

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

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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.

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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

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

In the processing of residence applications, the Estonian Migration Bureau suspected 10 marriages of being sham marriages in 2010. The corresponding 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 Estonia²

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 nature³. This can be partially explained by the fact that despite the

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

significant increase in the number of EU citizens registering their residence in 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

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).

⁴ Source: Police and Border Guard Board.

this case, the possible ways to register a marriage to a foreigner can be divided into two main categories:

- 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)).

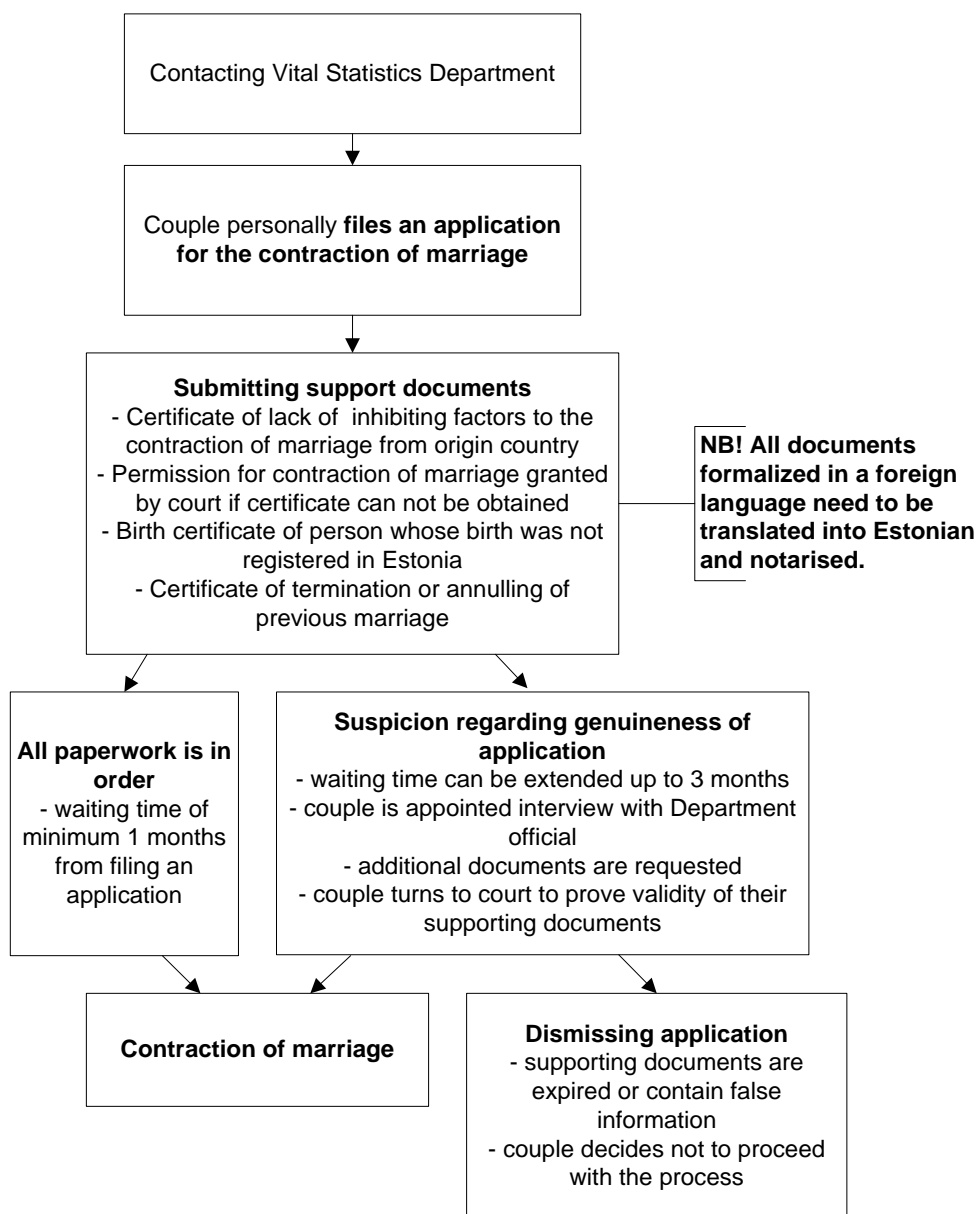
Evidence suggests that Estonia is primarily a country of origin of EU citizens who are recruited to conclude sham marriages abroad. Sham marriages registered abroad demonstrate greater prevalence of instances of abuse and deception compared to the sham marriages contracted in Estonia. Additionally, these 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, § 133¹, § 133², § 133³, §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.

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 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:
 - Analysis of a court case demonstrating the link between sham marriages and human trafficking;
 - 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 to 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 country.

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 Päevaleht⁸.

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.

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,

⁸ Ibrus, Kadri (18 June 2010) Neiu põgenes Küprosel vangist. Eesti Päevaleht.

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 where 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 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

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

answered the 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 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 2015¹¹ 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. Interviewees pointed out that this article could actually be presenting a record of a story told by a recruiter.

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 решила на фиктивный брак с иностранцем.

Despite the fact that the topic of sham marriages received coverage in all the media sources analysed, the identified sources can still be characterized 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.

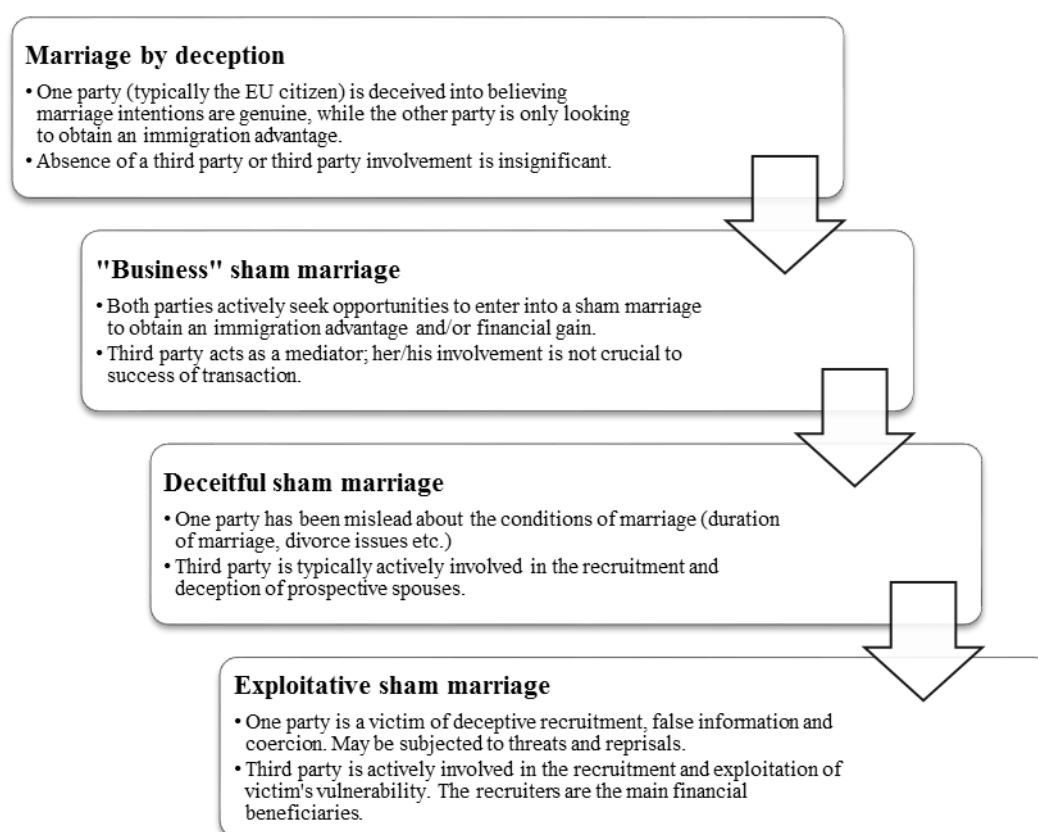
4. TYPES OF SHAM MARRIAGES

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

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

marriages themselves or to know somebody who has been able to improve their 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 citizens were actively looking for opportunities to conclude sham marriages with third-country nationals in exchange for a financial reward.

¹⁵ Source: <http://fiktiv-brak.narod.ru/>

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

¹⁶ Eesti Päevaleht (03 May 2010) Heauskseid Eesti neidusid meelitatakse illegaalidega abielluma.

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% 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 necessarily 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 way to 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

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

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-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 counterparty 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

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

clarify 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, 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 ongoing 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 1¹). 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 §§ 133-133³, 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 exploitive 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 exploitive 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 exploitive 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 exploitive 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. Alarming, 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.

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