



FORCED MARRIAGES AND SHAM MARRIAGES IN THE SLOVAK REPUBLIC

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**Research Report of the Slovak Republic – the project HESTIA
“Prevention of trafficking in human beings and Sham Marriages:
Multidisciplinary Solution”**

Table of Contents

1	Chyba! Záložka nie je definovaná.
Background information on sham marriages and trafficking in human beings in the Slovak Republic	3
1.1 Conclusion of Marriage in the Slovak Republic	3
1.2 Trafficking in human beings (the legislative framework)	5
1.2.1 Assistance to victims of trafficking in human beings	7
1.3 Sham Marriage	10
1.3.1 Obtaining Schengen visas	11
1.3.2 Cooperation between birth registries in detection of sham marriages	12
2 Statistical information	14
2.1. Illegal migration in the form of smuggling under Section 356 of the Penal Code - sham marriages	14
2.2 Statistical overview of cases of trafficking for the purpose of forced marriage	19
3 Data and Methodology	22
4 Case analysis	23
4.1 Analysis of the cases of trafficking in human beings for the purpose of forced marriage	23
4.1.1 Cases of forced marriages of persons included in the Programme	24
4.1.2 Investigated cases of trafficking in human beings for the purpose of forced marriage	27
4.1.3 Court decisions related to trafficking in human beings for the purpose of forced marriage	31
4.1.4 Indicators of trafficking in human beings for the purpose of forced marriage	33
4.1.5 Conclusions	34
4.2 Analysis of the cases of smuggling in the form of sham marriages	36
4.2.1 Indicators of sham marriage	37
4.2.2 Conclusions	38
5 Conclusions and recommendations	39
Abbreviations	42
References	43
Annex 1: Forced marriages and sham marriages in the media	48
Findings regarding the published articles	57

1

Introduction

The main objectives of this research report are to explore the links between sham marriages and trafficking in human beings, to provide new information about vulnerability, factors, methods and channels which facilitate sham marriages leading to trafficking, and to collect information on the phenomenon using qualitative and quantitative approaches. This research report presents the main findings and reflects the issue from the perspective of the Slovak Republic.

Data and various documents obtained from relevant stakeholders involved in combating human trafficking, as well as sham marriages, were analysed by the Information Centre for Combating Trafficking in Human Beings and Crime Prevention of the Ministry of the Interior of the Slovak Republic (hereinafter referred to as the "Information Centre"). The Ministry of the Interior of the Slovak Republic is a partner in the project HESTIA: "Prevention of human trafficking and Sham Marriages: a Multidisciplinary Solution".

Definition of terms such as trafficking in human beings for the purpose of forced marriage and sham marriages in relation to the circumstances and legislation in the Slovak Republic are fundamental to the proper understanding of the issue. According to the perception in the Slovak Republic, both terms relate to the conclusion of marriage, since marriage is concluded both when there is sham marriage and when there is forced marriage. The difference is that forced marriage is concluded under coercion, not voluntarily, while sham marriage is concluded voluntarily. The following section describes the procedures upon conclusion of marriage from the perspective of the Birth Registry Department of the Residence Reporting and Electronization Unit of the Registry, Birth Registry and Residence Reporting Division of the Section of Public Administration of the Ministry of the Interior of the Slovak Republic (hereinafter referred to as the "Birth Registry Department"), as well as the definition of basic terms such as marriage. We will focus on the legislative framework of trafficking in human beings and sham marriages.

This is a national report, and it should be emphasized that the definitions of the terms set out here relate exclusively to the circumstances in the Slovak Republic.

Background information on sham marriages and trafficking in human beings in the Slovak Republic

1.1 Conclusion of Marriage in the Slovak Republic

Conclusion of marriage in the Slovak Republic is regulated by Act No. 36/2005 Coll. on Family, as amended (hereinafter referred to as the "Family Act") and Act No. 154/1994 Coll. on Birth Registers, as amended (hereinafter referred to as the "Birth Registry Act"). Based on the wording of Section 2 of the Family Act, marriage is concluded in the form of a mutual declaration of the prospective spouses before the authorities of the municipality responsible for the registry of birth or before a registered church authority or religious society authority.

A definition of marriage is provided in Section 1 of the Family Act as follows:

“Marriage is a union between a man and a woman. This unique union is protected by society which supports its common good. Spouses are equal in their rights and duties. The primary purpose of marriage is to create a family and raise children.”

The formation of marriage is defined in Section 1 (1) of the Family Act as follows:

*“Marriage is a union of a man and a woman created on the basis of their **voluntary and free** decision to conclude the marriage, in accordance with the conditions set forth in this act.”*

The procedure upon conclusion of marriage is the same for foreigners and nationals of the Slovak Republic. Nationals who want to conclude a marriage (hereinafter referred to as “prospective spouses”) appear in person before the birth registry authority where they want to conclude the marriage. If they wish to conclude the marriage in a church, they visit the birth registry authority where the church is situated. They state to the birth registry authority their intention to conclude a marriage and submit an application for the conclusion of marriage and identity documents as defined by the law. If both prospective spouses are nationals of the Slovak Republic, they submit their identity card and birth certificate. If one of the prospective spouses is a foreigner, he or she submits confirmation about his or her status (a declaration that he or she may conclude a marriage, i.e. he or she is not married) together with the above-mentioned identity documents. The period for submitting documents is 7 days prior to the marriage in the case of a national of the Slovak Republic and 14 days prior to the marriage in the case of a foreigner.

If the prospective spouses wish to conclude a civil marriage, they agree on the term of marriage after they submit all the necessary documents. In case they wish to conclude the marriage in a church, they bring an application confirmed by a birth registry authority to the church authority who is to preside over the conclusion of the marriage. The ceremony is performed in a Slovak language. If one of the prospective spouses is a foreigner and is unable to speak a Slovak language, then an interpreter is present. The ceremony has a prescribed form, although birth registry authorities may adapt some parts. *“Marriage may be concluded anywhere provided two requirements are met, i.e. publicity and the ceremonial character of the ceremony. It is not rare that individuals conclude a marriage in a grass field, other public premises and there have even been marriages on a raft or in a mountain cottage,”* said a representative of the Birth Registry Department during the interview.

After conclusion of a civil or church marriage, a marriage certificate is issued to the spouses. This is the only official document confirming the conclusion of the marriage.

Based on the amendment to the Family Act which entered into force on 1 October 2015, Section 6 (6) reads as follows: *“Based on Section 3, in accordance with the law, a prospective spouse may apply to the birth registry authority or another competent authority to avoid submission of documents referred to in paragraph 1 if its delivery is associated with a difficult obstacle to overcome. The request must be made in writing, personally submitted by a prospective spouse, signed and justified. The birth registry authority shall submit an application with a detailed opinion for the decision of the district birth registry authority within five days of receipt; the birth registry authority is bound by the decision. The competent*

authority referred to in Section 3 shall submit a request with a detailed opinion to the Ministry of the Interior of the Slovak Republic for a decision within five days of receipt of the request which shall decide on it; the competent authority referred to in Section 3 is bound by this decision".

As formulated by an interviewee working at the Birth Registry Department, as a result of the amendment of the Family Act decisive jurisdiction is transferred from the competent authorities to the district office which decides if the prospective spouses are to address the birth registry authority at the first instance. If the prospective spouses address another competent authority as the first instance, such as the consular office, then the Ministry of the Interior of the Slovak Republic decides on the necessity to submit documents. This change has been seen as a positive step towards more efficient and more objective decision-making by the authorities in charge and, thanks to the five-day periods referred to in the amendment of the act, the principle of timely procedure is ensured. At the same time, there is a stricter exemption from the obligation of the prospective spouse to submit documents to the birth registry authority together with the application for the conclusion of marriage. The need for the amendment arose because of the practice prevailing at the time, since some of the birth registry authorities used to assess the documents in an inappropriate way and accepted submission of important documents by a solemn declaration.

1.2 Trafficking in human beings (the legislative framework)

This section describes the legislative framework concerning trafficking in human beings. We will define trafficking in human beings based on Section 179 of Act No. 300/2005 Coll. Penal Code, as amended (hereinafter referred to as the “Penal Code”). We will focus on the term “sham marriage” as far as this term was included in the Penal Code after the amendment of the Penal Code in 2013. We will also pay attention to trafficking in human beings for the purpose of forced marriage as we perceive that this is related to the topic. The term “exploitative sham marriage”, which is used in the HESTIA project, is not recognized in Slovak legislation. Cases where conclusion of a sham marriage was offered during the recruitment phase with consequent exploitation are mentioned in the chapter 4 which is dedicated to case analysis.

Section 179 of the Criminal Code

Trafficking in human beings

- (1) Who, with the use of deception, deceit, the restriction of personal freedom, abduction, violence, threats of violence, the threat of another severe injury or other forms of coercion, or adoption of the provision of money or performance or other benefits to achieve the consent of a person depending on another person abuses his position or vulnerability or otherwise vulnerable position, transports, transmits, or takes others, even with his consent for the purpose of his prostitution or other forms of sexual exploitation, including pornography, forced labour or services, slavery or practices similar to begging, including forced slavery, servitude, **forced marriage**, exploitation of criminal activities, removal of organs, tissues or cells or other forms of exploitation, shall be punished by imprisonment of four to ten years.*
- (2) as well as in paragraph 1 shall be punished, who lures, transports or hands over a child, even with his consent, for the purpose of prostitution or other forms of sexual exploitation, including child pornography, forced labour or services, slavery or practices*

*similar to begging, including forced slavery, servitude, **forced marriage**, exploitation of criminal activities, illegal adoption, removal of organs, tissues or cells or other forms of exploitation.*

Section 179 of the Penal Code also includes paragraphs 3, 4 and 5 which define qualified forms of the offence of trafficking in human beings punishable with a higher level of imprisonment, depending on the severity and circumstances of the conduct. Sentences are increased proportionally between 12 years of imprisonment and life imprisonment.

With Act No. 204/2013, amending and supplementing Act No. 300/2005 Coll. Penal Code as amended, and amending certain laws with effect on 1 August 2013, the elements of the criminal offence of human trafficking were amended.

Paragraph 1 of Section 179 of the Penal Code was amended so that the list of means of trafficking in human beings was supplemented by "abduction" and the list of purposes of trafficking in human beings was supplemented by "forced marriage". "Begging" was added as one form of forced labour, and "exploitation of criminal activities" was included.

Paragraph 2 of Section 179 of the Penal Code was replaced in its entirety. The paragraph provides a legal definition of committing the criminal offence of trafficking in a person younger than 18 years of age, in other words a child. In addition to the purposes, paragraph 1 was supplemented by "illegal adoption".

In terms of the amendment, paragraph 3 of Section 179 of the Penal Code was supplemented by other forms of crime and their consequences. The amendment of the elements of the criminal offence of trafficking in human beings was made due to the transposition of Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (hereinafter referred to as the "Directive").

All elements of trafficking in human beings must be present in order to constitute trafficking in human beings. The definition of the criminal offence of trafficking in human beings is based on the definition of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Three interlinked elements must be present defining the mechanism of trafficking in human beings: an action (conduct), a means and a purpose. Forced marriages as a purpose of trafficking in human beings must contain a marriage of coercion. An action means recruitment, transportation, transfer, harbouring or receipt of persons. A means includes threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or a position of vulnerability, and the giving or receiving of payments or benefits to achieve consent of a person having control over another person.

The Penal Code, however, does not define the term "forced marriage". Forced marriage is neither a specific criminal offence nor unlawful conduct. The Explanatory Report on draft Act No. 204/2013, amending and supplementing Act No. 300/2005 Coll. Penal Code, amending and supplementing certain laws in a separate section, only states that "with respect to the previous practice it is complemented with 'forced marriages' which constitute a specific form of trafficking in human beings".. Neither the preamble to the Directive, nor the Directive itself, provides a definition of the concept of forced marriage. The preamble to the Directive

states in point 11 that the definition of trafficking in human beings also includes activities such as *forced marriage, in so far as it fulfils the constitutive elements of trafficking in human beings*.

In this context, we approached the Ministry of Justice of the Slovak Republic, which was responsible for the transposition of the Directive. According to their informative interpretation, the term "forced marriage" within the meaning of Section 179 of the Penal Code should be understood as conclusion of a *marriage of coercion*.

In the case of forced marriage, what is absent on the part of one of the participants of this union is the voluntary character and free decision to conclude marriage. To constitute elements of forced marriage in terms of the criminal offence of trafficking in human beings, it is therefore necessary to prove that the marriage had not been concluded on the basis of their voluntary and free decision, but by means of coercion. Coercion can take various forms, both psychological and physical.

Based on Slovak national legislation, what is subjected to prosecution is trafficking in human beings for the purpose of exploitation, and not the exploitation itself, which is prosecuted on the basis of other provisions. The provision of Section 179 of the Penal Code penalizes criminal activities both within the territory of the Slovak Republic as well as abroad. Consent of the victim of the criminal offence is not an obstacle to the criminal prosecution of the perpetrators of this criminal offence. In terms of the subjective element of the criminal offence, intention and at the same time the motive of the perpetrator¹ is required. Anyone may be the perpetrator as well as the victim.

The detection and investigation of the criminal offence of trafficking in human beings is the responsibility of a special police department, the National Unit of Combating Illegal Migration (hereinafter referred to as the "National Unit") under the Border and Alien Police Bureau.

In compliance with national and international legislation, the Slovak Republic aims to assist individuals affected by the criminal offence of trafficking in human beings. Victims may be provided with assistance and support through a specialized programme of support and protection of victims of trafficking in human beings (hereinafter referred to as the "Programme"). . The Information Centre which is part of the Ministry of the Interior is the manager of the Programme and responsible for monitoring the Programme. The Programme aims at providing assistance and support for victims of THB.

1.2.1 Assistance to victims of trafficking in human beings

When there is a reasonable suspicion that a person is a victim of trafficking in human beings, this person is offered entry into the Programme. A condition for entry into the Programme is the voluntary consent of the potential victim to do so, and to cut ties with the criminal environment. Subsequently, an individual plan of assistance is developed and the victim is

¹ Comment to the Penal Code, Act No. 300/2005 Coll. Comment elaborated under the guidance of the head of the copyright collective, JUDr. Jozef Čentéš, PhD.

provided with adequate assistance and support within the Programme.

The Programme is stipulated in the internal regulation of the Ministry of the Interior: Regulation of the Ministry of the Interior of the Slovak Republic No. 180 of 19 December 2013 on the Programme of Support and Protection of Victims of trafficking in human beings (hereinafter referred to as the “Regulation”). For the purposes of the Regulation a victim of trafficking in human beings shall be understood to be:

- a Slovak national if there are reasonable grounds to believe that the individual has become a victim either in the Slovak Republic or abroad,
- a national of a Member State of the EU (hereinafter referred to as the “European Union”) if there are reasonable grounds to believe the individual has become a victim either in the Slovak Republic or abroad,
- a third-country national if there are reasonable grounds to believe that the individual has become a victim either in the Slovak Republic or abroad.

A victim may be provided with emergency care, consequent care and reintegration or integration and assisted voluntary return within the Programme. Emergency care is aimed at primary stabilization of an individual after trauma for 30 days. The victim included in the Programme may ask for assisted voluntary return. After the provision of emergency care, a victim who is a Slovak national if there are reasonable grounds to believe that the individual has become a victim either in the Slovak Republic or abroad, or who is a national of a Member State of the EU if there are reasonable grounds to believe the individual has become a victim in the Slovak Republic, or who is a third-country national if there are reasonable grounds to believe that the individual has become a victim in the Slovak Republic, is provided with consequent care. Consequent care is provided for 30 days and may be extended for another 30 days in justified cases. During their period the victims are provided with assistance and support for their stabilization with efforts to facilitate their integration.

Reintegration or integration is provided after the care referred to above for 30 days and may be extended for another 30 days in justified cases, even repeatedly, for a maximum period of 90 days to a victim who is a Slovak national if there are reasonable grounds to believe that the individual has become a victim either in the Slovak Republic or abroad, who is a national of a Member State of the EU if there are reasonable grounds to believe the individual has become a victim in the Slovak Republic, or who is a third-country national if there are reasonable grounds to believe that the individual has become a victim in the Slovak Republic. Reintegration or integration involves a set of measures with the objective of facilitating the integration of a victim into society.

The Programme includes the following services:

- isolation from the criminal environment (provision of safety for a victim),
- information about the reflection period² in the territory of the Slovak Republic and when necessary also information about possibilities of international protection³ if the victim is a third country national,
- assistance to a national of the Slovak Republic upon assisted voluntary return to the Slovak Republic,
- financial support,

² Section 58 (4) (d) of Act No. 404/2011 Coll., as amended by Act No. 75/2013 Coll.

³ Act No. 480/2002 Coll. on Asylum and amending and supplementing certain acts, as amended.

- social assistance,
- psycho-social counselling,
- psycho-therapeutic services,
- interpretation and translation services,
- legal advice,
- health care,
- requalification courses,
- the possibility of entry into the witness protection programme under a special act,⁴
- the possibility of a one-time cash compensation under a special act,⁵
- assistance to a national of the Member States of the EU or a third country national upon assisted voluntary return⁶ as well as
- the possibility of suitable and safe accommodation.

The procedure upon identification of the victims in the Slovak Republic, as well as in their eventual inclusion in the Programme, is stipulated in the ***National Referral Mechanism***. This referral mechanism entails a structure of cooperating subjects through which the public authorities meet their commitments regarding protection and promotion of the human rights of individuals who become victims of trafficking in human beings, coordinating their efforts in a strategic partnership with civil society. The primary objective of the national referral mechanism is to ensure respect for the human rights of the victims and the provision of effective services for them. Secondly, the national referral mechanism may facilitate development of national policies and procedures relating to victims, such as, for example, legislation in the area of legalization of their residence, re-establishment and protection.

Any entity such as national authorities, international organizations or non-governmental organizations (NGOs), including those from a foreign country, may identify a potential victim of trafficking in human beings. Therefore, the members of the various services of the Police Force, the Prosecutor's Office, the staff of the Migration Office of the Ministry of the Interior, the staff of the Offices of Labour, Social Affairs and Family, health workers, the staff of the Ministry of Education, Science, Research, and outreach social workers, the staff of Slovak Republic consular authorities in foreign countries, NGOs and international organizations operating in Slovakia or abroad, as well as the victim of trafficking in human beings or his/her family members through the National Helpline for victims of trafficking in human beings

⁴ For instance, Act No. 256/1998 Coll. on Witness Protection and amending and supplementing certain acts, as amended.

⁵ Act No. 215/2006 Coll. on Compensation of Victims of Violent Crimes, as amended.

⁶ For instance, Art. 2 (1) (a) of Act No. 404/2011 Coll. on Residence of Foreigners and on amendments and supplements to certain acts.

The possibility of assisted voluntary return of victims corresponds to Article 16 (5) of the Council of Europe Convention on Action against trafficking in human beings. A victim of trafficking in human beings may voluntarily decide at any time to return to his or her country of origin or the last habitual residence or another third country which would accept him or her. The Ministry of the Interior concluded an agreement with the International Organization for Migration Bratislava on provision of assisted voluntary return of failed asylum seekers and illegal migrants to the country of origin. This agreement makes possible the performance of voluntary return with due regard to the rights, security and dignity of victims of trafficking in human beings. International standardized procedures binding on all the missions are followed once a victim of trafficking in human beings is repatriated or returned. The national law of the Slovak Republic regulates the repatriation and the return of victims of trafficking in human beings in Act No. 480/2002 Coll. on Asylum and the Act No. 404/2011 Coll. on Residence of Foreigners and on amendments and supplements to certain acts.

0800 800 818⁷ may initiate the identification of the victims.

1.3 Sham Marriage

Sham marriage is related to the criminal offence of smuggling under Section 356 of the Penal Code. This criminal offence, however, falls into the group of criminal offences against public order. Section 356 of the Penal Code does not have a specific heading. The elements of the criminal offence under Section 356 of the Penal Code can be fulfilled in different ways, such as fraudulent obtaining of a residence permit in the territory of the Slovak Republic by providing false documents confirming financial security for a residence and provision of accommodation on the basis of fictitious rental contracts, e.g. an apartment in a family house, or conclusion of a sham marriage as has already been mentioned.

Thus the criminal offence of smuggling under Section 356 of the Penal Code is fulfilled by the conclusion of a sham marriage. The criteria of the criminal offence under Section 356 of the Penal Code are fulfilled when one of the prospective spouses has a direct or indirect financial benefit or other benefit by the conclusion of marriage and the other prospective spouse has the benefit of the right to reside in the territory of the Slovak Republic, another Member State of the EU or a Contracting State to the Agreement on the European Economic Area. It is a conscious action of both sides agreed in advance and each of the sides profits from the action.

Section 356 of the Penal Code:

Who intends to gain for himself or another person, directly or indirectly, a financial or other material benefit to a person who is not a national of the Slovak Republic or another Member State of the EU or a national of a Contracting State to the Agreement on the European Economic Area, or does not have a permanent residence in its territory, allows or facilitates to remain or illegally gets employed in the territory of the Slovak Republic, in another Member State of the EU or on the territory of a Contracting Party to the Agreement on the European Economic Area shall be punished by imprisonment of two to eight years."

The Penal Code does not use nor define the term "sham marriage". The term "***sham marriage***" can be found in Act No. 404/2011 on the Residence of Foreigners and on amendments to certain laws as amended (hereinafter referred to as the "Foreigners Act"), in Section 2 (1) (a). For the purposes of the Act, "sham marriage" means a ***marriage concluded in order to obtain a residence permit***.

For the purposes of the research report, we will use the term "sham marriage" for activities in which a marriage is entered into with a person who is not a national of the Slovak Republic, a national of another Member State of the EU, or a national of a Contracting State of the Agreement on the European Economic Area, or who does not have a permanent residence in its territory, in order that this person would obtain residence or illegal employment in the territory of the Slovak Republic, of another Member State of the EU or a Contracting Party to

⁷ The National Programme of Combating Trafficking in Human Beings for the years 2015-2018 was adopted by Government resolution 52/2015 on 4 February 2015. [online]. 2015. [Last accessed 27 October 2015]. Available at <http://www.minv.sk/?informacne-centrum-na-boj-proti-obchodovaniu-s-ludmi-a-prevenciu-kriminality>

the Agreement on the European Economic Area. In this sense, a sham marriage cannot be concluded between two nationals of Member States of the EU and thus in such a case the criminal offence under Section 356 of the Penal Code is not committed.

1.3.1 Obtaining Schengen visas

If a third country national wants to obtain a Schengen visa, what is first required is an invitation. This invitation is a document that serves as the basis for an embassy of the Slovak Republic to decide on the granting of a Schengen visa. Consequently, a person who is referred to in Section 19 (2) of the Foreigners Act, must ask for verification of the invitation.

A foreigner⁸ submits his or her visa application to the diplomatic mission or consular office of the Slovak Republic abroad. The process for approval of the application is performed through a link between the embassies, the Ministry of Foreign Affairs and European Affairs of the Slovak Republic and the central visa authority. Based on the verification of the invitation, a Schengen visa may be granted to a third country national. Before granting a Schengen visa, checks are performed on the visa applicant as well as on the individual asking for verification of the invitation or the one who invites the applicant to the territory of the Slovak Republic.

The alien police in the Slovak Republic include police officers who are specialized in the registering of invitations. The central authority, in turn, is responsible for direct approval for granting of a Schengen visa, consultations and the giving of opinions on applications for visas and invitations. The central visa authority is a part of the Border and Alien Police Bureau. In addition to its duties, it performs consultations on the granting of visas to foreigners coming from high-risk areas, in cooperation with the Consular Department of the Ministry of Foreign Affairs and European Affairs. The list of high-risk areas is created by the Border and Alien Police Bureau of the Police Presidium on the basis of risk analysis. The list of the countries is restricted, it is regularly updated and forwarded to the European Commission. Consultations for granting of visa are performed on the basis of the approved list of high-risk countries, under Article 22 of Regulation No. 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code).

Sham marriage is a reason for the rejection of the application for a residence permit. If, subsequent to the granting of a residence permit, the conclusion of a sham marriage has been proved, this is grounds for revocation of the residence permit.⁹ Examples of indicators of reasonable suspicion of sham marriage are information from other authorities or natural persons, notifications by embassies of the Slovak Republic, a disproportionate difference in age between the spouses, the marriage was concluded a few days after entry into the Slovak Republic, or an individual (a national of the Slovak Republic or the EU) who concluded the marriage is in a poor financial situation.

The police have also uncovered a case of sham marriage which was disclosed five years

⁸ For the purposes of this report, “foreigner” means anyone who is not a national of the Slovak Republic. The term is defined in Section 2 (2) of the Act No. 404/2011 Coll. 404/2011 on the Residence of Foreigners and on amendments to certain laws, as amended.

⁹ EMN Small Thematic Study: Abuse of the right of family reunification: Sham marriages and false declaration of parentage in the Slovak Republic. Bratislava 2012. 41 p. ISBN 978-80-89506-25-5.

following the marriage, on the basis of the testimony of a person who concluded the marriage. In that case, a national of the Slovak Republic testified after he had been invited to the proceedings on residence upon assessment of the application of a Chinese national (his spouse) to extend her residence permit.

After granting a residence permit, the police authority is competent to control eligibility and compliance by the foreigner with his or her obligations and conditions of residence. For this purpose, they are also authorized to enter places intended for business, employment or studies and to accommodations and request explanation for the facts which are subject to control.¹⁰

If there is suspicion of a sham marriage, an investigator of the National Unit may perform all operations under the Criminal Procedure Code, including the use of information technology and operative-search means in order to prove the subjective element in the criminal offence of smuggling under Section 356 of the Penal Code.¹¹

The institution in charge of detection and investigation of cases of suspicion of the criminal offence of smuggling, i.e. in the field of illegal migration, is the Border and Alien Police Bureau of the Police Presidium, especially its departments, the alien police departments and the National Unit.

After sham marriage has been proved, an individual who benefited from it shall be prosecuted under Section 356 of the Penal Code and the third-country national may be expelled in accordance with Section 82 (2) (f) of the Foreigners Act. The police department may also impose a ban on the entry of the third-country national for 3 to 5 years.¹²

A foreigner may fulfil the elements of the criminal offence of obstruction of an official decision under Section 348 of the Penal Code in case of violation of the official decision on administrative expulsion of a foreigner. This is punishable by imprisonment for up to two years.

Decisions rejecting a request for a residence permit, on revocation of a residence permit and on administrative expulsion are issued through administrative procedure (Act No. 71/1967 Coll. on Administrative Proceedings (Code of Administrative Procedure), as amended), and appeal is possible. After the decision becomes definite, it is subject to review by the court.¹³

1.3.2 Cooperation between birth registries in detection of sham marriages

In November 2005, the Unit of Citizenship and Birth Registries of the Ministry of the Interior (hereinafter referred to as the “Unit of Birth Registries”) issued for the first time a guidance note on the procedure of birth registries. This guidance note set out the procedure for birth registries upon take-over of applications to conclude marriage submitted by foreigners. On its basis the birth registry has the duty to notify without delay the Border and Alien Police Bureau on submitting the application to conclude a marriage in case at least one of the prospective spouses is a foreign national.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

The birth registry shall inform the Border and Alien Police Bureau of data on foreigners to the following extent:

- name and surname; in case of differences in the birth certificate and travel document, both forms shall be notified,
- date and place of birth,
- address of residence of the foreigner in the Slovak Republic.

Notifications shall be forwarded to the alien police department in the territorial jurisdiction of the birth registry which took over the application to conclude marriage. In February 2007, there was repeatedly a need to provide similar guidance. The Department of Birth Registry issued such guidance for all birth registries. The Border and Alien Police Bureau informed that not all birth registries met the notification obligation that resulted from the guidance note issued in 2005. Accordingly, in this case an obligation was imposed on birth registries to inform the respective alien police department of receipt of applications to conclude a marriage if at least one of the prospective spouses was a foreigner. At the same time, in connection with the application of Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (the Schengen Borders Code), an innovation was introduced that in cases where an application is submitted to conclude a marriage between a Slovak national and a third country national, it is necessary to provide information in addition to the basic data. The additional information to be submitted to the respective alien police department includes a photocopy of the travel document of the foreigner with a valid visa allowing entry of the foreigner into the territory of the Slovak Republic or a photocopy of the entry stamp by border authorities with information on the date when the foreigner arrived in the territory of the Slovak Republic.

2 Statistical information

For the purpose of a general overview of cases of sham marriages and trafficking in human beings for the purpose of forced marriage, we collected statistical information on investigated/prosecuted cases, charged persons and convicted persons.

In the Slovak Republic, there is no unified statistical system for tracking a case from its beginning at the police investigation, up to the decision of the court. That is why the statistical outputs are not comparable. It is important to mention that judicial procedures in the Slovak Republic and elsewhere can be very lengthy, and it may last more than a year before a final judgment is given. Thus a case registered in the police statistics e.g. in 2012 may be submitted to the court in 2013 or 2014 and the final judgment is given in 2015. It is a complex system which may lead to confusion.

One reason why it is difficult to obtain accurate statistics is that various stakeholders are involved in recording and keeping statistics related to trafficking in human beings and sham marriages, and this causes problems in respect of their comparability. Even so, it is possible to gain a general picture from the statistics of the scope of the issue regarding cases that become known to the police and the judicial system. For the purpose of the present research, the key institutions were contacted by phone. They were requested to provide statistical data and supportive information on the cases, either through a written request or in person during the interviews. The requested statistical data related to the number of criminal offences of trafficking in human beings for the purpose of forced marriage or smuggling, the number of victims (in relation to trafficking in human beings only), and the number of perpetrators and victims of trafficking in human beings for the purpose of forced marriage. During the interviews we tried to obtain detailed information on the cases. All available information that is recorded by the institutions was submitted for the preparation of the research report.

2.1. Illegal migration in the form of smuggling under Section 356 of the Penal Code - sham marriages

For the period between the years 2012 and 2014, 34 cases of smuggling under Section 356 of the Penal Code were registered and documented in the form of sham marriages in which nationals of the Slovak Republic or the EU organized the conclusion of sham marriages.

At the time of the writing of this report, the most recent information available referred to the first half of 2015, e. i. from 1 January to 30 June 2015, during which a total of five cases were registered and documented.

Table 1 – the number of investigated cases and of suspects

	Number of investigated cases	Number of suspects	Value in €
2011	4	7	3 850.00 €
2012	9	24	12 134.84 €
2013	9	12	20 294.90 €
2014	6	22	25 691.63 €
TOTAL	23	47	61 971.37 €

Source: National Unit for Combating Illegal Migration of the Border and Alien Police Bureau of the Police Force Presidium

The value in euros (Table 1) reflects the compensation provided or received for the purposes of sham marriage. The compensation was paid directly to the organizer or to one of the fiancés. In this respect the compensation represents a motivating factor to commit the criminal offence. In order to simplify the overview, the funds provided or collected were converted from British pounds and U.S. dollars into euros. The National Unit did not record any currency other than the euro, the British pound and the U.S. dollar in terms of payment for sham marriage.

Tables 2 and 3 list the persons suspected of the conclusion of sham marriage, by nationality. Table 2 relates to suspects who financially benefited from conclusion of sham marriage while table 3 brings the numbers on individuals suspected of conclusion of sham marriage in the territory of the Slovak Republic.

Table 2 – Suspects by nationality

	Nationality
2011	5 Slovaks 1 Austrian 1 Armenian
2012	18 Slovaks 2 Chinese 4 Vietnamese 1 Serbian
2013	10 Slovaks 2 Vietnamese
2014	9 Slovaks 1 Chinese 1 national of the former Yugoslavia

Source: National Unit for Combating Illegal Migration of the Border and Alien Police Bureau of the Police Force Presidium

A detailed analysis of Table 2 provides that in 2011 a total of 5 Slovaks, 1 Austrian and 1 Armenian were suspected, in 2012 a total of 18 Slovaks, 2 Chinese, 4 Vietnamese and 1 Serbian national were suspected. In 2013, a total of 10 Slovaks a 2 Vietnamese were suspected. In 2014, 9 Slovaks, 1 Chinese and 1 national of the former Yugoslavia were suspected. During the first half of 2015, five Slovaks were suspected of having committed the criminal offence of smuggling in the form of sham marriage.

Table 3 - Nationalities of the aliens suspected of having concluded sham marriages

	Nationality
2012	1 Turkish 4 Vietnamese 1 Ukrainian 1 Albanian 8 Chinese
2013	3 Ukrainians 1 Moroccan 1 Algerian 1 Macedonian 1 Chinese 2 Serbians 2 Vietnamese
2014	3 Ukrainians 5 Serbs 1 Chinese 1 Russian 1 Indian

Source: National Unit for Combating Illegal Migration of the Border and Alien Police Bureau of the Police Force Presidium

There were 1 Turkish, 4 Vietnamese, 1 Ukrainian, 1 Albanian and 8 Chinese nationals among the aliens who concluded sham marriages in 2012. A more in-depth-analysis showed that in 2013 there were 3 Ukrainians, 1 Moroccan, 1 Algerian, 1 Macedonian, 1 Chinese, 2 Serbians and 2 Vietnamese nationals among the aliens who intended to obtain residence permit illegally. In 2014, there were 3 Ukrainians, 5 Serbs, 1 Chinese, 1 Russian and 1 Indian national among the alien who concluded sham marriages. During the first half of 2015 1 Macedonian, 2 Ukrainians and 2 Pakistanis were suspected of concluding a sham marriage in the Slovak Republic.

The highest number of suspects was recorded between 2012 and 2014, when there were more than 20 suspects.

After the police has concluded the pre-trial investigation, they will submit the material to the prosecutor for consideration of charges. Table 4 provides an overview of the number of persons charged for the criminal offence of smuggling under Section 356 of the Penal Code. The highest number of charged persons was in 2013; this may be related to the high number of suspects in 2013. A person charged in 2013 might have been found to have been a suspect in 2012 or 2011, which is just our assumption. A crime may have been recorded by the police in, e.g. 2011, prosecuted in, e.g. 2012, and a person may have been found guilty only in e.g. 2013. The data available does not allow the tracking of specific cases throughout the criminal justice system, and therefore, it is difficult to speculate regarding the reasons behind the fluctuation of numbers of prosecuted persons in a given year.

Table 4 – the number of charged persons

	2010	2011	2012	2013	2014	2015
Completed criminal prosecution of identified perpetrators in the Slovak Republic	1	5	12	37	19	4
- number of women		3	3	13	4	2
Charged persons		1	7	23	10	4
- number of women		1	2	7	3	2
Age 16-18				1	1	
--girls				1	1	
Age 19 - 21				2		
Age 22 - 30				2	3	
Age 31 - 40		1	2	11	4	2
Age 41 - 50			3	5	2	1
Age 51 - 60			2	2		1
Repeat offenders			1	1	2	1
Persons charged for intentional criminal offences			1	1	2	1
- intentional criminal offences of the same kind				1	1	
Plea bargain	1	4	1	8	6	

Source: General Prosecutor's Office of the Slovak Republic

Table 4 also gives a picture of the charged persons. If we generalize, predominantly men of working age between 31 and 40 were charged. This trend is obvious in particular in 2013. Moreover, it could be concluded that plea bargains are often used as this brings the possibility of speeding up the criminal proceedings as well as the possibility of reducing the penalties for the perpetrators.

The information in table 4 cover the years between 2010 and 2015 (1st half of the year). It is necessary to note that the essential elements of the criminal offence under Section 356 of the Penal Code may be fulfilled also in ways other than through sham marriage, i.e. by means of provision of fictitious accommodation for foreigners or illegal employment for foreigners. The General Prosecutor's Office of the Slovak Republic, however, does not record an overview of the specific form of the fulfilment of the essential elements of Section 356 of the Penal Code, and therefore it is not possible to say with absolute certainty how many of the recorded cases are related to sham marriages.

The same situation applies to the statistical information related to court decisions available from the Ministry of Justice. Not all decisions of the court reflected in the statistics are necessarily related to sham marriages. Through cooperation with the Ministry of Justice we have been provided with all the decisions. After analysis we selected only those in which sham marriage is the form of the criminal offence of smuggling under Section 356 of the Penal Code. The data relates to the years between 2010 and 2015 (1st half of the year).

Table 5 – the number of judgments and convicted persons

	The number of judgments relating to Section 356 of the Penal Code
2010	0
2011	3 of it 0 sham marriages
2012	3 of these, 1 sham marriage (1 convicted person)
2013	12 of these, 9 sham marriages (20 convicted persons 1 person acquitted)
2014	4 of these, 4 sham marriages (5 convicted persons)
TOTAL	22 of these 14 sham marriages (30 convicted persons, 1 freed acquitted)

Source: The Ministry of Justice of the Slovak Republic

A detailed analysis focused on the penalties shows that despite the fact that the penalty as described in Section 356 of the Penal Code is from 2 to 8 years of imprisonment, in none of the cases was someone punished by a custodial sentence. In every single case (excluding the case of acquittal) the convicted persons were given a custodial sentence (ranging from 16 months to 30 months) conditionally suspended for a probationary period ranging from 12 months to 60 months. In one case a supplementary fine of €300 was imposed. In case of non-payment of the fine, the offender would serve three months in prison as a substitute punishment.

The Birth Registry Department registers all marriages that have been concluded in the territory of the Slovak Republic. However, they do not register a separate overview of concluded marriages between nationals of the Slovak Republic and aliens. For that reason, cooperation between the Border and Alien Police Bureau and birth registries in reporting of such marriages is crucial.

At the same time, it should be noted that also on the basis of the interviews with representatives of the Birth Registry Department and the Alien Police Unit of the Border and Alien Bureau both stakeholders expressed interest regarding the amendment of the relevant guidance and fostering cooperation between the parties concerned.

Interviews with the Birth Registry Department revealed that they expressed concern related to the lack of an exchange of information with foreign counterparts in cases of conclusion of marriage with Slovak nationals. With reference to this gap, it seems necessary to intensify and foster cooperation between the states.

2.2 Statistical overview of cases of trafficking for the purpose of forced marriage

The data provided by the Information Centre included in Table 6 refers to persons included in the Programme between 2010 and 2014.

Table 6 – persons included in the Programme

	Number of persons included in the Programme (with reasonable grounds to believe that they have become victims of trafficking in human beings for the purpose of forced marriage)
2010	0
2011	2
2012	3
2013	7
2014	9
TOTAL	21

Source: Information Centre for Combating trafficking in human beings and Crime Prevention of the Ministry of the Interior of the Slovak Republic

The data on the Programme for the period 2010 – 2014 shows that in 2010, there were no cases in which there were reasonable grounds to believe that a person had become a victim of trafficking in persons for purposes of forced marriage, and for this reason would have been included in the Programme.

In 2011, two persons were included in the Programme because there were reasonable grounds to believe that they had become victims of trafficking in human beings for the purpose of forced marriage. In 2012, there were three such persons. In 2013, there was an increase in the number of persons included in the Programme on this basis, to a total of 7 persons. In 2014, the number of such persons totalled 9. Between 1 January and 30 June 2015, no person was included in the Programme on this basis.

Before 2010, no persons had been included in the Programme on grounds involving the identification of trafficking in human beings for the purpose of forced marriage.

All the persons included in the Programme as victims of trafficking in human beings for the purpose of forced marriage were adult women. They came predominantly from a poor social background, with lower levels of education and mostly from Central and Eastern Slovakia. The most common destination country where trafficking in human beings for the purpose of forced marriage was completed was the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as the "United Kingdom").

The statistical summary in Table 7 below provided by the National Unit shows the number of

cases, number of suspects and the number of victims of trafficking in human beings for the purpose of forced marriage.

Table 7 – number of investigated cases and suspects

	Number of cases: Commenced criminal proceedings	Number of suspected cases	Number of suspects	Number of victims
2013	4	-	0	13
2014	5	5	18	16
2015	1	1	3	0
TOTAL	10	6	21	29

Source: The National Unit for Combating Illegal Migration of the Border and Alien Police Bureau of the Police Force Presidium

The number of victims in Table 7 may be different from the number of persons included in the Programme. Victims are included in the Programme at the moment when there are reasonable grounds to believe they became victims of trafficking in human beings for the purpose of forced marriage and further cooperation with law enforcement agencies is not required (on the basis of the requirements of Directive 2011/36/EU).

Not every person included in the Programme appears as a victim or injured party in criminal proceedings. On the other hand, not every person who appears as an injured party in the criminal proceedings is interested in entering the Programme. However, there are cases in which such a situation can occur and a person who is included in the Programme also appears as an injured party and is included in the overview processed by the Information Centre, as well as in the overview processed by the National Unit. After the interviews with the representatives of the National Unit, we were able to form an overview of how many of the persons included in the Programme appear in the statistics of the National Units presented in Table 5. In 2013, of 13 victims noted in Table 5, there were 2 persons included in the Programme; however, criminal prosecution was initiated only in respect of one of these two. In 2014, out of the 16 victims noted in Table 5, there were 4 persons included in the Programme.

The statistics presented in Table 7 (year 2014) also include a case referred to as "Svanetia" (this is included in the number of cases where criminal proceedings were commenced). This case involved a joint investigation team of the Slovak Republic and the United Kingdom, and in the case charges have been pressed against a total of 7 persons of Slovak nationality (6 men and 1 woman). In relation to this case, altogether six victims of trafficking in human beings for the purpose of forced marriage have been identified. All the victims were Slovak nationals. Some of the victims were sexually exploited after the conclusion of marriage. It should be noted that recruitment of persons who were subsequently forced into the conclusion of marriage with a third-country national involved the conclusion of marriage against payment. After arrival into the United Kingdom, these people changed their mind. They wanted to

withdraw their consent that had been given before, and finally refused to voluntarily marry third-country nationals. The perpetrators took advantage of the situation and vulnerable position of persons in a foreign country and they forced these persons to conclude the marriages. The medical staff helped to identify one person taken to the hospital who had been sexually exploited. According to the police information, this person had been sold to a third country national who wanted to legalize his residence by means of marriage in the United Kingdom, since his student visas were about to expire. The amount paid to the Slovak traffickers was 4.500 pounds. In this case, the offer to conclude marriage represents a form of recruitment by the perpetrators so that the victim subsequently voluntarily travelled to a foreign country.

In October 2015 the prosecution in the “Svanetia” case was extended, with charges pressed against other two perpetrators, and two more victims were identified. This is not reflected in Table 5, since the data only cover the period up to 30 June 2015. The case is described in this section only, and not in Chapter 4.1.2, which is dedicated to cases where criminal proceedings were commenced in Slovakia in 2014 and 2015; at this time, the “Svanetia” case was prosecuted only in the United Kingdom. That is why the case is only statistically recorded in Slovakia as reflected in Table 5, to the extent that the Slovak Republic participated in the case.

In the other four cases of trafficking in human beings in 2014, there were two cases of trafficking in human beings for the purpose of forced marriage and two cases of trafficking in human beings for the purpose of forced marriage with subsequent sexual exploitation. These cases are described below, in Chapter 4.1.2.

3 Data and Methodology

As already indicated in the introduction, the research report focuses on the mapping of sham marriages, trafficking in human beings for the purpose of forced marriage or forced marriages, and on the possible links between sham marriages and trafficking in human beings, or exploitative conditions within sham marriages.

In general, there is a lack of research on the topic. The core publication for this research was the EMN Small Thematic Study: Abuse of the right of family reunification: Sham marriages and false declaration of parentage in the Slovak Republic. The study relates to sham marriages. To our knowledge, in Slovakia there has been no publication elaborated on the topic of trafficking in human beings focusing on forced marriages. That is why we concentrated on obtaining qualitative information by means of collecting interviews from relevant stakeholders together with collecting quantitative information in the form of statistical data on persons included in the Programme. Statistics on persons included in the Programme were obtained from the Information Centre, and other statistical data was obtained from the Border and Alien Police Bureau, the General Prosecutor's Office and the Ministry of Justice.

The contents of the report are based on information gained from expert interviews. A total of 15 interviews were conducted between 15 June 2015 and the beginning of October 2015. Among the interviewees, there were also representatives of the non-governmental organisations participating in the support and protection of victims of trafficking in human beings included in the Programme, as well as representatives of the Birth Registries who provided an overview on the cooperation related to detection of sham marriages and conclusion of marriage in compliance with Slovak legislation. All the institutions or their representatives who participated in the interviews were provided with the draft report so that they would have the possibility to comment on it. All the interviewees were informed about the project and its objectives. The interviews were realized on the basis of an interview framework developed by HEUNI.

The anonymity of all the interviewees was ensured. The interviewees included one person from the Ministry of Justice, four prosecutors from the General Prosecutor's Office, one person from the Birth Registry Department, and one person from the Alien Police of the Border and Alien Bureau. Moreover, there were six interviews with police officers from the National Unit, one interview with a police officer from the District Police Headquarters and one interview with a representative from an NGO providing services to victims of trafficking in human beings, and who gave information on nine victims of trafficking in human beings included in the Programme. The interviews were conducted over the phone or in person and lasted from 20 minutes up to one hour. Some interviews were recorded with the consent of the interviewees. During the majority of the interviews the authors were taking notes, because the interviews were not recorded. The authors of the report did not encounter difficulties in identification of relevant stakeholders active in the field. No victim interviewees were conducted. We have not conducted any interview with victims of trafficking in order to avoid secondary victimization (or retraumatization) of the victims, and so we processed only that part of the information provided by NGOs performing direct care to the persons included in the Programme. The interviewees provided general and specific information on the field of interest, comments on victim stories assisted within the specialized programme and cases of trafficking in human beings that have been investigated and prosecuted. The court cases have been requested from the Ministry of Justice. It is worth-noting that all court decisions are also

publically available on a public website (<http://www.judikaty.info/>). We focussed on collecting up-to-date information and relevant cases. The overview of the cases is not just a sample but a complex set of all relevant cases that have been statistically recorded.

The criminal offence of smuggling is contained in Section 355 of the Penal Code. However, a specific legal form of this criminal offence is also included in Section 356 of the Penal Code. Section 356 of the Penal Code includes the conclusion of marriage as an essential element of the criminal offence of smuggling. Copies of the judgments were provided by the Ministry of Justice of the Slovak Republic. We requested the judgments issued between 2010 and 30 June 2015. We obtained a total of 23 judgments of the courts of the Slovak Republic. The first judgment related to sham marriages was issued in 2012 (see Table 3, Chapter 2.1).

4 Case analysis

In this chapter we will analyse decisions of the courts of the Slovak Republic related to sham marriages and forced marriages, as well as decisions of law enforcement agencies relating to trafficking in human beings for the purpose of forced marriage, as there are not many judgments of the courts of the Slovak Republic related to trafficking in human beings. We have only two available judgments concerning trafficking in human beings for the purpose of forced marriage, and even they refer only to the stage of attempt. The court did not find enough evidence to fulfil the criteria of trafficking for the purpose of forced marriage in either case.

This chapter does not include cases of exploitative sham marriages as such. However, we describe cases in which marriage was just a form of recruitment or the way in which a trafficker coerced their victims into forced labour or forced prostitution, which would meet the criteria of the criminal offence of human trafficking or another crime.

4.1 Analysis of the cases of trafficking in human beings for the purpose of forced marriage

In the second chapter we included information about the Programme, through which the Ministry of the Interior tries to assist people where there was a reasonable suspicion that they had become victims of trafficking in human beings and had expressed their interest in such assistance. The Programme is designed for all persons where there is a reasonable suspicion that they have become victims of trafficking in human beings for the purpose of forced marriage. It must be said that the suspicion is not always confirmed, and not in all cases does the person want to cooperate with the police.

Therefore, in this section, in addition to the analysis of practical application of the law in criminal proceedings and decisions of courts of the Slovak Republic, we will pay attention also to the information provided on the persons who have been included in the Programme by NGOs, where there was a suspicion that they had become victims of trafficking in human beings for the purpose of forced marriage. Written documentation on victims held by the information centre as a manager of the specialized programme was a major source of information, complemented by information from a representative of an NGO.

4.1.1 Cases of forced marriages of persons included in the Programme

We focused on the data from 2014, for which we had 10 people who were included in the Programme. One case out of the ten did not relate to trafficking in human beings as confirmed by the police.¹⁴ Therefore, in Table 4 in chapter three, the number of persons in 2014 is 9 and not 10. For two other persons included in the Programme in 2014, the police could not confirm the suspicions claimed. We therefore have evidence about ten persons, but only in seven cases out of the ten was there a reasonable suspicion not refuted by the police, and so the description below will focus on just these seven individuals. In five out of the seven cases there was an attempt to commit the criminal offence of trafficking in human beings for the purpose of forced marriage, and in two cases of the seven forced marriage was also concluded.

Victim No. 1 –an attempt of trafficking in human beings for the purpose of forced marriage

The first case took place during October 2013. A victim was approached by a group of young men, who, according to information from the police, committed various criminal activities. The victim was promised a well-paid job and a better life abroad. She did not believe them at first and so one of the members of the group intentionally pretended to develop a close relationship with her. The victim fell in love with this man and under his influence and pressure she left home and to go abroad. After some time, the group of young men wanted her to marry a foreigner in Germany. There was an attempt, but the victim went to the police to report the attempt. After two months, the man who had pretended a close relationship with the woman asked her to go to Ireland with him to work together. They travelled to Bratislava (from the eastern part of Slovakia) where they met with an unknown Pakistani national. It was only then that her boyfriend informed her that just she and the Pakistani national would travel to Ireland, as the boyfriend allegedly needed to facilitate certain things in Slovakia and he would join her later. In Ireland she found that her boyfriend had sold her to this Pakistani national who subsequently sold her to another Pakistani. Under threats she travelled with this man by boat to the United Kingdom. The marriage was not concluded. She was offered assistance by an NGO and a return home. After returning to Slovakia, during January 2014, she was included in the Programme and filed a criminal report. The representative of an NGO assisting the victims said that “*we always try to speak to the victim to find out his/her story, to stabilize them and to inform them in an appropriate way so that they may decide whether to cooperate with the police or not.*”

Victim No. 2 –an attempt of trafficking in human beings for the purpose of forced marriage

The woman in the case (referred to below as Monika) had no strong social ties, came from a disadvantaged social background in the Košice region, and stayed in a centre which provides, inter alia, care to young adults after leaving institutional care. She was invited by a friend to come to a shopping centre, where the friend was waiting for her together with other two men. The younger of the men offered Monika a well-paid job for three months in a pharmacological company in Austria where she was supposed to sort out expired medication. He told her that she had nothing to worry about and that it was a serious job, and that her friend was coming as well. This information was sufficient and Monika entered a car with these men. Before leaving the country they stopped in the centre where she stayed, in order to pick up Monika's documents and her birth certificate. The older of the men did not go with them and another

¹⁴ In this case, based on the gathered evidence, the police concluded that the person had committed the criminal offence of smuggling because of her consent and financial reward.

man stepped in. They travelled through Hungary. They spent a night in a hotel where the younger men tried to rape her. After she rejected him he started cursing and yelling at her, and told her for the first time what she would be doing in Austria.

Monika had a mobile phone and contacted her friends, asking for advice on what to do. The next morning, she announced to the man that she wanted to go home. The men, under the pretext that they would take her to Bratislava, drove her up to an apartment in Vienna where another Slovak woman lived with an Albanian citizen. The Slovak citizen controlled her movement. Monika once again reiterated that she wanted to return to Slovakia. The whole group went together to the cafe, where another man was waiting for them. Then they went to another apartment where other Slovak women were working as prostitutes. As Monika insisted on going home, the man who had promised her work, drove her to the Austrian-Slovak border. Before they left they threatened her not to tell anyone what she saw. A couple of months later, this group of men again contacted Monika with the aim not of offering her a well-paid job, but of concluding a marriage for money. Under the pretext that she went to pack her things, she called the police and then she was taken to a secure accommodation and included in the Programme.

Victim No. 3 –an attempt of trafficking in human beings for the purpose of forced marriage, with no cooperation with the law enforcement authorities

A victim met a man from a nearby village. After some time one of her acquaintance offered her a better life in the United Kingdom through a marriage to a rich man. The recruiter took advantage of her unstable accommodation situation, as well as the fact that she was illiterate. At the beginning of 2014, he paid for her ticket and she travelled to the United Kingdom. After her arrival she was sold to a Pakistani national who she was supposed to marry. The marriage was not concluded but she was raped by the man several times and she had to take care of his household. Her documents were taken away, her movement was controlled and she was intimidated. However, she managed to run away. She was found on the street by the police who reported her to an organization assisting victims which then contacted Slovakian agencies. Afterwards she returned and was included in the Programme. However, the victim decided not to cooperate with the Slovak police and left the Programme.

Victim No. 4 –an attempt of trafficking in human beings for the purpose of forced marriage, with no cooperation with the law enforcement authorities

A victim was offered a job in the United Kingdom by a person from her neighbourhood. She was informed that if she did not find work she would have to marry a Pakistan national for financial gain. However, the victim believed that she would manage to find a decent job. Her travel costs were covered by the woman who recruited her. After arriving in the United Kingdom the recruiter handed her over to a Pakistani national for financial gain. The victim did not receive any money. The Pakistani national took her home. He withheld her identity documents, restricted her freedom of movement and exploited her sexually. The victim refused his proposals for marriage and as a result she was physically and mentally threatened. She was unable to leave his apartment, had limited access to health care and was not allowed to be in any contact with her relatives. The Pakistani national requested the amount of £ 10.000 from the victim, which he allegedly had paid for her. Her neighbour helped her and took her to the police when she was not guarded. The victim left the United Kingdom pregnant and came back to Slovakia. After returning to Slovakia she was included in the Programme. After providing adequate assistance by NGO, the victim decided not to cooperate

with the Slovak police and left the Programme. *“There are victims who do not want to communicate with the police, it is their right, of course. Their decision depends much on the environment they come back to, especially when the traffickers are nearby or even they are family members. It is very hard to cut their ties with the community,”* the NGO representative admitted.

Victim No. 5 –an attempt of trafficking in human beings for the purpose of forced marriage, with no cooperation with the law enforcement authorities

The case took place in Scotland, but began in Slovakia when a pregnant victim was offered a better life by her friend. After arriving in Glasgow she was sold to a Pakistani national. Her personal documents were taken from her, and her personal freedom and movement was restricted and controlled. The marriage was not concluded, although she was sold for this purpose to the Pakistani. The person was identified as a victim of trafficking in human beings in a health facility which she visited because of her pregnancy. As a result, the British authorities became interested in the victim and offered her an assisted voluntary return to Slovakia. After coming back to Slovakia she was included in the Programme. After providing adequate assistance by NGO, the victim decided not to cooperate with the Slovak police and left the Programme.

Victim No. 6 – trafficking in human beings for the purpose of forced marriage

A woman was lured to Germany by a considerable offer of a better life. After arriving in Berlin she was handed over by the recruiter to the perpetrators. The recruiter was financially rewarded. The woman was transported from Germany to Denmark on a ship where she was forcibly held by the perpetrators for three days and coerced into marrying a foreigner from Serbia. After the marriage she returned to Germany and from there she was driven back to Slovakia. All the transportation costs were paid by the perpetrators. The victim personally reported to the police and actively cooperated with them. *“The victim was in poor mental health, poorly dressed and arrived without any personal belongings,”* the NGO representative said. That is why she was transported to an NGO. In the framework of the Programme she was provided with necessary support and psychological assistance.

Victim No. 7 – trafficking in human beings for the purpose of forced marriage

This case involves elements of sham marriage, since a victim was approached by an unknown woman who offered her a job in Germany provided that she agreed to marry a Serbian citizen. She was promised 1000 euros as a financial reward. Due to the fact that at that time she was alone with three children and her partner was in prison, she agreed to the offer. The woman travelled to Germany by bus, assisted by the recruiter. The recruiter accommodated her in Berlin in a house with other persons. Her freedom of movement was limited and she suffered from hunger and mistreatment. After some two weeks, she concluded a marriage with an unknown man, most likely from Serbia. She did not receive any money for the marriage. The recruiter threatened her with violence if she would contact the authorities. She returned to Slovakia thanks to the assistance of unknown persons. There she contacted an NGO active in the provision of assistance to victims of trafficking in human beings, which provided her with necessary services.

“Necessary assistance and support to victims is provided in the framework of the Programme. Mostly it includes material assistance, assistance in returning from abroad, or social

assistance and support,” said the expert from the Information Centre.

4.1.2 Investigated cases of trafficking in human beings for the purpose of forced marriage

Since the amendment to the Penal Code definition of the crime of trafficking in human beings in relation to the purpose of forced marriage did not become effective until 2013, and given the length of criminal proceedings, there are only two final decisions of the courts of the Slovak Republic related to the issue in question. For this reason, we will not only pay attention to the decisions of the courts of the Slovak Republic, but also analyse the decisions of law enforcement authorities within pre-trial investigations.

Based on the decisions of, and consultations with, the National Unit in relation to seven cases where criminal prosecution was initiated in 2014 and 2015 for the offence of trafficking in human beings for the purpose of forced marriage or for the purpose of a combination of forced marriage and another purpose, the following information was obtained:

- *in one case a final decision of the Court has been issued,*
- *in other cases, the investigated cases are pending or the cases have been handed over to the Public Prosecutor's Office for further proceedings.*

It is important to note that the prosecutor supervises the criminal investigation conducted by the police.

Several assumptions may be formulated on the basis of our analysis of all seven cases of trafficking in human beings for the purpose of forced marriage. Although only one offender has been finally convicted and the other cases are still under investigation and supervised by a prosecutor, several modus operandi have been detected in the cases, either by multiple perpetrators or by organised groups. The actions of the perpetrators were directed mostly by more than one person and the essential elements of the crime of trafficking in human beings for the purpose of forced marriage have been fulfilled only in a few cases. The acts in the cases included recruitment, transport and reception of persons with the use of deception, deceit, threats of violence, detention, violence, and abuse of vulnerability of the victims for the purpose of forced marriage. Promises of well-paid jobs or receiving social benefits were a form of deceptive recruitment, and forced marriage was the purpose of the crime of trafficking in human beings.

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

In 2014, the National Unit commenced criminal prosecution for the criminal offence of trafficking in human beings for the purpose of forced marriage in five cases. Out of those 5 cases, there were 2 cases of trafficking in human beings for the purpose of forced marriage, and 3 cases of trafficking in human beings for the purpose of forced marriage in combination

with another purpose of exploitation.

Some of these cases have already been mentioned above in the descriptions in terms of trafficked victims provided by NGOs. Below are descriptions of the proceedings based on the decisions and interviews with investigators.

Case No. 1 – trafficking in human beings for the purpose of forced marriage

In the first of these cases there was a final decision of the court, in which one offender was convicted of trafficking in human beings for the purpose of forced marriage. In this case, prosecution of a second defendant had been split off into separate proceedings, which have not yet been completed. The injured parties were two victims, of whom one was a child, a 17-year-old girl at the time of recruitment and transport. Both victims were included in the Programme in 2013. More details are provided below in the chapter 4.1.3, page 31, referring to the judgment of the District Court Trebišov under reference 5T/35/2015.

Case No. 2 – trafficking in human beings for the purpose of forced marriage

In this case, there was recruitment by means of approaching a victim with the offer of marriage with a foreigner in Germany for a financial reward of 5000 euros. At first, the victim consented, but later she changed her mind and was no longer interested in the marriage. At this stage, the victim broke off contact with the recruiter. Several months later the victim was approached with another offer from another perpetrator who initiated a personal relationship with the victim. With the promise of a better life in Ireland, he persuaded the victim to travel with him.

Before leaving for Ireland, on the initiative of the perpetrator, the victim had taken a copy of her birth certificate and upon arrival into Ireland was sold to a Pakistani national, and was persuaded to marry him. However, she escaped and was able to avoid the marriage. Several perpetrators have been accused in this case and there is ongoing cooperation with law enforcement authorities in the Ireland by means of mutual legal assistance. This case is described in Section 4.1.1 as *victim No. 1*.

In the other two cases the police are investigating trafficking in human beings for the purpose of forced marriage in combination with prostitution. These two other cases have to do with several acts, in the form of recruitment in the United Kingdom and the promise of receiving social benefits.

Case No. 3 – trafficking in human beings for the purpose of forced marriage and forced prostitution

In the first case, the perpetrators gradually recruited two women. One of them was deaf and the perpetrators misused that vulnerability and she was promised unspecified work in the United Kingdom. Subsequently, without her knowledge she was transferred to the United Kingdom; *her personal documents were taken away and she was verbally coerced into concluding a marriage with a Pakistani national and into prostituting herself under the threat of physical violence*. The victim managed to escape. The second woman, after the first victim was transported, was subsequently also lured to the United Kingdom as well for the purpose of receiving social benefits. When the victim was told by the perpetrators that she was supposed to marry a Pakistani and would live with him, she refused to do it. *She was mentally*

coerced and the perpetrators tried to persuade her with the promise of a better life. After the perpetrators found out that the police in the Slovak Republic had started a search for her, they released her. The handicapped victim was included in the Programme but the description in Section 4.1.1 is not mentioned, as the criminal offence in question was related to sexual exploitation.

Case No. 4 – trafficking in human beings for the purpose of forced marriage and forced prostitution

In this case, the victim was *forced to get into a car by the offender*, who subsequently transferred her to the United Kingdom by bus and by plane. There she was forced into prostitution. Subsequently, she was sold again in the United Kingdom and forced into prostitution and also into the conclusion of marriage with an Indian national with whom she lived in the same household. The woman managed to escape, but was not interested in assistance from the Programme.

Case No. 5 – trafficking in human beings for the purpose of forced marriage and forced prostitution

This refers to the "Svanetia" case which is described in Section 2.2. and a case from the perspective of the victim as victim No. 5 in Section 4.1.1.

As shown in the statistical information (Table 5), during the first half of 2015 prosecution for the criminal offense of trafficking in human beings was commenced in one case, and during the second half of the year (up to 15 October 2015) in a second case. Both cases involved organized groups of perpetrators; in one case for the purpose of forced marriage and in the second case there was a combined purpose of forced marriage and prostitution.

Case No. 6 – trafficking in human beings for the purpose of forced marriage and forced prostitution

This case involved an organized group consisting of persons of Slovak and Indian nationality. There was a considerable level of sophistication and the knowledge on the part of the perpetrators of the legislative situation in several countries in the Schengen area. Four female victims who came from a disadvantaged social background were recruited to work abroad. The victims were transported to Austria where they *were kept and guarded, and persuaded to conclude marriage with foreigners*. At the place where they were held, other women were engaged in prostitution. The victims refused to conclude a marriage with the men they were supposed to marry and thus they were *threatened by the perpetrators with physical attack*. One victim was taken back to Slovakia after she insisted. The other victims were first transported to Germany and Belgium and then, along with their future spouses, to Denmark where there they were forced to get married. Subsequently, the married men left to Germany and Belgium where they registered for permanent residence. The victims were forced to live with these foreigners. In this case the perpetrators were accused of committing the criminal offence of trafficking in human beings. *Information about the case was reported to foreign counterparts in the countries where the marriages were supposed to take place; however, the foreign counterparts were apparently not interested in these cases.* One victim was included in the Programme. This case is described in Section 4.1.1 as *victim No. 2*.

Case No. 7 – trafficking in human beings for the purpose of forced marriage and forced

prostitution

In this case women from socially marginalized communities were recruited by the perpetrator to carry out various jobs or to conclude marriage for a reward varying from 1000 to 2000 euros. Some of the women, however, did not know what compensation they were supposed to receive. An organised group of perpetrators comprised of Slovak and British nationals was involved in this case. The victims were transported to one place in the Slovak Republic from which they were further transported to the United Kingdom. Some of the victims, however, changed their minds upon departure and escaped from the place or they had been found there by their relatives and taken away. *The victims' personal documents were taken.* After arrival in the United Kingdom *the victims were forced to marry men of Pakistani nationality. Abusing their vulnerable position*, these traffickers forced the women to live with the men in a common household. Some of the victims were forced to conclude marriage. One of the victims was sold repeatedly to Pakistanis. Some of the victims were forced not only to get married but also to prostitute themselves. Victims who had been transported by the perpetrators to the United Kingdom broke free either by persuading the traffickers to let them go or by escaping from the foreigners. In the interview, the investigator responsible for the cases stated that "there has been ongoing cooperation between the Slovak police and authorities from the United Kingdom". One victim was included in the Programme in 2015.

The interviewed investigator described the circumstances of the case as follows: *"There is only a limited commentary in the Penal Code and almost no case law on the essential elements of the criminal offence of trafficking in human beings for forced marriage in the Slovak Republic."* In this case, the perpetrator misused young Roma women coming from terrible social conditions. He promised them a better life and job in order to lure them to conclude marriage for a financial reward. In some cases, a financial reward to parents of the victims was provided in order to let the daughters travel abroad. However, there was no better life for them and the victims were happy to have been able to escape from rough living conditions in the country of origin. The perpetrator misused the vulnerable situation of women who not only came from a very poor social environment but were not able to claim their rights abroad because of the foreign environment and language barriers. Based on that, it is necessary to understand such action to be trafficking in human beings for the purpose of forced marriage from the beginning. The interviewee also noted that from the very beginning, the victims were deceived, and persuaded by misleading arguments from the perpetrators about a better life, a good job, accommodation and possibility to live with a partner of their choice. The victims consented to travel abroad for the purpose of marriage with a foreigner. Upon arrival they found themselves in a foreign environment, without knowledge of the language. The foreigners came to have a look at them in order to choose a bride for a price agreed in advance. The women realized that they had been sold to foreigners with whom they were forced to live and have sex. The purpose of marriage was to exploit "family reunification" which allows third-country nationals to reside in the EU. According to the interviewed expert, the women do not even have a better life or a job, and many are physically attacked and forced to provide sexual services. At the time of recruitment, young and pretty Roma women are selected as they can be sold easily to Pakistanis. For the above reasons the term "forced marriage" is used even if the victim consented to the marriage, based on the personal circumstances and deceit by the perpetrators.

The interviewed investigator emphasized that the concept of sham marriage can only be used in relation to a person (the perpetrator) who has been aware that the marriage allows the third-country national to obtain a residence permit in the EU and a financial or material reward is to be paid. In the opinion of the investigator, the victim in this case is the state - the public

interest.

Another investigator said that "the assessment of each case is individual and depends on available evidence which is based not only on the testimony of the injured party but also on other evidence. As for me, I don't see it useful to introduce other legislative terms or new essential elements of a criminal offence into the legislation. "

Police officers in the National Units investigating the cases referred to above have expressed the belief that *"the investigation of cases with a cross-border element is usually unnecessarily lengthy because of long delays in the execution of mutual legal assistance."* At the same time, one of the police officers emphasized that *"in order to shorten the length of the investigation in cases where different parts of the proceedings are conducted in a number of countries and, consequently, where the criminal proceedings are conducted in several countries, the concept of a European public prosecutor could be helpful. The setting up of joint investigation teams is indeed useful, but still, there are barriers, for which it is not always efficient to make use of them, since the setting up of a joint investigation team is time-consuming, logistically and personally demanding and expensive. A joint investigation team is set up only to investigate one case and it is not realistic to establish it on a case by case basis. Investigation of cross-border cases would be appropriate, at least in the EU, through a joint action system."*

The interviewed expert from the police also said that *"it should be noted that in most cases the recruitment phase takes place in the Slovak Republic and also there is the beginning of the transportation. This may be provided by 1-2 perpetrators. The rest of the acts are carried out abroad by other perpetrators and their victims do not know them or know only their nicknames. It is difficult to link the acts of recruiters, transporters and perpetrators abroad due to the subjective aspect of the essential elements of the criminal offence."*

In the context of the cases described above, there are efforts by the Slovak investigation authorities to cooperate with foreign counterparts and share the information found out during the criminal investigations.

4.1.3 Court decisions related to trafficking in human beings for the purpose of forced marriage

There are few decisions of courts of the Slovak Republic which are related to trafficking in human beings for the purpose of forced marriage. Also law enforcement agencies perceived the lack of case law and practice of the courts. We had only two court decisions that relate to trafficking in human beings for the purpose of forced marriage. In this section we will focus on the description of those decisions.

Court Decision No. 1 of the Trebišov District Court under reference 5T/35/2015

In the judgment, a man is sentenced to imprisonment for three years (the punishment was conditionally suspended with the imposition of probation of three years and the imposition of probation supervision). During the probation period, the convicted man may not come closer than five metres to the victims and may not stay in the vicinity of their homes. The accused man was found guilty of luring victims together with another man in a village in Trebišov District *to work in a shop* in the United Kingdom, and of transporting them in their vehicle to the United Kingdom.

After the men found out that one of the victims did not have an ID card and was a minor, they drove them to an unknown place, purchased new clothes for the women, and waited there until the girl was given a new ID card. Subsequently, all the women and the girl were transported by car to the United Kingdom, without stopping even though the women were crying. At one point during the long trip the car stopped, and the women tried to escape, but their escape was blocked by the men, who dragged them by the hair and pulled them back in to the vehicle. They continued their way up to Manchester where after 2-day journey they stepped out of the car in front of the house where they were accommodated. The next morning two Pakistani men entered the house and all the victims' identity cards were taken. Each of the women was sold for £1000 to a Pakistani national. The Pakistanis took the women into their cars and drove one of them to London and the second one to Birmingham, where they were housed with the Pakistanis. About two weeks later after their constant weeping they drove the women back to the house in Manchester from where they managed to escape to the police without their documents.

Only one of the perpetrators was sentenced by this judgment. The second man was not sentenced. The Court concluded that the convicted man, acting with deceit, restricting personal freedom, violence, threats of violence and threat of other severe injuries, recruited, transported and took over another person for the purpose of forced marriage and at the same time lured, transported and took over a child for the purpose of forced marriage. By this act he committed the offence of trafficking in human beings.

Court Decision No. 2, Michalovce District Court under reference 1T/105/2015

A total of 5 persons, three women and two men, were convicted by the court. The perpetrators were found guilty of a minor offence and the criminal offence of trafficking in human beings, as they had enriched themselves by the fact that they took advantage of someone's mistake and caused severe damage. Moreover, acting jointly and through the use of fraudulent behaviour and deceit they lured, transported and harboured another person for the purpose of prostitution and other forms of sexual exploitation, forced labour and forced marriage. The judgment describes the criminal offence of fraud, but we will focus on the criminal offence of trafficking in human beings and its description.

After mutual agreement, one of the convicted women pretended she wanted to accompany the victim on her way to the home village of Sečovce, and without the victim's consent, transported her on 23 March 2013 from Michalovce to the United Kingdom, to the city of Sheffield together with other perpetrators. The exact address was not known, but the persons who were found guilty lived there, and those persons sold the woman to a Pakistani national who the woman (victim) was supposed to marry. The marriage was not, however, concluded and the victim continued to live in the house of the accused, who later forced her to provide sexual services for four men. She was supposed to receive a total of 70 pounds for the provision of sexual services. However, she had to hand the money over to the Pakistani national. The woman was also forced to work in the kitchen and in the pea field, and she had to hand over the money earned. Later she was sold to another person in the city of Bradford who wanted to marry her, but the victim refused and later managed to run away. With the assistance of the British police, she managed to return to Slovakia. After her return, the victim was included in the Programme and she was given assistance, support and protection.

All of the accused were convicted and may not come closer than five metres to the victim and may not deliberately stay near her dwelling. Four out of the five convicted persons received a

sentence of 36 months' imprisonment, with the sentence suspended and a trial period imposed of 36 months' probation supervision. One male received a lower punishment, imprisonment for 24 months, with the sentence suspended and probation imposed for a period of 30 months. The court ordered the offenders to pay the victim compensation of *6.180 euros* which represents the amount of money that had been collected from her. The amount is related to the criminal offence of fraud. The victim was referred to a civil court in relation to the rest of her claim. The victim did not ask for more compensation.

The prosecution was initiated in 2013. Given the complexity of the situation and the cross-border nature of the case it was not possible to convict the perpetrators until 2015.

4.1.4 Indicators of trafficking in human beings for the purpose of forced marriage

There are many indicators of trafficking in human beings, but, due to the research topic, we focused our attention solely on indicators that identify trafficking in human beings for the purpose of forced marriage. Since forced marriage as a form of trafficking in human beings is a current issue or a rather new phenomenon in the Slovak Republic, the related indicators are not stable. However, it is possible to create a set of common features for all cases of trafficking in human beings for the purpose of forced marriage based on the reported cases and the lessons learned.

On the basis of information gathered from the interviews and the analysis of the documents concerning cases of trafficking in human beings for the purpose of forced marriage, we can draw the following indicators of trafficking in human beings for the purpose of forced marriage:

- limited or restricted access to personal documents,
- the existence of fictitious debt (for travel, accommodation, employment services etc.),
- controlled movement (there is a difference between controlled movement and restriction of liberty – when the victim's movement is controlled, he/she appears to move without restriction but is controlled by the traffickers, e.g. from a distance),
- restrictions on freedom of movement, limiting contact between the victim and close relatives,
- any indication that the perpetrator controls communications between the victim and the family of the victim, the police,
- intimidation, threats of bodily injury,
- lack of food, water, sleep, medical care and other basic needs,
- mental / physical threats / pressure /or other forms of harm in order to conclude marriage.

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

4.1.5 Conclusions

In all cases of trafficking in human beings for the purpose of forced marriage there was a clear interest of third country nationals to obtain residence permits through marriage with a national of a Member State of the EU, and in these cases those were nationals of the Slovak Republic. Thus it can be concluded that the cases of trafficking for forced marriage may have an element of (exploitative) sham marriage, even though this is not how the cases are qualified by the Slovakian criminal justice system, which only uses sham marriage terminology in cases related to smuggling.

In connection with cases No. 1 to No. 6 described in section 4.1.2, there is an evident effort of the Slovak law enforcement agencies to cooperate with other countries and to share the information found in the context of the investigations. However, there are problems in cross-country cooperation and it is often expensive and time consuming. Especially the length of the procedure and the cross-border nature of crimes committed can be assessed as a problematic area. The concept of a European Public Prosecutor could facilitate the problems such as the need to shorten the length of the investigations in cases where some parts of the proceedings were conducted in several countries and consequently the criminal proceedings are conducted in several countries.

Lack of practical application of the trafficking in human beings offence, case law and practical interpretation of the elements of the criminal offense of trafficking in human beings are perceived as problematic by the interviewed experts. Law enforcement agencies are in a more difficult situation, especially because trafficking is a very hidden form of crime and it is not rare that the credibility of the testimony of victims is affected by frequent changes in their statements and the ambiguous and unclear information given.

There are two final judgments which are described in section 4.1.3. In both cases, the perpetrators were sentenced to imprisonment with a suspension of the sentence and the imposition of probation supervision. In both judgments, there is also a restraining order imposed on perpetrators not to approach the victims and their homes. The possibility of the use of plea bargaining by the prosecutor approved by the court seems to be a problem. The Recommendation on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Slovak Republic adopted at the 17th meeting of the Committee of the Parties on 30 November 2015 recommends that the Slovak authorities take measures to ensure that the offence of trafficking in human beings is excluded from the plea bargaining procedure. So far there has not been any amendment of the law in this respect in Slovakia.

The following table summarises the main findings derived from the cases analysed for this report. The table contains information regarding recruitment, influencing factors, transportation, exploitation, organization, identification and prevention.

Table 8 - summary of findings from the cases of trafficking in human beings for the purpose of forced marriage

The following table depicts the most important outcomes derived from the cases of trafficking in human beings for the purpose of forced marriage. On the basis of the phases of trafficking in human beings we generalized modus operandi from the cases. It is clear that it is necessary to pay attention to prevention in the most vulnerable groups. The use of tailored social assistance to improve the quality of their life, educational programmes as well as targeted prevention are necessary to raise awareness. It should be a long-term and coherent objective.

I. recruitment	process of recruitment	pretending to be in love with the victim, offer of good work, possibility to obtain money illegally for conclusion of marriage	
	recruiter	close person, friend, acquaintance, person with the same ethnic background	
II. influencing factors	push factor	promise of a better life	
	risk factors	low educational skills, naivety, poor social situation, low level of information	
III. transport	means of transport/vehicle	boat, car, bus	
	way of transport	alone, accompanied by perpetrators	
		voluntarily, under threat or force	
IV. exploitation	attempt of forced marriage in combination with rape or forced labour, forced conclusion of marriage		
V. organization	group of young men, friend, organized group		
VI. identification	NGO, police, neighbour, health care institution		

VII. prevention	awareness raising
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4.2 Analysis of the cases of smuggling in the form of sham marriages

The summary of the court decisions relating to sham marriages indicates that Algerian, Chinese, Macedonian, Moroccan, Serbian, Turkish, Serbian, Ukrainian and Vietnamese nationals wanted to conclude or concluded marriage with Slovak nationals. In one case the country of origin was not identified. If we focus on the gender of these foreigners, they were as follows: two men from each of the following countries: Macedonia, Serbia and Vietnam, six men and five women from China, and one man from each of the following countries: Algeria, Ukraine, Morocco and Turkey and one from an unidentified country. Thus, there were 17 men and 5 women in total.. Within the number of convicted persons there were also persons who did not conclude a marriage but had induced victims or they were engaged in this crime. The financial reward ranged from 33.19 euros to 5000 euros.

Due to the fact that each of the existing judgments relating to sham marriage describes sham marriage with no signs of violence or exploitation, we did not analyse those judgments in the research. The court is an independent body. If there were any issues in the case that would need to be dealt with by another competent authority, the judge would refer such an issue to relevant proceedings. To the extent that the judge did not find any sign of exploitation, i.e. there were no such signs that would be referred to different proceeding, it would be very difficult for the researchers to prove this condition. That is why we will consider only judgment No. 3 of 2013, where violence was obviously present.

Court Decision No. 3, Criminal District Court Pezinok under reference 122/2013 3T

The District Court in Pezinok found a total of five persons guilty through sentence order and sentenced them to imprisonment for a period of two years with suspension of sentence and a probation period lasting two years. The perpetrators included three Slovak nationals of Macedonian origin who induced a Slovak national to conclude a marriage with a Serbian national for 300 euros. Three perpetrators received 1000 euros compensation from the organizer for their services.

A representative of the Public Prosecutor's Office was interviewed regarding this case and said:

"There was a group of Slovak nationals of Macedonian origin residing in the Slovak Republic since the 1990s and doing business in the car industry. They have strong family ties in Slovakia. This group was already assimilated as they had been operating in Slovakia for a long time. In 2011, the group approached a woman, a Slovak national, who was promised 300 euros as a reward if she married a son of a cousin of one of the Macedonians. At the same time, in addition to the financial reward she was promised that she would live with them and their sons. The woman agreed. She has a low level of education and she is mentally disabled. When applying for the marriage, a proactive approach of the birth registry staff resulted in this young woman changing her mind and she refused to conclude a marriage. After the rejection of the application for the

marriage the groom's uncle started to threaten her.

Later there was a resubmission of the application at a different birth registry office. In this case, a criminal complaint was filed in 2013. The outcome of the procedure is the above sentence order."

Threats and coercion as described in court decision No. 3 were used in connection with violation of the woman's retraction of her consent, and the already provided financial reward.

4.2.1 Indicators of sham marriage

When speaking about sham marriages, it should be understood as violation of law by the organizer as well as by the persons concluding a marriage. Therefore, there is no victim.

Based on the information obtained from interviewees, the analysis and the documents on sham marriage, the indicators of sham marriage include the following:

- different nationality of fiancés - one of the fiancés is a third country national,
- language barriers - an interpreter or translation devices between fiancés are necessary,
- the absence of relatives and friends, respectively very few guests, at the ceremony giving rise to the suspicion that there are no close relatives of the wedding couple,
- the absence of wedding receptions,
- disproportionate age difference between fiancés,
- the marriage is concluded a few days after the third country national enters the Slovak Republic,
- a person (national of the Slovak Republic or the EU) concluding marriage is in a difficult financial situation etc.

It should be noted that not all of the above mentioned indicators need be present in each case of such marriage violating the law. We must also note that not every marriage where there are different nationalities or disproportionate age difference between fiancés would immediately indicate a criminal offence in the form of sham marriage. Each case is examined individually and the broader context is taken into account.

To illustrate the above indicators, we quote from an article related to the subject. *"They went to conclude a marriage and did not even know the name of the bride or groom. The same vice versa. We experienced the situation when the bride did not even know what her future husband looks like. We showed her pictures of him and she could not identify him,"* said the deputy head of the National Unit, as reported in the weekly magazine Plus 7 days.¹⁵

"The most recent case currently registered by the Alien Police indicates a sham marriage in Western Slovakia. A Slovak national born in 1959 submitted an application for an invitation for a man from Morocco who was born in 1995. The woman allegedly fell in love on vacation. This case shows some of the indicators of sham marriage," said the representative of the Alien Police.

¹⁵ Article "Smarter" published in the magazine Plus 7 Days, written by Lenka Ďurajková, 2012

4.2.2 Conclusions

All court decisions concerning sham marriages in the Slovak Republic resulted in suspended prison sentence or sentence of probation. A fine was imposed only in one case. The court decisions regarding sham marriages provide an overview of how sham marriages are committed and what means are used.

Coercion, threats of harm or violence, or subsequent exploitation were not reported in any of the above cases, so we cannot speak about exploitative sham marriages regarding these specific cases in light of the documents analysed.

Threats and coercion described in court decision No. 3 were used in connection with a violation of the initial agreement and already provided financial reward. However, this case does not involve any clear signs of forced marriage, but the threats used could suggest an exploitative element to the case. The court decisions concerning sham marriages were used to illustrate and confirm our assumptions and conclusions for the purposes of this report.

When communicating with law enforcement agencies, the following areas of possible application problems related to sham marriages were identified:

- lack of practical application,
- lack of case law practice of the courts,
- evidential complexity of the situation,
- organized character of groups performing recruitment and administrative matters,
- ineffective cooperation with foreign countries: the length of the procedure and the impreciseness of provided documents etc.

5 Conclusions and recommendations

The research report was aimed at an analysis of information on sham marriages and trafficking in human beings for the purpose of forced marriage; at identifying interconnections between sham marriages and trafficking in human beings; at pointing out eventual deficiencies in the applied practices; and at proposing appropriate solutions as seen by the authors of the report.

The reason why we focused on sham marriages and forced marriages as the purpose of trafficking in human beings was the fact that sham marriages and forced marriages as the purpose of trafficking in human beings show similarities and possible links. We presented examples of sham marriages and forced marriages in chapters 4 and annex 1. The information was provided to us by NGOs working with victims of trafficking in human beings, and by the state authorities such as law enforcement authorities and by the courts. We also used information provided by the media (see annex 1)

We did not obtain any significant amount of information on cases where the partners remained in the same household after the conclusion of sham marriage, and one of them exploits the other. However, we did encounter a case where threats were used against a woman who refused to conclude a sham marriage after she had received payment. We did not obtain information regarding cases where a married couple would be exploited by a third person after conclusion of the sham marriage, e.g. by the one who organized their wedding or ensured administrative matters related to the conclusion of the marriage.

However, we did succeed in identifying a clear interconnection between sham marriages and forced marriages. The cases can be interconnected if the offer of a wedding between a Slovak national and a third country national refers to the form of recruitment in a case of trafficking for forced marriage. This primarily concerns women who are induced to travel to a foreign country with the intention of concluding a marriage with a third country national for financial reward. Upon arrival in the foreign country, the woman is usually subject to removal of identification documents, restriction of free movement, or menace and violation. Marriage is concluded either through force or voluntarily, but with subsequent sexual or labour exploitation. Unfortunately, none of the women in the cases we examined had recognized such pitfalls. Along with poor social situation, low education and naivety, the opportunity of a high financial reward for a small effort represents the major push factor in such cases.

The situation could be significantly lessened through awareness raising that will be focused on the threats hidden behind the attractive offers in both cases of sham marriages and trafficking in human beings. In both cases it is crucial to identify the indicators of these fake offers so the person is not misused. Moreover in case of sham marriage, the offender face 2 to 8 years of imprisonment and the foreign nationals face deportation. In such a case, a Slovak national or a national of another Member State of the EU can be sentenced to imprisonment.

The Birth Registry Department registers all marriages that have been concluded in the territory of the Slovak Republic. However, they do not register a separate overview of concluded marriages between nationals of the Slovak Republic and aliens. For that reason, cooperation between the Border and Alien Police Bureau and birth registries in the reporting of such marriages is crucial.

At the same time, it should be noted that also on the basis of the interviews with

representatives of the Birth Registry Department and the Alien Police Unit of the Border and Alien Bureau, both stakeholders expressed interest regarding the amendment of the relevant guidance and the fostering of cooperation of the parties concerned.

Interviews with the Birth Registry Department revealed that they expressed concern related to the lack of information exchange with foreign counterparts in cases of conclusion of marriage with Slovak nationals. With reference to this gap, it seems necessary to intensify and foster cooperation between the states.

Another area that should be regulated concerns cooperation between the birth registries or national population registries of particular countries. A single contact point should be established for all birth/population registries that would notify the partner birth/population registry abroad of concluded marriage by particular country nationals. In this way, double marriage could be prevented and sham marriage or trafficking in human beings for the purpose of forced marriage could be identified at an earlier stage.

In this area we would like to highlight the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (hereinafter referred to as the “Convention”). The mentioned Convention or the Apostille Treaty is an international treaty which was adopted in the Hague in 1961. It specifies the modalities through which a document issued in one of the signatory countries can be certified for legal purposes in all the other signatory states. If all the countries of the EU ratified and followed this Convention, it would help to reduce various forms of criminal activities and frequent misuse of social systems in some countries.

Active, effective and flexible cooperation of law enforcement authorities is essential for successful prosecution primarily in cases of trafficking in human beings. It is counterproductive and ineffective for criminal prosecution if a request of a Member State of the EU to another Member State using mutual legal assistance takes months or even years. It is necessary to deal with the requests related to such serious criminal activities promptly and without delay.

We make the following recommendations for the respective authorities included in the national referral mechanisms of all countries in the international context within their respective competence:.

1. ***Increase the rate of effective identification of victims*** of trafficking in human beings for the purpose of forced marriage.
2. ***Increase effectiveness in detection and conviction of perpetrators*** of the criminal offence of smuggling.
3. ***Develop and intensify communication and cooperation*** between the Alien Police and Birth Registries in the Slovak Republic.
4. ***Improve information provision to the public and vulnerable groups*** (via appropriate channels) on the trafficking phenomena for the purpose of forced marriage and on its threats.
5. ***Inform the public and vulnerable groups*** (via appropriate channels) about sham

marriages in the terms of the criminal liability of the persons concluding sham marriage.

6. ***Ensure uniform interpretation of the term “forced marriage” on the international level.***
7. ***Seek opportunities for easier provision of evidence*** by the law enforcement authorities.
8. ***Increase the awareness of law enforcement authorities and courts*** regarding the issue of trafficking in human beings and its specific forms.
9. ***Introduce the possibility of declaring a marriage null and void upon proved*** trafficking in human beings for the purpose of forced marriage.
10. ***Ensure communication and information sharing*** between the Slovak consulates abroad and the special Birth Registry.
11. ***Ensure information forwarding*** to a special Birth Registry in case of concluded marriage of a Slovak national abroad.
12. ***Unify all procedures and terms applied during identification and investigation*** of trafficking cases.
13. ***Unify the legislation and procedures*** applied on the international level and related to conclusion of marriage.
14. ***Improve cooperation on the international level***, e.g. through establishment of the institute of EU prosecutor for cross-border crimes, and ensure simplified international police cooperation and information sharing.

Abbreviations

EU – the European Union

NGO – non-governmental organization

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Annex 1: Forced marriages and sham marriages in the media

The following section is dedicated to the media articles published regarding cases of forced marriages and sham marriages. We focused on the articles published and available on internet websites between the years 2011 and 2015. We have collected 25 articles dealing with human trafficking for the purpose of forced marriage and smuggling in the form of sham marriages. The articles were chosen based on their contents and their relation to the project. This part relates to a summary of articles published in Slovak newspapers, translated into English. They were selected based on searches using the most common phrases for making the most relevant search results. The following phrases have been searched: forced marriage, exploitation, false / fraudulent /deceitful/contracted/fictitious marriage. We have chosen the most interesting ones.

Article Nr. 1

Slovaks get married for money: Armenian woman gets married for 850 euros!

The Slovak police announced disclosed cases of organized fictitious marriages (so-called sham marriages) of Slovak nationals with foreign nationals for a financial reward. In this way, foreign nationals allegedly made efforts to obtain a residence permit in Slovakia. Three persons accused by the police, in case of conviction by the court, may be sentenced for 2 to 8 years of imprisonment. The Presidium of the Police Force in Slovakia stated that a ***Slovak citizen, of Armenian origin, persuaded another Slovak man to marry an Armenian woman*** for a financial reward of at least ***850 euros***. The wedding took place in Bratislava and the foreign national applied for a residence permit.. A similar wedding was reported by the police in May 2015 when a ***Slovak citizen married a Macedonian man allegedly for 2,000 euros***. In both cases, the prosecutor charged the person who had allegedly arranged the marriage, as well as a Slovak female and male who concluded marriage with a foreign national for financial reward. Neither the Macedonian man nor the Armenian woman received a residence permit. The Macedonian man was deported from Slovakia and an entry ban to Slovakia was imposed on him for 5 years. A similar procedure will probably be applied to the Armenian woman..¹⁶

Article Nr. 2

The police: Turkish man offered 500 euros to a Slovak woman to marry him in order to obtain visa

A Turkish man's Slovak visa expired, so, according to the police, he wanted to marry a Slovak in order to receive a permanent residence permit. An investigator from the National Unit for Combating Illegal Migration suspects three persons who intended to arrange a sham marriage in order to enable a Turkish national to apply for a permanent residence permit in Slovakia. According to the police, the brother of the false groom, a Turkish man from Austria, contacted a Slovak woman who induced her friend to marry the man in exchange for ***500 euros***. A few days after the wedding, that took place in Dunajská Streda, the Turkish man applied for a permanent residence permit in Slovakia. The police had monitored the situation and the application was rejected. Two Slovak women and a Turkish man living in Austria were

¹⁶ Written by: TASR: Slováci sa ženia za peniaze: Arménka za 850 eur! [Slovaks get married for money: Armenian woman gets married for 850 euros!], <http://www.topky.sk/cl/10/1277796/Slovaci-sa-zenia-za-peniaze--Armenka-za-850-eur-> published on 15 June 2011

accused of the criminal offence of smuggling, facing a sentence of imprisonment of from 2 to 8 years. A 5 year entry ban to Slovak territory was imposed on the false groom.¹⁷

Article Nr. 3

Sham marriage? The British police detain a Slovak woman during the wedding ceremony

A Slovak bride and her groom from Pakistan were detained by the British police in the Leeds City Hall during the wedding ceremony. The couple and five wedding guests were accused by the authorities of a “sham marriage” and breach of immigration law. Just before getting married the 23-year-old Pakistani and a 22-year-old woman from Slovakia were arrested. There were two other Slovak women aged 22 and 32 among the detained people, and three men from Pakistan. In relation to the investigation, police searches were conducted in a few apartments in Leeds. According to the Police the only reason for the marriage was the intention to avoid immigration controls and enable the stay in the UK for the Pakistani man. . The police declared that the Pakistani man wanted to get British citizenship in this way. There have been several police investigations into sham weddings in the United Kingdom in which Slovak brides had participated.¹⁸

Article Nr. 4

The police: A lawyer organizes weddings with Chinese men and women against payment

According to a police investigator, a lawyer enticed Slovak men and women into concluding marriage with ***Chinese women and men***. A 38 year old lawyer, organized at least 8 ***sham marriages between Slovak and Chinese nationals***. The sham marriages were aimed at obtaining permanent residence permit for Chinese nationals. Seven persons involved in eight cases of sham marriage concluded from 2006 to 2010 have been accused of the criminal offence of smuggling. In case proven guilty, they will face 2 to 8 years of imprisonment. The persons have not been taken to custody. Had they concluded marriage with Slovak nationals, the Chinese nationals would have been entitled to a permanent residence permit in Slovakia for five years for the purpose of family reunification. According to the police, seven Slovak nationals were induced/persuaded to conclude such marriages between 2006 and 2010. The investigator stated that five women and three men aged between 25 and 58 allowed themselves to be lured by the vision of quick profit, being rewarded with an amount ranging from **664 to 1,330 euros**. Seven Slovak citizens concluded marriage with Chinese nationals at various birth registries in Bratislava, and applied for a permanent residence permit at the police departments in several Slovak towns. The first permanent residence permit was granted for a period of five years and entitled them to reside in any country within the Schengen area. The plotter himself concluded a marriage as well, marrying a Chinese woman for less than **1,000 euros**. He also persuaded his daughter to commit the same crime at the same price. He recruited other “brides” and “grooms” from a circle of friends and acquaintances. Four Chinese nationals who had concluded marriage were taken by police and deportation is expected. The police have been more successful in revealing such criminal activity. At the

¹⁷ Written by: TASR: Polícia: Slovenke nůkal Turek za svadbu pre vřza 500 eur [The police: Turkish man offered 500 euros to a Slovak woman to marry him in order to obtain visa], <http://www.cas.sk/clanok/209188/policia-slovenke-nukal-turek-za-svadbu-pre-viza-500-eur.html>, published on 24 October 2011

¹⁸ Written by: TASR: Sobášny podvod? Britská polícia zatkla Slovensku priamo na svadbe [Sham marriage? The British police detain a Slovak woman during the wedding ceremony], <http://www.cas.sk/clanok/194519/sobasny-podvod-britska-policia-zatkla-slovenku-priamo-na-svadbe.html> published on 28 March 2011

beginning of this month, they suspected five persons and three persons at the end of the year of sham marriages and the criminal offence of smuggling.¹⁹

Article Nr. 5

Investigator: Jaroslava given 300 euros for marriage with a Serbian national

The police reported that a Slovak woman (21) got married to man *from Serbia* in Pezinok and received compensation amounting to **300 euros**. Now she faces imprisonment. According to the investigator, , ***a 41 year old Slovak citizen coming from Serbia***, wanted to obtain a permanent residence permit for his nephew from Serbia. If he would marry a Slovak citizen, he would have been entitled to a permanent residence permit in Slovakia for five years in order to reunify the family. The fraud was started organized a year ago. The organizer from Serbia induced three Slovak men to find a bride from Slovakia for compensation of 1000 euros. She should have married his 21 year old nephew. According to the police, 21-year-old Slovak woman was short of money and the three men took advantage of used her situation. They made her conclude a marriage with the Serbian national. She received compensation to the amount of 300 euros. The wedding took place in Pezinok's Old City Hall last year. In order to prevent her from changing her mind, the three men were witnesses at the wedding. The police are currently investigating why the foreigner failed to apply for a permanent residence permit but got back home after expiration of his 90-day visit visa. The wedding plotter, three witnesses and the bride have been accused of smuggling and face a sentence of 2 to 8 years of imprisonment.²⁰

Article Nr. 6

Smetana would be glad; brides-for-sale wanted

There has been an increase in the number of cases when Slovaks are paid for concluding a sham marriage with foreign nationals. Recently the police have solved eight frauds occurring between 2006 and 2010. In addition, some other cases have been identified. Having concluded sham marriage, foreign nationals try to obtain a permanent residence permit in Slovakia and free movement in the Schengen area. However, they risk much less than Slovaks who face imprisonment. Foreign nationals arrive in Slovakia mostly illegally or on a tourist visa. Later, some of them apply for asylum or seek ways to stay in Slovakia legally. If they marry a Slovak citizen, they are entitled to "the first permanent residence permit" in Slovakia for five years in order to reunify families. Last year, 747 foreign nationals got married in Slovakia, of whom 214 from South Korea, 128 from Ukraine, 123 from Russia and 73 from China. Slovaks concluding sham marriages usually don't realize the fact that they face higher penalties than the foreigners. Foreigners are deported from the country and have an entry ban to Slovakia imposed on them for five years. However, their "spouses" face charges for the criminal offence of smuggling. In relation to foreigners, the police control lodging, business offices where foreigners are believed to work as well as their business activities, employment and the conclusion of sham marriages. Sham marriages have been the main problem of the developed Western European countries before. After accession of Slovakia to the EU in May

¹⁹ Written by: Čas.sk: Polícia: Právnik za peniaze lákal na sobáše s Číňanmi a Číňankami [The police: A lawyer organizes weddings with Chinese men and women against payment], <http://www.cas.sk/sobas>, published on 19 March 2012

²⁰ Vyšetrovateľ: Jaroslave dali za fiktívny sobáš so Srbom 300 eur [Investigator: Jaroslava given 300 euros for marriage with a Serbian national], <http://www.cas.sk/clanok/218915/vysetrovatel-jaroslave-dali-za-fiktivny-sobas-so-srbom-300-eur.html>, published on 9 March 2012

2004, and to the Schengen area in December 2007, smugglers from abroad found our country attractive as well. Such marriages aren't concluded for economic reasons but because Slovakia is a member of the Schengen area. If a foreign national obtains a permanent residence permit in Slovakia, he/ she can freely move within the entire Schengen area.²¹

Article Nr. 7

He sent his daughters to slavery; his partner was too old

A residence permit in the Schengen area for a fee is easily accessible for dozens of people from third countries. The authorities are not doing anything about it. Photos of happy women embraced by their new husbands are at first delivered to the Foreign Police Department in Scotland, where they are used to prove a real relationship. Then the pictures of the couple are sent home – to the Slovak settlements to convince the families that their daughters are doing well abroad. The documentary film prepared by Kristína Magdolénová and Jarmila Vaňová from the Roma Media Centre (Mecem), presented testimony of Slovak Roma who became slaves in Scotland. “*They want to go there*”, said a Roma man who sent his daughters to the United Kingdom. He would send his partner as well but she is too old, he said. “*Only girls about 18 years of age have a chance to marry*,” he admitted immediately. Today, nobody is able to say how many women from the Roma settlements in Slovakia married a man from Pakistan. The Roma community in Glasgow keeps silent as well. As described by the reporters from Mecem, approximately 3,000 Roma citizens from Slovakia, Czech Republic and Romania live there along one street – Allison Street. Families in the Roma settlements reject the claim that their daughters could be trapped in brothels. According to many of them, going abroad is the only way to get a better living. Many slavers/perpetrators present themselves as successful businessmen. “*They build family houses, show their wealth, and are often presented by non-Roma media as positive examples to the community*”, said Jarmila Vaňová.²²

Article Nr. 8

Morocco national was brought to the Police Department from the wedding hall and deported from Slovakia

Policemen thwarted the attempt of a **28-year-old Slovak woman and 31-year-old Moroccan man** at a sham marriage. How much are our people paid for such weddings? A boyfriend of Silvia (28) from the Košice residential zone Luník IX., and his friend, persuaded Silvia to conclude a sham marriage with a Moroccan national (31). The foreigner had arrived in the Eastern-Slovak city shortly before, from Brussels. The wedding ceremony was thwarted in the wedding hall by the police, since the Moroccan man was staying in Slovakia illegally. Instead of getting married, the Moroccan man was brought to the Police Department and was deported from Slovakia with an entry ban for 3 years. The "bride" and her two accomplices (39, 23) were suspected of smuggling. If the criminal charge is proved, they will face 1 to 5 years of imprisonment. Slovak citizens collect money for conclusion of a sham marriage with foreign nationals in the range of one to four thousand euros. In this and the previous year Chinese,

²¹ Written by: Radovan Krčmárik: Smetana by sa tešil, predané nevesty sú žiadané [Smetana would be glad, brides-for-sale wanted], <http://spravy.pravda.sk/domace/clanok/173961-smetana-by-sa-tesil-predane-nevesty-su-ziadane/>, published on 9 April 2012

²² Written by: Rudolf Sivý: Poslal do otroctva dcéry, družka bola na to príliš stará [He sent his daughters to slavery; his partner was too old], <http://romovia.sme.sk/c/6930129/poslal-do-otroctva-dcery-druzka-bola-na-to-prilis-stara.html#ixzz3pCnXJBCL>, published in September 2013

Vietnamese, Turkish, Algerian, Albanian, Serbian and Montenegro nationals made efforts to conclude such marriages in Slovakia.²³

Article Nr. 9

Slovak women were paid for wedding with Serbian men; look at how much it is for!

Seven ***Slovak women were paid by a gang for a wedding with Serbian men*** who wanted to apply for a residence permit in the EU. How much were they paid for it? The gang was operating in the territory of Slovakia, Germany, Denmark and Serbia. To obtain a residence permit in the EU territory for the Serbians, the gang organized sham marriages with Slovak women. A Serbian woman living in Germany received orders related to sham marriages along with money from a Serbian national. She is suspected of contacting Slovak mediators who had to select single Slovak women based on criteria such as age, etc. Three Slovak men (25,26,28) are suspected of selecting at least seven women from Košice who were paid **1,000 euros** for sham marriages with Serbian nationals. As found out by the portal www.cas.sk, the brides were about 24 years old, except for one who was 45 years old. The women, accompanied by the accused, a Košice citizen (31), travelled to Denmark to conclude the marriage. In Germany, Serbian nationals had to apply for a temporary or permanent residence permit that would allow a family reunion. Two Slovak men who were considered “bride fraud business” organizers, were taken into custody and are to be prosecuted in the United Kingdom for similar criminal activity; the other ones are prosecuted without arresting. Criminal prosecution of two Serbian men with German citizenship will be forwarded to their home country. An investigator suspects 11 members of international organized group of the criminal offence of smuggling. The 11 men committed the crime through arrangement for and conclusion of sham marriage with foreign nationals.²⁴

Article Nr. 10

Wedding of a man from India and a Roma woman in Košice was interrupted by nine policemen

Sham marriage or true love? A 40-year-old Roma woman was marrying a ***ten years younger man from India***, on Saturday afternoon in Košice in the Old City Hall. The couple was checked by nine policemen from the Border and Alien Police Department but the wedding act was concluded, despite there being a couple who had just been married that almost didn't kiss each other. Just before the ceremony, nine policemen from the Border and Alien Police Department appeared in the wedding office at the Wedding Hall; there were even more of them than there were wedding guests. Having received allegations about a sham marriage, the policemen turned to check the Indian groom and his bride. According to the person from the wedding office the policemen were not in uniform and they said they should check the couple's documents. It seemed that the wedding ceremony wouldn't be concluded but the groom-to-be took an ID card out of his pocket. The policemen looked at one another and allowed me to continue the wedding ceremony. The ceremony was just a bit later than

²³ Maročana zo sobášnej siene odviekli na políciu a vyhostili zo Slovenska [Morocco national was brought to the Police Department from the wedding hall and deported from Slovakia], <http://www.cas.sk/clanok/264008/marocana-zo-sobasnej-siene-odviedli-na-policiu-a-vyhostili-zo-slovenska.html>, published on 28 October 2013

²⁴ Slovenkám platili za sobáš so Srbmi, pozrite sa koľko! [Slovak women were paid for wedding with Serbian men; look at how much it is for!], <http://www.cas.sk/clanok/300478/slovenkam-platili-za-sobas-so-srbmi-pozrite-sa-kolko.html>, published on 25 November 2014

scheduled, approximately 10 – 15 min.. Along with two Roma witnesses, there were only three children at the wedding ceremony, and another bride's relative. It was the first bride's marriage; the groom had been married before but we couldn't obtain more details since the Old City registry refused to disclose the detail about the newlyweds. The wedding ceremony was held in two languages. The man from India had an interpreter and he expressed marital consent with "yes". The rather nervous bride who didn't speak English at all, said "I do" after a moment of hesitation. The biggest surprise followed the call for the "first marital kiss" since the couple didn't respond thereto. Then the groom indicated to the bride that they should kiss each other. The one who awaited a passionate kiss must have been disappointed. The woman from Košice maidenly turned her cheek towards the man. The couple also left the wedding hall in an unusual way; they didn't book any restaurant for the wedding party. After the ceremony, they both sat on the bench at a nearby park, together with her relatives and a man who allegedly had introduced the Indian groom to the Slovak bride. The bride is not presently staying where she stated. According to Police the wedding act was examined on the basis of information regarding the suspected conclusion of a sham marriage.

What does a foreign national gain in case of a sham marriage with a Slovak national?

- a foreign national who married a Slovak national will be allowed to apply for a permanent residence permit with a duration of five years and to move within the entire Schengen area.
- if a Slovak national concludes a sham marriage with the aim of making money easily, he/she faces criminal prosecution for smuggling and imprisonment for two to eight years.
- the foreign national faces deportation for five years. If children are born from such a marriage, maintenance has to be paid, and there is an entitlement to inheritance in case of death.
- according to published statistical data, criminologists revealed nine cases of EU nationals in the previous year, 12 persons were accused and the perpetrators received a profit of approximately 16.000 euros.²⁵

The cases described in the previous articles can be categorized as sham marriages. They involved situations where both parties benefited from the conduct without signs of coercion or harm resulting from the conclusion of the marriage. There were also statements from the police officers and also a summary of what a foreigner can obtain from concluding such a marriage. In article Nr. 10, the reference to "a foreigner" means a third country national.

Article Nr. 11

Slovak women are lured to conclude sham marriages with catastrophic consequences

KB, an 18-year-old woman from Slovakia, was without money and in a late stage of

²⁵ Written by: Marián Kizek: Svadbu Inda a Rómky v Košiciach prerušilo deväť policajtov [Wedding of a man from India and a Roma woman in Košice was interrupted by nine policemen], <http://kosice.korzar.sme.sk/c/7928977/svadbu-inda-a-romky-v-kosiciach-prerusilo-devat-policajtov.html#ixzz3pBjQ3fk>, issued on 24 July 2015

pregnancy when she arrived in the United Kingdom to marry a man whom she had never seen before. She was promised a nice living. She knew that the man wanted neither her nor a baby. A 23-year-old Pakistani man wanted to marry her in order to obtain a residence permit and a work permit in the EU. In this case, a woman's pregnancy is a big plus. The woman coming from a Roma settlement in the east of Slovakia near the Ukrainian and Hungarian border, was promised a nice apartment and a little money in the United Kingdom. In fact, she was moved from Manchester to Glasgow, Scotland, a few days after arrival in the United Kingdom where she was held in an apartment with the groom-to-be. He or his younger brother guarded her and took away her documents. She was not allowed to go out alone. *"We went out together once a week; I couldn't go alone."* Tens of women from poorer corners of Eastern Europe have been attracted to the west and paid by men, mostly Asian and African, high amounts of money for acquiring the right to reside, work or obtain social benefits in a country of their choice, and to be allowed to freely move within the EU. The mediators are often organized criminal groups which get a major part of profit. The women are usually detained in a foreign country with empty hands. A social worker said that he knows a few other people from the Roma settlement who contracted marriage in the United Kingdom. The business, as they call it, is under the control of a Roma gang that recruit unemployed and uneducated people against the promise of a good income abroad. The women become brides in sham marriages or are forced into prostitution; the men are usually forced to work. According to the social worker they attract these women, sometimes offering them plane tickets, sometimes they travel by bus or car. They prepare the wedding ceremony. When the men get what they wanted to, they get rid of the women. According to Miroslav Wlachovský, the Slovak ambassador in the United Kingdom, groups of Slovak and Czech people living in the United Kingdom are perpetrators of the crimes. They prefer especially Scotland since the local legislation permits the contracting of a marriage by a person older than 16 years of age without the parents' consent, contrary to the age limit of 18 years in the rest of the United Kingdom, he said. A pregnant woman is preferred since she increases the groom's chances of obtaining the resident status. In November, the British police stated that they had identified the gang of traffickers. A 38-year-old Pakistani man paid £ 15,000 (21,180 euros) to the gang for a 20-year-old pregnant bride from Slovakia. The woman thought that she was going to visit her sister. Instead of the sister, she was met by a man at Luton Airport, London, who brought her to an apartment and she had to conclude a marriage in Rochdale in July, conducted by an imam, the police stated. When the man obtained the required documents, a woman pretending that she is the woman's sister, took her to a hospital for an abortion. The victim, who didn't speak English, was informed about what was going on by an interpreter. *"The interpreter thought that she sought help because of abdominal pain. She was completely horrified,"* said James Faulkner, a police inspector from Rochdale. Potential grooms make various efforts, even on Facebook, where they offer even impossible things, including never-ending love. Many of the women who succumb are very vulnerable, with a complicated past or reduced mental capability. Only a few cases ended with a court verdict since women usually leave to another country of the EU after that bad experience. If they stay in the United Kingdom, they are usually frightened or incapable of being heard in court. They are also usually poor and prefer to accept misuse abroad rather than return home. The Slovak KB delivered her child in the United Kingdom and had to conclude a sham marriage. Some doubts emerged in the hospital regarding the father and it was found out that the woman was unable to find her permanent address. Finally, the groom was deported from the United Kingdom before the wedding. KB remained in the social house and returned to Slovakia two years ago. Her daughter remained in the United

Kingdom under social care, since the mother was incapable of taking care of her, according to the authorities. She also didn't want to return home. It was much better in the United Kingdom.²⁶

Article Nr. 12

Pregnant Slovak woman (20) became a victim of traffickers: She married an Islamist who attempted to force her to get an abortion!

The British police broke up a gang in the Manchester district which was trafficking in people as well as a 20-year-old woman from Slovakia who also became their victim. As reported by the headline portal of the British TV channel BBC, as a result of raids, the police arrested 13 suspected perpetrators, of whom ten were men and three were women. The gang made the woman conclude a sham marriage and wanted to force her to have an abortion afterwards. A 20-year-old Slovak national was sold by the gang in the metropolitan county High Manchester for £ **15,000** and the gang organized the wedding with a man who faced deportation from the United Kingdom, as reported by the police. The woman told to the hospital interpreter that "she had been sold against her will" and she was frightened about the idea of an abortion. The group of ten men and three women aged 24 - 57 was taken into custody after being detained on Wednesday, 12 November at various addresses in the towns of Rochdale, Failsworth and Cheetham Hill in the county of High Manchester. The police reported that the woman, being in the 25th week of pregnancy, arrived at Luton Airport at London in May, thinking that she was going to visit her sister. There she was met by a man who said that he was her sister's friend and drove her to an address in Failsworth, where she was taken over by another man. She was married in July in Rochdale according to Islamic *sharia* law. The Slovak woman was later driven to the hospital to meet an interpreter. The interpreter told the hospital staff on duty that the Slovak woman wished to have an abortion. However, there was an independent interpreter who talked to the Slovak woman and he realized that "*the woman was sold for the conclusion of marriage against her will*". The police added that the woman wasn't aware of the gang's intentions and by then it was too late. The deceived woman said that she had been sold to a man who "*she lived with in order to ensure the conferring of immigrant status in the United Kingdom to him.*" Police inspector James Faulkner explained that it's been a current trend to make business with pregnant women since in this way they can be conferred with immigrant status much faster than others. The police have ascertained that there were 400 cases of sham marriages concluded in Manchester. The perpetrators are being held in custody for the criminal offences of trafficking in human beings and intended violation of the Immigration Act.²⁷

²⁶ Na fingoané sobáše lákajú aj Slovenky, končia v hrozných podmienkach [Slovak women are lured to conclude a sham marriage with catastrophic consequences], <http://www.ta3.com/clanok/1062590/na-fingovane-sobase-lakaju-aj-slovenky-koncia-v-hrozných-podmienkach.html>, published on 26 May 2015

²⁷ Tehotná Slovenska (20) obeťou obchodu s ľuďmi: Vydali ju za islamistu, chceli ju donútiť k potratu! [Pregnant Slovak woman (20) became a victim of traffickers: She married an Islamist who attempted to force her to obtain an abortion!], <http://www.topky.sk/cl/10/1438063/Tehotna-Slovenka--20--obetou-obchodu-s-ludmi--Vydali-ju-za-islamistu--chceli-ju-donutit-k-potratu->, published on 14 November 2014

The previous two articles describe the same case of trafficking in human beings for the purpose of forced marriage from different perspectives, so it seemed appropriate to use both articles. The victim referred to in the article has been included in the Programme. The description of the case given by the organization that provided care to the victim is introduced in Section 4.1.1 (Victim Nr. 5).

Article Nr. 13

Police detained a gang that recruited women for the purpose of forced marriage

The Police identified an organized group operating in the field of trafficking in human beings within Slovakia, Austria, Germany, Belgium and Denmark. Along with a Slovak national, a man from India was one of the group members. In Slovakia, the gang members recruited women for the purpose of forced marriage. The women were recruited mainly from a socially poor environment, mostly from Košice and its surroundings. They were promised work abroad, accommodation and a good income. They were informed about the conclusion of forced marriage while sitting in a car on the way to Bratislava or Vienna. If they refused the marriage, they were threatened, psychologically and physically tortured. According to the Police, these women were also abused so that they would sign various documents. After arriving in Bratislava and Vienna, they were taken over by a foreigner who organized the wedding and the grooms. He prepared the women for travel to Germany or Belgium where the future grooms from non-EU countries were waiting for them. The brides and grooms were transported to Denmark where, on the basis of the marriage certificate, the non-EU citizens applied for a residence permit in the EU countries. The gang earned **3,000 euros** per wedding. Two men from Slovakia (42,55) have been taken into custody and accused of the criminal offence of trafficking in human beings. If they are found guilty, they will face a sentence between 7 and 12 years of imprisonment.²⁸

In this case, exploitation represents a part of the recruitment process and women from Slovakia were forced to marry nationals from countries outside the EU, under threat and coercion from perpetrators if they refused to do so. This is a description of cases of trafficking in human beings for the purpose of forced marriage.

Article Nr. 14

Roma from Slovakia are convicted of trafficking in human beings by a British court of justice

Three members of a Slovak Roma gang were convicted of trafficking in human beings by a British court of justice, as reported today by the British daily paper Daily Express. The verdict should be passed on Friday. TS, who was sentenced to 10 years of imprisonment in December 2013, was the gang leader. RŽ, his brothers denied being involved in the business. The judge found them guilty of trafficking in human beings and promised them harsh punishment, as reported by the daily paper Daily Mail. The gang induced the Slovak women in order to sell them as brides. They promised them a better life but in fact they were to be offered for sale to

²⁸ Polícia zadržala skupinu, ktorá získavala ženy na nútené sobáše [Police detained a gang that recruited women for the purpose of forced marriage], <http://www.sme.sk/c/7937121/policia-zadrzala-skupinu-ktora-ziskavala-zeny-na-nutene-sobase.html>, published on 29 July 2015

non-EU nationals. The gang arranged for transport of at least four women to the United Kingdom in 2013 and offered them primarily to Indian and Pakistani men who wanted to become EU nationals. TS had kept the women in Gravesend. TS, his wife and her brother confessed their guilt before the court proceedings started, as reported in the Daily Mail. One of the victims was promised a job as a fruit packaging operator. Upon arrival in the United Kingdom, she was forced into prostitution and then sold to an Indian national for £ 3,000 (*approx. 4,256 euros*). One of the women managed to escape but the local police department didn't help her and she had to contact the Slovak police. *"It's true that the police were aware of the woman and even interviewed her but failed to forward the information to the specialized police unit which was equipped for dealing with such criminal offences,"* stated criminal prosecutor Riel Karmy-Jones. The lucrative business was first disclosed when the Pakistani man raped the bride in such a brutal way that she almost bled to death²⁹.

Indian and Pakistani nationals marry young Roma women because of their EU citizenship, which enables non-EU nationals to prolong their residence in the United Kingdom.³⁰

This is a case of trafficking in human beings for the purpose of forced marriage, since there are signs of exploitation although in the beginning the women were promised a better life.

Findings regarding the published articles

The published articles brought information about prosecution and related proceedings in the criminal matters of trafficking in human beings and smuggling. The descriptions of criminal offences are mostly simple and they include police statements, rarely also victims' views. They introduce cases from various perspectives. Media describe each criminal act together with information on the perpetrators, their profits as well as the intention of respective parties to conclude marriage, depending on whether it is sham marriage or forced marriage. It is worth-noting that the media use the correct terminology for the acts. Both topics seem to be interesting for media as they bring the stories.

Each of the analysed media article is a good source of awareness raising about the issue. In case of smuggling they highlight criminal responsibility for this kind of action. They often inform about possible maximum sentences for perpetrators. On the other hand, they depict persons involved in the crime as coming from very poor backgrounds and settlements, having limited mental abilities. The same relates to the articles about trafficked women. They mostly

²⁹ Rómov zo Slovenska usvedčil súd v Británii z obchodovania s ľuďmi [Roma from Slovakia are convicted of trafficking in human beings by a British court of justice], <http://www.teraz.sk/krimi/romovia-britania-obchodovanie-s-ludmi/151437-clanok.html>, published on 19 August 2015

³⁰ V Británii súdia Slovákov za obchodovanie s ľuďmi [Slovaks sentenced in the United Kingdom for trafficking in human beings], <http://spravy.pravda.sk/domace/clanok/365021-v-britanii-sudia-slovakov-za-obchodovanie-s-romkami/>, published on 19 August 2015

could not reasonably assess the situation they were in.

According to the analysed articles and its sources it is clear that the media distributing the most relevant information are local media, followed by news media and tabloids.

The media highlight the action of the law enforcement officers which might contribute to a positive public feedback on their work.