



Ad-Hoc Query on marriage of convenience

Requested by HU EMN NCP on 18th March 2011

Compilation produced on 18th May 2011

Responses from Austria, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Netherlands, Poland, Portugal, Slovak Republic, Spain, Sweden, United Kingdom (18 in Total)

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1. Background Information

Recently it is often experienced in Hungary that third-country nationals marry EEA citizens or made declaration of paternity in order to legalize their stay on the territory of the Republic of Hungary and on the territory of the European Union.

1. What kind of opportunities enables the marital status of a third-country national person with an EEA citizen for a stay exceeding three months in an EEA-state?
2. What methods are used in your country for discovering marriages of convenience?
3. Does the criminal law apply sanctions against persons who abuse the right of family unification? If yes, how?
4. If marriage of convenience is established during the aliens policing procedure, does the family law ensure any possibility to establish nullity of the marriage?

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The Hungarian Office of Immigration and Nationality is interested in regulating marriage of convenience. The HU EMN NCP would appreciate your reply by **1st April 2011**.

2. Responses¹

		Wider Dissemination? ²	<p>1. What kind of opportunities enables the marital status of a third-country national person with an EEA citizen for a stay exceeding three months in an EEA-state?</p> <p>2. What methods are used in your country for discovering marriages of convenience?</p> <p>3. Does the criminal law apply sanctions against persons who abuse the right of family unification? If yes, how?</p> <p>4. If marriage of convenience is established during the aliens policing procedure, does the family law ensure any possibility to establish nullity of the marriage?</p>
	Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Czech Republic	Yes	<p>There is no probationary period for spouses of the citizens of EEA-states in the Czech Republic.</p> <p>2. The suspicion may be based on declaration by either of the couple or a third person, desk check of the documents submitted with the application, or information revealed in an inquiry which may include separate interview of each one of the couple.</p> <p>The reasons for the suspicion may be as follows: there is no common life of the couple; the couple does not share adequately the obligations resulting from the marriage; the couple never met before the wedding; the couple gives contradictory information on each other (name, address, nationality, occupation), accounts of their first encounter, or other important personal information on each other; the couple does not speak common language; a sum of money was forwarded to one of the couple for the marriage (this does not concern nationals of the countries where dowry is customary); one or both of the couple had already entered into marriage of convenience or had resided illegally on the territory of an EU member state in the past.</p> <p>3. No. But the sponsor may be accused of abetting of unauthorized residence in the territory and, if convicted, punished to up to 1 year imprisonment.</p> <p>4. No, such a marriage is not void according to the Family Act. But the Alien Act stipulates that once the marriage of convenience is revealed, the residence permit for the spouse shall not be issued or shall be withdrawn.</p>
	Estonia	Yes	<p>1. The third country national, who is married to an EEA citizen, must submit an application for right of temporary residence within 3 months after the date of entry into Estonia. After that his or her legal ground for staying in Estonia is the right of temporary</p>

¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

² A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."

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			<p>residence. During the review of his or her application for right of temporary residence his or her stay in Estonia is considered legal. The third country national, who is married to an Estonian citizen, must submit an application for temporary residence permit for settling with a spouse. After his or her legal ground for stay in Estonian has ended, then during the review of his or her application for temporary residence permit, his or her stay in Estonia is not legal.</p> <ol style="list-style-type: none"> 2. To identify marriages of convenience we use interviews, home visits and background check of the involved persons. 3. According to Estonian criminal law misuse of the right of family unification is not punishable. But knowingly submitting false information to the Police and Border Guard Board, if this is done to get the official document or some other benefits, is punishable. <p>According to the Estonian family law the court may nullify a marriage if during the proceedings it is established that the marriage was concluded based on other intentions, first of all with the aim of getting an Estonian residence permit (marriage of convenience).</p>
	Finland	Yes	<ol style="list-style-type: none"> 1. In order to exceed three months stay in Finland one should apply for residence permit or apply for extension of the validity period (police decides). Aliens whose visa-free stay in the Schengen area has expired are required to obtain a visa or residence permit. <p>According to Section 37 of the Aliens Act, when applying this 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 had 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 some other weighty reason for it.</p> <p><u>Section 49: An alien who has entered the country without a residence permit is issued with a temporary or continuous residence permit in Finland if the requirements for issuing such a residence permit at a Finnish diplomatic or consular mission abroad are met, and if... 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.</u></p> <p>Section 50: 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. Issuing a residence permit referred to in this section does not require the alien to have secure means of support.</p> <p><u>Section 50a: 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.</u></p> <ol style="list-style-type: none"> 2. In principal, every residence permit application lodged in Finland upon family grounds are examined in police hearing. Applicant may also be asked to send additional information upon family ties such as certificate on his or her residence in same house hold with EEA-

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			<p>citizen.</p> <p>3. No. According 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 marriage 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.</p> <p>4. In Finland, there is no provision on this. Nullification is possible, however, if the impediments for marriage were not met (other spouse is still married or the person who performed the marriage ceremony was not legitimated to do so.)</p>
	France	Yes	<p>1) The spouse of a French citizen can obtain:</p> <ul style="list-style-type: none"> - a temporary residence permit "private and family life" (1 year renewable) by full right; - a residence card (10 years) if the marriage was celebrated for at least 3 years. <p>Provided:</p> <ul style="list-style-type: none"> - a regular entry on the national territory with a long-stay visa; - that the community of life has not ceased since the marriage; - that the spouse has kept French nationality; - a preliminary transcription of the marriage on the French registries in the case of a marriage celebrated abroad. <p>The spouse of an EU citizen (even a third-country national) enjoys the freedom of movement.</p> <p>2) If the marriage was celebrated abroad, when requesting the transcription prior to the issuance of long-stay visa, spouses are interviewed (together or separately) by diplomatic and consular officers. If serious evidence of fraud exists, the diplomatic agent may seize the public prosecutor who, within two months, must declare whether it opposes the marriage.</p> <p>3) The Code on entry and residence of foreigners and right of asylum (article L623-1) establishes a penalty of 5 years imprisonment and a fine of 15,000 Euros.</p> <p>4) The French Civil Code provides that "a marriage that was contracted without the free consent of both spouses, or one of them, can not be impeached by the spouses or by one of the two whose consent was not free, or by the public ministry".</p> <p>It also provides that, in this case, the application for revocation is no longer admissible after a period of five years as from the marriage.</p>
	Germany	Yes	<p>1. A third-country national who is married to an EU citizen may stay for more than three month on the German Federal territory if the Union citizen is exercising his or her right of freedom of movement. In this case, the third-country national needs a visa for entry to Germany, if he or she is required to be in possession of a visa due to his or her nationality. The same applies to members of other EEA</p>

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			<p>countries.</p> <p>2. Besides the requirement of a lawful marriage, both spouses must be willing to conduct a lawful marital cohabitation, which will not be the case with a marriage of convenience. If, in the case in question, there is sufficient indication for such a marriage of convenience, the competent aliens' authority may carry out investigations regarding the circumstances of the alleged cohabitation and question the spouses (however, these questions may not refer to intimate details). In this context, the situation regarding accommodation, financial and/or economic conduct of cohabitation and the share of household tasks may be aspects to be considered. For example, a conceivable way would be to simultaneously question both the spouse living in Germany (by the aliens' authority) and the spouse wishing to join (by the German representation abroad) about how they met each other, about their life together, their marriage and about the partner's characteristics and details regarding his/her family, and then compare the information given.</p> <p>3. The application for a residence title based on a marriage of convenience, i.e. on false statements, is punishable with up to three years imprisonment or a fine (§ 95(2) no. 2 of the German Residence Act).</p> <p>4. Annulment of marriage is possible pursuant to § 1314(2) no. 5 of the German Civil Law Code (<i>BGB</i>) if both spouses agreed upon marriage not to enter into cohabitation, which will be the case with a marriage of convenience. Also, a marriage may be annulled if one of the spouses was found to have induced the partner into entering a marriage of convenience by fraudulent misrepresentation or by threats (§ 1314(2) nos. 3 and 4 <i>BGB</i>).</p>
	Hungary	Yes	<p>1. In Hungary Act I of 2007 on the Admission and Residence of Persons with the Right of Free Movement and Residence rules – in its Article 7 (1): The family members of any Hungarian citizen who is engaged in gainful employment shall have the right of residence for a period of longer than three months.</p> <p>(2) The right of residence for a period of longer than three months shall extend to the family members of a Hungarian citizen if:</p> <p>a) they have sufficient resources for themselves or the Hungarian citizen has sufficient resources for such family members not to become a burden on the social assistance system of the Republic of Hungary during their period of residence; and</p> <p>b) they have comprehensive sickness insurance cover for health-care services as prescribed in specific other legislation, or if they assure that they have sufficient resources for themselves and their family members for such services as required by statutory provisions.</p> <p>(3) The right of residence for a period of longer than three months may be granted to a person who exercises parental custody of a minor child who is a Hungarian citizen in the absence of the requirements set out in Subsection (2). [In accordance with the Directive 2004/38/EC of the Parliament and of the Council of 29 April 2004]</p> <p>2. We check the namely documents and we take an interview. The interview is included questions concerning how long the relationship has endured, how much time the parties have spent together, how well the parties know each another and relatives/friends and whether the parties speak a common language. If there is a suspect that this is a marriage of convenience, we may conduct a home visit.</p> <p>3. “Abuse the right of family unification” is not crime in Hungary. If it is any related crimes (such as forgery, etc.), we take the necessary measured.</p> <p>4. There is not any automatic procedure for the nullity of the marriage after the immigration authority determinate the marriage of convenience. According to the Family law in Hungary ‘the nullity of the marriage’ procedure may be upon the spouse’s or the Prosecutor’s petition, or anybody who is legal interested in it.</p>
	Italy	Yes	<p>1. After the implementation of the Directive 2005/38/EC and following Court decisions, the Italian authorities grant to the spouse of</p>

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			<p>a EEA citizen, which stay in Italy is authorized more than three months, a residence as for the family member of EU citizens.</p> <ol style="list-style-type: none"> 2. Since August 2009, the Italian law prevents to celebrate a marriage with third country citizens if they don't have a valid residence permit. If the marriage was celebrated, however in order to verify if it was a convenience marriage, the immigration offices at police stations carry out (directly or via the local police offices or the offices of the national army police called "Carabinieri") specific investigations based essentially on the effective coexistence of spouses. 3. According to the Consolidated Text on Immigration (Legislative Decree no. 286, 1998) the crime of abetting illegal immigration can be imputed even to those who, through a marriage of convenience, allow a non-EU citizens to obtain a residence permit. The offense is punishable by imprisonment up to four years and a fine up to 15,000 €, but only if the action is committed to make an unfair profit. <p>The marriage of convenience is described by the Civil Code (art. 123) as a "simulation", condition which may produce the annulment of the marriage itself. However, this kind of legal action belongs only to spouses and cannot be promoted by the state.</p>
	Latvia	Yes	<ol style="list-style-type: none"> 1. The marital status of a third –country national person with a Latvian citizen, Latvian non-citizen or alien with a valid permanent residence permit in Latvia, gives an opportunity to apply for a residence permit with the aim of family unification and work permit with the right to work for any employer. Third – country national after submitting all necessary documents for the first time can get temporary residence permit for one year period, second time - for four years period and for third time - permanent residence permit, if s/he fulfils conditions (language skills and legal term for residing) set in the Immigration Law. 2. Despite the fact, that many Latvian citizens are involved in contracting the marriages of convenience, as a new form of human trafficking the marriages of convenience are not used to be contracted on the territory of Latvia. The combating of marriages of convenience is one of the most important problems the State Police is dealt with in cooperation with non-governmental institutions and the Ministry of Foreign Affairs. Up to now Latvia has established cooperation with Cyprus in order to combat the marriages of convenience. 3. Currently the Latvian legislation doesn't contain sanctions against persons who abuse the right of family unification nevertheless a draft Law "Amendments to the Criminal Law" is made. The purpose of these amendments is the necessity to include the sanctions against persons or the group of persons who have organized the marriages of convenience with a purpose to provide a residence permit in EU-state, EEA-state or in Swiss Confederation for the aliens or with a purpose to earn money. 4. Civil Law ensures to establish nullity of the marriage, if it is the fictitious marriage, as well as defines that a marriage that has been entered into fictitiously, i.e., without the intent to create a family, shall be declared annulled. An action for the annulment of a marriage may be brought by an interested person, as well as by the prosecutor and there is no prescriptive period for bringing an action for marriage annulment as well as the marriage shall be considered to be annulled from the moment it is entered into.
	Lithuania	Yes	<ol style="list-style-type: none"> 1. Despite that the marriage was established before or after arriving to the Republic of Lithuania, the third country national gets a temporary residence permit (1 year). This permit also gives the right to work The third country national may apply for a permanent residence permit after 5 years of stay in the Republic of Lithuania. The person, who wishes to obtain a permanent residence permit, has to

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			<p>pass the examination in the state language and the examination in the basic principles of the Constitution of the Republic of Lithuania.</p> <p>2. Information about a spouse is gathered upon:</p> <ul style="list-style-type: none"> • written examination of spouses (both at the same time are asked the same questions), • examination of neighbours, • examination of spouses' (or one of them) parents who live in the Republic of Lithuania, common friends and acquaintances, • visit to the indicated place of residence. <p>Factors for which there are ground to believe that a marriage is fictitious:</p> <ul style="list-style-type: none"> • spouses do not live together and do not maintain common property or household, • persons give contradictory information about themselves, their meeting and other related circumstances, • the third country national rarely resides in the Republic of Lithuania or rarely meets his/her spouse, • spouses do not have common friends or acquaintances, family does not know a spouse, • there is information that one or both spouses had entered into fictitious marriage in the past. <p>3. There are no sanctions against marriages of convenience. If such marriage is detected, it is a ground for revoking a residence permit. A residence permit is revoked and an appeal to the court for cancellation of marriage is made.</p> <p>4. Yes. Through judicial procedure.</p>
	<p>Netherlands</p>	<p>Yes</p>	<p>1. As long as the third-country national and partner have sufficient recourses to support themselves and have sufficient health insurance for the Netherlands, the marital status enables the third-country national to stay for a period exceeding three months.</p> <p>2. Only after the marriage has been entered in the Municipal Administration (GBA) a residence permit for stay with partner can be issued. Prior to the entering in the Municipal Administration, the so called M46 procedure has to be concluded. The role of the Dutch Immigration Service (IND) in the M46 procedure is limited to providing data concerning the legal aspects of residence. The chief of police is the authority charged with formulating the advice that is used by the municipal official to decide to enter the marriage into the Municipal Administration. No structural investigation into marriages of convenience outside of the M46 procedure currently takes place in the Netherlands, but risk indicators are available for IND-officials. When judging an application (e.g. for extension or naturalisation) and the impression of a marriage of convenience persists, more detailed investigation is a definite possibility. As is often the case, only after the residence permit has been granted does it become clear whether the persons involved are actually living together and form a domestic unit.</p> <p>A flexible and specific control policy aimed at the prevention and detection of marriages of convenience will greatly benefit from the development of risk profiles and the registering of sponsors. Such policy will be facilitated even further by clear agreements with the Aliens Police concerning surveillance and the automated exchange of data with other governmental agencies like GBA.</p> <p>3. A marriage of convenience can be sanctioned by criminal law on the ground of forgery or fraud (intentionally using a deed as if it represents the reality).</p>

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			4. The law on the prevention of marriages of convenience enables the municipality to deny registration of the marriage in the Municipal Administration. Only after the marriage has been entered in the Municipal Administration a residence permit for stay with partner can be issued. Family law does not ensure a possibility to establish nullity of the marriage.
	Poland	Yes	<p>1. Spouse of Polish citizen is entitled to be granted the residence permit for a fixed period (exceeding three months). Furthermore, the permit to settle (on a permanent basis) shall be granted among others to a foreigner, who has been married to a Polish citizen for at least 3 years, if directly before submitting the application the spouse had resided continuously on the territory of the Republic of Poland for at least 2 years on the basis of the residence permit for a fixed period.</p> <p>The spouse of Polish citizen is also entitled to be granted Polish citizenship in a special, privileged way (after three years of marriage, if he/she resides in Poland on the basis of permit to settle or EC long-term resident status).</p> <p>The decision on expulsion of a foreigner shall not be rendered, and the decision rendered shall not be executed if the foreigner is a spouse of the Polish citizen and his / her presence is not a threat to state security and defense or public order and security, unless the marriage has been concluded in order to avoid expulsion.</p> <p>If the residence of a spouse of other EU-country citizen in the territory of the Republic of Poland lasts for more than 3 months, he/she is obliged to obtain Union citizen family member residence card. The card confirms right to permanent residence in Poland and enables, together with relevant travel document, to cross the Polish border without a visa. The card is valid for 5 years.</p> <p>2. The Voivode (authority conducting the proceedings on granting the residence permit for a fixed period to a foreigner being a spouse of Polish citizen) is obliged to check whether the marriage has not been concluded for the purpose of abuse the provisions, if the circumstances of the case demonstrate that:</p> <ol style="list-style-type: none"> 1) one of the spouses has accepted material profit in return for expressing a consent to conclude the marriage unless it is an established custom in the state or social group concerned; 2) there is the lack of an appropriate contribution to the responsibilities arising from the marriage; 3) the spouses do not maintain matrimonial cohabitation; 4) the spouses have never met before their marriage; 5) the spouses do not speak a language understood by both; 6) the spouses are inconsistent about their respective personal data and other important personal information concerning them; 7) the past history of one or both of the spouses contains evidence of previous marriage of convenience. <p>The examining activities are being performed by the Border Guard. It includes community interview and verification of place of residence. If needed, a flat inspection is performed including entry into the property, demand to show aliens' belongings and to confirm their testimonies.</p> <p>If reasoned suspicions that the marriage is fictitious arise, the Voivode interrogates the alien, the spouse and calls witnesses. If the information gathered by the Border Guard is confirmed, the Voivode rejects the application and the Border Guard launches the procedure of obligation to leave Poland or the procedure of deportation.</p>

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			<p>3. Yes. The charges may include i.e. obtaining fraudulent certification (marriage certificate) by false pretences, which may be punished with up to 3 years imprisonment. However, there are no punishments for abusing the right of family reunification itself.</p> <p>4. There is general possibility to annul a marriage if it ascertains facts which do not reflect the truth or there were faulty acts which diminishes its probatory force. However, annulling marriage is not necessary to reject application submitted by aliens, who try to legalise their stay using marriage of convenience.</p>
	Portugal	Yes	<p>1. The applicable legal framework is basically the transposition of Directive 2004/38/EC of 29 April 2004, on the right of citizens of the Union and their family members to move and reside freely within the territory of the member states.</p> <p>2. Investigation on marriages of convenience follows the common procedures and methods usually used in other similar fraud situations, namely document analysis and interviews with the different relevant actors.</p> <p>3. The adoption of fraud in order to benefit from of family unification is penalized according to the illegal action taken for this propose, namely document falsification, false statement, marriage of convenience. "Abuse of the right of family unification" is not a crime by itself.</p> <p>4. Marriage of convenience can be annulled by a court decision, following a Public Prosecutor request.</p>
	Slovak Republic	Yes	<p>1. Grounds for foreigner's entry and stay in the territory of the Slovak Republic are defined in the Act No. 48/2002 Coll. on Stay of Aliens as amended (hereinafter 'Act on Stay of Aliens'). Pursuant to the Act on Stay of Aliens a corresponding police unit grants the first permit to an alien who is not an EEA citizen and intends to reside in the territory of the Slovak Republic for more than three months under the following conditions:</p> <p>a) he/she is a family member of an EEA citizen (hereinafter an 'advantaged alien') and</p> <p>b) he/she does not constitute a burden to the health care system and social security system of the Slovak Republic</p> <p>If the conditions stated above are met, an advantaged alien shall submit the application for the first permit personally at an embassy or personally at a police unit.</p> <p>2. If after receiving the application for the first permit or after issuing the first permit there is a reasonable doubt that the marriage is one of convenience (e.g. big age gap between spouses, announcement of a diplomatic mission or other bodies or physical person), a corresponding police unit summons an advantaged alien and his/her spouse (an EEA citizen) and prepares a report on preliminary search (Article 22 of the Act on Civil Procedures) in order to obtain information on the marriage also through the cross-questions.</p> <p>3. No, the Slovak Criminal Law does not apply sanctions against these persons.</p> <p>4. No. The grounds for nullity of marriage are explicitly defined in the Act No. 36/2005 Coll. on Family as amended.</p>
	Spain	Yes	<p>1. The type of opportunities entitling a marriage of a third country national with a European Union citizen - to stay longer than three months in Spain - are provided for in the <i>Real Decreto</i> (Royal Decree) 240/2007 of 16 February, on entry, free movement and residence in Spain</p>

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		<p>of citizens of the European Union Member States and other states party to the Agreement on the European Economic Area, implementing the Directive 2004/38/EC of the European Parliament and of the Council of 29 April on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States that rules the entry and exit right of the Union citizens and their relatives, as well as the administrative procedures they must fulfil before the authorities of the Member States. Likewise, it regulates the right of permanent residence and places restrictions on the rights of entry and residence for public policy, public security or public health grounds.</p> <p>Article 2, section a) and b) of the before-mentioned Royal Decree sets out: The present Royal Decree is also applied to, irrespective of their nationality, and in the terms provided for herein, family members of a European Union citizen or any other state party to the Agreement on the European Economic Area, when they are accompanying him/her or they reunite him/her, as follows:</p> <ul style="list-style-type: none"> a) The spouse, except for annulment of marriage or divorce. b) The partner with whom the Union citizen has contracted a registered partnership treated as marriage in a public register provided for to those purposes in a Member State or in a country party to the Economic European Area and as long as this registration is not cancelled; this should be duly attested. Marriage and registered partnership as equivalent to marriage will be considered incompatible. <p>2. To initiate investigations on possible marriages of convenience, our main working tool is the Foreign Central Register “Registro Central de Extranjeros” (aliens register), where all procedures and formalities carried out by aliens in Spain should be recorded, being included among them, the granting of residence and work permit to family members of Union residents.</p> <p>The Register allows us to discover if a European citizen has reunited more than one spouse, as result of more than one marriage. If positive, we will have to locate the spouses and witnesses for verification.</p> <p>On the other hand, in case of any doubt about a possible fraudulent marriage, when there has been only one ceremony celebrated, we will search in the relevant Register the produced documents, just in case some documents were forged. In positive case, the spouses will be arrested and - in all mentioned cases - the annulment of residence permits granted, or those under procedure, will be requested.</p> <p>In the case that those forged documents were not found - and we still have doubts about the marriage veracity, we will carry out actions on the field, such as searching in the Municipal Register or inquiring in the neighbourhood, to verify if they are de facto living together and, therefore to establish if it is a marriage of convenience or not, we may take statement to both parties voluntarily to clear the contradictory aspects found.</p> <p>If marriage were celebrated abroad, inquiries will be performed through the relevant police attaché or advisor; in case of a proven fraud, the union/communitarian spouse will be charged with irregular immigration facilitation.</p>
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			<p>It should be stated that the Prosecution Service may be requested to act whenever cancellations of entries in the different Civil Registers are required; since those entries in the Civil Registers are required to apply for residence permits.</p> <p>3.</p> <p>In relation to the possible sanctions applied by Spanish Penal law against persons abusing of the family reunification right: illegal marriages are regulated by the in force Penal Code under <i>Crimes against Family Relationships</i> – Title XII, Second Book, Chapter I – although it does not criminalize marriages of convenience, but bigamy conducts and invalid marriages to the detriment of the other spouse.</p> <p>Nevertheless, those illicit conducts aimed at pretending to give legality to the intended marriage - like forgeries committed in the necessary documents - both by the interested parties and third parties involved in these criminal conducts are punished.</p> <p>4.</p> <p>Concerning the possibility of annulling a marriage of convenience, in case of having been detected during the procedure, the Spanish Law on Family provides that if the celebration has not taken part yet, the competent judge will not authorize this celebration. If the celebration has taken part, it can be contested and annulled.</p>
	Sweden	Yes	<ol style="list-style-type: none"> 1. A third-country citizen who wishes to marry an EEA Citizen in Sweden does not have to be a resident of Sweden to get married here. Sweden requires that you provide certified birth certificates, passports, and proof that the couple are both single or free to marry via a single status affidavit. All non-residents/non-citizens of Sweden who wishes to get married in Sweden should present a document from their home country stating their marital status. You may also have to provide a copy of your country or state's marriage license laws. The regulations must be stamped, dated, signed, and certified by an authorized official. The Swedish tax authorities may ask for a translation of the regulations. 2. If a marriage of convenience is suspected, the Swedish Migration Board, or the Swedish tax authorities, can make an investigation in the matter, usually by interviewing the parties concerned. If the marriage is considered to be a marriage of convenience it cannot constitute any rights, and a third-country citizen is not granted any residence permit or residence card. 3. There is no criminal law apply sanctions against persons who abuse the right of family unification. 4. Swedish family law does not ensure any possibility to establish nullity of a marriage of convenience or any other marriage. A marriage comes to an end if one of the parties die, or by divorce. A divorce can be executed speedily in case of a forced marriage, a marriage of convenience, or if one of the parties were previously married, etc.
	United Kingdom	Yes	<ol style="list-style-type: none"> 1. What kind of opportunities enables the marital status of a third-country national person with an EEA citizen for a stay exceeding three months in an EEA-state? <p>Third country nationals who are married (husband/wife or civil partner) to a person who is settled or a British citizen can apply to come to the UK on a temporary visa which leads to settlement. Successful applicants are granted permission to live in the UK for 27 months (or 2 years if already in the UK) Shortly before the end of this period, they can apply for settlement/ indefinite leave to remain.</p>

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		<p>Under European law, third country national spouses of EEA nationals exercising Treaty rights here (i.e. working, self employed, self sufficient or a student) have a right of residence based on their relationship with their EEA national sponsor. Provided they reside in accordance with the EEA regulations, they have a right to live and work in the UK.</p> <p>These rights of residence may be confirmed by issuing the applicant a residence card, although the document is not mandatory. Third country national spouses may cease to have a right to reside in the UK if there is evidence that they are a party to a marriage of convenience. Equally, they may lose their rights of residence on grounds of public policy/security or health grounds.</p> <p>2. What methods are used in your country for discovering marriages of convenience?</p> <p>In cases where the UK Border Agency believes that the marriage may be a sham and that the applicant and his spouse are not or have never co-habited the validity of the marriage would be investigated either by inviting the applicants to attend an interview or by making an unannounced home visit to the alleged marital address.</p> <p>If evidence was uncovered that demonstrated that the applicant was party to a marriage of convenience, their application would be refused and they could be liable to removal.</p> <p>Should information come to light after the issue of a residence card that the marriage was one of convenience, the residence card can be revoked and again the person could be subject to removal action.</p> <p>3. Does the criminal law apply sanctions against persons who abuse the right of family unification? If yes, how?</p> <p>Section 24A of the Immigration Act 1971 applies to a person who is not a British citizen and who, by means including deception, obtains (or seeks to obtain) leave to enter or remain or secures (or seeks to secure) the avoidance, postponement or revocation of enforcement action. EEA nationals (and family members exercising Treaty rights) do not need leave, and so this offence does not cover obtaining an EEA document by deception.</p> <p>A person guilty of this offence will receive a maximum of 6 months imprisonment on summary conviction (i.e. convicted in the magistrates' court) or a maximum of 2 years if convicted on indictment (i.e. in the crown court).</p> <p>4. If marriage of convenience is established during the aliens policing procedure, does the family law ensure any possibility to establish nullity of the marriage?</p> <p>A marriage of convenience is not a ground on which a marriage can be annulled. Sections 11 ad 12 of the Matrimonial Causes Act 1973 set out the grounds on which a marriage can be void or voidable. In relation to a situation where the parties have married for convenience and both have consented to the marriage, were free to marry (were not already married) and complied with the necessary formalities (e.g. were 16 or over), it would not be possible for the grounds to be established. Wilful refusal to consummate the marriage is a ground on</p>
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			which the marriage is voidable but if both parties want to be married it is unlikely they will seek to take proceedings to annul the marriage. And a voidable marriage only becomes void on decree absolute and is deemed to subsist until that time.
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