

Binational Marriages and Czech Immigration Policy: Sorting Truth from Fiction?

Marie Jelínková
Alice Szczepaniková

Translated from Czech by Alena K. Alamgir

Abstract:

In the following text we present a short analysis of marriages between migrants and Czech citizens. These marriages are a form of family migration, and as such, they have recently become a focus of a rather intense public discussion. This discussion was a response to the amendments of the Alien Act (326/1999 Coll.) that came into effect in December 2007 despite protests of a number of nongovernmental organizations.. Our empirical findings clearly discredit the official discourse, which revolves around notions of “genuine” and “fake” marriages, and point to the need to pay much closer attention to the complexities of binational marriages. Our work is a response to the inappropriate approach to family migration adopted by the Czech state and its institutions, and the simplistic ways in which the media portray this phenomenon. We also argue that the current system of incorporating foreigners is implicitly based on erecting barriers that put foreigners with fewer material resources or social competencies and contacts at a distinct disadvantage. Furthermore, the system impels a large number of foreigners to engage in acts that teeter on the brink of legality.

The data used for the following analysis came from the research project called *Civic Stratification, Gender and Family Migration Policies in Europe*, which was coordinated by the International Centre for Migration Policy Development (ICMPD) in Vienna, and financed by the Austrian Ministry for Education, Science and Culture. Research similar

to ours was conducted in seven other European countries.¹ The main goal of the project was to map the conditions for family reunification, family formation with Czech citizens (focusing on foreigners coming from countries other than the “old” fifteen EU Member States), and for the immigration of entire families. We were interested in seeing what impact these conditions have on the lives of migrants and their Czech family members. We analyzed how a varying access to rights (given to migrants by the state, based on their residence status) influences a migrant’s social position. One of our important findings was that it is insufficient to pay attention merely to immigrants’ *formal* eligibility for these rights; instead, one must primarily look at the extent to which a migrant is *actually* able to take advantage of these rights. In this article, we will discuss in detail one of the research topics, namely, the issue of marriages between migrants and Czech citizens. It is important to note right at the outset that a marriage automatically means a more secure position for the partner-migrant since s/he is given permanent residence status, which provides foreigners with rights comparable to the rights enjoyed by Czech citizens.

We used qualitative research methods, namely interviews, which were conducted in the spring of 2007. We conducted nineteen semi-structured interviews with migrants from non-EU states and new EU Member States (i.e., countries that joined the EU in 2004 and 2007), who are long-term residents of the Czech Republic and have some experience with family migration. We also conducted two interviews with their Czech partners.² To further corroborate our findings from the individual-level interviews, we also conducted a focus group discussion that comprised of four female migrants and two Czech women – migrants’ partners. Additionally, since we were interested in the opinions of the officials heading the institutions that are primarily responsible for creating and implementing migration policies, we interviewed employees of the Asylum and Migration Policy Department at the Ministry of Interior, the Alien and Border Police, and a lawyer specializing in migration issues. In order to take into account the experiences and opinions of nongovernmental organizations (NGOs), we asked the six most important NGOs working with migrants to fill out our questionnaire.³

¹ More information about the project can be found at:
<http://politikwissenschaft.univie.ac.at/index.php?id=12418>

² We paid all the interviewees, both the migrants and their Czech partners, 200 CZK to compensate them for the time they devoted to us. Some interviewees appreciated the payment; others turned it down, usually explaining that they, too, found the interview interesting. In general it can be said that this approach facilitated our access to the informants. Although we did our best to ensure that our sample is balanced in terms of gender, we were not able to interview the same number of men and women; the ratio between women and men who participated in the research was thirteen to seven.

³ Three filled-out questionnaires were returned to us. We would hereby like to thank the representatives of the Counselling Centre for Refugees, the Diocesan Caritas Plzeň, and the Centre for Integration of Foreigners, who were kind enough to fill out our extensive questionnaire.

The Issue of “Genuine” and “Fake” Binational Marriages

The narratives of migrants and their Czech partners revealed the existence of a number of motivations for getting married, many of which were somewhat different from the usual dichotomizing view of marriage that divides marriages into the “genuine” ones (based on pure love and desire to live together as a family) and the “fake” or “instrumental” ones; or, as the law on the residence of foreigners on the territory of the Czech Republic states, marriages entered into “with a goal of gaining residence”. We believe that these findings offer a more balanced contribution to the current debate about “an increase in fake marriages in the Czech Republic”. This debate is particularly important because it was used by politicians and representatives of the Czech Ministry of Interior to legitimize changes in the Alien Act, which introduced stricter conditions for attaining permanent residence by foreign spouses of Czech citizens.

Generally, people do not get married merely because they seek an emotional satisfaction, but for other reasons as well, such as in order to reach a certain level of stability in their lives, or to improve their social status and to gain financial security. A certain degree of “instrumental nature,” therefore, also marks marriages between citizens of the same country. This “instrumental nature,” however, does not necessarily exclude the possibility of genuine feelings. Circumstances are similar in cases where one of the partners happens to be a citizen of another country. The situation here, though, is more complex because marriage with a Czech citizen becomes the basis for a foreigner’s right to reside legally in the Czech Republic for extended periods of time. As the following examples will show, strict application of the amended law could have a negative impact even on marriages which can hardly be defined as either “genuine” or “instrumental,” since they are more accurately viewed as being located somewhere in between these two extremes.

An example of how a marriage can be seen as fulfilling the combined needs of the stabilization of one’s immigration status, financial security and emotional satisfaction can be illustrated by the story of Anna from Ukraine. Anna, who is 65 today, arrived in the Czech Republic in 1993 when Ukrainian citizens still did not need a visa to visit the Czech Republic. At the time, travelling back and forth was easy, as was earning some extra cash without necessarily possessing a work permit. After a few months of her stay in the Czech Republic, Anna applied for and was given a long-term residence permit, which she had to renew every year with the Alien and Border Police. After almost three years of residence in the Czech Republic and a two week long relationship, she married a Czech man named Tomáš, who she divorced about two years later. We conducted an interview with her as well as with her ex-husband. Thus, we are able to look at their marriage from several vantage points. Anna described her reasons for getting married in the following way:

Well, it wasn't just because of the [permanent] residence [status]. I feel something for him [Tomáš], even these days my daughter claims that when he becomes the topic of conversation, my eyes light up.

It wasn't for the documents because it was possible to get permanent residence in other ways as well. All one needed was to know a few people there and spend the time pursuing it.

(Anna, originally from Ukraine, previously married to a Czech citizen, 65 years old)

While Anna did recount in the interview that she felt obliged to financially support her husband since his pension was too small, she did not try to hide that marrying him brought her many advantages as well, primarily, legal permanent residence for herself and her daughter who was a minor at the time. When asked about the main reason for the marriage's demise, she primarily cited Tomáš's tendency to nit-pick and his generally not-an-easy-to-get-along nature. She was convinced that "no Czech woman would be able to live with him." When asked "How come you were able to live with him?" Anna responded:

Okay, I'll put it this way. I am a stranger here and I felt supported when I was with him. When we talk to officials, he talks for me. He can get things done well, various kinds of things.

(Anna, originally from Ukraine, previously married to a Czech citizen, 65 years old)

Anna's responses make it clear that while one of her reasons for getting married was the stabilization of her immigrant status, it was not, by far, the only motive for entering the marriage.

Tomáš, her ex-husband, described Anna's reasons for marrying him, thus:

I knew that she was calculating; that she was marrying me so she could get permanent residence for herself and her daughter who was a minor, but I was in love. And she immersed herself in the role so much, that she fell in love with me too. . .

These immigrant women, they're equipped with female charms, they get married, get the papers and then they find a more suitable partner.

(Tomáš, Czech, ex-husband of a foreigner, 68 years old)

Although Tomáš's acceptance of Anna's decision to get a divorce hardly two years after they got married was accompanied by some bitterness, he also expressed understanding for her action. He reasoned that to her, the wellbeing of her family was more important than their relationship. Anna's reasons for seeking divorce were mixed; on the one hand, she was emotionally tied to Tomáš, on the other, she found living with him difficult. Anna decided to divorce Tomáš only at the moment when an opportunity of gaining an apartment arose and entailed marrying an 80 year old, wheelchair-bound man, also originally from Ukraine. He needed somebody to take care of him because he was completely on his own. Anna described her second marriage in the following way:

This one, though, wasn't a [spousal] relationship. I lived with that man for six years, took care of him, and then he died.

(Anna, originally from Ukraine, previously married to a Czech citizen, 65 years old)

From the point of view of the Alien Act and its interpretation by the officials of the Alien and Border Police, Anna's first marriage to Tomáš could be regarded as "instrumental": the goal of gaining permanent residence was certainly there (among other goals), and the marriage soon ended in divorce, which is sometimes interpreted as a sign of the marriage's "falseness" by the officials. Anna's second marriage might have enabled her to inherit the apartment but it also had some very unpleasant consequences for her; particularly because of her status of a foreigner. The owner of the house in which the husband's apartment was located, filed a lawsuit against her after the old man's death, alleging a "fake" marriage. Although Anna won the case and hence the apartment, the lawsuit had a negative effect on her application for Czech citizenship. Her application was turned down three times before she was eventually granted Czech citizenship in 2007. One should, however, stop and ask the question whether her behaviour was indeed reprehensible and different in any significant way from the behaviour of the majority of the population. In both cases she not only gained, but had to give a lot as well. For instance, when asked whether she would take care of her ex-husband, Tomáš, if he were to become sick, she responded immediately and without much thinking:

Of course! How could it be otherwise? Although he really is an extraordinarily egotistical person. But he's got no one.

(Anna, originally from Ukraine, previously married to a Czech citizen, 65 years old)

We found complex motivations for getting married in other migrants' stories in many different variations. What all the narratives have in common, however, is the *dependence*

on the Czech spouse experienced to greater or lesser degrees by *all* foreign spouses. For example, Natalya is a woman from Belarus with a university degree. Immigration and thereafter, a new marriage, enabled her to leave behind an unsatisfactory relationship back in Belarus. Although it seems that there is not a strong emotional tie between her and her current Czech husband, they live together in the same household and he found her a cleaning job. Natalya feels miserable because despite having a university education, she is unable to find a job on her own due to her insufficient knowledge of Czech and because her university diploma is not recognized in the Czech Republic. Hence, she remains dependent on the job her husband was able to get for her thanks to his social networks. She finds some solace in the fact that by living in the Czech Republic she is able to secure a better future for her teenage son than the one which would await him in Belarus.

Another example of dependence is the case of Ali, a thirty year old man from Egypt, who can only see his newborn son if his Czech wife – who had divorced him before the son’s birth and several times proclaimed that he married her only so he could live in Europe – allows him to do so. Ali has been living in the Czech Republic for just two years. His knowledge of Czech, as well as his overall ability to function in Czech society, and above all his understanding of his rights as a parent are all inadequate, which leaves him feeling insecure and stressed; he is also afraid that he might lose contact with his child altogether.

Ali’s story points to a phenomenon that was also mentioned by representatives of NGOs, namely, that Czech citizens are well aware of migrants’ precarious positions and sometimes exploit the imbalance. In Ali’s case, his wife tried to get rid of him by alleging instrumental motives for entering the marriage. In the case of Marta, a woman who came from a small Ukrainian town, such dependence led to protracted abuse by her Czech husband. Marta married a Czech man who she met through a female friend of hers. She had hoped that the marriage would help her stabilize her immigration status and the living situation for herself and her daughter, who was a minor. She came to the Czech Republic one year after her first husband, also a Ukrainian, had come to the Czech Republic to earn money. He ended up finding a new woman, leaving Marta and refusing to pay her any child support. Marta’s new marriage to the Czech man, however, soon turned into a nightmare. It became apparent that the Czech man married her so he could force her to support him financially. Marta described the situation in the following way:

My husband quit working after our wedding. He wouldn’t even do a temporary job. He’d either sit at home or drink. But he’d always made sure that I had a job. There were times when he found as many as three jobs for me to do at a time. He wanted me to support him financially. But I am ill; I can’t work that much anymore. He would tell me: You’re a Ukrainian woman, you’ll work for me.

Gradually, his abuse became physical and was perpetrated against both Marta and her teenage daughter who lived in the same household. Marta explained why she did not leave her husband then:

He would keep repeating to me that the Czechs hate us, Ukrainians. That if we call the police, we'll just hurt ourselves, that we shouldn't even try talking to the authorities, that they wouldn't treat us well. And we believed him.

(Marta, originally from Ukraine, earlier married to a Czech citizen, 49 years old)

Although this case might seem extreme, it points to the danger to which foreigners, seeking stability in marriage to a Czech citizen, are exposed. In Marta's case, the situation was made worse by her poor financial situation, low education and also by the fact that she had practically no social networks in the Czech Republic that she could rely on during her difficulties.

We found out that in the majority of cases which could be described as falling somewhere in between the "genuine" and the "instrumental," migrants would not have chosen marriage as a vehicle for adjusting their immigration status, should they have other routes towards gaining permanent residence available. The difficulty of gaining a stable legal status is due primarily to bureaucratic complications, corruption and the generally hostile attitude of the Alien and Border Police officials towards foreigners, most notably those from eastern, less economically developed countries.. We are not trying to suggest, of course, that "fake" marriages (especially those where money changes hands) should not be legally punished. Rather, we wish to point out that the very division of marriages into "genuine" and "fake" is often problematic, and is to a large extent a product of the legal and institutional system of migrant incorporation. We are convinced that a decision to enter such a marriage in a vast majority of cases is not an expression of migrants' pathological or criminal leanings, but rather that it is largely brought about by the "atmosphere" and the way the system for granting and renewing residence permits is set up. It is this system that leads migrants to the very brink of illegal practices and reinforces a lack of trust in the rule of law.

Instead of a Conclusion: Family Migration in the Light of Current Migration Policy Developments

Current events surrounding the amendment of the Alien Act and the amendment of the Asylum Act (325/1999 Coll.) bring to the fore the importance of researching family migration thoroughly. The introduced changes unmistakably increase the dependence of the new immigrants on their Czech partners and thus place them in a position that is more

vulnerable to abuse. This is because the amendment significantly redefines the migrant spouses' situation: their immigration status will become entirely dependent upon remaining married to their Czech partners. It states that spouses of Czech citizens arriving from non-EU countries will not be able to apply for a permanent residence permit immediately upon entering the marriage, as has been the case up to December 2007, but only two years later. Should the marriage fall apart by then, they will lose the right of permanent residence.

On the ground, this may mean, for instance, that a female immigrant arrives pregnant or with a small child in order to join her husband who is a Czech citizen. For a year, the legality of her stay in the Czech Republic as well as her financial security will depend on her husband, since at this point she will not be eligible for many welfare and social security benefits.⁴ This amendment not only creates a high level of dependency, it may also lead to even more serious problems, such as domestic violence. As we have shown in Ali's case, there is great inequality between marriage partners, in terms of having to bear the negative consequences of a "fake" marriage. This finding has been also corroborated by representatives of NGOs working with migrants. Whenever Czech citizens proclaim that their marriage with a foreigner was purely instrumental, they put the migrant at a risk of losing the right of permanent residence, or even of being expelled. However, Czech citizens are not in any way legally responsible or punishable for having entered into such a marriage. Quite likely, the amendment will make this social inequality between the partners even greater.

To the extent that so far, the majority of migrants who have been granted permanent residence in the Czech Republic are women, women are the ones who will be more affected by the proposed changes. Thus, the amendment also contains a distinct gender bias. According to the Ministry of Interior, the two-year waiting period before a migrant can apply for permanent residence is supposed to prevent an increase in the number of "fake" marriages. However, uncovering such marriages is currently the task of the Alien and Border Police, which has a number of tools at its disposal to do so, such as: conducting interviews with the spouses, home visits, and asking the couple's neighbours about their life together. Since as many as four thousand binational weddings take place in the Czech Republic every year, the changes will have an impact on a quite substantial part of the population. The changes will be most distinctly experienced by the migrants coming from non-EU countries. Here too, the distinctions according to gender are apparent. According to the data on marriages between Czechs and foreigners provided by the Czech Statistical Office for the year 2006, Czech women most frequently married men from Slovakia, Germany and Great Britain. On the other hand, the female spouses of

⁴ A year-long stay in the country is a condition under which foreigners who are not holders of permanent residence can become eligible for welfare benefits.

Czech men came primarily from (excluding Slovakia) Ukraine and Vietnam – both countries outside of the EU.

Compared with many other European countries, the Czech Republic's approach towards family migration has been fairly liberal so far. The proposed amendment to the Alien Act alters this approach without having presented any clear argument for the change, while also lacking systematic research that would analyze the purported increasing danger of “fake” marriages and the impact the changes would have on binational marriages. This means, among other things, that the amendments will introduce a system that will be hostile to the family despite the fact that much research⁵ has shown that it is the family that is a crucial element to the successful integration of foreigners.

A shorter Czech version of this article was published on December 4, 2007 on Socioweb: www.socioweb.cz.

⁵ One of the latest examples of such a conclusion is the project coordinated by the Ministry of Labour and Social Affairs and financed by the European Social Fund called “Analysis of the Access of Female and Male Migrants to Education and Labour Market in the Czech Republic,” available at: http://www.esfcr.cz/files/clanky/5735/Publikace_AnalyzaImigranti.pdf