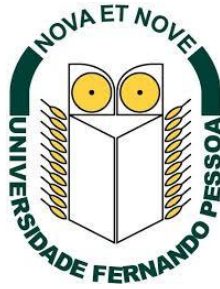


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FERNANDO PESSOA UNIVERSITY

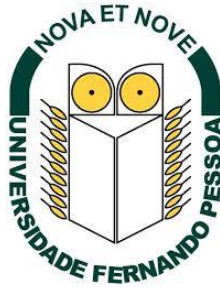
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Work submitted to Fernando Pessoa University  
as a requirement for the attainment of the degree  
of Master in Criminology, under the supervision  
of professor Lúgia Afonso

## **ABSTRACT**

The aim of this research is to analyse exploitative sham marriages as a form of human trafficking. While there exist several studies focusing on other forms of human trafficking and their impact on societies, little research has been conducted on sham marriages as a form of trafficking in human beings. This dissertation pursues to deepen the knowledge in this area within the scientific field of Criminology, exploring how exploitative sham marriages are prevented in the European Union. Using documentary analysis as a research method, this dissertation examines how academics, international institutions and agencies understand and define sham marriage in different publications, and how sham marriages and exploitative sham marriages are regulated in the criminal codes of the EU countries. Since gathering comparable information from all 27 EU countries was not possible due to limitations of time, language and amount of public data, the action measures executed in the Baltic states are utilized as a case study to represent how victim identification and training of experts are proceeding in the field of human trafficking and sham marriages. Nevertheless, whenever possible, data on other EU countries are used to enhance the comprehensiveness of the analysis. The findings of this research show that the current national and international policies in the EU do not support an effective counterstrategy against exploitative sham marriages, resulting in inadequate victim identification, lack of tools to convict traffickers and therefore inaccurate statistics of the crime. Based on those findings, several recommendations are provided, in particular, about the need of a clear and encompassing definition for sham marriage and exploitative sham marriage, the importance of harmonizing criminal legislation among EU countries, of raising awareness (including general population and vulnerable groups), as well as of encouraging systematic cooperation between EU countries and the actors working in the field of human trafficking.

Keywords: exploitative sham marriage; sham marriage; human trafficking; European Union; organised crime

## RESUMO

O objetivo desta investigação é analisar os casamentos fictícios com finalidade exploratória como uma forma de tráfico de seres humanos. Embora existam vários estudos acerca de outras formas de tráfico de pessoas e do seu impacto social, foram realizadas poucas investigações acerca de casamentos fictícios como uma forma de tráfico de pessoas. Esta investigação pretende aprofundar o conhecimento nesta área, dentro do campo científico da Criminologia, explorando a forma como são prevenidos os casamentos fictícios na União Europeia. Usando a análise documental como método de pesquisa, esta dissertação examina a forma como académicos, instituições e agências internacionais entendem e definem o casamento fictício em diferentes publicações, e o modo como os casamentos fictícios e os casamentos fictícios com finalidade de exploração são regulados pelos códigos penais dos países da União Europeia. Uma vez que as limitações de tempo, linguísticas e de disponibilidade de dados não possibilitaram a recolha de dados passíveis de comparação relativamente aos 27 países da EU, as medidas de ação desenvolvidas nos Países Bálticos são usadas como um ‘estudo de caso’ para ilustrar o modo como a identificação de vítimas e o treino de especialistas estão a ser desenvolvidos no domínio do tráfico de seres humanos e de casamentos fictícios. Sempre que possível, os dados de outros países da UE são utilizados para potenciar a abrangência da análise. Os resultados desta investigação mostram que as atuais políticas nacionais e internacionais na UE não sustentam uma ação eficaz contra os casamentos fictícios com finalidade de exploração, com repercussões na identificação inadequada das vítimas, na falta de ferramentas para condenar os traficantes e em estatísticas imprecisas. Com base nesses resultados, são feitas várias recomendações, em particular sobre a importância de se usar uma definição clara e abrangente para casamento fictício e casamento fictício com finalidades de exploração, da importância de harmonizar a legislação penal dos países da UE, de promover a sensibilização da população (em geral e também em grupos vulneráveis), bem como encorajar a cooperação sistemática e entre países da UE e os diferentes intervenientes que trabalham no domínio do tráfico de seres humanos.

Palavras-chave: casamento fictício com finalidade de exploração; casamento fictício; tráfico de seres humanos; União Europeia; crime organizado

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## LIST OF ABBREVIATIONS

CBSS	Council of the Baltic Sea States
DSM	Documentary research method
EPPO	European Public Prosecutor's Office
EU	European Union
EUROJUST	European Union Agency for Criminal Justice Cooperation
EUROPOL	European Union Agency for Law Enforcement Cooperation
EUROSTAT	European Union Statistical Office
FRA	European Union Agency for Fundamental Rights
GRETA	Group of Experts on Action against Trafficking in Human Beings
HESTIA	Preventing human trafficking and sham marriages: a multidisciplinary solution
HEUNI	European Institute for Crime Prevention and Control, affiliated with the United Nations
JIT	Joint Investigation Team
MS	Member State
NGO	Non-Governmental Organisation
OCG	Organised Crime Group
TCN	Third country national
THB	Trafficking in human beings
UN	United Nations
UNODC	United Nations Office on Drugs and Crime
UNTOC	The United Nations Convention against Transnational Organised Crime

## INTRODUCTION

Trafficking in human beings (THB) is a widely observed and globally recognized multidimensional phenomenon, which violates fundamental human rights, and exploits people in vulnerable positions. The international intervention has advanced significantly within past two decades, and as an increasing amount of institutions, agencies as well as states recognize the phenomenon and the preparedness for intervention grows. This leads to more factual and evidence-based data gathered of the different forms and divisions of human trafficking. The latest report on human trafficking by the European Commission was published in September 2020 (European Commission, 2020), indicating that there were 14 145 identified victims of THB between the years 2017 and 2018 in the 27 Member States (MS) of the European Union (EU), with nearly half (49 percent) of the victims being EU citizens and nearly three quarters (72 percent) women and girls (European Commission, 2020). According to the United Nations Office on Drugs and Crime (UNODC), the most common motives for human trafficking have remained the same throughout the past years; sexual exploitation, forced labour and forced criminal activity forming together ninety-four (94) percent of all identified human trafficking in 2018 (UNODC, 2021).

This dissertation focuses on a relatively overlooked form of THB, human trafficking for the purpose of sham marriages, namely exploitative sham marriages. Sham marriages as such violate the state and its immigrations laws, but exploitative sham marriages are crimes against a person, strongly linked to human trafficking and often orchestrated by organised crime groups (OCGs). The number of identified victims of human trafficking and sham marriages has been rising over the recent years, however efforts in terms of prevention seem to face numerous challenges in the EU. The Member States widely lack the tools, guidance, and resources to prevent exploitative sham marriages and to convict the traffickers, and a common ground inside the European Union's legislative bodies is still to be found. Several countries do not recognize the term sham marriage nor exploitative sham marriage in their national criminal codes (Eurojust, 2020), in other cases fallacious expressions are used as synonyms of it. Varying legislations and procedures in EU Member States make international cooperation particularly challenging, and traffickers exploit this obscurity by choosing the countries of the vaguest laws.

Human trafficking for the purpose of sham marriages has not been a subject of much research, especially in Europe. Between 2015 and 2016, the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI) conducted the first systematic international research on sham marriages and human trafficking inside the EU, cooperating with partners from five countries: Estonia, Latvia, Lithuania, Slovakia, and Ireland (Viuhko et al, 2016). The research aimed to produce fact-based findings on the phenomenon that could function as a platform for the EU countries to implement in national legislations, regulations, and procedures. The EU-funded research established a definition of exploitative sham marriage to clarify the difference between a plain sham marriage violating the state laws, and a sham marriage with links to human trafficking, in which people in vulnerable positions are exploited, and their fundamental human rights violated (Viuhko et al, 2016).

This dissertation focuses on human trafficking for the purpose of sham marriages inside the European Union and aims to examine and understand the phenomenon to a further extend. Since neither sham marriages nor exploitative sham marriages are commonly addressed in criminal laws of the EU Member States, the author decided to explore this theme, and in particular to understand, how are exploitative sham marriages prevented in the European Union, and how have the European Union Member States in the Baltic region implemented the findings of project HESTIA<sup>1</sup>. The focus is drawn on three of the five countries involved in the project, Estonia, Latvia and Lithuania, also known as the Baltic states. By the time of this research, over four years have passed since the publishing of the results of project HESTIA, and the EU countries have had time for reflection, especially the cooperation countries. The author is particularly keen on observing the stages of development on national and European level in the light of the topic, and if there have been any major changes in the countries' legislations, regulations, and procedures when it comes to combating against – and preventing human trafficking and sham marriages. Since human trafficking for the purpose of sham marriages is an issue affecting all EU countries, the author explores if there are regional differences when it comes to

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<sup>1</sup> Preventing human trafficking and sham marriages: a multidisciplinary solution (HESTIA) project, was an EU-funded international project active in 2015-2017, established to understand better the links between sham marriages and human trafficking. The project partners came from six different countries: Estonia, Finland, Ireland, Latvia, Lithuania and Slovakia (Viuhko et al, 2016).

trafficking victims and in what ways people in vulnerable positions are lured into exploitative sham marriages. After the Baltic states joined the EU in 2004, the countries' diplomatic missions abroad started to take notice to an increased number of Baltic citizens concluding marriages with third-country nationals abroad, many of them later identified as sham and the EU citizens seeking for help as victims of exploitative sham marriages. As the number of identified victims of human trafficking has increased also in other newly joined EU Member States after joining the union, the question of 'can political transformation of joining the EU be a facilitator of risk of sham marriages and THB' is explored, addressing also preventative measures that could be taken in the future as new countries join the EU. Based on the research findings, the question of 'what should be done in the EU to robustly combat against exploitative sham marriages' will be answered and several recommendations are given. As the current international agreement of the definition of human trafficking and its forms is not comprehensive enough to allow Member States of the EU to prevent and tackle exploitative sham marriages, recommendations are given on how it could be improved and expanded to be more inclusive in terms of exploitative sham marriages.

The study is conducted through a qualitative research approach. Qualitative research approach allows the author to interpret and analyse the collected material, and the derived findings from it thematically. Utilizing exploratory research, combined with descriptive method, the author is exploring the phenomenon of human trafficking for the purpose of sham marriages and investigate a problem that still lacks a universal definition. Establishing such terms and definitions is crucial for countries to implement compatible legislations and to allow further research and proper staff training and procedures. HESTIA project is used as a case study in the dissertation, as the findings from the cooperation countries illustrate well how the work against human trafficking and sham marriages has been executed in the recent history in the EU. The information gathered from these countries, regarding the victims, the traffickers, and the organised crime is case-by-case material, but it gives valuable data that can be utilized in a work against exploitative sham marriages in the European level as well. This data is gathered and analysed through documentary research method, focusing on the most recent data available, such as country – and project reports, criminal codes and studies executed by EU agencies and organisations. The country reports of the Council of Europe the Group

of Experts on Action against Trafficking in Human Beings (GRETA) and the Baltic Sea Region Round-Up report from 2020 by the Council of the Baltic Sea States (CBSS) Secretariat serve as a cornerstone of our research, due to the practical view and country-specific data they offer. Documentary research was selected as the research method since the focus is on the operations and action measures already documented. The data created after project HESTIA ended is highlighted, in order to see if these measures were derived from the findings of the project, and to enquire if there are any linkages between the project output and subsequent action taken. All countries that took part in the project HESTIA published final reports, which included recommendations and further steps to be taken at the national level. The reports of Estonia, Latvia and Lithuania are analysed in order to observe whether the crucial work is proceeding in the Baltic states. In addition, the examples from other Member States of the European Union are utilized as a tool for comparison purposes, in order to form a clearer picture of the overall situation of the fight against human trafficking for the purpose of sham marriages in the European Union.

The topic of this dissertation is aligned with the author's academic and personal background. The author's bachelor thesis<sup>2</sup> addressed women in vulnerable positions falling to victims of crime in situations in which exploitation is strongly involved, just as in exploitative sham marriages it is. Furthermore, the author has a special connection to the Baltic states due to living in Estonia for several years. This gives a strong connection to the choice of case study countries, in addition to the fact that Estonia, Latvia and Lithuania were involved in project HESTIA, which decidedly gave the most significance to the choice. This research applies and deepens topics addressed in the master's programme in Criminology in Fernando Pessoa University, examining a complex crime which combines features from various different thematics.

The dissertation proceeds as follows: The first chapter illustrates the theoretical framework concerning human trafficking and how the crime has been countered globally and in the EU level throughout the past two decades. The term sham marriage is defined, its linkage to human trafficking and definitions used in this dissertation are clarified. Finally, the linkage between organised crime and sham marriages is explored, focusing

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<sup>2</sup> Tikka, R. (2018). *Peacekeeping Economy as the cause of Sexual Exploitation and Abuse of Women – the Case of Democratic Republic of Congo*. Tallinn. Digital Collection of TalTech Library.

on victims' recruitment and the profiles of the victims and traffickers involved. The second chapter concerns methodology; the methods used to conduct this research are explained as well as the theoretical framing underpinning them. The chapter provides the information of the case study used in this research, Project HESTIA, its features, aims and major findings. The methods and materials used to derive this information are further explained. The third chapter applies theory into analysis, as the work done against human trafficking and sham marriages in the case study countries is presented and further discussed. The terminology and definitions used are addressed, the legislative measures taken in the countries, the training of relevant professionals and victim assistance and identification. The conclusions show that project HESTIA operated as a needed wake-up call for the specificity of exploitative sham marriage, often overlooked and misread crime. Moreover, the project generated several action measures in the countries, especially in terms of awareness raising and international cooperation within the Baltic states. The governments are now cooperating in common projects, seminars and trainings for professionals of different fields. There is still a lack of training especially in mental health issues that needs to be addressed, and the distribution of qualified professionals is not balanced yet, and some municipalities still lack specialised knowledge and professional assistance. This is alarming as the victims of human trafficking and sham marriages often come from these more rural regions of the country. Despite that project HESTIA developed the definition of exploitative sham marriage, it is not yet commonly utilised in the agencies, criminal codes nor among the academics. This dissertation states that the terminology, definitions and laws concerning sham marriages and exploitative sham marriages are too vague, resulting in unharmonized legislations and further complicating cooperation among different countries and the conviction of the criminals involved in this transnational crime. Effective cooperation between the EU Member States through joint investigation teams and harmonised legislations would result in more accurate statistics when it comes to (exploitative) sham marriages. In particular it would favour victim identification processes and the overall understanding of this multidimensional crime and how it could be more successfully prevented. The examples drawn from newly joined EU member states show how these countries are in vulnerable position in terms of increased organised crime and becoming an origin country of human trafficking, as well as sham marriages. This should act as a lesson learned to ensure safe political transition in the future when countries join the EU. Furthermore, the steps to be taken in the future in the

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field are discussed, as well as stating the most significant challenges currently facing the prevention and combating against exploitative sham marriages.

This dissertation attempts to increase the much needed visibility of exploitative sham marriages and state the current limitations in tackling this crime in the EU. The most significant limitations are the unharmonized legislations and definitions and the lack of common understanding of the nature and scope of the crime. If EU countries would all criminalise sham marriages and recognise it as a form of human trafficking in criminal codes, this would make the international cooperation and convicting the traffickers more effective. Furthermore, the definition of exploitative sham marriage should be implemented to a further extend, in order to better understand the differences with respect to other marriage-related crimes.

## **I. THEORETICAL FRAMEWORK**

Preventing and combating human trafficking in its various forms has become one of the top priorities of different international agencies in the European Union over the past two decades. As some of the forms are emphasized and clearly stated in international and national legislations, sham marriage is still a subject without a universal definition and therefore is a particularly challenging crime for relevant authorities to identify. The literature review describes and discusses the definitions of the relevant concepts within the topic, utilizing both internationally agreed definitions and those discussed in academic literature. The brief history of international intervention against transnational crimes is explained as well as the development of its legislative framework in the EU. The end of the chapter focuses on victims of exploitative sham marriages, how they are recruited and lured into trafficking and what do we know about the traffickers.

### **1.1. Trafficking in human beings, human smuggling, and international intervention**

Human trafficking is a detrimental crime using violence, and different forms of exploitation. Traffickers coerce or trick victims to commit criminal acts, to work as a cheap labour force or to provide sexual services, exploiting the vulnerability or the age of a victim (Hughes, 2014). Exploitation of some form is always present in human trafficking, and it may show as physical, psychological, or sexual violence (Viuhko et al, 2016). THB can be linked to numerous criminal activities, such as migrant smuggling, money laundering, tax evasion and document fraud (Caparini, 2014), and exists locally, regionally, nationally, internationally, and transnationally (Blazek et al, 2019; Gębska, 2020) often associated with organised crime. Trafficking in human beings affects every country across the world either functioning as an origin, - transit or destination country of trafficking. International THB takes advantage of distinct country legislations and cross-border transportation and is therefore particularly challenging to prevent.

The first significant and robust international intervention towards human trafficking took place on November 15<sup>th</sup>, 2000, when The United Nations General Assembly adopted the

United Nations Convention against Transnational Organised Crime (UNTOC) (UNODC, n.d.). The Convention entered into force on September 29<sup>th</sup>. 2003 obliging the countries ratifying it<sup>3</sup> to adopt and implement the international protocols to the national arenas and recognize the seriousness of the crime in general. UNTOC consists of three protocols, all targeting specific areas of organised crime: trafficking in persons<sup>4</sup>; smuggling of migrants<sup>5</sup>; and trafficking in firearms<sup>6</sup> (UNODC, n.d.). The fact that two decades after the approval of the convention the three crime areas subject of the protocols remain on the top of the European Union Agency for Law Enforcement Cooperation's (Europol) priorities (Europol, n.d.), illustrates the importance of the theme explored in this project. The EU-policy cycle of 2018–2021 enumerates the most threatening international crimes, requiring special intervention and cross-country cooperation. The list includes trafficking in human beings, illicit firearms trafficking and facilitation of illegal immigration (Europol, n.d.).

The most far-reaching and internationally significant effects of Anti-Trafficking Protocol and Anti-Smuggling Protocol have been the definitions they have offered for human trafficking and smuggling. Considering that human trafficking and smuggling have numerous similarities, and the terms are often confounded or used interchangeably the need to clearly distinguish both is especially important, namely in the policy-and law making domains. In order to establish universal definitions for previously undetermined crimes, UNTOC mandated ratified countries to implement the definitions given in the convention to national legislations and criminal codes to further strengthen the international cooperation between countries. The Anti-Smuggling Protocol defines human smuggling as:

*“The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident”*  
(The United Nations Refugee Agency, 2008).

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<sup>3</sup> Since this research is conducted in Portugal, it is worth to mention that Portugal ratified the Convention in 10/05/2004, and it entered into force in 09/06/2004. For more information, see: <https://www.ministeriopublico.pt/instrumento/convencao-das-nacoes-unidas-contra-criminalidade-organizada-transnacional-0> [Accessed 27 July 2021].

<sup>4</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

<sup>5</sup> Protocol against the Smuggling of Migrants by Land, Sea and Air.

<sup>6</sup> Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition.

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Human smuggling is therefore transnational by nature and persons are transported, transferred, or harboured across country borders (Europol, 2016a). Smuggling may be carried out by using force or coercion for instance, but more often persons are smuggled willingly (The United Nations Refugee Agency, 2008). The Anti-Trafficking protocol in turn defines trafficking in human beings as following:

*“Article 3, paragraph (a) of the Protocol states that trafficking in persons “shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.” (United Nations, 2003).*

As the UN definition states, trafficking is more threatening in nature when compared to smuggling of persons, executed by force of some kind and with the purpose of exploitation.

Ever since Anti-Trafficking Protocol was introduced, the European Union, being a party to UNTOC, has developed several different recommendations to fight against human trafficking (Gębska, 2020). The European Conference against Trafficking in Human Beings held in Brussels in 2002 resulted into a declaration involving recommendations and guidelines for EU Member States to implement, such as promotional campaigns and assistance programs, also highlighting the exchange of trafficking related information between the countries (Gębska, 2020). The declaration did not oblige the states to implement legislative measures though, mainly providing information and more general recommendations at the national level. It was by means of the Council Framework Decision 2002/629/JHA that human trafficking was, two years later (August 2004), criminalised in the European Union (Hughes, 2014), and led to the Council of Europe Convention on Action against Trafficking in Human Beings, entering into force in February 2008 (CoE, 2020). The more recent directive regarding trafficking in human beings set in the EU level is Directive 2011/36/EU on Preventing and Combating Trafficking in Human Beings and Protecting Its Victims (Anti-trafficking Directive) issued in 2011 (Hughes, 2014).

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To this day, the Council of Europe Convention on Action against Trafficking in Human Beings has been ratified by 47 states, therefore being obliged to implement the legislative measures, procedures, and regulations in their respective countries (CoE, 2020). The Group of Experts on Action against Trafficking in Human Beings (GRETA) is an independent monitoring mechanism set up by the Council of Europe, ensuring the convention is comprehensively implemented in practice (CoE, 2020). Each member country is separately evaluated on a four-year basis in terms of the work against trafficking in human beings, its prevention and victim identification and assistance. The country reports of GRETA offer an encompassing insight to concrete actions executed in terms of human trafficking, as well as areas of improvement, in the European level in the respective countries.

Gathering data and statistics on human trafficking and its victims relies strongly in the identified victims, suspects, prosecutions, and convictions of traffickers the countries report. European Commission together with European Union Statistical Office (Eurostat) have been collecting data on human trafficking since 2008. The first official report published in 2013 (European Commission, 2020). The three newest reports, indicating statistics in human trafficking from 2013 until 2018, show how the number of identified victims has increased gradually throughout the years. According to European Commission, between the years 2013 and 2014 there were 15 846 victims of human trafficking in all 28 EU Member States combined (European Commission, 2016). During the period 2015–2016 the number of victims rose to 20 532 (European Commission, 2018) and according to latest report which comprises data from 2017–2018, 26 268 victims of trafficking were registered (European Commission, 2020). Based on this increasing trend, the statistics will most certainly keep rising in the future reports as well. Trafficking in human beings is a complex phenomenon, it is difficult to measure and gather accurate data of. Therefore it is very likely that the actual numbers of victims as well as traffickers and offenders are significantly higher than what these reports indicate (European Commission, 2016).

## 1.2. Sham marriage and exploitative sham marriage

Sham marriage refers to marriage arrangement to which one or both parties enter with non-genuine reasons, such as to obtain a residence permit in the spouse's country of residence, or for financial gain. In the context of the European Union, sham marriages are often conducted between a third-country national (TCN) and an EU resident, TCN often being a male and the EU national a female (Viuhko et al, 2016). In the typical situation the motive of a third-country resident is therefore to obtain a residence permit in an EU country, and the EU resident is lured by financial motives to conduct the marriage. The deal is orchestrated by a third party, which may be someone from the EU resident's inner circle, a stranger or in some cases a person from an OCG.

In the current academic literature, sham marriage does not have a universal definition, and the concept is understood differently depending on the context, the country, and the language in question. A Common feature of these definitions is the emphasized instrumental nature of the marriage, lacking the factor traditionally making the marriage genuine, love. Andrikopoulos (2019) defines this type of marriage in his work *Love, money and papers in the affective circuits of cross-border marriages: beyond the 'sham'/'genuine' dichotomy*, as a marriage that has nothing to do with love, only aiming for a residence permit (Andrikopoulos, 2019, p. 2). The author states that this is how immigration authorities distinguish 'genuine' and 'sham' marriages, assuming that interests and emotions are separate domains in ones' social life and not in contact with one another (Andrikopoulos, 2019, p. 2). Wray (2015) describes sham marriage as an arrangement conducted for immigration purposes "with the sole aim of circumventing the rules on entry and residence" (Wray, 2015, p. 2). On the other hand, as the European Commission's handbook published in 2014 on marriages of conveniences suggests, "a marriage cannot be considered as a marriage of convenience simply because it brings an immigration advantage, or indeed any other advantage" (European Commission, 2014, p. 9). The handbook states that factors such as tax advantages or right for a common surname may play a role when deciding to get married (European Commission, 2014). A lack of universal definition that could be used across the world to define marital practices makes differentiating non-genuine marriage from a genuine particularly challenging. As marital practices vary across countries, cultures and religions, a narrow view can lead to

prejudiced and incorrect conclusions that a marriage is non-genuine, solely because it does not fit to a specific concept of marriage (Ibid.,). The European Commission's handbook suggests therefore that the main difference between a genuine marriage and a sham marriage is the intention behind the agreement (Ibid.,). Sham marriage is a legally binding marriage, using genuine documentation and with the presence of both parties, but the intentions behind the marriage are not equivalent to those of a genuine marriage. In general, there are specific conditions that need to be met when conducting a marriage in a European Union country (Viuhko et al, 2016). Such conditions are for instance that both parties need to be above a specific age, are in a psychological state to make their own decisions and that the marriage is entered by free will (Viuhko et al, 2016). When this basis is found, the decision whether a marriage is a genuine one or not is often resting in the registrant's discretion.

There exist several terms that are used as synonyms for sham marriage, depending on the context, the source, and the country in question. Some of these terms are misleading in terms of definition, referring to slightly different concepts. For instance, bogus marriage, fake marriage, and false marriage are conducted using non-genuine documents or forced marriage certificates, whereas sham marriage, marriage of convenience, forced marriage and marriage deception are otherwise legally binding marriages, only the motive behind them can be considered fake (Viuhko et al, 2016). Many agencies, organisations and academics use a term of marriage of convenience when describing a sham marriage situation, and that is presumably the closest synonym to utilize. The author decided to use sham marriage instead of marriage of convenience in this research, since marriage of convenience is more often assimilated with migrant smuggling, whereas this research focuses on human trafficking, in which sham marriage and more precisely exploitative sham marriage illustrate the phenomena.

A crucial distinction needs to be drawn between the terms of forced marriage and a sham marriage. Forced marriage is formed under coercion, threats or otherwise without the free will and full consent of one or both parties (Viuhko et al, 2016) and the crime is often straightforwardly understood as human trafficking (UNODC, 2021). Sham marriage as such does not necessarily involve trafficking elements and is at least initially conducted in a mutual agreement. Concluding a sham marriage in a common understanding of both

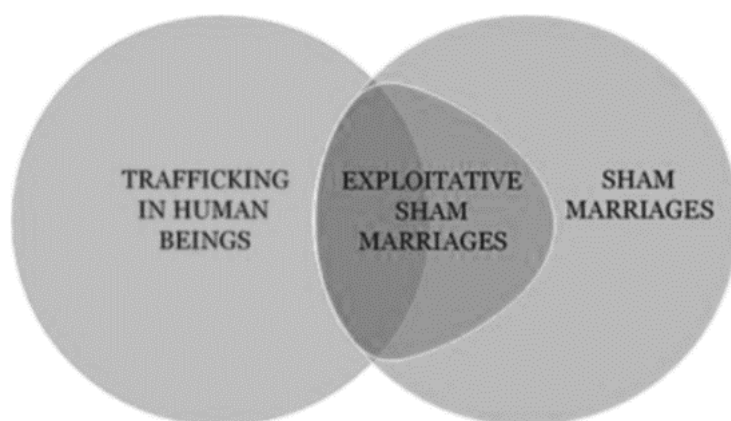
of the parties is a crime against a state and its immigration laws, and this is how marriage of convenience is also commonly understood. The arrangement gives the third-country national a fraudulent access for the rights and benefits a country has to offer, from the residence permit to free healthcare, education, and free movement between the EU states. As the European Union Agency for Criminal Justice Cooperation (Eurojust) states in the report of sham marriages inside the EU (2020):

“Sham marriages are also a direct abuse of the fundamental right to freedom of movement within the EU and creates, for instance, unjustified access to the European labour market and social security benefits in the Member States” (Eurojust, 2020, p. 1).

As such, when sham marriage is conducted under mutual understanding and agreement of all parties involved and expectations are met throughout the process, all parties infringe immigration laws, but no human rights are violated in the process. Even in cases where no-one is hurt physically nor psychologically, features of human smuggling are often involved. According to Europol (2016), a common human smuggling case is when people are transported illegally across borders and then left alone (Europol, 2016a). In the European context, the majority of sham marriages are conducted between an EU resident and a TCN, needing the marriage to legally stay or relocate in the EU. In the case of the marriage process being arranged by a third party, the criteria of a smuggling offense are met. When somewhere through the process the agreed promises are not kept between the parties, the EU national does not receive the salary for her<sup>7</sup> commitment, or there emerges exploitative elements, the situation can turn into human trafficking. Exploitative sham marriage involves exploitative elements that can range from verbal threatening, controlling, and forcing, to physical- and sexual violence (Viuhko et al, 2016). In a situation where concluding a sham marriage turns into human trafficking, the role of an EU citizen as the spouse may change from a perpetrator of an offence or a fraud against the state, to that of a victim of exploitation and human trafficking.

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<sup>7</sup> The acronyms “she” and “her” are utilized when referring to victims of exploitative sham marriages in this study. The dissertation focuses solely on such cases, where the EU national conducting a sham marriage is a female, and the third-country national seeking for residence permit a male, since this represents the majority of identified sham marriage cases in the European Union.



**Figure 1.** Trafficking in human beings, exploitative sham marriages and sham marriages. Source: Viuhko et al, 2016.

When the initial perpetrator turns into trafficking victim in the midst of a crime, the situation gets a complex and, in many ways, challenging turn also from the perspective of the authorities. The Majority of the EU Member States do not recognize sham marriage nor exploitative sham marriage as a criminal offense in national criminal codes (Eurojust, 2020) and exploitative sham marriages are not distinct form of human trafficking in the reports of the United Nations Drugs and Crime Office (UNODC) nor in several GRETA reports for instance. In terms of an offense, exploitative sham marriage may in fact include features from all the large-scale forms of human trafficking from sexual exploitation to forced labour and forced criminal activities and these may overlap in reality. UNODC together with HEUNI indicated in the issue paper addressing connections between human trafficking and marriages (2020) how forced, abusive, and exploitative marriages, such as exploitative sham marriages, can be linked to all three elements of human trafficking defined in the Anti-Trafficking Protocol: act, means and purpose (UNODC, 2020). In sham marriages and exploitative sham marriages, marriage is the instrument how TCNs are planned to get the residence permit in the EU country, as well as the component through which victims are initially lured and recruited. In many cases, EU residents as victims are transported or transferred into destination country, by means of abusing their vulnerable position and for exploitative purposes (UNODC, 2020). Therefore, in this research exploitative sham marriage term, developed by project participants of the project HESTIA is utilized to describe the linkage of trafficking in human beings and sham marriages, and sham marriages are understood as a form of exploitation in human trafficking, despite of the current unrecognition in international

and national criminal laws. It is important to understand that the victims of exploitative sham marriages may also be men and the TCNs women, or both parties may represent the same sex. In the European Union, the statistics show that majority of the EU citizens are women and TCNs men, so therefore in this particular research the victim is referred as 'she' and TCN's as 'he'.

### **1.3. Organised crime groups, human trafficking and exploitative sham marriages**

While human trafficking may occur without organised crime, experts suggests that it is often involved in it (Viuhko et al, 2016). Especially transnational and inter-continental trafficking requires planning, organising and networks of a more or less organised group of people. Organised crime groups are a complex and challenging to research, in fact the concept of organised crime itself remains divisive among the academics. Caparini (2014), defines OCGs as loose shifting network structures, involving actors also outside of the group, such as individual criminal entrepreneurs (Caparini, 2014, p. 6). According to Korsell (2018) organised crime groups by definition commit crimes in an organised form, misusing the regulations of the countries' (Korsell, 2018, p. 159). Viuhko (2018) defines OCGs also as "network-like activity or as a chain of activities" (Viuhko, 2018, p. 4). Franț (2020) suggests that not all organised crime groups seek solely on making profit through illegal activities, but the members of the group can share a feeling of attachment towards one another, a social network and sometimes family ties which define the activities of the group (Franț, 2020, p. 104). United Nations has given its definition in the Convention against Transnational Organised Crime, defining it as a structured group of three or more persons, which exists for a period of time to commit at least one serious crime addressed in the convention, aiming to obtain either directly or indirectly financial or material benefit from it (UNODC, n.d.). From these definitions it can be stated that every organised crime group differs from one another in the level of professionalism, in terms of hierarchy and structure of the group and depending on the crimes they commit, and a too narrow definition could be seen as elusive in some cases.

Just as human trafficking in general, sham marriages are as well often part of organised scheme. Sham marriages as such are sometimes concluded between two acquaintances,

in which a third party is not involved and even money does not necessarily exchange hands (Wray, 2015), but most of the time sham marriages are part of organised criminal activity (Eurojust, 2020; European Commission, 2014; Europol, 2014; Viuhko et al, 2016). Exploitative sham marriages, as a form of human trafficking involve at least one third party as a recruiter or organiser of the marriage, also gathering the profits of the arrangement. The organiser often is a member of OCG or acts on behalf of one (Eurojust, 2020; Europol, 2014). As organised crime and exploitative sham marriages are low profile crimes involving hidden populations the statistics are defective and challenging to gather (Caparini, 2014). Therefore, it cannot be reliably stated how often organised crime groups are involved in human trafficking or in sham marriages. UNODC states that when organised crime groups are identified, there are more victims trafficked, for longer periods and more violence used in the process when compared to single traffickers (UNODC, 2021). Eurojust report on sham marriages (2020) also states that even though not many sham marriage cases are referred to Eurojust yearly, whenever there is an identified case,

“it becomes clear that there are several other, more serious, criminal activities associated to sham marriages, including migrant smuggling, trafficking of human beings and organised crime” (Eurojust, 2020, p. 12).

Since in exploitative sham marriages human trafficking is always involved, and third party is organising the marriage, transportation and often accommodation of the EU national and the TCN, exploitative sham marriages can be seen strongly linked to organised crime and organised crime groups.

#### **1.4. Recruitment of victims**

This sub-chapter focuses on factors contributing on individuals falling to victims of exploitative sham marriages, and how they are recruited and lured into concluding sham marriages with strangers. The characteristics of both victims and recruiters are presented. Even though the author' focus is on recruitment for exploitative sham marriages, the recruitment process as well as the characteristics of the victims can be similar in other forms of human trafficking as well. A 'push and pull' -model is represented to illustrate causes of human trafficking and the key drivers for people in vulnerable positions to fall

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into victims of trafficking. Several examples of push and pull factors presented in this chapter address victims of human trafficking in general, not exploitative sham marriages specifically. Since in exploitative sham marriages the victims are initially voluntary involved in the marriage, and the trafficking elements emerge later on, it can be stated that in exploitative sham marriages the means of recruitment is rarely coercion, but rather deception through false promises.

When addressing drivers of human trafficking victims, several agencies such as Europol refer to push and pull factors. Push factors are social, economic, political and legal factors making people vulnerable and further influencing to look for opportunities to leave the country of origin and end up falling as a victim of exploitative sham marriage. In the contrast, such factors can make a country an attractive country of destination, functioning as pull factors.

**Table 1.** Examples of push factors of victims of exploitative sham marriages

<b>Push factors</b>	
<b>Social</b>	Lack of education and awareness Gender based discrimination or other discrimination Persecution, violence and abuse of different forms Mental health conditions Loneliness, naivety, trust in people Convincing acquaintances, friends, family or recruiters Drug addiction, other addiction
<b>Economic</b>	Inequalities in labour market Unemployment Poverty Financial and economic problems, outstanding debt Homelessness
<b>Political</b>	Conflict or war
<b>Legal</b>	Human rights violations

Source : Eurojust, 2020; Europol, 2016a; Europol 2020; Sirgedienė, 2020; Viuhko et al, 2016. Table edited by the author.

**Table 2.** Examples of pull factors of victims of exploitative sham marriages

<b>Pull factors</b>	
<b>Social</b>	Diaspora communities 'Lover boy' method
<b>Economic</b>	Employment opportunities and good working conditions High salaries Economic crisis Increased demand of cheap products and services
<b>Political</b>	Political stability, welfare state
<b>Legal</b>	Differences between the legislations of EU Member States

Source : Eurojust, 2020; Europol, 2016a; Europol 2020; Sirgedienė, 2020; Viuhko et al, 2016. Table edited by the author.

When it comes to push and pull factors driving people as victims of human trafficking and exploitative sham marriages, the crucial matter involving many of them are the lies and false promises when such factors are presented to potential victims. For instance, the promises of economic and social benefits such as a high salary and good employment opportunities, and also utilizing the 'lover boy' method where victims are lured to get emotionally attached to the recruiter (Europol, 2016b) are common ways to recruit victims. The recruitment often begins in the victim's home country, the country of origin. According to Europol (2021), nowadays victims are recruited almost invariably in online domain (Europol, 2021), where recruiters approach potential victims either actively through 'hunting' strategies, or passively through 'fishing' strategies (UNODC, 2021). Social media and other internet platforms are used to approach the victim, often initially through a friendly introduction that later on becomes increasingly aggressive (hunting), or the recruiter may post advertisements in websites and social media platforms and wait potential victim to respond and approach the recruiter (fishing) (UNODC, 2021). The constant emerging of new technologies, cryptocurrencies and numerous service providers offering money transfer through non-legit financial institutions, make it difficult for law enforcement to keep up and successfully identify patterns related to recruitment for human trafficking (see e.g. Europol, 2021).

Along with internet recruitment, victims of exploitative sham marriages are recruited by friends and acquaintances or even family members. This creates an illusion of safety and trust, as a fellow national and usually female as well persuades to conclude a sham marriage. Whether the recruitment occurs in internet domain or in person, in exploitative sham marriages the initial objective for the recruiter is to build an illusion of trust in the victim, exploiting her vulnerabilities or making use of other push and pull factors. According to expert interviews in project HESTIA (2016), the women were made to think a sham marriage abroad as a safe and attractive opportunity, which would not come to knowledge of the origin country' authorities and therefore would not cause future problems after returning back to the home country (Viuhko et al, 2016). Even though the pull factors presented to victims to attract to conclude sham marriage abroad would be factual and true, there is invariably deception and manipulation involved in the recruitment process. In exploitative sham marriages the actual exploitation occurs often just in the destination country, and coercion or forcing victim to conclude a sham marriage are not means of recruitment.

Throughout the recent years, the portion of male and female traffickers of human beings have remained approximately the same, according to statistics of the European Commission (European Commission, 2018; 2020). The share of female traffickers has been nearly one-quarters of the total in the statistics gathered since 2010 (European Commission, 2016; 2018; 2020). Europol suggests that even though majority of the traffickers are men, the portion of women is rising (Europol, 2021). The recruiters and traffickers may be friends, relatives, family members and acquaintances, sometimes having concluded sham marriages themselves, and now receiving profit for luring more (Ibid.,). The majority of the traffickers in Europe are themselves from the European Union, according to statistics of the European Commission (European Commission, 2020). Between the years 2017 and 2018 there were 7213 EU nationals as suspects of THB, of which 2901 were prosecuted and 1702 convicted (European Commission, 2020). During the same years 3404 non-EU citizens were suspected of THB, of which 2244 were prosecuted and eventually 672 convicted (European Commission, 2020).

As a conclusion, while sham marriages can be concluded without a third party as an organiser, exploitative sham marriages are strongly linked to organised crime and

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organised crime groups. A common recruitment method is deception through false promises, lies and manipulation regarding for instance economic and social benefits or other factors presented in the push and pull model. Victims are increasingly recruited in online domain, but recruiting through acquaintances, friends or family members is common as well, creating an illusion of trust.

## **II. METHODOLOGY**

In this research, the author is seeking to explore how sham marriages and exploitative sham marriages are prevented and combated against in the European Union. The current nature of the work done is addressed, and how it has developed in the EU and especially in the Baltic region during the recent years through a qualitative approach. The research material consists of the most recent country – and general reports, analyses and issue papers published by the Council of Europe, Europol, Eurojust, the European Migration Network and Council of the Baltic Sea States, published in 2017 or later. Preventing human trafficking and sham marriages: a multidisciplinary solution (HESTIA) project, effective years 2015–2016, is utilized as a case study to illustrate how exploitative sham marriages have been researched in the EU before, and what findings were made. The project countries included Estonia, Latvia, Lithuania, Slovakia and Ireland, of which this dissertation focuses on the Baltic countries: Estonia, Latvia and Lithuania. Due to shifts in recent years, the Baltic countries represent origin and transit countries of human trafficking and sham marriages, but increasingly also destination, therefore adequately reflecting the overall situation in Europe in terms THB.

The first subchapter revises the research questions used in the dissertation and introduces the qualitative research strategy. The case study is presented in detail in the second subchapter, followed by the description of the research method utilized in the research. Research instruments are listed and explained and after that the rationale of the chosen methodology is explained, as well as the limitations of this type of research. The ethical issues of researching sensitive subjects of human trafficking and exploitative sham marriages are discussed in the end of this chapter.

### **2.1. Research questions and research strategy**

The research answers the question:

How are exploitative sham marriages prevented in the European Union?

The question is answered through the following sub-questions:

1. How have the European Union Member States in the Baltic region implemented the findings of Project HESTIA?
2. Can political transformation of joining the EU be a facilitator of risk of sham marriages and THB?
3. How are sham marriages criminalized in the EU?
4. What should be done in the EU to robustly combat against exploitative sham marriages?

To answer these research questions, a qualitative research approach is utilized. Qualitative research is less common approach in the field of criminology, but it offers in-depth understanding of concepts, crimes, criminals, and justice operations to which purely statistical, quantitative research could not compare (Tewksbury, 2009). Qualitative research enables the author to observe and highlight the phenomena of exploitative sham marriages and human trafficking, a crime, which cannot be purely explained by numbers and variables (Khan, 2014). Qualitative approach in research may give more rich and informative findings, offering more enhanced understanding of concepts, creating new theories to the field (Tewksbury, 2009). In qualitative research, the researchers themselves are the key instruments (Creswell, 2009), collecting and analysing data of different forms, providing foundation for theoretical advancements (Tewksbury, 2009).

## **2.2. Research design: Case study approach**

As human trafficking for the purpose of sham marriage is a relatively recent phenomenon in the European context and current statistics do not reflect the whole scope of the issue, there is a limited amount of research done in the field. The author chose to look at the phenomenon through a case study approach, focusing on a single research project previously conducted regarding the linkage of human trafficking and sham marriages. According to Babbie (2010), a case study focuses on a social phenomenon through a single instance, which might be a particular group or a period of time (Babbie, 2010, p. 309). Limiting the attention on a particular instance is essential (Babbie, 2010), as intensive analysis of a single case allows the researcher to provide an in-depth observation of it (Bryman, 2012). The author is eager to put the existing theory of human trafficking for the purpose of sham marriage into concrete, practical measures employed in the EU

Member States, in which a case study approach becomes particularly useful, as it generates multifaceted understanding of a complex issue in a real-life context (Crowe et al, 2011). According to Crowe et al (2011), case study approach helps to “understand and explain causal links and pathways resulting from a new policy initiative or service development” (Crowe et al, 2011, p. 4) and is therefore widely used in different disciplines of social sciences.

HESTIA project ‘Preventing Human Trafficking and Sham Marriages: A Multidisciplinary Solution’ was EU-funded cross-country research carried out between January 2015 and December 2016 (Viuhko et al, 2016). HESTIA involved six EU Member States and was the first international research conducted in the EU regarding the connections of human trafficking and sham marriages. The field work was done in five countries: Estonia, Latvia, Lithuania, Slovakia and Ireland, Finland operating only as a project partner and a location of the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI) (Viuhko et al, 2016). The project aimed for establishing a research-based platform for the EU Member States, to evaluate the national situations when it comes to human trafficking and sham marriages, and further ensuring implementation of the findings of the research. HESTIA sought strengthening international cooperation between the EU countries, emphasizing the importance of training of the professionals, raising awareness on the very little researched topic of sham marriages and present through concrete findings how the phenomenon of human trafficking through sham marriage is considered in the EU (Viuhko et al, 2016). All the five countries evaluated and published their findings in the end of the project, also stating the work that still needs to be done in the national levels in terms of human trafficking for the purpose of sham marriage. One of the most significant outcomes of project HESTIA was the establishment of the definition of ‘exploitative sham marriage’, referring to sham marriage with exploitative elements and strongly linked to human trafficking (Viuhko et al, 2016). The term exploitative sham marriage has been referred in publications by different organizations and agencies since the project but has not yet received an extensive attention.

In this dissertation, the aim is to explore and research the current work done in the EU regarding exploitative sham marriages. Project HESTIA was chosen as a case study, since

it can be seen as a pioneer in the EU-level, focusing on the topic that has been otherwise widely overlooked and even misunderstood. Even though the project focused on only five countries in the EU, the tools and findings it created can be implemented widely in other EU Member States as well. The countries include origin, transit and destination countries of human trafficking, therefore representing comprehensively how countries combat THB, despite of having different standpoints to the crime. Being the first international study of exploitative sham marriages in the EU, HESTIA created a fact-based platform for developing future research. Still, a half a decade later HESTIA remains relatively unique study in the EU, and there is a lack of research conducted exclusively in this topic after HESTIA.

This research evaluates how the three out of five HESTIA -project countries, Estonia, Latvia and Lithuania are preventing and combating against human trafficking for the purpose of sham marriages by exploring how the countries have evolved and developed in different aspects in national levels after the project HESTIA ended. The Baltic countries were chosen as the main focus of this dissertation due to several reasons. Firstly, Estonia, Latvia and Lithuania are neighbour countries, located in the north-east part of Europe, sharing similarities historically and culturally. Due to transnational nature of human trafficking and sham marriages, the crime in one country arguably affects the border country also at least partially, creating an interesting platform for research, allowing to compare and measure the differences and similarities in crime and crime prevention between the countries. The Baltic countries cooperate with each other in international projects, studies and meetings in the field of anti-trafficking, providing updated data and statistics to measure, which for instance is not exactly the case of other HESTIA countries, Ireland and Slovakia. The Baltics joined the European Union in the same year, that is, 2004, which provided them with a similar basis for building their legislative and political approaches. Finally, the author's personal interests towards Baltic countries played a role in choosing the case study countries, previously working and studying in the region.

The aspects of analysis were chosen based on what each country stated as their future points of improvement in the end-reports of HESTIA. These points of improvement are also mentioned in several academic publications, as ways to prevent and further tackle

the problem of THB, as well as sham marriages. Every project-country had their separate reports as well as areas in need for future development, but mostly with the same themes largely recurring. These suggestions along with author's findings of the general trends in combat against exploitative sham marriages in the EU provided following categories to research and analyse:

*Definitions and terminology*

*Legislative measures*

*Training of staff and international cooperation*

*Victim identification and assistance*

*Role of the case study countries and other newly joined EU Member States in the human trafficking routes*

Definitions and terminology sub-chapter covers how sham marriage and exploitative sham marriage are defined in academic literature, in international organisations- and agencies, and in national legislations. The EU Member States have differences in criminalisation of sham marriages, and other countries utilize alternative legal basis in the Criminal Code when addressing such crimes. The current legislative situation, criminalisation and penalties of sham marriages of the case study countries are addressed, and the forms of exploitation in the Article of human trafficking in Criminal Code classified.

The author is analysing how training of staff in terms of THB and sham marriages have developed in recent years by researching national and international trainings, seminars and meetings of staff in different relevant fields and levels. The relevant staff considers different authorities, such as police officers, correctional staff, border control, lawyers, medical staff and social workers, as well as staff of embassies and consulates. Training of staff considers workers of relevant NGO's as well. International cooperation considers current and recent investigations and research executed transnationally in the field.

In the context of victim identification and assistance, the focus is on the measures done in recent years towards more effective identification of victims, help and benefits given to ensure the identified victims receive the help entitled for them. The sub-chapter

addresses also different campaigns and education given in the countries for raising awareness purposes. Presentations and lectures offered in schools and relevant educational institutions, in cities and municipalities for children and teenagers and other groups of people that may be vulnerable for becoming victims of human trafficking or exploitative sham marriages are considered as raising awareness and educating public. Furthermore, the roles of the countries are analysed in terms of human trafficking, and the differences of origin-, transit- and destinations countries in THB are identified.

These measures are explored country by country by utilizing official reports, documents and data no older than from January 2017. This is to ensure only the newest data is used, and to build possible linkages of country improvement to results of project HESTIA. The qualitative data analysis programme NVivo is used for data gathering and collection, where different sources are coded to different themes of our analysis. One of the primary sources for analysis are GRETA's country reports, as they express the countries' development, as well as the lack of it, in terms of combating against human trafficking in a practical manner. Other sources are reports and publications of verified organizations such as United Nations Drugs and Crime -office, Europol and Eurojust, the newest report of the Council of the Baltic Sea States as well as the Criminal Codes of the case study countries. Analysing the information found in different aspects gives the author valuable data on how the case study countries have improved in preventing and combating against exploitative sham marriages. This allows to make conclusions whether or not the project HESTIA was successful, and also reflecting the results on the overall situation currently in place is the EU in the combat against THB and sham marriage.

### **2.3. Description of the research methods: Documentary research**

The main research approach in this dissertation is documentary research method (DSM). As in social research in general, the author is seeking to find answers and explanations regarding a particular social phenomenon through systematic data collection to understand patterns and regularities of that phenomenon (Mogalakwe, 2006). Documentary research refers exactly to this, collecting, categorising, investigating, identifying, and analysing data containing information about the phenomenon wished to study (Mogalakwe, 2006). According to Flick (2009), analysing documents produced initially for practical purposes in the field of research can provide completely new

perspectives to (Flick, 2009, p. 261), illustrating well the purpose of this dissertation through qualitative documentary analysis. In this research, DSM refers to use of written documents in the public domain, texts which are written for another purpose than this study, but which contain objects telling indirectly about the research subject of this dissertation (Mogalakwe, 2006). Through DSM, researcher gathers a voluminous amount of data and reduces it to patterns and themes suitable for the research in question (Ahmed, 2010). According to Mogalakwe (2006), documents range from public to private to personal ones (Mogalakwe, 2006, p. 223). Public documents refer to government publications and policy statements for instance, whereas private documents can be private sector business' documents and data of non-governmental organisations such as board meetings and invoices and private individuals' documents. Personal documents include private person's diaries, photo albums and medical records (Mogalakwe, 2006). This research utilizes exclusively public, electronic documents such as annual reports, issue papers and country analyses of several agencies and organizations, as well as data found from their official websites. Using government publications and official statistics as a primary source for documentary analysis offers different kind of credibility than utilising documents produced by private persons. According to Denscombe (2007), government publications and official statistics provide authoritative, objective and factual data for analysis, still required to be interpreted with care (Denscombe, 2007, p. 227). In DSM, when handling data one needs to be particularly careful when choosing the selected data source. This cannot be emphasized enough when using solely electronic data, as the amount of unverified information and errors on the internet is immense.

“While digital technology (e.g., computers) provides opportunities for new forms of research, it should be remembered that it lends to the creation, modification, destruction and replacement of information with very little effort and cost” (Ahmed, 2010, p. 10).

The foundation of any type of scientific research, but especially in documentary research, is the quality of the evidence available for analysis (Scott 1990). Scott (1990) lists in his work regarding documentary analysis the four main aspects to take into consideration when forming DSM and ensuring the quality of the evidence, which are authenticity, credibility, representativeness and meaning (Scott, 1990, p. 6). These criteria refer to careful controlling that the evidence found and used in the research is genuine and free

from error, sufficiently typical of its kind, clear and comprehensible (Scott, 1990). In order for this research to meet with these criteria, the reports analysed are withdrawn directly from the official websites of the organisation or agency in question, not through third party sites. Additionally, when referring to a legislative measure such as law, criminal code, protocol or convention, the source utilized is directly that legislative measure in question.

The documents utilised in the analysis consist in total from twenty-six documents of different nature: annual reports, country reports, issue papers and guidelines. Six reports are GRETA's country and general reports, five are reports published by the office of the United Nations, five are reports published by Europol, four are European Commission reports and three are Eurojust reports. Additionally, the material consisted of one CBSS roundup report, and two other reports published by CBSS, one focusing on THB in Lithuania and one guideline for Media and THB in the Baltic Sea States. The material was gathered between 12/20 and 05/21.

## **2.4 Research instruments**

Secondary analysis is used in the research in forms of online, literature and case study research. Secondary analysis refers to utilizing already existing datasets relevant to the specific topic of a research (Kleck et al, 2006). According to Kleck et al (2006), secondary analysis method is used in 58 percent of the criminological empirical articles published, which also reflects the possible difficulties in original data gathering process in the field (Kleck et al, 2006, p. 149). This dissertation highlights and explores a very little researched and undefined phenomenon of human trafficking for the purpose of sham marriage through exploratory research combined with descriptive method (Khan, 2014). The aim is to understand this research topic to a further extent, conduct research findings which provide in-depth information about exploitative sham marriages in the EU, and a base for future research.

The keywords used in the data collection were European Union, exploitative sham marriage, human trafficking, sham marriage and organised crime. The reports of which the documentary research is consisting of are all either in the field of human trafficking,

human smuggling or serious –and organised crime. The most crucial legislative sources used are the national Criminal Codes and the international Conventions and policies in the field of human trafficking, such as UNTOC and the Anti-Trafficking Protocol.

## **2.5. Background and rationale of the chosen methods and materials**

The author found documentary research based on a qualitative approach to be the most efficient method for this particular research, since the interest is in the operations and action measures that have already been executed inside the European Union. Constructing a survey or a questionnaire is not seen beneficial in this type of research, since these methods provide opinions, experience, and knowledge of individuals, which would be seen irrelevant in this context, giving no added value in the needed extend. In this research, data is collected from selected sources, of which all the needed information is found in order to develop the research through a comprehensive analysis. These sources consist of official webpages of different agencies and organisations working in the field of human trafficking, human smuggling or organised crimes. In addition, information, laws and statistics are gathered from EUR-Lex, European Union Data Portal and from national Criminal Codes which are published in English language and are accessible for public. Every report, statistics and other used data is in public domain and accessible for any interested party, except the Eurojust report on national legislation and Eurojust casework analysis on sham marriages, to which the author was granted a private access.

## **2.6. Statement of limitations of the chosen methods and ethical concerns in the research**

As in any other research method, there exist limitations and dilemmas in documentary research method, such as limitations in resources when conducting the research. These limitations are for instance the lack of available data, inaccessible documents and documents with restricted access (Flick, 2009). When conducting this research, the author faced the dilemma of lack of necessary data, and the unclarity of some documents utilised. The confusion of the documents was not related to ability to interpret the documents, rather the deficiency of unified terminology. Human trafficking, human smuggling and organised crimes in general are difficult crimes to measure and identify, and the official

statistics do not reflect the actual scope of the situation. Since this research focused on sham marriages and exploitative sham marriages, the predicament of lack of data was accentuated. As (exploitative) sham marriages are understood differently between organizations and country legislations, not all reports addressing human trafficking consider sham marriage in the forms of THB, or sham marriages are listed varyingly depending on the report in question. This complicated the research of exploitative sham marriages, as they are considered and measured differently, as well as understood in various different ways in different contexts. When it comes to analysing documents in this type of research, the researcher needs to take into consideration that the documents utilised for the study were not initially produced for this purpose, and the context needs to be considered, avoiding focusing on solely in the desired content (Flick, 2009). This can lead to time consuming research process, in order to thoroughly perceive the purpose of the document utilised for analysis.

The dissertation complies with the ethical principles of academic research and good practice, and the study is conducted through honest and transparent research process. Since the research material is public and available for anyone to read, there exist no reason to particularly hide or protect it. On the contrary, the access for the reports is open for public, as the organisations and agencies are thriving for transparency, fact-based data and raising awareness on the crimes addressed. Ethical dilemmas involved in some qualitative studies, such as confidentiality issues, invasion of privacy or causing harm for the participants do not necessarily apply for this research, as the topic is addressed from a wider perspective, rather than on a personal level (Bryman, 2012; Flick, 2009). Therefore, this research does not have specific participants involved, as the research does not focus on a target group or experiences of individuals, but explores the phenomenon on national and international levels, focusing on policies and action measures done for instance in the governments and in the EU. The research process of this dissertation follows the ethical guidelines and scientific quality, contributing new knowledge on the field of study (Flick, 2009), through transparent and carefully explained research.

### **III. ANALYSIS AND DISCUSSION**

The first sub-chapter covers how sham marriage is defined and terminology used in different contexts. The second sub-chapter illustrates the current criminalisation of sham marriage in the case study countries, and what each country considers under forms of exploitation in the article of human trafficking in the national Criminal Codes. This leads to international cooperation and development of staff training in the countries and how victim identification has been recognised in the national levels. The countries have varying priorities and centre of focus depending on whether it is an origin, transit or destination country of THB, and these differences are discussed. The positions of the countries are considered also in the sense if newer EU Member States are more vulnerable for rising levels of organised crime and ending up as an origin country of THB.

#### **3.1. Analysis of the case study countries**

GRETA reports are utilized as one of the primary sources of information when gathering data to this analysis, as they reflect in concrete manners the national situations in terms of THB and exploitative sham marriages. The amount of available data depends on when the country signed and ratified the Council of Europe Convention on Action against Trafficking in Human Beings, and therefore became obliged to monitor and report the country situation and measures taken, and further started the cooperation with GRETA. For instance, Estonia is on the first round of monitoring, whereas the Government of Latvia has given its reply to the questionnaire of the 3<sup>rd</sup> round evaluation. GRETA evaluates the countries in 4-year basis, unless decided otherwise. COVID-19 pandemic has affected to the country visits and prolonged the ongoing rounds (GRETA, 2021), which can be seen as a lack of the most recent reports and delayed publishments. The treaty of the Council of Europe Convention on Action against Trafficking in Human Beings was opened for signature in Warsaw 16/05/2005 and entered into force 01/02/2008 (GRETA, 2021). The table below indicates the signature, ratification and entry into force- dates of the case study countries.

**Table 3.** The Baltic states and GRETA

<b>Member State</b>	<b>Date of Signature</b>	<b>Date of Ratification</b>	<b>Entry into Force</b>
<b>Estonia</b>	03/02/2010	05/02/2015	01/06/2015
<b>Latvia</b>	19/05/2006	06/03/2008	01/07/2008
<b>Lithuania</b>	12/02/2008	26/07/2012	01/11/2012

Source: GRETA, 2021. Table edited by the author.

The research focuses on the reports published in 2017 or after, in order to emphasize the most recent data available, and the country measures taken after project HESTIA ended.

### **3.1.1. Definitions and terminology**

This section presents how sham marriage, exploitative sham marriage and marriage of convenience are defined in different types of sources. The retrieval and comparison of the different definitions serves as a base to address the incoherence and the confusion that the use of different definitions may pose in terms of prevention of this phenomenon.

**Table 4.** Definitions of sham marriage or marriage of convenience in scientific publications

<b>The scientific publication</b>	<b>Definition of sham marriage or marriage of convenience</b>
<b>Andrikopoulos, 2019</b>	A marriage having nothing to do with love. Just means to get a residence permit (Andrikopoulos, 2019, p. 2).
<b>Wray, 2015</b>	“The concept of a sham marriage assumes that there is a binary divide between marriages entered for ‘good’ reasons (such as emotional intimacy, sexual fulfilment, raising children) and ‘bad’ reasons (such as financial gain, immigration, social status).” (Wray, 2015, p. 145).

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<b>Benson, Charsley, 2015</b>	Sham marriage, marriage of convenience and marriage for immigration purposes as synonyms to each other. “Marriage that is only for immigration purposes” (Benson, Charsley, 2015, p. 222).
<b>Viuhko et al, 2016</b>	Sham marriage as a distinguished concept from arranged and forced marriages, and as something that can be for different purposes. Sham marriage with the primary motive of giving a non-EU citizen a residence permit in the EU. A different term for sham marriage related to trafficking = exploitative sham marriage. (Viuhko et al, 2016, p. 19).

Sources : Andrikopoulos, 2019; Benson, Charsley, 2015; Viuhko et al, 2016; Wray, 2015. Table edited by the author.

The definitions of sham marriage or marriage of convenience presented in the table above and found in scientific literature, have in common the fact that they put an emphasis in entering the marriage for ‘non-genuine’ reasons and solely for immigration purposes ensuring a residence permit for the other party involved. There exists a division between sham marriage and ‘traditional’ marriage, the former lacking elements such as love, emotional intimacy and raising children, and the latter involving these elements. This common distinguishment in scientific literature stem from the handbook published by the European Commission (European Commission, 2014), and the definitions it gave to marriage of convenience and sham marriage. The definitions in the previous table almost solely describe “plain” sham marriage, in which parties are involved by common understanding and committing a smuggling offence which ensures a residence permit for the other party involved. There exists a lack of academic studies regarding the connections of sham marriages and human trafficking. The definition given by Viuhko et al (2016) describes sham marriages as arrangements done for different purposes and it distinguishes exploitative sham marriage from the “plain” definition of sham marriage, as it is strongly linked to THB (Viuhko et al, 2016). The lack of academic sources is also

due to the fact that several journals which address sham marriages or marriages of convenience do not define the terms and definitions any further<sup>8</sup>.

**Table 5.** Definitions by legislative bodies/institutions/international agencies and organisations

<b>EU Institutions, Intergovernmental organisations, agencies, organisations</b>	<b>Definition of marriage of convenience, sham marriage or exploitative sham marriage</b>
<b>Europol</b>	<p><b>Early Warning Report on Marriages of Conveniences, 2014:</b> marriage of convenience is “a marriage contracted for the sole purpose of enabling the person concerned to enter or reside in a Member State.” Term ‘organised marriage of convenience’, referring to a situation when OCG is involved, and there is TCN, EAA-citizen and a facilitator or organiser, often a member of OCG. Human trafficking for the purpose of marriage of convenience is when women are trafficked in order to be forced into a marriage of convenience. (Europol, 2014, p.1).</p> <p><b>Situational Report 2016:</b> sham marriage under sexual exploitation as a form of criminal activity that the victim is forced to perform. Forced sham marriage is a form of THB, mainly to obtain residence, social or work permits, and OCG’s are often involved. Victims are forced to conduct sham marriages. (Europol, 2016b, p. 4, 29).</p> <p><b>Focus on Trafficking in Human Beings, 2016:</b> Sham marriage as a form of THB and defined as EU nationals (mostly women) forced into marriages with Third country nationals. (Europol, 2016a, p. 10).</p>

<sup>8</sup> See for instance:

Fernández Rodríguez de Liévana, G. and Waisman, V. (2017). ‘Lost in Translation’: Assessment of the (Non)-Implementation of the Trafficking Directive from a Gender Perspective in Spain. *Journal of Human Rights Practice*, November, 9(3), pp. 504-525.

Gębska, M. (2020). Human Trafficking as a Challenge for International Security and Security in Europe. *Torun International Studies*, April, 1(13), pp. 41-56.

Kim, J. (2011). Trafficked: Domestic Violence, Exploitation in Marriage, and the Foreign-Bridge Industry. *Virginia Journal of International Law*, Volume 51, pp. 443-505.

**United Nations, UNODC**

**Serious and Organised Crime report, 2021:**

Distinguishing between marriage of convenience (facilitation of legalisation of residence status in EU, and a form of human smuggling) and sham marriage (form of forced criminality and other forms of exploitation in human trafficking). (Europol, 2021, p. 41, 73).

**In-depth training manual on investigating and prosecuting the smuggling of migrants, 2011:**

“sham marriages” or “marriages of convenience,” take advantage of procedures which would permit a spouse to obtain citizenship for a non-resident spouse. “A sham marriage occurs when a smuggler facilitates a marriage between a resident and non-resident for a fee and for the sole purpose of enabling the non-resident to obtain status. Asylum procedures are legal channels that are often abused in various ways.”

“A sham marriage is a voluntary agreement to marry someone for a fee. A sham marriage can be used as a technique for facilitating the entry of someone who may otherwise not be permitted to enter and/or remain in the country”. (UNODC, 2011, p. 10, 11).

**Interlinkages between Trafficking in Persons and Marriage, 2020:**

“In order for a sham marriage to be considered as a component of the smuggling of migrants crime, the three elements outlined in article 3 of the Smuggling of Migrants Protocol need to be present: (a) facilitation of illegal border crossing or residence of the person involved in the sham marriage; (b) that this person would not otherwise comply with the legal requirements for entry and stay; and (c) the facilitator pursued a financial or material gain.”

“The term “exploitative sham marriage” to describe the phenomenon in which a person, in this case a European Union citizen, is exploited in the

context of sham marriage arrangements involving a non-European Union citizen seeking to obtain a residence permit. This concept highlights the circumstances of exploitation that prevent the person from leaving the situation and the subtle forms of control of movement and elements that show a dependency of the victims on the husbands, recruiters or organizers of the sham marriages”. (UNODC, 2020, p. 33, 76).

### **Eurojust**

#### **Report on Human Smuggling, 2018:**

“Sham marriages, also known as marriages of convenience. These marriages are used to facilitate the entry and residence of third State nationals, who, in turn, receive social benefits as residents, and, after divorce, often seek to bring their own families to the European Union.” (Eurojust, 2018, p. 22).

**Eurojust Annual Report of 2020:** “human trafficking and migrant smuggling networks lure mainly women into exploitation and even physical abuse via marriages of convenience. The victims are attracted by what seems to be ‘easy money’ but instead become trapped in a web of exploitation and abuse.” (Eurojust, 2020, p. 15).

**Eurojust Report on Sham Marriages, 2020:** “marriage concluded between an EU citizen or a non-EU national legally resident in an EU country and a non-EU national (irregular migrant), with the sole aim of circumventing the rules on entry and residence of non-EU nationals and obtaining for the non-EU national a residence permit or authority to reside in an EU country”. Using the definition given in ‘Council of the EU Resolution on measures to be adopted on the combating of marriages of convenience, of 4 December 1997’ Clear legal distinguish between forced marriage and marriage of convenience. (Eurojust, 2020, p. 8).

**European Commission**

**European Commission handbook 2014:** “A marriage contracted for the sole purpose of conferring a right of residence under EU law on a non-EU national who would otherwise not be able to benefit from such a right”.

“Indeed, regardless of their form, marriages of convenience are linked in many cases to organised crime and to crimes such as trafficking in human beings, forgery or smuggling”.

“Finally, some 'marriages' are no real marriages at all, being a complete sham.”

“Sometimes, marriages of convenience are labelled as bogus or sham, but this is, strictly speaking, not correct. Unlike marriages of convenience, which are formally valid, bogus or sham marriages are invalid or entirely fictitious. Bogus marriages may involve forgery or the misuse of documents relating to another person.”

“The formal validity of marriages of convenience is their 'competitive advantage' over bogus marriages.” (European Commission, 2014, p. 5, 14, 15).

**European Commission 2018:** exploitative sham marriage, which usually is combined form of exploitation and might contain sexual exploitation/forced labour /domestic servitude. Mentioned in Latvia’s case. (European Commission, 2018, p. 195).

**European Commission 2020:** exploitative sham marriage mentioned in ‘other forms of exploitation in THB in case of Latvia. Not defined. (European Commission, 2020, p. 87).

Sources: Eurojust, 2018; Eurojust, 2020; Eurojust, 2021; Europol, 2014; Europol, 2016a; Europol, 2016b; Europol, 2021; European Commission, 2014; European Commission, 2018; European Commission, 2020; UNODC, 2011; UNODC, 2020.

The definitions given by different agencies go in line with the ones given by the academics. Marriage of convenience and sham marriage are understood as involving third country nationals, seeking for an entry and residence permit in the EU. There is incoherence though when it comes to the willingness to get married when speaking of sham marriages. The Europol's reports have throughout the years explained sham marriage in a consistent manner as a kind of forced marriage, whereas in the manual published by UNODC the willingness to get married is emphasized when addressing a sham marriage. There is also confusion when it comes to which category does sham marriage fit, when treated as a form of human trafficking. In the Situation Report on THB in the EU sham marriage is understood as sexual exploitation in THB cases (Europol, 2016b) and in the Serious and Organised Crime report of 2021 sham marriage appears under "other forms of exploitation" (Europol, 2021). In the European Commission's report exploitative sham marriage is described as a combined form of exploitation, which does not put sham marriage under any specific form of exploitation in human trafficking cases (European Commission, 2018).

When it comes to addressing sham marriages in the reports of Europol, a significant amount of incoherence can be found. In several reports, the terms of 'forced sham marriage' and 'sham marriage' are utilized as synonyms for each other, and for instance The Situational Report 2016 has a separate chapter for forced sham marriage, under which forced sham marriage, sham marriage and marriage of convenience are treated as one concept. The usage of term forced sham marriage is not common in the field, and in fact was not found in terminology used by other agencies nor in academic literature. The report defines forced sham marriage as a form of THB, often linked to OCGs and a marriage where the victims are forced to enter (Europol, 2016b) In the same chapter marriages of convenience and sham marriage are used as describing forced sham marriages, and linkages to THB. The webinar focusing on human trafficking done in cooperation with Europol and The Child Protection Hub (2016), defines sham marriages as a form of THB, and a concept where EU nationals are forced to marry TCNs (Europol, 2016a). The Europol's early warning report (2014) takes the same approach, defining linkages of sham marriages and human trafficking as a scenario where women are trafficked in order to be forced to marry a third country national and conduct a marriage of convenience (Europol, 2014). One can find these definitions misleading, and easily

confused to forced marriage, from which sham marriage should be clearly distinguished from, as discussed in the first chapter of this dissertation. In the most recent report addressing the phenomenon, Europol's serious and organised crime report (2021), the difference is drawn between marriage of convenience and sham marriage, the former being a human smuggling offense, and the latter human trafficking (Europol, 2021). This indicates that the knowledge regarding sham marriages has increased, and the direction is towards clearer distinguishing between different concepts and their definitions.

The handbook on marriages of convenience published in 2014 by the European Commission gives the definition for marriage of convenience which is widely used and referred to in academic literature, as well as in publications of several different agencies in recent years. The handbook defines marriage of convenience as:

“A marriage contracted for the sole purpose of conferring a right of residence under EU law on a non-EU national who would otherwise not be able to benefit from such a right.” (European Commission, 2014, p. 5).

The same definition is often used for sham marriage, as the concepts are seen as synonyms for each other and in many publications utilized concurrently when addressing bi-national marriage conducted for immigration purposes between an EU citizen and a TCN (Andrikopoulos, 2019; Benson, Charsley, 2015; Eurojust, 2018; UNODC, 2011; Wray, 2015). Even though this definition is picked to encompass sham marriage as well, the handbook itself gives drastically different definitions for marriage of convenience and sham marriage. In the handbook, sham marriage and bogus marriage are assimilated, referring to completely fraudulent and invalid marriage, unlike marriage of convenience which is legally binding (European Commission, 2014). The definition of sham marriage given by the European Commission is contradictory to how the phenomenon is widely elsewhere understood, as a legally valid marriage, with only intentions behind it being fraudulent. As discussed in the former chapter, bogus marriage along with fake- and fictitious marriage are not synonyms of sham marriage and should not be mistaken for each other when defining the concepts in official reports and data.

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**Table 6.** Defining terminology referring to marriage types

<b>Marriage of convenience</b>	<ul style="list-style-type: none"> <li>- Definition accepted by the European Commission, referred widely.</li> <li>- Migrant/human smuggling.</li> <li>- Violates immigration laws, no human victims.</li> <li>- Enables TCN a residence permit in a country they otherwise would not have one.</li> </ul>
<b>Sham marriage</b>	<ul style="list-style-type: none"> <li>- Most used synonym for marriage of convenience.</li> <li>- Definitions vary depending on the source, some refer to human smuggling and others human trafficking. In this dissertation, the author refers to human smuggling or early stages of exploitative sham marriage, when the term “sham marriage” is used.</li> </ul>
<b>Exploitative sham marriage</b>	<ul style="list-style-type: none"> <li>- Exploitative elements which prevent the victim to leave the situation.</li> <li>- Starts as a marriage of convenience or sham marriage.</li> <li>- The means of recruitment is rarely coercion, but rather deception through false promises.</li> <li>- Strongly linked to human trafficking, can include several forms of exploitation.</li> <li>- Violates fundamental human rights, person as a victim.</li> <li>- Often involves organised crime.</li> </ul>

In the more recent reports of the European Commission (European commission, 2018; European Commission, 2020), the concept of exploitative sham marriage has been brought up in the context of ‘other’ forms of exploitation that has appeared in THB cases in the EU countries (European commission 2018; European Commission, 2020). In both reports exploitative sham marriage is mentioned in the case of exploitation occurred in Latvia and is described in the Data Collection on Trafficking in Human Beings -report published in 2018 as a combined form of exploitation, that might include sexual-, or labour exploitation or domestic servitude for instance (European Commission, 2018). As exploitative sham marriage is not yet widely used term to describe linkages of human trafficking and sham marriage, but it is mentioned exclusively in Latvian context in the report, one can see the connections to project HESTIA, to the definitions the project developed and the fact that Latvia was a project partner in the research.

The countries of the case study have not yet added sham marriage or exploitative sham marriage in the national legislations, except for Lithuania. Lithuanian criminal code article 147 lists marriage of convenience under forms of exploitation in human trafficking, without further defining it (Criminal Code Lithuania, 2000). The Estonian Family Law

Act 9(6) mentions a term ‘ostensible marriage’, referring to a marriage conducted for reasons of residence permit, and is therefore a reason to annual the marriage (The Estonian Family Law, 2009). The Act 9(6) could therefore be used to combat against sham marriages in the country as well. The national laws and what they are criminalizing are looked into more detail in the next two sub-chapters.

### 3.1.2. Legislative measures

This sub-chapter addresses how the countries of the case study have defined sham marriage and human trafficking in the national criminal codes. Sham marriages are not criminalized coherently in the EU, but offenders may be prosecuted through alternative legal basis, which will be covered. Trafficking in human beings is criminalized in every EU Member State (European Commission, 2020), but the author is evaluating how the element of ‘exploitation’ is covered in the article addressing human trafficking in the criminal code, and whether or not it comprises or could comprise (exploitative) sham marriage.



**Figure 2.** Entry into and Arrangement of Sham Marriages Considered as a Criminal Act. Source: Eurojust, 2020.

Currently, there are eleven EU Member States where sham marriages are criminalised, either as a way of facilitating migrant smuggling or an illicit stay in the country (Eurojust, 2020). Even if sham marriages (or marriage of convenience as they are referred in the Eurojust report) would not be criminalised as such in a Member State, they might be penalised through other comparable offences, which is the case in several MS in the EU.

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However, these sanctions are generally mild penalties, and less than half of the EU countries have sham marriages criminalised. The European Union Member States which have criminalised sham marriages are Austria, Belgium, Bulgaria (partial, criminalized if coercion), Cyprus, Czechia, France, Hungary, Latvia, Luxemburg, Malta, Portugal, and Slovakia (Eurojust, 2020). The longest penalties are currently in Slovakia, Czech Republic and Bulgaria. The following table indicates which ways sham marriages or marriages of convenience are criminalised in the three case study countries: Estonia, Latvia and Lithuania. The information of the table is gathered directly from Eurojust report on sham marriages from 2020.

**Table 7.** EU Member States legislation on criminalisation of marriages of convenience

<b>EU Member State</b>	<b>Incrimination, yes/no</b>	<b>If YES, legal basis</b>	<b>If NO, alternative legal basis</b>	<b>Penalties</b>
<b>Estonia</b>	No		<p>“Article 280 of the Criminal Code – Submission of false information”</p> <p>“Article 299 of the Aliens Act – delivery of an alien to a transit zone, state border or temporary borderline”</p>	<p>“Article 280 of the Criminal Code – detention or a fine up to 300 fine units, or a pecuniary punishment or imprisonment up to 2 years if the act was committed with the intention of getting official documents”</p> <p>“Article 299 of the Alien Act – a fine up to 300 fine units”</p>
<b>Latvia</b>	Yes	“Section 285 of the criminal law – ensuring in bad faith, a possibility of acquiring the right to stay in the Republic of Latvia, another Member State of the EU, a Member State of the European Economic Area		“Temporary imprisonment, imprisonment not exceeding 3 years, a community service or a fine. For committing an offence according to

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		<p>or the Swiss Confederation legally”</p> <p>(1) “For ensuring, in bad faith, a possibility of acquiring the right to stay legally in the Republic of Latvia, another Member State of the EU, a Member State of the European Economic Area or the Swiss Confederation”</p> <p>(2)” For ensuring, in bad faith, a possibility of acquiring the right to stay legally in the Republic of Latvia, another Member State of the EU, a Member State of the European Economic Area or the Swiss Confederation, if it has been committed for the purpose of acquiring property of if such possibility is ensured for two or several persons, or if it has been committed by a group of persons”</p>		<p>part 1 of Section 285, the applicable punishment is the deprivation of liberty for a period of up to 3 years, temporary deprivation of liberty, community service or a fine”</p> <p>“For committing an offence according to part 2 of Section 285, the applicable punishment is the deprivation of liberty for a period of up to 5 years, temporary deprivation of liberty, community service or a fine, with or without the confiscation of property”</p>
<b>Lithuania</b>	No		<p>“Article 291 of the Criminal Code – illegal crossing of the state border”</p> <p>“Article 300 of the Criminal Code – forgery of a document or possession of a forged document”</p>	<p>“Article 300 – a fine, arrest or a custodial sentence of up to 3 years”</p> <p>“Article 304 – community service, a fine or arrest”</p>

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			“Article 304 of the Criminal Code – provision of false information for the purpose of acquisition of a document”	
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Source: Eurojust, 2020, p. 35, 36, 37). Table edited by the author.

Out of the three case study countries, only Latvia has criminalised marriages of convenience. In Latvia, the offense is related to acquiring a legal right to stay in Latvia or in the EU, and the offense can also relate to false provision of false information for the purpose of acquisition of a document (Eurojust, 2020). In the two other countries, sham marriage or marriage of convenience is not criminalised directly, but for instance unauthorized crossing of state borders, assisting an alien in crossing borders or deception and defraud are (Eurojust, 2020). When it comes to penalties, in Latvia where sham marriage is also criminalised the penalty is up to five years of imprisonment (Eurojust, 2020). Estonia has the mildest punishments, maximum of two years of imprisonment, which can be explained by not criminalising the sham marriage act itself, only the related, minor offenses. All the case study countries have taken legislative steps forward in past few years in terms of preventing and combating against human trafficking, but when it comes to exploitative sham marriages, the legislations are still lacking behind. Based on the legislations referred to in the previous table, one could state that Latvia is the most advanced in terms of criminalizing sham marriages out of the case study countries.

Sham marriage as such is widely understood as an offense against a state, and a way to facilitate human smuggling across state borders. When exploitation is involved, the crime gets more complex nature, and is often linked to human trafficking. Every MS in the EU defines human trafficking and its forms differently, even though utilizing the trafficking protocol as a guideline in the Criminal Code. The following table illustrates how the case study countries define the forms of human trafficking in the national Criminal Codes and what are the penalties of the offense.

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**Table 8.** Human trafficking and the concept of ‘exploitation’ in national Criminal Codes

<b>Country</b>	<b>Concept and forms of exploitation</b>	<b>Penalty</b>
<b>Estonia</b> <b>CC: §133</b>	Forced work, prostitution, begging, forced criminality, “or keeping a person in such situation, if such act is performed through deprivation of liberty, violence, deceit, threatening to cause damage, by taking advantage of dependence on another person, helpless or vulnerable situation of the person.”	1 to 7 years’ imprisonment
<b>Latvia</b> <b>CC: §154</b>	Prostitution, sexual exploitation, forced labour, forced criminality, holding a person in slavery or servitude, illegal removal of tissues or organs	Up to 8 years, with or without confiscation of property.
<b>Lithuania</b> <b>CC: §147</b>	Slavery or similar, prostitution, pornography, other forms of sexual exploitation, forced marriage, <b>marriage of convenience</b> , forced labour or services, begging, forced criminality or other exploitation purposes	Custodial sentence for a term of 2 up to 10 years

Source: Criminal Code Estonia, 2001; Criminal Code Lithuania, 2000; Criminal Law Latvia, 1998. Table edited by the author.

When it comes to penalties on human trafficking, Lithuania has the strictest punishments, up to ten years of imprisonment, when no aggravated factors are not considered (Criminal Code Lithuania, 2000). Estonia for one’s part introduced amendments in the article of human trafficking in 2017, as in 2019 entered into force criminalising purchasing sex from a victim of THB (GRETA, 2020a). When it comes to identifying cases of THB and further prosecuting and convicting the traffickers this is a significant step further, but in the context of exploitative sham marriage does not play a notable role.

Out of the three countries, only Lithuania has listed sham marriage (as a marriage of convenience) under the forms of exploitation in human trafficking (Criminal Code Lithuania, 2000). The amendments of forced marriage and marriage of convenience were

adopted on 12 May 2016 in the Criminal Code of Lithuania (GRETA, 2019). In the Trafficking protocol, which gives the definition of human trafficking and the frames for national legislations in terms of THB, the definition of exploitation is intentionally left open to be as conclusive as possible and not intentionally exclude any forms not mentioned (UNODC, n.d.). When looking at the national criminal codes and the forms of exploitation listed in the article of human trafficking, the articles could in theory include human trafficking for the purpose of sham marriage already as they are now, as exploitative sham marriage can be linked to slavery like conditions, forced criminality, forced labour, prostitution or other types of sexual exploitation for instance, which are listed in the criminal codes already. Even though victims are identified increasingly, the offenders are not prosecuted and convicted in a similar manner. One could claim that when an act is not separately stated in the criminal code, there exists minor chance for prosecution and conviction by interpreting the law. This could explain why exploitative sham marriages are still relatively unknown and overlooked crime and statistics do not reflect the whole picture, as sham marriage is not widely criminalised as such, and it is rarely listed as a separate offense under human trafficking article either. UNODC stated already in 2015 in the Issue Paper regarding the concept of ‘exploitation’ in the Trafficking Protocol (UNODC, 2015) that several Member States have suggested an explicit list of forms under the forms of exploitation in the protocol (UNODC, 2015). Creating an explicit list has been justified by clarifying the forms of exploitation, and to ease interpreting the protocol and further implementing it in national contexts (UNODC, 2015).

Listing exploitative sham marriage under the forms of exploitation in human trafficking in the national Criminal Codes would arguably ease prosecuting and convict traffickers and offenders of the crime, and this would eventually be visible in the official statistics and data on human trafficking as well. An example can be drawn from Lithuania, where in 2018 more traffickers were sentenced than victims were identified, which is rare especially when compared to other Baltic Sea states (CBSS, 2020). This is visible also in the official statistics published by the European Commission in 2020 of human trafficking in the EU (European Commission, 2020). Lithuania was among the three countries of most convictions for traffickers in the EU proportionated to population in both years 2017 and 2018 (European Commission, 2020). In 2018, Lithuania convicted the most

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traffickers in the EU per inhabitants (Ibid.,). The data on traffickers published by the Council of the Baltic Sea States (2020) indicate that during both of these years exploitative sham marriages were among the identified cases of human trafficking (CBSS, 2020).

Rank	2017		2018		2017-2018	
	EU citizenship	Rate of Convicted per 1 000 000 inhabitants	EU citizenship	Rate of Convicted per 1 000 000 inhabitants	EU citizenship	Rate of Convicted per 1 000 000 inhabitants
1	Romania	22	Lithuania	17	Romania	16
2	Bulgaria	12	Romania	10	Lithuania	13
3	Lithuania	9	Bulgaria	9	Bulgaria	11
4	Latvia	6	Malta	4	Latvia	4
5	France	4	Estonia	2	Estonia	3
6	Estonia	4	Slovakia	2	Slovakia	2
7	Netherlands	3	Czechia	1	France	2
8	Slovakia	3	Germany	1	Malta	2
9	Belgium	3	Latvia	1	Netherlands	2
10	Hungary	2	Croatia	1	Belgium	2
Average for Top 10		7	Top 10 EU	3	Top 10 EU	5
Total EU		2	Total EU	1	Total EU	2

**Figure 3.** Human trafficking convictions in the EU by EU citizenship per 1 000 000 inhabitants. Source: European Commission, 2020.



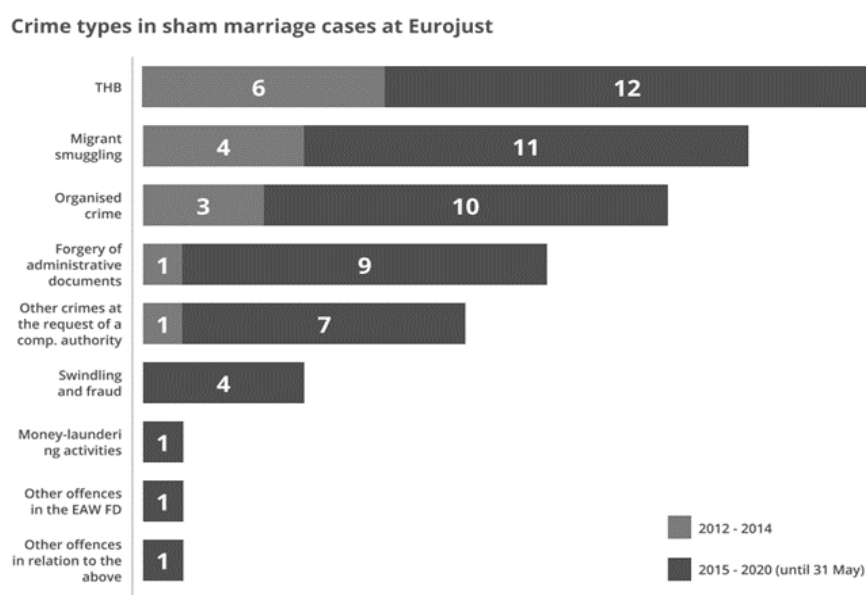
**Figure 4.** Data on Traffickers in Lithuania 2016-2018. Source: CBSS, 2020.

Even though according to current knowledge and statistics only a fraction of the identified cases of human trafficking in the EU are exploitative sham marriages, the case of Lithuania indicates how listing it in the forms of human trafficking in the criminal code can contribute to convict the criminals and identify the cases where exploitative sham marriages are involved. The lack of agreement in the identification of the crime may lead to convictions through alternative basis which do not only vary case-by-case, often not illustrating the full severeness of the crime, but also leads to inaccuracy in the official

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statistics of crimes related to human trafficking (Sirgedienė, 2020). This occurred in 2019 in Lithuania, where lack of agreement between the law enforcement institutions resulted in not receiving or solving first instance court cases in forced labour human trafficking crimes (Sirgedienė, 2020).

There exist several arguments on why exploitative sham marriage should be listed under the forms of exploitation in the national Criminal Codes. According to Eurojust, majority of the identified cases of sham marriages are linked to human trafficking (Eurojust, 2020).



**Figure 5.** Crime types in sham marriage cases at Eurojust. Source: Eurojust, 2020.

What complicates the investigation and prosecuting offenders in the EU, is the issue of double criminality principle, according to Eurojust (Eurojust, 2020). Double criminality principle refers to requirement that a suspect cannot be extradited from one country to another to stand trial, if the crime is not classified as an offense in both of the countries (Eurojust, 2020). The double criminality principle therefore can save a suspect from being pressed charges against if the crime is not in both countries' jurisdictions. In terms of prosecuting and convicting traffickers in sham marriage cases, double criminality principle creates challenges. As exploitative sham marriages are often transnational in nature, just like other forms of human trafficking, they involve also multiple countries in the identification-, prosecution- and conviction processes. As discussed earlier in this chapter, human trafficking is criminalised in all the EU Member States, whereas sham

marriage is not. Therefore, countries where sham marriage as such is not criminalised, may prosecute sham marriages through alternative legal basis, which often vary significantly between the MS, but also case-by-case (Eurojust, 2020).

In the context of the case study countries, prosecution of human trafficking cases and especially the challenges in it have been topical in the recent years. During the presidency of 2018–2019 of the Council of the Baltic Sea States, one of the objectives of Latvia was an effective prosecution of human trafficking offenders, since even many victims are identified and investigations initiated, only a few of those criminal cases reach the court and offenders are convicted (CBSS, 2020). Focusing on the prosecutions of THB resulted from a multi-year decline in trafficking investigations, and for instance in 2017–2018 only one perpetrator was convicted, resulting in no prison time (CBSS, 2020). One possible explanation for such decline can be the reduction of police training in Latvia in cases of trafficking in human beings. The programme ‘Preventing, combating and investigating cases of trafficking in human beings/procuring’ was provided by the State Police College of Latvia during the years of 2012–2014, but not anymore 2015 onwards (GRETA, 2017).

During the past decade, Eurojust has conducted several successful parallel investigations among the EU Member States in form of joint investigation teams (JIT) (Eurojust, 2020) and the multi-national investigations have proved to be effective especially in human trafficking and exploitative sham marriage cases occurring across state borders. Undesirable is when successful investigations do not lead convicting the criminals, illustrating one of the major challenges at the moment in the context of the EU. In addition to double criminality principle, convicting criminals in transnational crimes is slowed by the need to avoid parallel prosecutions, which would trigger a conflict of jurisdictions by possibly violating the suspect’s right to not be tried or punished twice for the same criminal offense, protected by Article 50 of the Charter of Fundamental Rights in the EU (Eurojust, 2020; FRA, 2007). Where parallel investigations are advisable among MS of the EU, parallel prosecutions are not, which can be one of the reasons of relatively short number of actual convictions compared to investigations.

The country report of Slovakia in project HESTIA (2016) suggested a possibility of the

European Public Prosecutor as a solution to prosecute cross-country cases of human trafficking (Baloghová et al, 2016). In fact, Council Regulation on establishing the European Public Prosecutor's Office (EPPO) entered into force on 20 November 2017 (Council Regulation 2017/1939) addressing, investigating and prosecuting transnational crimes in the European Union. EPPO's mission is to combat against crimes against the EU-budget, such as financial frauds and corruption crossing the country borders and therefore exceeding the authorization of the national forces (European Commission, n.d.). As the concept of EPPO is still evolving and setting its grounds in the EU, it remains to be seen if EPPO's mandate could in the future reach also to addressing cases of human trafficking and contributing to more effective prosecuting of the crime in the EU.

### **3.1.3. Training of staff and international cooperation**

The author is analysing how training of staff in the light of the topic has evolved in the countries part of the case study by looking at the training programmes and meetings of staff of different fields and levels. By relevant staff the author refers to different authorities, such as police officers, correctional staff, border control, lawyers, medical staff and social workers, as well as staff of embassies and consulates. Furthermore, the international cooperation with EU Member States is presented and discussed, including the recent Joint Investigation Teams the countries have taken part at.

Since project HESTIA, the Baltic countries have introduced more training of staff at the national level, as well as held and participated in international seminars and meetings regarding THB. Where Estonia, Latvia and Lithuania have cooperated in several projects since HESTIA mostly with other Baltic Sea states. In the context of the Baltic States, "Strengthening the Role of Municipalities in the Work against Trafficking in Human Beings in the Baltic Sea Region" (STROM) projects addressed the international cooperation in THB matters in the region (GRETA, 2019) in 2014–2017, and currently projects such as "Competence building, Assistance provision and Prosecution of labour Exploitation cases in the Baltic Sea region" (CAPE) and "Towards thoughtful, informed, and compassionate journalism in covering human trafficking" (THALIA) are actively influencing in the region of the Baltic Sea States such as in Estonia, Latvia and Lithuania (CBSS, 2020). Lithuania is holding the current presidency of the CBSS, after Latvian

presidency of the season 2018–2019 which culminated to the conference of “Human Trafficking – a crime with too few convictions and too many victims” held in February 2019 (CBSS, 2020).

Since the United Kingdom is one of Europe’s, including the case study countries’ main destinations of human trafficking, also the Government of Lithuania has cooperated with the authorities of the UK in recent years. Ministry of Interior of Lithuania and the Government of the UK signed on 18 October 2018 a Declaration on Cooperation in Combating Trafficking in Human Beings and Modern Slavery (CBSS, 2020). There exist several Lithuanian communities in the UK, and especially labour exploitation in these communities has been on the rise in the past years (CBSS, 2020), which cooperation such as this seeks to diminish. Back in 2015 Lithuania had its first JIT with the UK as well, demonstrating the need for effective cooperation between the origin, transit and destination countries.

The training on human trafficking has increased in past recent years in the case study countries. Training on THB is part of basic training of police officers in Estonia and is held annually also for in-service police officers (GRETA, 2020a). The Ministry of Social Affairs provides annual trainings for professionals of different sectors from police department to law enforcement and social workers in Estonia in topics of THB, such as victim assistance and protection (CBSS, 2020). In Lithuania, a teacher training program has been established for teachers in Lithuanian schools for early prevention of THB (GRETA, 2019) and Latvia has held anti-trafficking training for different professionals in law enforcement (CBSS, 2020). Despite of the progress made in terms of professional training in areas such as human trafficking, there are still many areas that would benefit from professional training. In the context of Lithuania, the concern of unbalanced training and knowledge on victim identification between the municipalities have risen. In the larger cities the activities done in anti-trafficking have had a positive impact, but not all municipalities provided training on THB for social workers and healthcare professionals, according to GRETA’s visit in the country (GRETA, 2019). Focusing solely on bigger cities and not providing the knowledge and training in more rural municipalities is particularly problematic when it comes to crimes of human trafficking and sham marriages, as the victims are more likely to be from smaller and possibly poorer areas of

the country. Therefore, increasing the training of relevant staff is crucial all over the country, and the focus should not be solely in the capital area or only in largest municipalities. Another concern in the THB related training of professionals has been the mental health issues and staff knowledge regarding them. In Estonia, police officers of different sectors received education in mental health disorder-matters in a joint training event held in 2019, as it had been acknowledged that professionals lack the needed skills in the area, when working with victims of THB (CBSS, 2020). This is a major concern in victim assistance, as the victims of human trafficking and other forms of modern slavery are in particularly vulnerable position, and it is crucial that the victims receive the assistance they are entitled to, from physical safety to psychological help.

#### **3.1.4. Victim identification and assistance**

This sub-chapter covers and analyses the processes of victim identification and assistance in the case study countries. Active awareness raising in exploitative sham marriages and trafficking in human beings in general is crucial in terms of early prevention and also in increasing the knowledge of the general population regarding the phenomena, and in identifying the characteristics of the victims and traffickers. Effective victim assistance includes help of different sectors, ensuring the physical safety, psychological assistance and legislative help. Ideally, assistance of trafficking victims would secure victim's position in the country of destination in a way that the identified victims could testify in the prosecution process, and this would contribute to more convictions and accurate statistics in THB and exploitative sham marriages.

There exist factors obliging countries in the EU to ensure sufficient assistance for victims of crime and providing information and compensation for the identified victims. These are for instance the Council Directive 2004/80/EC of 29 April 2004 determining the compensation to crime victims<sup>9</sup>, the Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights,

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<sup>9</sup> Directive 2004/80/EC of 29 of the European Parliament and of the Council of April 2004 relating to compensation to crime victims. Available in: <http://data.europa.eu/eli/dir/2004/80/oj>

support and protection of victims of crime<sup>10</sup>, and the Council of Europe Convention on preventing and combating violence against women and domestic violence, also known as Istanbul Convention<sup>11</sup>. Furthermore, the case study countries have established projects and campaigns to improve the situation of the victims in recent years and have also developed a set of measures for a more effective victim identification in the country. Lithuania and Estonia have offered awareness raising presentations on THB in high schools, vocational schools and universities, preventing target groups to become victims (GRETA, 2020a; GRETA, 2020b). In Estonia, classes on dangers when travelling abroad are held yearly for high school students, which also cover topics such as trafficking in human beings (GRETA, 2020a). Recently, due to outbreak of COVID-19, these classes have been held online as e-classes in Zoom (Ibid.,).

Regarding victim assistance, the Baltic countries have increased measures taken in the recent years. In terms of criminal procedure law, Latvia introduced in 2016 a new concept of ‘specially protected victim’ which includes victims of THB, considering them particularly vulnerable persons who without a special protection would face a threat of revenge or intimidation for instance (CBSS, 2020). Lithuania has currently the draft law on Assistance to Victims of Crime under consideration, which would ensure access to full assistance before and after criminal proceedings for the victim of THB, whether or not they choose to make a formal complaint of a criminal offense (GRETA, 2020b) and Estonian government renewed the country’s guidelines for identification and referral of the victims in 2019 (Kriminaalpoliitika, 2019).

Despite of the improvements in rights of the victims of THB and exploitative sham marriages, there exist still several factors hindering the victim identification process. These factors are strongly linked to the complexity of the crime of exploitative sham marriage, and require shifts in the attitudes of general population, as well as continuous work done in awareness raising and making victim care and assistance, such as the state

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<sup>10</sup> Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA. Available in: <http://data.europa.eu/eli/dir/2012/29/oj>

<sup>11</sup> 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. O.J. L01/1, of 15.4.2011. Available : <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF>

compensation as easily accessible as possible. There exist stereotypes on victims of THB as well as the traffickers that overshadow the identification process. Media creates images of ideal victims and traffickers that are narrow and sometimes misleading, affecting the mindset of general population, officials as well as victims themselves (Viuhko, 2018). For instance, the traffickers are often portrayed as large-sized, unknown, foreign males (Ibid.,) when in reality the share of female traffickers is on the rise, often representing the same nationality as the recruited victim (Europol, 2021). Similarly portraying victims as naked women in chains or behind the bars do not represent the situation of many victims who instead of brutal physical violence and abuse have experienced manipulation and psychological exploitation instead (White, 2019). These stereotypes still existing can make victims of THB and exploitative sham marriages as well as becoming one a remote an unrelatable matter, hindering the prevention and identification processes.



**Figure 6.** Stereotyped victim of human trafficking. Source: Rotsten, 2020.

Stereotypes lead also to inaccurate identifications and accusations, which can be the case in THB in general but especially in exploitative sham marriages (Viuhko et al, 2016). Exploitative sham marriage can at a first glance seem like a case of domestic violence, or the victims are considered as perpetrators themselves due to knowingly conducting a sham marriage and therefore assisting a residence permit for a TCN. Secondary victimisation, where victims of crime are accused and blamed of their situation after seeking help from the officials is damaging for the individual and for the investigation process. When victims of exploitative sham marriages are not accurately identified, the cases stay hidden, and victims do not receive the assistance they are entitled to, and

offenders remain unidentified. More expert knowledge is required in identifying the cases, as often it is easier for the authority to see the case as domestic violence rather than exploitative sham marriage. Drawing the line between 'genuine' marriage with domestic violence and exploitative sham marriage linked to human trafficking can be challenging but extremely crucial.

Another factor contributing to the lack of understanding exploitative sham marriages and properly convicting the offenders is the fact that often victims seek to return the origin countries as soon as it can be arranged. According to expert interviews of Project HESTIA, that kind of behaviour is common among victims who have experienced psychological trauma such as sexual violence (Valdenmaier, Blumberg, 2016). The NGOs assisting victims and embassy staff documenting sham marriage cases may identify multiple forms of exploitation, but when the time spent in the destination country remains short, the amount of information gathered from the case can be very limited (Cosgrave et al, 2016). This has an impact on the investigation and prosecutions that can be particularly difficult if not impossible to successfully execute without testimonies and cooperation of the victims (Gallagher, Holmes, 2008). Therefore, it would be crucial to offer the victims a state compensation and all the assistance needed, in order to make it beneficial and safe to stay longer in the destination country and cooperate in the prosecution of the traffickers. If the identified victims do not stay in the destination country long enough or if they refuse to cooperate in the criminal proceedings, not only is the investigation damaged but also the authorities do not get to know the full scale of exploitation and crimes occurred, and the case remains at least partially unsolved. This leads to lack of possible interviews and research done with the victims, affecting how exploitative sham marriages are understood in national and international levels, in policy making and in criminal codes. In Latvia, the Law on State Compensation to Victims came into force in January 2019, defining the frames of the compensation paid to victims of human trafficking (CBSS, 2020). The law determines the amount of 90 percent of five minimum monthly wages to be paid for the identified victim of human trafficking (Ibid.,). Estonia has a compensation system for THB victims, but according to GRETA (2020) it is not effective enough, as accessing the compensation system has not been made simple and clear for the victims (GRETA, 2020a). In Lithuania, a pilot group was established in 2020 to ensure the compensation of victims of labour exploitation (GRETA, 2020b). As

mentioned earlier, establishing a transparent and easily accessible compensation system for all victims of human trafficking, would contribute combating the crime in several levels, from criminal proceedings, individuals as well as research done in the field. Effective victim identification and assistance is crucial in order for victims to receive the help and care they are entitled to receive, but also for policy makers and academics to understand the scope of the crimes of exploitative sham marriages to further extend.

The EU countries have obliging regulations to secure the minimum rights of identified victims, but these rights need to be accessible for victims, which at the moment is not the case in all EU countries. For the sake of the investigation and prosecuting offenders, it would be crucial that victims feel safe and secure to stay in the destination country for a needed time and cooperate in the investigation. For this to happen, victims should receive required help, legal, financial, psychological and physical as quickly as possible and preferably not through many intermediaries. Raising awareness is necessary in terms of early prevention of exploitative sham marriages and human trafficking in general, and case study countries have improved their action on that front in recent years, through for instance educating the youth and other vulnerable groups. Media has a great responsibility in how victims, traffickers and THB as a crime appear to general public, and consequently how the crime is prevented, and victims identified.

### **3.2. New EU Member States and vulnerability of becoming an origin country of human trafficking and sham marriages**

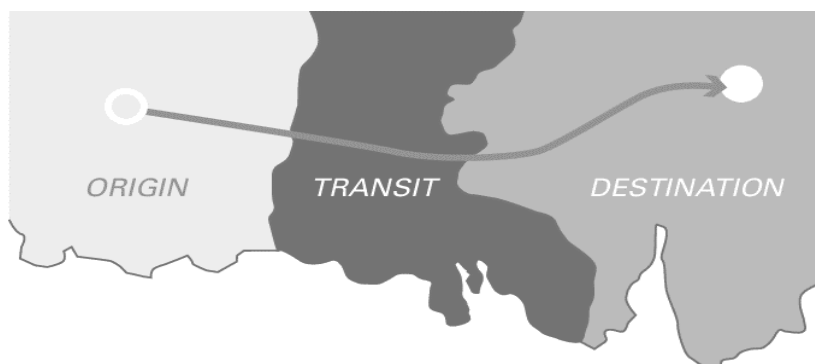
In this sub-chapter, the routes of human trafficking and sham marriages across EU countries are discussed. The differences between origin, transit and destination countries are covered, and aspects affecting on their constant shifting are addressed. Political transformation may lead to increased organised crime in the country, that can facilitate that country in question becoming an origin country of human trafficking and sham marriages. The statistics from recent years of human trafficking illustrate, how the newly joined EU countries frequently lead the lists of the top citizenships of the identified victims in the EU. This raises concerns of the possible linkages between joining the EU and becoming an origin country of human trafficking. Due to hidden nature of THB, the statistics do not represent the actual numbers of victims of human trafficking, and the

definitions and victim identification vary between the Member States. The collection methods of data between MS have been harmonized just in recent years, and therefore statistics, especially from the turn of the first decade of the 21<sup>st</sup> century, are not entirely comparable.

As covered in the first chapter of the dissertation, trafficking in human beings is a transnational crime, affecting every region and country in the world, manifesting differently across nations. Countries are either origin, transit or destination countries of THB, depending on the form of trafficking and current THB trends, sometimes all of these three. There exist several factors contributing in whether a country is an attractive destination country for trafficking or not, such as high living standards, employment opportunities and quality of life in general in the country (Europol, 2016a). In the context of human trafficking for the purpose of sham marriages, national legislations and how precise they are play a role as well, for instance the regulations related to conclusion of marriages as well as divorces between EU citizens and TCNs. The differences between EU Member States' national legislations on human trafficking and sham marriages allow traffickers to exploit this incoherence, abuse the legislative loopholes and shift the activities from one country to another in case a MS adopts more extensive measures in order to combat against the crime (Europol, 2016b). Through sham marriages the legal channels for entry in the EU are abused and the lack of harmonised laws allow OCGs involved in human trafficking to choose the most favourable routes for trafficking in the EU.

Whether a country is an origin, transit or destination country of trafficking affects to the policies and legislative priorities in the country of question. For instance, during the HESTIA project, it was noticed that due to differences in countries position in THB, the focus on combating against THB and sham marriages was in different aspects (Viuhko et al, 2016). More precisely, origin countries can be prioritising more preventative factors like raising awareness and education of the target groups in vulnerable positions, observing the recruitment process and early warning signs, whereas destination countries focus is more likely in immigration issues for instance (Viuhko et al, 2016). These differences make an impact of the results when comparing the situations of the countries and measuring the actions taken in them.

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**Figure 7.** Origin, transit and destination countries of human trafficking. Source: Rossi, 2005.

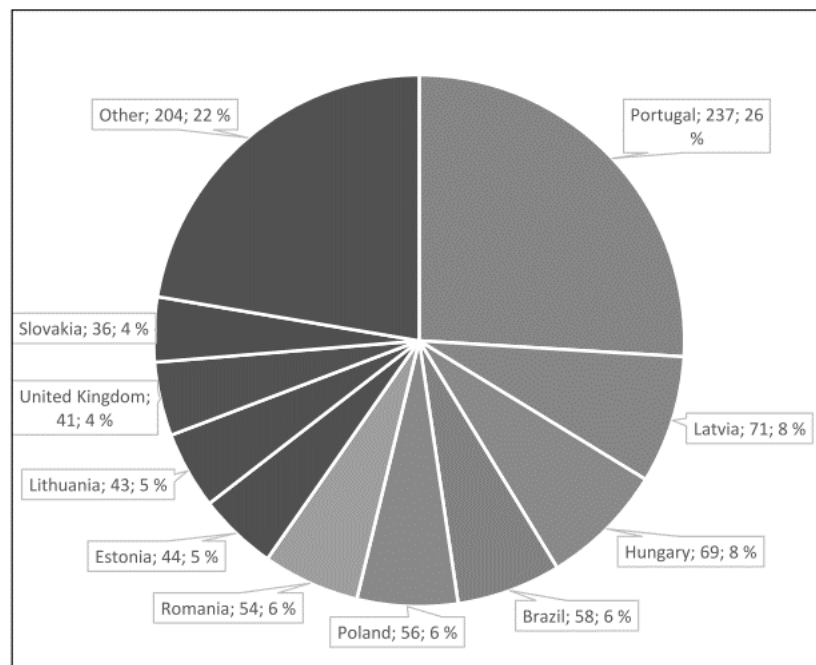
All the Baltic countries, Estonia, Latvia and Lithuania, are primarily origin or transit countries of human trafficking and exploitative sham marriages, but the position on the trafficking map seems to be shifting. Estonia has mainly been an origin or transit country but has recently become increasingly also destination of THB (CBSS, 2020; GRETA, 2020b). Lithuania has been primarily an origin country but is becoming transit and destination country as well (CBSS, 2020; GRETA, 2019) and Latvia was for years primarily an origin country but is increasingly used as a transit country (GRETA, 2017). The ongoing shift in the countries' roles in the trafficking map can be a result of various different changes nationally and internationally. As discussed earlier, when country's policies change towards THB and sham marriages, and stricter measures are implemented, it may lead to that country's position as a destination country of trafficking. This is not a novelty in the area of organised crime, where numerous countries have been challenged by the capacity of adaptation and flexibility of organised crime (Shelley, 2004). In the case of Estonia, the shift from an origin country towards destination country can be partially explained by an increased amount of foreign workers in Estonia, and labour exploitation relating to them (CBSS, 2020). According to the most recent country GRETA report of Estonia, there were 54 presumed TCN victims of THB in 2019 in the country (GRETA, 2020a), which is a significant increase to years 2016–2018 when the identified number of non-EU victims was less than ten (CBSS, 2020). As one country's situation changes it may affect to border countries as well, which would explain why Latvia and Lithuania are increasingly transit countries, while Estonia is the destination.

This would indicate that victims of human trafficking are transported through other Baltic countries to Estonia to be further exploited.

The push – and pull factors discussed earlier in the first chapter of this dissertation illustrate what aspects and circumstances drive individuals more likely to become victims of human trafficking and sham marriages. When it comes to vulnerability of whole geological regions becoming origin countries of human trafficking there can be found partially similar aspects, such as economic crisis leading to poverty, conflict or a war for instance. Uncertainties and insecurity in the country can open up possibilities for organised crime groups to rise in the area, exploiting the situation. Such uncertainties have in the history of Europe been political transitions of for instance Italy joining the Eurozone in 1999 (Perissich, 2012) and Russia's and Albania's political transformations (Hysi, 2004; Shelley, 2004). In the context of the Baltic countries, there can be found a linkage between political transition of joining the European Union and an increased number of Baltic nationals conducting exploitative sham marriages with third-country nationals, falling into victims of human trafficking. Estonia, Latvia and Lithuania joined the EU in the same year of 2004, and soon after that Latvian embassy in Ireland identified a pattern of young Latvians marrying third country nationals in Ireland (Cosgrave et al, 2016; Šūpule, 2016). During the following years as an increased number of these newly married women started to seek help from the embassy, it became clear that many of these marriages were in fact exploitative sham marriages (Cosgrave et al, 2016; Šūpule, 2016). Similar trend has concerned Estonian Embassy in Ireland after 2009 as it was identified that Estonian nationals were marrying third-country citizens in an increased manner in the country (Cosgrave et al, 2016). According to the HESTIA project report of Lithuania (2016), the number of Lithuanians marrying TCNs saw a significant increase as well after 2004 but stabilised again in 2009–2010 (Zibas, 2016). Zibas (2016) claims that the trend in Lithuania can be explained by Lithuania becoming a more attractive country of destination after joining the EU (Zibas, 2016). As a country joins the European Union it certainly becomes more attractive country to settle down in and in case of formalising a binational relationship an obvious choice to register the marriage in. The cases of Latvia and Estonia raised concerns though, as the marriages were increasingly registered elsewhere in the EU and especially the Latvian embassy managed through its own research identify a significant number of these as sham.

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The examples drawn from Baltic countries indicate that the number of sham marriages concluded by Baltic nationals started to significantly increase, after the countries joined in the European Union in 2004. Other countries that joined the EU in the same year are Cyprus, Czechia, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia (European Union, 2021). Bulgaria and Romania joined in 2007, and Croatia 2013 (European Union, 2021). When looking at the statistics of female EU citizens marrying third-country nationals in Ireland, which is one of the largest human trafficking destinations countries of Europe, the share of the ‘new’ EU countries is notable. The following chart indicates the situation between November 2014 and July 2015.



**Figure 8.** Top ten nationalities for the 2nd party females (N, %). Source: Cosgrave et al, 2016.

Out of the ten most represented nations, seven are new EU Member States, the other countries being the United Kingdom, Portugal and Brazil (Cosgrave et al, 2016). The data on marriages do not indicate the share of sham marriages included, but for instance in a case of Estonia the number of Estonian women marrying TCNs in Ireland in a relatively short period of time is significant when compared to Estonia’s population of approximately 1,3 million inhabitants (O’Neill, 2021). 71 marriages concluded by Latvian women in Ireland within a 9 month period is likewise prominent for a nation of 1,9 million inhabitants (O’Neill, 2021). Such observations raise concerns of the possibility of sham

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marriages involved. The same countries which joined the EU between 2004 and 2007 lead the statistics of the nationalities of victims of THB proportionate to population between the years 2015 and 2018 in the European Union (European Commission, 2018; 2020). The following tables represent a time period before the United Kingdom separated from the EU, and the country is therefore counted in the listing as an EU Member State.

**Table 9.** Victims of trafficking in the EU by EU citizenship per 1 000 000 inhabitants

Rank	2015-2016		2017-2018	
	EU (28) citizenship	Rate of victims per 1 000 000 inhabitants	EU (28) citizenship	Rate of victims per 1 000 000 inhabitants
1	Hungary	135	Romania	74
2	Bulgaria	79	Hungary	64
3	Lithuania	77	Bulgaria	40
4	Romania	76	Latvia	39
5	Slovakia	57	Lithuania	35
6	Netherlands	43	Slovakia	28
7	Latvia	33	United Kingdom	18
8	Portugal	19	Netherlands	15
9	Croatia	18	Poland	9
10	Poland	17	France	8

Source: European Commission, 2018, p. 83; European Commission, 2020, p. 159. Edited by the author.

Between 2015 and 2016, eight of the ten EU countries, where the largest number of the registered victims of human trafficking are coming from proportionate to population, were new EU countries. According to the statistics of 2017 and 2018 the ranking was seven out of ten. When looking at the statistics per one million inhabitants, the share of the new EU countries emphasizes, as for instance the Baltic countries are relatively small nations in terms of population. In terms of absolute numbers, the share of the new countries is slightly smaller.

**Table 10.** Victims of trafficking in the EU by EU citizenship

Rank	2015-2016		2017-2018	
	EU (28) citizenship	Number of registered victims	EU (28) citizenship	Number of registered victims
1	Romania	1511	Romania	2880
2	Hungary	1327	United Kingdom	2449
3	Netherlands	724	Hungary	1250
4	Poland	634	France	1049
5	Bulgaria	568	Poland	675
6	France	567	Bulgaria	562
7	United Kingdom	522	Netherlands	525
8	Slovakia	310	Germany	373
9	Germany	231	Slovakia	303
10	Lithuania	226	Lithuania	195

Source: European Commission, 2018, p. 83; European Commission, 2020, p. 158. Edited by the author.

Romania, Bulgaria and Hungary have been on the top five origin countries of THB throughout the years according to both methods of reporting, already on a reporting period of 2013–2014, and in 2010–2012 (European Commission, 2016; 2018; 2020; Eurostat, 2014). According to Europol (2016), the largest number the agency registered as an origin of the victims of THB in 2013–2014 were as well Bulgaria, Hungary, Romania, along with Slovakia and Lithuania (Europol, 2016b). The reasons for some countries dominating the infamous list can be several already discussed earlier in this dissertation, from the push – and pull factors in individual level, and obscurity of definitions and laws in the governments, as well as victim identification instruments and the lack of relevant education of professionals working in the countries with human trafficking. The fact that

majority of the origin countries of victims in the EU are new EU Member States, raises concerns of the countries' vulnerability in political transitions, such as when joining the European Union. The already existing uncertainties and looseness in definitions combined with a new EU status, establish a favourable platform for organised crime to benefit from, and for human trafficking networks to flourish. Therefore, it would not only be crucial to continue combating against THB and exploitative sham marriages in the current EU States but ensure that the preventative measures of exploitative sham marriages and other forms of human trafficking are properly implemented in the country already before joining the EU. This is particularly essential when it comes to prevention of exploitative sham marriages as they are, along with other marriage-related trafficking, the forms of THB where traffickers seek EU citizens as victims, due to benefits the citizenship and residence permit in the EU enable. The next candidates for an EU membership are Serbia and Montenegro, potentially joining in 2025, following with Albania and North Macedonia (European Union, 2021). Albania for one's part has been on the top non-EU countries of origin of THB for several years, in the statistics of the European Commission of 2015–2016 and the latest of 2017–2018 (European Commission, 2018; 2020). This emphasizes the need for robust actions in tackling the crime in Albania already before the possible joining to EU, and identifying the actors, OCGs and root causes enabling THB in the country. The examples drawn from other countries show that after joining the EU the country becomes only more attractive country for serious and organised crime and makes it more vulnerable for exploitative sham marriages originating from the country. This illustrates the importance of effective cooperation the origin, transit and destination countries in the EU, through for instance JITs and harmonised laws and regulations.

### **3.3. Recommendations for future actions in the EU to robustly combat against exploitative sham marriages**

Analysing the research material discussed in this dissertation provides several aspects that can be used as recommendations for future actions in national and international level in the European Union. Based on an extensive documentary analysis, the author found areas of improvement, that will be discussed and presented in the following sub-chapters.

### **3.3.1. Concepts, definitions and terminology**

There should be established legally binding international definitions for sham marriage and exploitative sham marriage. These definitions should be clearly distinguished from other marriage related crimes, such as fake marriage, forced marriage and also marriage of convenience, which is currently used as a synonym to sham marriage by many, but it can be misleading in certain situations. Exploitative sham marriage is strongly linked to trafficking in human beings and can be part of all three elements of THB; act, means and exploitation. Exploitative sham marriage can also include several forms of exploitation and narrowing it down to only for instance under human trafficking for the purpose of sexual exploitation can be very limiting, and this is how it is defined in for instance the data collection on human trafficking by the European Commission from 2018 (European Commission, 2018). One solution to consider would be distinguishing not only sham marriage from forced and bogus marriages, but also from marriage of convenience, as Europol has the crimes presented in 2021 (Europol, 2021). The Serious and Organised Crime Threat Assessment of 2021 defines marriage of convenience as an offence of human smuggling and sham marriage a form of human trafficking (Europol, 2021). Distinguishing marriage-related crimes from each other and defining how they are criminalised is the core of effectively preventing such crimes, and for the European Union to do that, these definitions and terminology should be harmonized between the States.

### **3.3.2. Laws and regulations**

Establishing the laws and regulations on how sham marriages are criminalised and offenders prosecuted should be done in a coherent matter in the EU. Exploitative sham marriage should be as a minimum to be listed as form of human trafficking in the national criminal codes of the European Union MS. The suggestion of the author is the following. Sham marriage or a marriage of convenience is a crime against the state and considered as human/migrant smuggling. In this scenario only country laws are violated, both parties of the marriage are involved by their own free will and common understanding, and both are conducting a crime and therefore criminals of a sham marriage agreement. If the other party does not conduct the marriage in their full free will, and is for instance coerced to it

initially, it is considered as forced marriage and therefore a form of human trafficking. Exploitative sham marriage for one's part is a crime against a person, and fundamental human rights. Exploitative sham marriage may start as a sham marriage, but exploitative elements emerge during some point of the process. Exploitative sham marriage may also start through a deception, or the other person is tricked to the marriage, but not forced or coerced. The deception may be done so that the victim believes the love is genuine between the parties or some other way victim's vulnerabilities are used for advantage<sup>12</sup>.

Coherent and unified laws regarding exploitative sham marriages in the states of the European Union would enhance the conviction of the offenders found guilty. When the act itself is not criminalised and alternative legal basis is used, it makes the prosecution harder and relatively small number of cases reach the court, when compared to identified number of victims. Double criminalisation is currently a problem in the EU when it comes to sham marriages and exploitative sham marriages, which could be prevented by establishing common laws and regulations in criminalisation of these crimes. Through common laws and procedures, establishing joint investigation teams and other international cooperation becomes considerably easier. This would lead to more identified cases of exploitative sham marriages, more convicted traffickers and victims receiving assistance. This for ones' part contributes to more accurate statistics of exploitative sham marriages which eases future research and studies done about exploitative sham marriages. As more countries criminalise exploitative sham marriages in a coherent manner, the harder it would be for traffickers to circulate choosing the countries in terms of vaguest legislations as trafficking routes.

### **3.3.3. Victim assistance and identification**

When exploitative sham marriage is clearly stated as a form of human trafficking in the national criminal code, it can help victims to seek help in an increased manner, as they are seen as victims and not offenders, therefore eligible of getting the safety, protection and assistance that THB victims are entitled to. At the moment in many countries of the EU where sham marriages are not recognised as separate crimes, many victims might not

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<sup>12</sup> See the chapter 1.4. Recruitment of victims for more forms of deception and how victims are recruited for exploitative sham marriages.

seek help for their situation as of being afraid of getting treated as criminals. Many EU countries have established special services and help for trafficking victims. If victims are left unidentified or they are failed to see as trafficking victims and for instance victims of domestic violence or even criminals themselves, they are left without the protection and help they would be entitled to. Unrecognised case of exploitative sham marriage would be damaging for the individual as well as for crime prevention of exploitative sham marriages in general, and there exists a high risk of secondary victimization as well. The EU countries should be encouraged to conduct more studies, publications, media coverage and raising awareness in schools of different levels and among the vulnerable groups who may be more prone to end up as victims of human trafficking. The victims should receive more incentives and help, as well as sufficient compensation in order to stay in the country of destination long enough to cooperate in the investigation process. These measures would contribute to future prevention of exploitative sham marriages, increasing knowledge and education among general population, and help mitigating the crime.

#### **3.3.4. Political transformation as a facilitator in organised crime trends in the EU**

The findings of this dissertation indicate the need for taking in consideration the vulnerabilities of countries in political transformations and considering them when granting the EU membership for countries in the future. The recent statistics show how newly joined EU states are the most large-scale origin countries of human trafficking, which can stem from vague laws and regulations, weak government or for instance pull factors making a new EU state more attractive for organised crime. The conditions of the EU-candidate country should be stable enough before the transition, and these desirable conditions should be ensured also during and after it. The author of this research advocate unified criminal laws across the EU states, and the same should be in cases of the EU-candidate states. This could prevent effectively organised crime, as well as exploitative sham marriages and other marriage-related crimes from the start. Transnational crimes require cooperation across borders, and that is as its most successful state only when the countries criminalise same crimes in a similar manner.

### **3.3.5. The gendered nature of exploitative sham marriages and the role of the current pandemic**

Trafficking in human beings is a result of numerous root problems in our society. Regardless of anti-trafficking policies the countries implement, when there is a demand, there will be supply, whether it is for prostitution, cheap workforce in agricultural or construction sites or domestic servitude for instance. This demand goes deep into the root problems of our society such as poverty, inequality, and undefined or vague laws and regulations. When it comes to exploitative sham marriages in the EU, where generally the parties of the marriage are a male TCN and a female EU citizen, the nature of the crime is gendered. Gender inequalities and violence against women are significant root causes of human trafficking (Fernández Rodríguez de Lievana, Waisman, 2017) and therefore some of the causes of exploitative sham marriages as well. The report of United Nations from Congress on Crime Prevention and Criminal Justice (2021) held in March 2021, states that the current outbreak of COVID-19 has increased the violence against women, making women in vulnerable positions more likely to end up as victims of THB as well (United Nations, 2021). Many speakers in the same congress noted that the pandemic has increased inequalities and economic challenges in countries, which create opportunities for organised crime (Ibid.). These are factors requiring thought, long term consideration and actions, in order to be diminished from our societies.

The current pandemic has, and will in the future, inevitably effect the required action measures in the EU to prevent human trafficking and exploitative sham marriages. The outcomes of the pandemic can increase push factors, such as increasing individuals' economic distress, physical- and mental health issues and loss or weakening of inner social circle and the safety that it may bring. Similarly, the situation of current victims can possibly become increasingly worsened, as there might not be any access to health care and the spread of COVID-19 can be difficult to control. Europol's report 'Beyond the pandemic' (2020) predicted in April 2020 that new fields will be affected by THB due to economic instabilities rising in Europe. Such fields are for instance tourism and nursing sectors. (Europol, 2020a.) Closing of businesses opens markets for illegal or cheap labour, and due to border restrictions, there is potential for an increase of intra EU-victims (Europol, 2020b). As the lockdown in Europe decreases migration flows in the official statistics, it is likely to increase the illegal migration and human smuggling. It could be

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argued, that when it comes to exploitative sham marriages, the pandemic may rise interests for residence permit in the EU for TCNs, especially ones from countries where the governments have not been able to handle the pandemic in a preferred manner.

## CONCLUSION

The aim of this dissertation was to examine exploitative sham marriages inside the European Union and understand the phenomenon to a further extent. The author set out to examine the research question ‘how are exploitative sham marriages prevented in the European Union’ and sought to answer it through sub-questions focusing on specific areas of the phenomenon. To answer the research questions, an extensive documentary analysis was executed, utilizing reports of different nature, countries’ criminal codes and EU directives.

*Conclusions on question 1: How have the European Union Member States in the Baltic region implemented the findings of Project HESTIA?*

The findings of this research conclude that in terms of raising awareness, increasing and further developing training of experts and international cooperation, the Baltic states have improved the action measures taken after the project HESTIA ended in 2016. The countries are cooperating more actively, arranging co-trainings, campaigns and projects regarding THB. The work done in schools and raising awareness has gone forward, educating the youth about dangers of human trafficking. When it comes to defining sham marriage and exploitative sham marriage, Baltic states are ahead of several other EU states, utilizing the term ‘exploitative sham marriage’ also in the reports and publications, which is still rare at the EU level. The author interprets this development as a result of their participation in the project HESTIA, and therefore becoming familiar with the term, which is still new and relatively unknown in several other EU countries. When it comes to Baltic states, there is still work to be done in training the experts, working with the victims of THB, and the staff who might come across with victims. There is an acknowledged need for mental health related training in the context of THB. Another challenge is ensuring equal distribution of training and knowledge throughout the several municipalities within the same country. The lack of training and knowledge increases the risk for vulnerable groups in rural municipalities. There is a great need for a consistent training of experts and authorities working with the victims of human trafficking across all regions of a same territory, since the negligence of rural areas – in this specific type of crime – has the potential to have very serious consequences.

*Conclusions on question 2: Can political transformation of joining the EU be a facilitator of risk of sham marriages and THB?*

When it comes to newly joined EU states and their potential vulnerability to becoming origin countries of THB and sham marriages, the author concludes that based on the research findings, the political transformation of joining the EU can be a facilitator of risk of exploitative sham marriages, as well as of other forms of human trafficking. During the first years after joining the EU, the identified cases of marriages concluded abroad, along with exploitative sham marriages, increased among Baltic citizens. Currently the countries that have joined in the year 2004 or after are leading the infamous chart of the most victims of human trafficking in the European Union. This is a problem to consider on the EU level when new countries join the EU in the future.

*Conclusions on question 3: How are sham marriages criminalized in the EU?*

Sham marriages are not criminalised in the EU in a coherent manner. Currently, less than a half of the EU states recognize sham marriages as a separate crime in criminal codes. Sham marriages are still framed very differently in the EU countries, and there is not a common understanding of whether sham marriages are a form of human smuggling, human trafficking, both or something else. In fact, the lack of a unified definition of sham marriage and the consistent incoherence when it comes to the use of this expression is perhaps one of the most salient results of this research. The incoherence found in the definition of exploitative sham marriage can be observed within the same institution, defining sham marriage in different ways in different publications, which may give rise to the misunderstanding of its specificity and confusion with other forms of crime. This lack of coherence impacts on the prevention of this crime. When the definitions of certain criminal acts are unified and are same in different countries, also the laws can be, and this should be essential when combating against transnational crimes, such as exploitative sham marriages. Currently many EU countries' criminal codes addressing human trafficking could in theory cover exploitative sham marriages, but without being separately recognised there, the cases are commonly treated through alternative legal base. This does not bring justice to the victims, as it overlooks the severity of exploitative sham marriages as a form of human trafficking, violating fundamental human rights.

*Conclusions on question 4: What should be done in the EU to robustly combat against exploitative sham marriages?*

Exploitative sham marriage is a particularly tricky phenomenon to prevent and identify, since it may evolve and change its form throughout a given period of time. The role of a spouse may change when concluding a sham marriage. An EU citizen may shift from being a perpetrator of an offense or a fraud against the state, into becoming a victim of exploitation and human trafficking. This undoubtedly has an effect on the perception of this crime. The point in which the case is identified can have a great effect on its outcome, and on who is seen as an offender and who as a victim. The topic requires more academic attention, in order to gain fact-based knowledge and to better understand the different aspects of exploitative sham marriages.

In addition to recommendations proposed to EU countries to more effectively prevent exploitative sham marriages, there exists a great need for future study and research to be carried out in the field. As profound as the research executed in this dissertation intended to be, exploitative sham marriages are particularly multidimensional and challenging crimes to cover, and many aspects had to be left for future studies. Though important, the limitations of time and resources did not allow to further develop research for instance into the role of TCN husbands in sham marriages and how the organisers of the marriage get in contact with them. Another interesting topic for future studies would be to develop the idea of political transformation as a facilitator for increased human trafficking and sham marriages, by putting it to the context of countries leaving the EU, instead of joining it.

The data and statistics of exploitative sham marriages as human trafficking in general are never accurate, not all victims get their voices heard and not all organised crime is identified, and the statistics provide rather indicative information. The major challenge in the current research on exploitative sham marriages in the European Union is that there exists little research. The crime is also widely overlooked in policy making. It is difficult if not impossible to compare the EU countries with each other due to the differences in laws, terminology, languages and at times the lack of publicly available information.

This research intended to shed light on the phenomenon of exploitative sham marriages, seeking to introduce and analyse the major obstacles that are currently preventing effective crime prevention in the EU. The results showed the vulnerability of recently joined EU states and the potential of political transformation to foster the escalation of organised crime, specifically of human trafficking (namely as an origin country) and exploitative sham marriages. This dissertation is, according to the author's knowledge, the only research done specifically on exploitative sham marriages after project HESTIA. Therefore, this research brings new information on the topic in the scientific field of criminology, giving recommendations that could better inform the European Union practices in this area.

The research findings suggest that we still have a long way to go in order to effectively prevent exploitative sham marriages in the European Union. The essential steps would be to develop a universal and legally binding definition for exploitative sham marriage and distinguish marriage-related crimes from each other through a clear definition. Only after then the improvements for criminal codes can be executed, stating exploitative sham marriage as a form of human trafficking. This would enhance the other aspects covered in this dissertation as well, from international cooperation to victim identification and assistance. Project HESTIA acted as a pioneer in research done in exploitative sham marriages, and future research should further develop the findings of it as well as the ones of this dissertation. In the field of criminology human trafficking is a widely researched criminal phenomenon, and numerous academics address THB and its forms in scientific publications. Still, exploitative sham marriages are overlooked and misunderstood, and the severity of the crime is often underestimated. The author hopes for a much needed change in the near future.

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