

## EMN FOCUSSED STUDY 2012

### Misuse of the Right to Family Reunification: marriages of convenience and false declarations of parenthood

#### National Contribution from Cyprus

*Disclaimer: The following responses have been provided primarily for the purpose of completing a Synthesis Report for the above-titled EMN Focussed Study. The contributing EMN NCPs have provided information that is, to the best of their knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of an EMN NCPs' Member State.*

#### Section 1

#### Top-line 'Factsheet' (National Contribution) / Executive Summary (Synthesis Report)

##### National Contribution

**The content of response of the current study centres on the legislative framework and data received regarding marriages of convenience as data is not currently available in reference to false declarations of parenthood.**

On 14.02.2007 Council Directive 2003/86/EC (22.09.2003) was transposed into Cypriot law, by amending the existing Aliens and Immigration Law Cap. 105. The scope of the amending law (Cyprus/ Aliens and Immigration Law, as amended by Law 8(I)/2007 (14.02.2007). covers third country nationals staying lawfully in the area as controlled by the Republic of Cyprus for at least one year, who have reasonable prospects of obtaining the right of permanent residence, if the members of his or her family are third country nationals of whatever status. (Cyprus/Aliens and Immigration Law, as amended by Law 8(I)/2007 (14.02.2007), article 18KI (1).

The provisions of the law do not apply where the sponsor is an asylum seeker; has applied for or enjoys temporary protection; has applied for or enjoys subsidiary protection on humanitarian grounds; or is a recognized refugee under the refugee laws. (Cyprus/ Refugee Law No. 6(I)/2002 (28.01.2000).

Subject to a number of preconditions the entry and residence for family reunification purposes is allowed for the following family members:

- The sponsor's spouse provided that that the marriage took place at least one year before the submission of the application for family reunification. To this effect, a marriage certificate must be produced.
- the minor children (i.e. unmarried and under 18 years of age) of the sponsor and of his/her spouse, including the sponsor's or the spouse's adopted children , as well as adopted children of the sponsor who are exclusively dependent on him or her;
- The minor children including adopted children of the sponsor and the children of the spouse, where the spouse has custody and the children are exclusively dependent on him or her.

The preconditions are that the sponsor must be lawfully residing in the areas controlled by the Republic of Cyprus for at least two years; must have accommodation sufficient for a comparable family in the same region, which must meet the general health and safety standards and secure a decent life; must have health insurance for himself/herself and the members of his/her family; must have steady and regular financial means to support himself/herself and the members of his/her family without resort to the state social security system: Cyprus/Aliens and Immigration Law, as amended by Law 8(I)/2007, article 18LB.

(Cyprus/Aliens and Immigration Law, as amended by Law 8(I)/2007(14.02.2007), article 18L(1).

In the event of a polygamous marriage, where the sponsor already has a spouse living with him in the Republic of Cyprus, the family reunification of a further spouse and his/her children that s/he has with the sponsor is not allowed. (Cyprus/Aliens and Immigration Law, as amended by Law 8(I)/2007, article 18L(4).

In Cyprus, the Cypriot Aliens and Immigration Law does not regulate family reunification with Cypriot nationals. Cypriot nationality law, however, provides for the possibility of acquiring Cypriot citizenship after three years' residence in Cyprus.

The Director of the Immigration Department may revoke a permit or reject the application of family members for entry and residence for the purpose of family reunification for reasons of public security, public order or public health. The Director may also revoke a permit or reject the application where the sponsor and his/her family members no longer live in a real marital or family relationship or where it is found that that the sponsor is married or is in a stable long-term relationship with another person. (Cyprus/Aliens and Immigration Law, as amended by Law 8(I)/2007, article 18LZ(1).

In 2007 Cyprus introduced a law to bring Cypriot legislation in line with Art 45 of the Charter of Fundamental Rights and Council Directive 2004/38/EC (29.04.2004). (Cyprus/ Law on the Rights of Citizens of the Union and their Family Members to Move and Reside Freely in the Territory of the Republic N. 7(1)/2007 (09.02.2007).

Under article 8 of the aforementioned Cypriot law, EU citizens are entitled to enter and reside in Cyprus and the same right is extended to their family members, defined in Art. 2 of the law as

- (a) the spouse who is a Union citizen;
- (b) “the direct descendants of a Union citizen who are under the age of 21 or are dependants and those of the spouse”;
- (c) “the dependent direct relatives in the ascending line and those of the spouse of a Union citizen”.

Article 4(2)(b) of the Law 7(1)/2007 allows for a Union citizen to apply for the exercise of freedom of movement for “his/her partner with whom a Union citizen has a continuous relationship properly proven”, which according to Article 4(2) of the Law 7(1)/2007 is subject to the Migration and Aliens Law.

**Regarding marriages that are contracted/take place in Cyprus**, the careful examination of marriages involving third country nationals was and remains a matter of utmost concern and priority for the Ministry of Interior as are the measures used to combat the phenomenon of marriages of convenience. The phenomenon of marriages of convenience was detected at a very early stage by the Cypriot Authorities strengthening since then their efforts and intensifying their actions in cooperation with all relevant Departments, in order to effectively combat the practice. Cyprus has an advisory committee, consisting of representatives of various authorities, which examine all the elements in order to advise the Migration Officer whether the marriage is one of convenience or not the Migration Officer furthermore decides on the basis of information also supplied from the Aliens and Immigration Department of the Police.

It is noted that in 2003 the House of Representatives introduced a relevant clause in the Marriage Law, providing for the appointment of a so called “*Advisory Committee for Marriages of Convenience*”. The Committee was vested with the power to examine cases of suspiciously contracted marriages and, after basing its judgement on concrete evidence gathered from the Aliens and Immigration Department of the Police, to submit their findings and suggestion to the Director of the Civil Registry and Migration Department for the formation of a final decision.

Indeed, according to the statistical records kept to date since 2003, a total number of 398 cases of marriages have been declared as marriages of convenience within this period, while 44% of the total number of these marriages was contracted by a third country national and a non-Cypriot EU-Member State citizen. Cyprus' accession to the European Union in 2004 obviously signalled an increase in the overall numbers of marriages of convenience declared especially in the recent years,

obviously suggesting that a Cypriot residence permit became more attractive.

In order to declare a case as a marriage of convenience, competent authorities perform a case-by-case investigation for all applications for a temporary residence permit on the grounds of a marriage submitted on behalf of third country nationals. The Ministry of Interior places equal emphasis on the larger majority of these thousands of cases and adopts a concise system of review irrespective of the large and increasing numbers of applications.

The case-by-case investigation, however, regrettably results in considerable delays in issuing the respective residence documents, since the applications submitted from third-country nationals married to EU-nationals had to be under longer examination. Although this practice initially aimed at preventing abusive possession of residence evidence, i.e. prevent their use to gain entry to other EU-Member States, the Republic of Cyprus, taking into account the European Commission regarding the implementation of the provisions of the EU directive 2004/114/EC on the free movement of EU Nationals and of the members of their family, was obliged last year to accordingly adjust its administrative practice, as it was not in line with the provision of the directive to issue the Residence Card no later than six months from the date on which the application was submitted.

The Cypriot Authorities have additionally placed special emphasis on the implementation of the marriage law passed in 2003 as regards the directed actions of Marriage Officers at the Municipalities. After establishing that in numerous cases of marriages contracted not all substantial written evidence was submitted from either of the parties involved, all the municipal authorities have been committed since 2009 to require a non-impediment certificate issued by the Cypriot Registrar of Marriages in line with article 31 of the Marriage Law. Following this precaution, the measure substantially contributed to the further containment of fraudulent marriages and made conditions significantly more difficult for persons staying legally to abuse the wedding procedures.

Yet, despite all the continuing efforts including the personal involvement of the Minister of Interior and other high officials of the Ministry, the competent authorities have concluded that in recent years and in certain exceptional cases some Municipal Authorities did not fully comply with the obligation of the requirement of the non-impediment certificate issued by the Cypriot Registrar of Marriages in line with article 31 of the Marriage Law and, furthermore, in general some Marriage Officers did not comply with all the terms and provisions of the aforementioned Law. For that reason, the Ministry of Interior has focused its efforts on amending the present legislation, thus introducing further and more stringent requirements in order to contract a marriage.

The competent authorities have been very intensively engaged with this task for a long period of time. In fact, the intended amendment has admittedly proven to be a demanding assignment, since it is not a straight forward task to introduce immigration clauses in the marriage law without being in breach of provisions either of the European convention on human rights or the charter of fundamental rights and basic freedom, regarding the right to marriage, family and private life.

However, after overcoming certain difficulties, a draft amending act has already been through legal examination and it will be forwarded to the Council of Ministers for approval. The draft legislation, preventing abuse, is expected to be submitted very soon to the House of Representatives, including among others the following provisions:

- it introduces an obligation to submit further documents as a requirement for the contracting of a marriage
- it authorizes the Registrar of marriages to perform a pre-marriage interview
- it empowers the Minister of Interior to sanction Marriage Officers who prove to contract marriages in contrary to provisions of the law

The issue of fraudulent marriages should not be seen as a solely administrative dysfunction. It is unfortunately only one of the distressing aspects of illegal migration. In fact, Cyprus has in recent years been under enormous migration pressures, mainly due to its geographical position and the unrest in the southern Mediterranean region. According to records, among the other EU-Member States Cyprus has, until recently, been at the top of the relevant list with the highest percentage of asylum applications accepted per capita. Therefore, dealing with marriages of convenience in part should also be seen as a shared responsibility of the EU and its Member States to combat illegal migration by strengthening all collective efforts.

## Section 2

### National legislative framework and definitions

*2.1 How are concepts of ‘marriage’ and the ‘family’ defined and understood in your Member States in the laws and regulations relating to family reunification?? E.g. do concepts of marriage cover civil partnerships, same-sex marriage, cohabitation, etc.) – please refer to any specific pieces of legislation and relevant Articles.*

The term ‘marriage’ for family reunification purposes is understood as the matrimony between two third-country nationals, a man and a woman. The duration of the marriage must be at least one year prior to the application and the age of the spouse must be at least 21 years. The concept of marriage doesn’t cover civil partnerships, same-sex marriage, cohabitation, etc. (Aliens and Immigration Law , articles 18L(1)(a), 18L(5)). The scope of the Cypriot law that transposed Council Directive 2004/38/EC (29.04.2004) does not include same sex marriages or registered partnerships. Council Directive 2003/86/EC was transposed into Cypriot law in 2007 without making use of the provision found in Article 4/3 of the Directive. The effect is that the right to family reunification is not extended to the unmarried partner of the sponsor with whom the sponsor is in a duly attested stable long-term relationship, or to a person who is bound to the sponsor by a registered partnership.

According to Article 2 of the Law 7(I)/2007, family member of an EU citizen means:

- (a) The spouse
- (b) The direct descendants who are under the age of 21 or are dependants, and those of the spouse or partner
- (c) The dependent’s direct relative in the ascending line and those of the spouse or partner, who are dependants

For the non – mobile EU citizen the above concepts of ‘marriage’ and the ‘family’ have the same are the same. Although no specific legislation exists for family reunification purposes, it is recognized and the same procedures are being followed. Spouses from third countries that have contacted a marriage with Cypriot citizens or parents-in-law from third countries or underage children of foreigners (younger than 18 years) ensure relative visa filling the application for family reunification and then apply for residents permit.

*2.2 What national legislation regulates family reunification between:*

- (i) a third-country national residing lawfully in the EU / Norway reunifying with a third-country national applying to enter / reside there in order to preserve the family unit.*
- (ii) A mobile EU national reunifying with a third-country national*
- (iii) A non-mobile EU citizen reunifying with a third-country national on the basis of*

*jurisprudence (and reference to the EU Treaty)*

*(iv) A non-mobile EU citizen reunifying with a third-country national.*

*Please provide the name of the legislation and the conditions under which family reunification can take place.*

*Please note that family reunification between two third-country nationals in the EU is regulated under Directive 2003/86/EC, however this Directive leaves room for national discretion in certain areas; therefore a detailed description of national legislation in this area is necessary.*

*Note also that separate or the same legislation may regulate reunification between two spouses as between a parent and child. Please clarify which is the case in your country below.*

*For family reunification between two spouses please also distinguish, where relevant, between marriage, civil partnerships, same-sex marriage, cohabitation, etc.*

Family reunification between a third – country national residing lawfully in the EU/Norway with his/her third-country national spouse or child is regulated by Aliens and Immigration Law

Third-country nationals who, have legally resided within the areas controlled by the Government of the Republic for a period of at least 2 years, are holders of a resident permit valid for at least one year, and who have reasonable prospects of obtaining the right of permanent residency can apply for family reunification, provided that their family members reside outside the Republic.

The Director of the Civil Registry and Migration Department can authorize the entry and residence in the Republic of the following family members:

- (a) The sponsor's spouse
- (b) The minor children of the sponsor and of his/her spouse, including children adopted in accordance with a decision taken by the competent authority in the Republic or a decision which is automatically enforceable due to international obligations or must be recognized in accordance with international obligations
- (c) The minor children including adopted children of the sponsor where the sponsor has custody and the children are dependent on him or her.
- (d) The minor children including adopted children of the spouse where the spouse has custody and the children are dependent on him or her.

Minor children referred to above must be below the age of 18 years and must not be married and the sponsor's spouse must be of a minimum age of 21 years.

The requested certificates for the members of the sponsor's family which must be submitted with the application must be duly attested by the diplomatic channel. The Director's decision regarding the application is communicated to the applicant as soon as possible and no later than 9 months from the date of the application. A first resident permit is issued to the member of the family for one year. This permit is renewable up to the expiry date of the sponsor's resident permit.

The Director of the Department has discretionary power, in case the sponsor is employed in a company, under the provisions of the Company Law, which has permission to employ third-country nationals to accept an application for family reunification when the family members already reside

in the Republic and without demanding a previous residence of minimum 2 years for the sponsor. The Director's decision regarding such application is communicated to the applicant no later than 5 months from the date of the application.

In 2007 Cyprus introduced a law to bring Cypriot legislation in line with Art 45 of the Charter of Fundamental Rights and Council Directive 2004/38/EC (29.04.2004). (Cyprus/ Law on the Rights of Citizens of the Union and their Family Members to Move and Reside Freely in the Territory of the Republic N. 7(1)/2007 (09.02.2007). Under article 8 of the aforementioned Cypriot law, EU citizens are entitled to enter and reside in Cyprus and the same right is extended to their family members, defined in Art. 2 of the law as

(a) the spouse who is a Union citizen;

(b) "the direct descendants of a Union citizen who are under the age of 21 or are dependants and those of the spouse";

(c) "the dependent direct relatives in the ascending line and those of the spouse of a Union citizen".

Article 4(2)(b) of the Law 7(1)/2007 allows for a Union citizen to apply for the exercise of freedom of movement for "his/her partner with whom a Union citizen has a continuous relationship properly proven", which according to Article 4(2) of the Law 7(1)/2007 is subject to the Migration and Aliens Law.

Family members of an EU citizen, who are not nationals of a Member State, are only required to have an entry visa in accordance with Regulation (EC) No 539/2001 or, where appropriate, with national law. Possession of a valid residence card shall exempt such family members from the visa requirement (Article 5 (3)(a) of Law 7(I)/2007.

Cyprus grants such persons every facility to obtain the necessary visas. Such visas are issued free of charge as soon as possible and on the basis of an accelerated procedure (Article 5 (3)(b) of Law 7(I)/2007.

Where a Union Citizen, or a family member who is not a national of a Member State, does not have the necessary travel documents or, if required, the necessary visas, the competent authorities give such persons every reasonable opportunity to obtain the necessary documents or have them brought to them within a reasonable period of time or to corroborate or prove by other means that they are covered by the right of free movement and residence (Article 5 (5) of Law 7(I)/2007.

*2.3 Is the prevention of misuse of residents' permits for family reunification as defined in the context of this study specifically covered in national legislation? If so, what are the provisions? Please explain what changes in legislation and/or practice are being considered in your Member State to fight against such misuses. Please refer to the specific piece of legislation and relevant Articles.*

Measures, as defined in Aliens and Immigration Law for prevention of misuse of residents' permits for family reunification, are:

The sponsor must reside in the Republic for a period of at least 2 years (article 18LB(a))

The sponsor must be a holder of a residence permit valid for at least one year and have reasonable prospect of obtaining the right of permanent residence in the Republic (article 18KI(1))

The sponsor's spouse must be of a minimum age of 21 years (article 18L(5))

The duration of the marriage must be at least one year prior to the application (article 18L(1)(a))

The sponsor's children must be below the age of 18 years and must not be married (article 18L(2))

*2.4 Where relevant and where information is available, give a brief description of the impacts (if any) of European Court of Justice case law which has focused on family reunification (e.g. Zambrano, McCarthy, Dereci) in your Member State?*

No available information.

### Section 3

#### The situation in Cyprus

##### Scope of the issue

*3.1 Are a) marriage of convenience and b) false declaration of parenthood recognised as examples of misuse of residents' permits for family reunification in your (Member) State?*

*Please give an overview of the problem, (to the extent that it is recognised as a problem in your (Member) State) and the context (e.g. please refer here to any policy documents, media coverage, NGO campaigns, case law examples, etc. that demonstrate the ongoing problems)*

**Regarding marriages that are contracted/take place in Cyprus**, the careful examination of marriages involving third country nationals was and remains a matter of utmost concern and priority for the Ministry of Interior as are the measures used to combat the phenomenon of marriages of convenience. The phenomenon of marriages of convenience was detected at a very early stage by the Cypriot Authorities strengthening since then their efforts and intensifying their actions in cooperation with all relevant Departments, in order to effectively combat the practice. Cyprus has an advisory committee, consisting of representatives of various authorities, which examine all the elements in order to advise the Migration Officer whether the marriage is one of convenience or not the Migration Officer furthermore decides on the basis of information also supplied from the Aliens and Immigration Department of the Police. Moreover, the requested certificates for the members of the sponsor's family which must be submitted with the application must be duly attested by the diplomatic channel (Apostille and Attestation of Documents)

It is noted that in 2003 the House of Representatives introduced a relevant clause in the Marriage Law, providing for the appointment of a so called "*Advisory Committee for Marriages of Convenience*". The Committee was vested with the power to examine cases of suspiciously contracted marriages and, after basing its judgement on concrete evidence gathered from the Aliens and Immigration Department of the Police, to submit their findings and suggestion to the Director of the Civil Registry and Migration Department for the formation of a final decision.

Indeed, according to the statistical records kept to date since 2003, a total number of 398 cases of marriages have been declared as marriages of convenience within this period, while 44% of the total number of these marriages was contracted by a third country national and a non-Cypriot EU-Member State citizen. Cyprus' accession to the European Union in 2004 obviously signalled an increase in the overall numbers of marriages of convenience declared especially in the recent years, obviously suggesting that a Cypriot residence permit became more attractive.

In order to declare a case as a marriage of convenience, competent authorities perform a case-by-case investigation for all applications for a temporary residence permit on the grounds of a marriage

submitted on behalf of third country nationals. The Ministry of Interior places equal emphasis on the larger majority of these thousands of cases and adopts a concise system of review irrespective of the large and increasing numbers of applications.

The Cypriot Authorities have additionally placed special emphasis on the implementation of the marriage law passed in 2003 as regards the directed actions of Marriage Officers at the Municipalities. After establishing that in numerous cases of marriages contracted not all substantial written evidence was submitted from either of the parties involved, all the municipal authorities have been committed since 2009 to require a non-impediment certificate issued by the Cypriot Registrar of Marriages in line with article 31 of the Marriage Law. Following this precaution, the measure substantially contributed to the further containment of fraudulent marriages and made conditions significantly more difficult for persons staying legally to abuse the wedding procedures.

Yet, despite all the continuing efforts including the personal involvement of the Minister of Interior and other high officials of the Ministry, the competent authorities have concluded that in recent years and in certain exceptional cases some Municipal Authorities did not fully comply with the obligation of the requirement of the non-impediment certificate issued by the Cypriot Registrar of Marriages in line with article 31 of the Marriage Law and, furthermore, in general some Marriage Officers did not comply with all the terms and provisions of the aforementioned Law. For that reason, the Ministry of Interior has focused its efforts on amending the present legislation, thus introducing further and more stringent requirements in order to contract a marriage.

The competent authorities have been very intensively engaged with this task for a long period of time. In fact, the intended amendment has admittedly proven to be a demanding assignment, since it is not a straight forward task to introduce immigration clauses in the marriage law without being in breach of provisions either of the European convention on human rights or the charter of fundamental rights and basic freedom, regarding the right to marriage, family and private life.

However, after overcoming certain difficulties, a draft amending act has already been through legal examination and it will be forwarded to the Council of Ministers for approval. The draft legislation, preventing abuse, is expected to be submitted very soon to the House of Representatives, including among others the following provisions:

- it introduces an obligation to submit further documents as a requirement for the contracting of a marriage
- it authorizes the Registrar of marriages to perform a pre-marriage interview
- it empowers the Minister of Interior to sanction Marriage Officers who prove to contract marriages in contrary to provisions of the law

*3.2 Optionally, please describe any other forms of misuses detected in your (Member) State (e.g. adoptions of convenience)*

No information is currently available regarding adoptions of convenience.

### **National means of preventing misuse**

*3.3 How are misuses of residence permits by a) marriages of convenience and b) false declarations of parenthood prevented?*

*As well as the legislative framework identified above, please describe national policy and practice in this area, highlighting any good practice measures.*

In 2003 the House of Representatives introduced a relevant clause in the Marriage Law, providing for the appointment of a so called “*Advisory Committee for Marriages of Convenience*”. The Committee was vested with the power to examine cases of suspiciously contracted marriages and, after basing its judgement on concrete evidence gathered from the Aliens and Immigration Department of the Police, to submit their findings and suggestion to the Director of the Civil Registry and Migration Department for the formation of a final decision.

The Cypriot Authorities have additionally placed special emphasis on the implementation of the marriage law passed in 2003 as regards the directed actions of Marriage Officers at the Municipalities. After establishing that in numerous cases of marriages contracted not all substantial written evidence was submitted from either of the parties involved, all the municipal authorities have been committed since 2009 to require a non-impediment certificate issued by the Cypriot Registrar of Marriages in line with article 31 of the Marriage Law. Following this precaution, the measure substantially contributed to the further containment of fraudulent marriages and made conditions significantly more difficult for persons staying legally to abuse the wedding procedures. After overcoming certain difficulties, a draft amending act has already been through legal examination and it will be forwarded to the Council of Ministers for approval. The draft legislation, preventing abuse, is expected to be submitted very soon to the House of Representatives, including among others the following provisions:

- it introduces an obligation to submit further documents as a requirement for the contracting of a marriage
- it authorizes the Registrar of marriages to perform a pre-marriage interview
- it empowers the Minister of Interior to sanction Marriage Officers who prove to contract marriages in contrary to provisions of the law

### **National means of detecting misuse**

*Please describe both strategic and practical approaches that are applied, and information sources. Please include the extent to which detection results from those involved admitting the misuse (for example, women wishing to exit a marriage of convenience). Is a special status or amnesty granted in such cases?)*

*3.4 What factors trigger an investigation of individual cases? How are a) marriages of convenience and b) false declarations of parenthood detected and investigated? Are there any factors that have prevented investigations into suspected misuses from progressing?*

According to Article 7A. (3) of the Aliens & Immigration Law, factors which act as triggers for the investigation of a case of fraudulent marriage (marriage of convenience) are the following:

- The couple do not reside under the same roof.
- The members of the married couple had never met before the consummation of their marriage.
- When there is appropriate evidence of a lack of contribution on either part regarding the various practicalities and obligations resulting from a marriage.
- When statements made by either spouse regarding essential information of a personal nature are conflicting.

- When the spouses each speak a language that is not understood by the other i.e. a common language is not presented for communication.
- If a monetary amount has been given in order for the marriage to take place. (Except when this happens in the form of a dowry as is custom in certain cultures).
- If evidence exists that either spouse has in the past been one part of a fraudulent marriage (marriage of convenience) or if problems and issues pre-exist regarding either spouse's legal stay in the republic and the issuance of a residency permit.

The above mentioned factors may be obtained from the declarations of the involved parties or relevant third parties in addition to investigation and interview procedures and the gathering of all relevant documentation.

*3.5 What evidence is needed to prove that the marriage/declaration is false (e.g. DNA-testing, etc.)? Who has the 'burden of proof' (the third-country national concerned to prove that the relationship is real or the authorities to prove that it is false)?*

The authorities have the burden of proof and this can be achieved by separate interview with each of the spouses and other family members, friends and neighbors

*3.6 Who (e.g. which national authorities) are responsible for detecting such misuses? If multiple authorities are involved, how are they coordinated? Is there an official mandate – e.g. an Action Plan - governing the involvement of these authorities?*

Civil Registry and Migration Department of Ministry of Interior, through the Aliens and Immigration Branch of the Police.

### **National action against those misusing**

*Please describe the likely penalties imposed, and any impacts on: EU citizens / Third-country nationals*

*3,7 Once detected, how does your Member State treat people found to be misusing family reunification through a) marriages of convenience and b) false declarations of parenthood)?*

To contract a marriage of convenience is an offence which is punishable by up to three years imprisonment or by fine up to €5.000 or both.

Regarding EU Citizens and their family members, the competent authority (Civil Registry and Migration Department) may adopt the necessary measures to refuse, terminate or withdraw any right conferred by Law 7(I)/2007, in the case of abuse of rights or fraud, such as marriages of convenience. Any such measure shall be proportionate and subject to the procedural safeguards provided for in Articles 32 and 33 of Law 7(I)/2007

*3.8 Do persons accused of abusing/misusing family reunification have a right to appeal?*

According to the Constitution (Article 146), every person has the right to file an appeal with the Supreme Court against any negative decision by the administration, including decisions reached by

the Migration Officer.

3.9 Are there any examples of trans-national cooperation (e.g. between Member States or between Member States and third countries in combating misuse of family reunification?)

No information available

### **Reasons and motivations**

3.10 Where possible (i.e. based on previous research undertaken, media interviews, etc.) describe the motivations for the sponsor engaging in a marriage of convenience / false declaration of parenthood. These may be economic, humanitarian or emotional considerations.

Where possible describe the motivations for the third-country national engaging in a marriage of convenience / false declaration of parenthood rather than (other) legal routes into the Member State.

In most cases the motivations involve economic considerations.

## Section 4

### Available statistics, data sources and trends<sup>1</sup>

National Contribution (1-3 pages)

***To the extent possible, statistics provided should be disaggregated according to the four scenarios outlined in Section III of this Common Template.***

### **Statistics: General Context**

4.1 Please provide the main / (readily) available national statistics (and the data sources with their status, i.e. published / not published) related to and in order to give a general context for the Study. What are the gaps? What are the available years?

Data might include for example: statistics on residence permits / visas granted for the purpose of family reunification, plus other reasons of entry; general characteristics of those entering for family reunification purposes, etc.

Note that Eurostat has statistics available on first permissions granted for the purpose of family reunification in accordance with Article 6 of Regulation 862/2007/EC ('Statistics on residence permits and residence of third-country nationals'), available for 2009-2010. The Eurostat statistics are disaggregated by length of validity of permit (i.e. 3-6 months, 6-12 months, and 12 months and more) and by category of family member (e.g. child, spouse, etc.). Moreover, statistics are disaggregated by the type of reunification (TCN joining TCN and TCN joining EU-citizen).

<sup>1</sup> Please note that, as this is a Focussed Study, only data that is readily and easily available should be provided.

**EMN Focussed Study: Misuse of the Right to Family Reunification  
Cyprus contribution**

Year	Applications	Issued Permits
2011	944	1618
2010	768	692
2009	6	1

**Statistics: Specific indicators of the intensity of the issue:**

4.2.a What is the *intensity* of the issue in your (Member) State?

Data might include the number of marriages of convenience and false declarations of parenthood that have been detected in your (Member) State; applications rejected because of presumption of marriage of convenience or false declaration of parenthood; residence permits issued for the purpose of family reunification later revoked, due to suspicion / evidence of them representing a marriage of convenience / false declaration of parenthood cases; case law.

Please provide statistics where available.

**Marriages of Convenience**

2011	132
2010	54
2009	48
2008	48
2007	24
2006	30
2005	42
2004	11
2003	9

**No information is available regarding false declarations of parenthood**

**Characteristics of those involved**

4.2.b For: a) Marriages of Convenience and b) False Declarations of Parenthood, please describe where possible, a) the EU status (e.g. EU citizen, legally resident third-country national), the nationality and sex of those involved.

Please provide details of data sources.

**Fraudulent Marriages 2003**

<b>ETHNICITY</b>	
SYRIA	1
PAKISTAN	-
RUSSIA	1
UKRAINE	1
BANGLADESH	-
IRAN	-
MOLDOVA	1
SRI-LANKA	1
INDIA	-
BELARUS	1
CHINA	-
MOROCCO	-
JORDAN	-
LEBANON	-
THAILAND	-
GHANA	-
PHILIPPINES	1
ROMANIA	1
BULGARIA	1
<b>TOTAL</b>	<b>9</b>
<b>AGE</b>	
20-30	2
31-40	5
41-50	1
51-60	1
61-70	-
71-80	-
<b>RESIDENCY STATUS</b>	
WORKERS	9
ASYLUM APPLICANTS	-
STUDENTS	-
<b>MARRIAGES WITH CYPRIOT NATIONALS</b>	<b>9</b>
<b>MARRIAGES WITH EU NATIONALS</b>	<b>-</b>

**Fraudulent Marriages 2004**

<b>ETHNICITY</b>	
SYRIA	-
PAKISTAN	1
RUSSIA	2
UKRAINE	1
BANGLADESH	-
IRAN	-
MOLDOVA	-
SRI-LANKA	-

**EMN Focussed Study: Misuse of the Right to Family Reunification  
Cyprus contribution**

INDIA	-
BELARUS	1
CHINA	-
MOROCCO	-
JORDAN	-
LEBANON	-
THAILAND	-
GHANA	-
ROMANIA	3
BULGARIA	3
<b>TOTAL</b>	<b>11</b>
<b>AGE</b>	
20-30	1
31-40	7
41-50	1
51-60	2
61-70	-
71-80	-
<b>RESIDENCY STATUS</b>	
WORKERS	10
ASYLUM APPLICANTS	1
STUDENTS	-
<b>MARRIAGES WITH CYPRIOT NATIONALS</b>	<b>11</b>
<b>MARRIAGES WITH EU NATIONALS</b>	<b>-</b>

**Fraudulent Marriages 2005**

<b>ETHNICITY</b>	
SYRIA	7
PAKISTAN	5
RUSSIA	7
UKRAINE	5
BANGLADESH	-
IRAN	-
MOLDOVA	2
SRI-LANKA	1
INDIA	9
BELARUS	-
CHINA	1
MOROCCO	-
JORDAN	1
LEBANON	-
THAILAND	-
GHANA	-
PHILLIPINES	1
EGYPT	1
ROMANIA	2
<b>TOTAL</b>	<b>42</b>
<b>AGE</b>	

**EMN Focussed Study: Misuse of the Right to Family Reunification  
Cyprus contribution**

20-30	13
31-40	23
41-50	6
51-60	-
61-70	-
71-80	-
<b>RESIDENCY STATUS</b>	
WORKERS	30
ASYLUM APPLICANTS	5
STUDENTS	7
<b>MARRIAGES WITH CYPRIOT NATIONALS</b>	<b>29</b>
<b>MARRIAGES WITH EU NATIONALS</b>	<b>13</b>
POLAND	2
GREECE	4
LATVIA	4
LITHUANIA	3

**Fraudulent Marriages 2006**

<b>ETHNICITY</b>	
SYRIA	6
PAKISTAN	4
RUSSIA	1
UKRAINE	5
BANGLADESH	-
IRAN	-
MOLDOVA	2
SRI-LANKA	-
INDIA	4
BELARUS	1
CHINA	2
MOROCCO	-
JORDAN	-
LEBANON	1
THAILAND	-
GHANA	-
BULGARIA	4
<b>TOTAL</b>	<b>30</b>
<b>AGE</b>	
20-30	9
31-40	14
41-50	7
51-60	-
61-70	-
71-80	-
<b>RESIDENCY STATUS</b>	
WORKERS	21
ASYLUM APPLICANTS	4

**EMN Focussed Study: Misuse of the Right to Family Reunification  
Cyprus contribution**

STUDENTS	4
VISITORS	1

<b>MARRIAGES WITH CYPRIOT NATIONALS</b>	<b>25</b>
<b>MARRIAGES WITH EU NATIONALS</b>	<b>5</b>
GREECE	3
AUSTRIA	1
SLOVAKIA	1

**Fraudulent Marriages 2007**

<b>ETHNICITY</b>	
SYRIA	3
PAKISTAN	2
RUSSIA	4
UKRAINE	3
BANGLADESH	-
IRAN	1
MOLDOVA	2
SRI-LANKA	1
INDIA	3
BELARUS	-
CHINA	-
MOROCCO	-
JORDAN	-
LEBANON	-
THAILAND	-
GHANA	-
EGYPT	3
YUGOSLAVIA	2
<b>TOTAL</b>	<b>24</b>
<b>AGE</b>	
20-30	8
31-40	10
41-50	5
51-60	1
61-70	-
71-80	-

<b>RESIDENCY STATUS</b>	
WORKERS	17
ASYLUM APPLICANTS	4
STUDENTS	2
VISITORS	1
<b>MARRIAGES WITH CYPRIOT NATIONALS</b>	<b>22</b>
<b>MARRIAGES WITH EU NATIONALS</b>	<b>2</b>
GREECE	1
GERMANY	1

**Fraudulent Marriages 2008**

<b>Ethnicity</b>	
SYRIA	9
PAKISTANTAN	6
RUSSIA	6
UKRAINE	6
BANGLADESH	4
IRAN	2
MOLDOVA	2
SRI-LANKA	2
INDIA	2
BELARUS	2
CHINA	1
MOROCCO	1
JORDAN	1
LEBANON	1
THAILAND	1
GHANA	1
<b>TOTAL</b>	<b>47</b>

<b>AGE</b>	
20-30	14
31-40	27
41-50	5
51-60	-
61-70	-
71-80	1

<b>RESIDENCY STATUS</b>	
WORKERS	27
ASYLUM APPLICANTS	14
STUDENTS	6

<b>MARRIAGES WITH CYPRIOT NATIONALS</b>	<b>36</b>
<b>MARRIAGES WITH EU NATIONALS</b>	<b>9</b>
ROMANIA	3
ENGLAND	3
BULGARIA	1
SWEDEN	1
PORTUGAL	1

**Fraudulent Marriages 2009**

<b>ETHNICITY</b>	
SYRIA	6
PAKISTAN	5
RUSSIA	3

**EMN Focussed Study: Misuse of the Right to Family Reunification  
Cyprus contribution**

UKRAINE	4
BANGLADESH	2
IRAN	1
MOLDOVA	4
SRI-LANKA	8
INDIA	7
PHILIPPINES	1
CHINA	2
EGYPT	1
NEPAL	1
LEBANON	2
AFGHANISTAN	1
<b>TOTAL</b>	<b>48</b>
<b>AGE</b>	
20-30	18
31-40	24
41-50	4
51-60	2
61-70	-
71-80	-
<b>RESIDENCY STATUS</b>	
WORKERS	27
ASYLUM APPLICANTS	13
STUDENTS	4
VISITORS	2
<b>MARRIAGES WITH CYPRIOT NATIONALS</b>	<b>22</b>
<b>MARRIAGES WITH EU NATIONALS</b>	<b>26</b>
ROMANIA	5
GREECE	2
BULGARIA	9
LATVIA	5
POLAND	1
LITHUANIA	1
CZECH REPUBLIC	2
SLOVAKIA	1

**Fraudulent Marriages 2010**

<b>ETHNICITY</b>	
SYRIA	10
PAKISTAN	9
SRI-LANKA	3
PHILIPPINES	1
IRAN	1
PALESTINE	1
BURKINA FASO	1
BANGLADESH	7
UZBEKISTAN	2
LEBANON	1

**EMN Focussed Study: Misuse of the Right to Family Reunification  
Cyprus contribution**

RUSSIA	1
INDIA	9
MOLDOVA	1
UKRAINE	2
GEORGIA	1
NEPAL	1
MOROCCO	1
CHINA	1
BULGARIA	1
<b>TOTAL</b>	<b>54</b>
<b>AGE</b>	
20-30	31
31-40	13
41-50	9
51-60	1
61-70	-
71-80	-
<b>RESIDENCY STATUS</b>	
WORKERS	39
ASYLUM APPLICANTS	1
STUDENTS	7
VISITORS	7
<b>MARRIAGES WITH CYPRIOT NATIONALS</b>	<b>20</b>
<b>MARRIAGES WITH EU NATIONALS</b>	<b>34</b>
ROMANIA	13
BULGARIA	12
LATVIA	2
POLAND	1
LITHUANIA	1
ENGLAND	3
GREECE	2

**Fraudulent Marriages 2011**

<b>ETHNICITY</b>	
CHINA	3
BELARUS	1
INDIA	10
SYRIA	18
CAMEROON	6
NIGERIA	5
BANGLADESH	14
IVORY COAST	3
UKRAINE	8
MOLDOVA	10
PAKISTAN	19
NEPAL	2
EGYPT	5
SRI-LANKA	11

**EMN Focussed Study: Misuse of the Right to Family Reunification  
Cyprus contribution**

RUSSIA	6
AFGHANISTAN	1
ZIMBABWE	1
MAIMAR	1
ARMENIA	1
PHILIPINES	3
GHANA	1
BURKINA FASO	1
ETHIOPIA	1
SERBIA	1
<b>TOTAL</b>	<b>132</b>
<b>AGE</b>	
20-30	56
31-40	54
41-50	18
51-60	4
61-70	-
71-80	-
<b>RESIDENCY STATUS</b>	
WORKERS	52
ASYLUM APPLICANTS	29
STUDENTS	36
VISITORS	15
<b>MARRIAGES WITH CYPRIOT NATIONALS</b>	<b>46</b>
<b>MARRIAGES WITH EU NATIONALS</b>	<b>86</b>
ROMANIA	37
BULGARIA	26
LATVIA	8
SLOVAKIA	3
LITHUANIA	2
CZECH REPUBLIC	2
GREECE	6
ESTONIA	1
ENGLAND	1

## Section 5

### Summary and conclusions

*National Contribution (up to one page only)*

*Key findings, main observations, concluding remarks, any identified actions and next steps.*

#### **Legislative Framework.**

Within the scope of this study, the relevant amendments to Cypriot Law are the following:

On 14.02.2007 Council Directive 2003/86/EC (22.09.2003) was transposed into Cypriot law, by amending the existing Aliens and Immigration Law Cap. 105. The scope of the amending law (Cyprus/ Aliens and Immigration Law, as amended by Law 8(I)/2007 (14.02.2007). covers third country nationals

staying lawfully in the area as controlled by the Republic of Cyprus for at least one year, who have reasonable prospects of obtaining the right of permanent residence, if the members of his or her family are third country nationals of whatever status. (Cyprus/Aliens and Immigration Law, as amended by Law 8(I)/2007 (14.02.2007), article 18KI (1).

The provisions of the law do not apply where the sponsor is an asylum seeker; has applied for or enjoys temporary protection; has applied for or enjoys subsidiary protection on humanitarian grounds; or is a recognized refugee under the refugee laws. (Cyprus/ Refugee Law No. 6(I)/2002 (28.01.2000).

Furthermore, in 2007 Cyprus introduced a law to bring Cypriot legislation in line with Art 45 of the Charter of Fundamental Rights and Council Directive 2004/38/EC (29.04.2004). (Cyprus/ Law on the Rights of Citizens of the Union and their Family Members to Move and Reside Freely in the Territory of the Republic N. 7(1)/2007 (09.02.2007). Under article 8 of the aforementioned Cypriot law, EU citizens are entitled to enter and reside in Cyprus and the same right is extended to their family members, defined in Art. 2 of the law as

- (a) the spouse who is a Union citizen;
- (b) “the direct descendants of a Union citizen who are under the age of 21 or are dependants and those of the spouse”;
- (c) “the dependent direct relatives in the ascending line and those of the spouse of a Union citizen”.

Article 4(2)(b) of the Law 7(1)/2007 allows for a Union citizen to apply for the exercise of freedom of movement for “his/her partner with whom a Union citizen has a continuous relationship properly proven”, which according to Article 4(2) of the Law 7(1)/2007 is subject to the Migration and Aliens Law.

According to the Constitution (Article 146), every person has the right to file an appeal with the Supreme Court against any negative decision by the administration, including decisions reached by the Migration Officer

The Authorities responsible for the detection of marriages of convenience are the Civil Registry and Migration Department of the Ministry of Interior, in cooperation with the Aliens and Immigration Branch of the Police. The authorities have the burden of proof and this can be achieved by separate interview with each of the spouses and other family members, friends and neighbours

### **Key Findings**

The content of response of the current study centres on data received regarding marriages of convenience as data is not currently available in reference to false declarations of parenthood.

Regarding the quantitative data gathered in reference to fraudulent marriages in the Republic of Cyprus the following may be noted:

- A substantial increase in the number of fraudulent marriages occurred in 2005. Cyprus’ accession to the EU in 2004 may have attributed to this rise in numbers.
- A substantial increase in the number of fraudulent marriages is also evident in 2011. This increase may be due to the enforcement of more effective detection methods within the republic i.e. the numbers may reflect the realistic magnitude, including cases which previously remained undetected.
- In regards to the Ethnicity of the persons involved in fraudulent marriages in Cyprus, prior to 2004, no EU nationals are reported to have been involved in such acts. Once again, Cyprus’ accession to the EU may be the likely discriminating factor for the increase in EU

Nationals from 2005 onwards. Regarding Cypriot Nationals, a substantial increase is evident in 2005. Furthermore, the general trend would seem to indicate that more Cypriot Nationals have become involved in Marriages of Convenience as sponsors (residing in the republic and formulating fraudulent marriages in order for a third country national to enter and reside in Cyprus –the sponsor being a non-mobile EU national in this case) compared to EU Nationals residing in the republic of Cyprus (the sponsor being a mobile EU national in this case.)

In most cases the motivations involve economic considerations

#### Identified Actions

In 2003, the House of Representatives introduced a relevant clause in the Marriage Law, providing for the appointment of a so called “*Advisory Committee for Marriages of Convenience*”. The Committee was vested with the power to examine cases of suspiciously contracted marriages and, after basing its judgement on concrete evidence gathered from the Aliens and Immigration Department of the Police, to submit their findings and suggestion to the Director of the Civil Registry and Migration Department for the formation of a final decision.

In addition to the advisory committee, consisting of representatives of various authorities, which examine all the elements in order to advise the Migration Officer whether the marriage is one of convenience or not the Migration Officer furthermore decides on the basis of information also supplied from the Aliens and Immigration Department of the Police. Moreover, the requested certificates for the members of the sponsor’s family which must be submitted with the application must be duly attested by the diplomatic channel (Apostille and Attestation of Documents)

The Cypriot Authorities have additionally placed special emphasis on the implementation of the marriage law passed in 2003 as regards the directed actions of Marriage Officers at the Municipalities. After establishing that in numerous cases of marriages contracted, not all substantial written evidence was submitted from either of the parties involved All the municipal authorities have been committed since 2009 to require a non-impediment certificate issued by the Cypriot Registrar of Marriages in line with article 31 of the Marriage Law. Following this precaution, the measure substantially contributed to the further containment of fraudulent marriages and made conditions significantly more difficult for persons staying legally to abuse the wedding procedures.

Measures, as defined in Aliens and Immigration Law for prevention of misuse of residents’ permits for family reunification, are:

The sponsor must reside in the Republic for a period of at least 2 years (article 18LB(a))

The sponsor must be a holder of a residence permit valid for at least one year and have reasonable prospect of obtaining the right of permanent residence in the Republic (article 18KI(1))

The sponsor’s spouse must be of a minimum age of 21 years (article 18L(5))

The duration of the marriage must be at least one year prior to the application (article 18L(1)(a))

The sponsor’s children must be below the age of 18 years and must not be married (article 18L(2))

To contract a marriage of convenience is an offence which is punishable by up to three years imprisonment or by fine up to €5.000 or both.

Regarding EU Citizens and their family members, the competent authority (Civil Registry and Migration Department) may adopt the necessary measures to refuse, terminate or withdraw any right conferred by Law 7(I)/2007, in the case of abuse of rights or fraud, such as marriages of convenience. Any such measure shall be proportionate and subject to the procedural safeguards provided for in Articles 32 and 33 of Law 7(I)/2007

Next Steps.

After overcoming certain difficulties, a draft amending act has already been through legal examination and it will be forwarded to the Council of Ministers for approval. The draft legislation, preventing abuse, is expected to be submitted very soon to the House of Representatives, including among others the following provisions:

- it introduces an obligation to submit further documents as a requirement for the contracting of a marriage
- it authorizes the Registrar of marriages to perform a pre-marriage interview
- it empowers the Minister of Interior to sanction Marriage Officers who prove to contract marriages in contrary to provisions of the law

\*\*\*\*\*