HAPPILY EVER AFTER? FROM SHAM MARRIAGES TO HUMAN TRAFFICKING

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Project: Preventing Human Trafficking And Sham Marriages:
A multidisciplinary solution (HESTIA)

CONTENTS

1. Introduction and objectives of the project

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

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

The main objective of the HESTIA project was to look into the phenomenon of human trafficking and sham marriages, to provide a more concrete definition of sham marriages as a form of human trafficking, and initiate comprehensive action for its prevention. This is being done through several project activities,

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[1] The project "Preventing human trafficking and sham marriages: A multidisciplinary solution" (HESTIA) is financed by the Directorate-General of Home Affairs, through the "Prevention of and Fight Against Crime Programme" of the European Commission."

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

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

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

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

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

Human trafficking in general is a crime where the collection of data is impaired not only by the hidden nature of the crime but also by the wide scope of definitions and concepts that might be applicable (COM 2016). Therefore, this project did not focus only on court cases, or cases that have come to the attention of authorities, but also utilized cases identified by NGOs, other organisations and the media. The project has utilized a pilot methodology developed by HEUNI in a previous project focusing on trafficking for forced labour (FLEX), a methodology that is based on collecting information from a large variety of sources in order to overcome the hidden nature of the criminality in question. The FLEX project produced a methodology which is locally applicable and incorporates both qualitative and quantitative information sources (see Jokinen et al. 2011, 314−316).

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

1) What are the links between (the organisation of) sham marriages and trafficking criminality?

2) How do persons concluding sham marriages end up in situations of exploitation or trafficking in persons?

3) What forms of exploitation do the victims encounter?

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

4) What are the weaknesses of the system/legislation/administrative procedures that enable trafficking in the context of sham marriages?

5) What can be done to enhance the identification of cases and victims (of trafficking in human beings and serious exploitation)?

6) What could be done to improve assistance provided to victims?

Finally, the study discusses prevention and asks:

7) What can be done to prevent exploitation?

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

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

2. Concepts and definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. The legal framework and international instruments

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

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

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

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

- Physical or sexual violence or the threat of such violence.

- Restriction of movement of the worker e.g. through confinement or through preventing contact with the host community.

- Debt bondage or bonded labour e.g. rising from the process of recruitment and transportation.

- Withholding wages or refusing to pay the worker at all.

- Retention of passports and identity documents.

- Threat of denunciation to the authorities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Box 1. Trafficking in connection with marriage migration in Australia.

Country of origin Philippines – Country of destination Australia

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

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

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

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

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

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

5. Data and Methods

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

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

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

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

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

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

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

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

Table 1. Collected data from the participating countries.

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

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

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

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

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

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

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

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

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

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

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

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

Ethical issues

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

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

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

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

6. Findings from the national studies

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

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

6.1 Overview of the current situation in the five countries

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6.2 Recruitment of women into exploitative sham marriages

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

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

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

Indirect recruitment here refers to online recruitment which is mass-scale, with hundreds of messages posted online via social media, chat rooms or migration forums. The deceptive messages either promise a well-paid job abroad, or more directly search for women who are willing to conclude a sham marriage with a

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[20] § 133, § 133¹, § 175.

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

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

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

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

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

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

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

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

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

6.3 Travel to and arrival in the destination country

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

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

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

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

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

6.4 Exploitation in the destination country

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

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

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

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

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

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

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

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

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

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

6.5 Identification of and assistance to the possible victims

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

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

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

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

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

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

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

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

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

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

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

6.6 Prevention of exploitative sham marriages

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

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

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

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

7. Exploring the links between human trafficking and sham marriages

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

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

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

The five country studies give convincing evidence that the methods of recruitment for exploitative sham marriages and for human trafficking are often the same: the victims are lured with false promises and fake job offers and opportunities. Furthermore, the cases where the women know that they will conclude a sham marriage, also resemble those cases of prostitution-related trafficking where the women know about the prostitution but the conditions in the destination country differ from their expectations and the promises given to them. Also the target groups are often the same, with a focus on young or inexperienced persons in an insecure position with financial difficulties, social problems and a history of marginalisation. Furthermore, the lack of language skills and social networks make the women recruited for sham marriages vulnerable to further abuse and exploitation in the destination country. One should neither underestimate the importance of money nor the chance to see the world as a motivation for entering such a situation. To a person coming from the poorest parts of the Baltic countries or Slovakia, a promise of e.g. 1000 euros and a chance to travel to Ireland in order to conclude a marriage is an attractive offer and a huge sum of money.

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

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

Picture 1. The continuum of exploitation in the context of (exploitative) sham marriages.
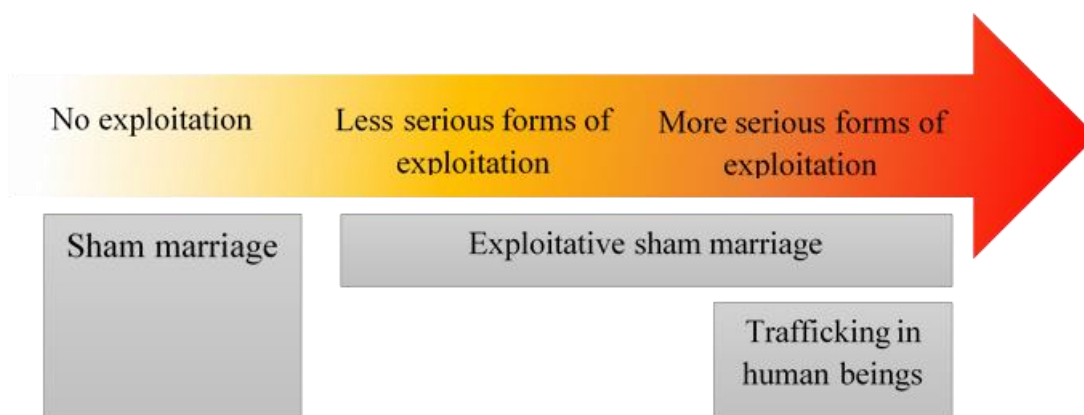
Thus individual forms of exploitation on their own do not make the case one of human trafficking. However, if the forms of exploitation start to pile up, the more serious the case becomes. While majority of sham marriage cases are not trafficking-related, there is a proportion of cases that could arguably be related to trafficking (see picture 2 below).

Picture 2. Trafficking in human beings, exploitative sham marriages and sham marriages.
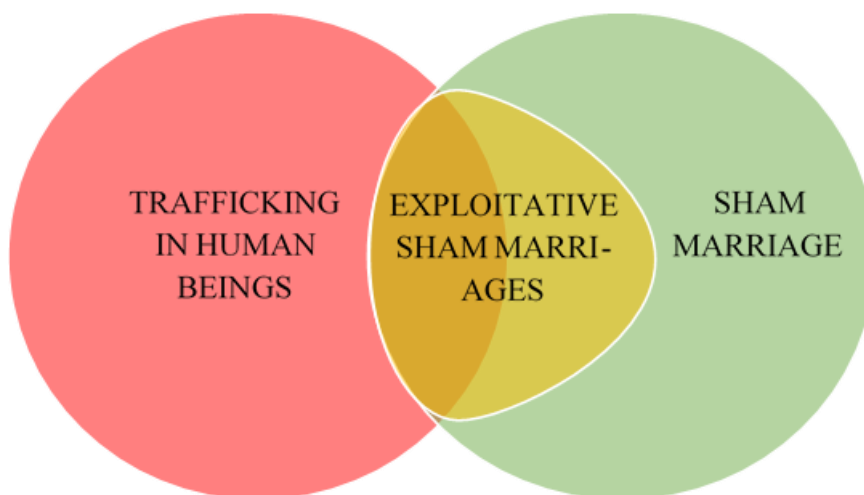
Especially in the context of trafficking prevention it is useful to look at the wider context. David (2010) has argued that less serious forms of exploitation can be a breeding ground for more serious acts, leading up to trafficking. This could mean that if exploitation in the context of sham marriages is not identified and recognised by authorities, this might lead to increased impunity and ultimately trafficking. Moreover, it must be pointed out that human trafficking is by its nature a process rather than a single event where the victim is pressured in a comprehensive manner (Jokinen et al. 2011). A situation that starts as a simple sham marriage can change over time, and less serious forms of exploitation can turn into more serious forms of exploitation and trafficking. The victim might depend on her/his exploiter due to debts resulting from travel arrangements, accommodation or basic sustenance, or because of her/his poor language skills, psychosocial factors or other such circumstances. In fact, the dependent status and insecure state of the victim may be exploited both in the context of recruitment and in the sham marriage itself. From the victims' perspective, it is essential to make an overall assessment of their experience. Therefore, attention should be paid to all constituent elements that render the situation such that a person is in fact unable to leave it (Jokinen et al. 2011).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. Conclusions and recommendations

8.1 Conclusions

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

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

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

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

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

8.2 Recommendations at the EU level

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

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

- The EU Member States should develop targeted policies to empower populations at risk of being trafficked and to address gender discrimination and other root causes that render them vulnerable to exploitation.

- The EU Member States should ensure that their policies do not hinder the free movement of their citizens and do not breach or limit their fundamental rights under the guise of trafficking prevention.

- The EU Member States should provide legal migration channels and strengthen possibilities to migrate safely, instead of introducing stricter border control measures and long investigations into the legitimacy of

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

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

Recommendations pertaining to the strengthening of international cooperation:

- The countries of origin and destination should increase cooperation in order to prevent exploitative sham marriages e.g. through cooperation between national rapporteurs and coordinators at the EU level and from the third countries.

- The law enforcement authorities of the countries in question should consider the need, where appropriate, of setting up international joint investigation teams between the countries of origin and destination, in order to improve the investigation process and secure better evidence of the crime.

- Increased information sharing between population registries in the EU Member States could help avoid cases of bigamy and increase identification of sham marriages. Streamlining and standardizing marriage registration requirements and processes in different EU Member States would also allow better elimination of weaknesses and gaps of national systems which are exploited by the offenders.

Recommendations pertaining to victim assistance and outreach work:

- The EU Member States should ensure that long-term support is available to meet the specific needs of victims of human trafficking and exploitative sham marriages. The assistance available should be inclusive, gender-specific, victim-sensitive and available in multiple languages.

- Outreach work and engagement with populations at risk to be trafficked is needed in order to improve identification of relevant cases and to prevent trafficking and exploitative sham marriages. Such work would best be organised via NGOs, as they have the best chance of gaining the trust of the persons at risk of being trafficked. Such work should take place both in the countries of origin and destination.

Recommendations pertaining to awareness raising:

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

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

Recommendations pertaining to the training of different professional groups:

- Awareness should be increased among criminal justice professionals, teachers, health, social and other professionals and NGO workers dealing with populations at risk on exploitative sham marriages. Local actors could help in identifying potential victims of exploitative sham marriages and human trafficking as well as recruiters or exploiters operating in their communities.

- Consular and diplomatic staff of the EU Member States should receive regular training on human trafficking and its different forms, including forced marriages and exploitative sham marriages. The work of the Latvian embassy in Ireland demonstrates that this is an important way of improving identification of potential victims. The embassies of the EU countries should also cooperate with the embassies of the relevant countries of origin of third-country nationals in order to increase awareness of the problem and to address it in more comprehensive and concrete ways.

- Regular training is also needed in other sectors, such as among law enforcement officials, immigration office staff, social service sector employees and teachers. The training should be systematic and individualized to each sector involved in the prevention of trafficking in human beings and sham marriages.

Recommendations pertaining to further research and statistics:

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

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

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Appendix 1. Interview framework for experts / HESTIA project, June 2015

Background of interviewee

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

Concrete cases

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

Recruitment

- How are the women recruited?

  - Who are the women?

  - What motivates the women to conclude sham marriages?

  - What are they promised?

  - How much money (or other gifts etc.) is promised for concluding a sham marriage?

- How are the men (husbands) recruited?

  - Who are the men? What motivates them?

  - What are the men promised?

  - Are the men recruited in Europe or in their home country or in a country of transit?

  - Are there links to smuggling (of migrants) operations?

- Who are the recruiters (background information)?

  - What motivates them?

  - Are the activities organised?

- Does the recruitment take place online or in real life?

  - Does online recruitment differ from recruitment in real life?

- Who organises online recruitment and posts advertisements online and/or grooms the victims into accepting a (sham) marriage?

- In what language are the advertisements written?

- Where are the advertisements posted? Are they shared also via social media?

Transportation/travel

- How do women travel to country of destination? What about the men (husbands)?

  - Do they pay and book their own travel tickets or does someone do it for them? Who? How is travel organised?

  - Do the women travel independently or are they accompanied?

  - What instructions are the women/men given on where to go after arrival?

Arrival

- What happens after the women arrive in the country of destination?

  - Do they meet their future husband before the wedding?

  - Who organises the wedding? Where is the wedding organised?

  - Are the women forced/pressured to marry?

  - What happens after the wedding?

- Do the women who enter into sham marriages receive the money promised?

Life in the destination country and exploitation

- What do the women do in [destination country]?

  - Where do they live? With whom?

- What forms of exploitation do the women encounter?

- What indicators of human trafficking and /or exploitation are present?

  - Violence (physical, sexual, psychological)?

  - Threats?

  - Economic violence (e.g. taking loans in her name, controlling the use of or access to money, debt bondage)?

- Is their freedom of movement limited? Are their passports taken away?

- Can they keep contact with their family and friends?

- Are the women subjected to any forms of sexual exploitation and/or forced prostitution?

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

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

- Who is the exploiter/exploiters?

    - Is it the husband, the organiser or someone else?

    - What is their modus operandi?

    - What motivates them?

Organisation of sham marriages

- How are (exploitative) sham marriages organised?

    - Who are the organisers of sham marriages? Are they different from recruiters?

    - Are the activities systematic/organised? Is there a hierarchical structure in place? Are there links to organised criminal groups?

- How do organisers of sham marriages make their profits?

    - Where does the money come from? (From the men who are willing to pay for marriage in order to receive a residence permit in the EU? From exploiting the women in prostitution/work/domestic servitude?)

    - What happens to the profits? Is the money laundered?

    - Do the organisers pay the women recruited for concluding sham marriages a proportion of the profit made, or do they keep the money they received from the husbands?

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

Identification of victims & assistance

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

- How are the victims identified?

  - Do the victims seek help themselves or how are they discovered? Who identify the victims? The authorities? The embassies? NGOs?

  - Where and in which circumstances are the victims identified? Does your organisation do outreach work to find victims?

  - What happens after the identification is made?

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

Prevention

- What should be done to prevent exploitative sham marriages?

  - What has already been done?

  - What are the gaps in the system that allow this to happen?

  - Do you think the current legislation is sufficient?

- Is training needed?

  - What issues should training cover?

  - Who should be trained?

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

Appendix 2. Interview framework for victims / HESTIA project, June 2015

In the beginning of the interview:

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

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

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

Ask her/his permission to record the interview.

***

RECRUITMENT

- How did you end up in marrying a third country national?

- How did you hear about the chance to get married? [How did you end up in the situation of exploitation?]

- Who suggested the marriage to you? How and where (in person, online etc.)?

- What were you promised for the marriage? Money? Other gifts? Love/Chance to see the world/Better life etc.? Were you promised something else (work etc.)?

- Did you have to pay something for the recruiter/organiser of the marriage?

- Why did you decide to agree the suggestion of concluding a sham marriage? [What was your motivation?]

- Did you talk about your plans with anyone before deciding to leave your home country?

- Were you aware of the potential risks involved (harmful consequences to you or your family)?

- Were you aware that concluding a sham marriage might be an offence in [home country] or in [destination country]?

TRAVEL

- How did you travel to [destination country]?

- Who organised the travel? Who bought the tickets?

- Did you pay something for the travel?

- Did you have to borrow money to be able to travel to [destination country]? How much? Where did you borrow the money?

- Did you travel with somebody?

- Did someone meet you at the airport/railway station/harbour etc? Who?

ARRIVAL IN THE DESTINATION COUNTRY

- What happened after your arrival in [destination country]?

- How and where did you meet your husband for the first time?

- Who organised the wedding? Where was the wedding organised?

- What happened after the wedding?

- Did the situation in [destination country] correspond to what you were promised (at recruitment)? Did you receive the money promised?

LIFE IN THE DESTINATION COUNTRY / EXPLOITATION

- What did you do in the destination country (work etc.)?

- With whom did you live? Where?

- What kind of living conditions you had? Were you satisfied with the living conditions/your circumstances?

- Did you get to know any local people? Did you learn the local language?

- Did you keep up contact with your family and friends in [home country]? Was the contact restricted?

- Were you able to do anything you wanted or did you have to ask permission from your husband (or someone else)?

- Did your husband (or someone else) give you tasks/household chores/work to be carried out? [NOTE TO INTERVIEWER: any potential elements of domestic servitude are of interest]

- Were you threatened or pressured? How? By whom?

- Were you forbidden to leave the house or were you locked up?

- Did you have your passport/ID?

- Were you physically abused (e.g. hit/slapped/pushed, pulled your hair..)?

- Were you exploited sexually (incl. were you made to take part in any form of sexual activity or were you unable to refuse)?

- Were you allowed to use contraception?

- Do you have children? (Do you have children with the man you are/were married to in [destination country]?)

- Were the children with you in [destination country]?

- Were they threatened somehow?

- Did your husband (or any other person) threaten to take the children away from you or hurt your children?

- Did you feel scared of/in the situation?

- Did you tell anyone about your situation?

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

- Did you work [in the destination country]?

- Where? (Who was your employer?)

- Did the work correspond to what you were promised?

- Did you get paid for the work?

- What were the working conditions like?

- Were you controlled/pressured/threatened by your employer?

- Were you able to leave the job when you wanted (quit the job at will)?

HELP AND ASSISTANCE

- How was the situation resolved?

- Did you get help? What help did you get?

- Did you seek help yourself? Where?

- Are you satisfied with the help you got?

- Do you know if your case has been investigated and/or prosecuted? If so, do you know how the case is proceeding? How did the authorities hear about the situation?

- Did you get a divorce? How was it organised?

PREVENTION

- Have you heard about others who have had similar problems while getting married/staying/working in [destination country]?

- What should be done to warn people about the problems they may face after entering (sham) marriages?

- What would you say to a woman who was in your situation?

- Do you have anything to add?