

## The logic of “paper marriages”

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### Abstract:

Family reunification is an extremely important factor in the integration process. According to MIPEX III, Poland comparing to other EU countries, has relatively high result in family reunion index<sup>1</sup>. At the same time, however, Poland is confronted with a number of foreigners who overuse the argument of family relationships in order to legalise their stay in Poland.

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Data gathered by the Office For Foreigners in years 2010 – 2012 indicate 374 cases of marriages in order to obtain citizenship in Poland (mainly Ukrainian, Armenian, Vietnamese and Nigerian citizens). The Polish legal system clearly and explicitly defines marriage as a relationship of a man and a woman, which remains under the care and protection of the Polish state<sup>2</sup>. Care and protection is additionally guaranteed by the European law. The institution of marriage is closely connected to the Directive on the right to family reunification from 2003<sup>3</sup> - it aims, on one hand – to support family integrity and, on the other hand – to protect the interest of the state by minimizing the undesirable effects of the family reunification set out in the Directive<sup>4</sup>. Sometimes, however, the legal framework outlined above becomes a field for abuse, for example through entering into marriages of convenience.

Recently the phenomenon of so-called sham marriages<sup>5</sup> has become more common, what might be a result of “cold calculation” of foreigners and their desire to become a citizen of Poland (which at the same time means obtaining European Union citizenship). These marriages are lawful and legitimate, but obviously, feelings become secondary to the desire to legalize the stay in the host country. From the foreigners point of view, the country seems to be a convenient place to obtain citizenship or residence permit. Poland stands at the edge of the EU, therefore may appear as a gateway to the Schengen zone. The Directive mentioned above, which, together with the inclusive vision of the state, allows people to travel through

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<sup>1</sup> Migrant Integration Policy Index III, 2011: <http://www.mipex.eu/poland>

<sup>2</sup> Family and Guardianship Code of 25 February 1964, Dz.U.2012.0.788

<sup>3</sup> Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification:

<http://www.embelgium.be/publication/council-directive-200386ec-family-reunification-directive>

<sup>4</sup> For more information see the article “Family reunification in practice – Polish case”, written by Michał Górski: <http://migrationtothecentre.migrationonline.cz/en/family-reunification-in-practice>

<sup>5</sup> In this article, terms “sham marriage” and “marriage of convenience” are equivalent. The definition sets out their meaning as marriage contracted for reasons other than the reasons of relationship, family, or love.

all Schengen countries. Poland is a rapidly developing country, but it is still trying to catch up with other EU states – nevertheless from an economic point of view it seems to be an attractive opportunity for foreigners.

The need for family reunification increases simultaneously with the growing number of problems associated with this process. The Abolition<sup>6</sup> for foreigners which was performed in Poland in the first half of 2012, has resulted in growing number of foreigners<sup>7</sup> who obtained a temporary residence card. Legalization of stay caused a massive pursuit to bring the relatives to the hosting country, which, in a consequence, made a family reunification much more difficult than before. Thus, it can be concluded that foreigners expressing their desire to obtain residence permit in Poland can benefit, but also face the formal barriers, which pushes them to circumvent the law.

Poland is a country with a restrictive definition of a family. The right of a foreigner to family life in Poland is only granted to the members of a nuclear family. In the light of the Polish law, marriage must be approved by the designated authorities. But what about informal relationships, or the religious ones, such as Muslim marriages? In Poland, a member of a separated family has the opportunity to exercise the right to family reunification only if he or she are part of a duly attested, stable and long-term relationship. All the rights and restrictions mentioned above causes contracting marriages of convenience. And what are the consequences of this act? There is a saying in Poland that “love cannot be compelled”, however, as data shows, sometimes it can be compel quite efficiently . Sometimes not only people remain broken-hearted, but it happens that newly-wed disappear somewhere in the European Union.

Poland does not have a long history of migration, due to the loopholes in the regulations, family reunification operated mostly in the underground. The problem of fictitious relationships rarely becomes a topic in the news. It is presented occasionally in media, and it is basically absent from the public debate. Not fully aware, Polish citizens sometimes decide to contract a sham marriage for commercial purposes, and do not think about the serious implications of their actions in the long-term perspective.

If relevant national authorities<sup>8</sup> reveal that the marriage is only a sham, the foreigner can face serious consequences, including criminal proceedings and the denial of the right to legally stay on the Polish territory, and thus, also in the European Union. Repercussions for the Poles not only include fines and criminal prosecution, but also often threaten their daily lives. If the inviting party does not know the future partner, he or she cannot be sure of their intention and this may seriously complicate his or her life. Although a sham marriage is nothing more than

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<sup>6</sup> More information about legislation of stay for foreigners in Poland:

[http://emn.gov.pl/portal/ese/719/8956/New\\_regulations\\_concerning\\_regularisation\\_of\\_the\\_staying\\_of\\_foreigners\\_in\\_Poland.html](http://emn.gov.pl/portal/ese/719/8956/New_regulations_concerning_regularisation_of_the_staying_of_foreigners_in_Poland.html)

<sup>7</sup> Statistical data on are available on the website: <http://212.160.114.50/informacje/statystyki.html>

<sup>8</sup> The detection of abuses rest on public administration bodies include the voivodes with jurisdiction over the foreigner’s place of residence, the Head of the Office for Foreigners also the Border Guard and the Police.

a paper transaction, in the light of the Polish law it still remains a marriage, and the only way to break it is to divorce. The process prior to the signing of a formal act of ending the relationship is very embarrassing and last for months, or even years, and it requires both sides to be present. At the same time it occasionally happens that the trial is even more complicated due to the fact that it concerns a foreigner.

According to various sources of information, including publications related to sham marriages<sup>9</sup> on the one hand, there are particular cases of victims affected by these serious consequences, e.g. cases of women pretending to be pregnant, or on the other big international networks joining pairs with the illegal intent. There also have been cases of people who repeatedly made marital transaction or situations where foreigners, go as far as possible to escape and after having changed their identity, they become undetectable.

The offered price of several thousand PLN seems to be pretty low if we take into account the change in marital status, risk, criminal offense and assistance in crime, as well as, the possible difficulties in return to everyday life. Despite all these threats, contracting marriages of convenience still flourishes. There is a belief that it is a simple form of obtaining income avoiding the tax and that it gives an opportunity to earn quick money (appearing to be much more convenient than a credit or loan). Despite all the consequences both sides benefit from sham marriage transaction: Poles derive material advantages whereas foreigners might acquire the right to stay in the host country.

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<sup>9</sup> For example: [http://wyborcza.pl/1,76842,9106627,Kocham\\_cie\\_tylko\\_dla\\_dokumentu.html](http://wyborcza.pl/1,76842,9106627,Kocham_cie_tylko_dla_dokumentu.html), [http://prawo.gazetaprawna.pl/artykuly/403745,na\\_fikcyjnym\\_malzenstwie\\_mozna\\_szybko\\_zarobic\\_i\\_duzo\\_stracic.html](http://prawo.gazetaprawna.pl/artykuly/403745,na_fikcyjnym_malzenstwie_mozna_szybko_zarobic_i_duzo_stracic.html), <http://www.wspolczesna.pl/apps/pbcs.dll/article?AID=/20120618/REG00/120619694>.