

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 new form of trafficking in human beings - through sham marriages, provide a precise definition of sham marriages as a form of human trafficking hitherto inexistent 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 ADVOCAY PLAN: LATVIA

In Latvia links between human trafficking and sham marriages have been identified. The increasing trend of sham marriages (marriages in convenience) was observed in 2006. The number of sham marriages concluded in Latvia is small, compared to the number of sham marriages concluded between Latvian citizens and third country nationals abroad: in Ireland, the United Kingdom, Cyprus, Greece. However, not all sham marriages can be considered to be human trafficking.

Over the last six years (2009–2014) a total of 1262 marriages have been concluded with third country nationals in Ireland, of which approximately 50% were with citizens of Pakistan, and 14% with citizens of India. It is important to note that all these marriages are not sham marriages or marriages in which exploitation occurs. Suspicion of a sham marriage is particularly strong when the spouses do not co-habit and meet only once a year to visit the migration services in a particular country to extend the residence permit.

From 2007 until 2014 the mandated NGO has provided state funded social rehabilitation services to 59 persons who were identified as victims of trafficking in human beings linked to sham marriages. More than a half of the identified human trafficking cases (in total 113 victims of trafficking in human beings were identified) in Latvia are linked to the phenomenon of sham marriage. The recruitment of people for sham marriages takes place in Latvia, because Latvia is traditionally a country of origin, and also, most often Latvian citizens seek assistance from Latvian institutions, not from those of foreign countries.

In the time period from 2009 until 2015 six criminal proceedings were initiated by the State Police on trafficking in human beings involved forced-sham marriages. The State Police stated that more cases had been investigated, however, the cases were not forwarded for criminal proceedings, because the presence of exploitation, which would allow these cases to be defined as human trafficking cases, could not be proven.

Substance of a term “sham marriage” follows from the Civil Law Section 60 Paragraph two which provides that “a marriage that has been entered into fictitiously, i.e., without the intent to create a family, shall be declared annulled” and according to the Civil Law Section 68 “the marriage shall be considered to be annulled from the moment it is entered into”.

Criminal liability is included in the Criminal Law Section 285.<sup>2</sup> “Ensuring in Bad Faith with a Possibility to Acquire the Right to Stay in the Republic of Latvia Legally, other Member State of the European Union, Member State of the European Economic Area or Swiss Confederation”. This legal provision provides criminal liability is applicable only in the cases when a person concludes sham marriage voluntarily and the purpose of such marriage is solely to provide a possibility to acquire the right to stay legally in the Republic of Latvia,



other Member State of the European Union, Member State of the European Economic Area or Swiss Confederation.

About a crime of trafficking in human beings it is possible to decide when a person has been recruited, transported, transferred, concealed, accommodated or received by using violence or threats or by means of deceit, or by taking advantage of the dependence of the person on the offender or of his or her state of vulnerability or helplessness, or by the giving or obtaining of material benefits or benefits of another nature in order to procure the consent of such person, upon which the victim is dependent. In the context of sham marriages – the holding of a person in slavery or other similar forms thereof, the compulsion of a person to provide services or to commit criminal offences – are considered as the forms of exploitation.

The Criminal Law Section 154.<sup>2</sup> “Human Trafficking” explains the meaning of trafficking in human beings and among others “the holding of a person in slavery or other similar forms thereof” is mentioned – the same concept “practices similar to slavery” is used in Article 3 (a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery Article 1 (c) provides that any institution or practice whereby:

- (i) A woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group; or
- (ii) The husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise; or
- (iii) A woman on the death of her husband is liable to be inherited by another person;
- (d) Any institution or practice whereby a child or young person under the age of 18 years, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour.

The compulsion to involve a person into sham marriage is less corresponding to a term “forced marriage” which is included into the concept “practices similar to slavery”, it is more relevant to use a term “the compulsion of a person to provide services”. A person who compels another person to enter into marriage does not want consequences of the marriage which result from the marriage – family, children etc., but wants only concrete legal consequence as a service, namely, to gain residence rights.

#### RECOMMENDATIONS:

- Examination of the possibility of including the concept of “trafficking in human beings for the purpose to conclude a sham marriage” in Latvian legal regulation.
- Provision of targeted trainings and workshops for police officers, prosecutors and judges in order to promote a joint understanding of the concept of human trafficking, vulnerability and links between sham marriages and trafficking in human beings, and the application of Latvian legal regulations.
- Facilitating the capacity of all professional groups who potentially might come into contact with a victim of human trafficking so that they would be able to identify the victims more efficiently.
- Ensuring that information campaigns are systematic and conducted regularly to increase the awareness in society in general, and among target groups in particular, about the risks that are linked to sham marriages with third party nationals.

