

In the framework of the Agreement No.: HOME/2013/ISEC/AG/THB/400005845 Project “Preventing Human Trafficking and Sham Marriages: A Multidisciplinary Solution (HESTIA)” is being implemented from 01/01/2015 to 31/12/2016.

The objective of the project is to create a shared understanding of a new, evolving form of trafficking in human beings – through sham marriages, provide a precise definition of sham marriages as a form of human trafficking hitherto in-existent at the EU level, and initiate a comprehensive action for its prevention.

Project contracting partner and coordinator is Ministry of the Interior (Latvia) and project partners are “Shelter “Safe House” (Latvia), “Living for Tomorrow” (Estonia), “Caritas Lithuania” (Lithuania), Immigrant Council of Ireland (Ireland), Ministry of the Interior (Slovakia), The European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI) (Finland).

DISSEMINATION AND ADVOCACY PLAN: IRELAND

The issue of sham marriage in Ireland has been the subject of much political debate and legal controversy, as have the measures introduced by the Irish authorities in their attempts to prevent and address perceived abuses of the domestic immigration system in that context. The Immigrant Council of Ireland Independent Law Centre approaches the issue of exploitative sham marriages from a victims’ rights and gender sensitive perspective. Working to ensure that the rights of the victims are protected fully, the ICI undertook the research and planned the present dissemination and advocacy initiatives.

In Ireland, two sets of policy and law are relevant to sham marriages and human trafficking, and their relationship to each other plays an important part of the focus of this study. On the one hand, the entry and residence of EU citizens and their family members in Ireland is regulated by Directive 2004/38/EC, which was transposed into national law by the domestic regulations the European Communities (Free Movement of Persons) Regulations 2006 and 2008 (the Regulations). On the other hand, there are legislative and administrative measures regarding Ireland’s international obligations to combat human trafficking, in particular the EU Trafficking Directive. The fact that sham marriage is not specifically mentioned in the legislation, appears to have contributed to the failure to identify cases as trafficking.

The instances of trafficking involving exploitative sham marriages in Ireland have been characterised by the following:

- Increased risk and vulnerability factors: history of abuse, poverty, lack of English, disability;
- Systematic recruitment and organisation: pre-existing connection with recruiters, deception;
- Experiences upon arrival in Ireland: tight control of movements and seizure of documents;
- Exploitation: sexual assault, rape and abuse by individuals or several perpetrators;
- Trafficking indicators: systematic targeting and abuse of vulnerability;
- Financial gains: Women unaware of transactions, but huge profits made by organisers.

Ireland’s official response to victims of exploitative sham marriages within human trafficking was perceived by the non-State respondents as predominantly inadequate. Embassies – particularly the Latvian and Estonian embassy in Dublin – and NGOs provided psychological support, legal advice and the provision of basic things such as toiletries and clothing. Embassies arranged flights and papers and worked with shelters and NGOs in the origin country to help victims return home. Many victims were traumatised and needed access to health care, welfare, sexual health services, rape crisis centres and interpreters. Despite an overall lack of policy and willingness of the State to acknowledge these women as victims of trafficking with specific needs, specialist services in Ireland provided a wide range of support for victims, including accommodation, health care and legal advice.

The primary focus of our advocacy remains the failure of the authorised body in the State to recognise the indicators of trafficking involving sham marriages is unsurprising and telling of the overall ineffective identification process for human trafficking victims in Ireland. What is particularly relevant to these cases is that suspected victims of trafficking in Ireland are denied the benefits of a recovery and reflection period if they are EU nationals, as they are deemed to have the right to remain in the state. Victims may be accommodated in direct provision centres, which were established for individuals seeking asylum in the state, and are criticised as unsafe and inappropriate. However, victims are not formally identified, they have no legal right to a recovery



and reflection period; welfare support; private accommodation; or assistance with education, employment and long-term recovery strategies – all of which are afforded to identified victims.

RECOMMENDATIONS

The recommendations are developed with a view to progressing as many as possible of them under the Second National Action Plan to Prevent and Combat Trafficking in Human Beings, published in October 2016, while engaging with other NGOs, the Department of Justice and Equality and the Department of Social Protection and the Health Service Executive.

- Reform of the identification process for victims of trafficking in Ireland with utmost urgency. These supports and identification procedures should apply to both EEA Nationals and Asylum Seekers, regardless of the immigration status or nationality of the victim. These include:
 - Designated support services;
 - Appropriate emergency accommodation;
 - Referral to a recovery and reflection period;
 - Access to an advocate or legal representative;
 - Formal written identification procedure;
 - Those who do not have permission to be in the state, including asylum seekers, should be issued with a temporary residence permit so they may access private residence, vocational training and work.
- Support for victims where there is insufficient evidence of trafficking but there is evidence that other crimes against the person have been committed (including assault, sexual assault and rape). In the case of EU citizens, the habitual residence condition needs to be waived for that person to have access to refuge provision, private rented accommodation and welfare support.
- Provide resources for service providers to facilitate best-practice responses, including appropriate safe accommodation and a wide range of supports, including early legal intervention.
- Facilitate special training for General Registrars and immigration officials to enable better identification of suspected victims, including recognising subtler forms of exploitation such as may occur within exploitative ‘sham’ marriages, and to ensure that the implementation of law and administrative procedures in respect of marriages and the processing of residence applications by TCNs generally are applied in a proportionate and non-discriminatory manner.
- Coordinate inter-agency mechanisms for tackling trafficking based on partnerships between public authorities, law-enforcement agencies and NGOs. There should be cooperation between the Member States to monitor trafficking, to identify victims of trafficking and other crimes, to provide appropriate supports and to develop effective law-enforcement responses and measures to prevent exploitation.
- Collection and publication of data annually by Irish authorities on the number of visa and residence permit applications made, the number of visa applications and residence permits granted and refused, as well as the reasons for refusals - disaggregated by nationality, gender and age of the applicants and their family members.