applied and that makes the judicial process and safeguarding the rights of the victim even more difficult.

> "I do not talk about defence lawyers, who spit on the whole thing and they are not interested, they are, excuse me, snickering contemptuously at the victim during the court sessions, saying in effect 'that you went voluntarily, stole voluntarily, what do you want, what kind of victim are you anyway?' Of course, courts do not react too much to such victim humiliation and remarks, but you try and tell and explain it to the victim afterwards that if she would testify nothing will happen to her. Afterwards, she looks at you and says, we talked about this, that you would protect me and that everything would be fine, and what's happening now." (P: 21 September 2015)

However, it has to be emphasised that, along with preventative measures (training sessions and information campaigns), gradually a good practice and a more sensitive attitude on the part of officials and judges are developing in respect to the crime and the victims of human trafficking. According to the representatives of non-governmental organisations and law enforcement institutions, it is still long way to the point where the crime of human trafficking would be identified both at the national and local levels by governmental institutions and law enforcement agencies. Parallel to recognition of the offence, there should be changes in how exploitation, vulnerability and victims are perceived.

> "The situation is improving. Officials, persecutors, judges … we teach them, nongovernmental organisations teach, everybody teaches, the ice has been broken. I have not heard lately that somebody would have complained that they are being taken abroad and the response would be, 'be happy, you will have a place to live and a job'. There are no jokes like this nowadays. However, there is still a problem with the courts." (P: 15 October 2015)

4.11 Preventing exploitative sham marriages in the context of human trafficking

The appearance of relatively new forms of exploitation (for example, exploitative sham marriages) and human trafficking, being a part of international migration, limits the ability of the government to initiate an adequate policy response. As research has shown, this is happening due to several reasons. First, sham marriages (including those that are intentionally exploitative) are treated as a challenge of migration, but not as a challenge of migration and of human trafficking. Second, sham marriages (their organisation and participation in them) are not criminalised in Lithuania. Third, researchers, police, prosecutors,

judges and practitioners working at the local level are still not adequately familiarised with the challenges of exploitative sham marriages; therefore this phenomenon is not always recognised. Fourth, as human trafficking is not a political priority in Lithuania at this time, there is a lack of coordination, long-term strategy, financing, resources and competency in fighting against both traditional and new forms of human trafficking. This conclusion can be illustrated by the insights given by the experts (in this case, the representatives of law enforcement institutions) during the research:

> "[H]ere [in Lithuania] … it is not considered a big problem. Yet, it is, in fact, one of the main problems. Everyone thinks that sham marriages occur in Europe, but that it does not concern us. Some time ago, it was a priority area in the public prosecutor's office, but then it was rejected. Now, what is in the foreground are economic, financial matters, the shadow economy. There is a greater emphasis on finding money in the shadow economy than there is on finding out about human trafficking, which is also part of the shadow economy. From what I know, the Council of Europe has confirmed that trafficking in people will be a priority area. If this is indeed so and there is movement in that direction, then, perhaps, our nation will start paying more attention to human trafficking as a national problem. You understand, there is also another pragmatic issue why we lag behind the EU in addressing the problems associated with human trafficking; that is the problem of a lack of staff. For instance, in … [a Lithuanian town], high rates of crime of this nature are reported, large masses of people are emigrating; yet, the biggest shortage of employees in a Lithuanian police department is in [this town]… where it can be least afforded. A year ago, there was a 20 percent shortage, there simply are no qualified people to hire. There are no people, so you can do all you want, they simply can't do more than they already do. I can see now, there is a lot of work, you can work, but you can't do it physically because there are only two investigators for trafficking in human beings in [this town]…. . Imagine, two investigators, so what can they do? There are all kinds of cases, not only human trafficking, but also drugs, car thefts, etc., that are being investigated by the same two people. They can't do it physically, if there were more employees, technical capabilities, there would be more cases that could be investigated and brought to court … no doubt." (P: 21 September 2015)

These insights were confirmed in another study (Žibas 2014), emphasising that more effective implementation of anti-trafficking measures simply lacks financial support, a long-term political strategy, a systematic action plan and a coordinating institution. Finally, political priorities should be set so that the political will can be mustered for the fight against human trafficking. Various non-governmental organisations and government institutions are actively involved in the fight against human trafficking. However, the policy response is fragmented due to a lack of coordination. Because of this institutional and political barrier, some regions in Lithuania are ignored in the implementation of preventative measures. Research revealed that a few forms of human trafficking dominate in preventative policies: sexual exploitation, forced labour and forced

criminal activity.[31] Unfortunately there are only limited actions focusing on sham marriages as a potential form of human trafficking.

Therefore, identification of exploitative shame marriages and other forms of exploitation in some regions is a problematic task for judicial institutions, social workers or educators. The research data revealed that experts and practitioners working at the local level (police officers, pre-trial investigators, social pedagogues, judges, etc.) are influenced by stereotypes and prejudices concerning vulnerable and marginalised groups of society, which further complicates identification of potential human trafficking cases and victims of trafficking as well as provision of assistance to those affected by the crime.

Summarising the system for combating human trafficking it can be stated unequivocally that a policy response has been created (together with experienced experts from non-governmental organisations, the gradual recognition of the vulnerability of victims, intensifying discussions about different forms of human trafficking, etc.) However, some challenges remain related to the systematic attitude, in introducing policy measures and implementing preventative activities. For example, it is not enough to initiate a pre-trial investigation in the area of trafficking in human beings. Accordingly, identification of an offence and a victim (which, as the research has revealed, is not as effective concerning cases of exploitative sham marriages as it is in the area of other forms of human trafficking) has to be followed by a system for intervention.[32] This system has to respond to such questions as victim protection, prevention of repeat victimisation, introduction of mechanisms for the observation of vulnerable groups (potential victims of human trafficking), focusing not only on such economic factors as poverty and social exclusion, but also on the importance of the psychological and emotional environment.

A consensus has emerged on the EU level that victims of human trafficking are mainly persons from the most vulnerable groups of society. Therefore, countries must seek to address the risk factors (Žiobienė 2006). One of the possibilities is the implementation of preventative policies at the national and local levels, focusing especially on small towns and villages where there is no information (or information is insufficient) about the continually changing forms of human trafficking and about new means of recruitment. In addition, small towns and villages often have a higher risk of poverty, unemployment and social exclusion. Therefore, it is not surprising that the experts emphasised problems that dominate in small towns and villages.

However, with changes of the elements of the crime of human trafficking and recruitment techniques, new challenges are arising and they need to be tackled in a comprehensive manner. For example, recruitment online, via social media

[31] These forms are explicitly mentioned in Criminal Code as forms of trafficking in human beings.

[32] Identification of the crime is a difficult task indeed. However, emphasis should be given to the fact that identification of the crime requires not only application of the Criminal Code, but also a victim-sensitive approach, an understanding of vulnerability and exploitation.

channels and dating sites must be addressed. Representatives of non-governmental organisation and law enforcement institutions emphasised that there are a multitude of advertisements online related to the organisation of sham marriages. As the experts have noted, frequent advertisements of this nature do not even disguise that their ultimate purpose is connected to sham marriage and payments:

> "There has to be a way to somehow limit those ads that certain portals are virtually shimmering with. You can find them on dating sites, where they offer the possibility of getting married. They do not call it a marriage, just getting to know each other, travel around the world, huge sums of money. I do not know if these ads can be removed, since realistically the entire exploitation which would materialise if the women agreed to [the offer] is hiding behind them. These things need to be limited. That is how they are labelled, to marry a third-country national and sometimes even sums of money are indicated." (N: 30 July 2015)

The research revealed that non-governmental organisations understand preventative action in a wide and complex way. According to the experts, in the fight against human trafficking, not only education is important, but also cooperation among EU Member States, active participation in preventative actions and, finally, criminal liability, which should be strictly enforced with regard to human traffickers. In striving for synergy of actions, it is imperative to have a clear vision, a strategy, a coordinator and a plan of action for solving concrete crises. According to the representatives of law enforcement institutions and non-governmental organisations, in seeking to find an effective response to this crime, first, problems need to be resolved at the national level by turning municipalities, social services, schools and other institutions into more active participants in the fight against human trafficking.

The next step is not only to encourage international cooperation (which is currently not effective), but also exchange visits between institutions that work in the countries of origin and destination in order to share information and best practices that would make it possible to see a much broader context of human trafficking. For example, officials and social workers coming to Lithuania from the United Kingdom could understand better the role that poverty, vulnerability and exploitation of vulnerability play in recruitment (according to the experts, notions of poverty and vulnerability are different depending on the development levels of each country). In this way, experts would have an improved understanding and could more adequately implement measures to combat human trafficking in the country of destination. For example, in the cases of exploitative sham marriages, officials would more frequently identify and investigate relevant cases with indicators of trafficking as human trafficking. In their turn, Lithuanian officials, judges and social workers could make use of the experiences on different forms of exploitation in the countries of destination. In this way, the process of victim exploitation would be more adequately addressed, while initiation of pre-trial investigations and judicial procedures would be improved. It is noted that these kinds of measures could be implemented in the general context of anti-trafficking policies.

> "In my opinion, we simply have to start analysing cases. I would include municipalities where vulnerable people and victims live … I think social services, if they understood and would like to take responsibility. Another thing, there is never going to be a stop to any form of human trafficking until there is real international cooperation. I do not say that it does not exist at all, but it is rather fragmented as selfish, 'when I need it'. But if there really were those golden words of all agencies, that a victim is in the centre, let us try and implement this. Then we will see. If they would come from countries of destination, they would see a lot about what they do not understand, they really do not understand either the recruiting methods, or the conditions under which potential victims live, or their vulnerabilities. They could really learn a lot here, just like our people could understand better the mechanism of exploitation. Now they do not understand how those marriages are made." (N: 13 July 2015)

Trafficking in human beings is often related to international organised crime. Therefore, in attempts to combat it effectively, international cooperation is necessary. According to the experts, exploitation of victims in the United Kingdom or Ireland should be the area of interest not only for British or Irish organisations. In Lithuania, as the country of origin, there should be a better understanding of recruitment techniques. The field of action should be not only Lithuanian judicial institutions, but also those in countries of destination.

> "Not once have I said to foreign colleagues that if we see it as a responsibility of British or Irish colleagues, then we will only be catching the intermediaries, as the organiser will be sitting in [a town in Lithuania]. We will be automatically catching those drivers and intermediaries, but then the one who is sitting alone in Pakistan and the other one in [a town in Lithuania] – we will not even know about them. When we will all be catching [the recruiters] in our territory." (P: 15 October 2015)

However, international cooperation does not always function in the way that representatives of law enforcement institutions in Lithuania would like. In this case, the biggest problem is that officials working in Lithuania cannot check the given information in the country of destination and they do not have legal levers to do so. In addition, activities of this nature require a lot of financial and human resources, which officials in Lithuania simply do not have. According to representatives of law enforcement institutions, coordinating institutions and funding is needed when striving for a more effective exchange of information and implementation of mechanisms to investigate particular cases. At present, there is not sufficient funding to meet such needs.

> "Is she a victim or does she really live with him? In order to find out, I would have to have some control to conduct my investigation in the United Kingdom: to observe what she does, whom she really lives with, what he does there. But we do not have these kinds of resources. There is no centre here, some kind of institution that would coordinate information and funding. We are practically in the country of origin of the victims, where major actions should be implemented, but our hands are kind of tied, we sort of have data but we cannot verify it. Officials in the United Kingdom do not always have a welcoming attitude to cooperation, simply because those are not their problems and you go ahead and figure this out using your own channels." (P: 21 September 2015)

On the one hand, officials emphasised that the lack of cooperation hinders the ability to initiate an adequate response to trafficking criminality. On the other hand, in the context of international cooperation, Lithuania and the United Kingdom already have examples that illustrate good cooperative practices in international investigations. An investigation in the country of destination (i.e., the UK) created the basis to establish a joint investigation team and to start a pre-trial investigation in Lithuania. However, there are still a lot of barriers of communication that are connected to the exchange of strategic and other kind of information:

> "In cases where the Lithuanians were convicted, the British themselves showed a wish to cooperate. They themselves proposed that we establish a joint investigation team, which is a very rare thing … so we met in the beginning of the year in The Hague, discussed it and sort of worked out a plan to establish that joint team. Everything is going well so far. But in the other case, the case [in a Lithuanian town], it is the opposite. Enquiries are being sent but somehow they are not very willingly responding to them … we need to verify, but to verify without any control from the United Kingdom, that is impossible, so it became like a vicious circle, neither going forward nor backward." (P: 21 September 2015)

According to the experts, no action against human trafficking will be effective until poverty, social exclusion and the high level of unemployment are reduced in Lithuania, and especially in small towns and villages. Social workers and officials emphasised that not only poverty, but also alcohol dependency is prevalent in small towns and villages. In other words, economic problems create social and psychological problems which, in turn, increase people's vulnerabilities that are exploited by recruiters, who travel around the countryside and look for vulnerable individuals to recruit. According to officials, prevention programmes may not affect such persons or have insufficient impact:

> "Prevention, you see, what prevention is, there is a lot of social advertising here. But here [in Lithuania], let us say, it is already economic problems that cause vulnerable people to be exploited … Who do they [perpetrators] take away? For sure, they take away not those who have jobs or have sufficient incomes. Many years ago, it used to be that they throw you in a trunk of a car and take you away. Now, there are no such things and I doubt that they could exist. But now, again, in rural villages, they [the recruiters] look for poor guys who, they know, will go to steal. These petty criminals will be offered a life in the United Kingdom, but they will have to pay back the recruiter; but that is fine with them, they regard that life as normal. You see, we think that she is a victim [the expert was referring to the implicit victim] and we have to persuade that person that she is a victim, but she does not feel it in reality. You are explaining to her that she is being exploited, that they are taking away from her. And, she says, 'come on, everything is fine for me here'." (P: 21 September 2015)

Representatives of social service institutions said they have not noticed any improvement either in the victim support infrastructure or in support for the most vulnerable groups in the society. Quite the opposite, in fact: the situation can be described as bad and, unfortunately, with little possibility of improvement. Structural unemployment and poverty prevail. Therefore, the number of families at risk is not decreasing. Not surprisingly, the potential for human trafficking and exploitation is not decreasing either.

> "Help mechanisms for socially at-risk families in Lithuania are oriented towards results, not towards the process. If they were listed as a family at-risk 12 or 10 years ago, when they had two children, then now they have seven children and stand in lines. As they used to eat European macaroni, so they continue to eat that. The kids did not study, they still do not study. That is a process. We continue to wait until the children reach 18 years of age." (N: 27 July 2015)

In addition, the research revealed that in the small towns and villages of Lithuania, there are cases of vulnerable persons selling their children for sham marriages (with arrangement of all necessary papers). It is important to emphasise that these cases fall in the field of action of non-governmental organisations and social workers, but judicial institutions are not always informed. As these cases show, cooperation between different institutions (social services, non-governmental organisations and judicial system) is necessary.

> "We had a case in Lithuania in which the parents sold their daughter for 600 litas [approximately 174 euros] to a Ukrainian guy and he left for Germany. The parents said, 'she will get married, so what?' They get money. They got married and immediately after the ceremony, he left Lithuania." (N: 27 July 2015)

By taking a deeper look at vulnerability, it is important to emphasise that frequently, victims of human trafficking experience 'extreme' poverty from which they try to escape using any means. One of the possibilities is to accept an offer to go abroad for work, marriage or even for thefts. As social workers emphasised, for most vulnerable persons (victims), 'it cannot get any worse'. Even if Lithuanian social workers and officials are able to understand this kind of vulnerability, services in the United Kingdom or Ireland (which have a considerably higher level of economic development) may not understand or can even imagine the extent of the poverty in countries such as Lithuania. Therefore, it is necessary to promote international cooperation so that experts could discuss and compare the profiles of victim of human trafficking, their vulnerabilities and how these are exploited. A presumption can be made that after understanding the economic and social context in which the recruitment of victims takes place, authorities of foreign countries would take a look at exploitative sham marriages more broadly, not only in the context of migration, but also in terms of exploitation and human trafficking.

> "When a person, especially from a socially at-risk family, when she is told that her bathroom will be normal, that she will even go abroad, she does not hear, she does not see, it is most important for her to escape those drunkards, rapists. Also for those living in a foster home, it is important to say, I lived in England. That is a rise in status." (N: 27 July 2015)

Speaking about exploitative sham marriages, the experts emphasised that in distinction from prostitution (which targets especially vulnerable young women), in recruiting for exploitative sham marriages, people are needed who are less vulnerable, but vulnerable nonetheless, since the nature of the crime and the 'job' abroad are different. Young women believe that they leave without any obligations. Unfortunately, it does not always end up well. As the research revealed, after having arrived at the country of destination, some of these women are exploited. Even though there were only a few such cases registered,

representatives of non-governmental organisations and judicial institutions do not doubt that there might be more cases.

Without any doubt prevention is not possible without educational measures. All in all, an absolute majority of the experts emphasised education as one of the cornerstones of a preventative policy. The experts self-critically reviewed the challenges in the fight against human trafficking, and stated that training is necessary for officials, prosecutors and judges as well as for social workers and educators who work at the local level. Priorities in the fight against human trafficking change quickly. Simultaneously, the modus operandi of organised crime for recruiting, transporting, and exploiting victims is also changing. Therefore, professionals working at all levels have to be ready to respond to changes in the situation.

> "But here we approach another problem, that training needs to be organised for judicial officers, for those who conduct pre-trial investigation and for prosecutors as well as judges and other professionals … There are many indicators on how to recognise victims. If a judge has heard about this problem, if he has attended at least one training session, he is already equipped to handle that case differently, to look at those risk factors differently. Legal matters – yes, you need evidence, but there is a lot of room for interpretation there, when you interpret one or another offence." (N: 30 July 2015)

In analysing problems of human trafficking, it is also important to consider the question of gender equality, which is directly related to recruitment and exploitation of victims. Most of the experts in non-governmental organisations stated that the model of victim recruitment for exploitation in prostitution is more or less clear, even though it is gradually changing. However, for exploitative sham marriages, completely different aspects which are related to the concept of the traditional family and to the role of women in the family and in society come into play. According to the experts, as regards exploitative sham marriages, the potential for female exploitation is high.

> "If we talk about sexual exploitation, then everything is very clear, the model is rather clear. But when we speak about marriage, it is still, up until now, that both our grandparents and parents will ask, 'How old are you, you still have not gotten married?' This pressure from society to get married is big, to establish a family, to have children. If you have not been successful and here comes a wonderful young man, a foreigner – why not, what are you waiting for, go there, you will get married, your parents will be satisfied and, I would say, there is even support from the family side, everyone may even be celebrating." (N: 30 July 2015)

> "They all remain at risk and that condition becomes normalised. For example, a girl who married into that family – she had never seen a model of a family. She was always told, it was explained to her, an environment of a small town, that a woman must fulfil her duties – prepare the food, tidy the rooms, give birth to children, satisfy her husband. And how do you tell her that she is forced to do that if it already flows in her blood that she has to do it. She does not know of any alternative." (N: 16 July 2015)

According to social workers and psychologists, childhood experiences of sexual or other kind of violence can be related to higher vulnerability and thus to a

higher risk of becoming a victim of human trafficking in the future (Žibas 2014). As the experience of non-governmental organisations shows, it might happen that a young woman who has experienced sexual violence or who has seen how this violence is inflicted upon the people she is closest to, will find herself in the hands of human traffickers. According to the experts, domestic and sexual violence is one of the biggest consequences of gender inequality that needs to be addressed.

> "If it is hard to prove trafficking in human beings, it is even harder to prove a sham marriage. Forced marriage is one of the forms of violence against women, and violence against women is one of the consequences of gender inequality." (N: 30 July 2015)

However, there are cases in which social workers are unable to intervene due to so-called structural gender inequality, cases in which persons who grew up in a child welfare institution or an orphanage, understand neither the consequences of gender inequality nor forms of exploitation. The experts say that it is especially hard or sometimes even impossible to change such situations:

> "Life is such: she receives social welfare payments, her boyfriend, perhaps, 24 years old, much older than she, his father and brother also live there. His [the boyfriend's] brother is even older, the father drinks a lot, that boyfriend, so they say, is still on the edge, and since she is receiving the money, as it is suspected, she simply does housework, cleans up and she also gives them the money. Forced marriage – not yet. Of course, she will get pregnant soon, maybe will even get married, will live there and will be imprisoned. But how to identify and pull her out, if she says, 'I love him and I want to live with him, it is ok the way it is'. Social pedagogues will say that they have done everything they can do and all they can do now is to observe, as she is swearing to God that everything is fine, she is the happiest person on earth, the most loved." (N: 16 July 2015)

On one hand, representatives of nongovernmental organisations emphasised poverty, gender inequality and low indicators of education as being the main factors in human trafficking. On the other hand, some of the experts offered a different opinion regarding the general situation of the (social) security in the country. In other words, trafficking in human beings cannot be a question related only to anti-trafficking policies. It must also be a question related to the reduction of poverty, and to equal opportunities and public security. This argument is illustrated by the opinion of one of the representatives of the social services:

> "Until we see this as a problem of gender equality, poverty experienced by women and not as a question of public safety, this will continue. Until the question of public safety is raised. And that will be very soon. Let us not pressure this women, let us see in essence why men do that, if the talk is that only women get married. We are viewing the problem from the wrong side." (N: 27 July 2015)

4.12 General policy response to human trafficking and exploitative sham marriages

As was revealed in the research, regardless of the coordination system, systematic implementation actions against human trafficking in practice does not

function as effectively as it may appear when analysing political documents and seeing how the system functions 'theoretically speaking'. The research data has revealed that even though government institutions and non-governmental organisations are actively engaged in the fight against human trafficking, there is a lack of cooperation and coordination of joint actions. For example, there is no formal procedure that would direct a victim to the right government institutions or non-governmental organisations. In addition, the formal roles of organisations that assist victims and implement preventative actions have not been defined. It appears that, at a theoretical level, the national coordination system allows for the establishment of a strong basis for cooperation and a network of expert institutions to combat human trafficking; however, at a practical level this mechanism does not seem to be very effective or successful. Practical barriers to implementing the fight against human trafficking can be illustrated by the lack of political priorities on the one hand, and the absence of long-term prevention and control strategy since 2012 on the other hand. Representatives of non-governmental institutions illustrate this problem as follows:

> "It is clear to see that there is no unified system in our country. Information is neither recorded nor held by one department; once the information is received, there is no unified strategy for what to do with that information; there is not any coordinating 'brain' that would create rules or instructions on how we should all respond to particular types of information or cases. We are all scattered, there are several agencies that are chasing that information; we are not obligated. There are no explicit formal cooperation agreements with specific obligations, nor a priori obligations that would make us share information with each other." (N: 13 July 2015)

During the research, representatives of law enforcement agencies and courts emphasised that the non-criminalisation of sham marriages has an effect on the fight against this crime:

> "In some way, the existence of sham marriages is also probably one form of exploitation, but we don't even have this marked out, so perhaps attorneys for these [criminal] characters will say, 'hey listen, why has a pre-trial investigation been started, if there is no such norm.' It is really some kind of neologism." (P: 14 July 2015)

Besides, considering the critical remarks contained in the US Trafficking in Persons Report regarding Lithuania (2015), it can be asserted that, especially, given that Lithuania faces major challenges in the fight against well-established forms of human trafficking (sexual exploitation, trafficking of children, forced labour), the challenges might become even greater in the perspective of relatively new forms of human trafficking. Data collected during the research from representatives of law enforcement agencies and courts confirms this:

> "This is only the tip of the iceberg. We see very little, because most of these victims do not identify themselves as victims. Again, when it is offered as additional income to students, the latter accept it as an adventure, they think it is nothing terrible, we will travel there, get married, get some money, in one word, we will return here and everything will be all right and so there is nothing to worry about. But in principal yes, the scope is big and we see only the tip of iceberg." (P: 21 September 2015)

When analysing the policy response to human trafficking, it is not relevant to talk about exploitative sham marriages separately from other forms of exploitation that are related to trafficking in human beings. The absolute majority of the experts who participated in the research emphasised the general context of challenges related to human trafficking: absence of strategy, lack of funding, ineffectiveness of inter-institutional/inter-sectional coordination. The majority of the experts from non-governmental organisations, social services, law enforcement institutions and courts agreed with the above-mentioned problematic aspects of the policy response towards human trafficking. Unfortunately, shortcomings in the system were mentioned more frequently than its merits.

> "I started working with human trafficking in 2012, I saw that it really is chaos. Nobody knows who does what. Everybody is equally pointing to someone else. Efforts are needed … Until there are no specialised subdivisions, I think, it will not change." (P: 15 October 2015)

> "Listening to them talk, they talk very nicely in the Seimas [the Parliament]. But the Queen left,[33] and they all left. We stayed. I agree that we need one person responsible, maybe not one, because he or she will be always the guilty one, but a person who would at least do the coordination … Again, nobody wants to take this task here. There should be a separate agency." (P: 15 October 2015)

According to the experts, the legal basis (in the context of the Lithuanian Criminal Code) for addressing human trafficking is sufficient, but the biggest problem is application or, more precisely, insufficient application in practice of the criteria of human trafficking that are listed in the Criminal Code. This is where bigger challenges emerge, since according to the experts, also a strategy and financing are needed in order to effectively apply the criteria. Unfortunately, currently Lithuania does not have a long-term strategy to fight human trafficking (although specific measures are implemented in "The inter-institutional action plan for the implementation of the national crime prevention and control programme for 2013–2015"). In addition, human trafficking is not a political priority. Therefore, it is not surprising that law enforcement institutions and non-governmental organisations run into challenges of inter-institutional, inter-sectional and international cooperation as well as human and financial resources.

> "I think that laws are passed, we just need to learn them and start applying them. So what that we create new laws – none of them work." (N: 11 August 2015)

> "There is zero strategy. The Ministry of Interior does nothing. They absorb the funding that is received from international projects, they participate in conferences, organise training, travel around the world, write reports – in reality that work is zero. Every organisation looks down from their bell tower. There is not any relationship between them. Instead, if they somehow joined then there would be a common

[33] A note by the author of the research report: a conference on the theme of human trafficking took place in the Parliament of the Republic of Lithuania. Queen Silvia of Sweden participated in the conference. For more information *(in Lithuanian),* see http://www.delfi.lt/news/daily/lithuania/karforeignere-silvija-primine-16-metes-ziezmariskes-d-rasalaites-istorija.d?id=69222630

> direction. In general, there is not even a direction at the state level. Earlier there was at least that prevention of human trafficking, a programme, and now I do not know. Everything is paper work. It is obvious there is a hole in the place of human trafficking. And it has been there for many years." (P: 14 July 2015)

While analysing statistical data collected by law enforcement institutions and non-governmental organisations on the one side, and challenges of the anti-trafficking policies on the other side, it can be observed that the policy response to human trafficking in Lithuania finds itself in a 'vicious circle', where, due to the absence of political priority, there are also deficiencies in coordination and resources. This, in turn, does not permit the initiation of an adequate response to the crime. Therefore, it is not surprising that the number of cases is low. On the other hand, if human trafficking was to be made more urgent at the political level, then a higher number of cases would be brought to court and more victims would be identified. However, the number of identified cases of human trafficking is much lower than what is indicated by information supplied by non-governmental organisations.

> "I am trying to understand, I had a three-year break, I wondered what I will find when I come back. I return and I find things are even worse. According to the data in the European Commission Report, only three victims have been identified in Lithuania. It is regulated by the Ministry of the Interior; that we do not have a problem, so it means everything has been done. Nothing is done, it is only being imitated that work is being done … To have systemic funding, a unified attitude – it does not exist. First, in order to solve the problem of violence, it is necessary to want to solve it. Recognising that there is a problem is already a big step … There is no coordinator in Lithuania, such a person should be appointed like, for example the ombudsman of children rights. Who appoints him – the President, the Minister of the Interior? If so, then he represents the interests of the Ministry. What if it is [the Ministry of] Social Security? Justice? There is a document prepared by the Ministry of Social Security and Labour, the Ministry of Justice, that we have everything. As long as this persists, not much can be done. As said, 'the fish rots from the head down.' The will has to come from above." (N: 11 August 2015)

Project-based activities might be considered as a mechanism for improvement (see 2.2 Overview of project based activities). However, the research revealed that project-based activities of non-governmental organisations remain fragmented, since they are not supported by a long-term strategy to combat human trafficking. On the one hand, the above-mentioned project activities include different facets of anti-trafficking policies (e.g., victim safety, prevention, strengthening of inter-departmental relationships). On the other hand, these activities lack a common coordinator. For this reason, there is also a lack of effective cooperation and operative exchange of information.

5. Conclusions and national policy recommendations

5.1 Conclusions

5.1.1 General policy response

When analysing the policy response to human trafficking, it is important to emphasise the general challenge of human trafficking: the absence of a comprehensive strategy, the lack of funding, weak coordination. Regardless responsible institution (which is appointed), systematic implementation of actions and preventative measures have not been effective in practice. Even though there are government institutions and nongovernmental organisations that are actively working in the field, there is a lack of cooperation and coordination of joint efforts.

The victim referral mechanism has to be more effective. The roles of those organisations in providing assistance to victims and implementing preventative measures are not defined. Since 2013, the Lithuanian anti-trafficking policies are regulated not on the basis of a long-term strategy, combined with action plans, but, instead, it is integrated in the general action plan to fight organised crime. Lithuania does not have a national anti-trafficking coordinator and independent rapporteur. It should be noted that the Ministry of the Interior is performing both functions of implementation and evaluation.

Regardless of the efforts of non-governmental organisations, the project-based activity of nongovernmental organisations remains fragmentary and it lacks a long-term strategy. These problematic aspects raise questions about the effectiveness of the existing anti-trafficking system. Eventually, Lithuanian anti-trafficking efforts have to be improved in order to achieve a more effective policy response at the national and local levels.

Professionals, especially those working in small towns and villages, lack information about the crime of human trafficking, local practitioners do not fully comprehend the scale of the crime, and assistance to victims is not effective. In this case, it is not relevant to separate exploitative sham marriages as a specific form of exploitation, since the challenges with regard to other forms of exploitation are the same. Without resolving the question of political priorities, it is hard to expect that the problem of exploitative sham marriages will be resolved.

There is still a lack of a victim-sensitive attitude towards both – exploitation, vulnerability and victims. Prejudice and stereotypes prevail with regard to victims of different forms of trafficking. The earlier prevalent view about victims of prostitution has been gradually spreading into the field of exploitative sham marriages, where the normative belief is that victims travel to the countries of destination on their own will. Such an attitude ignores the most relevant element of human trafficking, exploitation (of vulnerability). In such a case, provisions of the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children has to be emphasised (specifically) as consent

of a victim of trafficking in human beings is irrelevant, if any form of exploitation have been used.

5.1.2 Exploitative sham marriages in the context of other forms of exploitation and human trafficking

Until now, there has been no definition of exploitative sham marriage as a form of human trafficking either in the Lithuanian Criminal Code or in government sponsored programmes, action plans or strategies. The organisation of sham marriages is not criminalised in Lithuania, nor is exploitative sham marriage included in the definition of human trafficking in the Criminal Code. Thus the phenomenon is not separated as an area of priority in the fight against human trafficking.

The statistical data and the number of pre-trial investigations do not reveal the real situation regarding the phenomenon of exploitative sham marriages, since the Lithuanian institutions provide only partial information, and most of the information is recorded by the institutions in the countries of destination.

There is no major difference between recruitment for exploitative sham marriages and for other forms of exploitation, with the exception of prostitution, where the vulnerability of the potential victims tends to be higher. In all cases, recruiters attempt to exploit the vulnerabilities of victims: their psychological condition, their family situation and their socioeconomic status. However, there is no common scheme of recruitment, since means of recruitment are individualised and adapted to each victim specifically. Even though the means of recruitment are different depending on the social and demographic characteristics of the victim, the common economic argument (poverty and social exclusion) of recruitment remains the same in all the different cases.

It can be argued that vulnerability and exploitation begin not in the country of destination after a sham marriage is concluded, but already during the time of recruitment when the recruiter takes advantage of the victim's vulnerability. The exploitation continues in the country of destination when (in the case of exploitative sham marriages) the victim is already drawn into exploitation.

The profile of offenders organising exploitative sham marriages is in essence not different from other forms of exploitation. Frequently the same offenders recruit different victims for different forms of exploitation. Currently forced criminal activity prevails in the area of human trafficking in Lithuania. (Exploitative) sham marriages are primarily organised by small groups consisting of a few persons. The main organisers of the crime do not work in Lithuania, but instead in those countries where the exploitative sham marriages are taking place. Criminal groups include both Lithuanian citizens and third-country nationals. Lithuanians are in search of the 'supply' (i.e., prospective brides), while third-country nationals are searching for demand (i.e., the prospective groom).

For sham marriages, the main travel routes, modes of transportation and arrival in the country of destination are different from that of other forms of

exploitation. Contrary to victims of sexual exploitation and forced criminal activities, victims of exploitative sham marriages are often mobile and travel back and forth. These victims are usually not accompanied by anyone; they travel on their own.

With regard to the social and demographic profile of victims, the exploitation of victims in the country of destination is different from the country of origin and ranges from restriction of freedom of movement to forced household work and sexual exploitation. In the same way as with labour exploitation and sexual violence, victims experience psychological coercion and threats. It can be argued that exploitative sham marriages are a form of human trafficking, since they include different forms of exploitation (forced labour, sexual exploitation, restriction of freedom, psychological coercion, etc.). Therefore, it is necessary to consider the general context of human trafficking, victim profiles and preventative actions in the fight against this phenomenon.

5.2 National policy recommendations

With regard to the gaps in the political system and the structure of anti-trafficking policies, it is recommended to return to long-term programmes in order to create a strategy and an action plan, with adequate funding and appointment of a national coordinator and an independent rapporteur.

Concerning the processes of international migration and the role of Lithuania in these processes, more attention needs to be paid to the questions of human trafficking and exploitative sham marriage phenomenon in the contexts of both the emigration of Lithuanian residents and the immigration of third-country nationals to Lithuania. Anti-trafficking policies have to include both victims who are trafficked from Lithuania (Lithuanian citizens) and victims who are trafficked to or through Lithuania (third-country nationals). In addition, it is necessary to pay more attention to internal human trafficking. These recommendations include challenges related to the policy response to exploitative sham marriages as well as to issues related to the general anti-trafficking efforts.

In pursuit of more effective cooperation, it is of utmost importance to create an inter-institutional, inter-sectoral and international model of cooperation which would be coordinated by the appointed agency. Long-term strategic funding is imperative in order to create an effective response.

It is recommended to criminalise the organisation of sham marriages and define exploitative sham marriages in the Criminal Code as a separate form of exploitation.

Lithuanian diplomatic missions (i.e., embassies and consular offices) have to collect and analyse information about sham marriages and the connections of these marriages to different forms of exploitation. It is necessary to distribute this information to the law enforcement institutions, social services and nongovernmental organisations of countries of destination and origin.

Regarding the profile of the perpetrators, the forms of exploitation, the issues of identification of crime, and victim support, it is necessary to separate two processes in the context of the sham marriages: migration and trafficking in human beings. In other words, when initiating preventative programmes and conducting pre-trial investigations or cooperating with judicial institutions of the countries of destination, it is necessary to distinguish between migration (family reunion) and sham marriages. The most effective method of distinguishing between these two is to focus on the abuse of the victim's vulnerability and exploitation. Recognising the means used allows experts to identify the methods of control used for breaking the will of the victim during the recruitment process and during the exploitation phase.

In attempts to alter the attitude to victims, it is desirable to initiate not only 'traditional' preventative measures (education about the risks of human trafficking and other forms of awareness rising), but also incorporate questions of gender equality and equal opportunities into school and professional training curricula. Educational measures of this kind are especially necessary for health care and for the educational institutions in smaller towns as well as social services and law enforcement institutions and courts. Simultaneously with changing the perception of victims of human trafficking, it is imperative to strengthen the national referral mechanism, which incorporates all the necessary concerns: victim security, psychological and social help; and finally, experts with a victim-sensitive approach.

When organising preventative measures, it is important to consider the complexity of trafficking in human beings. In other words, implementation of preventative measures among populations at risk – i.e. vulnerable families and persons – is necessary. Such activities should be implemented primarily by the social services of smaller towns and villages.

Concerning poverty and social exclusion and the fact that preventative measures may not always be effective, it is equally important to strengthen outreach work among persons belonging to socially at-risk groups and make sure that these mechanisms include institutions of education and health care as well as social services. Another important measure of preventative policy is the training of social workers and pedagogues, officials and judges, social services employees and psychologists. The training should cover different aspects of human trafficking: understanding of vulnerabilities and exploitation, processes of poverty and social exclusion, discourses of gender equality and equal opportunities. It should be emphasised that training should not be fragmentary but continuous, with a focus especially on the newest trends in the area of human trafficking.

While initiating and implementing anti-trafficking measures and preventative activities, not only education is important, but also enhancing the cooperation between EU Member States, active participation in preventative actions and criminal liability, which should be strictly enforced. On the one hand, it is necessary to have a clear vision, a strategy, a coordinator and a plan of action to solve concrete crises. On the other hand, it is necessary to observe that any policy

response to human trafficking is not going to be effective until poverty and social exclusion are addressed and mitigated. Therefore, it is necessary to reduce social exclusion and vulnerability as well as strengthen outreach work and engagement among persons who belong to socially at-risk groups, while implementing long-term monitoring instruments for those in social risk.

In aiming to find an effective response to this crime, first, challenges have to be resolved at the national and local levels, by involving municipalities, social services, schools and health care institutions in proactive anti-trafficking initiatives. At the same time, encouragement of international cooperation and exchange visits is essential, especially for institutions that work in the countries of origin and destination to understand better the extent of poverty, vulnerability and exploitation. In this way, the process of victim exploitation would be more adequately addressed, while initiation of pre-trial investigations and judicial procedures would be improved.

References

Aronowitz A.A. 2009. Human Trafficking, Human Misery: The Global Trade in Human Beings. Greenwood Publishing Group.

Augutienė, R. TMO Kova prieš prekybą žmonėmis: TMO atsakas pasaulyje ir veikla Lietuvoje [Fight against trafficking in human beings: IOM response worldwide and activities in Lithuania]. Vilnius, 2014.

Blažytė, G. Family migration to Lithuania: challenges and future perspectives. Presentation at the conference Families beyond borders – What is the impact of migration on families? Sophia, Bulgaria. 2015.

European Migration Network, http://123.emn.lt/en/home

Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004. On the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:158:0077:0123:en:PDF

Jakulevičienė, L., Biekša, L. Šeimos susijungimo direktyvos perkėlimo į Lietuvos teisę ir įgyvendinimo problemos [Family reunification directive: Concerns of disposition to Lithuanian legislation and implementation]. Socialinių mokslų studijos [Societal Studies]. Mykolo Romerio universiteto Teisės fakulteto Tarptautinės teisės katedra [Mykolas Romeris University, Faculty of Law, Department of International Law] 2009, 2(2), pp. 175–191. ISSN 2029–2236.

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The EU strategy towards the eradication of trafficking in human beings 2012 – 2016. Brussels, 19 June 2012, Com(2012)286.

Communication from the Commission to the European Parliament and the Council. Helping national authorities fight abuses of the right to free movement: Handbook on addressing the issue of alleged marriages of convenience between EU citizens and non-EU nationals in the context of EU law on free movement of EU citizens. Brussels, COM/2014/604.

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Free movement of EU citizens and their families: Five actions to make a difference. Brussels, COM/2013/837.

Crackdown on organised crime in the greater Manchester area, Press Release, The Hague, the Netherlands, 2014. Available at: https://www.europol.europa.eu/content/crackdown-organised-crime-greater-manchester-area

FRA – European Union Agency for Fundamental Rights: Addressing forced marriage in the EU: legal provisions and promising practices. Luxembourg: Publications Office of the European Union, 2014. Available at http://fra.europa.eu/sites/default/files/fra-2014-forced-marriage-eu_en.pdf.pdf

Handbook on addressing the issue of alleged marriages of convenience between EU citizens and non-EU nationals in the context of EU law on free movement of EU citizens. Commission staff working document. Accompanying the document Helping national authorities fight abuses of the right to free movement: Handbook on addressing the issue of alleged marriages of convenience between EU citizens and non-EU nationals in the context of EU law on free movement of EU citizens. European Commission, SWD(2014)284.

Hepburn S., Simon J.R. 2013. Human Trafficking Around the World: Hidden in Plain Sight. New York: Columbia University Press, 2013.

ILO Data Initiative on Modern Slavery. Better data for better policies. International Labour Organization, 2015. Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_364025.pdf

Kudinavičiūtė-Michailovienė, I., Sagatys, G. Šeimos teisė. Praktikumas [Family Law. Practicum]. Mykolo Romerio universitetas, Metodinė priemonė [Mykolas Romeris University, Methodological tool]. Vilnius, 2012.

Lietuvos Respublikos Vyriausybės nutarimas Dėl prekybos žmonėmis prevencijos ir kontrolės 2009–2012 metų programos patvirtinimo. 2009.09.09 Nr. 1104 [Lithuanian government decision on the Programme for Prevention and Control of Trafficking in Human Beings 2009-2012. Law No. 1104 of 9 September 2009]. Vilnius.

Lietuvos Respublikos Vyriausybės nutarimas Dėl prekybos žmonėmis ir prostitucijos kontrolės bei prevencijos 2002–2004 metų programos. 2002.01.17 Nr. 62. [Lithuanian government decision on the Programme for Prevention and Control of Trafficking in Human Beings and Prostitution 2002-2004. Law No. 62 of 17 January 2002]. Vilnius.

Lietuvos Respublikos Vyriausybės nutarimas Dėl prekybos žmonėmis prevencijos bei kontrolės 2005–2008 metų programos patvirtinimo. 2005.05.19 Nr. 558. Vilnius [Lithuanian government decision on the Programme for Prevention and Control of Trafficking in Human Beings 2005-2008. Law No. 558 of 19 May 2005].

Lietuvos Respublikos Vyriausybės nutarimas Dėl Nacionalinės nusikaltimų prevencijos ir kontrolės programos įgyvendinimo tarpinstitucinio veiklos plano patvirtinimo. 2012.11.14 Nr. 1381 [Lithuanian government decision on the Inter-institutional Action Plan for the Implementation of the National Crime Prevention and Control Programme. Law No. 1381 of 14 November 2012].

Lietuvos Respublikos Seimas. Lietuvos Respublikos įstatymas Dėl užsieniečių teisinės padėties, 2004.04.29, Nr. IX-2206 [The Seimas of the Republic of Lithuania. Law on the Legal Status of Foreigners. Law No. IX-2206 of 29 April 2004].

Lietuvos Respublikos baudžiamojo kodekso patvirtinimo ir įsigaliojimo įstatymas.

Lietuvos Respublikos Seimas. 2000.09.26, Nr. VIII-1968. [The Seimas of the Republic of Lithuania. Law on the Approval and Entry into Force of the Criminal Code. Law No. VIII-1968 of 26 September 2000].

Lietuvos Respublikos administracinių teisės pažeidimų kodeksas. Lietuvos Respublikos Seimas. 2015.11.12, Nr. ADM. [The Seimas of the Republic of Lithuania. Code of Administrative Violations. Law No ADM of 12 November 2015].

Ollus N., Jokinen A., Joutsen M. (eds.): Exploitation of migrant workers in Finland, Sweden, Estonia and Lithuania: Uncovering the links between recruitment, irregular employment practices and labour trafficking. European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), publication series no. 75, 2013.

Palavinskienė, B., Prokopčik, M.,Vidrinskaitė, S., Žiobienė, E. Prekyba žmonėmis: prevencija, aukų apsauga, problemos sprendimo būdai [Trafficking in human beings: Prevention, protection of victims, and solutions to the problem]. Lietuvos žmogaus teisių centras [Lithuania Centre for Human Rights], 2006.

The EU rights of victims of trafficking in human beings. Luxembourg: Publications Office of the European Union, 2013. Available at http://ec.europa.eu/dgs/home-affairs/e-library/docs/thb_victims_rights/thb_victims_rights_en.pdf

Sipavičienė, A., Jeršovas M. Marriages of convenience as a channel for irregular migration. European Migration Network, International Organisation for Migration, Vilnius, 2012.

Sirgedienė, R. Vidaus reikalų ministerijos ataskaita Situacija kovos su prekyba žmonėmis srityje Lietuvoje. 2014 metai [The Report of the Ministry of the Interior: Situation in the area of trafficking in human beings. 2014], Vilnius, 2015.

Sirgedienė, R. 2012. Prekybos žmonėmis masto vertinimas: tarptautinės ir nacionalinės iniciatyvos [Estimates of the scale of trafficking in human beings: International and national initiatives]. Socialinių mokslų studijos [Societal Studies]. 2012, 4(4), p. 1623–1644. ISSN 2029–2236.

Sirgedienė, R. 2012. Nacionaliniai kovos su prekyba žmonėmis koordinavimo modeliai ir galimybės stiprinti nukentėjusių nuo prekybos žmonėmis asmenų teisių apsaugą [National models of coordination of the fight against trafficking in human beings and possibilities to strengthen the protection of the rights of victims of trafficking in human beings]. Societal Innovations for Global Growth, 2012, No. 1(1). ISSN 2335-2450.

Trafficking in Persons Report, 2015, http://www.state.gov/j/tip/rls/tiprpt/2014/index.htm

Vermeulen G., De Bondt W. 2014. EU Justice and Home Affairs: Institutional and policy development. Antwerpen: Maklu, 2014.

Williams, L. M. 2008. Social politics: A theory. International Journal of Sociology and Social Policy, 28(7–8), 285–292.

Žibas, K. Studies related to trafficking in human beings. Study on high-risk groups for trafficking in human beings. HOME/2013/ISEC/PR/014-A2, ECORYS. The Lithuanian Case Report. May 2014.

Žiobienė, E. Tarptautinis kovos veiksmų prieš prekybą žmonėmis reglamentavimas [International regulation regarding actions in the battle against human trafficking]. Prokopčik, M., Palavinskienė, B., Vidrinskaitė, S. Prekyba žmonėmis: prevencija, aukų apsauga, problemos sprendimo būdai [Trafficking in human beings: Prevention, protection of victims, and solutions to the problem]. Vilnius, Lietuvos žmogaus teisių centras [Lithuania Centre for Human Rights], 2006.

Annexes

Annex 1. The number of third-country nationals married to permanent residents of Lithuania by citizenship and gender, 2000–2014. The database includes marriages between Lithuanian citizens and third-country nationals registered in Lithuania and at embassies abroad.

Citizen-ship	Year	Number of married males	Number of married females	Citizen-ship	Year	Number of married males	Number of married females
Afghanistan	2000			Azerbaijan	2000	5	4
	2001				2001	10	1
	2002	1			2002	7	4
	2003	6			2003	7	5
	2004	1			2004	6	7
	2005	5			2005	10	3
	2006	6			2006	14	5
	2007	6			2007	7	3
	2008	8			2008	10	2
	2009	7			2009	14	3
	2010	1			2010	12	2
	2011				2011	5	4
	2012				2012	6	2
	2013	3	1		2013	7	4
	2014	5			2014	10	
Albania	2000	2	1	Belarus	2000	37	58
	2001	1			2001	78	82
	2002	3	1		2002	73	100
	2003				2003	58	86
	2004	11			2004	49	70
	2005	13			2005	75	84
	2006	9			2006	77	102
	2007	38	1		2007	95	132
	2008	39			2008	135	211
	2009	35	2		2009	107	244
	2010	15			2010	74	133
	2011	20			2011	96	146
	2012	19			2012	91	169
	2013	12	1		2013	79	152
	2014	12	1		2014	87	220
Algeria	2000			Egypt	2000	1	
	2001	3			2001	3	
	2002	1			2002	4	
	2003				2003	6	
	2004	10			2004	8	
	2005	10			2005	10	
	2006	9			2006	13	
	2007	5			2007	16	
	2008	8			2008	16	
	2009	15			2009	25	
	2010	19			2010	30	
	2011	20	4		2011	34	
	2012	19			2012	31	1

	2013	16			2013	32	
	2014	28	8		2014	21	
Armenia	2000	11	1	China	2000	7	1
	2001	10	6		2001	1	
	2002	15	3		2002	4	
	2003	13	6		2003	5	
	2004	13	9		2004	3	3
	2005	3	6		2005	2	1
	2006	4	2		2006	3	
	2007	4	2		2007	2	2
	2008	14	5		2008	3	1
	2009	4	2		2009		
	2010	7	1		2010		
	2011	2	2		2011		
	2012	9	4		2012		
	2013	7	5		2013		
	2014	9	3		2014		
Lebanon	2000	13	1	Pakistan	2000	4	
	2001	12			2001	1	
	2002	12	1		2002	4	
	2003	14			2003	8	
	2004	30			2004	9	
	2005	23			2005	20	
	2006	8			2006	17	
	2007	15			2007	33	
	2008	15			2008	33	
	2009	20	1		2009	50	
	2010	18			2010	42	
	2011	16			2011	33	
	2012	8			2012		
	2013	5	1		2013	66	1
	2014	14			2014	71	1
Morocco	2000			Russia	2000	146	132
	2001				2001	133	139
	2002	1			2002	131	166
	2003	5			2003	137	189
	2004	2			2004	158	1
	2005	2			2005	163	1
	2006	4			2006	180	2
	2007	10			2007	186	281
	2008	9			2008	190	318
	2009	14			2009	216	375
	2010	11			2010	225	414
	2011	10	10		2011	231	425
	2012	11	1		2012	248	384
	2013	10			2013	238	395
	2014	1			2014	208	317
Republic of Moldova	2000			Turkey	2000	8	
	2001				2001	9	
	2002				2002	29	
	2003				2003	33	
	2004				2004	38	
	2005				2005	37	1
	2006				2006	37	

	2007				2007	49	
	2008				2008	87	1
	2009				2009	66	2
	2010	12	6		2010	76	2
	2011	11	6		2011	78	
	2012		8		2012	69	
	2013	8	6		2013	57	1
	2014	5	6		2014	56	1
Nigeria	2000	2		Ukraine	2000	37	38
	2001	1			2001	37	46
	2002				2002	44	48
	2003	4			2003	46	69
	2004	4			2004	73	85
	2005	9			2005	78	79
	2006	10			2006	87	117
	2007	18			2007	108	99
	2008	26			2008	99	120
	2009	13	1		2009	118	120
	2010	18			2010	92	124
	2011	25	1		2011	98	118
	2012				2012	77	136
	2013	14			2013	69	129
	2014	46			2014	61	137
Source: prepared by the author using data provided by Statistics Lithuania							

Annex 2. Recorded number of sham marriages between third-country nationals and Lithuanian citizens, registered in Lithuania, 2010–2015. The number encompasses those marriages which were concluded on the basis of family reunification procedures in Lithuania.

			Number of court decisions					
			2010	2011	2012	2013	2014	2015*
Citizenship	Age	Gender						
Armenia	34	F	1					
Azerbaijan	24	M	1					
	42	F						1
	43	F					1	
	48	F					1	
Bangladesh	27	M				1		
Belarus	21	F					1	
	22	F		2				
	24	F		1				
	27	F			1			
	27	M	1					
	28	F	1					
	28	M				1		
	31	F					1	
	31	M	1					
	32	F				1		
	33	F	1					
	33	M		1		1		
	36	F						1
	39	M	1					
	40	F	1					
	40	M	1	1	1			
	44	F			1	1		
	46	F				1		
	51	M					1	
	57	F					1	
China	25	F	1		1			
	46	F	1					
	47	F	1					
Cameroon	22	M					1	
Ecuador	30	F		1				
Egypt	34	M	1					
	37	M				1		
	49	M					1	
Georgia	26	F		1				
	26	M					1	
	28	M	1	1				
	32	M			1			
	44	M	1					
	55	F				1		
India	22	M						1
	24	M	1	1				
Israel	31	F				1		
Jordan	31	M					1	
Kazakhstan	31	M					1	
Lebanon	23	M	1	1				
	24	M		1	1			

	25	M	1	2				
	26	M		1				
Moldavia	26	F		1				
	30	F			1			
Mexico	42	M					1	
Nigeria	21	M					1	
	25	M				1		
	28	M						1
	29	M					2	
	30	M		1				1
	39	M					1	
Pakistan	22	M						1
	23	M			1			
	25	M	1					
	26	M		1				1
	28	M	2	1				
	30	M	1					
	37	M		1				
Russia	22	F	1					
	22	M			1			
	23	F			1		1	
	26	M				1		
	27	F		1		1		
	27	M		1				
	30	M		1				
	31	F				1		
	32	F					1	
	33	M	1					
	35	M					1	
	37	F						1
	37	M			1			
	39	M					2	
	42	M		1				
	43	F		1				
	52	F					1	
	53	F						1
	54	F		1				
	60	F					1	
Thailand	48	F					1	
Turkey	27	M					1	
	28	F			1			
	29	M	1					
	30	M		1				
Ukraine	21	M	1					
	22	M				1		
	24	M	1		1			
	25	M		1				
	29	F					1	
	32	F		1				
	32	M	1					
	33	M	1	1				
	35	F	1					
	35	M				2		
	36	M					1	

	38	F			1			
	39	F		2				
	43	F		1				
	43	M					1	
	48	F					1	
	50	M		1				
	51	M					1	1
	55	F					1	
	57	F					1	
Total			30	33	14	16	32	10
Source: Prepared by the author using data provided by the Migration Department under the Ministry of the Interior of the Republic of Lithuania. * Data does not cover the entire year of 2015.								

FORCED MARRIAGES AND SHAM MARRIAGES IN THE SLOVAK REPUBLIC

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1. Introduction

The main objectives of this research report are to explore the links between sham marriages and trafficking in human beings, to provide new information about vulnerability, factors, methods and channels which facilitate sham marriages leading to trafficking, and to collect information on the phenomenon using qualitative and quantitative approaches. This research report presents the main findings and reflects the issue from the perspective of the Slovak Republic.

Data and various documents obtained from relevant stakeholders involved in combating human trafficking, as well as sham marriages, were analysed by the Information Centre for Combating Trafficking in Human Beings and For Crime Prevention of the Ministry of the Interior of the Slovak Republic (hereinafter referred to as the "Information Centre"). The Ministry of the Interior of the Slovak Republic is a partner in the project HESTIA: “Prevention of human trafficking and Sham Marriages: a Multidisciplinary Solution”.

Definition of terms such as trafficking in human beings for the purpose of forced marriage and sham marriages in relation to the circumstances and legislation in the Slovak Republic are fundamental to the proper understanding of the issue. According to the perception in the Slovak Republic, both terms relate to the conclusion of marriage, since marriage is concluded both when there is sham marriage and when there is forced marriage. The difference is that forced marriage is concluded under coercion, not voluntarily, while sham marriage is concluded voluntarily. The following section describes the procedures upon conclusion of marriage from the perspective of the Birth Registry Department of the Residence Reporting and Electronization Unit of the Registry, Birth Registry and Residence Reporting Division of the Section of Public Administration of the Ministry of the Interior of the Slovak Republic (hereinafter referred to as the “Birth Registry Department”), as well as the definition of basic terms such as marriage. We will focus on the legislative framework of trafficking in human beings and sham marriages.

This is a national report, and it should be emphasised that the definitions of the terms set out here relate exclusively to the circumstances in the Slovak Republic.

2. Background information on sham marriages and trafficking in human beings in the Slovak Republic

2.1 Conclusion of Marriage in the Slovak Republic

Conclusion of marriage in the Slovak Republic is regulated by Act No. 36/2005 Coll. on Family, as amended (hereinafter referred to as the "Family Act") and Act No. 154/1994 Coll. on Birth Registers, as amended (hereinafter referred to as the "Birth Registry Act"). Based on the wording of Section 2 of the Family Act, marriage is concluded in the form of a mutual declaration of the prospective spouses before the authorities of the municipality responsible for the registry of birth or before a registered church authority or religious society authority.

A definition of marriage is provided in Section 1 of the Family Act as follows:

> "Marriage is a union between a man and a woman. This unique union is protected by society which supports its common good. Spouses are equal in their rights and duties. The primary purpose of marriage is to create a family and raise children."

The formation of marriage is defined in Section 1 (1) of the Family Act as follows:

> "Marriage is a union of a man and a woman created on the basis of their **voluntary and free** decision to conclude the marriage, in accordance with the conditions set forth in this act."

The procedure upon conclusion of marriage is the same for foreigners and nationals of the Slovak Republic. Nationals who want to conclude a marriage (hereinafter referred to as "prospective spouses") appear in person before the birth registry authority where they want to conclude the marriage. If they wish to conclude the marriage in a church, they visit the birth registry authority where the church is situated. They state to the birth registry authority their intention to conclude a marriage and submit an application for the conclusion of marriage and identity documents as defined by the law. If both prospective spouses are nationals of the Slovak Republic, they submit their identity card and birth certificate. If one of the prospective spouses is a foreigner, he or she submits confirmation about his or her status (a declaration that he or she may conclude a marriage, i.e. he or she is not married) together with the above-mentioned identity documents. The period for submitting documents is 7 days prior to the marriage in the case of a national of the Slovak Republic and 14 days prior to the marriage in the case of a foreigner.

If the prospective spouses wish to conclude a civil marriage, they agree on the term of marriage after they submit all the necessary documents. In case they wish to conclude the marriage in a church, they bring an application confirmed by a birth registry authority to the church authority who is to preside over the conclusion of the marriage. The ceremony is performed in a Slovak language. If one of the prospective spouses is a foreigner and is unable to speak a Slovak language, then an interpreter is present. The ceremony has a prescribed form, although birth registry authorities may adapt some parts. *"Marriage may be*

concluded anywhere provided two requirements are met, i.e. publicity and the ceremonial character of the ceremony. It is not rare that individuals conclude a marriage in a grass field, other public premises and there have even been marriages on a raft or in a mountain cottage," said a representative of the Birth Registry Department during the interview.

After conclusion of a civil or church marriage, a marriage certificate is issued to the spouses. This is the only official document confirming the conclusion of the marriage.

Based on the amendment to the Family Act which entered into force on 1 October 2015, Section 6 (6) reads as follows: *"Based on Section 3, in accordance with the law, a prospective spouse may apply to the birth registry authority or another competent authority to avoid submission of documents referred to in paragraph 1 if its delivery is associated with a difficult obstacle to overcome. The request must be made in writing, personally submitted by a prospective spouse, signed and justified. The birth registry authority shall submit an application with a detailed opinion for the decision of the district birth registry authority within five days of receipt; the birth registry authority is bound by the decision. The competent authority referred to in Section 3 shall submit a request with a detailed opinion to the Ministry of the Interior of the Slovak Republic for a decision within five days of receipt of the request which shall decide on it; the competent authority referred to in Section 3 is bound by this decision".*

As formulated by an interviewee working at the Birth Registry Department, as a result of the amendment of the Family Act decisive jurisdiction is transferred from the competent authorities to the district office which decides if the prospective spouses are to address the birth registry authority at the first instance. If the prospective spouses address another competent authority as the first instance, such as the consular office, then the Ministry of the Interior of the Slovak Republic decides on the necessity to submit documents. This change has been seen as a positive step towards more efficient and more objective decision-making by the authorities in charge and, thanks to the five-day periods referred to in the amendment of the act, the principle of timely procedure is ensured. At the same time, there is a stricter exemption from the obligation of the prospective spouse to submit documents to the birth registry authority together with the application for the conclusion of marriage. The need for the amendment arose because of the practice prevailing at the time, since some of the birth registry authorities used to assess the documents in an inappropriate way and accepted submission of important documents by a solemn declaration.

2.2 Trafficking in human beings (the legislative framework)

This section describes the legislative framework concerning trafficking in human beings. We will define trafficking in human beings based on Section 179 of Act No. 300/2005 Coll. Penal Code, as amended (hereinafter referred to as the "Penal Code"). We will focus on the term "sham marriage" as far as this term was included in the Penal Code after the amendment of the Penal Code in 2013.

We will also pay attention to trafficking in human beings for the purpose of forced marriage as we perceive that this is related to the topic. The term “exploitative sham marriage”, which is used in the HESTIA project, is not recognised in Slovak legislation. Cases where conclusion of a sham marriage was offered during the recruitment phase with consequent exploitation are mentioned in the chapter 4 which is dedicated to case analysis.

Section 179 of the Criminal Code

Trafficking in human beings

1. who, with the use of deception, deceit, the restriction of personal freedom, abduction, violence, threats of violence, the threat of another severe injury or other forms of coercion, or adoption of the provision of money or performance or other benefits to achieve the consent of a person depending on another person abuses his position or vulnerability or otherwise vulnerable position, transports, transmits, or takes others, even with his consent for the purpose of his prostitution or other forms of sexual exploitation, including pornography, forced labour or services, slavery or practices similar to begging, including forced slavery, servitude, **forced marriage**, exploitation of criminal activities, removal of organs, tissues or cells or other forms of exploitation, shall be punished by imprisonment of four to ten years.
2. as well as in paragraph 1 shall be punished, who lures, transports or hands over a child, even with his consent, for the purpose of prostitution or other forms of sexual exploitation, including child pornography, forced labour or services, slavery or practices similar to begging, including forced slavery, servitude, **forced marriage**, exploitation of criminal activities, illegal adoption, removal of organs, tissues or cells or other forms of exploitation.

Section 179 of the Penal Code also includes paragraphs 3, 4 and 5 which define qualified forms of the offence of trafficking in human beings punishable with a higher level of imprisonment, depending on the severity and circumstances of the conduct. Sentences are increased proportionally between 12 years of imprisonment and life imprisonment.

With Act No. 204/2013, amending and supplementing Act No. 300/2005 Coll. Penal Code as amended, and amending certain laws with effect on 1 August 2013, the elements of the criminal offence of human trafficking were amended.

Paragraph 1 of Section 179 of the Penal Code was amended so that the list of means of trafficking in human beings was supplemented by "abduction" and the list of purposes of trafficking in human beings was supplemented by “forced marriage". "Begging" was added as one form of forced labour, and “exploitation of criminal activities" was included.

Paragraph 2 of Section 179 of the Penal Code was replaced in its entirety. The paragraph provides a legal definition of committing the criminal offence of trafficking in a person younger than 18 years of age, in other words a child. In addition to the purposes, paragraph 1 was supplemented by “illegal adoption".

In terms of the amendment, paragraph 3 of Section 179 of the Penal Code was supplemented by other forms of crime and their consequences. The amendment of the elements of the criminal offence of trafficking in human beings was made due to the transposition of Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (hereinafter referred to as the "Directive").

All elements of trafficking in human beings must be present in order to constitute trafficking in human beings. The definition of the criminal offence of trafficking in human beings is based on the definition of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Three interlinked elements must be present defining the mechanism of trafficking in human beings: an action (conduct), a means and a purpose. Forced marriages as a purpose of trafficking in human beings must contain a marriage of coercion. An action means recruitment, transportation, transfer, harbouring or receipt of persons. A means includes threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or a position of vulnerability, and the giving or receiving of payments or benefits to achieve consent of a person having control over another person.

The Penal Code, however, does not define the term “forced marriage”. Forced marriage is neither a specific criminal offence nor unlawful conduct. The Explanatory Report on draft Act No. 204/2013, amending and supplementing Act No. 300/2005 Coll. Penal Code, amending and supplementing certain laws in a separate section, only states that “with respect to the previous practice it is complemented with ‘forced marriages’ which constitute a specific form of trafficking in human beings”. Neither the preamble to the Directive, nor the Directive itself, provide a definition of the concept of forced marriage. The preamble to the Directive states in point 11 that the definition of trafficking in human beings also includes activities such **as forced marriage, in so far as it fulfils the constitutive elements of trafficking in human beings.**

In this context, we approached the Ministry of Justice of the Slovak Republic, which was responsible for the transposition of the Directive. According to their informative interpretation, the term "forced marriage" within the meaning of Section 179 of the Penal Code should be understood as conclusion of a **marriage of coercion.**

In the case of forced marriage, what is absent on the part of one of the participants of this union is the voluntary character and free decision to conclude marriage. To constitute elements of forced marriage in terms of the criminal offence of trafficking in human beings, it is therefore necessary to prove that the marriage had not been concluded on the basis of their voluntary and free decision, but by means of coercion. Coercion can take various forms, both psychological and physical.

Based on Slovak national legislation, what is subjected to prosecution is trafficking in human beings for the purpose of exploitation, and not the

exploitation itself, which is prosecuted on the basis of other provisions. The provision of Section 179 of the Penal Code penalizes criminal activities both within the territory of the Slovak Republic as well as abroad. Consent of the victim of the criminal offence is not an obstacle to the criminal prosecution of the perpetrators of this criminal offence. In terms of the subjective element of the criminal offence, intention and at the same time the motive of the perpetrator[1] is required. Anyone may be the perpetrator as well as the victim.

The detection and investigation of the criminal offence of trafficking in human beings is the responsibility of a special police department, the National Unit of Combating Illegal Migration (hereinafter referred to as the "National Unit") under the Border and Alien Police Bureau.

In compliance with national and international legislation, the Slovak Republic aims to assist individuals affected by the criminal offence of trafficking in human beings. Victims may be provided with assistance and support through a specialized programme of support and protection of victims of trafficking in human beings (hereinafter referred to as the "Programme"). The Information Centre which is part of the Ministry of the Interior is the manager of the Programme and responsible for monitoring the Programme. The Programme aims at providing assistance and support for victims of THB.

2.2.1 Assistance to victims of trafficking in human beings

When there is a reasonable suspicion that a person is a victim of trafficking in human beings, this person is offered entry into the Programme. A condition for entry into the Programme is the voluntary consent of the potential victim to do so, and to cut ties with the criminal environment. Subsequently, an individual plan of assistance is developed and the victim is provided with adequate assistance and support within the Programme.

The Programme is stipulated in the internal regulation of the Ministry of the Interior: Regulation of the Ministry of the Interior of the Slovak Republic No. 180 of 19 December 2013 on the Programme of Support and Protection of Victims of trafficking in human beings (hereinafter referred to as the "Regulation"). For the purposes of the Regulation a victim of trafficking in human beings shall be understood to be:

- a Slovak national if there are reasonable grounds to believe that the individual has become a victim either in the Slovak Republic or abroad,
- a national of a Member State of the EU (hereinafter referred to as the "European Union") if there are reasonable grounds to believe the individual has become a victim either in the Slovak Republic or abroad,
- a third-country national if there are reasonable grounds to believe that the individual has become a victim either in the Slovak Republic or abroad.

[1] Comment to the Penal Code, Act No. 300/2005 Coll. Comment elaborated under the guidance of the head of the copyright collective, JUDr. Jozef Čentéš, PhD.

A victim may be provided with emergency care, consequent care and reintegration or integration and assisted voluntary return within the Programme. Emergency care is aimed at primary stabilization of an individual after trauma for 30 days. The victim included in the Programme may ask for assisted voluntary return. After the provision of emergency care, a victim who is a Slovak national if there are reasonable grounds to believe that the individual has become a victim either in the Slovak Republic or abroad, who is a national of a Member State of the EU if there are reasonable grounds to believe the individual has become a victim in the Slovak Republic, or who is a third-country national if there are reasonable grounds to believe that the individual has become a victim in the Slovak Republic, is provided with consequent care. Consequent care is provided for 30 days and may be extended for another 30 days in justified cases. During their period the victims are provided with assistance and support for their stabilization with efforts to facilitate their integration.

Reintegration or integration is provided after the care referred to above for 30 days and may be extended for another 30 days in justified cases, even repeatedly, for a maximum period of 90 days to a victim who is a Slovak national if there are reasonable grounds to believe that the individual has become a victim either in the Slovak Republic or abroad, who is a national of a Member State of the EU if there are reasonable grounds to believe the individual has become a victim in the Slovak Republic, or who is a third-country national if there are reasonable grounds to believe that the individual has become a victim in the Slovak Republic. Reintegration or integration involves a set of measures with the objective of facilitating the integration of a victim into society.

The Programme includes the following services:

- isolation from the criminal environment (provision of safety for a victim),
- information about the reflection period[2] in the territory of the Slovak Republic and when necessary also information about possibilities of international protection[3] if the victim is a third-country national,
- assistance to a national of the Slovak Republic upon assisted voluntary return to the Slovak Republic,
- financial support,
- social assistance,
- psycho-social counselling,
- psycho-therapeutic services,
- interpretation and translation services,

[2] Section 58 (4) (d) of Act No. 404/2011 Coll., as amended by Act No. 75/2013 Coll.

[3] Act No. 480/2002 Coll. on Asylum and amending and supplementing certain acts, as amended.

- legal advice,
- health care,
- requalification courses,
- the possibility of entry into the witness protection programme under a special act,[4]
- the possibility of a one-time cash compensation under a special act,[5]
- assistance to a national of the Member States of the EU or a third-country national upon assisted voluntary return[6] as well as
- the possibility of suitable and safe accommodation.

The procedure upon identification of the victims in the Slovak Republic, as well as in their eventual inclusion in the Programme, is stipulated in the National Referral Mechanism. This referral mechanism entails a structure of cooperating subjects through which the public authorities meet their commitments regarding protection and promotion of the human rights of individuals who become victims of trafficking in human beings, coordinating their efforts in a strategic partnership with civil society. The primary objective of the national referral mechanism is to ensure respect for the human rights of the victims and the provision of effective services for them. Secondarily, the national referral mechanism may facilitate development of national policies and procedures relating to victims, such as, for example, legislation in the area of legalization of their residence, re-establishment and protection.

Any entity such as national authorities, international organisations or non-governmental organisations (NGOs), including those from a foreign country, may identify a potential victim of trafficking in human beings. Therefore, the members of the various services of the Police Force, the Prosecutor's Office, the staff of the Migration Office of the Ministry of the Interior, the staff of the

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[4] For instance, Act No. 256/1998 Coll. on Witness Protection and amending and supplementing certain acts, as amended.

[5] Act No. 215/2006 Coll. on Compensation of Victims of Violent Crimes, as amended.

[6] For instance, Art. 2 (1) (a) of Act No. 404/2011 Coll. on Residence of Foreigners and on amendments and supplements to certain acts. The possibility of assisted voluntary return of victims corresponds to Article 16 (5) of the Council of Europe Convention on Action against trafficking in human beings. A victim of trafficking in human beings may voluntarily decide at any time to return to his or her country of origin or the last habitual residence or another third country which would accept him or her. The Ministry of the Interior concluded an agreement with the International Organization for Migration Bratislava on provision of assisted voluntary return of failed asylum seekers and illegal migrants to the country of origin. This agreement makes possible the performance of voluntary return with due regard to the rights, security and dignity of victims of trafficking in human beings. International standardized procedures binding on all the missions are followed once a victim of trafficking in human beings is repatriated or returned. The national law of the Slovak Republic regulates the repatriation and the return of victims of trafficking in human beings in Act No. 480/2002 Coll. on Asylum and the Act No. 404/2011 Coll. on Residence of Foreigners and on amendments and supplements to certain acts.

Offices of Labour, Social Affairs and Family, health workers, the staff of the Ministry of Education, Science, Research, and outreach social workers, the staff of Slovak Republic consular authorities in foreign countries, NGOs and international organisations operating in Slovakia or abroad, as well as the victim of trafficking in human beings or his/her family members through the National Helpline for victims of trafficking in human beings 0800 800 818[7] may initiate the identification of the victims.

2.3 Sham Marriage

Sham marriage is related to the criminal offence of smuggling under Section 356 of the Penal Code. This criminal offence, however, falls into the group of criminal offences against public order. Section 356 of the Penal Code does not have a specific heading. The elements of the criminal offence under Section 356 of the Penal Code can be fulfilled in different ways, such as fraudulent obtaining of a residence permit in the territory of the Slovak Republic by providing false documents confirming financial security for a residence and provision of accommodation on the basis of fictitious rental contracts, e.g. an apartment in a family house, or conclusion of a sham marriage as has already been mentioned.

Thus the criminal offence of smuggling under Section 356 of the Penal Code is fulfilled by the conclusion of a sham marriage. The criteria of the criminal offence under Section 356 of the Penal Code are fulfilled when one of the prospective spouses has a direct or indirect financial benefit or other benefit by the conclusion of marriage and the other prospective spouse has the benefit of the right to reside in the territory of the Slovak Republic, another Member State of the EU or a Contracting State to the Agreement on the European Economic Area. It is a conscious action of both sides agreed in advance and each of the sides profits from the action.

Section 356 of the Penal Code:

> "Who intends to gain for himself or another person, directly or indirectly, a financial or other material benefit to a person who is not a national of the Slovak Republic or another Member State of the EU or a national of a Contracting State to the Agreement on the European Economic Area, or does not have a permanent residence in its territory, allows or facilitates to remain or illegally gets employed in the territory of the Slovak Republic, in another Member State of the EU or on the territory of a Contracting Party to the Agreement on the European Economic Area shall be punished by imprisonment of two to eight years."

The Penal Code does not use nor define the term "sham marriage". The term "***sham marriage***" can be found in Act No. 404/2011 on the Residence of Foreigners and on amendments to certain laws as amended (hereinafter referred

[7] The National Programme of Combating Trafficking in Human Beings for the years 2015−2018 was adopted by Government resolution 52/2015 on 4 February 2015. [Last accessed 27 October 2015]. Available at http://www.minv.sk/?informacne-centrum-na-boj-proti-obchodovaniu-s-ludmi-a-prevenciu-kriminality

to as the "Foreigners Act"), in Section 2 (1) (a). For the purposes of the Act, "sham marriage" means a ***marriage concluded in order to obtain a residence permit***.

For the purposes of the research report, we will use the term "sham marriage" for activities in which a marriage is entered into with a person who is not a national of the Slovak Republic, a national of another Member State of the EU, or a national of a Contracting State of the Agreement on the European Economic Area, or who does not have a permanent residence in its territory, in order that this person would obtain residence or illegal employment in the territory of the Slovak Republic, of another Member State of the EU or a Contracting Party to the Agreement on the European Economic Area. In this sense, a sham marriage cannot be concluded between two nationals of Member States of the EU and thus in such a case the criminal offence under Section 356 of the Penal Code is not committed.

2.3.1 Obtaining Schengen visas

If a third-country national wants to obtain a Schengen visa, what is first required is an invitation. This invitation is a document that serves as the basis for an embassy of the Slovak Republic to decide on the granting of a Schengen visa. Consequently, a person who is referred to in Section 19 (2) of the Foreigners Act, must ask for verification of the invitation.

A foreigner[8] submits his or her visa application to the diplomatic mission or consular office of the Slovak Republic abroad. The process for approval of the application is performed through a link between the embassies, the Ministry of Foreign Affairs and European Affairs of the Slovak Republic and the central visa authority. Based on the verification of the invitation, a Schengen visa may be granted to a third-country national. Before granting a Schengen visa, checks are performed on the visa applicant as well as on the individual asking for verification of the invitation or the one who invites the applicant to the territory of the Slovak Republic.

The alien police in the Slovak Republic include police officers who are specialized in the registering of invitations. The central authority, in turn, is responsible for direct approval for granting of a Schengen visa, consultations and the giving of opinions on applications for visas and invitations. The central visa authority is a part of the Border and Alien Police Bureau. In addition to its duties, it performs consultations on the granting of visas to foreigners coming from high-risk areas, in cooperation with the Consular Department of the Ministry of Foreign Affairs and European Affairs. The list of high-risk areas is created by the Border and Alien Police Bureau of the Police Presidium on the basis of risk analysis. The list of the countries is restricted, it is regularly updated

[8] For the purposes of this report, "foreigner" means anyone who is not a national of the Slovak Republic. The term is defined in Section 2 (2) of the Act No. 404/2011 Coll. 404/2011 on the Residence of Foreigners and on amendments to certain laws, as amended.

and forwarded to the European Commission. Consultations for granting of visa are performed on the basis of the approved list of high-risk countries, under Article 22 of Regulation No. 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code).

Sham marriage is a reason for the rejection of the application for a residence permit. If, subsequent to the granting of a residence permit, the conclusion of a sham marriage has been proved, this is grounds for revocation of the residence permit.[9] Examples of indicators of reasonable suspicion of sham marriage are information from other authorities or natural persons, notifications by embassies of the Slovak Republic, a disproportionate difference in age between the spouses, the marriage was concluded a few days after entry into the Slovak Republic, or an individual (a national of the Slovak Republic or the EU) who concluded the marriage is in a poor financial situation.

The police have also uncovered a case of sham marriage which was disclosed five years following the marriage, on the basis of the testimony of a person who concluded the marriage. In that case, a national of the Slovak Republic testified after he had been invited to the proceedings on residence upon assessment of the application of a Chinese national (his spouse) to extend her residence permit.

After granting a residence permit, the police authority is competent to control eligibility and compliance by the foreigner with his or her obligations and conditions of residence. For this purpose, they are also authorized to enter places intended for business, employment or studies and to accommodations and request explanation for the facts which are subject to control.[10]

If there is suspicion of a sham marriage, an investigator of the National Unit may perform all operations under the Criminal Procedure Code, including the use of information technology and operative-search means in order to prove the subjective element in the criminal offence of smuggling under Section 356 of the Penal Code.[11]

The institution in charge of detection and investigation of cases of suspicion of the criminal offence of smuggling, i.e. in the field of illegal migration, is the Border and Alien Police Bureau of the Police Presidium, especially its departments, the alien police departments and the National Unit.

After sham marriage has been proved, an individual who benefited from it shall be prosecuted under Section 356 of the Penal Code and the third-country national may be expelled in accordance with Section 82 (2) (f) of the Foreigners Act. The

[9] EMN Small Thematic Study: Abuse of the right of family reunification: Sham marriages and false declaration of parentage in the Slovak Republic. Bratislava 2012, 41. ISBN 978-80-89506-25-5.

[10] Ibid.

[11] Ibid.

police department may also impose a ban on the entry of the third-country national for 3 to 5 years.[12]

A foreigner may fulfil the elements of the criminal offence of obstruction of an official decision under Section 348 of the Penal Code in case of violation of the official decision on administrative expulsion of a foreigner. This is punishable by imprisonment for up to two years.

Decisions rejecting a request for a residence permit, on revocation of a residence permit and on administrative expulsion are issued through administrative procedure (Act No. 71/1967 Coll. on Administrative Proceedings (Code of Administrative Procedure), as amended), and appeal is possible. After the decision becomes definite, it is subject to review by the court.[13]

2.3.2 Cooperation between birth registries in detection of sham marriages

In November 2005, the Unit of Citizenship and Birth Registries of the Ministry of the Interior (hereinafter referred to as the "Unit of Birth Registries") issued for the first time a guidance note on the procedure of birth registries. This guidance note set out the procedure for birth registries upon take-over of applications to conclude marriage submitted by foreigners. On its basis the birth registry has the duty to notify without delay the Border and Alien Police Bureau on submitting the application to conclude a marriage in case at least one of the prospective spouses is a foreign national.

The birth registry shall inform the Border and Alien Police Bureau of data on foreigners to the following extent:

- name and surname; in case of differences in the birth certificate and travel document, both forms shall be notified,
- date and place of birth,
- address of residence of the foreigner in the Slovak Republic.

Notifications shall be forwarded to the alien police department in the territorial jurisdiction of the birth registry which took over the application to conclude marriage. In February 2007, there was repeatedly a need to provide similar guidance. The Department of Birth Registry issued such guidance for all birth registries. The Border and Alien Police Bureau informed that not all birth registries met the notification obligation that resulted from the guidance note issued in 2005. Accordingly, in this case an obligation was imposed on birth registries to inform the respective alien police department of receipt of applications to conclude a marriage if at least one of the prospective spouses was a foreigner. At the same time, in connection with the application of Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of

[12] Ibid.

[13] Ibid.

persons across borders (the Schengen Borders Code), an innovation was introduced that in cases where an application is submitted to conclude a marriage between a Slovak national and a third-country national, it is necessary to provide information in addition to the basic data. The additional information to be submitted to the respective alien police department includes a photocopy of the travel document of the foreigner with a valid visa allowing entry of the foreigner into the territory of the Slovak Republic or a photocopy of the entry stamp by border authorities with information on the date when the foreigner arrived in the territory of the Slovak Republic.

3. Statistical information

For the purpose of a general overview of cases of sham marriages and trafficking in human beings for the purpose of forced marriage, we collected statistical information on investigated/prosecuted cases, charged persons and convicted persons.

In the Slovak Republic, there is no unified statistical system for tracking a case from its beginning at the police investigation, up to the decision of the court. That is why the statistical outputs are not comparable. It is important to mention that judicial procedures in the Slovak Republic and elsewhere can be very lengthy, and it may last more than a year before a final judgment is given. Thus a case registered in the police statistics e.g. in 2012 may be submitted to the court in 2013 or 2014 and the final judgment is given in 2015. It is a complex system which may lead to confusion.

One reason why it is difficult to obtain accurate statistics is that various stakeholders are involved in recording and keeping statistics related to trafficking in human beings and sham marriages, and this causes problems in respect of their comparability. Even so, it is possible to gain a general picture from the statistics of the scope of the issue regarding cases that become known to the police and the judicial system. For the purpose of the present research, the key institutions were contacted by phone. They were requested to provide statistical data and supportive information on the cases, either through a written request or in person during the interviews. The requested statistical data related to the number of criminal offences of trafficking in human beings for the purpose of forced marriage or smuggling, the number of victims (in relation to trafficking in human beings only), and the number of perpetrators and victims of trafficking in human beings for the purpose of forced marriage. During the interviews we tried to obtain detailed information on the cases. All available information that is recorded by the institutions was submitted for the preparation of the research report.

3.1 Illegal migration in the form of smuggling under Section 356 of the Penal Code - sham marriages

For the period between the years 2012 and 2014, 34 cases of smuggling under Section 356 of the Penal Code were registered and documented in the form of sham marriages in which nationals of the Slovak Republic or the EU organised the conclusion of sham marriages.

At the time of the writing of this report, the most recent information available referred to the first half of 2015, e. i. from 1 January to 30 June 2015, during which a total of five cases were registered and documented.

Table 1. The number of investigated cases and of suspects.

	Number of investigated cases	Number of suspects	Value in €
2011	4	7	3 850.00 €
2012	9	24	12 134.84 €
2013	9	12	20 294.90 €
2014	6	22	25 691.63 €
TOTAL	23	47	61 971.37 €

Source: National Unit for Combating Illegal Migration of the Border and Alien Police Bureau of the Police Force Presidium.

The value in euros (Table 1) reflects the compensation provided or received for the purposes of sham marriage. The compensation was paid directly to the organiser or to one of the fiancés. In this respect the compensation represents a motivating factor to commit the criminal offence. In order to simplify the overview, the funds provided or collected were converted from British pounds and U.S. dollars into euros. The National Unit did not record any currency other than the euro, the British pound and the U.S. dollar in terms of payment for sham marriage.

Tables 2 and 3 list the persons suspected of the conclusion of sham marriage, by nationality. Table 2 relates to suspects who financially benefited from conclusion of sham marriage while table 3 brings the numbers on individuals suspected of conclusion of sham marriage in the territory of the Slovak Republic.

Table 2. Suspects by nationality.

	Nationality
2011	5 Slovaks 1 Austrian 1 Armenian
2012	18 Slovaks 2 Chinese 4 Vietnamese 1 Serbian
2013	10 Slovaks 2 Vietnamese
2014	9 Slovaks 1 Chinese 1 national of the former Yugoslavia

Source: National Unit for Combating Illegal Migration of the Border and Alien Police Bureau of the Police Force Presidium.

Table 2 shows that in 2011 a total of 5 Slovaks, 1 Austrian and 1 Armenian were suspected, and in 2012 a total of 18 Slovaks, 2 Chinese, 4 Vietnamese and 1 Serbian national were suspected. In 2013, a total of 10 Slovaks and 2 Vietnamese were suspected. In 2014, 9 Slovaks, 1 Chinese and 1 national of the former

Yugoslavia were suspected. During the first half of 2015, five Slovaks were suspected of having committed the criminal offence of smuggling in the form of sham marriage.

Table 3. Nationalities of the aliens suspected of having concluded sham marriages.

	Nationality
2012	1 Turkish 4 Vietnamese 1 Ukrainian 1 Albanian 8 Chinese
2013	3 Ukrainians 1 Moroccan 1 Algerian 1 Macedonian 1 Chinese 2 Serbians 2 Vietnamese
2014	3 Ukrainians 5 Serbs 1 Chinese 1 Russian 1 Indian

Source: National Unit for Combating Illegal Migration of the Border and Alien Police Bureau of the Police Force Presidium.

There were 1 Turkish, 4 Vietnamese, 1 Ukrainian, 1 Albanian and 8 Chinese nationals among the aliens suspected of having concluded sham marriages in 2012 (Table 3). A more in-depth-analysis showed that in 2013 there were 3 Ukrainians, 1 Moroccan, 1 Algerian, 1 Macedonian, 1 Chinese, 2 Serbians and 2 Vietnamese nationals among the aliens suspected of having intended to obtain a residence permit illegally. In 2014, there were 3 Ukrainians, 5 Serbs, 1 Chinese, 1 Russian and 1 Indian national among the aliens suspected of having who concluded sham marriages. During the first half of 2015, 1 Macedonian, 2 Ukrainians and 2 Pakistanis were suspected of concluding a sham marriage in the Slovak Republic.The highest number of suspects was recorded between 2012 and 2014, when there were more than 20 suspects.

After the police has concluded the pre-trial investigation, they will submit the material to the prosecutor for consideration of charges. Table 4 provides an overview of the number of persons charged for the criminal offence of smuggling under Section 356 of the Penal Code. The highest number of charged persons was in 2013; this may be related to the high number of suspects in 2013. A person charged in 2013 might have been found to have been a suspect in 2012 or 2011, which is just our assumption. A crime may have been recorded by the police in, e.g. 2011, prosecuted in, e.g. 2012, and a person may have been found

guilty only in e.g. 2013. The data available does not allow the tracking of specific cases throughout the criminal justice system, and therefore, it is difficult to speculate regarding the reasons behind the fluctuation of numbers of prosecuted persons in a given year.

Table 4. The number of charged persons.

	2010	**2011**	**2012**	**2013**	**2014**	**2015**
Completed criminal prosecution of identified perpetrators in the Slovak Republic	1	5	12	37	19	4
- number of women		3	3	13	4	2
Charged persons		1	7	23	10	4
- number of women		1	2	7	3	2
Age 16-18				1	1	
--girls				1	1	
Age 19 – 21				2		
Age 22 – 30				2	3	
Age 31 – 40		1	2	11	4	2
Age 41 – 50			3	5	2	1
Age 51 – 60			2	2		1
Repeat offenders			1	1	2	1
Persons charged for intentional criminal offences			1	1	2	1
- intentional criminal offences of the same kind				1	1	
Plea bargain	1	4	1	8	6	

Source: General Prosecutor's Office of the Slovak Republic.

Table 4 also gives a picture of the charged persons. If we generalise, predominantly men of working age between 31 and 40 were charged. This trend is obvious in particular in 2013. Moreover, it could be concluded that plea bargains are often used as this brings the possibility of speeding up the criminal proceedings as well as the possibility of reducing the penalties for the perpetrators.

The information in table 4 cover the years between 2010 and 2015 (1st half of the year). It is necessary to note that the essential elements of the criminal offence under Section 356 of the Penal Code may be fulfilled also in ways other than through sham marriage, i.e. by means of provision of fictitious accommodation for foreigners or illegal employment for foreigners. The General Prosecutor's Office of the Slovak Republic, however, does not record an overview of the specific form of the fulfilment of the essential elements of Section 356 of the Penal Code, and therefore it is not possible to say with absolute certainty how many of the recorded cases are related to sham marriages.

The same situation applies to the statistical information related to court decisions available from the Ministry of Justice. Not all decisions of the court reflected in the statistics are necessarily related to sham marriages. Through cooperation

with the Ministry of Justice we have been provided with all the decisions. After analysis we selected only those in which sham marriage is the form of the criminal offence of smuggling under Section 356 of the Penal Code. The data relates to the years between 2010 and 2015 (1st half of the year).

Table 5. The number of judgments and convicted persons.

	The number of judgments relating to Section 356 of the Penal Code
2010	**0** of these, 0 sham marriages
2011	**3** of these, 0 sham marriages
2012	**3** of these, 1 sham marriage
2013	**12** of these, 9 sham marriages
2014	**4** of these, 4 sham marriages
TOTAL	**22** of these, 14 sham marriages

Source: The Ministry of Justice of the Slovak Republic.

A detailed analysis focused on the penalties shows that despite the fact that the penalty as described in Section 356 of the Penal Code is from 2 to 8 years of imprisonment, in none of the cases was someone punished by a custodial sentence. In every single case (excluding the case of acquittal) the convicted persons were given a custodial sentence (ranging from 16 months to 30 months) conditionally suspended for a probationary period ranging from 12 months to 60 months. In one case, a supplementary fine of 300 euros was imposed. In case of non-payment of the fine, the offender would serve three months in prison as a substitute punishment.

The Birth Registry Department registers all marriages that have been concluded in the territory of the Slovak Republic. However, they do not register a separate overview of concluded marriages between nationals of the Slovak Republic and aliens. For that reason, cooperation between the Border and Alien Police Bureau and birth registries in reporting of such marriages is crucial.

At the same time, it should be noted that also on the basis of the interviews with representatives of the Birth Registry Department and the Alien Police Unit of the Border and Alien Bureau both stakeholders expressed interest regarding the amendment of the relevant guidance and fostering cooperation between the parties concerned.

Interviews with the Birth Registry Department revealed that they expressed concern related to the lack of an exchange of information with foreign counterparts in cases of conclusion of marriage with Slovak nationals. With reference to this gap, it seems necessary to intensify and foster cooperation between the states.

3.2 Statistical overview of cases of trafficking for the purpose of forced marriage

The data provided by the Information Centre included in Table 6 refers to persons included in the Programme between 2010 and 2014.

Table 6. Persons included in the Programme.

	Number of persons included in the Programme (with reasonable grounds to believe that they have become victims of trafficking in human beings for the purpose of forced marriage)
2010	0
2011	2
2012	3
2013	7
2014	9
TOTAL	**21**

Source: Information Centre for Combating trafficking in human beings and Crime Prevention of the Ministry of the Interior of the Slovak Republic.

The data on the Programme for the period 2010–2014 shows that in 2010, there were no cases in which there were reasonable grounds to believe that a person had become a victim of trafficking in persons for purposes of forced marriage, and for this reason would have been included in the Programme.

In 2011, two persons were included in the Programme because there were reasonable grounds to believe that they had become victims of trafficking in human beings for the purpose of forced marriage. In 2012, there were three such persons. In 2013, there was an increase in the number of persons included in the Programme on this basis, to a total of 7 persons. In 2014, the number of such persons totalled 9. Between 1 January and 30 June 2015, no person was included in the Programme on this basis.

Before 2010, no persons had been included in the Programme on grounds involving the identification of trafficking in human beings for the purpose of forced marriage.

All the persons included in the Programme as victims of trafficking in human beings for the purpose of forced marriage were adult women. They came predominantly from a poor social background, with lower levels of education and mostly from Central and Eastern Slovakia. The most common destination country where trafficking in human beings for the purpose of forced marriage

was completed was the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as the "United Kingdom").

The statistical summary in Table 7 below provided by the National Unit shows the number of cases, number of suspects and the number of victims of trafficking in human beings for the purpose of forced marriage.

Table 7. Number of investigated cases and suspects.

	Number of cases: Commenced criminal proceedings	**Number of suspected cases**	**Number of suspects**	**Number of victims**
2013	4	-	**0** (men 0, women 0)	13
2014	5	5	**18** (men 15, women 3)	16
2015 (1st half of the year)	1	1	**3** (men 2, woman 1)	0
TOTAL	**10**	**6**	**21**	**29**

Source: The National Unit for Combating Illegal Migration of the Border and Alien Police Bureau of the Police Force Presidium.

The number of victims in Table 7 may be different from the number of persons included in the Programme. Victims are included in the Programme at the moment when there are reasonable grounds to believe they became victims of trafficking in human beings for the purpose of forced marriage and further cooperation with law enforcement agencies is not required (on the basis of the requirements of Directive 2011/36/EU).

Not every person included in the Programme appears as a victim or injured party in criminal proceedings. On the other hand, not every person who appears as an injured party in the criminal proceedings is interested in entering the Programme. However, there are cases in which such a situation can occur and a person who is included in the Programme also appears as an injured party and is included in the overview processed by the Information Centre, as well as in the overview processed by the National Unit. After the interviews with the representatives of the National Unit, we were able to form an overview of how many of the persons included in the Programme appear in the statistics of the National Units presented in Table 5. In 2013, of 13 victims noted in Table 5, there were 2 persons included in the Programme; however, criminal prosecution was initiated only in respect of one of these two. In 2014, out of the 16 victims noted in Table 5, there were 4 persons included in the Programme.

The statistics presented in Table 7 (year 2014) also include a case referred to as "Svanetia" (this is included in the number of cases where criminal proceedings were commenced). This case involved a joint investigation team of the Slovak Republic and the United Kingdom, and in the case charges have been pressed against a total of 7 persons of Slovak nationality (6 men and 1 woman). In relation to this case, altogether six victims of trafficking in human beings for the purpose of forced marriage have been identified. All the victims were Slovak nationals. Some of the victims were sexually exploited after the conclusion of marriage. It should be noted that recruitment of persons who were subsequently forced into the conclusion of marriage with a third-country national involved the conclusion of marriage against payment. After arrival into the United Kingdom, these people changed their mind. They wanted to withdraw their consent that had been given before, and finally refused to voluntarily marry third-country nationals. The perpetrators took advantage of the situation and vulnerable position of persons in a foreign country and they forced these persons to conclude the marriages. The medical staff helped to identify one person taken to the hospital who had been sexually exploited. According to the police information, this person had been sold to a third-country national who wanted to legalize his residence by means of marriage in the United Kingdom, since his student visas were about to expire. The amount paid to the Slovak traffickers was 4.500 pounds. In this case, the offer to conclude marriage represents a form of recruitment by the perpetrators so that the victim subsequently voluntarily travelled to a foreign country.

In October 2015 the prosecution in the “Svanetia” case was extended, with charges pressed against other two perpetrators, and two more victims were identified. This is not reflected in Table 5, since the data only cover the period up to 30 June 2015. The case is described in this section only, and not in chapter 5.1.2, which is dedicated to cases where criminal proceedings were commenced in Slovakia in 2014 and 2015; at this time, the “Svanetia” case was prosecuted only in the United Kingdom. That is why the case is only statistically recorded in Slovakia as reflected in Table 5, to the extent that the Slovak Republic participated in the case.

In the other four cases of trafficking in human beings in 2014, there were two cases of trafficking in human beings for the purpose of forced marriage and two cases of trafficking in human beings for the purpose of forced marriage with subsequent sexual exploitation. These cases are described below, in chapter 5.1.2.

4. Data and Methodology

As already indicated in the introduction, the research report focuses on the mapping of sham marriages, trafficking in human beings for the purpose of forced marriage or forced marriages, and on the possible links between sham marriages and trafficking in human beings, or exploitative conditions within sham marriages.

In general, there is a lack of research on the topic. The core publication for this research was the EMN Small Thematic Study: Abuse of the right of family reunification: Sham marriages and false declaration of parentage in the Slovak Republic. The study relates to sham marriages. To our knowledge, in Slovakia there has been no publication elaborated on the topic of trafficking in human beings focusing on forced marriages. That is why we concentrated on obtaining qualitative information by means of collecting interviews from relevant stakeholders together with collecting quantitative information in the form of statistical data on persons included in the Programme. Statistics on persons included in the Programme were obtained from the Information Centre, and other statistical data was obtained from the Border and Alien Police Bureau, the General Prosecutor´s Office and the Ministry of Justice.

The contents of the report are based on information gained from expert interviews. A total of 15 interviews were conducted between 15 June 2015 and the beginning of October 2015. Among the interviewees, there were also representatives of the non-governmental organisations participating in the support and protection of victims of trafficking in human beings included in the Programme, as well as representatives of the Birth Registries who provided an overview on the cooperation related to detection of sham marriages and conclusion of marriage in compliance with Slovak legislation. All the institutions or their representatives who participated in the interviews were provided with the draft report so that they would have the possibility to comment on it. All the interviewees were informed about the project and its objectives. The interviews were realized on the basis of an interview framework developed by HEUNI.

The anonymity of all the interviewees was ensured. The interviewees included one person from the Ministry of Justice, four prosecutors from the General Prosecutor´s Office, one person from the Birth Registry Department, and one person from the Alien Police of the Border and Alien Bureau. Moreover, there were six interviews with police officers from the National Unit, one interview with a police officer from the District Police Headquarters and one interview with a representative from an NGO providing services to victims of trafficking in human beings, and who gave information on nine victims of trafficking in human beings included in the Programme. The interviews were conducted over the phone or in person and lasted from 20 minutes up to one hour. Some interviews were recorded with the consent of the interviewees. During the majority of the interviews the authors were taking notes, because the interviews were not recorded. The authors of the report did not encounter difficulties in

identification of relevant stakeholders active in the field. No victim interviewees were conducted. We have not conducted any interview with victims of trafficking in order to avoid secondary victimisation (or retraumatisation) of the victims, and so we processed only that part of the information provided by NGOs performing direct care to the persons included in the Programme. The interviewees provided general and specific information on the field of interest, comments on victim stories assisted within the specialised programme and cases of trafficking in human beings that have been investigated and prosecuted. The court cases have been requested from the Ministry of Justice. It is worth-noting that all court decisions are also available on a public website (http://www.judikaty.info/). We focussed on collecting up-to-date information and relevant cases. The overview of the cases is not just a sample but a complex set of all the relevant cases that have been statistically recorded.

The criminal offence of smuggling is contained in Section 355 of the Penal Code. However, a specific legal form of this criminal offence is also included in Section 356 of the Penal Code. Section 356 of the Penal Code includes the conclusion of marriage as an essential element of the criminal offence of smuggling. Copies of the judgments were provided by the Ministry of Justice. We requested the judgments issued between 2010 and 30 June 2015. We obtained a total of 22 judgments of the courts of the Slovak Republic. The first judgment related to sham marriages was issued in 2012 (see Table 5, chapter 3.1).

5. Case analysis

In this chapter we will analyse decisions of the courts of the Slovak Republic related to sham marriages and forced marriages, as well as decisions of law enforcement agencies relating to trafficking in human beings for the purpose of forced marriage, as there are not many judgments of the courts of the Slovak Republic related to trafficking in human beings. We have only two available judgments concerning trafficking in human beings for the purpose of forced marriage, and even they refer only to the stage of attempt. The court did not find enough evidence to fulfil the criteria of trafficking for the purpose of forced marriage in either case.

This chapter does not include cases of exploitative sham marriages as such. However, we describe cases in which marriage was just a form of recruitment or the way in which a trafficker coerced their victims into forced labour or forced prostitution, which would meet the criteria of the criminal offence of human trafficking or another crime.

5.1 Analysis of the cases of trafficking in human beings for the purpose of forced marriage

In the second chapter we included information about the Programme, through which the Ministry of the Interior tries to assist people where there was a reasonable suspicion that they had become victims of trafficking in human beings and had expressed their interest in such assistance. The Programme is designed for all persons where there is a reasonable suspicion that they have become victims of trafficking in human beings for the purpose of forced marriage. It must be said that the suspicion is not always confirmed, and not in all cases does the person want to cooperate with the police.

Therefore, in this section, in addition to the analysis of practical application of the law in criminal proceedings and decisions of courts of the Slovak Republic, we will pay attention also to the information provided on the persons who have been included in the Programme by NGOs, where there was a suspicion that they had become victims of trafficking in human beings for the purpose of forced marriage. Written documentation on victims held by the information centre as a manager of the specialized programme was a major source of information, complemented by information from a representative of an NGO.

5.1.1 Cases of forced marriages of persons included in the Programme

We focused on the data from 2014, for which we had 10 people who were included in the Programme. One case out of the ten did not relate to trafficking

in human beings as confirmed by the police.[14] Therefore, in Table 4 in chapter three, the number of persons in 2014 is 9 and not 10. For two other persons included in the Programme in 2014, the police could not confirm the suspicions claimed. We therefore have evidence about ten persons, but only in seven cases out of the ten was there a reasonable suspicion not refuted by the police, and so the description below will focus on just these seven individuals. In five out of the seven cases there was an attempt to commit the criminal offence of trafficking in human beings for the purpose of forced marriage, and in two cases of the seven forced marriage was also concluded.

Victim No. 1 – an attempt of trafficking in human beings for the purpose of forced marriage

The first case took place during October 2013. A victim was approached by a group of young men, who, according to information from the police, committed various criminal activities. The victim was promised a well-paid job and a better life abroad. She did not believe them at first and so one of the members of the group intentionally pretended to develop a close relationship with her. The victim fell in love with this man and under his influence and pressure she left home and to go abroad. After some time, the group of young men wanted her to marry a foreigner in Germany. There was an attempt, but the victim went to the police to report the attempt. After two months, the man who had pretended a close relationship with the woman asked her to go to Ireland with him to work together. They travelled to Bratislava (from the eastern part of Slovakia) where they met with an unknown Pakistani national. It was only then that her boyfriend informed her that just she and the Pakistani national would travel to Ireland, as the boyfriend allegedly needed to facilitate certain things in Slovakia and he would join her later. In Ireland she found that her boyfriend had sold her to this Pakistani national who subsequently sold her to another Pakistani. Under threats she travelled with this man by boat to the United Kingdom. The marriage was not concluded. She was offered assistance by an NGO and a return home. After returning to Slovakia, during January 2014, she was included in the Programme and filed a criminal report. The representative of an NGO assisting the victims said that *"we always try to speak to the victim to find out his/her story, to stabilize them and to inform them in an appropriate way so that they may decide whether to cooperate with the police or not."*

Victim No. 2 – an attempt of trafficking in human beings for the purpose of forced marriage

The woman in the case (referred to below as Monika) had no strong social ties, came from a disadvantaged social background in the Košice region, and stayed in a centre which provides, inter alia, care to young adults after leaving institutional care. She was invited by a friend to come to a shopping centre, where the friend was waiting for her together with other two men. The younger

[14] In this case, based on the gathered evidence, the police concluded that the person had committed the criminal offence of smuggling because of her consent and financial reward.

of the men offered Monika a well-paid job for three months in a pharmacological company in Austria where she was supposed to sort out expired medication. He told her that she had nothing to worry about and that it was a serious job, and that her friend was coming as well. This information was sufficient and Monika entered a car with these men. Before leaving the country they stopped in the centre where she stayed, in order to pick up Monika's documents and her birth certificate. The older of the men did not go with them and another man stepped in. They travelled through Hungary. They spent a night in a hotel where the younger men tried to rape her. After she rejected him he started cursing and yelling at her, and told her for the first time what she would be doing in Austria.

Monika had a mobile phone and contacted her friends, asking for advice on what to do. The next morning, she announced to the man that she wanted to go home. The men, under the pretext that they would take her to Bratislava, drove her up to an apartment in Vienna where another Slovak woman lived with an Albanian citizen. The Slovak citizen controlled her movement. Monika once again reiterated that she wanted to return to Slovakia. The whole group went together to the cafe, where another man was waiting for them. Then they went to another apartment where other Slovak women were working as prostitutes. As Monika insisted on going home, the man who had promised her work, drove her to the Austrian-Slovak border. Before they left they threatened her not to tell anyone what she saw. A couple of months later, this group of men again contacted Monika with the aim not of offering her a well-paid job, but of concluding a marriage for money. Under the pretext that she went to pack her things, she called the police and then she was taken to a secure accommodation and included in the Programme.

Victim No. 3 – an attempt of trafficking in human beings for the purpose of forced marriage, with no cooperation with the law enforcement authorities

A victim met a man from a nearby village. After some time one of her acquaintance offered her a better life in the United Kingdom through a marriage to a rich man. The recruiter took advantage of her unstable accommodation situation, as well as the fact that she was illiterate. At the beginning of 2014, he paid for her ticket and she travelled to the United Kingdom. After her arrival she was sold to a Pakistani national who she was supposed to marry. The marriage was not concluded but she was raped by the man several times and she had to take care of his household. Her documents were taken away, her movement was controlled and she was intimidated. However, she managed to run away. She was found on the street by the police who reported her to an organisation assisting victims which then contacted Slovakian agencies. Afterwards she returned and was included in the Programme. However, the victim decided not to cooperate with the Slovak police and left the Programme.

Victim No. 4 – an attempt of trafficking in human beings for the purpose of forced marriage, with no cooperation with the law enforcement authorities

A victim was offered a job in the United Kingdom by a person from her neighbourhood. She was informed that if she did not find work she would have to marry a Pakistan national for financial gain. However, the victim believed that

she would manage to find a decent job. Her travel costs were covered by the woman who recruited her. After arriving in the United Kingdom the recruiter handed her over to a Pakistani national for financial gain. The victim did not receive any money. The Pakistani national took her home. He withheld her identity documents, restricted her freedom of movement and exploited her sexually. The victim refused his proposals for marriage and as a result she was physically and mentally threatened. She was unable to leave his apartment, had limited access to health care and was not allowed to be in any contact with her relatives. The Pakistani national requested the amount of 10.000 pounds from the victim, which he allegedly had paid for her. Her neighbour helped her and took her to the police when she was not guarded. The victim left the United Kingdom pregnant and came back to Slovakia. After returning to Slovakia she was included in the Programme. After receiving adequate assistance by an NGO, the victim decided not to cooperate with the Slovak police and left the Programme. *"There are victims who do not want to communicate with the police, it is their right, of course. Their decision depends much on the environment they come back to, especially when the traffickers are nearby or they are even family members. It is very hard to cut their ties with the community,"* the NGO representative admitted.

Victim No. 5 – an attempt of trafficking in human beings for the purpose of forced marriage, with no cooperation with the law enforcement authorities

The case took place in Scotland, but began in Slovakia when a pregnant victim was offered a better life by her friend. After arriving in Glasgow she was sold to a Pakistani national. Her personal documents were taken from her, and her personal freedom and movement was restricted and controlled. The marriage was not concluded, although she was sold for this purpose to the Pakistani. The person was identified as a victim of trafficking in human beings in a health facility which she visited because of her pregnancy. As a result, the British authorities became interested in the victim and offered her an assisted voluntary return to Slovakia. After coming back to Slovakia she was included in the Programme. After receiving adequate assistance by an NGO, the victim decided not to cooperate with the Slovak police and left the Programme.

Victim No. 6 – trafficking in human beings for the purpose of forced marriage

A woman was lured to Germany by a considerable offer of a better life. After arriving in Berlin she was handed over by the recruiter to the perpetrators. The recruiter was financially rewarded. The woman was transported from Germany to Denmark on a ship where she was forcibly held by the perpetrators for three days and coerced into marrying a foreigner from Serbia. After the marriage she returned to Germany and from there she was driven back to Slovakia. All the transportation costs were paid by the perpetrators. The victim personally reported to the police and actively cooperated with them. "*The victim was in poor mental health, poorly dressed and arrived without any personal belongings,"* the NGO representative said. That is why she was transported to an NGO. In the framework of the Programme she was provided with necessary support and psychological assistance.

Victim No. 7 – trafficking in human beings for the purpose of forced marriage

This case involves elements of sham marriage, since a victim was approached by an unknown woman who offered her a job in Germany provided that she agreed to marry a Serbian citizen. She was promised 1000 euros as a financial reward. Due to the fact that at that time she was alone with three children and her partner was in prison, she agreed to the offer. The woman travelled to Germany by bus, assisted by the recruiter. The recruiter accommodated her in Berlin in a house with other persons. Her freedom of movement was limited and she suffered from hunger and mistreatment. After some two weeks, she concluded a marriage with an unknown man, most likely from Serbia. She did not receive any money for the marriage. The recruiter threatened her with violence if she would contact the authorities. She returned to Slovakia thanks to the assistance of unknown persons. There she contacted an NGO active in the provision of assistance to victims of trafficking in human beings, which provided her with necessary services.

"Necessary assistance and support to victims is provided in the framework of the Programme. Mostly it includes material assistance, assistance in returning from abroad, or social assistance and support," said the expert from the Information Centre.

5.1.2 Investigated cases of trafficking in human beings for the purpose of forced marriage

Since the amendment to the Penal Code definition of the crime of trafficking in human beings in relation to the purpose of forced marriage did not become effective until 2013, and given the length of criminal proceedings, there are only two final decisions of the courts of the Slovak Republic related to the issue in question. For this reason, we will not only pay attention to the decisions of the courts of the Slovak Republic, but also analyse the decisions of law enforcement authorities within pre-trial investigations.

Based on the decisions of, and consultations with, the National Unit in relation to seven cases where criminal prosecution was initiated in 2014 and 2015 for the offence of trafficking in human beings for the purpose of forced marriage or for the purpose of a combination of forced marriage and another purpose, the following information was obtained:

- in one case a final decision of the Court has been issued,
- in other cases, the investigated cases are pending or the cases have been handed over to the Public Prosecutor's Office for further proceedings.

It is important to note that the prosecutor supervises the criminal investigation conducted by the police.

Several assumptions may be formulated on the basis of our analysis of all seven cases of trafficking in human beings for the purpose of forced marriage. Although only one offender has been finally convicted and the other cases are still under investigation and supervised by a prosecutor, several modus operandi

have been detected in the cases, either by multiple perpetrators or by organised groups. The actions of the perpetrators were directed mostly by more than one person and the essential elements of the crime of trafficking in human beings for the purpose of forced marriage have been fulfilled only in a few cases. The acts in the cases included recruitment, transport and reception of persons with the use of deception, deceit, threats of violence, detention, violence, and abuse of vulnerability of the victims for the purpose of forced marriage. Promises of well-paid jobs or receiving social benefits were a form of deceptive recruitment, and forced marriage was the purpose of the crime of trafficking in human beings.

In some cases, only partial acts took place, when people were recruited by the perpetrators with the offer of conclusion of marriage for a financial reward. At first they consented but then some of them changed their minds and did not travel at all. There is, however, a case in which one person was lured by the perpetrator with the promise of financial compensation for the conclusion of marriage with a Pakistani national. However, then the person's freedom of movement was limited, she was persuaded to conclude marriage with a Pakistani national, handed over for a reward to a Pakistani national with whom she then lived and was under his control. In the end, however, the marriage was not concluded.

In 2014, the National Unit commenced criminal prosecution for the criminal offence of trafficking in human beings for the purpose of forced marriage in five cases. Out of those 5 cases, there were 2 cases of trafficking in human beings for the purpose of forced marriage, and 3 cases of trafficking in human beings for the purpose of forced marriage in combination with another purpose of exploitation.

Some of these cases have already been mentioned above in the descriptions in terms of trafficked victims provided by NGOs. Below are descriptions of the proceedings based on the decisions and interviews with investigators.

Case No. 1 – trafficking in human beings for the purpose of forced marriage

In the first of these cases there was a final decision of the court, in which one offender was convicted of trafficking in human beings for the purpose of forced marriage. In this case, prosecution of a second defendant had been split off into separate proceedings, which have not yet been completed. The injured parties were two victims, of whom one was a child, a 17-year-old girl at the time of recruitment and transport. Both victims were included in the Programme in 2013. More details are provided below in chapter 5.1.3, referring to the judgment of the District Court Trebišov under reference 5T/35/2015.

Case No. 2 – trafficking in human beings for the purpose of forced marriage

In this case, there was recruitment by means of approaching a victim with the offer of marriage with a foreigner in Germany for a financial reward of 5000 euros. At first, the victim consented, but later she changed her mind and was no longer interested in the marriage. At this stage, the victim broke off contact with the recruiter. Several months later the victim was approached with another offer from another perpetrator who initiated a personal relationship with the victim.

With the promise of a better life in Ireland, he persuaded the victim to travel with him.

Before leaving for Ireland, on the initiative of the perpetrator, the victim had taken a copy of her birth certificate and upon arrival into Ireland was sold to a Pakistani national, and was persuaded to marry him. However, she escaped and was able to avoid the marriage. Several perpetrators have been accused in this case and there is ongoing cooperation with law enforcement authorities in the Ireland by means of mutual legal assistance. This case is described in chapter 5.1.1 as *victim No. 1.*

In the other two cases the police are investigating trafficking in human beings for the purpose of forced marriage in combination with prostitution. These two other cases have to do with several acts, in the form of recruitment in the United Kingdom and the promise of receiving social benefits.

Case No. 3 – trafficking in human beings for the purpose of forced marriage and forced prostitution

In the first case, the perpetrators gradually recruited two women. One of them was deaf and the perpetrators misused that vulnerability and she was promised unspecified work in the United Kingdom. Subsequently, without her knowledge she was transferred to the United Kingdom; *her personal documents were taken away and she was verbally coerced into concluding a marriage with a Pakistani national and into prostituting herself under the threat of physical violence.* The victim managed to escape. The second woman, after the first victim was transported, was subsequently also lured to the United Kingdom as well for the purpose of receiving social benefits. When the victim was told by the perpetrators that she was supposed to marry a Pakistani and would live with him, she refused to do it. *She was mentally coerced and the perpetrators tried to persuade her with the promise of a better life.* After the perpetrators found out that the police in the Slovak Republic had started a search for her, they released her. The handicapped victim was included in the Programme but the description in chapter 5.1.1 is not mentioned, as the criminal offence in question was related to sexual exploitation.

Case No. 4 – trafficking in human beings for the purpose of forced marriage and forced prostitution

In this case, the victim was *forced to get into a car by the offender*, who subsequently transferred her to the United Kingdom by bus and by plane. There she was forced into prostitution. Subsequently, she was sold again in the United Kingdom and forced into prostitution and also into the conclusion of marriage with an Indian national with whom she lived in the same household. The woman managed to escape, but was not interested in assistance from the Programme.

Case No. 5 – trafficking in human beings for the purpose of forced marriage and forced prostitution

This refers to the "Svanetia" case which is described in chapter 3.2. and a case from the perspective of the victim as victim No. 5 in chapter 5.1.1.

As shown in the statistical information (Table 5), during the first half of 2015 prosecution for the criminal offense of trafficking in human beings was commenced in one case, and during the second half of the year (up to 15 October 2015) in a second case. Both cases involved organised groups of perpetrators; in one case for the purpose of forced marriage and in the second case there was a combined purpose of forced marriage and prostitution.

Case No. 6 – trafficking in human beings for the purpose of forced marriage and forced prostitution

This case involved an organised group consisting of persons of Slovak and Indian nationality. There was a considerable level of sophistication and the knowledge on the part of the perpetrators of the legislative situation in several countries in the Schengen area. Four female victims who came from a disadvantaged social background were recruited to work abroad. The victims were transported to Austria where they *were kept and guarded, and persuaded to conclude marriage with foreigners.* At the place where they were held, other women were engaged in prostitution. The victims refused to conclude a marriage with the men they were supposed to marry and thus they were *threatened by the perpetrators with physical attack.* One victim was taken back to Slovakia after she insisted. The other victims were first transported to Germany and Belgium and then, along with their future spouses, to Denmark where there they were forced to get married. Subsequently, the married men left to Germany and Belgium where they registered for permanent residence. The victims were forced to live with these foreigners. In this case the perpetrators were accused of committing the criminal offence of trafficking in human beings. *Information about the case was reported to foreign counterparts in the countries where the marriages were supposed to take place; however, the foreign counterparts were apparently not interested in these cases.* One victim was included in the Programme. This case is described in chapter 5.1.1 as v*ictim No. 2.*

Case No. 7 – trafficking in human beings for the purpose of forced marriage and forced prostitution

In this case women from socially marginalized communities were recruited by the perpetrator to carry out various jobs or to conclude marriage for a reward varying from *1000 to 2000 euros*. Some of the women, however, did not know what compensation they were supposed to receive. An organised group of perpetrators comprised of Slovak and British nationals was involved in this case. The victims were transported to one place in the Slovak Republic from which they were further transported to the United Kingdom. Some of the victims, however, changed their minds upon departure and escaped from the place or they had been found there by their relatives and taken away. *The victims' personal documents were taken*. After arrival in the United Kingdom *the victims were forced to marry men of Pakistani nationality. Abusing their vulnerable position*, these traffickers forced the women to live with the men in a common household. Some of the victims were forced to conclude marriage. One of the victims was sold repeatedly to Pakistanis. Some of the victims were forced not only to get married but also to prostitute themselves. Victims who had been transported by

the perpetrators to the United Kingdom broke free either by persuading the traffickers to let them go or by escaping from the foreigners. In the interview, the investigator responsible for the cases stated that “there has been ongoing cooperation between the Slovak police and authorities from the United Kingdom”. One victim was included in the Programme in 2015.

The interviewed investigator described the circumstances of the case as follows: "*There is only a limited commentary in the Penal Code and almost no case law on the essential elements of the criminal offence of trafficking in human beings for forced marriage in the Slovak Republic.”* In this case, the perpetrator misused young Roma women coming from terrible social conditions. He promised them a better life and job in order to lure them to conclude marriage for a financial reward. In some cases, a financial reward to parents of the victims was provided in order to let the daughters travel abroad. However, there was no better life for them and the victims were happy to have been able to escape from rough living conditions in the country of origin. The perpetrator misused the vulnerable situation of women who not only came from a very poor social environment but were not able to claim their rights abroad because of the foreign environment and language barriers. Based on that, it is necessary to understand such action to be trafficking in human beings for the purpose of forced marriage from the beginning.

The interviewee also noted that from the very beginning, the victims were deceived, and persuaded by misleading arguments from the perpetrators about a better life, a good job, accommodation and possibility to live with a partner of their choice. The victims consented to travel abroad for the purpose of marriage with a foreigner. Upon arrival they found themselves in a foreign environment, without knowledge of the language. The foreigners came to have a look at them in order to choose a bride for a price agreed in advance. The women realized that they had been sold to foreigners with whom they were forced to live and have sex. The purpose of marriage was to exploit "family reunification" which allows third-country nationals to reside in the EU.

According to the interviewed expert, the women do not even have a better life or a job, and many are physically attacked and forced to provide sexual services. At the time of recruitment, young and pretty Roma women are selected as they can be sold easily to Pakistanis. For the above reasons the term "forced marriage" is used even if the victim consented to the marriage, based on the personal circumstances and deceit by the perpetrators.

The interviewed investigator emphasised that the concept of sham marriage can only be used in relation to a person (the perpetrator) who has been aware that the marriage allows the third-country national to obtain a residence permit in the EU and a financial or material reward is to be paid. In the opinion of the investigator, the victim in this case is the state – the public interest.

Another investigator said that "the assessment of each case is individual and depends on available evidence which is based not only on the testimony of the injured party but also on other evidence. As for me, I don´t see it useful to

introduce other legislative terms or new essential elements of a criminal offence into the legislation."

Police officers in in the National Units investigating the cases referred to above have expressed the belief that *"the investigation of cases with a cross-border element is usually unnecessarily lengthy because of long delays in the execution of mutual legal assistance." At the same time, one of the police officers emphasised that "in order to shorten the length of the investigation in cases where different parts of the proceedings are conducted in a number of countries and, consequently, where the criminal proceedings are conducted in several countries, the concept of a European public prosecutor could be helpful. The setting up of joint investigation teams is indeed useful, but still, there are barriers, for which it is not always efficient to make use of them, since the setting up of a joint investigation team is time-consuming, logistically and personally demanding and expensive. A joint investigation team is set up only to investigate one case and it is not realistic to establish it on a case by case basis. Investigation of cross-border cases would be appropriate, at least in the EU, through a joint action system."*

The interviewed expert from the police also said that *"it should be noted that in most cases the recruitment phase takes place in the Slovak Republic and also there is the beginning of the transportation. This may be provided by 1–2 perpetrators. The rest of the acts are carried out abroad by other perpetrators and their victims do not know them or know only their nicknames. It is difficult to link the acts of recruiters, transporters and perpetrators abroad due to the subjective aspect of the essential elements of the criminal offence."*

In the context of the cases described above, there are efforts by the Slovak investigation authorities to cooperate with foreign counterparts and share the information found out during the criminal investigations.

5.1.3 Court decisions related to trafficking in human beings for the purpose of forced marriage

There are few decisions of courts of the Slovak Republic which are related to trafficking in human beings for the purpose of forced marriage. Also law enforcement agencies perceived the lack of case law and practice of the courts. We had only two court decisions that relate to trafficking in human beings for the purpose of forced marriage. In this section we will focus on the description of those decisions.

Court Decision No. 1 of the Trebišov District Court under reference 5T/35/2015

In the judgment, a man is sentenced to imprisonment for three years (the punishment was conditionally suspended with the imposition of probation of three years and the imposition of probation supervision). During the probation period, the convicted man may not come closer than five metres to the victims and may not stay in the vicinity of their homes. The accused man was found

guilty of luring victims together with another man in a village in Trebišov District *to work in a shop* in the United Kingdom, and of transporting them in their vehicle to the United Kingdom.

After the men found out that one of the victims did not have an ID card and was a minor, they drove them to an unknown place, purchased new clothes for the women, and waited there until the girl was given a new ID card. Subsequently, all the women and the girl were transported by car to the United Kingdom, without stopping even though the women were crying. At one point during the long trip the car stopped, and the women tried to escape, but their escape was blocked by the men, who dragged them by the hair and pulled them back in to the vehicle. They continued their way up to Manchester where after a two-day journey they stepped out of the car in front of the house where they were accommodated. The next morning two Pakistani men entered the house and all the victims' identity cards were taken. Each of the women was sold for *1000* pounds to a Pakistani national. The Pakistanis took the women into their cars and drove one of them to London and the second one to Birmingham, where they were housed with the Pakistanis. About two weeks later after their constant weeping they drove the women back to the house in Manchester from where they managed to escape to the police without their documents.

Only one of the perpetrators was sentenced by this judgment. The second man was not sentenced. The Court concluded that the convicted man, acting with deceit, restricting personal freedom, violence, threats of violence and threat of other severe injuries, recruited, transported and took over another person for the purpose of forced marriage and at the same time lured, transported and took over a child for the purpose of forced marriage. By this act he committed the offence of trafficking in human beings.

Court Decision No. 2, Michalovce District Court under reference 1T/105/2015

A total of 5 persons, three women and two men, were convicted by the court. The perpetrators were found guilty of a minor offence and the criminal offence of trafficking in human beings, as they had enriched themselves by the fact that they took advantage of someone's mistake and caused severe damage. Moreover, acting jointly and through the use of fraudulent behaviour and deceit they lured, transported and harboured another person for the purpose of prostitution and other forms of sexual exploitation, forced labour and forced marriage. The judgment describes the criminal offence of fraud, but we will focus on the criminal offence of trafficking in human beings and its description.

After mutual agreement, one of the convicted women pretended she wanted to accompany the victim on her way to the home village of Sečovce, and without the victim´s consent, transported her on 23 March 2013 from Michalovce to the United Kingdom, to the city of Sheffield together with other perpetrators. The exact address was not known, but the persons who were found guilty lived there, and those persons sold the woman to a Pakistani national who the woman (victim) was supposed to marry. The marriage was not, however, concluded and the victim continued to live in the house of the accused, who later forced her to

provide sexual services for four men. She was supposed to receive a total of 70 pounds for the provision of sexual services. However, she had to hand the money over to the Pakistani national. The woman was also forced to work in the kitchen and in the pea field, and she had to hand over the money earned. Later she was sold to another person in the city of Bradford who wanted to marry her, but the victim refused and later managed to run away. With the assistance of the British police, she managed to return to Slovakia. After her return, the victim was included in the Programme and she was given assistance, support and protection.

All of the accused were convicted and may not come closer than five metres to the victim and may not deliberately stay near her dwelling. Four out of the five convicted persons received a sentence of 36 months' imprisonment, with the sentence suspended and a trial period imposed of 36 months' probation supervision. One male received a lower punishment, imprisonment for 24 months, with the sentence suspended and probation imposed for a period of 30 months. The court ordered the offenders to pay the victim compensation of *6.180 euros* which represents the amount of money that had been collected from her. The amount is related to the criminal offence of fraud. The victim was referred to a civil court in relation to the rest of her claim. The victim did not ask for more compensation.

The prosecution was initiated in 2013. Given the complexity of the situation and the cross-border nature of the case it was not possible to convict the perpetrators until 2015.

5.1.4 Indicators of trafficking in human beings for the purpose of forced marriage

There are many indicators of trafficking in human beings, but, due to the research topic, we focused our attention solely on indicators that identify trafficking in human beings for the purpose of forced marriage. Since forced marriage as a form of trafficking in human beings is a current issue or a rather new phenomenon in the Slovak Republic, the related indicators are not stable. However, it is possible to create a set of common features for all cases of trafficking in human beings for the purpose of forced marriage based on the reported cases and the lessons learned.

On the basis of information gathered from the interviews and the analysis of the documents concerning cases of trafficking in human beings for the purpose of forced marriage, we can draw the following indicators of trafficking in human beings for the purpose of forced marriage:

- limited or restricted access to personal documents,
- the existence of fictitious debt (for travel, accommodation, employment services etc.),
- controlled movement (there is a difference between controlled movement and restriction of liberty – when the victim´s movement is controlled,

he/she appears to move without restriction but is controlled by the traffickers, e.g. from a distance),

- restrictions on freedom of movement, limiting contact between the victim and close relatives,
- any indication that the perpetrator controls communications between the victim and the family of the victim, the police,
- intimidation, threats of bodily injury,
- lack of food, water, sleep, medical care and other basic needs,
- mental / physical threats / pressure /or other forms of harm in order to conclude marriage.

In most cases of trafficking in human beings for the purpose of forced marriage, the real intentions of the traffickers are not manifested until after the arrival of the potential victims in the destination country. This means that recruitment is carried out with the use of deceit and fraudulent behaviour such as the offer of a job abroad or pretending to have a loving relationship with the victim. There is, however, also a case where conclusion of marriage was a form of recruitment. In such cases the potential victim voluntarily travels abroad without any suspicion.

5.1.5 Conclusions

In all cases of trafficking in human beings for the purpose of forced marriage there was a clear interest of third-country nationals to obtain residence permits through marriage with a national of a Member State of the EU, and in these cases those were nationals of the Slovak Republic. Thus it can be concluded that the cases of trafficking for forced marriage may have an element of (exploitative) sham marriage, even though this is not how the cases are qualified by the Slovakian criminal justice system, which only uses sham marriage terminology in cases related to smuggling.

In connection with cases No. 1 to No. 6 described in chapter 5.1.2, there is an evident effort of the Slovak law enforcement agencies to cooperate with other countries and to share the information found in the context of the investigations. However, there are problems in cross-country cooperation and it is often expensive and time consuming. Especially the length of the procedure and the cross-border nature of crimes committed can be assessed as a problematic area. The concept of a European Public Prosecutor could facilitate the problems such as the need to shorten the length of the investigations in cases where some parts of the proceedings were conducted in several countries and consequently the criminal proceedings are conducted in several countries.

Lack of practical application of the trafficking in human beings offence, case law and practical interpretation of the elements of the criminal offense of trafficking in human beings are perceived as problematic by the interviewed experts. Law enforcement agencies are in a more difficult situation, especially because trafficking is a very hidden form of crime and it is not rare that the

credibility of the testimony of victims is affected by frequent changes in their statements and the ambiguous and unclear information given.

There are two final judgments which are described in chapter 5.1.3. In both cases, the perpetrators were sentenced to imprisonment with a suspension of the sentence and the imposition of probation supervision. In both judgments, there is also a restraining order imposed on perpetrators not to approach the victims and their homes. The possibility of the use of plea bargaining by the prosecutor approved by the court seems to be a problem. The Recommendation on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Slovak Republic adopted at the 17th meeting of the Committee of the Parties on 30 November 2015 recommends that the Slovak authorities take measures to ensure that the offence of trafficking in human begins is excluded from the plea bargaining procedure. So far there has not been any amendment of the law in this respect in Slovakia.

The following table summarises the main findings derived from the cases analysed for this report. The table contains information regarding recruitment, influencing factors, transportation, exploitation, organisation, identification and prevention.

The following table depicts the most important outcomes derived from the cases of trafficking in human beings for the purpose of forced marriage. On the basis of the phases of trafficking in human beings we generalized modus operandi from the cases. It is clear that it is necessary to pay attention to prevention in the most vulnerable groups. The use of tailored social assistance to improve the quality of their life, educational programmes as well as targeted prevention are necessary to raise awareness. It should be a long-term and coherent objective.

Table 8. Summary of findings from the cases of trafficking in human beings for the purpose of forced marriage.

I. recruitment	**process of recruitment**	pretending to be in love with the victim, offer of good work, possibility to obtain money illegally for conclusion of marriage
	recruiter	close person, friend, acquaintance, person with the same ethnic background
II. influencing factors	**push factor**	promise of a better life
	risk factors	low educational skills, naivety, poor social situation, low level of information
III. transport	**means of transport/vehicle**	boat, car, bus
	way of transport	alone, accompanied by perpetrators
		voluntarily, under threat or force
IV. exploitation	attempt of forced marriage in combination with rape or forced labour, forced conclusion of marriage	
V. organisation	group of young men, friend, organised group	
VI. identification	NGO, police, neighbour, health care institution	
VII. prevention	awareness raising	

5.2 Analysis of the cases of smuggling in the form of sham marriages

The summary of the court decisions relating to sham marriages indicates that Algerian, Chinese, Macedonian, Moroccan, Serbian, Turkish, Serbian, Ukrainian and Vietnamese nationals wanted to conclude or concluded marriage

with Slovak nationals. In one case the country of origin was not identified. If we focus on the gender of these foreigners, they were as follows: two men from each of the following countries: Macedonia, Serbia and Vietnam, six men and five women from China, and one man from each of the following countries: Algeria, Ukraine, Morocco and Turkey and one from an unidentified country. Thus, there were 17 men and 5 women in total. Within the number of convicted persons, there were also persons who did not conclude a marriage but had induced victims or they were engaged in this crime. The financial reward ranged from 33.19 euros to 5000 euros.

Due to the fact that each of the existing judgments relating to sham marriage describes sham marriage with no signs of violence or exploitation, we did not analyse those judgments in the research. The court is an independent body. If there were any issues in the case that would need to be dealt with by another competent authority, the judge would refer such an issue to relevant proceedings. To the extent that the judge did not find any sign of exploitation, i.e. there were no such signs that would be referred to different proceedings, it would be very difficult for the researchers to prove this condition. That is why we will consider only judgment No. 3 of 2013, where violence was obviously present.

Court Decision No. 3, Criminal District Court Pezinok under reference 122/2013 3T

The District Court in Pezinok found a total of five persons guilty through a sentence order and sentenced them to imprisonment for a period of two years with suspension of sentence and a probation period lasting two years. The perpetrators included three Slovak nationals of Macedonian origin who induced a Slovak national to conclude a marriage with a Serbian national for 300 euros. Three perpetrators received 1000 euros compensation from the organiser for their services.

A representative of the Public Prosecutor's Office was interviewed regarding this case and said:

> "There was a group of Slovak nationals of Macedonian origin residing in the Slovak Republic since the 1990s and doing business in the car industry. They have strong family ties in Slovakia. This group was already assimilated as they had been operating in Slovakia for a long time. In 2011, the group approached a woman, a Slovak national, who was promised 300 euros as a reward if she married a son of a cousin of one of the Macedonians. At the same time, in addition to the financial reward she was promised that she would live with them and their sons. The woman agreed. She has a low level of education and she is mentally disabled. When applying for the marriage, a proactive approach of the birth registry staff resulted in this young woman changing her mind and she refused to conclude a marriage. After the rejection of the application for the marriage the groom's uncle started to threaten her.
>
> Later there was a resubmission of the application at a different birth registry office. In this case, a criminal complaint was filed in 2013. The outcome of the procedure is the above sentence order."

Threats and coercion as described in court decision No. 3 were used in connection with violation of the woman's retraction of her consent, and the already provided financial reward.

5.2.1 Indicators of sham marriage

When speaking about sham marriages, it should be understood as violation of law by the organiser as well as by the persons concluding a marriage. Therefore, there is no victim.

Based on the information obtained from interviewees, the analysis and the documents on sham marriage, the indicators of sham marriage include the following:

- different nationality of fiancés - one of the fiancés is a third-country national,
- language barriers - an interpreter or translation devices between fiancés are necessary,
- the absence of relatives and friends, respectively very few guests, at the ceremony giving rise to the suspicion that there are no close relatives of the wedding couple,
- the absence of wedding receptions,
- disproportionate age difference between fiancés,
- the marriage is concluded a few days after the third-country national enters the Slovak Republic,
- a person (national of the Slovak Republic or the EU) concluding marriage is in a difficult financial situation etc.

It should be noted that not all of the above mentioned indicators need be present in each case of such marriage violating the law. We must also note that not every marriage where there are different nationalities or disproportionate age difference between fiancés would immediately indicate a criminal offence in the form of sham marriage. Each case is examined individually and the broader context is taken into account.

To illustrate the above indicators, we quote from an article related to the subject. *"They went to conclude a marriage and did not even know the name of the bride or groom. The same vice versa. We experienced the situation when the bride did not even know what her future husband looks like. We showed her pictures of him and she could not identify him,"* said the deputy head of the National Unit, as reported in the weekly magazine Plus 7 days.[15]

"The most recent case currently registered by the Alien Police indicates a sham marriage in Western Slovakia. A Slovak national born in 1959 submitted an application for an invitation for a man from Morocco who was born in 1995.

[15] Article "Smarter" published in the magazine Plus 7 Days, written by Lenka Ďurajková, 2012.

The woman allegedly fell in love on vacation. This case shows some of the indicators of sham marriage, "said the representative of the Alien Police.

5.2.2 Conclusions

All court decisions concerning sham marriages in the Slovak Republic resulted in a suspended prison sentence or sentence of probation. A fine was imposed only in one case. The court decisions regarding sham marriages provide an overview of how sham marriages are committed and what means are used.

Coercion, threats of harm or violence, or subsequent exploitation were not reported in any of the above cases, so we cannot speak about exploitative sham marriages regarding these specific cases in light of the documents analysed.

Threats and coercion described in court decision No. 3 were used in connection with a violation of the initial agreement and already provided financial reward. However, this case does not involve any clear signs of forced marriage, but the threats used could suggest an exploitative element to the case. The court decisions concerning sham marriages were used to illustrate and confirm our assumptions and conclusions for the purposes of this report.

When communicating with law enforcement agencies, the following areas of possible application problems related to sham marriages were identified:

- lack of practical application,
- lack of case law practice of the courts,
- evidential complexity of the situation,
- organised character of groups performing recruitment and administrative matters,
- ineffective cooperation with foreign countries: the length of the procedure and the impreciseness of provided documents etc.

6. Conclusions and recommendations

The research report was aimed at an analysis of information on sham marriages and trafficking in human beings for the purpose of forced marriage; at identifying interconnections between sham marriages and trafficking in human beings; at pointing out eventual deficiencies in the applied practices; and at proposing appropriate solutions as seen by the authors of the report.

The reason why we focused on sham marriages and forced marriages as the purpose of trafficking in human beings was the fact that sham marriages and forced marriages as the purpose of trafficking in human beings show similarities and possible links. We presented examples of sham marriages and forced marriages in chapters 4 and annex 1. The information was provided to us by NGOs working with victims of trafficking in human beings, and by the state authorities such as law enforcement authorities and by the courts. We also used information provided by the media (see annex 1)

We did not obtain any significant amount of information on cases where the partners remained in the same household after the conclusion of sham marriage, and one of them exploits the other. However, we did encounter a case where threats were used against a woman who refused to conclude a sham marriage after she had received payment. We did not obtain information regarding cases where a married couple would be exploited by a third person after conclusion of the sham marriage, e.g. by the one who organised their wedding or ensured administrative matters related to the conclusion of the marriage.

However, we did succeed in identifying a clear interconnection between sham marriages and forced marriages. The cases can be interconnected if the offer of a wedding between a Slovak national and a third-country national refers to the form of recruitment in a case of trafficking for forced marriage. This primarily concerns women who are induced to travel to a foreign country with the intention of concluding a marriage with a third-country national for financial reward. Upon arrival in the foreign country, the woman is usually subject to removal of identification documents, restriction of free movement, or menace and violation. Marriage is concluded either through force or voluntarily, but with subsequent sexual or labour exploitation. Unfortunately, none of the women in the cases we examined had recognised such pitfalls. Along with poor social situation, low education and naivety, the opportunity of a high financial reward for a small effort represents the major push factor in such cases.

The situation could be significantly lessened through awareness raising that will be focused on the threats hidden behind the attractive offers in both cases of sham marriages and trafficking in human beings. In both cases it is crucial to identify the indicators of these fake offers so the person is not misused. Moreover, in case of sham marriage, the offender faces 2 to 8 years of imprisonment and the foreign nationals face deportation. In such a case, a Slovak national or a national of another Member State of the EU can be sentenced to imprisonment.

The Birth Registry Department registers all marriages that have been concluded in the territory of the Slovak Republic. However, they do not register a separate overview of concluded marriages between nationals of the Slovak Republic and aliens. For that reason, cooperation between the Border and Alien Police Bureau and birth registries in the reporting of such marriages is crucial.

At the same time, it should be noted that also on the basis of the interviews with representatives of the Birth Registry Department and the Alien Police Unit of the Border and Alien Bureau, both stakeholders expressed interest regarding the amendment of the relevant guidance and the fostering of cooperation of the parties concerned.

Interviews with the Birth Registry Department revealed that they expressed concern related to the lack of information exchange with foreign counterparts in cases of conclusion of marriage with Slovak nationals. With reference to this gap, it seems necessary to intensify and foster cooperation between the states.

Another area that should be regulated concerns cooperation between the birth registries or national population registries of particular countries. A single contact point should be established for all birth/population registries that would notify the partner birth/population registry abroad of concluded marriage by particular country nationals. In this way, double marriage could be prevented and sham marriage or trafficking in human beings for the purpose of forced marriage could be identified at an earlier stage.

In this area we would like to highlight the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (hereinafter referred to as the "Convention"). The mentioned Convention or the Apostille Treaty is an international treaty which was adopted in the Hague in 1961. It specifies the modalities through which a document issued in one of the signatory countries can be certified for legal purposes in all the other signatory states. If all the countries of the EU ratified and followed this Convention, it would help to reduce various forms of criminal activities and frequent misuse of social systems in some countries.

Active, effective and flexible cooperation of law enforcement authorities is essential for successful prosecution primarily in cases of trafficking in human beings. It is counterproductive and ineffective for criminal prosecution if a request of a Member State of the EU to another Member State using mutual legal assistance takes months or even years. It is necessary to deal with the requests related to such serious criminal activities promptly and without delay.

We make the following recommendations for the respective authorities included in the national referral mechanisms of all countries in the international context within their respective competence:

1. ***Increase the rate of effective identification of victims*** of trafficking in human beings for the purpose of forced marriage.
2. Increase effectiveness in detection and conviction of perpetrators of the criminal offence of smuggling.

3. ***Develop and intensify communication and cooperation*** between the Alien Police and Birth Registries in the Slovak Republic.

4. ***Improve information provision to the public and vulnerable groups*** (via appropriate channels) on the trafficking phenomena for the purpose of forced marriage and on its threats.

5. ***Inform the public and vulnerable groups*** (via appropriate channels) about sham marriages in the terms of the criminal liability of the persons concluding sham marriage.

6. Ensure uniform interpretation of the term "forced marriage" on the international level.

7. Seek opportunities for easier provision of evidence by the law enforcement authorities.

8. ***Increase the awareness of law enforcement authorities and courts*** regarding the issue of trafficking in human beings and its specific forms.

9. Introduce the possibility of declaring a marriage null and void upon proved trafficking in human beings for the purpose of forced marriage.

10. ***Ensure communication and information sharing*** between the Slovak consulates abroad and the special Birth Registry.

11. ***Ensure information forwarding*** to a special Birth Registry in case of concluded marriage of a Slovak national abroad.

12. Unify all procedures and terms applied during identification and investigation of trafficking cases.

13. ***Unify the legislation and procedures*** applied on the international level and related to conclusion of marriage.

14. ***Improve cooperation on the international level***, e.g. through establishment of the institute of EU prosecutor for cross-border crimes, and ensure simplified international police cooperation and information sharing.

References

Literature:

Článok s názvom „Šikovnejší“, publikovaný v časopise Plus 7 dní, autor: Lenka Ďurajková, rok 2012 [Article “Smarter” published in the magazine Plus 7 Days, written by Lenka Ďurajková, 2012]

Dohovor Organizácie Spojených národov proti nadnárodnému organizovaného zločinu a jeho dodatkový Protokol o prevencii, potláčaní a trestaní obchodovania s ľuďmi, osobitne ženami a deťmi (tzv. Palermský protokol) [Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime]

Komentár k Trestnému zákonu č. 300/2005 Z. z. Komentár spracovaný pod vedením vedúceho autorského kolektívu JUDr. Jozefa Čentéša, PhD. [Comment to the Penal Code, Act No. 300/2005 Coll. Comment elaborated under the guidance of the head of the copyright collective of JUDr. Jozef Čentéš, PhD.]

Malá tematická štúdia EMN: Zneužívanie práva na zlúčenie rodiny: účelové manželstvá a falošné prehlásenie rodičovstva v Slovenskej republike. Bratislava: 2012. ISBN 978-80-89506-25-5. [EMN Small Thematic Study: Abuse of the right of family reunification: Sham marriages and false declaration of parentage in the Slovak Republic]

Národný programu boja proti obchodovaniu s ľuďmi na roky 2015 – 2018 schválený uznesením vlády 52/2015 4. februára 2015 [The National Programme of Combating Trafficking in Human Beings for the years 2015-2018 was adopted by the Government resolution 52/2015 on 4 February 2015]

Nariadenie Ministerstva vnútra Slovenskej republiky č. 180 z 19. decembra 2013 o zabezpečení programu podpory a ochrany obetí obchodovania s ľuďmi [Regulation of the Ministry of the Interior of the Slovak Republic No. 180 of 19 December 2013 on the Programme of Support and Protection of Victims of Trafficking in Human Beings]

Smernica Európskeho parlamentu a Rady 2011/36/EÚ z 5. apríla 2011 o prevencii obchodovania s ľuďmi a boji proti nemu a o ochrane obetí obchodovania s ľuďmi, ktorou sa nahrádza rámcové rozhodnutie Rady 2002/62/SVV [Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA]

Acts:

Zákon č. 36/2005 Z. z. o rodine v znení neskorších predpisov [Act No. 36/2005 Coll. on Family as amended]

Zákon č. 154/1994 Z. z. o matrikách v znení neskorších predpisov [Act No. 154/1994 Coll. on Birth Registers as amended]

Zákon č. 97/1963 Z. z. o medzinárodnom práve súkromnom a procesnom v znení neskorších predpisov [Act No. 97/1963 Coll. On International Private Law and Rules of Procedures related thereto as amended]

Zákon č. 300/2005 Z. z. Trestný zákon v znení neskorších predpisov [Act No. 300/2005 Coll. Penal Code as amended]

Zákon č. 204/2013, ktorým sa mení a dopĺňa zákon č. 300/2005 Z. z. Trestný zákon v znení neskorších predpisov a ktorým sa menia a dopĺňajú niektoré zákony [Act No. 204/2013, amending and supplementing Act No. 300/2005 Coll. Penal Code as amended, and amending certain laws]

Zákon č. 404/2011 o pobyte cudzincov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov [Act No. 404/2011 on the Residence of Aliens and on amendments to certain laws as amended]

Zákon č. 71/1967 Zb. o správnom konaní (správny poriadok) v znení neskorších predpisov [Act No. 71/1967 Coll. on Administrative Proceedings (Code of Administrative Procedure) as amended]

Zákon č. 215/2006 Z. z. o odškodňovaní osôb poškodených násilnými trestnými činmi v znení neskorších predpisov [Act No. 215/2006 Coll. on Compensation of Victims of Violent Crimes as amended]

Zákon č. 480/2002 Z. z. o azyle a o zmene a doplnení niektorých zákonov v znení neskorších predpisov [Act No. 480/2002 Coll. on Asylum and amending and supplementing certain acts as amended]

Zákon č. 256/1998 Z. z. o ochrane svedka a o zmene a doplnení niektorých zákonov v znení neskorších predpisov [Act No. 256/1998 Coll. on Witness Protection and amending and supplementing certain acts as amended]

Court decisions:

Rozsudok Okresného súdu Trebišov so spisovou značkou 5T/35/2015 [The Court Decision of the Trebišov District Court under reference 5T/35/2015]

Rozsudok Okresného súdu Michalovce so spisovou značkou 1T/105/2015 [The Court Decision of the Michalovce District Court under reference 1T/105/2015]

Rozsudok Okresného súdu v Galante so spisovou značkou 2T/258/2011 [The Court Decision of the Galanta District Court under reference 2T/258/2015]

Rozsudok Okresného súdu Dunajská Streda so spisovou značkou 4T/3/2013 [The Court Decision of the Dunajská Streda District Court under reference 4T/3/2013]

Rozsudok Okresného súdu Bratislava V so spisovou značkou 2T/46/2013 [The Court Decision of the Bratislava V District Court under reference 2T/46/2013]

Rozsudok Okresného súdu Nitra so spisovou značkou 5T/110/2013 [The Court Decision of the Nitra District Court under reference 5T/110/2013]

Rozsudok Okresného súdu Trnava so spisovou značnou 2T/58/2013 [The Court Decision of the Trnava District Court under reference 2T/58/2013]

Rozsudok Okresného súdu Nové Zámky so spisovou značkou 2T/135/2013 [The Court Decision of the Nové Zámky District Court under reference 2T/135/2013]

Rozsudok Okresného súdu Košice II so spisovou značkou 4T/26/2014 [The Court Decision of the Košice II District Court under reference 4T/26/2014]

Trestný rozkaz Okresného súdu Pezinok so spisovou značkou 3T/122/2013 [The Penal Order of the Pezinok District Court under reference 3T/122/2013]

Trestný rozkaz Okresného súdu Spišská Nová Ves so spisovou značkou 3T/193/2013 [The Penal Order of the Spišská Nová Ves District Court under reference 3T/193/2013]

Trestný rozkaz Okresného súdu Bratislava II so spisovou značkou 3T/123/2013-405 [The Penal Order of the Bratislava II District Court under reference 3T/123/2013-405]

Trestný rozkaz Okresného súdu Poprad so spisovou značkou 5T/28/2015 [The Penal Order of the Poprad District Court under reference 5T/28/2015]

Statistical Data:

Štatistické údaje poskytnuté Národnou jednotkou boja proti nelegálnej migrácii úradu hraničnej a cudzineckej polície znázornené v tabuľke č. 1 [Statistical data provided by the National Unit of Combating Illegal Migration under the Border and Alien Police Bureau depicted in table No. 1]

Štatistické údaje poskytnuté Generálnou prokuratúrou Slovenskej republiky k tabuľke č. 2 [Statistical data provided by the General Prosecutor´s Office of the Slovak Republic for table No. 2]

Štatistické údaje poskytnuté Ministerstvo spravodlivosti Slovenskej republiky k tabuľke č. 3 [Statistical data provided by the Ministry of Justice of the Slovak Republic for table No. 3]

Štatistické údaje poskytnuté Informačným centrom na boj proti obchodovaniu s ľuďmi a prevenciu kriminality Ministerstva vnútra Slovenskej republiky k tabuľke č. 4 [Statistical data provided by the Information Centre for Combating trafficking in human beings and Crime Prevention of the Ministry of the Interior of the Slovak Republic for table No. 4]

Štatistické údaje poskytnuté Národnou jednotkou boja proti nelegálnej migrácii úradu hraničnej a cudzineckej polície znázornené v tabuľke č. 5 [Statistical data provided by the National Unit of Combating Illegal Migration under the Border and Alien Police Bureau depicted in table No. 5]

Newspaper articles available online:

Written by: TASR: Slováci sa ženia za peniaze: Arménka za 850 eur! [Slovaks get married for money: Armenian woman gets married for 850 euros!], http://www.topky.sk/cl/10/1277796/Slovaci-sa-zenia-za-peniaze--Armenka-za-850-eur- published on 15 June 2011

Written by: TASR: Polícia: Slovenke núkal Turek za svadbu pre víza 500 eur [The Police: Turkish man offered 500 euros to a Slovak woman to marry him in order to obtain visa], http://www.cas.sk/clanok/209188/policia-slovenke-nukal-turek-za-svadbu-pre-viza-500-eur.html, published on 24 October 2011

Written by: TASR: Sobášny podvod? Britská polícia zatkla Slovensku priamo na svadbe [Sham marriage? The British police detain a Slovak woman during the wedding ceremony], http://www.cas.sk/clanok/194519/sobasny-podvod-britska-policia-zatkla-slovenku-priamo-na-svadbe.html published on 28 March 2011

Written by: Čas.sk: Polícia: Právnik za peniaze lákal na sobáše s Číňanmi a Číňankami [The Police: A lawyer organises weddings with Chinese men and women against payment], http://www.cas.sk/sobas, published on 19 March 2012

Vyšetrovateľ: Jaroslave dali za fiktívny sobáš so Srbom 300 eur [The investigator: Jaroslava given 300 euros for marriage with a Serbian national], http://www.cas.sk/clanok/218915/vysetrovatel-jaroslave-dali-za-fiktivny-sobas-so-srbom-300-eur.html, published on 9 March 2012

Written by: Radovan Krčmárik: Smetana by sa tešil, predané nevesty sú žiadané [Smetana would be glad, brides-for-sale wanted], http://spravy.pravda.sk/domace/clanok/173961-smetana-by-sa-tesil-predane-nevesty-su-ziadane/, published on 9 April 2012

Written by: Rudolf Sivý: Poslal do otroctva dcéry, družka bola na to príliš stará [He sent his daughters to slavery; his partner was too old], http://romovia.sme.sk/c/6930129/poslal-do-otroctva-dcery-druzka-bola-na-to-prilis-stara.html#ixzz3pCnXJBCl, published in September 2013

Maročana zo sobášnej siene odviedli na políciu a vyhostili zo Slovenska [Morocco national was brought to the Police Department from the wedding hall and deported from Slovakia], http://www.cas.sk/clanok/264008/marocana-zo-sobasnej-siene-odviedli-na-policiu-a-vyhostili-zo-slovenska.html, published on 28 October 2013

Slovenkám platili za sobáš so Srbmi, pozrite sa koľko! [Slovak women were paid for wedding with Serbian men, look at how much it is for!], http://www.cas.sk/clanok/300478/slovenkam-platili-za-sobas-so-srbmi-pozrite-sa-kolko.html, published on 25 November 2014

Written by: Marián Kizek: Svadbu Inda a Rómky v Košiciach prerušilo deväť policajtov [Wedding of a man from India and a Roma woman in Košice was interrupted by nine policemen], http://kosice.korzar.sme.sk/c/7928977/svadbu-inda-a-romky-v-kosiciach-prerusilo-devat-policajtov.html#ixzz3pBjQ3fk, issued on 24 July 2015

Na fingované sobáše lákajú aj Slovenky, končia v hrozných podmienkach [Slovak women are lured to conclude sham marriage with catastrophic consequences], http://www.ta3.com/clanok/1062590/na-fingovane-sobase-lakaju-aj-slovenky-koncia-v-hroznych-podmienkach.html, published on 26 May 2015

Tehotná Slovenska (20) obeťou obchodu s ľuďmi: Vydali ju za islamistu, chceli ju donútiť k potratu! [Pregnant Slovak woman (20) became a victim of traffickers: She married an Islamist who attempted to force her to get an abortion!], http://www.topky.sk/cl/10/1438063/Tehotna-Slovenka--20--obetou-obchodu-s-ludmi--Vydali-ju-za-islamistu--chceli-ju-donutit-k-potratu-, published on 14 November 2014

Polícia zadržala skupinu, ktorá získavala ženy na nútené sobáše [Police detained a gang that recruited women for the purpose of forced marriage], http://www.sme.sk/c/7937121/policia-zadrzala-skupinu-ktora-ziskavala-zeny-na-nutene-sobase.html, published on 29 July 2015

Rómov zo Slovenska usvedčil súd v Británii z obchodovania s ľuďmi [Roma from Slovakia are convicted of trafficking in human beings by the British Court of Justice], http://www.teraz.sk/krimi/romovia-britania-obchodovanie-s-ludmi/151437-clanok.html, published on 19 August 2015

V Británii súdia Slovákov za obchodovanie s ľuďmi [Slovaks sentenced in the United Kingdom for trafficking in human beings], http://spravy.pravda.sk/domace/clanok/365021-v-britanii-sudia-slovakov-za-obchodovanie-s-romkami/, published on 19 August 2015

Annex 1. Forced marriages and sham marriages in the media

The following section is dedicated to the media articles published regarding cases of forced marriages and sham marriages. We focused on the articles published and available on internet websites between the years 2011 and 2015. We have collected 25 articles dealing with human trafficking for the purpose of forced marriage and smuggling in the form of sham marriages. The articles were chosen based on their contents and their relation to the project. This part relates to a summary of articles published in Slovak newspapers, translated into English. They were selected based on searches using the most common phrases for making the most relevant search results. The following phrases have been searched: forced marriage, exploitation, false / fraudulent / deceitful / contracted / fictitious marriage. We have chosen the most interesting ones.

Article No. 1
Slovaks get married for money: Armenian woman gets married for 850 euros!

The Slovak police announced disclosed cases of organised fictitious marriages (so-called sham marriages) of Slovak nationals with foreign nationals for a financial reward. In this way, foreign nationals allegedly made efforts to obtain a residence permit in Slovakia. Three persons accused by the police, in case of conviction by the court, may be sentenced for 2 to 8 years of imprisonment. The Presidium of the Police Force in Slovakia stated that a ***Slovak citizen, of Armenian origin, persuaded another Slovak man to marry an Armenian woman*** for a financial reward of at least ***850 euros.*** The wedding took place in Bratislava and the foreign national applied for a residence permit. A similar wedding was reported by the police in May 2015 when a ***Slovak citizen married a Macedonian man allegedly for 2,000 euros***. In both cases, the prosecutor charged the person who had allegedly arranged the marriage, as well as a Slovak female and male who concluded marriage with a foreign national for financial reward. Neither the Macedonian man nor the Armenian woman received a residence permit. The Macedonian man was deported from Slovakia and an entry ban to Slovakia was imposed on him for 5 years. A similar procedure will probably be applied to the Armenian woman.[16]

Article No. 2
The police: Turkish man offered 500 euros to a Slovak woman to marry him in order to obtain visa

A Turkish man´s Slovak visa expired, so, according to the police, he wanted to marry a Slovak in order to receive a permanent residence permit**.** An investigator from the National Unit for Combating Illegal Migration suspects three persons who intended to arrange a sham marriage in order to enable a Turkish national

[16] Written by: TASR: Slováci sa ženia za peniaze: Arménka za 850 eur! [Slovaks get married for money: Armenian woman gets married for 850 euros!], http://www.topky.sk/cl/10/1277796/Slovaci-sa-zenia-za-peniaze--Armenka-za-850-eur- published on 15 June 2011.

to apply for a permanent residence permit in Slovakia. According to the police, the brother of the false groom, a Turkish man from Austria, contacted a Slovak woman who induced her friend to marry the man in exchange for ***500 euros.*** A few days after the wedding, which took place in Dunajská Streda, the Turkish man applied for a permanent residence permit in Slovakia. The police had monitored the situation and the application was rejected. Two Slovak women and a Turkish man living in Austria were accused of the criminal offence of smuggling, facing a sentence of imprisonment of from 2 to 8 years. A 5 year entry ban to Slovak territory was imposed on the false groom.[17]

Article No. 3
Sham marriage? The British police detain a Slovak woman during the wedding ceremony

A Slovak bride and her groom from Pakistan were detained by the British police in the Leeds City Hall during the wedding ceremony. The couple and five wedding guests were accused by the authorities of a "sham marriage" and breach of immigration law. Just before getting married the 23-year-old Pakistani and a 22-year-old woman from Slovakia were arrested. There were two other Slovak women aged 22 and 32 among the detained people, and three men from Pakistan. In relation to the investigation, police searches were conducted in a few apartments in Leeds. According to the police, the only reason for the marriage was the intention to avoid immigration controls and enable the stay in the UK for the Pakistani man. . The police declared that the Pakistani man wanted to get British citizenship in this way. There have been several police investigations into sham weddings in the United Kingdom in which Slovak brides had participated.[18]

Article No. 4
The police: A lawyer organises weddings with Chinese men and women against payment

According to a police investigator, a lawyer enticed Slovak men and women into concluding marriage with ***Chinese women and men.*** A 38 year old lawyer organised at least 8 ***sham marriages between Slovak and Chinese nationals.*** The sham marriages were aimed at obtaining permanent residence permit for Chinese nationals. Seven persons involved in eight cases of sham marriage concluded from 2006 to 2010 have been accused of the criminal offence of smuggling. In case proven guilty, they will face 2 to 8 years of imprisonment. The persons have not been taken to custody. Had they concluded marriage with

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[17] Written by: TASR: Polícia: Slovenke núkal Turek za svadbu pre víza 500 eur [The police: Turkish man offered 500 euros to a Slovak woman to marry him in order to obtain visa], http://www.cas.sk/clanok/209188/policia-slovenke-nukal-turek-za-svadbu-pre-viza-500-eur.html, published on 24 October 2011.

[18] Written by: TASR: Sobášny podvod? Britská polícia zatkla Slovensku priamo na svadbe [Sham marriage? The British police detain a Slovak woman during the wedding ceremony], http://www.cas.sk/clanok/194519/sobasny-podvod-britska-policia-zatkla-slovenku-priamo-na-svadbe.html published on 28 March 2011.

Slovak nationals, the Chinese nationals would have been entitled to a permanent residence permit in Slovakia for five years for the purpose of family reunification. According to the police, seven Slovak nationals were induced/persuaded to conclude such marriages between 2006 and 2010. The investigator stated that five women and three men aged between 25 and 58 allowed themselves to be lured by the vision of quick profit, being rewarded with an amount ranging from ***664 to 1,330 euros.*** Seven Slovak citizens concluded marriage with Chinese nationals at various birth registries in Bratislava, and applied for a permanent residence permit at the police departments in several Slovak towns. The first permanent residence permit was granted for a period of five years and entitled them to reside in any country within the Schengen area. The plotter himself concluded a marriage as well, marrying a Chinese woman for less than ***1,000 euros***. He also persuaded his daughter to commit the same crime at the same price. He recruited other "brides" and "grooms" from a circle of friends and acquaintances. Four Chinese nationals who had concluded marriage were taken by police and deportation is expected. The police have been more successful in revealing such criminal activity. At the beginning of this month, they suspected five persons and three persons at the end of the year of sham marriages and the criminal offence of smuggling.[19]

Article No. 5
Investigator: Jaroslava given 300 euros for marriage with a Serbian national

The police reported that a Slovak woman (21) got married to a man ***from Serbia*** in Pezinok and received compensation amounting to ***300 euros***. Now she faces imprisonment. According to the investigator, ***a 41-year-old Slovak citizen coming from Serbia***, wanted to obtain a permanent residence permit for his nephew from Serbia. If he would marry a Slovak citizen, he would have been entitled to a permanent residence permit in Slovakia for five years in order to reunify the family. The fraud had been organised for about a year. The organiser from Serbia induced three Slovak men to find a bride from Slovakia for compensation of 1000 euros. She should have married his 21-year-old nephew. According to the police, the 21-year-old Slovak woman was short of money and the three men took advantage of her situation. They made her conclude a marriage with the Serbian national. She received compensation to the amount of 300 euros. The wedding took place in Pezinok´s Old City Hall last year. In order to prevent her from changing her mind, the three men were witnesses at the wedding. The police are currently investigating why the foreigner failed to apply for a permanent residence permit but got back home after expiration of his 90-

[19] Written by: Čas.sk: Polícia: Právnik za peniaze lákal na sobáše s Číňanmi a Číňankami [The police: A lawyer organizes weddings with Chinese men and women against payment], http://www.cas.sk/sobas, published on 19 March 2012.

day visit visa. The wedding plotter, three witnesses and the bride have been accused of smuggling and face a sentence of 2 to 8 years of imprisonment.[20]

Article No. 6
Smetana would be glad; brides-for-sale wanted

There has been an increase in the number of cases when Slovaks are paid for concluding a sham marriage with foreign nationals. Recently the police have solved eight frauds occurring between 2006 and 2010. In addition, some other cases have been identified. Having concluded sham marriage, foreign nationals try to obtain a permanent residence permit in Slovakia and free movement in the Schengen area. However, they risk much less than Slovaks who face imprisonment. Foreign nationals arrive in Slovakia mostly illegally or on a tourist visa. Later, some of them apply for asylum or seek ways to stay in Slovakia legally. If they marry a Slovak citizen, they are entitled to "the first permanent residence permit" in Slovakia for five years in order to reunify families. Last year, 747 foreign nationals got married in Slovakia, of whom 214 from South Korea, 128 from Ukraine, 123 from Russia and 73 from China. Slovaks concluding sham marriages usually don´t realize the fact that they face higher penalties than the foreigners. Foreigners are deported from the country and have an entry ban to Slovakia imposed on them for five years. However, their "spouses" face charges for the criminal offence of smuggling. In relation to foreigners, the police control lodging, business offices where foreigners are believed to work as well as their business activities, employment and the conclusion of sham marriages. Sham marriages have been the main problem of the developed Western European countries before. After accession of Slovakia to the EU in May 2004, and to the Schengen area in December 2007, smugglers from abroad found our country attractive as well. Such marriages aren´t concluded for economic reasons but because Slovakia is a member of the Schengen area. If a foreign national obtains a permanent residence permit in Slovakia, he/ she can freely move within the entire Schengen area. [21]

Article No. 7
He sent his daughters to slavery; his partner was too old

A residence permit in the Schengen area for a fee is easily accessible for dozens of people from third countries. The authorities are not doing anything about it. Photos of happy women embraced by their new husbands are at first delivered to the Foreign Police Department in Scotland, where they are used to prove a real relationship. Then the pictures of the couple are sent home – to the Slovak settlements to convince the families that their daughters are doing well abroad. The documentary film prepared by Kristína Magdolénová and Jarmila Vaňová

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[20] Vyšetrovateľ: Jaroslave dali za fiktívny sobáš so Srbom 300 eur [Investigator: Jaroslava given 300 euros for marriage with a Serbian national], http://www.cas.sk/clanok/218915/vysetrovatel-jaroslave-dali-za-fiktivny-sobas-so-srbom-300-eur.html, published on 9 March 2012.

[21] Written by: Radovan Krčmárik: Smetana by sa tešil, predané nevesty sú žiadané [Smetana would be glad, brides-for-sale wanted], http://spravy.pravda.sk/domace/clanok/173961-smetana-by-sa-tesil-predane-nevesty-su-ziadane/, published on 9 April 2012.

from the Roma Media Centre (Mecem), presented testimony of Slovak Roma who became slaves in Scotland. "*They want to go there"*, said a Roma man who sent his daughters to the United Kingdom. He would send his partner as well but she is too old, he said. "*Only girls about 18 years of age have a chance to marry,"* he admitted immediately. Today, nobody is able to say how many women from the Roma settlements in Slovakia married a man from Pakistan. The Roma community in Glasgow keeps silent as well. As described by the reporters from Mecem, approximately 3,000 Roma citizens from Slovakia, Czech Republic and Romania live there along one street – Allison Street. Families in the Roma settlements reject the claim that their daughters could be trapped in brothels. According to many of them, going abroad is the only way to get a better living. Many slavers/perpetrators present themselves as successful businessmen. *"They build family houses, show their wealth, and are often presented by non-Roma media as positive examples to the community",* said Jarmila Vaňová.[22]

Article No. 8
Morocco national was brought to the Police Department from the wedding hall and deported from Slovakia

Policemen thwarted the attempt of a ***28-year-old Slovak woman and 31-year-old Moroccan man*** at a sham marriage. How much are our people paid for such weddings? A boyfriend of Silvia (28) from the Košice residential zone Luník IX., and his friend, persuaded Silvia to conclude a sham marriage with a Moroccan national (31). The foreigner had arrived in the Eastern-Slovak city shortly before, from Brussels. The wedding ceremony was thwarted in the wedding hall by the police, since the Moroccan man was staying in Slovakia illegally. Instead of getting married, the Moroccan man was brought to the Police Department and was deported from Slovakia with an entry ban for 3 years. The "bride" and her two accomplices (39, 23) were suspected of smuggling. If the criminal charge is proved, they will face 1 to 5 years of imprisonment. Slovak citizens collect money for conclusion of a sham marriage with foreign nationals in the range of one to four thousand euros. In this and the previous year Chinese, Vietnamese, Turkish, Algerian, Albanian, Serbian and Montenegro nationals made efforts to conclude such marriages in Slovakia.[23]

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[22] Written by: Rudolf Sivý: Poslal do otroctva dcéry, družka bola na to príliš stará [He sent his daughters to slavery; his partner was too old], http://romovia.sme.sk/c/6930129/poslal-do-otroctva-dcery-druzka-bola-na-to-prilis-stara.html#ixzz3pCnXJBCl, published in September 2013.

[23] Maročana zo sobášnej siene odviedli na políciu a vyhostili zo Slovenska [Morocco national was brought to the Police Department from the wedding hall and deported from Slovakia], http://www.cas.sk/clanok/264008/marocana-zo-sobasnej-siene-odviedli-na-policiu-a-vyhostili-zo-slovenska.html, published on 28 October 2013.

Article No. 9
Slovak women were paid for wedding with Serbian men; look at how much it is for!

Seven ***Slovak women were paid by a gang for a wedding with Serbian men*** who wanted to apply for a residence permit in the EU. How much were they paid for it? The gang was operating in the territory of Slovakia, Germany, Denmark and Serbia. To obtain a residence permit in the EU territory for the Serbians, the gang organised sham marriages with Slovak women. A Serbian woman living in Germany received orders related to sham marriages along with money from a Serbian national. She is suspected of contacting Slovak mediators who had to select single Slovak women based on criteria such as age, etc. Three Slovak men (aged 25, 26 and 28) are suspected of selecting at least seven women from Košice who were paid ***1,000 euros*** for sham marriages with Serbian nationals. As found out by the portal www.cas.sk, the brides were about 24 years old, except for one who was 45 years old. The women, accompanied by the accused, a Košice citizen (31), travelled to Denmark to conclude the marriage. In Germany, Serbian nationals had to apply for a temporary or permanent residence permit that would allow a family reunion. Two Slovak men who were considered "bride fraud business" organisers, were taken into custody and are to be prosecuted in the United Kingdom for similar criminal activity; the other ones are prosecuted without arresting. Criminal prosecution of two Serbian men with German citizenship will be forwarded to their home country. An investigator suspects 11 members of international organised group of the criminal offence of smuggling. The 11 men committed the crime through arrangement for and conclusion of sham marriage with foreign nationals.[24]

Article No. 10
Wedding of a man from India and a Roma woman in Košice was interrupted by nine policemen

Sham marriage or true love? A 40-year-old Roma woman was marrying a ***ten years younger man from India***, on Saturday afternoon in Košice in the Old City Hall. The couple was checked by nine policemen from the Border and Alien Police Department but the wedding act was concluded, despite there being a couple who had just been married that almost didn´t kiss each other. Just before the ceremony, nine policemen from the Border and Alien Police Department appeared at the wedding office at the Wedding Hall; there were even more of them than there were wedding guests. Having received allegations about a of sham marriage, the policemen turned to check the Indian groom and his bride. According to the person from the wedding office, the policemen were not in uniform and they said they should check the couple´s documents. It seemed that the wedding ceremony wouldn´t be concluded but the groom-to-be took an ID card out of his pocket. The policemen looked at one another and allowed me to

[24] Slovenkám platili za sobáš so Srbmi, pozrite sa koľko! [Slovak women were paid for wedding with Serbian men; look at how much it is for!], http://www.cas.sk/clanok/300478/slovenkam-platili-za-sobas-so-srbmi-pozrite-sa-kolko.html, published on 25 November 2014.

continue the wedding ceremony. The ceremony was just a bit later than scheduled, approximately 10 – 15 min. Along with two Roma witnesses, there were only three children at the wedding ceremony, and another bride´s relative. It was the first bride´s marriage; the groom had been married before but we couldn´t obtain more details since the Old City registry refused to disclose the detail about the newlyweds. The wedding ceremony was held in two languages. The man from India had an interpreter and he expressed marital consent with "yes". The rather nervous bride who didn´t speak English at all, said "I do" after a moment of hesitation. The biggest surprise followed the call for the "first marital kiss" since the couple didn´t respond thereto. Then the groom indicated to the bride that they should kiss each other. The one who awaited a passionate kiss must have been disappointed. The woman from Košice maidenly turned her cheek towards the man. The couple also left the wedding hall in an unusual way; they didn´t book any restaurant for the wedding party. After the ceremony, they both sat on the bench at a nearby park, together with her relatives and a man who allegedly had introduced the Indian groom to the Slovak bride. The bride is not presently staying where she stated. According to the police, the wedding act was examined on the basis of information regarding the suspected conclusion of a sham marriage.

What does a foreign national gain in case of a sham marriage with a Slovak national?

- a foreign national who married a Slovak national will be allowed to apply for a permanent residence permit with a duration of five years and to move within the entire Schengen area.
- if a Slovak national concludes a sham marriage with the aim of making money easily, he/she faces criminal prosecution for smuggling and imprisonment for two to eight years.
- the foreign national faces deportation for five years. If children are born from such a marriage, maintenance has to be paid, and there is an entitlement to inheritance in case of death.
- according to published statistical data, criminologists revealed nine cases of EU nationals in the previous year, 12 persons were accused and the perpetrators received a profit of approximately 16.000 euros.[25]

[25] Written by: Marián Kizek: Svadbu Inda a Rómky v Košiciach prerušilo deväť policajtov [Wedding of a man from India and a Roma woman in Košice was interrupted by nine policemen], http://kosice.korzar.sme.sk/c/7928977/svadbu-inda-a-romky-v-kosiciach-prerusilo-devat-policajtov.html#ixzz3pBjQ3fk, issued on 24 July 2015.

The cases described in the previous articles can be categorized as sham marriages. They involved situations where both parties benefited from the conduct without signs of coercion or harm resulting from the conclusion of the marriage. There were also statements from the police officers and also a summary of what a foreigner can obtain from concluding such a marriage. In article Nr. 10, the reference to "a foreigner" means a third-country national.

Article No. 11
Slovak women are lured to conclude sham marriages with catastrophic consequences

KB, an 18-year-old woman from Slovakia, was without money and in a late stage of pregnancy when she arrived in the United Kingdom to marry a man whom she had never seen before. She was promised a nice living. She knew that the man wanted neither her nor a baby. A 23-year-old Pakistani man wanted to marry her in order to obtain a residence permit and a work permit in the EU. In this case, a woman's pregnancy is a big plus. The woman coming from a Roma settlement in the east of Slovakia near the Ukrainian and Hungarian border, was promised a nice apartment and a little money in the United Kingdom. In fact, she was moved from Manchester to Glasgow, Scotland, a few days after arrival in the United Kingdom where she was held in an apartment with the groom-to-be. He or his younger brother guarded her and took away her documents. She was not allowed to go out alone. *"We went out together once a week; I couldn´t go alone."* Tens of women from poorer corners of Eastern Europe have been attracted to the west and paid by men, mostly Asian and African, high amounts of money for acquiring the right to reside, work or obtain social benefits in a country of their choice, and to be allowed to freely move within the EU. The mediators are often organised criminal groups which get a major part of profit. The women are usually detained in a foreign country with empty hands. A social worker said that he knows a few other people from the Roma settlement who contracted marriage in the United Kingdom. The business, as they call it, is under the control of a Roma gang that recruit unemployed and uneducated people against the promise of a good income abroad. The women become brides in sham marriages or are forced into prostitution; the men are usually forced to work. According to the social worker they attract these women, sometimes offering them plane tickets, sometimes they travel by bus or car. They prepare the wedding ceremony. When the men get what they wanted to, they get rid of the women. According to Miroslav Wlachovský, the Slovak ambassador in the United Kingdom, groups of Slovak and Czech people living in the United Kingdom are perpetrators of the crimes. They prefer especially Scotland since the local legislation permits the contracting of a marriage by a person older than 16 years of age without the parents´ consent, contrary to the age limit of 18 years in the rest of the United Kingdom, he said. A pregnant woman is preferred since she increases the groom´s chances of obtaining the resident status. In November, the British police stated that they had identified the gang of traffickers. A 38-year-old Pakistani man paid **15,000 pounds (21,180 euros)** to the gang for a 20-year-old pregnant bride from Slovakia. The woman thought that she was going to visit her sister. Instead of the sister, she was met by a man at Luton Airport,

London, who brought her to an apartment and she had to conclude a marriage in Rochdale in July, conducted by an imam, the police stated. When the man obtained the required documents, a woman pretending that she is the woman´s sister, took her to a hospital for an abortion. The victim, who didn´t speak English, was informed about what was going on by an interpreter. "*The interpreter thought that she sought help because of abdominal pain. She was completely horrified,"* said James Faulkner, a police inspector from Rochdale. Potential grooms make various efforts, even on Facebook, where they offer even impossible things, including never-ending love. Many of the women who succumb are very vulnerable, with a complicated past or reduced mental capability. Only a few cases ended with a court verdict since women usually leave to another country of the EU after that bad experience. If they stay in the United Kingdom, they are usually frightened or incapable of being heard in court. They are also usually poor and prefer to accept misuse abroad rather than return home. The Slovak KB delivered her child in the United Kingdom and had to conclude a sham marriage. Some doubts emerged in the hospital regarding the father and it was found out that the woman was unable to find her permanent address. Finally, the groom was deported from the United Kingdom before the wedding. KB remained in the social house and returned to Slovakia two years ago. Her daughter remained in the United Kingdom under social care, since the mother was incapable of taking care of her, according to the authorities. She also didn´t want to return home. It was much better in the United Kingdom.[26]

Article No. 12

Pregnant Slovak woman (20) became a victim of traffickers: She married an Islamist who attempted to force her to get an abortion!

The British police broke up a gang in the Manchester district which was trafficking in people as well as a 20-year-old woman from Slovakia who also became their victim. As reported by the headline portal of the British TV channel BBC, as a result of raids, the police arrested 13 suspected perpetrators, of whom ten were men and three were women. The gang made the woman conclude a sham marriage and wanted to force her to have an abortion afterwards. A 20-year-old Slovak national was sold by the gang in the metropolitan county High Manchester for ***15,000 pounds*** and the gang organised the wedding with a man who faced deportation from the United Kingdom, as reported by the police. The woman told to the hospital interpreter that "she had been sold against her will" and she was frightened about the idea of an abortion. The group of ten men and three women aged 24 - 57 was taken into custody after being detained on Wednesday, 12 November at various addresses in the towns of Rochdale, Failsworth and Cheetham Hill in the county of High Manchester. The police reported that the woman, being in the 25th week of pregnancy, arrived at Lutton Airport at London in May, thinking that she was going to visit her sister. There

[26] Na fingované sobáše lákajú aj Slovenky, končia v hrozných podmienkach [Slovak women are lured to conclude a sham marriage with catastrophic consequences], http://www.ta3.com/clanok/1062590/na-fingovane-sobase-lakaju-aj-slovenky-koncia-v-hroznych-podmienkach.html, published on 26 May 2015.

she was met by a man who said that he was her sister´s friend and drove her to an address in Failsworth, where she was taken over by another man. She was married in July in Rochdale according to Islamic *sharia* law. The Slovak woman was later driven to the hospital to meet an interpreter. The interpreter told the hospital staff on duty that the Slovak woman wished to have an abortion. However, there was an independent interpreter who talked to the Slovak woman and he realized that "*the woman was sold for the conclusion of marriage against her will"*. The police added that the woman wasn´t aware of the gang´s intentions and by then it was too late. The deceived woman said that she had been sold to a man who "*she lived with in order to ensure the conferring of immigrant status in the United Kingdom to him."* Police inspector James Faulkner explained that it´s been a current trend to make business with pregnant women since in this way they can be conferred with immigrant status much faster than others. The police have ascertained that there were 400 cases of sham marriages concluded in Manchester. The perpetrators are being held in custody for the criminal offences of trafficking in human beings and intended violation of the Immigration Act.[27]

The previous two articles describe the same case of trafficking in human beings for the purpose of forced marriage from different perspectives, so it seemed appropriate to use both articles. The victim referred to in the article has been included in the Programme. The description of the case given by the organisation that provided care to the victim is introduced in Section 4.1.1 (Victim Nr. 5).

Article No. 13
Police detained a gang that recruited women for the purpose of forced marriage

The police identified an organised group operating in the field of trafficking in human beings within Slovakia, Austria, Germany, Belgium and Denmark Along with a Slovak national, a man from India was one of the group members. In Slovakia, the gang members recruited women for the purpose of forced marriage. The women were recruited mainly from a socially poor environment, mostly from Košice and its surroundings. They were promised work abroad, accommodation and a good income. They were informed about the conclusion of forced marriage while sitting in a car on the way to Bratislava or Vienna. If they refused the marriage, they were threatened, psychologically and physically tortured According to the police, these women were also abused so that they would sign various documents. After arriving in Bratislava and Vienna, they were taken over by a foreigner who organised the wedding and the grooms. He prepared the women for travel to Germany or Belgium where the future grooms from non-EU countries were waiting for them. The brides and grooms were transported to Denmark where, on the basis of the marriage certificate, the non-

[27] Tehotná Slovenska (20) obeťou obchodu s ľuďmi: Vydali ju za islamistu, chceli ju donútiť k potratu! [Pregnant Slovak woman (20) became a victim of traffickers: She married an Islamist who attempted to force her to obtain an abortion!], http://www.topky.sk/cl/10/1438063/Tehotna-Slovenka--20--obetou-obchodu-s-ludmi--Vydali-ju-za-islamistu-- chceli-ju-donutit-k-potratu-, published on 14 November 2014.

EU citizens applied for a residence permit in the EU countries. The gang earned 3,000 euros per wedding. Two men from Slovakia (aged 42 and 55) have been taken into custody and accused of the criminal offence of trafficking in human beings. If they are found guilty, they will face a sentence between 7 and 12 years of imprisonment.[28]

In this case, exploitation represents a part of the recruitment process and women from Slovakia were forced to marry nationals from countries outside the EU, under threat and coercion from perpetrators if they refused to do so. This is a description of cases of trafficking in human beings for the purpose of forced marriage.

Article No. 14
Roma from Slovakia are convicted of trafficking in human beings by a British court of justice

Three members of a Slovak Roma gang were convicted of trafficking in human beings by a British court of justice, as reported today by the British daily paper Daily Express. The verdict should be passed on Friday. TS, who was sentenced to 10 years of imprisonment in December 2013, was the gang leader. RŽ, his brothers denied being involved in the business. The judge found them guilty of trafficking in human beings and promised them harsh punishment, as reported by the daily paper Daily Mail. The gang induced the Slovak women in order to sell them as brides. They promised them a better life but in fact they were to be offered for sale to non-EU nationals. The gang arranged for transport of at least four women to the United Kingdom in 2013 and offered them primarily to Indian and Pakistani men who wanted to become EU nationals. TS had kept the women in Gravesend. TS, his wife and her brother confessed their guilt before the court proceedings started, as reported in the Daily Mail. One of the victims was promised a job as a fruit packaging operator. Upon arrival in the United Kingdom, she was forced into prostitution and then sold to an Indian national for **3,000 pounds (approx. 4,256 euros)**. One of the women managed to escape but the local police department didn´t help her and she had to contact the Slovak police. "*It´s true that the police were aware of the woman and even interviewed her but failed to forward the information to the specialized police unit which was equipped for dealing with such criminal offences,"* stated criminal prosecutor Riel Karmy-Jones. The lucrative business was first disclosed when the Pakistani man raped the bride in such a brutal way that she almost bled to death[29].

[28] Polícia zadržala skupinu, ktorá získavala ženy na nútené sobáše [Police detained a gang that recruited women for the purpose of forced marriage], http://www.sme.sk/c/7937121/policia-zadrzala-skupinu-ktora-ziskavala-zeny-na-nutene-sobase.html, published on 29 July 2015.

[29] Rómov zo Slovenska usvedčil súd v Británii z obchodovania s ľuďmi [Roma from Slovakia are convicted of trafficking in human beings by a British court of justice], http://www.teraz.sk/krimi/romovia-britania-obchodovanie-s-ludmi/151437-clanok.html, published on 19 August 2015.

Indian and Pakistani nationals marry young Roma women because of their EU citizenship, which enables non-EU nationals to prolong their residence in the United Kingdom.[30]

This is a case of trafficking in human beings for the purpose of forced marriage, since there are signs of exploitation although in the beginning the women were promised a better life.

Findings regarding the published articles

The published articles brought information about prosecution and related proceedings in the criminal matters of trafficking in human beings and smuggling. The descriptions of criminal offences are mostly simple and they include police statements, rarely also victims´ views. They introduce cases from various perspectives. The media describe each criminal act together with information on the perpetrators, their profits as well as the intention of respective parties to conclude marriage, depending on whether it is sham marriage or forced marriage. It is worth noting that the media use the correct terminology for the acts. Both topics seem to be interesting for media as they bring the stories.

Each of the analysed media article is a good source of awareness-raising about the issue. In the case of smuggling they highlight criminal responsibility for this kind of action. They often inform the public about the possible maximum sentences for perpetrators. On the other hand, they depict persons involved in the crime as coming from very poor backgrounds and settlements, having limited mental abilities. The same relates to the articles about trafficked women. They mostly could not reasonably assess the situation they were in.

According to the analysed articles and its sources it is clear that the media distributing the most relevant information are local media, followed by news media and tabloids.

The media highlight the action of the law enforcement officers which might contribute to a positive public feedback on their work.

[30] V Británii súdia Slovákov za obchodovanie s ľuďmi [Slovaks sentenced in the United Kingdom for trafficking in human beings], http://spravy.pravda.sk/domace/clanok/365021-v-britanii-sudia-slovakov-za-obchodovanie-s-romkami/, published on 19 August 2015.

HEUNI Reports

81. Improper influence against prosecutors and judges in Finland and Sweden: Findings from two national surveys 2008. Kauko Aromaa, with Mika Junninen, Lars Korsell and Johanna Skinnari. Helsinki 2016.

80. European Sourcebook of Crime and Criminal Justice Statistics 2014. Marcelo F. Aebi, Galma Akdeniz, Gordon Barclay, Claudia Campistol, Stefano Caneppele, Beata Gruszczynska, Stefan Harrendorf, Markku Heiskanen, Vasilika Hysi, Jörg-Martin Jehle, Anniina Jokinen, Annie Kensey, Martin Killias, Chris G. Lewis, Ernesto Savona, Paul Smit, Ranneveig Borisdottir. Helsinki 2014.

79. Ohjeistus ulkomaalaisten työntekijöiden rekrytointiin ja palkkaamiseen liittyvien väärinkäytösten ja työperäisen ihmiskaupan ennaltaehkäisemiseksi. Liliana Sorrentino & Anniina Jokinen. Helsinki 2014.

78. Guidelines to Prevent Abusive Recruitment, Exploitative Employment and Trafficking of Migrant Workers in the Baltic Sea Region. Liliana Sorrentino and Anniina Jokinen. Helsinki 2014.

77. Recording Community Sanctions and Measures and Assessing Attrition: A Methodological Study on Comparative Data in Europe. Markku Heiskanen, Marcelo F. Aebi, Willem van der Brugge and Jörg-Martin Jehle (eds.) Helsinki 2014.

76. "Tuulikaapissa on tulijoita": Työperäinen ihmiskauppa ja ulkomaalaisten työntekijöiden hyväksikäyttö ravintola- ja siivouspalvelualoilla. Anniina Jokinen ja Natalia Ollus. Helsinki 2014.

75. Exploitation of migrant workers in Finland, Sweden, Estonia, and Lithuania. Uncovering the links between recruitment, irregular employment practices and labour trafficking. Edited by Natalia Ollus, Anniina Jokinen and Matti Joutsen. Helsinki 2013.

74. New types of crime. Proceedings for the international seminar held in connection with HEUNI's thirtieth anniversary Helsinki 20 October 2001. Edited by Matti Joutsen. Helsinki 2012.

73. Meeting the challenge of crime in the global village: An assessment of the role and future of the United Nations Commission on Crime Prevention and Criminal Justice. Christopher D. Ram. Helsinki 2012

72. Blue Criminology – The power of United Nations ideas to counter crime globally. A monographic study. Slawomir Redo. Helsinki 2012.

71. Men's experiences of violence in Finland 2009. Markku Heiskanen & Elina Ruuskanen. Helsinki 2011.

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