



Supporting judicial authorities in fighting sham marriages as a form of migrant smuggling and human trafficking

Case analysis report by Eurojust, the EU Agency for Criminal Justice Cooperation



People sometimes gain unlawful access to the EU through a marriage of convenience. Increasingly, such **sham marriages are part of sophisticated fraud schemes** arranged by organised crime groups that engage in **migrant smuggling** and at times **trafficking of human beings** at an international scale. They make big profits by luring mainly women in vulnerable positions into what seems to be “easy money” but instead traps them in a web of exploitation and abuse.

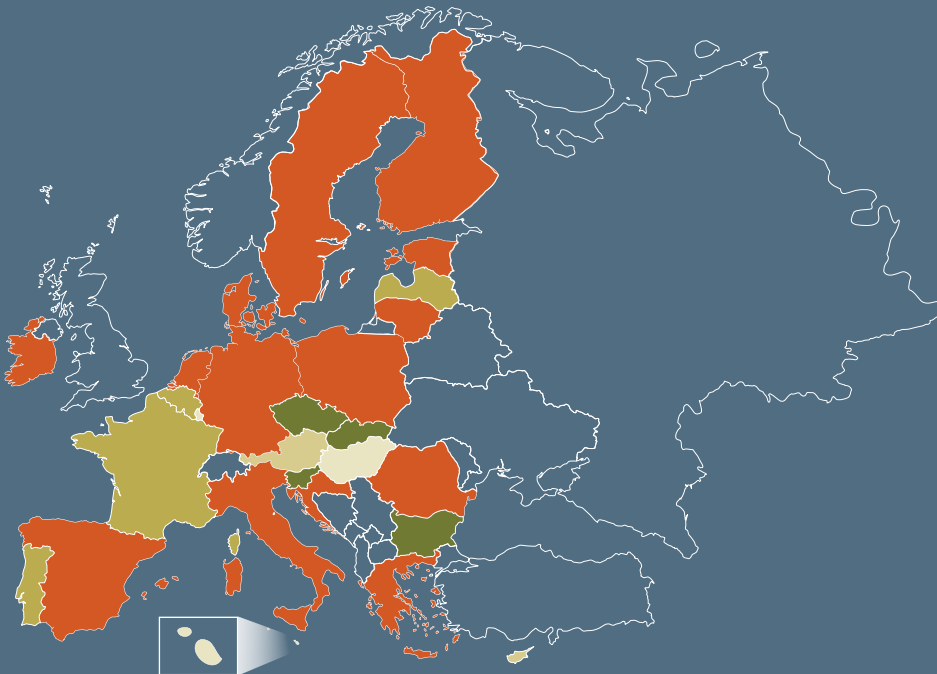


In a new **case analysis report**, Eurojust, the EU Agency for Criminal Justice Cooperation, draws on the **practical experience of sham marriage investigations** supported by the Agency between 2012 and 2020. The analysis shows the impact of the big differences in national legislation in the European Union concerning sham marriages: **In more than half of the EU Member States, sham marriages are not criminalized or are sanctioned with a mild penalty.**

A “LOW RISK/HIGH VALUE” CRIMINAL ACTIVITY:

Organised crime groups make big profits through arranging sham marriages. But sham marriages often appear as isolated acts, connected only to relatively minor offences, such as document fraud or administrative violations, associated with low penalties.

ENTRY INTO AND ARRANGEMENT OF SHAM MARRIAGES CONSIDERED A CRIMINAL ACT



PENALTIES Fines and imprisonment up to:

- **2 years**
Hungary, Luxembourg, Malta
- **3 years**
Austria, Cyprus
- **5 years**
Belgium, France, Portugal, Latvia
- **8 years or more**
Bulgaria, Slovak Republic, Czech Republic
- **Acts related to arranging or entering into sham marriages not criminalized as such.**
Other type of charges can however be pressed, such as facilitation of illegal immigration, trafficking of human beings and document forgery.
Croatia, Denmark, Estonia, Finland, Germany, Greece, Ireland, Italy, Lithuania, Netherlands, Poland, Romania, Slovenia, Spain, Sweden



The differences in national legislation make it more difficult to use EU judicial cooperation tools since these are based on the principle of double criminality.



The criminals exploit such legal differences by operating within the jurisdictions that provide the least punitive treatment of sham marriages (“forum shopping”).

4 recommendations how to step up the fight against sham marriages by international Organised Criminal Groups:

- Lack of **harmonised national legislation** may hamper full judicial cooperation
- Form **joint investigation teams**
- **Coordinate** the investigations through Eurojust
- Involve **all relevant administrations** such as civil registries, consulates, etc.