

## EMN FOCUSSED STUDY 2012

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

#### National Contribution from Estonia

*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 (one page only)

*Overview of the National Contribution – drawing out key facts and figures from across all sections of the Study, with a particular emphasis on elements that will be of interest to policymakers.*

##### *Marriages of Convenience:*

Migrating in order to settle with a spouse or a family member has been one of the biggest types of migration to Estonia, mostly with a minor child reunifying with a family member or a spouse reunifying with a spouse.

Difficult for the administrative authority to prove a marriage of convenience. This is despite the fact that the administrative authority may, in case of suspicion, conduct additional checks and on spot visits.

The administrative authority has drawn up a list of indicators, which is not exhaustive, but occurrence of which may arise doubts regarding the realness of the marriage.

*False Declarations of Parenthood:* Estonia doesn't have any cases of false declaration of parenthood and due to that there is also no specific regulation that would deal with such cases.

##### Synthesis Report (up to 3 pages)

*Executive Summary of Synthesis Report: this will form the basis of an EMN Inform, which will have EU and National policymakers as its main target audience.*

#### Section 2

##### National legislative framework and definitions

##### National Contribution (1–2 pages)

*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.*

*Marriages of Convenience:* In Estonia only marriage between a woman and a man who are adults (though in special cases marriage at the age of 15 is allowed) is recognized in the Family Law Act.<sup>1</sup>

*False Declarations of Parenthood:* A mother of a child is considered to be the woman who gave birth to the child (Family Law Act § 83).

According to the Family Law Act § 84 (1) a father of a child is considered to be the man who has conceived the child and that is: 1) a man married to the mother of the child at the time of the birth of the child; 2) a man who has accepted paternity or; 3) a man whose paternity has been established by the court (except for in case of artificial insemination).

Paternity may be accepted by a man only if paternal filiation of the child has not been established [Family Law Act § 87 (1)]. Also, paternity may be accepted only personally [§ 87 (2)] and with consent from the mother of the child [§ 89 (1)] and may not be conditional or temporary [§ 87 (3)].

*Please refer to Section II (General Context) above*

*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.*

*Marriages of Convenience:*

*(i) In case a third-country national residing lawfully in Estonia is reunifying with a third-country national applying to enter/reside in Estonia in order to preserve the family unit, then this may take place under the Aliens Act.<sup>2</sup> The conditions under which this family reunification may take place are following.*

It is possible to apply for a temporary residence permit for the purpose of settling with a spouse or with a close relative.<sup>3</sup> Immigration quota is not applied to this category [if the third-country national is a spouse, a child (minor or adult), a parent, a grandparent or a person under the guardianship of said third-country national].<sup>4</sup>

A temporary residence permit may be issued in order to settle with a spouse if there is a close economical connection and psychological dependence between the spouses, the family unit is permanent and the marriage is not fictitious.<sup>5</sup> Marriage is fictitious if it has been entered in with the purpose of receiving a residence permit and there is no actual family life between the persons.<sup>6</sup> Additionally, the spouse with whom the third-country national is settling must have a permanent legal income, which would guarantee subsistence of the family unit or the income of both spouses has to guarantee subsistence of the family unit; the family has to have a registered place of residence and actual living quarters.<sup>7</sup>

A temporary residence permit may be issued to a third-country national to live in Estonia with a spouse who is also third-country national and is residing in Estonia on the basis of a residence permit and who has done so for at least two years.<sup>8</sup> The previous residence of two years is waived in case the spouse with whom the third-country national is reunifying has been issued a residence permit either for engagement in enterprise or for studying in Doctoral Studies or for employment in one of following positions:<sup>9</sup> 1) person engaged in creative activities as specified in the Performing Arts Institution Act; 2) a teacher or lecturer in an educational institution which complies with the requirements established by legislation; 3) scientific research, if the alien has appropriate professional training or experience for such activities; 4) a sportsman, coach, referee or sports official by invitation of a corresponding sports federation; 5) a member of the directing body in a legal person registered in Estonia for the performance of directing or monitoring functions; 6) an expert, advisor or consultant, if the alien has necessary qualification to work in that field; 7) an installer of equipment or skilled worker, if the alien has necessary qualification to work in that field.

The two-year residence requirement is also waived in case the spouse with whom a third-country national is reunifying is residing on a basis of an EU Blue Card or a long-term resident's residence permit, which was issued on the basis of an EU Blue Card.<sup>10</sup>

(ii) In case of a mobile EU national reunifying with a third-country national the applicable legislation is found in the European Union Citizen Act.<sup>11</sup>

Temporary right of residence is issued to an family member of an EU national if following conditions are met: 1) EU national with whom the family member is reunifying is working or acting as a self-employed person in Estonia; 2) EU national with whom the family member is reunifying has enough financial means to provide for subsistence for him- or herself and family members and is an insured person in terms of Health Insurance Act or; 3) EU national with whom the family member is reunifying is studying in Estonia and has enough financial means to provide for subsistence for him- or herself and family members and is an insured person in terms of Health Insurance Act.<sup>12</sup>

Family members of an EU national are considered to be following persons:<sup>13</sup> 1) spouse of an EU national; 2) a child under 21 years of age of an EU national or spouse or dependent adult child; 3) a dependent parent of an EU national or spouse; 4) a person who hasn't been covered by previously named categories, but who is a dependent or a member of a household of an EU national in the country of origin or who is not capable of coping independently due to health reasons or disability and it is necessary for the EU national to care for that person personally.

(iii) In case of a non-mobile EU citizen reunifying with a third-country national on the basis of

jurisprudence (and reference to the EU Treaty) there have been no changes in the legislative acts in Estonia. For specific reference please see paragraph (i).

(iv) In case of a non-mobile EU citizen reunifying with a third-country national the applicable legislative act is the Aliens Act and the conditions are the same as per the case of a third-country national residing lawfully in Estonia reunifying with a third-country national applying to enter/reside in Estonia in order to preserve the family unit. The only difference in case of settling with an Estonian citizen spouse is applied in respect of the required two-year permanent residence period, which is waived when the family consisting of an Estonian citizen and a third-country national come to live in Estonia together.<sup>14</sup>

*False Declarations of Parenthood:*

(i) A temporary residence permit for settling with a close relative who is a third-country national residing in Estonia on the basis of a residence permit may be issued in one of the following cases: 1) minor child reunifying with a parent living in Estonia; 2) adult child reunifying with a parent living in Estonia if the state of health or a disability does not allow that child to cope independently; 3) parent or grandparent reunifying with an adult child or grandchild living in Estonia if the parent or grandparent needs care and does not have the possibility of its provision in his or her country of residence or any other country and his or her subsistence will be ensured by the permanent legal income of his or her child or grandchild who is residing in Estonia; 4) person under guardianship reunifying with a guardian living in Estonia if the guardian's permanent legal income will ensure the subsistence of the person under guardianship in Estonia.

In all the above cases it is assumed that the third-country national who has been residing in Estonia and with whom the close relative is reunifying has been residing in Estonia permanently, i.e. at least 183 days in a year.<sup>15</sup> This requirement of permanently residing in Estonia is waived in case the third-country national has an EU Blue Card or has a temporary residence permit and is arriving to Estonia with the family member who is trying to acquire a residence permit for reunification.<sup>16</sup> Additionally, in case of the family member relocating to Estonia is a parent or a grandparent as stated above, then the third-country national already living in Estonia must possess a long-term resident's residence permit.<sup>17</sup> Additionally, the close relative with whom the third-country national is reunifying must have a registered place of residence and actual living quarters, except for in case the two third-country nationals arrive in Estonia together<sup>18</sup>; and if the temporary residence permit is issued to an adult child, parent or a grandparent or a person under guardianship, then the third-country national with whom the previously named categories of persons are reunifying with is obliged to cover the costs of caring and treatment.<sup>19</sup>

(ii) Please see paragraph under 'Marriage of convenience' since same legislative act and conditions apply.

(iii) Please see paragraph under 'Marriage of convenience' for reference.

(iv) In case of a family member settling with an Estonian national in Estonia same conditions apply as per the case of a third-country national residing lawfully in Estonia reunifying with a third-country national applying to enter/reside in Estonia in order to preserve the family unit.

*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.*

<p><i>Marriages of Convenience:</i></p> <p>Prevention of misuse of residence permits for family reunification is covered in the context of marriage of convenience. The Aliens Act foresees that a temporary residence permit may be issued in order to settle with a spouse if there is a close economical connection and psychological dependence between the spouses, the family unit is permanent and the marriage is not fictitious. Marriage is fictitious if it has been entered in with the purpose of receiving a residence permit and there is no actual family life between the persons.</p>
<p><i>False Declarations of Parenthood:</i></p> <p>No preventative provisions in Estonian legislation regarding false declaration of parenthood.</p>
<p><i>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?</i></p>
<p><i>Marriages of Convenience:</i></p> <p>No changes have occurred due to the above noted decisions of the European Court of Justice in legislative acts in Estonia.</p>
<p><i>False Declarations of Parenthood:</i> Not applicable to Estonia.</p>
<p><u>Synthesis Report</u> (up to 5 pages)</p> <p>2.1 - Summary of definitions and table mapping these across Member States</p> <p>2.2 - Summary of definitions and table mapping these across Member States</p> <p>2.3 - Outline of EU provisions in this area. In relation to National provisions, possibly either to include in table (if appropriate) – otherwise a synthesis of the information highlighting those countries which do have legislative provisions</p> <p>2.4 – Summary of any information provided</p>

### Section 3

#### The situation in Estonia

<p><u>National Contribution:</u> (3–5 pages in total)</p>
<p><b><u>Scope of the issue</u></b></p> <p>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?</p> <p>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)</p>

*Marriages of Convenience:*

Marriage of convenience is considered to be an example of misuse of residence permits for family reunification. That is why a temporary residence permit for settling with a spouse may only be issued if there is a close economical connection and psychological dependence between the spouses, the family unit is permanent and the marriage is not fictitious. Marriage is fictitious if it has been entered in with the purpose of receiving a residence permit and there is no actual family life between the persons.

The matter of marriages of convenience has been discussed in the media with a warning that women should not marry a third-country national for money in order to provide him with a basis for stay in the EU, since several problems may arise from that.<sup>20</sup> Also, the Security Police Board noted on its website in 2009 that in order to arrive to Estonia gullible women met on the internet or during their vacation are used by third-country nationals to pursue them to enter into marriage.<sup>21</sup>

*False Declarations of Parenthood:* Not applicable to Estonia.

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

*Marriages of Convenience:*

Women have not entered into a marriage of convenience voluntarily for profit, but have been forced into marriage of convenience and some of them have been forced into marriage of convenience with several third-country nationals or alternatively they're forced into prostitution.<sup>22</sup>

*False Declarations of Parenthood:* Not applicable to Estonia.

**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.*

*Marriages of Convenience:*

Doubts of a marriage being fictitious have been raised when applying for an initial or prolonging of a temporary residence permit for settling with a spouse. There have been no doubts regarding the fictitiousness of a marriage between EU nationals and their spouses. One of the reasons for that might be that the share of such family migration is quite small.

In order to prevent misuse of the right for family reunification, the Police and Border Guard Board (hereinafter PBGB) is cooperating with other authorities on practical level. Applications for a temporary residence permit and residence right are processed by the PBGB, but in order to discover and prevent further marriages of convenience and misuse of residence permits and rights, the PBGB cooperates with the Ministry of Foreign Affairs, including Estonia's foreign representations, and Security Police Board. In order to prevent further cases of misuse, different training sessions and seminars are held on that topic, information is exchanged on the trends and relevant events. One important factor, which has helped to prevent and stop misuse cases, has been the coverage of the

consequences of marriage of convenience by the media.

*False Declarations of Parenthood:* No practice regarding false declarations of parenthood in Estonia.

### **National means of detecting misuse**<sup>23</sup>

*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?*

#### *Marriages of Convenience:*

Doubt of a marriage of convenience is raised and additional investigation may be initiated in following cases: 1) a tip about a possible marriage of convenience (e.g. an anonymous tip or if the consulate official accepting the application for a residence permit has reasonable doubt); 2) spouses don't have a common spoken language; 3) spouses don't know important private information about each other (e.g. date of birth etc.); 4) spouses haven't previously lived together; 5) there is a significant age gap between spouses; 5) spouses met each other on a recent holiday trip or via internet; 6) spouses don't cohabitate together or the living arrangement is untraditional (e.g. single living quarters are shared between the third-country national, his or her spouse and the latter's previous or ex-spouse); 7) when the application is submitted immediately after entering into marriage; 8) when the third-country national did not have a legal basis to be in the country or the legal basis was expiring; 8) spouses have very different social background; 9) when the woman doesn't take her husband's last name.

In case of doubt that a marriage is fictitious, the PBGB conducts a thorough background check of the third-country national with the aim of finding out, whether there are any circumstances, which would indicate that the persons have entered into a marriage of convenience. Additionally, the PBGB conducts home visits and questions the spouses and other persons. Other persons that a PBGB official may question are third persons like friends, acquaintances, neighbours and work colleagues of the third-country national and his or her spouse. In order to avoid a situation where the applicant and his or her spouse may coordinate their answers prior to the questioning, these interviews are conducted with both persons separately, but on the same day and consecutively. These interviews are conducted by the officials of PBGB, but if needed then persons may be also questioned by consulate officials at accepting the application or by officials of PBGB prefectures when they make house visits.

The main purpose of house visits is to detect whether there is actual family life between persons. Home visits are conducted when both of the spouses are living in Estonia and during these visits spouses are asked to present/show different personal and common things (e.g. clothes, shoes, photos) and it is ascertained whether both of the spouses know where anything is located in the living quarters (e.g. light switches etc.). Also, officials ask for documented evidence regarding the spouses living arrangement (e.g. communal bills, rental contracts, etc.). Home visits are conducted without prior notice and upon the request of the official processing (to the prefecture) the application for a residence permit. The effect of surprise is used in order to prevent the spouses to prepare themselves for the home visit. Officials have a duty to protocol both the interviews and

home visits. When initiating or conducting the additional investigation during the processing of a temporary residence permit application, the officials have faced situations when the sponsor of the third-country national in Estonia has decided to withdraw the invitation added to the application. Due to that the set of necessary annexed documents is not complete and the application is left unprocessed.

*False Declarations of Parenthood:* No practice regarding false declarations of parenthood in Estonia.

*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)?*

*Marriages of Convenience:*

A third-country national applying for a residence permit to settle with a spouse, presents additionally to the application: 1) a document proving entering into marriage (only if entry into marriage took place outside of Estonia); 2) document proving existence of actual living quarters; 3) document proving legal income; 4) insurance contract; 5) *curriculum vitae* and a written explanation, from which are evident personal data about family members of the third-country national and his or her spouse, education, living conditions and income; 6) spouse presents an invitation of same content. Thus, the burden of proof lies with the spouses. A third-country national applying for a residence permit to settle with a spouse and his or her sponsor are obliged to prove the circumstances that are important when granting, holding, extending or invalidating the legal basis to live in Estonia. But, in case the data and proof presented by the third-country national and his or her spouse does not allow identification of relevant circumstances, then the administrative authority must initiate itself additional procedural acts to identify relevant circumstances. The administrative authority has the right to question the third-country national, his or her family members and other relevant persons and institutions and enter upon a permission of the third-country national into his or her living quarters and other premises or areas in order to check the circumstances that form the basis of the application for the residence permit. Upon PBGBs request, the third-country national is obliged to present additional or specify data or proof regarding circumstances that are relevant for processing of the application. If the third-country national does not present requested data or proof and the PBGB does not have the possibility to get them itself within reasonable effort or timeframe, then the PBGB may leave the application without review or a procedural act without implementation. In case of processing an application for residence right from a family member of an EU national the principle of trust is taken into consideration. Additional data and documents to those provided in legal acts are requested only in case there is doubt that the person does not comply with the conditions for granting a residence right or exists a ground for refusal.

*False Declarations of Parenthood:* Though there is no practice regarding false declarations of parenthood in Estonia, the same principles of proof would apply.

*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?*

*Marriages of Convenience:*

The competence of granting, prolonging, refusing or invalidating a temporary residence permit or residence right lies within the PBGB. But, the right to question the third-country national, his or her

family members and other relevant persons and institutions and enter upon permission from the third-country national into his or her living quarters or other premises or areas lies is also given to the Security Police Board and the Ministry of Foreign Affairs. Involvement of other authorities is decided by the PBGB based on the need that appears during processing of the application.

*False Declarations of Parenthood:* No practice regarding false declarations of parenthood in Estonia.

**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)?*

*Marriages of Convenience:*

In case it is detected that a marriage with a third-country national who applied for a temporary residence permit (or its extension) for settling with a spouse is a marriage of convenience the application is refused. Also, in such a case a valid residence permit issued to the third-country national is invalidated. If family member or EU national with whom the third-country national wished to settle or settled has entered into a marriage of convenience, then the administrative authority has the right to refuse or terminate EU national's temporary right of residence as above.

*False Declarations of Parenthood:* Even though Estonia does not have any practice regarding false declarations of parenthood, same results would apply in respect of consequences as above.

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

*Marriages of Convenience:*

The third-country national who has been refused from issuing or prolonging a temporary residence permit to settle with a spouse or whose residence permit to settle with a spouse has been invalidated or whose application has been left without review, has the right, within 10 days after given notice of the above decision, to file an appeal with the administrative court or a challenge to the administrative authority who made the decision. Decision on a challenge may also be disputed in the administrative court within 10 days. EU national's family member who has been refused from issuing or prolonging temporary right of residence or whose right of residence has been terminated or whose application has been left without review has the right to file an appeal with the administrative court or a challenge with the administrative authority who made the decision. A challenge or an appeal may be filed within 30 days as of being notified of the decision.

*False Declarations of Parenthood:* Estonia doesn't have any practice regarding false declarations of parenthood; same principles would apply regarding the right to appeal as above.

*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)?*

*Marriages of Convenience:*

Police and Border Guard Board has signed international cooperation agreements with Finland and

Hungary with the aim to share experience in solving migration issues and applications of legal acts.
<i>False Declarations of Parenthood:</i> Please see above reply.
<b><u>Reasons and motivations</u></b>  <i>3.10 Where possible (i.e. based on previous research undertaken, media interviews, etc.) describe the motivations for the <u>sponsor</u> engaging in a marriage of convenience / false declaration of parenthood. These may be economic, humanitarian or emotional considerations.</i>  <i>Where possible describe the motivations for the <u>third-country national</u> engaging in a marriage of convenience / false declaration of parenthood rather than (other) legal routes into the Member State.</i>
<i>Marriages of Convenience:</i> There has been no actual research conducted regarding the reasons why either a sponsor or a third-country national engages in a marriage of convenience in order for the third-country national to get a legal basis to stay in the country. Thus, it is difficult to provide these reasons, but in case of sponsors it could be the possibility of earning extra money and helping out an acquaintance. For the third-country national the motivation for entering into such a marriage may be the opportunity to leave his or her country of origin and marriage of convenience is entered into because the third-country national does not qualify to receive a temporary residence permit under any other basis.
<i>False Declarations of Parenthood:</i> No practice available in Estonia.
<b><u>Synthesis Report</u></b> (up to 10 pages)  <i>Overall synthesis, drawing out key points to be highlighted at national level with the possibility of presenting information on national means of detecting misuse and reasons and motivations (i.e. drivers) of the misuse in a table.</i>

## Section 4

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

<i><u>National Contribution</u></i> (1–3 pages)
<b><i>To the extent possible, statistics provided should be disaggregated according to the four scenarios outlined in Section III of this Common Template.</i></b>
<b><u>Statistics: General Context</u></b>  <i>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 <u>general context</u> for the Study. What are the gaps? What are the available years?</i>  <i>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</i>

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

*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).*

*Marriages of Convenience:*

**Issued temporary residence permits by basis**

<b>Type of migration</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
Family migration (settle with a spouse or a family member)	1572	1380	1136	1063	1371
Employment	733	911	1063	941	1430
Engagement in enterprise	3	56	72	68	142
Studying	286	353	392	459	464
Sufficient legal income	35	31	56	44	62
International agreement	1436	1137	1050	976	838
<b>TOTAL</b>	<b>4065</b>	<b>3868</b>	<b>3769</b>	<b>3551</b>	<b>4307</b>

**Decisions of extending a temporary residence permit by basis**

<b>Type of migration</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
Family migration (settle with a spouse or a family member)	1063	1225	1492	1558	1672
Employment	198	239	233	276	385
Engagement in enterprise	0	1	3	1	4
Studying	170	181	193	202	252
Sufficient legal income	51	30	57	40	59
International agreement	1381	1675	1922	4006	2980
<b>TOTAL</b>	<b>2863</b>	<b>3351</b>	<b>3900</b>	<b>6083</b>	<b>5352</b>

**Decisions to issue temporary residence permits for the purpose of family migration**

**EMN Focussed Study: Misuse of the Right to Family Reunification  
Estonia's contribution**

<b>Type of migration</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
A minor settling with a family member	840	693	594	504	720
Parent or a grandparent settling with a family member	208	176	119	126	103
Person under guardianship settling with a family member	15	6	9	12	10
Settling with a spouse	506	504	414	420	538
An adult child settling with a family member	3	1	0	1	0
<b>TOTAL</b>	<b>1572</b>	<b>1380</b>	<b>1136</b>	<b>1063</b>	<b>1371</b>

Database allows to distinguish between nationalities of the sponsor only as of October 2010.

<b>Decisions to issue a temporary residence permit for the purposes of family migration in 2011</b>	<b>Citizenship of the family member with whom the third-country national is applying to settle (according to the application)</b>			
	Estonian citizen	Third-country national		
		Other third-country nationals	Persons with undetermined citizenship	Total
To settle with a spouse	340	154	44	538
A minor to settle with a family member	9	512	199	720
Parent or grandparent to settle with a family member	62	28	13	103
Person under guardianship to settle with a family member	0	5	5	10
<b>TOTAL</b>	<b>411</b>	<b>700</b>	<b>261</b>	<b>1371</b>

*False Declarations of Parenthood:* No practice in Estonia regarding false declarations of parenthood.

**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:**

Data may be given only as of 2009. In 2009 there were 10, in 2010 11 and 2011 35 persons were suspected of being in a marriage of convenience. Prior to 2010 suspicions of marriage of convenience were not taken into account if the processing of a temporary residence permit was ended and there was a suspicion of marriage of convenience. There have been no cases in the last three years where a third-country national has been refused a temporary residence permit due to a marriage of convenience. Usually, cases in which marriage of convenience has been established end with the sponsor withdrawing his or her invitation letter and the processing of the applications is ended. Below statistics include cases, where processing has been ended, but also those where a suspicion of marriage of convenience has been raised, but it hasn't been proven and additional checks will be conducted during the validity of the residence permit or during the processing of the application for extending of a residence permit.

<b>Temporary residence permit applications or issued temporary residence permits that have raised suspicions of a marriage of convenience by 28.02.2012</b>		<b>Year when the suspicion of a marriage of convenience was raised</b>			
		2009	2010	2011	Total
Refusal of application or application still in processing				8	8
Invalidation	Decision of invalidation in processing			1	1
	Invalidation due to ending of insurance	1			1
	Invalidation due to receiving new residence permit	1	1	1	3
Residence permit is valid		1		17	18
Processing of a residence permit application has been ended				6	6
Residence permit no longer valid due to expiry (of the residence permit that was valid when the suspicion was raised)		7	10	2	19
<b>TOTAL</b>		<b>10</b>	<b>11</b>	<b>35</b>	<b>56</b>

*False Declarations of Parenthood:* No practice in Estonia 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.

*Marriages of Convenience:*

Nationality and sex of the third-country national whose application or holder of a valid residence permit has raised suspicion during 2009–2011		Nationality of the spouse with whom the third-country national has settled or is applying to settle			
		Estonian	Persons with undetermined citizenship	Russian Federation	Total
Algeria	Male	4			4
	Female				
Azerbaijan	Male	2	1	1	4
	Female				
Egypt	Male	9			9
	Female				
Iraq	Male	2			2
	Female				
Iran	Male	1			1
	Female				
Morocco	Male	2			2
	Female				
Nigeria	Male	1			2
	Female	1			
Pakistan	Male	1			1
	Female				
Syria	Male	1			1
	Female				
Turkey	Male	4			4
	Female				

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Ukraine	Male	1			4
	Female	3			
USA	Male	1			1
	Female				
Russian Federation	Male	5		2	21
	Female	9		5	
<b>TOTAL</b>		<b>47</b>	<b>1</b>	<b>8</b>	<b>56</b>

*False Declarations of Parenthood:* No practice in Estonia regarding false declarations of parenthood.

*4.2.c Please also provide information about the location of the misuse (i.e. whether the marriage took place in your (Member) State or on the territory of another (Member) State.*

*Marriages of Convenience:*

Nationality of the applicant or holder of a valid residence permit under suspicion	Algeria	Azerbaijan	Estonia	Egypt	Italy	Cyprus	Morocco	Sweden	Finland	Turkey	Russian Federation	N/A	TOTAL
Algeria	3				1								4
Azerbaijan		2	1					1					4
Egypt			1	7								1	9
Iraq								1		1			2
Iran										1			1
Morocco							2						2
Nigeria			2										2
Pakistan						1							1
Syria												1	1
Turkey			1						1	2			4
Ukraine			4										4

**EMN Focussed Study: Misuse of the Right to Family Reunification  
Estonia's contribution**

USA			1										1
Russian Federation			18								3		21
<b>TOTAL</b>	<b>3</b>	<b>2</b>	<b>28</b>	<b>7</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>56</b>

Year of entering into marriage	Year when the suspicion of a marriage of convenience was raised			
	2009	2010	2011	Total
Prior to 2007	5	0	4	9
2008	3	4	2	9
2009	2	5	5	12
2010		2	9	11
2011			13	13
N/A			2	2
<b>TOTAL</b>	<b>10</b>	<b>11</b>	<b>35</b>	<b>56</b>

*False Declarations of Parenthood:* No practice in Estonia regarding false declarations of parenthood.

Synthesis Report (up to 5 pages)

*Description of available statistics / data and identified gaps.*

*Overall synthesis, drawing out key points to be highlighted at national/Member State level. This section could include graphics such as a map outlining the patterns of instances of misuse + synthesis of trends/data to show which Member States most commonly experience these phenomena.*

## Section 5

### Summary and conclusions

National Contribution (up to one page only)

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

*Marriages of Convenience:*

It may be concluded that it is very difficult for the administrative authorities to prove that a marriage of convenience has been entered into. That despite the fact that the administrative authority processing the applications for residence permits conducts additional checks and on spot visits to the place where the spouses allegedly live. Usually the sponsor of the third-country national

withdraws the invitation that has been presented with the application by the third-country national to the administrative authority, which ends the processing of the application.

Also, there is lack of information about cases when marriage of convenience has been entered into in another third-country or Member State and the third-country national doesn't actually apply for a residence permit to settle with a spouse in Estonia, but applies for a residence permit in another Member State. As a family member of a EU national he or she enjoys the rights that derive from that, though in reality these rights have been established on false information.

*False Declarations of Parenthood:*

There have been no detected cases of false declarations of parenthood in Estonia, thus no additional data may be provided in that respect. Despite that a lot of the same rules would apply in case of the third-country national applying for a residence permit to Estonia (e.g. rules regarding appeals etc.).

*Synthesis Report (2–4 pages)*

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

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<sup>1</sup> Family Law Act (RT I, 30.12.2011, 22) § 1 (1).

<sup>2</sup> RT I, 29.12.2011, 59.

<sup>3</sup> Aliens Act § 118 (1) and (2).

<sup>4</sup> *Ibid.* § 115 (2) and (3).

<sup>5</sup> *Ibid.* § 138 (1).

<sup>6</sup> *Ibid.* § 138 (2).

<sup>7</sup> *Ibid.* § 139 and 140 (1).

<sup>8</sup> *Ibid.* § 137 (1).

<sup>9</sup> *Ibid.* § 137 (3).

<sup>10</sup> *Ibid.* § 137 (4).

<sup>11</sup> RT I, 29.12.2011, 173.

<sup>12</sup> European Union Citizen Act § 20 (1).

<sup>13</sup> *Ibid.* § 3 (1).

<sup>14</sup> Aliens Act § 137 (2).

<sup>15</sup> *Ibid.* § 6.

<sup>16</sup> *Ibid.* § 150 (3).

<sup>17</sup> *Ibid.* § 150 (2).

<sup>18</sup> *Ibid.* § 151.

<sup>19</sup> *Ibid.* § 152.

<sup>20</sup> For example: Ibrus, K. (2010) "Abielu pakutakse juba esimese kõne peale" (<http://www.epl.ee/news/eesti/abielu-pakutakse-juba-esimese-kone-peale.d?id=51275456>); Kaljuvee, A. (2010) "Heauskseid Eesti neidusid sunnitakse illegaalidega abielluma" (<http://www.epl.ee/news/eesti/heauskseid-eesti-neidusid-meelitatakse-illegaalidega-abielluma.d?id=51275375>);

<sup>21</sup> *Illegaalne immigratsioon, fiktiivsete viisade hankimine.* (2009) Security Police Board. Available: <http://www.kapo.ee/est/toovaldkonnad/terrorism/illegaalne-immigratsioon>.

<sup>22</sup> Kaljuvee, A. (2010) "Heauskseid Eesti neidusid sunnitakse illegaalidega abielluma". Available: <http://www.epl.ee/news/eesti/heauskseid-eesti-neidusid-meelitatakse-illegaalidega-abielluma.d?id=51275375>.

<sup>23</sup> Information and data in paragraphs 3.4–3.10 and section 4 provided by the Police and Border Guard Board.