



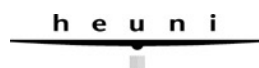
*Preventing human trafficking and sham marriages: A  
multidisciplinary solution HESTIA  
(HOME/2013/ISEC/AG/THB/4000005845)*

# HUMAN TRAFFICKING AND SHAM MARRIAGES IN LATVIA

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AN ROINN DLÍ AGUS CIRT AGUS COMHIONANNAIS  
DEPARTMENT OF JUSTICE AND EQUALITY

## **Abbreviations used**

CL – Criminal Law

EEA – European Economic Area

EU – European Union

NGO – non-governmental organisation

OCCB – Organised Crime Combating Board of the Main Criminal Police  
Board of the State Police

OCMA – Office of Citizenship and Migration Affairs

# HUMAN TRAFFICKING AND SHAM MARRIAGES IN LATVIA

Inese Šūpule, Dr.sc.soc.

## 1. Introduction

In Latvia links between human trafficking and sham marriages have been identified. However, not all sham marriages can be considered to be human trafficking. The present report aims to characterise those forms of human trafficking that are linked to sham marriages and to identify where signs of exploitation can be discerned. The main concept used in the report is exploitative sham marriage (in Latvian, ekspluatatīvas fiktīvas laulības). The aim of the project is, on the basis of national reports, to contribute to the creation of a uniform international understanding of this form of human trafficking – human trafficking with the aim of involving a person in a sham marriage. In addition, the aim is to formulate national and European Union (EU) level policy recommendations, based upon the findings of the study on this form of human trafficking.

The various designations of this type of marriage that have been used in Latvian until now (Vucāne 2015) are not applicable to this particular phenomenon – a sham marriage in which exploitation can be identified. For example, the concept of “forced marriage” (in Latvian – piespiedu laulība) narrows down the understanding and does not describe the phenomenon of exploitative sham marriage comprehensively, since an exploitative sham marriage can occur also in a case where the person involved initially agreed to conclude a sham marriage, but later was deceived and subjected to exploitation.

To characterise the concept of “exploitative sham marriage”, it must be split into two parts. “Sham marriage” and “exploitation” are the two concepts that serve as the basis for the new concept and its interpretation. In this report the understanding of the concept “sham marriage” is based on the provisions of Latvian legal regulation. Pursuant to section 60 of the Civil Law, a sham marriage is a marriage that has been concluded without the intention of establishing a family. On the other hand, section 2852 of the Criminal Law (CL), which entered into force on 1 April 2013, provides that only those sham marriages shall be subject to criminal liability which have been concluded with the aim of ensuring third country nationals the possibility of acquiring the right to reside in the Republic of Latvia, another EU Member States, a state of the European Economic Area or the Swiss Confederation. The approach taken by CL section 2852 complies with the EU Council Resolution of 4 December 1997 on measures to be adopted on the combatting of marriages of

convenience, and this understanding has been used in the report and in interpreting the concept of an “exploitative sham marriage”.

In interpreting the concept of “exploitation”, it should be noted that the definition included in CL section 154<sup>2</sup> complies with the understanding of exploitation included in the United Nations Convention on Transnational Organised Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and it is understood as involving a person in prostitution or other type of sexual exploitation; forcing a person to perform work, provide services or commit crimes; keeping a person in slavery or other forms similar to it or keeping a person in servitude; and illegal removal of a person’s tissues or organs. Usually in cases of sham marriages, exploitation of a person for commercial purposes is not observed (forced labour or involvement in prostitution). Instead, it may entail keeping a person in slavery or other similar forms of labour exploitation as well as sexual exploitation of a person for non-commercial purposes, and forcing a person to commit criminal offences, inter alia, to conclude a sham marriage, which in accordance with Latvia’s legal regulation is a criminally punishable act. The main objective of the report is to describe the features of exploitative sham marriages on the basis of an analysis of concrete cases and the experience of experts in Latvia.

The first part of the report characterises the situation in Latvia with respect to human trafficking and sham marriages on the basis of the already available information. The characterization comprises a description of the legal regulation and the amendments that were introduced to it in 2010–2015. A summary of the available diverse statistical data from 2010 to 2015 is presented, using the data provided by rehabilitation services, the police, the Office of Citizenship and Migration Affairs (OCMA), and the Consular Department of the Ministry of Foreign Affairs. A brief description of the system for combatting human trafficking and sham marriages has been prepared on the basis of various sources, including, among others, Guidelines for Prevention of Human Trafficking, 2014–2020 (Cilvēku tirdzniecības pamatnostādnes 2014.-2020.gadam, 2014).

The second part of the report is an overview of the outcomes of the research conducted in the summer and autumn of 2015. The study was conducted by using qualitative research methods, which do not provide information on the quantitative aspect of the phenomenon under observation, but do provide an in-depth understanding of the particular phenomenon of exploitative sham marriages. The questions asked included what features characterise such marriage, how is it organised, and which groups of people are most subject to the risk of exploitative sham marriages, and why.

To find answers to these questions, five cases of exploitative sham marriage were analysed, based upon the documents of social rehabilitation service providers and in-depth interviews with the victims of exploitative sham marriages. In addition, 15 in-depth interviews were conducted with 17 experts

who deal with the issues of human trafficking and sham marriages on a daily basis.

## 2. The national context of sham marriages and human trafficking

### 2.1. Legal regulation and amendments 2010–2015

#### Sham marriage

Sham marriage is a phenomenon that can manifest itself in many different ways. Not all cases of sham marriages are subject to criminal liability or should be considered as being a crime. In Latvia, those cases of sham marriages that have been concluded not with the aim of establishing a family, but with the purpose of ensuring someone the possibility of acquiring the legal right to reside in the Republic of Latvia, another EU Member State, a state of the European Economic Area (EEA) or in the Swiss Confederation are considered to be subject to criminal liability.

Ensuring in bad faith a possibility to a person to acquire the legal right to reside in the Republic of Latvia, another EU Member State, a state of the EEA or in the Swiss Confederation was criminalized in the Criminal Law by the amendments of 13 December 2012 (CL Section 285), which entered into force on 1 April 2013. The substantiation of the amendments to legal regulation were directly linked to the increase in the number of exploitative sham marriages, observed both by the police and by Latvian embassies abroad, as well as by providers of social services in Latvia.

#### **Box 1. Legal Regulation: Sham Marriage**

Criminal Law.

#### **Section 285.<sup>2</sup> Ensuring in Bad Faith the Possibility to Acquire the Legal Right to Stay in the Republic of Latvia, another Member State of the European Union, a Member State of the European Economic Area or the Swiss Confederation**

(1) For a person who provides in bad faith a possibility to acquire the legal right to stay in the Republic of Latvia, another Member State of the European Union, a Member State of the European Economic Area or the Swiss Confederation, the applicable punishment is deprivation of liberty for a term up to three years or temporary deprivation of liberty, or community service, or a fine.

(2) For a person who provides in bad faith a possibility to acquire the legal right to stay in the Republic of Latvia, another Member State of the European Union, a Member State of the European Economic Area or the Swiss Confederation, if it has been committed for the purpose of acquiring property or if such a possibility is ensured for two or more persons, or if it has been committed by a group of persons, the applicable punishment is deprivation of liberty for a term up to five years or temporary deprivation of liberty, or community service, or a fine, with or without confiscation of property.

(the wording of the law of 13 December 2012, which entered into force on 01 April 2013.)

Sham marriages between a Latvian citizen and a third country national with the aim of ensuring a person the possibility to acquire the legal right to reside in Latvia or in any other EU Member State are concluded both in Latvia and in other states. However, there are grounds to consider that 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 and elsewhere. Both the OCMA and the State Border Guard pay attention to suspicious cases in Latvia and, if there are grounds to consider that the marriage has been concluded fictitiously (to receive a residence permit in Latvia), the foreigner may be refused the residence permit or its registration (renewal). In addition, a resident permit may be annulled. This is provided for by the provisions of the Immigration Law and binding regulations. In particular, para 13 of section 34(1) of the Immigration Law provides that the issuing or registration of a residence permit may be refused if there is a reason to believe that a foreigner has entered into a marriage of convenience in order to receive a residence permit in Latvia. In many cases it is difficult to prove the intention to conclude a sham marriage. For this reason, the possibility of issuing a residence permit and subsequent annulment of it is envisaged, if the suspicion regarding a sham marriage has been proven to be true. In legal regulation this is envisaged by para 6 of section 35(1) of the Immigration Law. In such cases additional interviews and verifications by the State Border Guard are conducted, but this applies only to those cases where the sham marriage is concluded in Latvia.

The OCMA, the State Border Guard or the Security Police are informed by employees of Civil Registry Offices about suspicious marriages with foreigners. Pursuant to the provisions of section 18(4) of the Law on Registration of Civil Status Documents, “an official of the General Registry Office is entitled to determine another time for registering the marriage, which is no less than a month, but no longer than six months from the day when the submission was accepted, in order to check the presented and submitted documents.”

Latvian case law provides that a person who has entered into a sham marriage, but later wants to annul it, has the possibility to submit a claim in civil law procedure requesting that the marriage be recognized as void as of the moment it was concluded. This is envisaged by section 60 of the Civil Law, and this is used also in those cases where a marriage has been concluded with third country nationals.

**Box 2. Legal Regulation: Declaring a Marriage Annulled****Civil Law**

Section 60.

A marriage that has been entered into fictitiously, i.e., without the intent to create a family, shall be declared annulled.

(with amendments introduced by the Law of 29 November 2012, which entered into force on 01 January 2013)

As the concept is used in the Criminal Law, a sham marriage is a type of crime that is different from human trafficking, since the object of the crime is not a person, but state administrative procedures. However, it must be underscored that sham marriages may be linked to crimes of human trafficking in a number of ways:

- 1) One of the types of exploitation in human trafficking cases is forcing a person to commit a crime; i.e., to enter into a sham marriage (in case the person had not been informed about the plans to conclude a sham marriage, but thought that he or she was going to another country to work; this should be considered as a case of forced marriage, which pursuant to United Nations Supplementary Convention on Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 7 September 1956 should in turn be considered as an institution similar to slavery);
- 2) Elements of a human trafficking case can be observed in a situation where a person who has entered into a sham marriage voluntarily may be deceived and subjected to exploitation after recruitment for a sham marriage. This is a situation in which a person initially had agreed to conclude a sham marriage, but afterwards did not in fact receive remuneration, was forced to conclude a sham marriage and was subjected to other forms of exploitation (see more in chapter “Research outcomes”).

**Human trafficking**

In Latvia the concept of human trafficking has been defined in CL section 154<sup>2</sup>, pursuant to which the crime of human trafficking comprises three elements: the action, the means and the purpose.

The Criminal Law defines the following actions as characterizing human trafficking crime: recruitment, transportation, transfer, concealment, accommodation or reception. The means are violence, threats, abduction by deceit, taking advantage of a person’s dependence on the offender or her vulnerability or helplessness, or by giving or obtaining material benefits or benefits of another nature.



The purpose of human trafficking is exploitation, which is understood as:

- a) involvement of a person in prostitution or in another kind of sexual exploitation;
- b) compulsion of a person to perform labour, to provide services or to commit criminal offences;
- c) holding of a person in slavery or other similar forms thereof or keeping a person in servitude;
- d) illegal removal of a person's tissues or organs.

In the period from 2010 to 2015 a number of amendments were introduced to section 154<sup>1</sup> and CL section 154<sup>2</sup> on human trafficking.

- 1) Amendments of 13 December 2012 to CL section 154<sup>1</sup>, which entered into force on 1 January 2015, have changed the scope and form of punishment, lowering the minimum punishment. For example, the first part of CL section 154<sup>1</sup> previously provided for a punishment with deprivation of liberty from three to eight years. Currently, however, the minimum is no longer defined, and punishment with deprivation of liberty up to eight years is envisaged. The second part comprises additional punishment: probation supervision.
- 2) Amendments of 13 December 2012, which entered into force on 1 April 2013, provided for changes in the enumeration of acts of human trafficking, including also accommodation, as well as expanding the understanding of the concept of exploitation, by providing that also forcing a person to commit criminal offences is to be deemed exploitation. This means that a person can be released from criminal liability if the criminal offence has been committed at the time when the person was subjected to human trafficking and was forced to commit the criminal offence. The aim of these amendments is to protecting the human rights of victims, prevent repeated victimization and encourage victims to become involved in criminal proceedings as witnesses against the offenders.
- 3) Amendments of 25 September 2014, which entered into force on 29 October 2014, introduced changes to CL section 154<sup>2</sup>, by including in it the concept of vulnerability. Here the status of vulnerability is defined as circumstances in which the person has no other real or acceptable choice but to submit to exploitation.

### **Box 3. Legal Regulation: Human Trafficking**

Criminal Law.

#### **Section 1541 . Human Trafficking**

(1) For a person who commits human trafficking — the applicable punishment is deprivation of liberty for a term up to eight years, with or without confiscation of property.

(2) For a person who commits human trafficking if it has been committed against a minor, or if it has been committed by a group of persons pursuant to prior agreement,—

the applicable punishment is deprivation of liberty for a term of three years and up to twelve years, with or without confiscation of property and with or without police supervision for a term up to three years.

(3) for a person who commits human trafficking if it has endangered the life of a victim or serious consequences have been caused thereby, or it has been committed involving particular cruelty or against an underage person, or it has been committed by an organised group, —

the applicable punishment is deprivation of liberty for a term of five years and up to fifteen years, with or without confiscation of property and with or without police supervision for a term up to three years.

*(25 April 2002 wording of the law with amendments introduced with the law of 16 December 2004, 13 December 2007, 08 July 2011, 13 December 2012 and 14 March 2013, which entered into force on 01 April 2013. See para 11 of the Transitional Provisions).*

#### **Section 154<sup>2</sup>. Meaning of Human Trafficking**

(1) Human trafficking is the recruitment, transportation, transfer, concealment, accommodation or reception of persons for the purpose of exploitation, committed 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.

(2) The recruitment, transportation, transfer, concealment, accommodation or reception of a minor for the purpose of exploitation shall be recognised as human trafficking also in such cases, if it is not connected with the utilisation of any of the means referred to in paragraph one of this section.

(3) Within the meaning of this section, exploitation is the involvement of a person in prostitution or in other kind of sexual exploitation, the compulsion of a person to perform labour, to provide services or to commit criminal offences, the holding of a person in slavery or other similar form thereof (debt slavery, serfdom or compulsory transfer of a person into the dependence upon another person), and the holding a person in servitude or also the illegal removal of a person's tissues or organs.

(4) Within the meaning of this section state of vulnerability means using the circumstances when a person does not have another actual or acceptable choice, only to submit to exploitation.

*(25 April 2002 wording of the Law with amendments that were introduced with the Law of 13 December 2012 and 25 September 2014, which entered into force on 29 October 2014.)*

## **2.2. Description of the System: Institutions Involved and Their Responsibilities**

### **National policy guidelines**

The Guidelines on Human Trafficking, 2014–2020 define the implementation of national policy in preventing and combatting human trafficking in Latvia (Cilvēku tirdzniecības pamatnostādnes 2014-2020, gadam, 2014). This is a medium-term policy-planning document which defines the principles, actions and responsible institutions for preventing human trafficking. In general, the Guidelines on Human Trafficking, 2014–2020 continue the policy that was defined in the previous policy-planning documents on preventing human trafficking (Program for Preventing Human Trafficking 2004–2008; Program for Preventing Human Trafficking 2009–2013).

The Guidelines on Human Trafficking, 2014–2020 are based upon four internationally recognised principles of policy against human trafficking: 1) prevention; 2) protection of victims; 3) criminalisation, prosecution and adjudication; and 4) national and international level cooperation of competent institutions and organisations. The description of the system below is organized according to the principles of the policy against human trafficking referred to above.

### **Prevention**

The main task of measures for preventing human trafficking is to decrease the possibility that a person could become a victim of human trafficking. Therefore the most effective line of preventive actions is organising targeted informative and educational events for those groups which can be most easily influenced and subjected to exploitation. The preventive measures implemented in Latvia can be divided into three groups:

- 1) education at schools;
- 2) informing the general public;
- 3) educating specialists.

In Latvia, the Ministry of Education and Science is involved in ensuring prevention at the institutions of education, where this topic is included in the curriculum.

Informing the general public about the problems and risks of human trafficking in Latvia is not organised in a systematic way, since regular state financing is not allocated for this. Public awareness campaigns are primarily implemented by non-governmental organisations, which attract financing to the extent that they can, and in the form of projects. Specialists of state institutions support information campaigns and participate in such activities as lecturers or by providing information. Projects by non-governmental organisations (NGOs) are based upon very diverse sources of financing, among which the financing

allocated by the United States Government and regular support to projects by the Riga City Council deserve special mention.

Similarly, on the national level the training of specialists who would be able to identify victims of human trafficking is not organised in a sufficient scope. Projects implemented in Riga can be mentioned as a positive example (financing by the Fund for Maintaining Public Order of the Riga City Council), where since 2010 every year as many as 100 specialists of the Riga City Council (social workers, employees of municipal police and social pedagogues from schools in Riga) participate in training. Unfortunately, similar initiatives have not been launched in sufficient scope outside Riga. In Latvia, sufficient state budget resources for organising the training of specialists are not granted.

## **Victim protection**

The Social Services and Social Assistance Law envisages that victims of human trafficking receive social rehabilitation services that are paid for out of the state budget. The law defines a victim of human trafficking as a person who has been recognised as a victim in a criminal offence amounting to human trafficking, or to whom the State Police has issued a statement that he or she is a victim of human trafficking in a foreign state, as well as a person who has been recognised by a provider of social services as complying with the criteria of victim of human trafficking.

The Ministry of Welfare bears the responsibility for organising the provision of social rehabilitation services and the administration of the finances allocated by the state. Before social rehabilitation services can be paid for by the state, an assessment needs to be made of whether or not a person fulfils the criteria of a victim of human trafficking. For this purpose, the service provider establishes a special commission, which includes a social worker, a psychologist, a lawyer, an official of the State Police, and, if necessary, other specialists. The rehabilitation program for victims of human trafficking ensured by the state lasts 180 calendar days. In addition to this, a person may receive five consultations by a service provider (a consultation lasts one hour) within two years after the course has been completed, unless the person in question receives support that is provided during criminal proceedings. The support that is provided during criminal proceedings after the course of services has been completed includes psycho-social assistance (including individual consultations with a lawyer, a social worker, a psychologist), interpreter's services, assistance in drawing up legal documents and, if necessary, representation at court, not exceeding 150 hours annually.

In Latvia, assistance and services to victims of human trafficking are provided by two NGOs, the Shelter "Safe House" and the Resource Centre for Women "Marta". From 2007 to 2015 the services paid for by the state to victims of human trafficking were provided by the Shelter "Safe House", and in 2007, 2015 and 2016 the provider was the Resource Centre for Women "Marta".

It is possible to report on human trafficking cases or request assistance by using a number of assistance and informative hotlines. Anyone can report information about possible cases of human trafficking by using the emergency number 112 or by contacting the Organised Crime Combating Board of the Main Criminal Police Board of the State Police (OCCB) or an NGO which provides support to victims of human trafficking.

The Shelter “Safe House” runs a hotline service designed to decrease human trafficking, and which educates callers about what action should be taken in a particular situation. It is one of the resources available if assistance is needed in human trafficking cases in Latvia or abroad. Also the Resource Centre for Women “Marta” maintains a free informative hotline on weekdays from 10.00 to 18.00 to provide assistance and support in difficult life situations.

The Consular Department of the Ministry of Foreign Affairs provides a toll-free information phone line for travellers, providing advice on safe travelling, work abroad and other consular issue, as well as a 24-hour line for emergencies: death, severe diseases, disasters, etc.

## **Combatting human trafficking**

Identifying, combatting and preventing human trafficking is the task of the OCCB. The State Border Guard has the task of controlling compliance with the regulations on arrival in, residing in, leaving and transiting the territory of the Republic of Latvia by foreigners. This applies also to those foreigners who have married or intend to marry Latvian nationals.

The employees of both the State Police and the State Border Guard receive regular training on issues of preventing human trafficking and identifying victims of human trafficking, since it is important to improve the ability of police officers and border guards to identify possible victims of human trafficking.

The supervision of investigation and prosecution in criminal proceedings that are linked to human trafficking is carried out by prosecutors of the Specialised Prosecutor’s Office for Organised Crime and Other Branches.

In describing the case law in human trafficking cases on the basis of section 154<sup>1</sup> of the Criminal Law, it must be highlighted that these cases typically have a large number of victims and that court hearings are frequently postponed, because the victims have not come to the court or are abroad. The legal proceedings are also frequently suspended because the accused persons are hospitalised due to illnesses. Due to these reasons the legal proceedings take a very long time. This is the main reason why the total number of sentenced persons is small, compared to the number of criminal proceedings that have been initiated or adjudicated by a first instance court. The court rulings between 2009 and 2013 show that in general within this period ten persons have been accused of committing a crime envisaged by section 154<sup>1</sup> of the

Criminal Law, of which five have been found guilty and have been sentenced, and five persons have been found not guilty (Liholaja 2014).

## **Cooperation between competent institutions and organisations**

Cooperation between institutions and organisations to prevent human trafficking and sham marriages is ensured by a working group that has been established to coordinate the implementation of the Guidelines on Preventing Human Trafficking, 2014–2020. The working group was established by Order of the Prime Minister No. 307 on 25 August 2014. However, it should be noted that a similar working group operated also at the time when the previous development policy-planning documents were in force and, correspondingly, when it coordinated the implementation of the policy-planning document that was valid during the period in question.

The working group has the task of coordinating the actions of institutions of public administration, local governments and non-governmental organisations in implementing the Guidelines on Preventing Human Trafficking, 2014 – 2020, as well as ensuring effective exchange of information and concerted actions in preventing human trafficking and providing support and social services to victims of human trafficking. In total, 32 representatives from state institutions and non-governmental organisations have been approved as members of the working group.

## **2.3. Statistical information**

To characterise the prevalence of sham marriages that are related to crimes of human trafficking in Latvia and the scope of involvement by Latvian citizens in these offences, different statistical information<sup>1</sup> is used. It is important to stress that the detected crimes and identified victims of sham marriages are only a part of those who might be involved.

Statistical information on human trafficking victims is collected by those who provide social rehabilitation services to human trafficking victims. According to the information provided by the NGO “Shelter “Safe House””, from 2007 until 2014 the NGO provided social rehabilitation services to 113 persons, of whom 59 had been linked to sham marriages. In 2014 there were 27 officially recognised victims of human trafficking, of whom 15 (again, more than a half) had been exploited in situations of sham marriages. These statistics show that more than a half of the identified human trafficking cases in Latvia are linked to the phenomenon of sham marriage. In this regard one must take into consideration that Latvian citizens become involved in sham marriages predominantly abroad, not in Latvia, but the recruitment of people for sham

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<sup>1</sup> The reference period in every particular case is provided according to the available information.

marriages takes place in Latvia (Latvia is traditionally a country of origin), and also, most often Latvian citizens seek assistance from Latvian institutions, not from those of other countries. The fact that the identified victims are only a part of all victims is also indicated by the statistics collected by the Shelter “Safe House” regarding consultations provided over the 7/24 hotline in 2014: all in all, advice had been provided in 220 cases on various issues, and in 63 of these cases the advice was linked to sham marriages.

The statistics collected by the Shelter “Safe House” on the recipients of social rehabilitation services paid for by the state in 2013 and 2014 reveals that the main types of exploitation faced by victims of human trafficking from Latvia are involvement in sham marriages, sexual exploitation and labour exploitation (Table 1). Most often the victims seek assistance from the Shelter “Safe House” or seek assistance through Latvian embassies abroad.

**Table 1.** Statistics collected by the Shelter “Safe House” about the recipients of social rehabilitation services paid for by the state

	<b>2013</b>	<b>2014</b>
<b>Total number of new victims of human trafficking</b>	19	27
Total number of all victims that have received services in the year in question, including also those who started rehabilitation in the previous year	33	38
<b>Gender</b>		
Women	32	30
Men	1	8
<b>Type of exploitation</b>		
Sham marriages	17	15*
Sexual exploitation	8	
Labour exploitation	8	12*
<b>Institution which identified and referred the victim for the provision of social rehabilitation services</b>		
State Police	3	1
Latvian embassies	8	6

Social services	4	1
NGO "For Vidzeme Free from Human Trafficking"	0	4
Contacted himself or herself	7	14
States where human trafficking cases involving Latvian citizens have been detected	Ireland United Kingdom Cyprus	Ireland United Kingdom Brazil, Greece Cyprus Germany Sweden

\* Victims identified in the year in question

Source: Society "Shelter "Safe House""

Latvian embassies abroad collect statistical information about the number of those Latvian nationals abroad who turn to Latvian embassies for assistance in a situation where human trafficking is suspected.

During the last five years (from 2011 until 30 June 2015) the Latvian diplomatic missions abroad have provided assistance to 365 possible victims of human trafficking (Table 2). Most often assistance has been sought at the Latvian Embassy in Ireland (two thirds of all cases, or 241 cases). The second Latvian embassy where assistance is sought most frequently is in the United Kingdom (14% of all cases, or 53 cases), and the Latvian Embassy in Greece ranks as third (5% of all cases, or 17 cases). This statistics do not comprise detailed information regarding whether or not the cases are linked to sham marriages. However, suspicion regarding a close link to sham marriages is caused both by the experience of consular staff and also the study conducted by the Latvian Embassy in Ireland (see below), as well as the available statistical information about the very high number of marriages concluded with third country nationals, where the third country nationals have requested residence permits on the basis of being married to a Latvian citizen (Table 5).



**Table 2.** Assistance provided at Latvian diplomatic missions abroad to possible human trafficking victims. 2011– 0 June 2015 .

<b>Latvian diplomatic missions abroad</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015, I– VI</b>	<b>TOTAL</b>
United States	0	0	1	0	0	1
Austria	0	0	1	0	0	1
Belgium	0	1	0	0	0	1
Denmark	0	0	0	0	1	1
France	12	0	1	2	0	15
Greece	0	7	7	1	2	17
Italy	1	1	0	0	0	2
Israel	0	0	2	0	0	2
Ireland	89	74	47	22	9	241
Japan	0	0	0	1	0	1
United Kingdom	2	19	14	10	8	53
Netherlands	2	0	0	3	5	10
Norway	0	0	0	1	0	1
Poland	0	2	0	0	0	2
Turkey	0	0	1	0	0	1
Germany	5	7	1	2	0	15
Sweden	1	0	0	0	0	1
<b>TOTAL</b>	<b>112</b>	<b>111</b>	<b>75</b>	<b>42</b>	<b>25</b>	<b>365</b>

Source: Consular Department of the Ministry of Foreign Affairs

The statistics regarding the phenomenon of sham marriages collected by the State Police pertains, first of all, to criminal proceedings that have been initiated on the basis of CL section 285<sup>2</sup>, which entered into force on 1 April 2013, and, secondly, on the basis of CL section 154<sup>2</sup> on human trafficking (Table 3).

In 2013, 7 criminal proceedings were initiated in Latvia on the basis of CL section 285<sup>2</sup>, in 2014, 13 criminal proceedings, and in 2015, 11 criminal proceedings (the OCCB data as of 11 December 2015). In the criminal proceedings that have been initiated, 16 persons have been recognised as suspects (14 women and 2 men) in 2015.

To turn to CL section 154<sup>2</sup> on human trafficking, one of the criminal proceedings initiated in 2010 and one of the criminal proceedings initiated in 2014 involved forced marriage, and two of the criminal proceedings initiated in 2015 involved forced marriage. The representatives of the State Police stated that during 2011–2013 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. Since CL section 285<sup>2</sup> entered into force on 1 April 2013, similar cases are forwarded for judicial proceedings on the basis of CL section 285<sup>2</sup>.

**Table 3.** Criminal proceedings that have been initiated on the basis of section 1542 of the Criminal Law on human trafficking, 2009–2014.

<b>Year</b>	<b>Criminal proceedings initiated</b>	<b>Suspects</b>	<b>Criminal proceedings forwarded for adjudication</b>	<b>Persons against whom criminal proceedings have been forwarded for adjudication</b>
2009	3 (2 for forced marriage, 1 for sexual exploitation)	4 (2 men and 2 women)	3	10 persons
2010	3 (2 for sexual exploitation, 1 for forced marriage)	4 (2 men and 2 women)	3	4 persons (3 men, 1 woman)
2011	0	0	0	0
2012	3 (sexual exploitation)	2 persons (2 men)	1	1 person (1 man)
2013	5 (sexual exploitation)	6 (5 men and 1 woman)	1	1 person (1 man)

2014	1 (forced marriage, sexual exploitation, forced labour)	14 (10 men and 4 women)	0	0
2015	3 (2 for forced marriage, 1 for sexual exploitation)	9 (3 men and 6 women)	2	12 persons (8 men, 4 women)

Source: State Police, the OCCB

On the basis of CL section 154<sup>1</sup>, in 2015 three criminal proceedings have been initiated in Latvia (two cases involving forced marriage, and one involving sexual exploitation). Nine persons have been recognised as suspects (three men and six women). Two criminal proceedings have been transferred for criminal prosecution (against 12 persons; 4 women, 8 men). Two persons have been recognised as victims of human trafficking; an adult woman with signs of vulnerability and one underage girl.

The representative of OCCB underscores that they initiate criminal proceedings in case of sham marriages on the basis of CL section 154<sup>1</sup> on human trafficking. The OCCB has developed an approach for qualifying these as human trafficking crimes. The most important aspects that characterize crimes of human trafficking linked to sham marriages are, first of all, that they are organised by a group of persons involving contractors, organizers, recruiters and go-betweens. Secondly, there are signs that these crimes have been committed with the purpose of financial gain, and a person's vulnerability is abused. Thirdly, victims are exploited by being forced to provide compulsory services (sham marriage), but since the amendments to CL which entered into force on 1 April 2013, it can be qualified as forcing to commit a criminal offence; i.e., ensuring in bad faith to a person the possibility of acquiring a legal residence permit in accordance with CL section 2852 (sham marriage) (Table 4).

**Table 4.** Approaches to qualification in criminal proceedings initiated by OCCB on the basis of CL section 154<sup>1</sup> in cases involving sham marriages: acts, means, purpose

Acts	Means	Purpose: types of exploitation
<b>Recruiting, transporting, transferring, accommodation or reception</b>	<b>A person's vulnerability, threats, abduction with deceit, giving or receiving material or other kinds of benefits</b>	<b>a) compulsory service</b> <b>b) forcing to commit criminal offences</b> (in particular: ensuring in bad faith to a person the possibility of acquiring a legal residence permit, in accordance with CL section 285 <sup>2</sup> )*

\* Qualification which became possible after amendments to the Criminal Law of 13 December 2012 and that entered into force on 1 April 2013.

The statistics reviewed above predominantly refer to sham marriages that have been concluded abroad, but the OCMA and the State Border Guard examine cases where it is suspected that a sham marriage is concluded in Latvia. Pursuant to an established procedure, in cases of suspecting sham marriages with third country nationals, the OCMA representatives turn to the State Border Guard with the request to conduct inspections at the spouses' places of residence. In 2014 the State Border Guard conducted 223 inspections regarding spouses' cohabitation, and in 48 cases sham marriages were suspected. During the ten years following 2004, a total of 38 temporary residence permits have been annulled on the basis of a sham marriage in Latvia, of which 19 were annulled over the last five years. It must be added that in the period from 2011 to mid-2015 seven persons have turned to court to appeal the decision to annul a residence permit or the refusal to issue it. In four of these seven cases, the court rejected the appeal, but three cases are still being adjudicated.

**Table 5.** Total number of temporary residence permits in Latvia annulled on the basis of a concluded sham marriage, 2009–2014

Year	Number of annulled temporary residence permits	Nationality of persons whose temporary residence permits were annulled
2009	6	Russia (2), Georgia (3), Armenia
2010	5	Russia (2), Armenia (2), Ukraine
2011	5	Pakistan, South Africa, United States, Turkey, Russia
2012	5	Russia (4), Cameroon

2013	3	Kazakhstan, Pakistan, Ukraine
2014	1	Jordan

Source: Office of Citizenship and Migration Affairs

Until now the largest share of sham marriages with Latvian citizens concluded abroad has been observed in Ireland. This is the reason why marriages of Latvian citizens in Ireland have been the focus of more attention, and the Consular Department of the Ministry of Foreign Affairs collects information provided by Irish institutions on marriages between Latvian citizens and third country nationals that have been concluded in Ireland. These marriages are concluded primarily with citizens of Pakistan, India and Bangladesh, and therefore statistics regarding Latvian citizens' marriages is collected about these countries.

The available statistics (Table 6) shows that in recent years the largest number of marriages concluded between Latvian citizens and third country nationals was in 2009, when 257 marriages with citizens of Pakistan, 90 marriages with citizens of India, and 20 marriages with citizens of Bangladesh were concluded in Ireland, a total of 367 marriages. To compare, in 2014 in Ireland 225 marriages were concluded with third country nationals, and citizens of Pakistan continued to be the largest group with whom Latvian citizens (mostly women) concluded marriages (76 marriages in 2014).

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 must be underscored that all these marriages are not sham marriages or marriages in which exploitation occurs. However, persons who provide social rehabilitation services to victims of human trafficking and staff members of Latvian diplomatic missions abroad voice concern that, possibly, a large part of these marriages are nevertheless fictitious, for one or for both parties. 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.

**Table 6.** Number of marriages concluded between Latvian citizens and third country nationals in Ireland in 2009–2014.

<b>Nationality of the third country national</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>Total (2009–2014)</b>
<i>Pakistan</i>	257	143	56	28	65	76	625
<i>India</i>	80	37	15	5	18	22	177
<i>Bangladesh</i>	20	20	16	9	7	–	72
<i>Other</i>	*	45	37	66	113	127	388
<b>Total</b>	<b>357*</b>	<b>245</b>	<b>124</b>	<b>108</b>	<b>203</b>	<b>225</b>	<b>1262</b>

\* Regarding 2009 information is provided only about marriages concluded with citizens of Pakistan, India and Bangladesh.

Source: Consular Department of the Ministry of Foreign Affairs.

In the period from October 2010 until August 2013 the Latvian Embassy in Ireland conducted a study entitled “Social profile of Latvian citizens – potential and current participants of sham marriages”. For the purpose of the study, the Embassy surveyed Latvian citizens who had turned to the Embassy in Ireland in connection with a planned marriage to a third country national. The summary of the study (Buša 2015) shows that 90% of the total of 500 respondents had arrived in Ireland shortly before concluding the marriage. This fact causes concern about the possibility of sham marriages, as it can be assumed that the couples in question had not dated, co-habited or even known one another for long before the marriage.

Secondly, it must be noted that in 104 cases (21%) these were young women who had not even reached the age of 20. In a rather large number of cases more than one member of the same family planned to get married to a third country national at the same time: sisters (29 cases), or a mother and a daughter (four cases). This is not impossible, but it might raise suspicion of a sham marriage. In more than 185 cases (37%) the women who are planning to get married to a third country national came from large families, with four or even more children. In 167 cases (33%) the future brides already had children, and in 71 cases two or more children.

In the study, three cases were identified where it was suspected that a male citizen of Latvia had concluded a sham marriage with a third country national abroad (Buša 2015).

### 3. Description of the Study

To characterise the phenomenon of exploitative sham marriages in Latvia, two qualitative research methods were used. First of all, in-depth interviews with experts who encounter problems with human trafficking and sham marriages were conducted, and secondly, five cases of exploitative sham marriages have been analysed. To ensure comparability of the study outcomes with those of other countries involved in the HESTIA project “Preventing Human Trafficking and Sham Marriages: a Multi-disciplinary Solution” (Lithuania, Estonia Ireland and Slovakia), the research methodology developed by the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), guidelines on interviewing experts, as well as on interviewing the victims of exploitative sham marriages, were used.

The semi-structured thematic interviews cover the following research topics: the profile of the victims of exploitative sham marriages, patterns of victim recruitment, travelling to and arrival in the destination country, life in the destination country and exploitation, organising sham marriages, identifying victims and providing assistance, and the opinion of the interviewed experts and victims of exploitative sham marriages on necessary preventive measures. These topics constitute the basis for further presentation of the study, which is based upon analysis of information provided by experts, as well as information obtained from the cases of and interviews with the victims of exploitative sham marriages.

The study was conducted during the summer and autumn of 2015.

#### **Expert interviews**

A total of 15 in-depth interviews were conducted with 17 experts. The persons interviewed were experts from the Ministry of Foreign Affairs, the Ministry of Justice, the Office of Citizenship and Migration Affairs, the Prosecutor’s General Office, the State Police, the Riga City Civil Registry Office, providers of social rehabilitation services (the Shelter “Safe House” and the Resource Centre for Women “Marta”), as well as representatives of the social services of a number of local governments and the NGO “For Vidzeme Free from Human Trafficking”.

Eleven interviews with experts were conducted face-to-face, and four interviews were conducted by phone. These latter were interviews with experts outside Riga: representatives of social services of local governments and the NGO “For Vidzeme Free from Human Trafficking”. All the interviews were conducted in Latvian. However, Latvian was not the first language for all the experts. The amount of information gathered on the phenomenon of exploitative sham marriages in expert interviews differed considerably in

accordance with the particular competence of the informant. The interviews conducted with representatives of the NGOs Shelter “Safe House”<sup>2</sup> and the Resource Centre for Women “Marta”, as well as with representatives of the State Police and the Prosecutor’s General Office, were particularly informative, as these experts had direct experience with cases in which elements of exploitative sham marriages could be detected. The other experts predominantly have faced this phenomenon indirectly or occasionally, and therefore they have been cited to a lesser degree. All interviews with experts were audio recorded, and part of the interviews was transcribed. The quotes used in the report have been translated into English. The interviews conducted with the representatives of the NGOs Shelter “Safe House” and the Resource Centre for Women “Marta” are quoted as “an interview with a provider of social rehabilitation services”. The interviews conducted with the representatives of the State Police and the Prosecutor’s General Office are quoted as “an interview with a representative of the police/prosecutor’s office”. The interviews conducted with the representatives of the Ministry of Justice and other experts with a legal education and expertise in human trafficking, but not providing social rehabilitation services, are quoted as “an interview with an expert – a lawyer”.

## **The case studies**

All cases refer to persons who have received assistance at the NGO Shelter “Safe House” and who have been defined as victims of human trafficking. The case studies of five exploitative sham marriages combine analysis of documents and interviews with the victims of exploitative sham marriages in those cases where the documentary information was insufficient for analysis.

The documents analysed were those included in client files of the NGO Shelter “Safe House”, which include a written description of the experience by victims of exploitative sham marriages, and information gathered during the process of social rehabilitation. At the outset, all the documents were analysed and the information provided by victims in written form was coded according to themes defined in the methodology. After the analysis of documents, information that was missing was gathered by asking questions directly of victims. In one case the interview has been done face-to-face, in one case by phone, and in one case via Skype. In two cases the victims were not contacted personally. No recording and transcribing were provided. In all cases the main source of information are files written personally by victims before the program of social rehabilitation, and this has been included in the quotes from the victims. The case information was prepared by a representative of the NGO Shelter “Safe House” in order to guarantee full anonymity and to avoid re-traumatizing the victims.

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<sup>2</sup> The NGO Shelter “Safe House” is a partner in the HESTIA-project.



In all five cases sham marriages had been concluded abroad, and the victim of the exploitative sham marriage moved from Latvia to the destination country (in four cases to Ireland, and in one case to Germany). Two persons turned directly to the NGO Shelter “Safe House” for assistance after they had returned to Latvia, while others received support for returning to Latvia from the Latvian Embassy in Ireland. The Latvian Embassy had also advised them to turn for help to the NGO Shelter “Safe House”.

In two cases the sham marriage with a third country national had been recognised by the court as void from the moment it was concluded (court decision based on section 60 of the Civil Law). In the other three cases documents have been submitted to court, and currently the court is considering whether or not to recognize the sham marriage as void. The time of actual exploitation was between 2012 till 2014.

A short description of each case is provided in Box 4.

**Box 4. Cases of exploitative sham marriages included in the study**

**Case 1.** A woman, 35 years, divorced, three children, living with a divorced Latvian husband in Ireland, lived in Latvia in the countryside. Worked as a baby-sitter in a family of a Polish woman and a third country national in Ireland. The third country national offered a fictitious marriage to his brother, and promised payment for this. Before the marriage to her employer’s brother, the woman started living with him. The woman was not allowed to leave the room she was allocated, was not allowed to get in touch with relatives and friends, was given food once per day, was forced to provide sexual services to the future husband, was promised that she would be allowed to return to Latvia after the marriage ceremony. The sham marriage was recognised as void (court decision based on section 60 of the Civil Law).

**Case 2.** A woman, 20 years, unmarried, no children, lived in Latvia in the countryside. After graduating from the secondary school, worked as a dressmaker for a very low salary. An acquaintance offered a well-paid job in Germany, without specifying what kind of job. When the woman arrived in Germany, she was told that there was no job and that she had to marry a third country national. Remuneration was promised for concluding the marriage and “releasing her from debt”; i.e., she would not have to repay the money for the plane ticket, but, if she would not agree, threats were made that she would be left at the airport without money and she would not be able to return to Latvia. Her documents were seized and her possibility of leaving the apartment was restricted. She was not allowed to get in touch with her relatives and friends. After pleading it for a long time, she was bought an economy class ticket to Latvia and she returned to Latvia. Documents submitted in court and currently the court is considering whether or not to recognize the sham marriage as void.

**Case 3.** A woman, 20 years, unmarried, no children. lived in Latvia in the countryside. A friend invited her to Ireland and offered a job there. There was no job in Ireland, and the woman was told that she was in debt and therefore had to marry a third country national. After the sham marriage was concluded the woman returned to Latvia, but after some time the fictitious husband demanded that she return to Dublin to confirm the existence of the marriage. On this occasion her documents were taken away and she was sexually abused, and she and her minor daughter, who had been born from a relationship in Latvia, were beaten. The woman's half-sister has also concluded a sham marriage. Documents submitted in court and currently the court is considering whether or not to recognize the sham marriage as void.

**Case 4.** A woman, 22 years, unmarried, a 6 months old child. Lived in Latvia in the countryside. The woman came from a large family living in poor material conditions. Was recruited for the sham marriage by a relative who promised the woman and her child a better life and a job in Ireland. When she arrived in Ireland, she was forced to marry a third country national. The woman was subjected to sexual exploitation and threats, and both she and her small child were beaten. Two more children were born in this sham marriage. The sham marriage was recognised as void (court decision based on section 60 of the Civil Law).

**Case 5.** A woman, 19 years, unmarried, no children, grew up in a child care institution. Lived in Latvia in a small town. The woman was offered a job in Ireland in social media. When she came to Ireland, she was met by two third country nationals and it turned out that there was no job. The woman was introduced to another third country national, who courted her and proposed marriage. After their wedding the husband's attitude changed, her documents were seized, she was controlled, physically abused (kicked, her hair pulled) and forced to engage in sexual relationships, as the result of which a child was born. Documents submitted in court and currently the court is considering whether or not to recognize the sham marriage as void.

## 4. Research Outcomes

### 4.1. Recruiting victims

#### Patterns of victim recruitment

The cases of victims of exploitative sham marriages and interviews reveal a number of patterns in recruiting victims of exploitative sham marriages. There are cases in which a woman's trust is misused to recruit her for a sham marriage, and she is deceived. In such cases the victim is initially told that she would be offered some kind of job abroad and the possibility to earn money; however, upon arriving in the destination country, it turns out that there is no job:

My acquaintance S. offered a well-paid job, without saying concretely what kind of job, in Germany, no need to know German. I agreed and flew together with S. to Germany. S. paid for the plane ticket because I had no money. But it was not mentioned before that I would have to return the money. (Victim 2)

In a situation where a woman has travelled to a foreign country without knowing the language of this country, and the ticket has been paid for by the recruiter, psychological pressure is exerted upon the woman, and it is emphasized that she is in debt to the recruiter and therefore she must conclude a sham marriage, or, to phrase it differently, the woman is driven into debt bondage:

At the airport we were met by two men of dark complexion, and following a conversation with them S. told me that there was no job, but I had to marry one of them. I did not agree, but S. insisted that her friends should not be disappointed. [I was] promised 2000 EUR for concluding the marriage, and I would not have to return the money for the plane ticket. If I did not get married, I would be left at the airport without money and would not be able to return to Latvia. I became afraid because I was abroad for the first time, did not speak German. That is why I agreed to the sham marriage. (Victim 2)

These cases should be recognised as forced sham marriages, in which a woman, through deceit, manipulation, lack of language skills, is forced to conclude a sham marriage without being promised any remuneration whatsoever. She is forced to conclude a sham marriage to repay the debt caused by the travel costs:

My friend I. invited me to visit her in Ireland and promised to find a job there. I. bought the plane ticket. [...] In Dublin I lived with I. She made excuses that at the moment the job had been taken by someone else, and I had to wait until it would be vacant again, or I. would look for another opportunity. [...] I. also reminded me that she had covered all the travel costs, and I was in debt to her, and that I had to repay this debt. I did not understand that I was being manipulated, and therefore I agreed to conclude the marriage. (Victim 3)

In another case the woman was directly told that she had been bought for marriage in order to ensure a residence permit to the husband. Psychologically and economically dependent upon others, women give in to such pressure:

When I, using a dictionary, tried to ask where my job was, my future husband answered that I had come here to get married, that he had paid for me and that I had to get married to him. (Victim 4)

There are also cases in which women have intentionally and voluntarily concluded sham marriages, and in such cases the fact that women had been in an economically difficult situation and had needed money had been used. However, in the case of exploitative sham marriage these women are deceived, the money is not paid, and they are subjected to various types of exploitation:

I worked as a baby-sitter in a family of a Pole and a Pakistani man in Ireland, and was paid a very low salary – 75 EUR per month. The Pakistani man offered to me to marry his brother, and since I really needed the money, I agreed. The offer was to pay 400 EUR for concluding the marriage. I was not aware of the risks that could arise after concluding such a marriage. (Victim 1)

In the interviews, the providers of social rehabilitation services stated that recently women who become involved in sham marriages voluntarily most often are not paid and are deceived, or the payment is very small:

Over the years the amounts have become extremely small. [...] For a woman “to fall for the bait” of an offer of a sham marriage, three, four thousand euros are offered for concluding the marriage, but there are no guarantees that they are going to get these amounts. After the marriage has been concluded, the recruiter quickly adds up his costs and tells the woman: “Yes, of course, four thousand, but you had to pay for the travel, get food, you did not work yourself, I kept you, and also the apartment costs should be split in half, you live there, don’t you? And, look, what a phone I bought for you, and a new computer.” (An interview with a provider of social rehabilitation services)

No remuneration for concluding a sham marriage is paid to those women, who are deceived because they believed that it was a case of a genuine marriage with a third country national, since they had formed this impression after the initial courting and the promise to marry:

No job was found in a week’s time, as was promised, and neither within a month. I was introduced to a man of Indian origin, who was very friendly, attentive, caring, and he quickly won my trust and attachment. After some time he proposed marriage to me and offered to live with his uncle. I agreed, because I was in love with him. [...] I was in love, I hoped that I would have a happy family life. (Victim 5)

The recruitment approach, in which a sham marriage is not offered, but instead the illusion of a real relationship is created, is very advantageous to third country nationals, since they do not have to pay for concluding a sham marriage. The interviewed providers of social rehabilitation services believe this to be a very widespread strategy of recruitment. In such cases it is very difficult to prove that the woman has been used, because the woman believes that the marriage was a genuine one, not a sham. However, a number of

features point to the fact that the marriage had been genuine only for one party, since the prospective husband has hastened the woman into marriage and to giving birth to a child (a child in common with a Latvian citizen is sufficient grounds for receiving a EU residence permit), but the most important – the relationship – is subordinated to visiting migration services to receive the residence permit:

Girls really fall in love, they dream of a real family, in particular those who have lived for many years at an orphanage. The potential bridegrooms make an effort to court the girls, woo them, are attentive and caring, well, since what do Latvian guys need after a party – to get married? Getting married, showing one's feelings are not in vogue in Latvia. But here – those bridegrooms are very hot-blooded, will say three times per day that he loves her, they do not want sex before marriage. The dream of every girl. The wedding, the white dress. And he is handsome. (An interview with a provider of social rehabilitation services)

In general, recruiting predominantly takes place by addressing a particular individual directly in person or by using social media. It is important to underscore that often persons who are known to the victim are involved in recruiting – an employer, an acquaintance, a friend, relatives, but there are also cases where girls are recruited by strangers via social media. A situation in which the recruiter is a relative or friend is more traumatic for the victims of an exploitative sham marriage, since women are deeply hurt by being betrayed by someone close to them:

The most traumatic but not the most frequent case is when the recruiters are friends, relatives of these women, people with psychopathic behaviour; they feel no empathy and care only for their own benefit. It is traumatizing, since the victim trusts these people and the feeling of betrayal causes lots of suffering. (An interview with a provider of social rehabilitation services)

She was recruited by her sister, who lives in Ireland. Went to her sister, there was no job – a classic scheme, and then the sister suggested a marriage. On the very next day different men were brought to see the woman – different guys – those who were more brazen took greater liberties. The woman understands that this would not end well, and flees. (An interview with a provider of social rehabilitation services)

The fact that the recruiter is known to the victim does not mean that he or she is not involved in an organised criminal group. Both interviews with experts and the victims reveal that those acquaintances who are engaged in recruiting try to involve also other women in sham marriages:

The recruiter was an acquaintance who was living abroad. And it is known that this was not the only victim. There had been attempts to invite also other girls to come abroad. It looks like a criminal group. The police are investigating this case. (An interview with a provider of social rehabilitation services)

Recruitment on social media is more extensive and mass-scale. Tens or hundreds of e-mails or messages are sent, and only some “fall for the bait.”

These are social media and the Internet. The numbers of those who are approached are much larger than of those who agree. The recruiters approach, by considering

such factors as poverty, inability to assess the situation, needs. [...] Ads are deceitful – about jobs, education. (An interview with a provider of social rehabilitation services)

Interviews with persons who provide social rehabilitation services reveal that some of the victims of exploitative sham marriages also become involved in recruiting future victims. Sometimes they do this voluntarily, hoping to get paid for recruitment, sometimes they are simply used. For example, the victims' social media profiles are used:

She herself had recruited two girls. She was forced to do it. She herself is in a sham marriage. Unfortunately, there is intentional recruiting in which a person is aware of what she is doing, but there are cases where the person does not know that she is being used as a recruiter/ go-between. When using social media, you may be unaware of having participated in recruiting. (An interview with a provider of social rehabilitation services)

### **Groups of population that are subject to the greatest risk of becoming victims of exploitative sham marriages**

In Latvia the majority of identified victims of human trafficking and exploitative sham marriages are women. This does not exclude the possibility that men also are victims; however, they have not been identified. As regards the age of identified victims, it must be noted that women belonging to various age groups become victims of exploitative sham marriages. However, a trend can be discerned that most often these are young women, approximately 20 years old, and also that most often these are women with basic or uncompleted secondary education. Many of them do not know the language spoken in the particular country and the lack of language proficiency renders them rather helpless abroad:

I was taken to an apartment to my potential bridegroom. I could not speak with the bridegroom, because I do not speak English. We communicated by using Google Translator. (Victim 2)

The interviews with the providers of social rehabilitation services reveal that those who have grown up in dysfunctional families, where parents had addiction problems, where children suffered from violence in the family, and where parents neglected their children, are subject to a greater risk of becoming a victim of an exploitative sham marriage. Also interviews with the victims of exploitative sham marriages reveal that lack of support within the family is one of the risk factors for falling into the nets of recruiters:

I had nobody to talk to, my mum did not care what I did, and she just wanted to have me off her neck. (Victim 3)

Girls who have grown up in child care institutions (out-of-family care institutions) are a special risk group, because they have a pronounced need for family relationships, which is combined with poor social skills: not all girls are able to differentiate between the desired and the real, and they can be easily manipulated:

Those who have grown up in orphanages have one more factor which is stronger – an excessive need for a relationship. And it does not matter if the person is rich or poor, educated or less so. If someone has an excessive need for relationships, this is already a risk factor. [...] Emotional, psychological risks – negative experiences with relationships, which makes the need for positive relationships more acute. There can be situations of crisis when we become more vulnerable. (An interview with a provider of social rehabilitation services)

In many of the identified cases the victims of exploitative sham marriages are persons who have been diagnosed with a moderately severe or severe intellectual disability, which is also an essential factor, since the helplessness of these persons and their inability to assess the situation adequately, and inability to seek help is abused:

In this case only one girl was forced to conclude a marriage, others managed to escape. All the girls had been told that they would go abroad to work, and all the girls had an intellectual disability. They had been told that they would go to London, will lead a beautiful life, and earn good money. They were going away to work. When they came, they found out that they would have to conclude sham marriages with Pakistani men. (An interview with a representative from the police/prosecutor's office)

The women who are recruited for sham marriages are predominantly from lower income levels, and their complicated economic situation is used to manipulate them (sham marriages concluded as the result of fraud). A low income is an important factor also when the women are provided an incentive for becoming involved in this transaction (sham marriages with informed consent, hoping to receive remuneration), and also in situations in which the man is trying to convince her that his feelings are genuine:

They are abused by making them economically dependent upon the recruiter or the go-between, or other vulnerabilities are used. Women are cheated by the men – they show emotions, and the women believe that the relationship is genuine. (An interview with a provider of social rehabilitation services)

In many exploitative sham marriage cases where the women initially agreed to the transaction of concluding a sham marriage, their main incentive was money. The women hoped that immediately after getting married they would receive money and would be able to leave, but in reality many face threats and violence both before and after concluding the sham marriage:

What follows from the materials in the criminal case: they dream of a better life, of getting crazy money – two, three thousand, immediately after concluding a marriage, and then returning to Latvia. But they have to stay there. In some cases they are beaten, treated cruelly, they cannot return to Latvia, back home, they are coerced emotionally and psychologically. (An interview with a representative of the police/prosecutor's office)

In general, it can be concluded that the probability of falling into recruiters' nets is higher for certain vulnerable groups of people:

- women with a low level of education;

- women who have grown up in child-care institutions (out-of-family care institutions);
- women who have grown up in dysfunctional families, in which adequate parental care was not provided (parents with addiction problems, violence in the family, large families, parental neglect);
- women who have been diagnosed with a moderately severe or severe intellectual disability;
- women who have grown up in poor economic conditions (poverty, bad living conditions);
- women who are bringing up children alone.

Quite often the victims of exploitative sham marriages are subject to a number of risks. However, these risk factors are not shared by all.

## **4.2. Travelling and arriving in the destination country**

Different EU and EEA countries have different legal frameworks and approaches to the regulation and control over marriages to third country nationals. This determines why in some countries sham marriages between Latvian citizens and third country nationals are more frequent. According to the opinion of the majority of experts, until now Ireland was one of the countries with the most liberal and uncontrolled approach, since until recently there were no restrictions in Ireland on marrying a third country national who was residing there illegally. Documents proving his or her status were not required (regarding whether he or she has or has not been married before). Neither the police, nor officials registering the marriage had the right to delay the marriage in order to verify the status of the particular spouses in cases of suspicious marriages (for example, the spouses lacking a common language). Furthermore, a sham marriage with a third country national was not an act subject to criminal punishment in Ireland.

In recent years both Latvia and Ireland have amended their legislation. On 13 December 2012, section 2852 was added to the Latvian Criminal Law, defining liability for ensuring in bad faith to a person the possibility to acquire the legal right to reside in Latvia, another Member State of the EU, a country of the EEA or the Swiss Confederation, since this regulation envisages a possibility to initiate criminal proceedings also in those cases where sham marriages have been concluded outside Latvia.

In Ireland, in turn, the situation improved considerably with regard to the control of the procedure of marriage. On 18 August 2015 amendments to the Irish Marriage Act entered into force, with a view to eliminating sham marriages. In the future the employees of the Registrar of Marriages will have to pay special attention to those couples of whom one is a citizen of a European Union Member State, but the other is a third country citizen. If the employees



of the Registrar of Marriages find this couple suspicious, an investigation will be initiated, and if the suspicion proves to be true, the marriage will not be registered and the Department of Justice and Equality will be informed about the particular case. This information has been disseminated also to Latvian citizens in Ireland. This was done by the Irish Department of Social Protection in cooperation with the portal of Latvians in Ireland “Baltic – Ireland” (Kārklīņa 2015).

Changes in the regulation regarding registration of marriages and sham marriages are the reason why the typical models of organising sham marriages are changing. Latvian experts have repeatedly expressed the opinion that due to changes in the regulation on sham marriages Latvian citizens are recruited less often, and also that marriages are not organised in Ireland, but in another country where the regulation on marriages does not envisage special control with regard to marriages to third country nationals.

The information entered into the victim’s files and provided during the interviews reveals that women travel by air to a particular country, where they get to know the bridegroom and often conclude the marriage. The plane tickets are bought by the recruiter, i.e., the person who promised to find a job in the particular country or a contact person linked to the recruiter. The fact that the women have not covered their own travel costs is often used against them as an additional argument when forcing them to conclude a sham marriage:

I had no job, but I had to get married. They did not promise me money for getting married, they promised to release me from debt [for travel costs to the particular country]. (Victim 3)

If the recruiter had been an acquaintance or a friend, then she/he accompanied the woman during the trip. In other cases the recruited women fly alone, and are met at the airport by a friend or the future bridegroom, or his relative.

My sister-in-law bought the ticket, put me on the plane and told me that at the airport I would be met by a man who will help me with a job and living. ... I flew alone. I was met by my future husband. (Victim 4)

In some other cases several recruited “brides” flew from Latvia and were met by the future bridegrooms or their relatives:

At Dublin airport I and one more girl from Latvia were met by two Indians. They promised to find me a job and arrange a PPS number. (Victim 5)

The cases of victims of exploitative sham marriages, as well as the interviews, reveal that recruitment for sham marriages also takes place abroad. It must be emphasized that travelling to Latvia is expensive and complicated for third country nationals, in particular if he resides in Ireland or the United Kingdom illegally. That is why “bridegrooms” meet their “brides” for the first time abroad, not in Latvia. If the women are accompanied by someone on the trip, these are most often go-betweens or recruiters, or other recruited women.

### **4.3. Life in the destination country and exploitation**

#### **Types of violence**

The collected data reveal that the types of exploitation that women involved in sham marriages have faced are diverse. The data shows that women have experienced physical violence, sexual violence, psychological violence, and economic violence. In many cases more than one type of violence is present.

#### **Physical and sexual violence**

A number of interviews with the victims of sham marriages reveal that women are subject to sexual violence. Their husbands told them that they should perform “her duties as a wife”. Neither condoms nor any other means of contraception were used. If women do not want to have sexual relationships, they are threatened with violence if they do not obey, or they are forced through the use of violence:

I had to do what my husband told me to do, perform my duties as a wife. If I did not obey, my husband beat me. (Victim 4)

My husband sexually abused me, forcing me to have sex whenever he wanted to. (Victim 3)

Physical violence against women is manifested in various degrees of severity. Women are pushed and pulled around, and they are beaten with some objects. Also children from previous relationships are subjected to violence:

If I did not obey, he used physical force – pulled at my hair, kicked me. (Victim 5)

Very often my child and I had nothing to eat, my husband was beating us. [...] I went nowhere because my husband was jealous, told that only whores walked around alone. (Victim 4)

One of the cases of a victim of an exploitative sham marriage and the interview revealed that the woman had been seriously exploited already before the marriage; i.e., her future husband prohibited her from leaving her room, getting in touch with her relatives and friends, food was not provided in sufficient quantity, and she had to provide sexual services to her future husband. Involvement in a sham marriage was presented as the possibility for returning to Latvia and ending the violence. This particular case has clear indications of human trafficking with the aim of forcing the woman to enter into a sham marriage and ensuring the third country national a residence permit in the EU:

Before marriage to the Pakistani man I started living at his place. I was given a room and I was not allowed to leave it. I was given food once per day, and I had to give sexual services to the future husband. I no longer wanted to get married, but I was depressed, and I suffered from emotional and sexual abuse. I was prohibited from getting in touch with relatives and friends. I was promised that after concluding the marriage I would be able to return to Latvia. Therefore, to escape from violence, I agreed to marry. (Victim 1)

## **Psychological violence**

Psychological violence and threats are observed in all cases of exploitative sham marriages. The women are threatened that the child who has been born as the result of the sham marriage will be taken away, they are threatened with eviction from their home, that they would have to repay some kind of debt or that in Latvia they would be criminally liable for concluding a sham marriage:

My husband constantly threatened me with something. (Victim 4)

Threatening to demand repayment of money. Of taking away the child. Of eviction from home. Restricting finances. Threatening with criminal liability in Latvia – the information obtained from the Embassy [on criminal liability for concluding a sham marriage] was used [by the husband] to make threats. (An interview with a provider of social rehabilitation services)

Psychological violence is manifested also in the form of total control. The women's right to freedom is ignored, they are forced to eat and behave in a certain way, they can not leave the apartment, and they can not contact their friends and relatives.

I was not allowed to leave the apartment, and they [the husband and his relatives] convinced me that it was dangerous. They demanded that I give away my passport, promising to make it available as soon as I would need it, so I gave it away. [...] I was not allowed to get in touch with my relatives and friends. I was not allowed to leave the apartment alone. (Victim 2)

My husband strictly controlled my every step. I could not leave the house without my husband's permission. My husband regularly made scenes, reproached me for my style in clothes. (Victim 5)

If a child is born in a sham marriage, he or she often is used to manipulate the woman – the woman is not allowed to take the child with her to Latvia, and threats are made to take the child away:

Her freedom of movement is restricted, in particular if there are children. One of the classic cases when the child is used for manipulation: "You cannot take the child, I'll take the child away from you, you cannot go to Latvia, take the child out of the country without my permission." Of course, the woman will not leave the child, there [abroad] she has no means of subsistence, because of the child she cannot get to Latvia – this restriction can also be manifested as: "You can go, the child will stay." And the woman stays. They create circumstances in which there is no other choice but to stay. (An interview with a provider of social rehabilitation services)

## **Economic violence**

Also economic dependence is encountered in almost all cases of exploitative sham marriages. Information obtained from victim and providers of social services shows that victims usually have no means of subsistence, do not work, cannot find a job, and are dependent on the recruiters or the bridegroom/

husband. This is an important aspect, since it decreases the woman's ability to resist and to leave her husband:

If the woman resumes working, she may tell about what is happening at home at work. Secondly, when working, she is independent, because she has her own income and may earn money for a return ticket and fly away. When she is not working, she is completely subject to her fictitious husband. (An interview with a provider of social rehabilitation services)

The common way to control the woman is to restrict her independence by keeping her materially dependent on the husband. Questioning the situation or opposing the husband may easily lead to other forms of violence:

Economic violence is identified most often when a woman is made materially dependent on the formal husband – he keeps her, cares for her, accompanies her. And, if the woman wants to do anything independently, she is not allowed to do that, and at that point any other type of violence can start. [...] Through this economic, social isolation, the woman is not allowed to be an equal partner, neither according to European cultural assumptions, nor Eastern. [...] When the woman starts resisting, then it turns out that the marriage is not genuine. (An interview with a provider of social rehabilitation services)

Another type of exploitation that is encountered is forced labour, when the woman is made to work in the family's company without remuneration, or she is the maid in the house:

There's also forced labour, for example, there is a café on the ground floor of the house, and their apartment is on the first floor. They work from morning till night in that café. Her working hours are not regulated, she has no official employment relations, just sometimes given something. And she cannot escape anywhere, because the documents have been taken away. (An interview with a provider of social rehabilitation services)

Providers of social rehabilitation services note that women are forced to engage also in some illegal activities, for example, recruiting other women for sham marriages or stealing:

There has also been forced stealing. The man forced the woman to go and steal, she stole, and he was selling those things. (An interview with a provider of social rehabilitation services)

There have been cases in which the woman has become the holder of a credit card that is used by the husband, but the repayment claims for the loan are sent to the woman:

When the couple marries, a so-called "family bank card" is taken out, and the girl is the official holder of the credit card. After two years she returns to Latvia, and then letters start arriving, that she has borrowed money in Ireland and is failing to repay it. Unfortunately, it turns out that the man has borrowed money a number of times. Even though the woman and the man have not been co-habiting for a long time, he still uses the possibility to take out loans, but the woman continues to be the formal re-payer of loans. (An interview with a provider of social rehabilitation services)

In cases of exploitative sham marriages the woman is most frequently isolated from others and is constantly supervised. Rather than forced to go to work outside the house, she is never left alone since then the risk of her starting to resist increases. The woman is placed in situations of unequal power relations, which are used against her. Women are subjected to total control. They are not allowed to walk around on their own and to get in touch with her relatives and friends.

The findings made in a study by Australian researchers (Lyneham & Richards 2014) on human trafficking and marriages in Australia can be applied to the cases of exploitative sham marriages in Latvia, i.e. that in these forms of human trafficking the most typical form of exploitation is neither labour nor sexual exploitation, but exploitation of the very personhood of the victim.

Exploitation of the personhood of the victim comprises exploitation of the victim's body (provision of sexual services, control over reproduction by the abuser, control over the victim's body in a broader sense), psychological slavery, loss of freedom, and exploitation for labour (domestic servitude or forced labour outside home).

### **Children and exploitative sham marriages**

According to the experiences of social rehabilitation providers, there is a certain group of third country nationals who take specific measures to pressure the women to have children with them, since a common child ensures the possibility of claiming a residence permit in the EU, even if the marriage ends in divorce:

They met, and the woman got pregnant very quickly. He wanted to marry her immediately, but she said no, we've just met. But when she became pregnant – well, all right, let's get married, have a family. This man had the aim to achieve pregnancy as fast as possible so that the child in common would bind her. (An interview with a provider of social rehabilitation services)

In situations in which the marriage had been fictitious only for one of the parties, the man may become violent towards the woman after the child is born, since the woman is no longer important for ensuring the residence permit:

And when the marriage is concluded in a hurry, and the child is there, the situation changes, and the "loving" husband turns abusive and is no longer interested in the family. You have to look at the situation, see whether it is a voluntary marriage, whether deceit has been used. (An interview with a provider of social rehabilitation services)

In those cases when the woman had believed the marriage to be genuine, she often does not want to admit that the third country national concluded the marriage only in order to get the residence permit. The relatives, social services or providers of social rehabilitation services are the ones that notice a number of features indicating that the marriage is a sham:

There was a case in which relatives sought help, and one social service had become involved [a social service of municipality], but the woman herself did not admit that the marriage was not genuine. There were all signs that the woman had been recruited for a sham marriage, but she refused to admit it. She said, “I have a good marriage, I love him, I’ll go back”. As an observer you see violence there, and also the quick procedure in concluding the marriage. Specialists see signs of human trafficking, but she is in the stage of “rose-tinted glasses”, does not see herself as a victim, exploited. [...] And if there is a child, that decreases the wish to get a divorce. (An interview with a provider of social rehabilitation services)

The providers of social rehabilitation services underscore that in such cases one must be aware that the illusion may be maintained for a number of years, since getting a permanent residence permit is a long process, but that, of course, makes it difficult to prove that the marriage has been concluded only to obtain the residence permit:

The sham marriage cannot be proven immediately. To obtain these residence permits, they have to live in marriage for 5 years. So a person can be very nice for 4–5 years, since the wife must show [to the Immigration Department] that they lead a good life, in harmony. And then, when the aim is reached and the permanent residence permit has been obtained, the husband is no longer like he used to be before that. (An interview with a provider of social rehabilitation services)

To prove that such a marriage should be defined as an exploitative sham marriage, the providers of social rehabilitation services list criteria that characterise sham marriages that initially seem genuine, but in fact are deceitful on the side of one party. First of all, the marriage is organised very soon after the meeting. Secondly, the formalities for the residence permit are settled. Thirdly, a change of behaviour is observed very soon after the marriage; courting is replaced by violence and control. Fourthly, the attitude changes in connection with the need to visit migration services to settle residence permit formalities/ to extend the residence permit.

## **Concluding marriages and applying for residence permits**

Marriages are concluded in various places. One of the factors which determine where the marriage will be concluded officially, is how simple or complicated it is to conclude a sham marriage in the particular country of residence. For example, until now it was comparatively easily done in Ireland, and therefore marriages were concluded there. It is more complicated in Germany, and therefore the sham marriage would be concluded in another country; in the particular case below, in Serbia:

I was taken to Serbia, where high up in the mountains, in the presence of two witnesses, the marriage was concluded. The passport was with my bridegroom all the time. After the marriage the spouse wanted sexual relations, but I refused. Immediately after the wedding we lived separately in Serbia. (Victim 2)

The cases of victims of exploitative sham marriages included in the study and the interviews show that in Ireland marriages are concluded at the Irish Marriage Registrar, but information provided by experts reveal that in a

number of cases weddings are organised at the Islamic Cultural Centre in Dublin and the Islamic Centre of Galway.

In several interviews the victims of exploitative sham marriages share their experience that after the wedding they had to go to the migration board of the particular country so that the husband in the sham marriage could obtain a residence permit. The interviews reveal that the women are prepared in advance so that they would provide the right answers to questions asked by migration services and would be able to convince them that the marriage is genuine:

After the wedding I had to go together with my husband to some kind of immigration office, to get a residence permit for him. (Victim 3)

To ensure the credibility of the marriage I had to learn about the family tree, customs. (Victim 2)

In those cases in which the women return to Latvia after concluding the sham marriage, they must occasionally return to the particular country to reconfirm that the marriage is genuine. The cases analysed and the interviews reveal that in some cases exploitation starts at this stage:

When I was in Latvia, the fictitious husband time and again phoned me and ordered me to return to Dublin, because he needed proof that his wife was living together with him. Threatening and frequent phone calls, e-mails, threatening to tell everything to my boy-friend in Latvia, made me go to Ireland for the second time. [...] The second time the husband took away my passport. [...] Physical and emotional violence started. [...] I turned for help to the Irish police, and I was placed together with the child at a crisis centre. (Victim 3)

Both the analysed cases and the interviews with experts reveal that victims of exploitative sham marriages are drawn into a cycle of violence: after one incident of violence the husband begs for pardon, the woman believes him and returns, and then after some time is again subjected to violence:

The husband begged for pardon and tried to deceive me so that I would return, and I believed him and returned. But violence continued, and I was repeatedly thrown out into the street with my minor daughter, without any means of subsistence. (Victim 3)

The husband received a residence permit and became even more aggressive and violent towards the children and me. (Victim 4)

In a number of cases it follows from what was said by the interviewed victims that the women had been registered as employed, but in fact did not work:

In a couple of weeks we returned to Germany and I was fictitiously employed. (Victim 2)

Formally I had a job, but actually did not work. (Victim 5)

The opinion has been voiced by providers of social rehabilitation services that third country nationals, in order to ensure the possibility of residing in the EU, have established a network of various fictitious institutions in order to create the impression that they are studying or working in the EU. For example,

references have been made to the existence of fictitious institutions of higher education and fictitious jobs. Our interviews do not reveal the purpose for which these fictitious institutions have been established. This is probably a topic for another study.

#### **4.4. Tendencies, recruitment and organization of exploitative sham marriages**

The statements made in the interviews with experts show that, in general, during the last two years the number of exploitative sham marriages has slightly decreased when compared to the year 2009. The experts hold that the decrease in the number of sham marriages has been facilitated by, firstly, active preventive measures and public awareness-raising; secondly, active work of the responsible institutions in identifying, combatting and preventing human trafficking, inter alia, amendment to the Criminal Law with section 2852, which entered into force on 1 April 2013:

The year 2009 saw a huge “boom” when very many girls went and got married. But no one really knew whether that was human trafficking. Then campaigns were launched in which we were telling about the way it happened and that it was a huge risk. After implementing various preventive measures, we can conclude that prevention has given us a lot. In Latvia we have a very good understanding of what a sham marriage is. In addition to social campaigns [fostering public awareness-raising], in 2013 amendments were introduced to the Criminal Law. CL section 2852 significantly decreased the number of sham marriages. I believe that this, to a large extent, changed the situation. (An interview with a provider of social rehabilitation services)

The number of criminal proceedings involving sham marriages, in turn, has increased, and there are two reasons for this. First of all, there are many criminal proceedings initiated while investigating recruiting for sham marriages (before somebody has become a victim of exploitation). Secondly, as society in general is better informed, recruiting for sham marriages is being reported to the police more frequently:

An increase is observed with regard to sham marriages, but it is difficult to separate it from human trafficking, because in many instances the case is initiated when recruiting is being investigated. Without coming to the marriage itself or exploitation. It is more frequently reported, people are better informed, girls are becoming less tolerant with regard to such cases. (An interview with a representative from the police/ prosecutor’s office)

As regards methods of recruitment, experts note that at present forced sham marriages are encountered less frequently. On the contrary, fraud and abuse of the vulnerability of victims are seen more often. Likewise cases in which the illusion of a genuine relationship is created, which makes human trafficking more difficult to prove, are encountered more often:

Now these methods are becoming more sophisticated. More often a relationship, as it were, is established, less open violence. Often creating an illusion of a relationship. (An interview with a provider of social rehabilitation services)



Methods of recruitment have also changed. Previously go-betweens were more frequently used in recruiting, but now attempts are made to organise recruitment without go-betweens, to decrease the costs, and the victims are approached in different ways on the Internet:

The mechanism of recruitment has changed. Previously the proposal to marry a foreigner came from a go-between, for example, a brother, a friend, a partner, but now this path of recruitment has become too expensive for the potential fictitious husbands, and they write these offers themselves, using social media. Such “copy-paste” letters can be sent out to 100 persons, and someone will probably respond. It is possible to approach anyone on Skype, and that is no longer indirectly, when a person, possibly, sends out letters on behalf of someone else. Social media are used to the utmost, thus saving money, because there’s no need to pay the go-between. (An interview with a provider of social rehabilitation services)

Experts also note that more frequently marriages are organised outside the EU, as then it is easier to avoid various control procedures. Similarly, experts hold that in recent years the number of Estonian and Lithuanian citizens who are involved in sham marriages has increased:

If the fictitious husbands understand that they might come under the police radar, then they take their brides to Pakistan, India, Serbia, and Croatia and get married there. The certificate of marriage received abroad is translated into English, stamps are put on, and they go to England and say: “Look, this is my wife”. The document is legalised through embassies, and then: “Please give me the residence permit”. The police officers say that the criminal world is always a couple of steps ahead, it evolves, and they always have to invent something new. There was enough time for that, while legal regulation was amended. (An interview with a provider of social rehabilitation services)

Changes in Latvian legislation force changing the tactics for concluding sham marriages. Therefore many potential couples travel to get married outside the EU. Currently in Ireland there are more Estonians and Lithuanians among those concluding sham marriages. (An interview with a provider of social rehabilitation services)

The trends characterized by experts allow concluding that a sham marriage remains a common form of human trafficking in which Latvian citizens are involved. However, the methods of recruitment change and the role of the Internet increases, as well as the location that is selected for concluding the marriage changes, and more often marriages are organised outside the EU.

### **Is it organised crime?**

The interviewed experts suggest that most cases of sham marriage should be recognised as organised activity, since organisers of sham marriages, recruiters, go-betweens and bridegrooms who receive residence permits are involved in it:

It is organised. It is a scheme, a method. It is not the case that someone just thought of it and wrote on the Internet. (An interview with a provider of social rehabilitation services)

There are cases without obvious signs that recruiting is an organised activity. But there are also cases that clearly show that several persons are being recruited for sham marriages, and a number of organisers with allocated responsibilities have been involved. In this particular case there was a recruiter on the Internet, another contact person who organised the trip, and there were two “brides” travelling together, who were met at the airport by representatives of the bridegrooms:

G. from portal “Draugi” [“Friends”] offered me to go to Ireland. [...] The trip was organised by Z., she also paid for the tickets. We flew together with a girl from T [a settlement in a rural area]. We were met by two men of Indian origin. (Victim 5)

In some cases also the living arrangements in the destination country allow concluding that a case of forced sham marriage is a part of organised activity. For example, in one case characterized by a provider of social rehabilitation services, the apartment was shared by four or five couples, in each of which the husband was a Pakistani but the wife was from one of the EU countries:

In this case there were also girls from other countries, each locked up in her room. They were not allowed to communicate among themselves. They were wives of Pakistani citizens. It is an obvious case of human trafficking. (An interview with a provider of social rehabilitation services)

Representatives of the police and the prosecutor’s office who were interviewed in the study expressed different opinions with regard to the issue, whether the crimes related to exploitative sham marriages were committed by a group of persons pursuant to prior agreement or by an organised group. It must be concluded that cases may differ. The features that show that the crimes have been committed by a group of persons pursuant to a prior agreement (qualified elements of the crime) are that horizontal, not vertical hierarchy is observed in the groups, i.e., hierarchical roles cannot be distinguished, and self-organisation is evident:

In the meaning of the Criminal Law, organised crime groups are hierarchical groups characterised by vertical hierarchy. In these cases we see horizontal hierarchy in these groups. The links between the members of the group and also with the go-betweens and the organisers are not as permanent and strong as in the case of a group with vertical hierarchy. We cannot strictly differentiate between hierarchic roles. In the case of vertical hierarchy, there is a leader; here such cannot be identified. It is rather self-organisation. Consequently it is difficult for us to qualify this crime as organised crime. The prosecutor’s office points out to us that this is a crime committed by a group of persons. (Interview with a representative of the police/ prosecutor’s office)

However, it can be definitely stated that the majority of exploitative sham marriages should be recognised as crimes that have been committed by a group of persons, not individually, since it can be established during the investigation that there are persons who organise, there are persons who recruit and who transport and who receive, and the future husband.

Initially it seems that those were isolated cases, but it is clear that on that side there are people who organise, who supply husbands. Women who recruit other women

are sought in Latvia. A complete transnational organisation. Firstly, the party in Pakistan looks for those who are ready to pay or to borrow to get to Europe and become legal. They are met, accommodated, wives are supplied. By finding a local government [abroad, not in Latvia], which is ready to “turn a blind eye”. Then work on the girls, to force them to marry. (An interview with an expert – a lawyer)

The ones who profit from these crimes are the organisers of marriages and recruiters, but the payers are third country nationals, who obtain a residence permit, and their family:

Recruiters and go-betweens get the largest profit. A recruiter’s main role is to recruit the girl and ensure that she travels to a particular EU state, where the marriage is concluded. Whereas the other members of the chain – go-betweens – organise that the person is met, accommodated, they create the artificial debt, plus, they look for the other party – the third country national. (An interview with a provider of social rehabilitation services)

Unfortunately, the study does not reveal the amount of money that recruiters are paid for recruiting and organisers for organising, but as regards the origin of the necessary resources, the experts are of the opinion that the necessary money is collected from family members, who hope that the bridegroom, by obtaining a residence permit in the EU, will be able to support them and facilitate the moving of other family members to the EU.

### **Motivations behind sham marriages from the perspective of the third country nationals**

The majority of the experts interviewed hold that the main driving force behind why third country nationals use sham marriages to obtain a residence permit in the EU, is the wish to increase the prosperity of their family and their community. In many cases third country nationals who are trying to obtain residence permits in the EU come from countries that are overpopulated and comparatively poor. Moving to an EU country is associated with increasing not only the prosperity of the particular individual, but also that of the entire extended family.

Perhaps the whole village gives the money to the chosen one, sends him to Europe, where his task is to obtain the residence permit as fast as possible. Collecting money in communities is typical. Communities are strong. Relatives hope that he will settle in and then will invite other family members to Europe. (An interview with a provider of social rehabilitation services)

One of the experts stresses that “the European wife” who ensures the possibility to receive a residence permit, is not perceived as a genuine wife, unless she gives up European life style and traditions:

Relationships with relatives are maintained, other members of the clan are involved, to escape the poverty that prevails there. These people are not ready to give up their culture, and the European wife, unfortunately, is only a European wife, but the real wife is chosen from their own culture. There are cases in which the fictitious husband says: “you will give birth to my child and convert to my

religion, otherwise you will remain just a Eurowife. I shall take care of you, but I shall marry as my true wife only the one chosen by my parents.” (An interview with a provider of social rehabilitation services)

Experts emphasise that quite often third country nationals from such countries as Pakistan, India and Bangladesh have a very different culture and for them collective values are more important than individual values. Therefore, upon settling in the EU, they maintain close ties with their family members and facilitate in all possible ways their moving to the EU.

#### 4.5. Types of exploitative sham marriages in Latvia

As a summary of the cases of exploitative sham marriages examined in the previous sections, three main types of exploitative sham marriages can be identified that are encountered in Latvia:

- 1) Human trafficking in which a person is forced to conclude a sham marriage (forced sham marriage);
- 2) Human trafficking in which a person initially agreed to conclude a sham marriage, but afterwards was deceived and subjected to violence;
- 3) A sham marriage in which a person was initially made to believe that the marriage was genuine, but after some time it turned out to be fraudulent and the person is subjected to exploitation.

A summary of the features of these three types of exploitative sham marriages, on the basis of the previously conducted analysis, is provided in Table 7.

**Table 7.** Types of exploitative sham marriages encountered in Latvia and their features

	<b>Types of exploitative sham marriages</b>		
	Human trafficking in which a person is forced to conclude a sham marriage (forced sham marriage)	Human trafficking in which a person initially agreed to conclude a sham marriage, but afterwards was deceived and subjected to violence	A sham marriage in which a person was initially made to believe that the marriage was genuine, but after some time it turned out to be fraudulent and the person is subjected to exploitation

Recruitment	Fraud and deceit: initially offering a job abroad, upon arrival is forced to conclude a sham marriage	Fraud with regard to the way in which the transaction will be concluded: money is not paid, must co-habit, the person is subjected to violence	Fraud and deceit: an illusion of a genuine relationship is created
Vulnerability of the victim	The vulnerability of the victim is an essential aspect in all cases. The most frequently encountered aspects of vulnerability are poverty, adverse conditions in the family (dysfunctional family), low level of education, diagnosed moderately severe or severe intellectual disability, poor social skills.		
Types of exploitation	Diverse types of exploitation are encountered: <ol style="list-style-type: none"> <li>1) Involvement in commission of a criminal offence – a sham marriage, sometimes also other unlawful activities; for example, recruiting other victims, stealing;</li> <li>2) Forced to provide sexual services;</li> <li>3) State of slavery, restriction of a person's freedom: may not leave her room, may not get in touch with her relatives and friends, must accept foreign traditions, etc., situations of psychological and physical violence, total economic dependence, life under the shadow of constant threats.</li> </ol>		

Proving the existence of human trafficking	<p>If it is possible to prove that a person was forced to conclude a marriage (went abroad with intention to work), then it is comparatively easy to prove a case of human trafficking. The person is recognised as a victim of human trafficking.</p>	<p>If it is possible to prove that a person has been deceived, remuneration for concluding a marriage has not been received, and if it can be proven that the person has suffered from exploitation, the case of human trafficking can be proven. In some circumstances the person can be recognised as a victim of human trafficking.</p>	<p>It is very difficult to prove a case of human trafficking, since the victim herself may not admit for a long time that the relationship has not been genuine, it is difficult for the victim to believe that she has been deceived, sometimes the victim is dependent upon the relationship (both psychologically and economically), a long period passes (three to five years) before it is admitted that the marriage had not been genuine and the victim is able to see exploitation and the obtaining of the residence permit as the true aim of the sham marriage.</p>
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Significant features that allow identification of a case of exploitative sham marriage	<p>1) Elements of exploitation;</p> <p>2) Formalities for receiving a residence permit on the basis of marriage are being settled;</p> <p>3) Victims are forced to conclude the marriage by the use of threats, the victim's vulnerability and violence;</p> <p>4) Marriage is organised outside Latvia in a country with minimum control over the procedure for concluding a marriage;</p> <p>5) In the majority of cases the bride's parents, relatives and friends do not participate in the wedding ceremony.</p>	<p>1) Elements of exploitation;</p> <p>2) Formalities for receiving a residence permit on the basis of marriage are being settled;</p> <p>3) Victims are deceived (do not get paid) and are forced to conclude a sham marriage (or affirm it), by the use of threats, the victim's vulnerability and violence;</p> <p>4) The onset of pregnancy and the birth of a common child is facilitated in all possible ways (contraception is not used in the intimate relationship);</p> <p>5) Marriage is organised outside Latvia in a country with minimum control over the procedure for concluding a marriage;</p> <p>6) In the majority of cases the bride's parents, relatives and friends do not participate in the wedding ceremony.</p>	<p>1) Elements of exploitation;</p> <p>2) Formalities for receiving a residence permit on the basis of marriage are being settled;</p> <p>3) Proposal to marry immediately after becoming acquainted;</p> <p>4) Facilitates in all possible ways the onset of pregnancy and the birth of a common child (means of contraception are not used in the intimate relationship);</p> <p>5) Marriage is organised outside Latvia in a country with minimum control over the procedure for concluding a marriage;</p> <p>6) In the majority of cases the bride's parents, relatives and friends do not participate in the wedding ceremony.</p>
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#### 4.6. Seeking assistance

Interviews with the victims of sham marriages reveal that women seek assistance in the most diverse ways. Some women have turned for help to the police of the state in question or the Latvian diplomatic mission:

I could not bear my husband's violence and turned to the police. The police placed me in a crisis centre and contacted the Latvian embassy. (Victim 3)

Some women have turned to the social services of a local government in Latvia for assistance:

I asked for assistance from a local government in Latvia, and they, together with the Embassy and the Safe House helped me to return in Latvia. (Victim 4)

The providers of social rehabilitation services note that victims of human trafficking, including the victims of exploitative sham marriages, sometimes seek assistance themselves; they come to the provider of social rehabilitation services and call the hotlines:

One thing is, people seek assistance themselves, and the other way is the hotline. Since 2013 it operates on 24-hour basis. Someone phones and asks, for instance: "I have a friend, she has now gotten married..." and the story is told. And then we understand that it is not about a friend, this is a story about the caller, and the person wants to find out what to do. Most often we ask to come and visit us for a consultation face-to-face. (An interview with a provider of social rehabilitation services)

However, the experience of providers of social rehabilitation services shows that most often the victims of exploitative sham marriages are identified by the Latvian embassies, in particular, the Embassy of Latvia in Ireland:

The largest number is from embassies outside Latvia, in particular from Ireland, since Ireland used to be the country chosen by immigrants, where these fictitious relationships could be formalised in the simplest way. (An interview with a provider of social rehabilitation services)

In other cases relatives or friends are those who advise the victims of exploitative sham marriages to seek assistance. The providers of social rehabilitation services note that very often the relatives and acquaintances of the victims of exploitative sham marriages are the ones who try to convince the woman in question to become involved in the rehabilitation program in order to receive the necessary assistance:

After returning to Latvia I told an acquaintance about what I had been through, and I got information from her about the possibility to receive help from the Shelter "Safe House". My acquaintance also gave me the e-mail of a lawyer, and I sent her my story. (Victim 1)

In general, those cases in which victims themselves look for help are less frequent. More often relatives are the ones who seek it or convince them that they need assistance. It is also possible that a recruiting network is detected, and then the police offer this assistance (An interview with a provider of social rehabilitation services)



In some cases assistance is sought after considerable time has elapsed, after 5–6 years or when the woman understands that she needs assistance in order to dissolve the sham marriage. Sham marriages are not dissolved through divorce, but declared void by the court on the basis of section 60 of the Civil Law from the moment they were concluded. Providers of social rehabilitation services highlight that for those women who had believed that the marriage had been genuine, it is particularly difficult to admit that the other party concluded the marriage only in order to obtain a residence permit. They only later found out that the recruiter had been paid for recruiting them for the sham marriage:

Marrying those women who are truly in love and have started living in a dream world, is not too expensive for the fictitious husband, since there is no need to pay the go-betweens [...].After some time the man “turns his coat”, that is, starts beating, raping, and renting her out to a friend. It is even more difficult for this girl. The clients have said: “It was shocking for me when I found out that money had been paid for me, that he had bought me.” (An interview with a provider of social rehabilitation services)

The women themselves are not always aware that they could be recognised as victims of human trafficking. If they seek assistance, they usually come with another problem. There are also cases where women refuse assistance because they do not want to consider themselves as victims of human trafficking.

#### **4.7. Identifying victims and providing assistance**

The identified victims of human trafficking receive social rehabilitation services covered from the state budget. The providers of these services, the Shelter “Safe House” and the Resource Centre for Women “Marta”, are experienced in their field. In general, the range of services paid for by the state is rather broad, including individual consultations with a lawyer, a social worker and a psychologist. The social rehabilitation program lasts up to 180 days, and the financing allocated for it is assessed as being sufficient:

180 days is the longest service, compared to any other social rehabilitation service paid for by the state. To those for whom this number of days is insufficient, support groups are offered, as well as possibilities for receiving assistance and support via the hotline. The state has ensured not only the minimum of support, but a rather large amount of support also following social rehabilitation. (An interview with a provider of social rehabilitation services)

The fact that both the State Police and the provider of social services have the right to identify victims of human trafficking must be seen as a positive fact. This means that also in those cases where the victim does not want to cooperate with the police, social rehabilitation services paid for by the state can be provided to her:

In situations in which human trafficking is identified, Latvian legal acts allow the police to conduct the assessment (and grant the status of a victim of human trafficking), and this can be done also by the institution that provides social

rehabilitation services. (An interview with a provider of social rehabilitation services)

If a person refuses to be recognised as a victim of human trafficking, assistance is not refused, but other financing is obtained for it:

The cases of sham marriages are those in which the girls choose not to cooperate with the police, they choose not to betray the recruiter (which may be a brother, a friend, a partner), but they receive rehabilitation from us. (An interview with a provider of social rehabilitation services)

Assistance to victims of exploitative sham marriages abroad is provided also by the Latvian embassies. They predominantly ensure support abroad and return to Latvia. After his or her return, the victim can continue receiving social rehabilitation services as the result of communication with a provider of social rehabilitation services, the social services of a local government and the police.

Victims of exploitative sham marriages admit that their experience is very traumatic. They are reluctant to tell others about what happened and want to forget it all, the sooner the better:

It is difficult to tell anyone about this situation, because I never thought that something like that could happen to me. I want to forget it as soon as I can and not return to this stage in my life. I would not wish for anyone to end up in such a situation in life. (Victim 1)

Providers of social rehabilitation services actively cooperate with the police and with embassies to facilitate investigation of cases and punishment of recruiters, or at least expulsion from the EU. For example, if the case is not defined as human trafficking, but the marriage has been recognised as being void from the moment it was concluded, information is sent to Latvian embassies abroad so that the information would be forwarded to the migration services and the expulsion of the third country national in question from the EU is facilitated:

We send that request to the Embassy, and the Embassy gets it translated and sends it to the migration service so that the person loses the grounds for residing in that state. That is our aim, to have the fictitious husband expelled from the EU. Of course, he may attempt to get into other states, try to find other ways, but our aim is to break the chain of recruiting. (An interview with a provider of social rehabilitation services)

It is more complicated to expel the particular third country national from the EU in the case of a sham marriage, if a child has been born in this marriage. In such cases the rights of the child envisage that the child has the right to maintain a relationship also with the father, and these are the grounds for allowing the father to stay in the EU. For this reason many third country nationals who have married Latvian citizens very willingly try to conceive children in the sham marriage (they avoid using contraception), since these are permanent links and this third country national cannot be deported from the EU:

If there is a child, then the woman is no longer needed. He may reside in Europe on the basis that the child is a European citizen. Both parents have equal rights to communicate with the child. Because of the child he may stay here. (An interview with a provider of social rehabilitation services)

One of the reasons why providers of social rehabilitation services try to support the punishment of recruiters and expulsion of the bridegrooms in sham marriages from the EU is that the victims of exploitative sham marriages repeatedly end up in situations of exploitation and must be provided assistance repeatedly.

#### **4.8. Preventing human trafficking that is aimed at involving sham marriages**

##### **Preventive informative measures**

Experts were able to point to many ways in which more work should be done to decrease the number of exploitative sham marriages in Latvia. One of the most significant aspects mentioned was that the preventative measures should be regular:

Prevention should be regular. If prevention is not regular, the recruiters will always come up with new ways for recruiting people and another target group which can be used in different forms of human trafficking, among these – involving in sham marriages. (An interview with a provider of social rehabilitation services)

At the moment a lot is being done in Latvia to ensure preventive measures. In this regard two projects implemented by the Shelter “Safe House” should be mentioned: the project “Multidisciplinary Initiatives for Restricting Human Trafficking”, where in 2014 young people were educated at schools and youth centres (1347 students/ adolescents), and also local government employees were trained (76); the project “Promoting Innovative Anti-Trafficking Approaches in Latvia”: 1356 students and 198 faculty members at schools and social care institutions were trained. The Resource Centre for Women “Marta”, in turn, in 2014 within the framework of the project “Safety Compass – Signposting Ways to Escape Trafficking”, financed by European Commission program “Prevention and Fight against Crime”, organised training for emergency hotline operators, involving 205 professionals from all regions of Latvia. The emergency hotline operators were informed about the topical issues of human trafficking, the legal regulation and the national referral mechanism, and they were provided an insight into and developed understanding of the way a victim of human trafficking might think and act, as well as of post-traumatic stress syndrome. Here information is provided only about some of the projects and achieved outcomes implemented in 2014. However, it must be noted that all the preventive measures that have been implemented are projects, but regular and systematic state financed work is needed:

Educating society; educating those specialists who are in contact with the risk groups. Custody courts, pedagogues, groups of lawyers, that is, educating specialists. To keep society informed through regular events. Projects are not enough, a state program is needed. (An interview with a provider of social rehabilitation services)

One of the main aims of preventive measures is to increase the level of awareness of society in general and of risk groups in particular, of the risks involved in going abroad, as well as the risks involved in sham marriages in particular, if these are concluded with third country nationals who come from a very different culture:

Prevention. It should be discussed more with society in general, on TV, radio, advertising, so that people would know about it. More and more girls are going, believing that they will make a good profit, but the consequences that follow... (An interview with a representative of the police/ prosecutor's office)

Experts emphasize that information should be provided in the most diverse ways, so that society in general and representatives of risk groups in particular would be more cautious and would take care in those cases where a sham marriage could be suspected, in view of the known features of sham marriages: marriage is hastened immediately after getting acquainted, marriage is linked to the residence permit in the EU of a third country national, and others.

About informing, it should continue not only as one-off campaigns, but institutions could inform those who are planning to leave Latvia that it is possible to leave their contact info at the Consular Register. Inform more vulnerable target groups which might plan on leaving, about the risks. (An interview with a provider of social rehabilitation services)

We should work with the potential victims so that they would be able to assess the risks, to take the correct decision. (An interview with a provider of social rehabilitation services)

The women who have become victims of exploitative sham marriages admit that in their case trusting people they knew and believing in false promises had been the key factors. Therefore their main recommendation is to verify information before leaving Latvia and find out before leaving where to turn for assistance:

I recommend not trusting promises, because later you have huge problems. (Victim 1)

Do not accept false declarations of love and promises of a happy life. (Victim 5)

I recommend not trusting even close friends, verifying information before leaving Latvia, collecting information, where to turn for assistance, if this would be needed. (Victim 2)

Those women who themselves had agreed to become involved in a sham marriage admit that it had not been a wise decision, leading to many problems, and therefore people should be informed about such cases so that others would not commit the same mistake:

It should be discussed a lot, people should be informed, not to do such foolish things like I did. [...] I really regret what I did, I would never do it again. (Victim 5)

This leads to the conclusion that the public should be constantly told about cases of sham marriages, about their typical features, about the adverse consequences of sham marriages, and also about the possibilities of seeking assistance if one has ended up in a problematic situation.

## **Training of specialists**

An important line of work that should be continued is educating professionals, and this need pertains to different types of professionals. In assessing the competence of various professional groups on the issue of human trafficking and exploitative sham marriages, the experts consider that currently in Latvia social workers are the best-educated professionals, but that training should be provided also to school teachers, judges, prosecutors and police officers; unfortunately, some judges and prosecutors are reluctant to participate in such training:

The situation with the education of social workers is the best, they are sufficiently well trained. [...] Judges. [...] It is very complicated to work with them. Last year a seminar was held for candidates for the office of a judge. Unfortunately, judges did not participate in a single seminar, and also the Latvian Juridical Training Centre trains only judges' assistants or those who are preparing to run for the office of a judge. (An interview with a provider of social rehabilitation services)

According to a provider of social rehabilitation services, it is difficult for the police to detect cases of exploitative sham marriages, since they cannot be generalized and the victims might be reluctant to disclose information. This indicates that there is a need to train police officers to improve their capability to identify the possible links between human trafficking, sham marriages and the role that domestic violence might play in these scenarios. The police officers also need to be aware of possible help and assistance systems available for the victims. The attitudes towards the police and previous encounters with the police may also be a factor determining the level of cooperation and willingness to disclose evidence:

Human trafficking is a specific crime. It is not a case of taking something, stealing and fleeing. There are a number of aspects. And, sometimes when turning to an ordinary police station, they do not even recognise such cases, do not imagine that it could be human trafficking. The other aspect, they have heaps of cases at police stations. The police officers admit it themselves, unofficially, they have too many cases to review, and their workload is excessive. That is the reason why, if the report of an offence does not point to some atrocity, they refuse to accept this report. [...] It is also important how the victim explains what is written in the report. Even when talking to us, the victim tries to mitigate the abuser's guilt. Perhaps because of her character or emotional dependence on the abuser she is unable to explain all the facts. (An interview with a provider of social rehabilitation services)

It must be highlighted that, when assessing the work of the police, the persons interviewed gave a very positive opinion regarding the competence of OCCB specialists and their contribution to the investigation of human trafficking cases. However, they also observed what amounts to a lack of understanding at times among the employees of municipality police:

If a human trafficking case goes to the particular police department which works with these cases on a daily basis, they understand everything, they identify and investigate the case. Another attitude is seen in ordinary stations, they do not dig into the heart of the matter. (An interview with a provider of social rehabilitation services)

Experts give a very positive assessment of the work done by Latvian embassies abroad, and of cooperation with them. The Embassy of Latvia in Ireland is the one which has helped many victims and does a lot to inform people about the risks of sham marriages, but there are good examples of support provided also by other Latvian embassies. For example, providers of social services noted the support provided by the Embassy of Latvia in Greece, where the Embassy in cooperation with the Greek police helped a Latvian citizen to get away from the exploiter:

In one case support was provided by the Embassy in Greece in a very successful way. Relatives contacted the Embassy. Its employee phoned the girl and asked her to give her phone to a passer-by, to call the police, and thus the girl went to the police station and under protection. There was, though, one problem. The girl spoke neither English nor Russian, but we found a solution to the communication by involving the Embassy staff and our own employees as interpreters. The police was very responsive, they were ready to take the girl to her temporary place of residence so that she could get her personal belongings. (An interview with a provider of social rehabilitation services)

In order to have this kind of cooperation in practice, it is very important to have all the parties involved informed about the issue of exploitative sham marriages and the types of action that should be done in a situation like this, how to provide assistance. The experience in Latvia shows that many institutions have very successful cooperation. To ensure cooperation also in the future, it is essential that all professional groups which might come into contact with victims of sham marriages (police officers, social workers, the staff of embassies, migration services and marriage registry offices), at the slightest suspicion of a case of exploitative sham marriage (for example, spouses do not speak a common language and are able to communicate only through a go-between), would inform the potential victim about the risks of sham marriages and where to turn for help. To provide information that the particular person needs, they should be able to recognise suspicious situations and also the possible victim, and therefore training is needed:

One must be able to recognise human trafficking cases. A social worker will not always be able to identify specific indicators of human trafficking; one must learn to do it. And it is a huge support if there is a professional at the social service who has heard about human trafficking. In such cases cooperation in dealing with social

welfare issues is more successful. (An interview with a provider of social rehabilitation services)

Specialists should be educated, for example, employees of custody courts and the municipal police, so that they would be able to recognise human trafficking cases. And also prosecutors should participate in training, to receive additional information about the psychological state of victims, since understanding of this might be helpful in making the decision. After all, human trafficking cases are not routine cases. (An interview with a provider of social rehabilitation services)

## **Changes in the legal regulation contributing to the understanding of human trafficking and possible vulnerabilities**

Many experts consider that the legal regulation that has been currently established in Latvia is good, and the amendments during recent years – CL section 2852 and the concept of vulnerability in CL section 154<sup>2</sup> – are regarded as being particularly positive (for a more detailed explanation, see section 2.1. Legal regulation and amendments to it: 2010 – 2015):

I believe that this law is very good for Latvia. It is a matter of being able to apply it. ... For example, now the concept of vulnerability was put in CL section 154<sup>2</sup>. It is very good. Now it is possible to prove that a girl was forced, if she is intellectually disabled. (An interview with a provider of social rehabilitation services)

About that vulnerability. I found out about it when going to seminars. A judge from Lithuanian said that there was such a feature as vulnerability in Lithuanian legislation. I was waiting all the time, when we would have it. I had one criminal case, I tried to prove that the girls who went abroad were in a state of helplessness, they were unable to understand, they were unable to do the correct thing. It is very good that this concept has been approved with us. I believe that it will make our work much easier. (An interview with a representative from the police prosecutor's office)

As regards using the concept of vulnerability in practice, some experts have a very positive opinion, while others take a more sceptical approach and note that one must learn how to use this new regulation, and the case law should be seen and analysed, how a person's vulnerability is interpreted:

If the state of vulnerability is used, we shall see what kind of scope will be given to this concept by practitioners. The law does not provide an exhaustive content to this concept; it will be developed in case law. The way her helplessness is used. (An interview with an expert – a lawyer)

In general, the inclusion of the concept of vulnerability into the Criminal Law section on human trafficking will in the future allow referring cases to CL section 154<sup>2</sup> on human trafficking. Until now, if a woman had concluded a sham marriage voluntarily, but later had been deceived and subjected to exploitation, these cases were heard on the basis of CL section 2852 (on ensuring in bad faith to a person the possibility to obtain the legal right to reside in Latvia, another Member State of the EU, a state of the EEA or the Swiss Confederation):

We'll see how this vulnerability, which we put into human trafficking, as a measure could transfer more situations from CL section CL 2852 to human trafficking. We'll see about exploitation, the way practitioners think. (An interview with an expert – a lawyer)

A number of experts emphasize that it is too early to assess how the new regulation on a person's vulnerability functions, since there is no case law. The practice will develop only through legal proceedings, appeals and judgments by the Supreme Court, on how to interpret this concept of vulnerability, because at the beginning rather widespread uncertainty and different interpretations can be seen:

About vulnerability. It is rather disputable. We'll know after case law develops. Everyone is waiting for the first cases and the first judgments. Because one prosecutor sees a crime, another does not. Until the Supreme Court provides a summary on the issue. It is like that the police takes one perspective, the prosecutor another one, but the judge yet another. (An interview with an expert – a lawyer)

To develop uniform practice and have less contradictions and different interpretations in the work of the police, the prosecutors and judges, common training and seminars are needed in order to discuss those issues that have been interpreted differently and to know what should be proven and what kind of evidence should be collected:

Whenever a new section is adopted, training, seminars are needed. To know what should be proven and what kind of evidence should be collected. (An interview with a representative of the police/ prosecutor's office)

The interviews with experts reveal that the legal regulation on human trafficking is interpreted differently in the work of police, prosecutors and judges. The police have experienced cases where the operation of recruitment networks detected by the police is not interpreted as a crime, because there are no victims. The judges do not classify as criminal offences those cases that have been initiated on the basis of detected recruitment, but only as an attempt to commit a crime, and it is also difficult to classify these as human trafficking cases (therefore these are cases on the basis of CL section 2852), and the aspect of a person's vulnerability is not taken into consideration.

In 2009–2010 there were cases in which the police investigated for an entire year, collecting materials, but the prosecutor made a decision stating that there were no elements of crime in these cases. Different interpretations of the legal regulation on human trafficking was one of the factors that facilitated the drafting and adoption of CL section 2852, since the previous regulation restricted the police officers in taking any measures to combat exploitative sham marriages that could not be classified as forced marriages.

The problem that was identified in 2009–2010: there was an investigation, a large-scale and complicated one, and, indeed, vulnerability was involved, intellectual disability of the girls involved. The prosecutor simply said that he was terminating the case, since there was no *corpus delicti* [no elements of the offence], and nowhere does the Criminal Law make a reference to sham marriages. The argument that there had been criminal activities was not taken into consideration.



The case was really large-scale. Worked on it for a year, a huge case, and then it turns out that it has not been put into the Criminal Law, that this concept does not exist. [...] Very unpleasant that the police officers do the work and the prosecutor says that there were no grounds for initiating a case. (An interview with an expert – a lawyer)

Pursuant to the regulation currently in force, in those cases which involve forced sham marriages, human trafficking charges are brought (section 1542 of the Criminal Law), but if the marriage has been concluded voluntarily, then section 2852 of the Criminal Law is applied:

In my criminal cases there are episodes in which involvement in sham marriages was voluntary, but some cases involved the use of force. Where it was by force, I brought charges for human trafficking. If CL section 2852 comprised references to forced sham marriages, there would be no need for us to bring human trafficking charges. (An interview with a representative of the police/ prosecutor's office)

Disagreements among police officers and prosecutors, as well as constant calls for help from the Embassy of Latvia in Ireland facilitated both the elaboration of CL section 2852 and the improvement of the legal regulation on human trafficking, and in 25 September 2014 amendments on vulnerability were introduced to CL section 1542.

Someone sees it as a crime, someone else does not. The police hold that if this person comes and says that she was forced, then, yes, this could be a case of the state of vulnerability. But if the person was caught and only then starts saying that she had been forced, had been helpless, then it is no longer a state of vulnerability. [...] Then we'll have empty prisons, all thieves and murderers will say that they were forced, they had been threatened. Thus, practice is needed, in what cases it can be applied and when it cannot. The primary question: what is going to be the evidence? (An interview with an expert – a lawyer)

Compared to the understanding among those working in the prosecutor's office and the police, the understanding of the definition of human trafficking encountered among providers of social rehabilitation services is even broader. They try to prove that also a voluntary sham marriage in which the person had been deceived or her vulnerability had been abused, should be considered as a case of human trafficking:

We have a dispute with the police about it, since they stick to the definition and the words. We propose that the criteria for recognition should be modernised, in view of the fact that the element of coercion slowly disappears and deceit is seen more often. (An interview with a provider of social rehabilitation services)

There is a tendency among providers of social rehabilitation services to be quite suspicious about marriages between Latvian citizens and citizens of particular countries, for example Pakistan and Bangladesh. Many of providers of social rehabilitation services think that a high proportion of these marriages are not genuine in our understanding. However, they also admit that not all marriages with third country nationals should be considered fictitious and linked to exploitation. One should examine whether recruitment has taken place, whether deceit occurred, whether a person's vulnerability was used and whether the marriage is linked to obtaining a residence permit.

Not all marriages to a third country citizen are fictitious, they can be also genuine. However, violence is possible also in such a marriage. Therefore these issues are suspicious: there is recruitment, using the state of vulnerability, deceit and the aim of getting a residence permit. (An interview with a provider of social rehabilitation services)

The experts hold the opinion that pure sham marriages in which the spouses live separately and there is neither violence, nor threats, should not be recognised as exploitative sham marriages:

A pure sham marriage: no beatings, the fictitious spouses live separately. But as soon as elements of exploitation, violence appear, it can be identified as human trafficking. (An interview with a provider of social rehabilitation services)

Experts also note that situations which many providers of social services in Latvia consider to be human trafficking, are treated in other countries as cultural differences and discord in the family, failing to identify the link between the marriage and obtaining the residence permits, and abuse of the legal regulation on migration:

Every state takes a different perspective on such marriage. The Irish and the British see that as cultural differences and discord in the family: nothing to be done, the spouses are not getting on; no human trafficking to speak of. In Latvia it is identified because the aim was not to form a family, but to obtain a residence permit in the EU on the basis of the concluded marriage. (Interview with a provider of social rehabilitation services).

In general, the main problem and challenge that is linked to the legal regulation is that there is a lack of clear understanding among police officers, prosecutors and judges on how to apply the provision on vulnerability. Furthermore, case law is lacking and therefore the section in the law that defines vulnerability is not currently used to its full extent.

## **Increasing understanding at the EU level**

Interviews with Latvian experts reveal that they have repeatedly encountered a lack of understanding among experts and professionals in other EU countries about types of human trafficking and the need to combat sham marriages that have been concluded in order to ensure residence permits to third country nationals. Some experts point out very directly that some countries have a very liberal approach to violations of migration rules (the presence of third country nationals in the country without legal grounds), and also do not really recognise features of human trafficking in cases of exploitative sham marriages. Comparatively, Latvia and Portugal are mentioned as the countries that have been most active in trying to draw the attention of other countries to this problem:

There are countries that do not want to deal with this issue at all, but Latvia and Portugal are trying to set other countries in motion .. [...] Europe is extremely inert. That is the greatest problem. (An interview with an expert – a lawyer)

However, in recent years certain changes in attitude and improvements have been observed. In particular, during the last year successful cooperation with Irish institutions, including the Irish Garda (police), has been developing since the Irish side is proposing to work on joint investigations. In view of the fact that the Latvian Embassy in Ireland and the OCCB have tried to draw Ireland's attention to these problems already since 2006, it could be said that they have succeeded in their effort. It is very important that in Ireland a specialised department has been established to work with sham marriages, which allows dealing with this problem in a more targeted way. In Latvia it would be advisable to establish a specialised department at the prosecutor's office, dealing only with combating human trafficking, in order to make the prevention of human trafficking in Latvia more successful:

Now we receive a proposal from the Irish colleagues to form joint investigation teams with them to deal with sham marriages. [...] They have established a specialised department which will have only one line of work: sham marriages, possibly, in connection with human trafficking, a specialised department. [...] Not only with us, it is also like that abroad, an ordinary police officer is less active in investigating crimes of human trafficking. [...] For effective detection and investigation of human trafficking crimes, the Latvian police lack human and technical resources, and also financing. Before that is in place, astonishing results cannot be expected. (An interview with a representative of the police/ prosecutor's office)

Many Latvian experts emphasised in the interviews that they had encountered situations where partners of cooperation in other countries treat third country nationals in very good faith, and proper inspections to establish the true situation were not conducted. One example is linked with the case in which there was an attempt to collect child support payments through the Maintenance Guarantee Fund, but the responsible civil servants in Ireland took the man at his word, without any proof, that he had been providing means of subsistence to his children:

There was a case in which we requested child support payments through the Maintenance Guarantee Fund. The father of the child lives in Ireland. We sent a request to the Irish authorities. The employees of the Irish institutions met with the father, who affirmed orally that he was sending money to the child once per month. We were informed that the father was helping with child support. Unfortunately, the Irish institutions did not verify whether there was proof of him doing this. Believe anything that is said. On the basis of information received from the Irish institution, the woman cannot receive any benefits from the Maintenance Guarantee Fund. (An interview with a provider of social rehabilitation services)

This particular case cannot be generalised, but several experts do hold the opinion that Latvia, compared to many other EU countries, has stricter controls over the legality of third country nationals residing on the territory of Latvia and of compliance by foreigners with Latvian legal regulation. Experts who express their opinion about this issue share the view that it is in the interests of the state and its citizens to ensure stricter control over migration and to work more actively to decrease illegal immigration, based on sham marriages.

However, Latvia alone cannot implement this. A common understanding is needed at the EU level.

## 5. Conclusions and Recommendations

### 5.1. Types and features of exploitative sham marriages

The study reveals three main ways of involving women in **exploitative sham marriages**. Firstly, elements of human trafficking can be identified where a person has been forced to conclude a sham marriage (forced sham marriage). Secondly, there are elements of human trafficking in cases and indication of an exploitative sham marriage in which a person has initially agreed to conclude a sham marriage but she has later been deceived and subjected to violence. The third type of exploitative sham marriages is a sham marriage in which a person has created an impression for another person that the marriage is genuine. The marriage is later revealed as fraud and can be determined to be a unilateral sham marriage where it is a sham marriage only for one part, but genuine for the other.

The common features of all three types of exploitative sham marriages are linked to mechanisms of recruitment. In all cases fraud and manipulation with the victim's state of helplessness occur; the victim's vulnerability is used. In the case of forced sham marriages, fraud is used to lure the victim away from Latvia (most often by promising a well-paid job somewhere abroad). However, in cases of a voluntary sham marriage, fraud is observed with regard to the way transaction is conducted: the victims believe that they will receive money immediately after marriage and will be able to return home, but in reality the money is not paid. In addition, the woman must live together with the "husband" in order to convince the migration services that the marriage is genuine. During this period, the person is subjected to violence. In the case of a unilateral sham marriage, the victim is misled by the illusion of a genuine relationship.

The victim's vulnerability is a common feature in all three types, and the most frequently encountered multiple overlapping risk factors are poverty, disadvantageous family circumstances (dysfunctional families), a low level of education, diagnosed moderately severe or severe intellectual disability, and poor social skills. The types of exploitation may differ from case to case, but the most frequently encountered ones are:

- 1) involving a person in the commission of a criminal offence: a sham marriage, or sometimes participation in other criminal activities, such as recruiting other victims or theft;
- 2) provision of forced sexual services to the "husband", and sometimes also to his relatives or friends;
- 3) state of slavery: restricting a person's freedom of movement, total control (may not leave her room, may not get in touch with her relatives and/or friends), must accept foreign traditions, subjected to psychological or physical violence, total economic dependence, being threatened constantly.

With regard to the three types of exploitative sham marriages identified in Latvia, there is no consensus among experts that all of these could be recognised as human trafficking. However, in Latvia the majority of experts recognise the first two types as human trafficking. It must be noted with regard to the second type that it is not always possible to provide the evidence needed to recognise it as human trafficking, and also in other countries this is not always considered to be human trafficking.

The third type is the most complicated one. In the case of a unilateral sham marriage, it is very difficult to prove that the marriage is not genuine and that this is a case of human trafficking, because, firstly, victims themselves rarely want to admit that their marriage had not been genuine and that they had been deceived. Secondly, having children within these relationships creates the illusion of a traditional family. Thirdly, because problems and violence are often observed only after a number of years into the marriage, this makes it difficult to trace back to the moment of recruitment, and arguments could be made that these are “just” cases of domestic violence.

At the same time, there are specialists among Latvian experts who emphasise that Latvia has experience in identifying the features of fraud and of sham marriage, which are:

- elements of exploitation can be identified;
- the sole grounds for the residence permit granted to the third country national is marriage to a Latvian citizen;
- marriage was proposed immediately after the two became acquainted;
- the third country national facilitates the onset of pregnancy and the birth of a common child in all possible ways, since a common child is sufficient grounds for applying for a residence permit in the EU;
- marriage is organised outside Latvia in a state that has a minimum of control over the procedure for concluding a marriage;
- in the majority of cases the bride’s parents, relatives and friends do not participate in the wedding ceremony.

## **5.2. Main problems and challenges in preventing exploitative sham marriages**

In view of the fact that the number of deceitful exploitative sham marriages in which the victim initially agrees to cooperate is on the rise and the number of forced sham marriages is decreasing, one of the main challenges is to prove that this has been a case of human trafficking by using the existing definition of human trafficking.

In order to make better use of the definition of human trafficking in the legal regulation, amendments to CL section 154<sup>2</sup> were prepared, including provisions on the concept of vulnerability. However, the statements made by a

number of experts show that there is a lack of clear understanding among police officers, prosecutors and judges on how to apply this new concept of vulnerability. There is no case law, and therefore the provisions made in the law on the status of vulnerability are currently not used to the full extent.

The second most pressing challenge for Latvia is the fact that until now the measures designed to prevent human trafficking, aimed at educating the members of society, have been primarily implemented in the form of projects. Up to the present, the national program has not allocated stable financing intended to ensure regular prevention measures.

Thirdly, it must be noted that both amendments to legal regulation and increasing awareness in society and in some risk groups should be linked to regular training of different professional groups, in order to ensure a uniform understanding of the issue and cooperation with various institutions. To implement this kind of cooperation, it is very important that all the parties involved are informed about the problem of exploitative sham marriages and what should be done in this case, how to provide assistance.

Fourthly, some experts identify certain differences among EU states in respect of the control of marriages and immigration of third country nationals based on marriages. There are countries that do not pay much attention to violations of migration regulations (third country nationals residing in the state without an appropriate legal basis), as well as to regulations on marriage with third country nationals. There are also countries in which human trafficking and exploitative sham marriages are not recognized as such. This situation is abused by third country nationals, who see a possibility to use the institution of marriage in order to obtain a residence permit in the EU. In view of the fact that EU migration control may be implemented only when all EU states are cooperating, a common understanding of the problem of exploitative sham marriages is needed at the EU level in order to decrease illegal migration based on sham marriages.

### **5.3. Recommendations**

#### **On the national level**

1. Examination of the possibility of including the concept of “exploitative sham marriage” in Latvian legal regulation. One of the solutions would be to include this concept in the definition of the concept of exploitation in the third part of CL section 154<sup>2</sup>.
2. Organization of training seminars for prosecutors and judges in order to promote a uniform understanding of the concept of human trafficking, vulnerability and exploitative sham marriage, and the application of Latvian legal regulations.
3. Establishment at the prosecutor’s office of a specialised department for combating human trafficking.

4. Increasing the capacity of the OCCB and ensuring that all modern technologies are available for their use.
5. Improving the capacity of the municipal police to identify victims of human trafficking and expanding their knowledge about actions to take in such cases, by organising training for employees of municipal police.
6. Continuing the organisation of training for specialists and implementing a systemic approach in order to facilitate informing specialists of all regions and local governments.
7. 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.
8. Increasing 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. Ensuring that information campaigns are systematic and conducted within the framework of the implementation of the Guidelines on Human Trafficking, 2014–2020.

#### **On the international level**

1. Facilitating recognition of the phenomenon of “exploitative sham marriage” on all levels by organising international discussions, seminars, conferences and cooperation projects.
2. Facilitating the understanding within the EU countries about the need to implement stricter control over marriages of EU citizens with third country nationals, ensuring that it is impossible for third country nationals who reside illegally in the particular country to marry, requiring documents that prove the marital status of the person (has or has not been married before).
3. Facilitating the understanding within the EU countries of the need to delay the conclusion of suspicious marriages in situations where there are grounds to consider that the marriage could be fictitious: those applying for registration of marriage are unable to talk to one another, and they do not know anything about each other. To provide for the possibility that in the case of suspicious marriage the applicants are interviewed separately.
4. Criminalising the conclusion of sham marriages with third country nationals in all EU Member States.



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