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In the framework of the Agreement No.: HOME/2013/ISEC/AG/THB/4000005845

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, 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

### SLOVAK REPUBLIC

Definition of terms such as trafficking in human beings for the purpose of forced marriage and sham marriages in relation to the circumstances and legislation in the Slovak Republic are fundamental to the proper understanding of the issue. According to the perception in the Slovak Republic, both terms relate to the conclusion of marriage, since marriage is concluded both when there is sham marriage and when there is forced marriage. The difference is that forced marriage is concluded under coercion, not voluntarily, while sham marriage is concluded voluntarily.

The term "exploitative sham marriage", which is used in the HESTIA project, is not recognized in Slovak legislation yet. According to the national report there is lack of information on cases where the partners remained in the same household after the conclusion of sham marriage, and one of them exploits the other. However, we did encounter a case where threats were used against a woman who refused to conclude a sham marriage after she had received payment.

The Slovak Penal Code, however, does not define the term "forced marriage". Forced marriage is neither a specific criminal offence nor unlawful conduct. According to informative interpretation of the Ministry of Justice of the Slovak Republic the term "forced marriage" should be understood as conclusion of a marriage of coercion. In the case of forced marriage, what is absent on the part of one of the participants of this union is the voluntary character and free decision to conclude marriage. To constitute elements of forced marriage in terms of the criminal offence of trafficking in human beings, it is therefore necessary to prove that the marriage had not been concluded on the basis of their voluntary and free decision, but by means of coercion. Coercion can take various forms, both psychological and physical. On the other hand sham marriage is related to the criminal offence of smuggling, when one of the prospective spouses has a direct or indirect financial benefit or other benefit by the conclusion of marriage and the other prospective spouse has the benefit of the right to reside in the territory of the Slovak Republic, another Member State of the EU or a Contracting State to the Agreement on the European Economic Area. It is a conscious action of both sides agreed in advance and each of the sites profits from the action.

In the recent years several victims of forced marriage were identified. All of these persons were adult women. They came predominantly from a poor social background, with lower levels of education and mostly from Central and Eastern Slovakia. The most common destination country where trafficking in human beings for the purpose of forced marriage was completed was the United Kingdom of Great Britain and Northern Ireland. However since the amendment to the Penal Code definition of the crime of trafficking in human beings in relation to the purpose of





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AGAINST HUMAN TRAFFICKING

forced marriage did not become effective until 2013, and given the length of criminal proceedings, there are only two final decisions of the courts of the Slovak Republic related to the issue in question.

The perpetrators use several recruitment techniques:

- victim fell in love with this man and under his influence and pressure she left home and to go abroad,
- well-paid job offer,
- offer of better life abroad, abuse of bad living conditions and unstable accommodation situation.

In most cases of trafficking in human beings for the purpose of forced marriage, the real intentions of the traffickers are not manifested until after the arrival of the potential victims in the destination country. This means that recruitment is carried out with the use of deceit and fraudulent behaviour such as the offer of a job abroad or pretending to have a loving relationship with the victim. There is, however, also a case where conclusion of marriage was a form of recruitment. In such cases the potential victim voluntarily travels abroad without any suspicion.

Although only one offender has been finally convicted and the other cases are still under investigation and supervised by a prosecutor, several modus operandi have been detected in the cases, either by multiple perpetrators or by organised groups. The actions of the perpetrators were directed mostly by more than one person and the essential elements of the crime of trafficking in human beings for the purpose of forced marriage have been fulfilled only in a few cases. The acts in the cases included recruitment, transport and reception of persons with the use of deception, deceit, threats of violence, detention, violence, and abuse of vulnerability of the victims for the purpose of forced marriage.

In some cases, only partial acts took place, when people were recruited by the perpetrators with the offer of conclusion of marriage for a financial reward. At first they consented but then some of them changed their minds and did not travel at all. There is, however, a case in which one person was lured by the perpetrator with the promise of financial compensation for the conclusion of marriage with a Pakistani national. However, then the person's freedom of movement was limited, she was persuaded to conclude marriage with a Pakistani national, handed over for a reward to a Pakistani national with whom she then lived and was under his control.

It supposed to be noted that in most cases the recruitment phase takes place in the Slovak Republic and also there is the beginning of the transportation. This may be provided by 1-2 perpetrators. The rest of the acts are carried out abroad by other perpetrators and their victims do not know them or know only their nicknames. It is difficult to link the acts of recruiters, transporters and perpetrators abroad due to the subjective aspect of the essential elements of the criminal offence. Therefore Slovak law enforcement agencies are encouraged to cooperate with other countries and to share the information found in the context of the investigations. However, there are problems in cross-country cooperation and it is often expensive and time consuming. Especially the length of the procedure and the cross-border nature of crimes committed can be assessed as a problematic area. The concept of a European Public Prosecutor could facilitate the problems such as the need to shorten the length of the investigations in cases where some parts of the proceedings were conducted in several countries and consequently the criminal proceedings are conducted in several countries.





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### **Recommendations:**

Based on the national analysis following recommendations was compiled, which are going to be presented to the Expert Group on Combating Trafficking in Human Beings:

- ensure information forwarding to a special Birth Registry in case of concluded marriage of a Slovak national abroad. A single contact point should be established for all birth/population registries that would notify the partner birth/population registry abroad of concluded marriage by particular country nationals,
- ensure communication and information sharing between the Slovak consulates abroad and the special Birth Registry,
- ensure uniform interpretation of the term “forced marriage” on the international level,
- improve cooperation on the international level, e.g. through establishment of the institute of EU prosecutor for cross-border crimes, and ensure simplified international police cooperation and information sharing
- increase awareness raising that will be focused on the threats hidden behind the attractive offers in both cases of sham marriages and trafficking in human beings. In both cases it is crucial to identify the indicators of these fake offers so the person is not misused,
- increase the awareness of law enforcement authorities and courts regarding the issue of trafficking in human beings and its specific forms.

