

EMN FOCUSSED STUDY 2012

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

National Contribution from Finland

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:

The spouse of a person residing in Finland can be issued a residence permit on the basis of family ties if the conditions for issuing a residence permit, pursuant to the Aliens Act, are met. A legalised marriage certificate must be presented as evidence of the marriage. Under the Aliens Act, a registered partnership between same-sex partners is comparable to a marriage.

The Finnish Aliens Act does not contain a definition of a marriage of convenience. Pursuant to Section 36 of the Aliens Act, a residence permit may be refused if it is evident that the marriage reported in the application has been registered for the purpose of circumventing the regulations governing residence permits. Decisions on residence permit applications involving a marriage of convenience are made on the basis of European Council Resolution 97/C/382/01 concerning marriages of convenience.

The motive for a marriage of convenience may involve any benefit received through marriage, such as a fancy last name or preferential tax treatment. From the perspective of immigration law, the motive for a marriage of convenience is to obtain a Finnish residence permit. Marriages of convenience are formally competent marriages from the standpoint of marriage law.

A residence permit issued to an alien who has entered into a marriage for the purpose of circumventing the regulations on entry into the country can be cancelled. Under the Penal Code of Finland, such a person may also be sentenced to pay a fine or imprisonment for a violation of the Aliens Act, arrangement of illegal immigration (including the aggravated form), counterfeiting, giving false statements in official proceedings, a registration offence and/or providing false documents to a public authority.

There are no accurate and official statistics on suspected marriages of convenience prior to November 2010. On 8 November 2010, the Finnish immigration administration adopted an electronic case management system (UMA), which allows the recording of statistics on marriages of convenience. The Finnish Immigration Service estimates the number of negative decisions on residence permits on the grounds of suspected marriages of convenience to be 250 per year.

False Declarations of Parenthood:

False declarations of parenthood are not defined in the Finnish Aliens Act. Pursuant to Section 36 of the Aliens Act, a residence permit may be refused if it is evident that the family ties specified in the application have been reported for the purpose of circumventing the regulations governing residence permits.

There have been numerous problems in Finland related to residence permit applications on the basis of family ties involving foster children. False declarations of family ties are often related to attempts to move from conditions of poverty to a higher-income life. The phenomenon may also involve trafficking in human beings. Also worth mentioning is the anchor child phenomenon, which involves sending an unaccompanied child to Finland to apply for asylum with the intention of subsequently applying for residence permits for the child's family members on the basis of family ties. The possibility of trafficking in women and children must also be taken into consideration in the case of foster children.

Official statistics concerning false declarations of parenthood are not available.

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.

In Finland, the preconditions for issuing a residence permit to a family member are linked to the status of the sponsor residing in Finland. The sponsor's status in Finland also determines whether the income requirement applies in the residence permit decision and the type of residence permit to be issued (temporary/continuous residence permit).

Marriages are governed in Finland by the Marriage Act.

The Marriage Act (234/1929, amended 1226/2001) contains provisions on the recognition of foreign marriages. Under the favor matrimonii principle, there are no strict restrictions on the competence of foreign marriages in Finland. The public interest concerning a marriage is generally not significant enough to not recognise a legal relationship that is competent in another country. Nevertheless, under Section 139, Paragraph 2 of the Marriage Act (1226/2001), a provision in the law of a foreign state shall be disregarded if its application has an outcome that is contrary to Finnish public policy. This provision and the ordre public principle are applicable in cases in which a foreign marriage is competent in another country, but recognising it as competent in Finland would be contrary to the fundamental values that our public policy reflects and upholds (marriages

entered into when one of the spouses is under the age of 16, or marriages involving polygamy).

The definition of a family member in the context of family reunification is included in Section 37 of the Aliens Act. The definition of a family member is not restricted to persons who have entered into marriage and the scope of application is thus broader than that of the Marriage Act (1929/234).

The definition of a family member

Pursuant to Section 37 of the Finnish Aliens Act, the spouse of a person residing in Finland, and unmarried children under 18 years of age over whom the person residing in Finland or his or her spouse has guardianship are considered family members. If the person residing in Finland is a minor, his or her guardian is considered a family member. A person of the same sex in a nationally registered partnership is also considered a family member.

Persons living continuously in a marriage-like relationship within the same household regardless of their sex are comparable to a married couple. The requirement is that they have lived together for at least two years. This is not required if the persons have a child in their joint custody or if there is any other weighty reason for it.

An unmarried child under 18 years of age who is in the de facto care of his or her guardian and requires de facto care on the date on which the decision on the residence permit application is made, but whose guardianship relationship with the parent has no official evidence (foster child) is comparable to children referred to in Paragraph 1 above. Considering such foster children to be comparable to biological children in the residence permit process further requires reliable evidence of the child's prior guardians being deceased or having gone missing and of the child having had a de facto guardianship relationship with the sponsor or his or her spouse prior to the sponsor entering Finland. If the sponsor is a foster child residing in Finland, considering foster family members comparable to biological family members requires reliable evidence of there having been a de facto guardianship relationship prior to the sponsor entering Finland.

The preamble to the Aliens Act (Government Bill 28/2003) is based on the principle that the definition of a family member covers the members of the nuclear family, in line with the Finnish concept of family. The definition of family members in the Aliens Act therefore does not fully correspond with the definition of a family member as perceived by persons from different cultures. The definition of the nuclear family pursuant to Section 37 of the Aliens Act is considered to be in line with the provisions on the right to respect for private and family life contained in Article 8 of the European Convention on Human Rights. The definition of a family member is broader in the context of a family member of an EU citizen or a person comparable to an EU citizen.

Section 154 EU citizens' family members

The following persons are considered family members of an EU citizen:

- 1) his or her spouse;
- 2) his or her descendants who are under 21 years of age or dependent on him or her, and the descendants of similar status of his or her spouse;
- 3) his or her direct relatives in the ascending line who are dependent on him or her, and relatives of similar status of his or her spouse.

If the EU citizen living in Finland is a minor, his or her guardian is considered a family member.

In the application of this Chapter, persons living continuously in a marriage-like relationship in the same household regardless of their sex are comparable to a married couple if they have lived in the same household for at least two years. In the application of this Chapter, the relationship between them is comparable to a marriage. However, the requirement of living together for at least two years does not apply if the persons living in the same household have a child in their joint custody or if

there are other weighty reasons for it.

Other relatives are treated in the same manner as family members of EU citizens, regardless of their citizenship, if:

- 1) the relative is, in the country of departure, dependent on an EU citizen who has the primary right of residence, or the relative lived in the same household with the EU citizen in question; or
- 2) serious health grounds absolutely require the EU citizen in question to give the relative personal care.

An application for a residence permit on the basis of family ties must be filed by the applicant himself/herself. Under Section 3, Paragraph 1, Subparagraph 15 of the Finnish Aliens Act, a sponsor means a person residing in Finland whose residence is the basis for applying for a residence permit on the basis of family ties for a family member abroad.

Foster child: Under Section 37, Paragraph 3 of the Finnish Aliens Act (549/2010), an unmarried child under 3 years of age who is in the de facto care of his or her guardian and requires de facto care on the date on which the decision on the residence permit application is made, but whose guardianship relationship with the parent has no official evidence (foster child) is comparable to children referred to in Paragraph 1. Considering such foster children to be comparable to biological children in the residence permit process further requires reliable evidence of the child's prior guardians being deceased or having gone missing and of the child having had a de facto guardianship relationship with the sponsor or his or her spouse prior to the sponsor entering Finland. If the sponsor is a foster child residing in Finland, considering foster family members comparable to biological family members requires reliable evidence of there having been a de facto guardianship relationship prior to the sponsor entering Finland.

Other relative:

Relatives that are not part of the nuclear family may be issued a Finnish residence permit on the basis of family ties under exceptional circumstances. The term *other relative* is used to refer to such persons in the Aliens Act. However, a residence permit may be issued to other relatives on the basis of family ties only in cases in which the sponsor is a Finnish citizen or a foreign national holding a residence permit on the grounds of being a refugee or needing international protection or temporary protection.

The term other relative is not defined in the Aliens Act or the preamble to the Aliens Act. The following relatives are examples of other relatives: the parents of an adult; the sibling of a minor who is also a minor and resides in a country other than Finland, has no legal guardian or has a different guardian from the minor residing in Finland; the unmarried sibling of an adult and the minor children of a deceased brother or sister. The definition of other relative of a person residing in Finland does not extend to the parents of his or her spouse or other relatives of his or her spouse.

Requirements for entry, Section 11 of the Aliens Act

Aliens may enter Finland if:

- 1) they hold a required valid travel document that entitles them to cross the border;
- 2) they hold a required valid visa, residence permit or residence permit for an employed or self-employed person, unless otherwise provided by European Community law or any agreement binding on Finland;
- 3) they can, if required, produce documents which indicate the purpose of their intended stay and prove that the requirements for entry are met, and they can prove that they have secure means of support, considering both the projected length of their stay and their return to the country of departure or transit to a third country to which they are certain to be admitted, or that they can

legally acquire such funds;

4) they have not been prohibited from entering the country; and

5) they are not considered a danger to public order, security or health or Finland's international relations.

Under Section 35, Paragraph 1 of the Aliens Act, a requirement for issuing a residence permit is that the alien has a valid travel document. However, a residence permit may be issued even if the alien does not have a valid travel document if the permit is issued under Section 51, 52, 52a, 87, 88, 88a, 89 or 110. Pursuant to Section 134 of the Aliens Act, alien's passports may be issued to aliens residing in Finland if the alien cannot obtain a passport from the authorities of his or her home country, if he or she has no citizenship or if there are *other special reasons* for issuing an alien's passport to him or her.

- Residence permit applicants are required to present a travel document or an explanation of why they are unable to obtain a travel document
- Persons applying for asylum in Finland are not exempted from this provision

Section 36 of the Aliens Act: General requirements for issuing residence permits

A residence permit may be refused if the alien is considered a danger to public order, security or health or to Finland's international relations. Endangering public health does not, however, prevent the issuing of an extended permit, if the requirements for issuing a permit are otherwise met. Endangering international relations does not, however, prevent the issuing of a residence permit on the basis of family ties or issuing a residence permit to an alien who has been issued with a long-term resident's EC residence permit by a Member State of the European Union.

A residence permit may be refused if there are reasonable grounds to suspect that the alien intends to evade the provisions on entry into or residence in the country.

A residence permit on the basis of family ties may be refused if there are reasonable grounds to suspect that the sponsor has obtained his or her residence permit by circumventing the rules on entry or residence by providing false information regarding his or her identity or family relationships.

Section 39: Requirement for means of support when issuing a residence permit

Issuing a residence permit requires the alien to have secure means of support unless otherwise provided in this Act. In individual cases, an exemption may be made from the requirement for means of support if there are exceptionally weighty reasons for such an exemption or if the exemption is in the best interests of the child. The requirement for means of support is not applied if a residence permit is issued under Chapter 6, unless Section 114, Paragraph 4 stipulates otherwise. (11.6.2010/549)

An alien's means of support are considered secure at the time the alien's first residence permit is issued, if the alien's residence is financed through gainful employment, pursuit of a trade, pensions, property or income from other sources considered normal so that the alien cannot be expected to become dependent on social assistance referred to in the Act on Social Assistance (1412/1997) or on other similar benefits to secure his or her means of support. Social security benefits compensating for expenses are not regarded as such a benefit.

When issuing extended permits, the alien's means of support shall be secure as provided in subsection 2, provided, however, that temporary resort to social assistance or other similar benefit securing the alien's means of support does not prevent the issue of the permit.

The applicant shall submit to the authorities a statement on how his or her means of support will be

secured in Finland.

Pursuant to Section 66a of the Aliens Act, if a residence permit has been applied for on the basis of family ties, account must be taken of the nature and closeness of the alien's family ties, the duration of his or her residence in the country and the cultural and social ties of his or her family to the home country when considering the refusal of the permit.

An applicant's first residence permit must be primarily applied for abroad (with the exception of family members of Finnish citizens). In certain situations specified in legislation (Section 49 of the Aliens Act), an applicant's first residence permit may be issued in Finland if the requirements for issuing such a residence permit abroad are met and:

- 1) the person has previously been a Finnish citizen or at least one of his or her parents or grandparents is or has been a Finnish citizen by birth;
- 2) the alien has already, before entering Finland, lived together with his or her married spouse who lives in Finland, or has continuously lived together for at least two years in the same household in a marriage-like relationship with a person who lives in Finland;
- 3) refusing a residence permit for an employed or self-employed person applied for in Finland would be unfounded from the alien's or employer's point of view;
- 4) the alien has, before entering Finland, resided in another Member State for the purposes of carrying out scientific research referred to in the Directive on researchers, and is applying for a residence permit in Finland for the same purpose or is a family member of such a person;
- 4 a) the alien is an EU Blue Card holder who, prior to entering Finland, has resided in another Member State for a minimum of eighteen months for the purpose of engaging in highly qualified work and is applying for an EU Blue Card in Finland after filing an application no later than one month after entering the country, or is the family member of such a person and the family was formed prior to their entry into Finland; or
- 5) refusing a residence permit would be manifestly unreasonable.

A temporary or continuous residence permit is issued on the same grounds as an equivalent permit applied for abroad.

Correspondingly, the provision in subsection 1(2) applies to registered partnerships of the same sex and to marriage-like relationships of two persons of the same sex living continuously together in the same household.

Marriages of Convenience:

The spouse of a person residing in Finland can be issued a residence permit on the basis of family ties if the conditions for issuing a residence permit, pursuant to the Aliens Act, are met. A legalised marriage certificate must be presented as evidence of the marriage. A registered partnership between same-sex partners is comparable to a marriage.

The Aliens Act does not contain a definition of a marriage of convenience. If the processing of a residence permit application for the purpose of family reunification uncovers evidence that suggests that the marriage may have been entered into for the sole purpose of allowing a third country national to enter or reside in Finland, the potential refusal of the residence permit would be based on Section 36 of the Aliens Act, which states that a residence permit may be refused if there are

reasonable grounds to suspect that the foreign national intends to circumvent the rules on entry or residence. A residence permit on the basis of family ties may be refused if there are reasonable grounds to suspect that the sponsor has obtained his or her residence permit by circumventing the rules on entry or residence by providing false information regarding his or her identity or family relationships. The focus is on whether the parties involved truly intend to live together as a family. The decision on the refusal of the residence permit application may also refer to Section 11 of the Aliens Act if, in addition to the attempted circumvention of the rules on entry, the general requirements for entry are not met.¹

In Finland, a marriage of convenience is defined as a marriage concluded on a formally lawful basis, but with a purpose other than that of normal family life. From the perspective of migration law, a marriage of convenience is one that is concluded with the sole aim of obtaining a residence permit or circumventing the rules on entry. In such cases, it should be noted that one of the parties to the marriage may have entered into the marriage in good faith.

In making its decisions, the Finnish Immigration Service takes into account the following factors listed by the European Council² as providing grounds for believing that a marriage has been concluded with the sole aim of obtaining a residence permit or circumventing the rules on entry:

- the spouses have not previously cohabited
- the lack of an appropriate contribution to the responsibilities arising from the marriage
- the spouses have never met before their marriage
- the spouses are inconsistent about their respective personal details, about the circumstances of their first meeting, or about other important personal information concerning them
- the spouses do not speak a language understood by both
- a sum of money has been handed over in order for the marriage to be contracted (with the exception of money given in the form of a dowry in the case of nationals of countries where the provision of a dowry is common practice)
- the past history of one or both of the spouses contains evidence of previous marriages of convenience or residence anomalies

False Declarations of Parenthood:

False declarations of parenthood are not defined in the Finnish Aliens Act. Declarations of parenthood are considered false in cases in which the family ties have become broken prior to the sponsor's entry into Finland, or in which the formal guardianship of a child has been transferred to the sponsor despite there never having been a de facto guardian-child relationship. If the processing of a residence permit application for the purpose of family reunification uncovers evidence that suggests that the family ties have been created for the purpose of circumventing the regulations on residence permits, the refusal of the residence permit is based on Section 36 of the Aliens Act, which states that a residence permit may be refused if there are reasonable grounds to suspect that the foreign national intends to circumvent the rules on entry or residence.

False declarations of parenthood are particularly common in the context of foster children. The Finnish Immigration Service's interpretation of Section 37 of the Aliens Act, which contains the

¹ Article 8 of the European Convention on Human Rights provides a right to respect for one's private and family life, his home and his correspondence. The Convention protects sufficiently close, genuine family life. In a marriage of convenience, the spouses do not have de facto family ties with each other that entitle them to protection under Article 8. As such, the refusal of a residence permit is not a breach of the right to respect for the applicant's family life if there are reasonable grounds to suspect that the marriage is one of convenience.

²European Council Resolution 97/C/382/01 (4 February 1997) on measures to be adopted on the combating of marriages of convenience

definition of family member, is that a foster child is considered to be a family member if sufficient evidence of guardianship is provided³. A further requirement applied is that the foster child must have lived with the family before the foster parent enters Finland and that the child's biological parents are either deceased or missing. This has become an established practice primarily in deciding on residence permit applications filed by persons from countries where long-term instability has resulted in a lack of an effectively operational central administration. Residence permit applicants from countries without a central administration may be unable to obtain reliable documentary evidence of their identity and family relations from national authorities. In the absence of such documentary evidence, the Finnish authority responsible for processing the residence permit application must try to determine the applicant's and sponsor's family relationships by other methods. The biological relationship between a child and a parent can be verified by DNA testing, which is already used in the case of applications missing documentary evidence. Problems pertaining to investigations of identity and family ties are highlighted in the Finnish residence permit process, as the majority of the applications on the basis of family ties are lodged by Somali nationals and Somalia does not currently have a functional central administration that could provide reliable documentation issued by the authorities.

Please refer to Section II (General Context) above

Section 47 of the Aliens Act: Issue of continuous residence permits to persons residing abroad

- Family members of an alien who has been issued with a continuous or permanent residence permit are issued with a continuous residence permit. Family members of an alien are issued with a continuous residence permit if the alien, as a family member of an EU citizen, has been issued with a residence card referred to in Chapter 10 and he or she has retained his or her right of residence on a personal grounds basis under section 161d or 161e. (23.3.2007/360)
- Issuing a continuous residence permit under subsection 1(1) does not require the alien or his or her family members to have secure means of support.
- If an alien has been issued with a continuous or permanent residence permit on the basis of family ties, and the family tie that was the basis for issuing the permit is broken, a member of his or her family residing abroad may be issued with a continuous residence permit, provided that the family member has secure means of support. When making a decision, however, account shall be taken of the possibility of the person already living legally in Finland to return to his or her home country or another country to live with his or her family there, if all his or her family ties can be considered to lie there.

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.

Section 45, Paragraph 3 of the Aliens Act (family members of an alien who has been issued with a temporary residence permit): Family members of an alien who has been issued with a temporary residence permit are issued with a temporary residence permit for the same period.

³ This provision concerning foster children entered into force on 1 August 2010. Due to the long processing times involved, comprehensive data on the practical application of the amended regulations is not yet available, but the contents of the new provision are in line with prior practice concerning foster children.

Section 47, Paragraphs 3 and 5 of the Aliens Act (family members of an alien who has been issued with a continuous/permanent residence permit): Family members of an alien who has been issued with a continuous or permanent residence permit are issued with a continuous residence permit. Family members of an alien are issued with a continuous residence permit if the alien, as a family member of an EU citizen, has been issued with a residence card referred to in Chapter 10 and he or she has retained his or her right of residence on a personal grounds basis under section 161d or 161e.

If an alien has been issued with a continuous or permanent residence permit on the basis of family ties, and the family tie that was the basis for issuing the permit is broken, a member of his or her family residing abroad may be issued with a continuous residence permit, provided that the family member has secure means of support. When making a decision, however, account shall be taken of the possibility of the person already living legally in Finland to return to his or her home country or another country to live with his or her family there, if all his or her family ties can be considered to lie there.

Family members of a victim of trafficking in human beings: Under Section 52a, Paragraph 4 of the Aliens Act (619/2006), if a victim of trafficking in human beings is issued with a temporary residence permit, his or her family members staying abroad are not issued with a residence permit on the basis of family ties. If he or she is issued with a continuous residence permit, family members are issued with a residence permit under Section 47(3).

Section 48, Paragraph 2 of the Aliens Act (family members of persons coming from the former Soviet Union).

1) if the applicant belonged to the people evacuated from Ingria to Finland in 1943 or 1944 and returned to the Soviet Union after the war;

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A residence permit is also issued to family members of a person referred to in Paragraph 1 and to children in his or her custody who have not reached the age of eighteen years before the applicant is issued with a residence permit on grounds mentioned in Paragraph 1.

Section 49 Paragraph 1, Subparagraph 2 (issue of first residence permits to aliens who have entered the country without residence permits): the alien has already, before entering Finland, lived together with his or her married spouse who lives in Finland, or has continuously lived together for at least two years in the same household in a marriage-like relationship with a person who lives in Finland (this is not required if the persons have a child in their joint custody or if there is any other weighty reason for it).

Section 49a of the Aliens Act: When a third-country national who has been issued with a long-term resident's EC residence permit by another Member State of the European Union is issued with a fixed-term or continuous residence permit, his or her family member is issued with a temporary or continuous residence permit applied for in Finland or abroad.

Section 114 of the Aliens Act: Issuing residence permits to family members of beneficiaries of international or temporary protection:

A residence permit is issued on the basis of family ties to a family member of a refugee or an alien who has been issued with a residence permit on the basis of the need for subsidiary protection or

humanitarian protection, or who has enjoyed temporary protection if:

- 1) the sponsor lives in Finland or has been issued with a residence permit for the purpose of moving to Finland; and
- 2) the applicant is not considered a danger to public order, security or health.

If any of the circumstances mentioned in subsection 1(2) emerge, an overall consideration is made taking account of the sponsor's possibilities of leading a family life with the applicant in a third country. In the consideration, the importance of the family tie for the persons concerned shall be taken into account.

If the sponsor has been granted a residence permit on the basis of the need for subsidiary protection, and the ground for issuing the permit was an armed conflict, or if he or she has been granted a residence permit on the basis of humanitarian protection or temporary protection, it is taken into account in the overall consideration that there is no absolute impediment to the sponsor's return to his or her home country.

Issuing a residence permit referred to in this Section does not require the alien to have secure means of support if the family was formed prior to the sponsor's entry into Finland.

Section 115: Issuing residence permits to other relatives of beneficiaries of international or temporary protection:

A residence permit is issued to other relatives of a refugee or an alien who has been granted a residence permit on the basis of subsidiary protection or humanitarian protection or enjoyed temporary protection, if refusing a residence permit would be unreasonable because the persons concerned intend to resume their close family life in Finland or because the relative is fully dependent on the sponsor living in Finland. If the applicant is considered a danger to public order, security or health or Finland's international relations, an overall consideration is carried out as provided in Section 114(2). Issuing a residence permit does not require the alien to have secure means of support.

(ii) A mobile EU national reunifying with a third-country national

Chapter 10 of the Aliens Act contains provisions on the residence in Finland of citizens of the European Union and comparable persons. Section 153 of the Aliens Act states that Chapter 10 applies to EU citizens moving to Finland and their family members who accompany them by moving from another Member State or join them at a later time. The Chapter also applies to family members of Finnish citizens, if the Finnish citizen has made use of the right of movement laid down in the Free Movement Directive by moving to another Member State or by residing in another Member State, and if the family member has accompanied him or her or joined him or her at a later time.

Section 161 of the Aliens Act 161 §: Family members of EU citizens who are not EU citizens are, on application, issued with a residence card of a family member of an EU citizen, if the sponsor meets the requirements laid down in section 157 or 158a. A residence card is issued to family members planning to stay in Finland for more than three months.

An residence permit may be issued pursuant to the provisions contained in Chapter 4 of the Aliens Act to a family member of an EU citizen who is not an EU citizen if the family member is not subject to Chapter 10 of the Aliens Act:

Section 50a of the Aliens Act (23.3.2007/360) Issuing residence permits to family members of EU

citizens residing in Finland

- A family member of an EU citizen or a comparable person who is living in Finland and has registered his or her residence or the family member's minor children whose right of residence cannot be registered or approved under Chapter 10 are issued with a continuous residence permit on the basis of family ties. The residence permit is issued upon application filed in Finland or abroad.
- Issuing a residence permit referred to in this Section to a family member of a Nordic citizen or to his or her minor child does not require the alien to have secure means of support.

(iii) A non-mobile EU citizen reunifying with a third-country national on the basis of jurisprudence (and reference to the EU Treaty) (in the context of EU citizens residing in Finland who have never exercised their right to free mobility and whose family member the third country national is)

Finland considers EU justice to be directly applicable in these cases, complemented by national legislation where applicable. Also see Section 2.4.

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

See Chapter 2, definition of a family member

Section 50 (23.3.2007/360) Issuing residence permits to family members of Finnish citizens

- Family members of a Finnish citizen living in Finland and minor unmarried children of the family members are issued with a continuous residence permit on the basis of family ties upon application filed in Finland or abroad.
- Relatives other than family members of a Finnish citizen living in Finland are issued with a continuous residence permit if refusing a residence permit would be unreasonable because the persons concerned intend to resume their close family life in Finland or because the relative is fully dependent on the Finnish citizen living in Finland. Such other relatives must remain abroad while the application is processed.

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:

False Declarations of Parenthood:

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.*

Marriages of Convenience: The Finnish Aliens Act does not contain a definition of a marriage of convenience. If the processing of a residence permit application for the purpose of family reunification uncovers evidence that suggests that the family ties have been created for the purpose of circumventing the regulations on residence permits, the refusal of the residence permit is based on Section 36 of the Aliens Act, which states that a residence permit may be refused if there are reasonable grounds to suspect that the foreign national intends to circumvent the rules on entry or residence. Decisions on residence permit applications involving a marriage of convenience are made on the basis of *European Council Resolution 97/C/382/01 (4 February 1997)* on measures to be adopted on the combating of marriages of convenience.

According to Government Bill 240/2009, Section 36 of the Aliens Act applies when there are reasonable grounds to suspect that the sponsor would not have been issued with a residence permit had he or she not intentionally provided false information on his or her identity or family ties at the time of filing the residence permit application, or failed to disclose information on his or her identity or family ties, but where the cancellation of the residence permit or removal of the sponsor from the country is not possible on the basis of the overall assessment of the case. Under the Family Reunification Directive, Member States can intervene in cases of misuse more extensively than is described above (Article 16).

The Government Bill includes three examples of situations to which the provision may be applied: 1) the sponsor has originally been issued with a residence permit as the minor unmarried child of a foreign national residing in Finland, but after entering the country states that he or she is an adult and applies for a residence permit on the basis of family ties for a spouse who has remained in his or her country of origin; 2) the sponsor has entered Finland as an unaccompanied minor and been issued with a residence permit on compassionate grounds pursuant to Section 52 of the Aliens Act and subsequently applies for residence permits for his or her parents, having earlier stated in his or her own residence permit application that the parents are deceased or missing, when in fact the location of the parents was known to the sponsor throughout the process; 3) when a residence permit has been issued to a woman in a vulnerable position, who after receiving her own residence permit applies for a residence permit for her husband, despite originally having been issued a residence permit on the grounds that she has no-one in her country of origin that she could safely return to.

According to the Government Bill, the information provided by the sponsor for his or her own residence permit application could be taken into account in considering subsequent cases involving the same person. Asylum cases, in particular, involve collecting detailed information on the asylum seeker's family members and other relatives. Foreign nationals applying for residence permits or international protection should be informed at the time of their own initial application that providing false information may have a negative effect on subsequent applications for family reunification. A residence permit could be refused on the grounds of circumventing the rules on entry, even if the veracity of the family ties themselves are not called into question. Nevertheless, the foreign national's overall circumstances should be taken into consideration in each case pursuant to Section 66a of the Aliens Act. Decisions must also take into account the international human rights obligations that are binding on Finland. In any decisions issued that concern a minor, special attention must also be paid to the best interest of the child and to circumstances related to the child's development and health pursuant to Section 6 of the Aliens Act. The child's age and developmental

level must be taken into consideration when hearing the child. The decisions must take into account whether the child's right to family life requires Finnish residence permits to be granted or whether the family can live as a family in another country.

Furthermore, pursuant to Section 58 of the Aliens Act, a fixed-term or permanent residence permit or a long-term resident's EC residence permit may be cancelled if false information on the alien's identity or other matters relevant to the decision was knowingly given when the permit was applied for, or if information that might have prevented the issue of the residence permit was concealed.

A fixed-term residence permit may be cancelled if the grounds on which the permit was issued no longer exist.

Pursuant to Section 36 of the Aliens Act, a residence permit may be refused if there are reasonable grounds to suspect that the alien intends to evade the provisions on entry into or residence in the country. A residence permit by reason of family ties may be refused if there are reasonable grounds for suspecting that the sponsor has received a residence permit by circumventing the provisions on entry or residence by providing false information on his or her identity or family relations. Penal provisions of the Aliens Act do not include provisions on marriages of convenience but a fixed-term or permanent residence permit or a long-term resident's EC residence permit may be cancelled in accordance with Section 58 of the Aliens Act if false information on the alien's identity or other matters relevant to the decision was knowingly given when the permit was applied for, or if information that might have prevented the issue of the residence permit was concealed.

False Declarations of Parenthood:

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?

The European Court of Justice case law in question has not had any impact on decisions on residence permits at the time of writing this report. The Supreme Administrative Court, which is the highest court of appeal in residence permit matters, has requested a precedent from EU courts of law on the following cases which primarily concern the applicability of the Treaties of the European Union:

Supreme Administrative Court 2011:62: The spouse (sponsor) of a third country national (the applicant) has a Finnish residence permit and is the guardian of a child with Finnish citizenship.

In light of EU case law (C-34/09, Ruiz Zambrano, judgment published on 8 March 2011) it was unclear in the matter whether, under TFEU Article 20, the applicant had the right to reside in Finland despite not having means of support, in spite of the fact that the child with Finnish citizenship was not the applicant's biological child but rather the sponsor's child, and the child had never been in the applicant's care and the applicant had not lived with the child as a family after 2006.

The Supreme Administrative Court postponed the case and requested a precedent on the interpretation of TFEU Article 20 pursuant to TFEU Article 267.

Supreme Administrative Court 2011:63: The spouse (sponsor) of a third country national (the applicant) has a Finnish residence permit and is the guardian of a child with Finnish citizenship.

In light of EU case law (C-34/09, Ruiz Zambrano, judgment published on 8 March 2011) it was unclear in the matter whether, under TFEU Article 20, the applicant had the right to reside in

Finland despite not having means of support, in spite of the fact that the child with Finnish citizenship was not the applicant's biological child but rather the sponsor's child.

The Supreme Administrative Court postponed the case and requested a precedent on the interpretation of TFEU Article 20 pursuant to TFEU Article 267.

Marriages of Convenience:

Nothing to report.

False Declarations of Parenthood:

Nothing to report.

Synthesis Report (up to 5 pages)

2.1 - Summary of definitions and table mapping these across Member States

2.2 - Summary of definitions and table mapping these across Member States

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

2.4 – Summary of any information provided

Section 3

The situation in Finland

National Contribution: (3-5 pages in total)

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)

Marriages of Convenience:

The Finnish Immigration Service estimates the number of negative residence permit decisions on the grounds of suspected marriages of convenience to be 250 per year. Decisions made by the police are not included in this figure.

Cases of suspected marriages of convenience are seen in both the normal residence permit process and the asylum process. Applications filed during the asylum process generally give cause for

suspicion that a marriage was entered into for the purpose of circumventing the rules on entry.

Current case law

The Supreme Administrative Court, which is the highest court of appeal in immigration affairs, handed down two yearbook decisions pertaining to family reunification on 30 December 2011.

In decision KHO:2011:116, the Supreme Administrative Court discussed whether the Aliens Act provision on issuing a residence permit when other requirements are met can be disregarded when there are reasonable grounds to suspect circumvention of the rules on entry.

Under the Aliens Act, the spouse of a Finnish citizen residing in Finland is issued with a continuous residence permit on the basis of family ties upon application filed in Finland or abroad. Therefore, as a rule, residence permits are issued to applicants if they meet the other requirements for being issued a residence permit.

In the case in question, the authorities responsible for deciding on residence permit applications had determined that the lack of a common language and the discrepancies between the spouses' descriptions of the wedding constituted reasonable grounds to suspect that the applicant was attempting to circumvent the rules on entry of residence in the country through a marriage of convenience. The question then was whether the principle of issuing a residence permit when other requirements are met could be disregarded due to the suspected circumvention of the rules on entry.

In its decision, the Supreme Administrative Court stated that despite neither spouse being fluent in the other's mother tongue, the spouses had explained how they communicated with each other in the early stages of their relationship and how they had studied each other's languages. Taking into consideration the duration of their relationship prior to marriage and their familiarity with each other's background and circumstances, the application for a residence permit on the basis of marriage was deemed to have been lodged with the intention of actually living together as a family. As a result, the court found that the applicant should be issued a residence permit on the basis of family ties.

In yearbook decision KHO:2011:117, the Supreme Administrative Court considered whether an oral hearing should have been arranged by the court of appeal (Administrative Court) in a case involving family reunification.

The case concerned whether a residence permit on the basis of marriage, i.e. on the basis of family ties, can be refused if there are reasonable grounds to suspect that the alien intends to evade the provisions on entry into or residence in the country. This refers to applications for a residence permit on grounds that do not reflect the actual intended purpose of entering or residing in the country.

The Finnish Immigration Service had considered the family ties reported as the basis of the residence permit application to be a marriage of convenience. The spouses appealed the decision of the Finnish Immigration Service to the Administrative Court and requested an oral hearing. The subject of the requested hearing was the nature of their marriage, on which the spouses wanted to be personally heard in court. According to the spouses, the Finnish Immigration Service decision and documents contained incomplete and incorrect information in several instances. The appellants did not have professional legal counsel in the Administrative Court.

The case brought to the Administrative Court concerned the applicant's residence permit application and refusal of entry, which determined whether the applicant could continue to live with his or her Finnish spouse residing in Finland. According to the spouses, the decision by the Finnish Immigration Service was based on incorrect information regarding the reported facts pertaining to their life together. The Supreme Administrative Court's decision stated that, as the question of the nature of the marriage was relevant and material to the consideration of whether the requirements for issuing a residence permit were met, the oral hearing requested by the appellants

was not manifestly unnecessary in the manner referred to in Section 38, Paragraph 1 of the Administrative Judicial Procedure Act. As such, the Administrative Court should not have rejected the request to conduct an oral hearing.

Public dialogue

Public dialogue and media articles on marriages of convenience are commonplace in Finland, and the subject has also been regularly covered by news programmes on television. In particular, cases in which spouses who have been refused a residence permit have felt wrongly treated by the authorities have been widely publicised.

In August 2011, the Ministry of the Interior set up a project to examine the family reunification provisions in the Aliens Act, their practical application and the corresponding provisions in force in other Nordic countries. The aim of the project is to determine the effects of past amendments to the provisions on family reunification and the nature of further amendments required.

The survey will cover current practices in other Nordic countries and the provisions contained in the EU Family Reunification Directive. The application of the requirements for securing a home and livelihood will be examined particularly in the context of persons granted a residence permit on the basis of needing international protection.

At the same time, the project will examine the principles applied by the Finnish Immigration Service and compare them with other Nordic countries. According to the Government Programme, the family reunification practices applied by Finland should be in line with those applied by other Nordic countries. A decision on starting a legislative project will be made on the basis of the survey.

False Declarations of Parenthood:

Investigating identity and family ties has proved to be difficult, particularly in cases involving family reunification applications lodged by Somalis. Somalia does not currently have a central administration that could assist in verifying identities. At the same time, the large number of family reunification applications filed by Somalis has created pressure to arrange hearings on family ties as well as DNA testing (a total of 8,267 applications in 2007-2010). The Finnish Immigration Service has an immigration liaison officer stationed at the Finnish Embassy in Addis Ababa. The primary duties of the liaison officer include arranging interviews to investigate family ties and preventing illegal immigration and trafficking in human beings. As the number of applications increased, it was deemed necessary to send Finnish Immigration Service experts to assist in hearings on family ties.

In February 2012, the Finnish Immigration Service reported some 6,000 pending applications on the basis of family ties filed by Somalis. Of the applications pending processing, the oldest had been lodged in September 2010. Of the applications already being processed but yet to be resolved, the oldest had been lodged in November 2009. The Finnish Immigration Service states that the reason for the backlog is the rapid increase in the number of residence permit applications on the basis of family ties lodged by Somalis and the fact that Somali applicants are generally interviewed in person due to the impossibility of verifying family ties through documents issued by their home country.⁴

Public dialogue

⁴ Finnish Immigration Service press release 6 February 2012.

In 2010, the Finnish National Rapporteur on Trafficking in Human Beings highlighted a trend that threatens to compromise the credibility of anti-trafficking activities: seeing human trafficking where there is none. The Rapporteur's annual report expressed concern over the possibility of the abstract existence of human trafficking as a social problem being used, without justification, as an instrument to make immigration policy more stringent. The Rapporteur cited the example of the Finnish Immigration Service having reported an insufficiency of resources in the family reunification process and suspected cases of trafficking in human beings involving family reunification. Prior to the report, public dialogue on the matter had involved suspicions of victims of human trafficking among foster children entering Finland. The Rapporteur on Trafficking in Human Beings asked the Finnish Immigration Service for a report on the matter, which indicated that there was no concrete evidence to support the suspicions of human trafficking.⁵

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

There have been numerous problems in Finland related to residence permit applications on the basis of family ties involving foster children. Several applications have given rise to suspicion of illegal residence (circumvention of residence permit rules). Granting residence permits without the presence of reliable documentary evidence always involves a risk of abuse of the system, including human trafficking and kidnapping. In the case of foster children, it is often impossible to verify the true status of a child as part of the family. For example, a girl residing with a family may be a domestic worker or the father's second wife. The actual ages of foster children may also differ from what is written in the application.

The anchor child phenomenon: Unaccompanied children are frequently sent to Finland against their will with the intention of their obtaining a residence permit and subsequently applying for residence permits for their family members on the basis of family ties. The anchor child phenomenon involves circumvention of the rules on entry, trafficking in women and children as well as the pressure to migrate from developing countries to Western industrialised countries. The anchor child phenomenon is particularly common in the asylum process.

The category of applicants who were issued with residence permits as quota refugees include women at risk, whose husbands are subsequently found or who have remarried prior to entering Finland. However, the cases have not been entered as a separate category in the statistics.

Marriages of Convenience:

False Declarations of Parenthood:

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

⁵ The Finnish National Rapporteur on Trafficking in Human Beings: Report 2011, p. 43.

[http://www.vahemmistovaltuutettu.fi/intermin/vvt/home.nsf/files/Thmiskaupparaportti_englanti/\\$file/Thmiskaupparaportti_englanti.pdf](http://www.vahemmistovaltuutettu.fi/intermin/vvt/home.nsf/files/Thmiskaupparaportti_englanti/$file/Thmiskaupparaportti_englanti.pdf)

in this area, highlighting any good practice measures.

Marriages of Convenience:

Investigated on a case-by-case basis. For information on practical measures, see National Means of Detecting Misuse and 3.5. and 3.6.

The prevention of misuses of the residence permit process in Finland is focused on pre-entry measures. The careful investigation of visa and residence permit applications has been found to have a significant impact on the prevention of misuses.

In certain diplomatic missions, there are immigration specialists whose main task is to prevent illegal entry to the Schengen area. These immigration specialists are liaison officers sent by the Finnish Border Guard, the police and the Finnish Immigration Service. Immigration Liaison Officers, jointly used by various authorities and funded by aid from the European External Borders Fund, work in Addis Ababa and New Delhi. Liaison officers of the liaison officer network of the Finnish Border Guard work in St. Petersburg, Moscow, Petrozavodsk, Beijing, Tallinn and Riga.

In addition, a temporary liaison officer of the Finnish Border Guard works for part of the year in Abuja, Nigeria. The liaison officer operations of the Finnish Border Guard aim to support national crime prevention. The role of these liaison officers is to facilitate the prevention and suppression of irregular migration, the return of irregular migrants and the management of legal migration. The liaison officers provide support for the processing of visa and residence permit applications, inspect suspicious travel documents and other related documents and train and support the site employees in investigating the authenticity of travel documents. At the same time, the Finnish Border Guard liaison officers cooperate closely with the Police and Customs liaison officers assigned to Finnish diplomatic missions.⁶

The Police's liaison officer operations are coordinated by the National Bureau of Investigation. In addition to taking care of various tasks related to international crime, the police liaison officers also help diplomatic missions in issues related to the prevention of illegal entry. The police liaison officers participate in the processing of visa applications, if necessary: they could help in the inspection of documents or take part in visa interviews. Visa refusals usually circulate through the Police if the reason for refusing a visa is the applicant's criminal background or suspected participation in criminal or terrorist activities. In cases of suspected terrorism, the Finnish Security Intelligence Service shall be contacted. In China and Russia in particular, the operations of the police liaison officers concentrate on the prevention of illegal entry. Finland has 12 such liaison officers and in addition there are Nordic PTN liaison officers who can be used if no Finnish liaison officers are available. There are approximately 50 Nordic PTN liaison officers in ⁷total.

The emphasis in the monitoring of illegal migration within Finland is on the monitoring of immigrants, which is primarily the responsibility of the Police. The Finnish Border Guard and the Finnish Immigration Service also participate in the monitoring of immigrants within the country. The Lama group is an intersectoral working group led by the National Police Board and involving representation from the Police, the Finnish Border Guard, the Finnish Customs, the Finnish Immigration Service, the Ministry of the Interior, the Ministry of Social Affairs and Health and the Ministry for Foreign Affairs. The tasks of the working group include monitoring the state of illegal entry on the basis of status reports prepared by the National Bureau of Investigation, for instance, hearing representatives of the authorities participating in co-operation as well as those of NGOs,

⁶ Laittoman maahantulon vastainen toimintaohjelma 2010–2011. Poliisin ylijohdon julkaisusarja 5/2009, p. 18

⁷ The police and customs authorities of the Nordic countries have a contact person network (Polis och Tull i Norden mot narkotika, PTN)

that covers approximately 20 countries around the world. The network's liaison officers are available to all Nordic countries in Albania, several countries in the Balkan region, Poland, Turkey, Thailand, Laos, Vietnam, Pakistan and United Arab Emirates, for instance. PTN co-operation was launched in 1972 mainly to prevent drug crimes. Later, the network's operations have expanded to the prevention of other organised crime as well.

making suggestions for the development of intersectoral co-operation methods and recommend actions for the development of co-operation with the authorities of neighbouring countries and third countries. Each year, the Police organise several national campaigns related to the monitoring of aliens, with specific themes that the Lama working group may make proposals for. The purpose of the monitoring campaigns related to special themes is to achieve more effective monitoring of persons entering, residing in and working in Finland.

False Declarations of Parenthood:

Investigated on a case-by-case basis. For information on practical measures, see National Means of Detecting Misuse and 3.5.

The prevention of misuses of the residence permit process in Finland is focused on pre-entry measures. The careful investigation of visa and residence permit applications has been found to have an impact on the prevention of misuses.

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?

The prevention of misuses of the residence permit process in Finland is focused on pre-entry measures. The careful investigation of visa and residence permit applications has been found to have an impact on the prevention of misuses.

Marriages of Convenience:

Section 36, Paragraph 2 of the Aliens Act: a residence permit may be refused if there are reasonable grounds to suspect that the alien intends to evade the provisions on entry into or residence in the country.

Decisions on residence permits on the grounds of marriage (family ties) take into consideration the contents of and motives behind the marriage. The focus is on whether the parties involved truly intend to live together as a family.

In making its decisions, the Finnish Immigration Service takes into account the following factors:

- the circumstances in which the relationship was formed
- the manner in which the relationship was formed and the timing thereof (passport stamps, airline tickets, visa and residence permit data, hotel receipts, residential leases etc.)
- cohabitation and exceptional circumstances related to living arrangements, if any
- the duration of the relationship and whether or not it still continues
- the possibility of a forced marriage, payment for marriage
- the lack of a common language
- record of previous marriages of convenience

- the timing of the marriage (if concluded after a negative decision on a residence permit or during the removal process)
- considerable age difference
- conflicting information provided by the spouses regarding their life together
- the spouses' familiarity with each other

The primary evidence required for a marriage is a marriage certificate. If the marriage was concluded abroad, the marriage certificate must generally be legalised by a Finnish diplomatic mission abroad. The marriage must be registered both in Finland and the foreign spouse's home country to the extent that this is possible under Finnish and foreign law.

If the marriage is not officially recognised in the country in which it was concluded, but is recognised in the spouse's country of residence or citizenship, the spouses must present evidence from the country concerned to prove that the marriage is officially recognised there. This evidence is required in order to make an entry in the population register indicating that the person concerned is married.

In processing the residence permit application, the applicant's data must be checked on official registers such as the Population Information System, the visa register and the border control register. Where necessary, based on a case-by-case assessment, the official registers of the foreign country concerned may be checked through a Finnish diplomatic mission to determine whether the marriage has been registered and whether the marriage is legally competent in the country concerned (particularly in the context of marriages concluded through religious ceremonies). Where necessary, based on a case-by-case assessment, original documentation such as a marriage, divorce or death certificate may be sent to the National Bureau of Investigation forensic laboratory to assess its veracity and determine whether the document has been altered or falsified. The veracity of documents can also be determined through the country information service of the Finnish Border Guard and the Finnish Immigration Service.

- Decisions are always based on an overall assessment and take into consideration all information received from the spouses, the authorities and other parties concerned.

When a marriage is suspected of being one of convenience, the Finnish Immigration Service and the Police as the authorities responsible for residence permits may decide to refuse residence. Pursuant to Section 36 of the Aliens Act, a residence permit may be refused if there are reasonable grounds to suspect that the alien intends to evade the provisions on entry into or residence in the country. A residence permit on the basis of family ties may be refused if there are reasonable grounds to suspect that the sponsor has obtained his or her residence permit by circumventing the rules on entry or residence by providing false information regarding his or her identity or family relationships.

On the basis of the Finnish Immigration Service's previous practice, the most common reasons for refusing residence permit applications based on marriage have been the lack of cohabitation and/or the provision of conflicting information. The lack of a common language has also been a frequent factor, particularly in the context of residence permits based on family ties applied for as part of the asylum process. Cases involving records of prior marriages of convenience have been rare, but the applicant's own application history has often been considered an indicator of whether a marriage is one of convenience. This refers to cases in which the applicant has a history of multiple attempts to obtain a Finnish residence permit, often on varying grounds.

On the basis of the Finnish Immigration Service's previous practice, the persons involved typically meet online or through mutual friends, with the spouse residing in Finland subsequently travelling to the applicant's home country to meet and possibly marry the applicant. The persons often get married during the first trip or on a subsequent trip, after which they apply for a Finnish residence

permit for the applicant. Several refused applications involved a first meeting on a holiday trip and marriage within a short period of time of the first meeting.

False Declarations of Parenthood:

Under Section 6a, Paragraph 1 of the Aliens Act, forensic testing may be used to determine the age of an alien applying for a residence permit or sponsoring an application if there are distinct grounds for questioning the reliability of the information provided by the applicant or sponsor regarding his or her age.

Pursuant to Section 6a, Paragraph 2 of the Aliens Act, the use of forensic testing is subject to the applicant or sponsor giving his or her written consent for it with understanding and out of free will. The written consent of the subject's guardian or other legal representative is also required. The consent of both parties is an absolute requirement for forensic testing. Persons who refuse to have their age determined by forensic testing are treated as adults unless there are acceptable grounds for the refusal. Applications involving circumvention of the rules on entry often require a lot of work to resolve them. A legislative amendment that entered into force on 11 June 2010 was intended to have a preventive effect on the number of such applications. This would allow the authorities to allocate more resources for processing applications not involving such circumstances. This would allow applicants for international protection and residence permits on the basis of family ties whose cases do not involve circumvention of the rules to have their applications processed faster.

In cases in which the spouse is not moving to Finland, the opinion of the social welfare or health care authorities of the sponsor's domicile or place of residence regarding the sponsor's social situation or health is always requested pursuant to Section 63 of the Aliens Act. Furthermore, the parties are heard to ensure that issuing a residence permit is not contrary to the child's best interests. Where a residence permit application concerns a child or the sponsor is a child, the child's birth certificate with information on the parents must be included in the application. Documentary evidence such as a divorce or death certificate is also required if the parents are divorced or deceased. Evidence on the child's guardian and visitation rights is also required. If the child's guardian is a person other than a parent (such as a grandparent or other relative), a court decision or documentation issued by the competent authorities must be presented as evidence.

Pursuant to Section 65 of the Aliens Act, the Finnish Immigration Service may provide an applicant or sponsor with the opportunity to prove their biological kinship with DNA analysis paid for out of State funds if no other adequate evidence of family ties based on biological kinship is available and if it is possible to obtain material evidence of the family ties through DNA analysis.

DNA testing is an integral part of issuing residence permits in the absence of reliable documentary proof of family ties, such as birth or marriage certificates. A residence permit based on biological family ties is only issued if the DNA test is positive. As DNA testing is conducted in all cases of residence permit applications involving biological family members, conflicts are occasionally seen between the reported biological family members and the results of the DNA testing. If DNA testing proves that the person concerned is not the child's biological parent, and if there is no evidence of guardianship or prior common family life (e.g. foster children), the application for a residence permit on the basis of family ties may be refused. Prior to 2011, there was a growing trend of applications made by minors regarding foster children in their families. A residence permit may be granted to a minor's non-biological sibling if the family ties can be sufficiently verified through interviews. However, the number of applications filed on such grounds has decreased significantly since the Finnish Immigration Service refused the majority of them in 2011. In recent residence permit applications for foster children, the foster children often fail to present themselves for the interviews on family ties, often due to death, disappearance or the child being taken into the custody

of his or her biological parents.

The majority of such cases involve the families of aliens who have entered the country seeking international protection. Residence permit applications for foster children generally concern children who have been part of the sponsor's family even before his or her entry into Finland. The authorities have also observed an emerging phenomenon of cases in which the applicant is the new spouse of the sponsor, the two having been married in Finland, and the applicant also has foster children applying for residence permits at the same time. Approximately one out of five such families report foster children in their applications (foster children of new spouses).

Most applicants report that the foster children are relatives whose parents are deceased or missing. The family relationship can be verified by DNA testing, but blood ties alone do not indicate that the persons concerned have lived as a family and that the sponsor has been the child's guardian. In such cases, the question of guardianship is primarily assessed on the basis of interviewing the persons concerned; DNA testing alone does not determine the result of the application, as the blood ties of children of siblings cannot be reliably verified by such tests. Determining the relationships between foster children and parents through interviews is always problematic. All foster children aged 8 and above are interviewed. It is commonplace that interviewed children do not remember, or otherwise fail to describe, their family relations and daily life in the past. The assessment of whether there is a genuine foster child-parent relationship is mainly based on interviewing the foster parent or parents and the information provided by the sponsor, who may also be a minor.

According to Finnish Immigration Service Helsinki University conducted in 2010 696 DNA tests (biological parenthood) and 56 mitochondrial DNA tests (siblings). In 2011 the numbers were 514 and 17. Each DNA test costs 269, 00 euros while each mitochondrial DNA-test costs 380, 00 euros.

Determining the true relationship between a child reported as a foster child and the foster parents is difficult. While some children reported to be foster children are children who have genuinely been part of the family, the authorities are aware that some children have been taken in by families for the purpose of bringing them to Finland as family members. It is also known that some children reported to be foster children have, in fact, never been genuine members of the family sponsoring their residence permit application. The possibility of trafficking in children must also be considered. There are also indications that the position of some teenage girls in supposed foster families is actually that of a domestic worker rather than a child. The Finnish Immigration Service has also learned of some cases of minors obtaining residence permits as foster children and subsequently going on to live independent lives in Finland, separate from the family. In such cases, the applicants have planned from the beginning to abuse the provisions on foster children to obtain a residence permit with no genuine intention of living together as a family.

The best practices applied by the Finnish Immigration Service for assessing foster child relationships are:

- The burden of proof regarding foster child-parent relationships lies with the foster parents. The parents must be able to provide sufficient proof of the existence of the foster child-parent relationship. In the absence of documentary evidence of the relationship, the authorities may require detailed and unconflicting descriptions of family life and matters characteristic of a foster child-parent relationship.
- As a rule, a foster child may only be issued with a residence permit if he or she has lived in the family prior to the sponsor's entry into Finland, unless the application meets the criteria for issuing a residence permit to another kind of family member. The requirement is that there has been an actual and established foster child-parent relationship and family life.
- The inability of a foster child to remember details of family life is taken into consideration, accounting for the child's age and developmental level. A child who is 12 years or older can be expected to remember and describe more than a younger child.

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

- If the sponsor has not mentioned a foster child in the initial asylum interview, subsequent residence permit applications based on family ties are generally refused. Assessing family life and the existence of foster children are increasingly focused on in asylum interviews.
- The use of methods to determine a person's age in association with applications based on family ties will be proposed and an assessment of the foster child's age in the interview will be required.

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:

Refer to section 3.4. and 3.6.

Section 7 of the Aliens Act: General administrative procedures The authorities shall ensure that the matter is investigated. The person concerned shall present the grounds for his or her claim and generally contribute to the investigation of his or her case. The authorities shall tell the person concerned what further clarifications need to be made in the matter. A request for clarification shall be specific and in proportion to the means for clarification available to the person concerned, considering his or her circumstances.

If the decision to be issued on the matter could significantly influence another decision pending on a similar matter, these cases shall be prepared jointly and the decisions issued simultaneously, if possible, unless the joint processing of these cases will cause harmful delay.

Such clarifications may give rise to suspicions that the marriage was entered into for the purpose of circumventing the rules on entry. Additional clarification to resolve such matters may be obtained through oral hearings or in writing.

In 2009-2010, over 60% of the appeals filed over Migri decisions were rejected by the administrative courts. In the majority of the overturned decisions (53%), the administrative court was provided with new evidence that had not been submitted to Migri at the time of making the initial decision, or the administrative court overturned the decision due to a procedural error.

Based on the case law of the administrative courts, appeals filed over Migri decisions are rejected when the grounds for the initial refusal are varied, including the information provided by the spouses, the spouses not having cohabited for a significant length of time, the spouses not having met after marriage, marrying soon after having first met, knowing little about their spouses, and the applicant's or his or her spouse's prior application history. With regard to their history of prior applications, earlier attempts to obtain a residence permit on some other grounds, such as asylum or other family ties, were common, as were the spouses' previous marriages.

False Declarations of Parenthood:

The decisions of the administrative courts on cases involving false declarations of family ties have varied from one case to another. The Supreme Administrative Court has not granted the Finnish Immigration Service leave for appeal in cases of marriages of convenience. As a result, there are no such legal precedents.

Section 7 of the Aliens Act: General administrative procedures

The authorities shall ensure that the matter is investigated. The person concerned shall present the grounds for his or her claim and generally contribute to the investigation of his or her case. The authorities shall tell the person concerned what further clarifications need to be made in the matter. A request for clarification shall be specific and in proportion to the means for clarification available to the person concerned, considering his or her circumstances.

If the decision to be issued on the matter could significantly influence another decision pending on a similar matter, these cases shall be prepared jointly and the decisions issued simultaneously, if possible, unless the joint processing of these cases will cause harmful delay.

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 relationships between jurisdictional authorities must be regulated by law in Finland.

A family member's residence permit application can be filed with a Finnish diplomatic mission abroad or with the police in Finland. If the applicant is a family member of a Finnish citizen and filed his or her application personally in Finland, the decision on the residence permit application is made by the police. If the application is filed with a Finnish diplomatic mission or if the applicant is a family member of a foreign national residing in Finland, the decision is made by the Finnish Immigration Service (Migri).

According to Government Bill 28/2003, personal interviews are an essential method of investigation due to the nature of such matters.

In practice, however, residence permits may be applied for in circumstances in which it is apparent that the application will be refused. For example, when a residence permit application concerns another relative and the sponsor is not a Finnish citizen, refugee or the recipient of a residence permit on the grounds of international protection or temporary protection, the residence permit may not be issued pursuant to Section 50, Paragraph 2 or Section 115, Paragraph 1 of the Aliens Act. In such cases it can be considered sufficient to give the applicant the opportunity to present written evidence. Applicants may be heard in writing with the assistance of the sponsor, or alternatively through a Finnish diplomatic mission abroad. Such information for applications filed in Finland is processed by the police.

The applicant's failure to appear to be heard in person or not having been heard by any other means does not prevent a decision from being made on a case.

Pursuant to Section 64, Paragraph 2 of the Aliens Act, the interviews are conducted by the police or a Finnish consular officer. The Finnish Immigration Service may conduct the interview if doing so is required for a decision to be made on a case.

Interviews are primarily conducted by the police or a Finnish consular officer, as conducting an oral hearing in conjunction with filing the application is a natural part of receiving an application. Requiring the applicant to appear in person pursuant to Section 8, Paragraph 1 of the Aliens Act provides an opportunity to ask additional questions without having to request the applicant to return for a separate hearing by the authorities at a later time. As a rule, applicants are required to appear in person before the authorities, generally a Finnish diplomatic mission abroad, at least once. The sponsor may also be requested to appear in person before the authorities, if considering the case so requires.

The Finnish Immigration Service may conduct the interview if doing so is required for a decision to be made on a case. Where necessary, Finnish Immigration Service officers may travel abroad for a hearing. Priority in such cases is given to complicated applications requiring special expertise.

False Declarations of Parenthood:

See Section 3.6, Marriages of convenience.

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:

A residence permit issued to an alien who has entered into a marriage for the purpose of circumventing the regulations on entry into the country can be cancelled.

A concluded marriage may be found to be invalid if it does not meet the requirements of the Marriage Act (for example, if one of the spouses was underage). Finding a marriage to be one of convenience is not grounds for cancelling the marriage itself.

Where a marriage is assessed to be one of convenience, it will be more difficult for the applicant or sponsor to successfully apply for a residence permit on the grounds of family ties at a later time, as having previously filed a residence permit application on false grounds can be seen as grounds for suspicion regarding the applicant's motives for applying for subsequent residence permits.

Section 58 of the Aliens Act: cancelling residence permits

A fixed-term or permanent residence permit or a long-term resident's EC residence permit may be cancelled, if false information on the alien's identity or other matters relevant to the decision was knowingly given when the permit was applied for, or if information that might have prevented the issue of the residence permit was concealed.

A fixed-term residence permit may be cancelled if the grounds on which the permit was issued no longer exist.

Section 165 of the Aliens Act Cancelling registration of the right of residence or a residence card (an EU citizen and his or her family member who is not an EU citizen)

Registration of the right of residence, the right of permanent residence, or a fixed-term or permanent residence card is cancelled, if it was obtained by knowingly providing false information about the applicant's identity or other relevant facts, or by concealing such information, or by other abuse of rights.

General provisions on penalties pertaining to illegal immigration and the arrangement of illegal immigration

Violation of the Aliens Act

Section 185 of the Aliens Act covers violation of the Aliens Act. According to the provision, an alien who deliberately resides in the country without the required travel document, visa or residence permit, or through negligence fails to comply with the obligation to register his or her residence or apply for a residence card or permanent residence card, shall be sentenced to pay a fine. An alien who deliberately, without right to gainful employment, is gainfully employed or pursues a trade, or deliberately fails to comply with the obligation to report under Section 118, any other obligation under Section 119, or a request under Section 130 to appear before the authorities to submit information on his or her residence is also in violation of the Aliens Act. Furthermore, an alien who deliberately enters the country despite a prohibition of entry on grounds of public order, security or health, is in violation of the Aliens Act.

Border offence

Pursuant to Chapter 17, Section 7 of the Penal Code of Finland, a person who crosses the border of Finland without a valid passport or other travel documents, or otherwise than from a legal point of

departure or to a legal point of arrival, or contrary to a statutory prohibition, or attempts the same, or otherwise breaches the provisions on border crossing, or without permission stays, moves or undertakes prohibited measures in the border zone, as referred in the Border Zone Act, shall be sentenced for a border offence to a fine or to imprisonment for up to one year (with the exception of foreigners who are refused entry or deported and foreigners who as a refugee seek asylum or a residence permit in Finland).

Arrangement of illegal immigration

Chapter 17, Section 8, Paragraph 1, Subparagraph 1 of the Penal Code of Finland states that a person who brings or attempts to bring to Finland a foreigner without a valid passport, visa or residence permit shall be sentenced for arrangement of illegal immigration to a fine or to imprisonment for up to two years.

Aggravated arrangement of illegal immigration

According to Chapter 17, Section 8a of the Penal Code, if the arrangement of illegal immigration deliberately or through gross negligence causes another person grievous bodily harm, serious illness, a life-threatening situation or comparable severe suffering, or if the crime has been committed as part of the operations of an organised crime group and the crime is aggravated also when assessed as a whole, the offender must be sentenced for aggravated arrangement of illegal immigration to imprisonment for at least four months and up to six years.

Forgery offences

Under Chapter 33, Section 1 of the Penal Code of Finland, a person who prepares a false document or other item or falsifies such a document or item in order for it to be used as misleading evidence or uses a false or falsified item as misleading evidence shall be sentenced for forgery to a fine or imprisonment for up to two years. An attempt at the same is punishable.

If, in the forgery, the item that is the object of the offence is an archival document stored by an authority or a general register kept by an authority and such a document or register is important from a general point of view, or the item otherwise has a particularly significant probative value, or the offender uses technical equipment procured for the commission of forgery offences or otherwise acts in a particularly methodical manner and the forgery is aggravated also when assessed as a whole, the offender shall be sentenced for aggravated forgery to imprisonment for at least four months and up to four years under Section 2 of the same Chapter. An attempt at the same is punishable.

If the forgery, when assessed as a whole, with due consideration to the nature of the item or to the other circumstances connected with the offence, is to be deemed petty, the offender shall be sentenced under Section 3 of the same Chapter for petty forgery to a fine.

Under Section 4 of the same Chapter, a person who without acceptable reason receives, procures, transports or possesses a false or falsified piece of evidence, or prepares, receives, procures, sells, transfers or possesses an item or a device that can justifiably be suspected of being primarily used in the commission of forgery offences shall be sentenced for possession of forgery materials to a fine or to imprisonment for up to six months.

False statement in official proceedings

Pursuant to Chapter 15, Section 2, Paragraph 3 of the Penal Code of Finland, if a person being questioned in a police inquiry or in comparable official proceedings makes a false statement in the matter or without lawful cause conceals a pertinent circumstance, that person shall be sentenced for a false statement in official proceedings to a fine or to imprisonment for up to two years.

Registration offence

Under Chapter 16, Section 7 of the Penal Code of Finland, a person who, in order to cause a legally relevant error in a public register kept by a public authority, provides false information to that authority, or in order to gain a benefit for himself/herself or another person, or in order to cause damage to another person, takes advantage of an error caused in the aforementioned manner, shall be sentenced for a registration offence to a fine or to imprisonment for up to three years. An attempt at the same is punishable.

Providing false documents to a public authority

Pursuant to Chapter 16, Section 8 of the Penal Code of Finland, a person who provides a public authority with a legally relevant false written document or a comparable technical record or, after having produced such a document or record, gives it to another person to be used for this purpose, shall be sentenced, unless a more severe penalty for the act is provided elsewhere in the law, for providing false documents to a public authority to a fine or to imprisonment for up to six months. A sentence for providing false documents to a public authority shall be passed also on a person pursuing an activity under the specific supervision of an authority, the representative or employee of such a person, and an auditor of the corporation under supervision, who during a statutory inspection or when otherwise fulfilling a statutory reporting duty provides the supervising authority with legally relevant false oral information.

False Declarations of Parenthood:

See 3.7 Marriages of convenience.

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

Marriages of Convenience:

Pursuant to Section 190 of the Aliens Act, a decision of the Finnish Immigration Service, the police, a border control authority, an employment office, a Finnish diplomatic or consular mission or the Ministry of Education referred to in the Aliens Act may be appealed to an administrative court as provided in the Administrative Judicial Procedure Act.

Section 192 of the Aliens Act: In a matter related to issuing a residence permit on the basis of family ties, the competent administrative court is the judicial district of the family member lodging the appeal, or the family member to be otherwise heard in the matter, lives. If such family members live in more than one judicial district in Finland, the Administrative Court of Helsinki is the competent administrative court.

A decision of an administrative court may be appealed to the Supreme Administrative Court if the Supreme Administrative Court gives leave to appeal.

False Declarations of Parenthood:

Pursuant to Section 190 of the Aliens Act, a decision of the Finnish Immigration Service, the police, a border control authority, an employment office, a Finnish diplomatic or consular mission or the Ministry of Education referred to in the Aliens Act may be appealed to an administrative court as provided in the Administrative Judicial Procedure Act.

Section 192 of the Aliens Act: In a matter related to issuing a residence permit on the basis of family ties, the competent administrative court is the judicial district of the family member lodging the appeal, or the family member to be otherwise heard in the matter, lives. If such family members live in more than one judicial district in Finland, the Administrative Court of Helsinki is the competent administrative court.

A decision of an administrative court may be appealed to the Supreme Administrative Court if the Supreme Administrative Court gives leave to appeal.

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:

The Finnish Immigration Service does not presently engage in official cooperation with other Member States on this matter. However, it does engage in informal cooperation with liaison officers in the field of illegal migration and officers stationed at diplomatic and consular missions. Liaison officers responsible for immigration affairs cooperate on an informal basis with liaison officers from other EU Member States by exchanging information and experiences on matters such as observed phenomena and documentation.

False Declarations of Parenthood:

The Finnish Immigration Service does not presently engage in official cooperation with other Member States on this matter. However, it does engage in informal cooperation with liaison officers in the field of illegal migration and ILO officers stationed at diplomatic and consular missions. ILO officers cooperate on an informal basis with liaison officers from other EU Member States by exchanging information and experiences on matters such as observed phenomena and documentation.

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.

Marriages of Convenience:

Kangasniemi Eeva. With love across boundaries? Marriages of convenience. Helsinki 2003. 104 p. (Reports of the Ministry of Social Affairs and Health, ISSN 1236-2115; 2003:6) ISBN 952-00-1320-2).

Economic reasons, trying to move from poverty to better economic circumstances.

According to a study commissioned by the Ministry of Social Affairs and Health, the motive for a marriage of convenience may involve any benefit received through marriage, such as a fancy last name or preferential tax treatment. Marriages of convenience are formally competent marriages from the standpoint of marriage law. According to marriage law, the motives for entering into a marriage are not relevant in assessing whether the marriage is legally competent. Immigration law,

on the other hand, takes into account the contents of and motives for marriage. A formally competent marriage concluded for the sole purpose of evading the rules on entry does not entitle a person to a residence permit or other preferential treatment.

False Declarations of Parenthood:

Family reunification applications based on false declarations often involve attempts to move from poverty to more economically sound circumstances. The phenomenon may also involve trafficking in human beings.

Synthesis Report (up to 10 pages)

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.

Section 4

Available statistics, data sources and trends⁸

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?

Marriages of Convenience:

At the onset it can be stated that no statistically accurate data either on marriages of convenience or false declarations of parenthood are available in Finland. At most one can present estimations, which can do their best to highlight the scope of the issue.

What regards the numbers of family reunification in general the tables below will present national data on applications and granted residence permits between 2007 and 2010, as well as separately for 2011. This separation has to do with the introduction of the UMA electronic case management system in the Finnish Immigration Service, which also serves as the main data source for the statistics. The categorisations were changed somewhat at the same time. Until the end of 2010, the Alien's register was the main source of data.

Applications for family reunification 2007-2010	
	Yhteensä
Somalia	8423
Russian Federation	5649
India	1853
Iraq	1478

⁸ 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
Finland's contribution**

Turkey	1352
Afghanistan	1349
China	1030
Vietnam	729
Thailand	615
Iran	572
Top-10 nationalities total	23050
All nationalities total	33062

Applications for family reunification 2011	
	Total
Russian Federation	1 916
Somalia	1 886
Thailand	614
India	513
Iraq	392
Turkey	391
Not known	357
China	348
Afghanistan	280
United States	275
Top-10 nationalities total	6 972
All total	10 288

The data clearly shows that Somalia and the Russian Federation are the dominating nationalities among the applicants..

Granted residence permits	2007	2008	2009	2010	Total
Family reunification, marriage or similar	1731	1981	1674	1754	7140
Family reunification, child	2358	2763	2654	2720	10495
Family reunification, other	232	325	246	242	1045
Family reunification, family member of a Finnish citizen	709	715	730	943	3097
Total	5030	5784	5304	5659	21777

The table below presents the positive and negative decisions on family reunification according to the top-10 nationalities in 2007-2010.

Family reunification 2007-2010 Top-10 Nationalities			
	Positive	Negative	Total
Russian Federation	5403	683	6086
Somalia	1947	1444	3391
India	1728	72	1800
Turkey	936	429	1365
Iraq	910	244	1154
China	871	149	1020
Afghanistan	588	415	1003
Thailand	835	92	927
Vietnam	618	263	881
United States	477	9	486

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

Top-10 nationalities total	14313	3800	18113
All nationalities total	21777	5531	27308

Data for 2011 on family reunification

Residence permits for family reunification 2011			
	Negative	Positive	Total
Child of a recipient of intern. protection	103	319	422
Other family member of a recipient of int.protection	869	125	994
Spouse of a recipient of internat. protection	38	56	94
Guardian of a third country national	3	4	7
Child of a third country national	591	2 720	3 311
Other family member of a third country national	751	94	845
Spouse of a third country national	612	1 778	2 390
Guardian of a Finnish citizen	2	3	5
Child of a Finnish citizen	1	9	10
Other family member of a Finnish citizen	20	8	28
Spouse of a Finnish citizen	187	682	869
Total	3 177	5 798	8 975

Family reunification spouse 2011 top 10 nationalities			
	Negative	Positive	Total
Russian Federation	80	568	648
India	11	284	295
Somalia	162	93	255
Turkey	72	118	190
Iraq	66	110	176
China	15	122	137
Kosovo	32	88	120
Afghanistan	27	63	90
Vietnam	41	46	87
Iran	14	68	82
Top-10 total	520	1 560	2 080
All total	837	2 516	3 353

Family reunification child 2011 top-10 nationalities			
	Negative	Positive	Total
Russian Federation	74	762	836
Somalia	165	365	530
India	8	208	216
Iraq	43	164	207
Turkey	71	106	177
Afghanistan	16	114	130
China	8	117	125
Vietnam	22	79	101
Thailand	19	71	90
United States	1	82	83
Top-10 total	427	2 068	2 495

All total	695	3 048	3 743
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As can be noted Russian nationals are by far the largest group, followed by Somali and Indian nationals, when looking at the data from 2007-2010 and 2011.

Eurostat data collected, for the period 2008-2010, according to Art. 6 of Regulation 862/2007/EC show that approx. 35% of all granted residence permits for family reasons are granted to persons joining an EU-citizen and correspondingly 65% are for joining a non-EU-citizen.

According to Eurostat data approx. 85% of the residence permits granted for family reunification purposes are granted for 12 months or more.

In Finland, almost all residence permits granted for family reunification relate to the scenarios 1 and 4.

False Declarations of Parenthood:

Please see the section above.

Statistics: Specific indicators of the intensity of the issue:

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

Marriages of Convenience:

Negative decisions on residence permit applications for family reunification on the basis of marriage need to be examined in order to get an idea of the intensity of marriages of convenience.

The table below using FI national data presents the negative decisions on residence permits for family reunification during the period 2007-2010. For 2011, the negative decisions are presented in the tables in section 4.1.

Negative decisions	2007	2008	2009	2010	Total
Family reunification, marriage	325	286	302	540	1453
Family reunification, child	215	247	342	589	1393
Family reunification, other relative	454	414	525	788	2181
Family reunification, family member of Finnish citizen	106	116	100	182	504
Total	1100	1063	1269	2099	5531

According to the Immigration Unit of the Finnish Immigration Service using the criteria presented in section 3.7 to detect marriages of convenience, it is estimated that 30% of the negative decisions regarding family reunification on the basis of marriage are marriage of convenience-cases. This amounts to approx. 250 cases per year. A problem, that hampers the accuracy of the estimation, is that in most suspected marriage of convenience-cases, there are several grounds for making a negative decision, which means that in some cases the suspected marriage of convenience is not even mentioned in the decision and thus remains unrecorded for statistical purposes.

False Declarations of Parenthood:

Regarding the false declarations of parenthood it is impossible to even give an estimate, as the negative decisions on family reunification regarding children most often are based on specific reasons, which do not indicate any wilful wrongdoing.

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:

In 2009-2010, the Finnish Immigration Service made a total of 4,270 decisions on residence permit applications on the grounds of marriage or other similar family ties. A total of 842 (approx. 20%) of the applications were refused. In both years, the largest groups applying for residence permits on the grounds of marriage were Russians and Somalis. For instance, in 2010 Russians filed 21% and Somalis 17% of all applications. However, the number of refusals varies significantly between Somalis and Russians. Applications lodged by Russians were refused in 17% of the cases in 2010, compared to 57% for Somalis in all application categories.

False Declarations of Parenthood:

Nothing to comment.

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:

The majority of the applicants (third-country-nationals who apply for a first permit) apply before entry to Finland and the marriage has been concluded either in the country of origin of the applicant or previously in Finland.

False Declarations of Parenthood:

Nothing to comment.

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:

In recent years, approximately 20% of residence permit applications lodged on the grounds of marriage or other similar family ties have been refused. The largest group of applicants in terms of refused applications for residence permits on the grounds of marriage or other similar family ties are Somalis, with over 50% of applications refused.

The Finnish case law related to marriages of convenience does not provide a clear understanding of what the sustainable criteria are for a marriage to be considered one of convenience. The majority of refused residence permits filed for on the grounds of marriage or other similar family ties involve several factors that suggest a marriage of convenience. The Finnish Immigration Service applies

European Council Resolution 97/C/382/01 concerning marriages of convenience in considering its decisions.

The prevention of misuses of the residence permit process in Finland is focused on pre-entry measures. The careful investigation of visa and residence permit applications has been found to have an impact on the prevention of misuses. The Finnish Immigration Service does not presently engage in official cooperation with other Member States to combat marriages of convenience. However, it does engage in informal cooperation with liaison officers in the field of illegal migration and officers stationed at diplomatic and consular missions.

False Declarations of Parenthood:

In Finland, false declarations of parenthood are most commonly seen in family reunification applications lodged by foster children. Many cases give rise to suspicions of trafficking in human beings or even kidnapping, particularly when reliable documentary evidence is difficult to come by. However, the number of applications filed on such grounds has decreased significantly since the Finnish Immigration Service refused the majority of them in 2011.

Provisions of the Aliens Act pertaining to the right to lodge family reunification applications were tightened up as a result of a legislative amendment that entered into force in 2012 and states that applications must be lodged personally by applicants visiting a Finnish embassy. In other words, a sponsor residing in Finland can no longer lodge applications on behalf of others. The amendment has resulted in a marked decrease in the number of applications. The new Finnish Government Programme calls for an examination of the regulations on family reunification pertaining to persons receiving international protection. One possible way of implementing this would be to require adult sponsors to meet housing and income requirements.

The prevention of misuses related to parenthood is focused on pre-entry measures. DNA testing is an integral part of the residence permit approval process of immediate family members where there is no reliable documentary evidence of family ties. Under Section 6a, Paragraph 1 of the Aliens Act, forensic testing may be used to determine the age of an alien applying for a residence permit or sponsoring an application if there are distinct grounds for questioning the reliability of the information provided by the applicant or sponsor regarding his or her age. Pursuant to a legislative amendment that entered into force in 2010, forensic testing to determine the age of an alien may also be requested by the Finnish Immigration Service, if it is considered necessary for the processing of the application.

Synthesis Report (2-4 pages)

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