

Summary

Deceptive appearances; a study into the prevalence and manifestations of sham relationships in the Netherlands

Background, objective of the research, and study design

Background

According to the Dutch Aliens Act 2000, a sham relationship is a relationship that is established with the sole aim of providing a foreigner the right of residence in the Netherlands. Since the last decades of the last century, suspicions have been voiced that many marriages between persons of whom one or both are of non-Dutch nationality were sham marriages. In the Netherlands as well as in the European context, legislative and policy attention to the prevention and detection of sham relationships was developed. For sponsors (partners who already live in the Netherlands) and their foreign partners who wish to be eligible for partner migration to the Netherlands, strict procedures apply and they must – depending on both their nationality and marital status – meet all kinds of requirements. However, there is little insight into the prevalence of sham relationships, why relationships are assessed as sham by the Dutch Immigration and Naturalisation Service (IND), or the manifestations of these relationships. Available information comes from different sources, is fragmented, and often refers to groups which are already under suspicion of being involved in sham relationships, which may result in a distorted picture of the phenomenon. To gain more insight into the prevalence and the manifestations of sham relationships, The Dutch Scientific Research and Documentation Centre (WODC) conducted this study, in collaboration with the department of Research and Analysis of the IND (IND O&A). Some of the quantitative results were already published in a factsheet (Jennissen et al., 2015).

Objective of the research and research questions

The research aims were: 1) to give an indication of the frequency in which (presumable) sham relationships occur in the Netherlands, and 2) providing insight into the various manifestations of such relationships.

The three central research questions were:

- 1 What can be said about the prevalence of sham relationships in the Netherlands: what is the proportion of sham relationships for all partner migration relationships in the Netherlands, and what is the share of such relationships for some specific groups?
- 2a To what extent are relationships considered as (presumably) sham by the IND and why?
- 2b What is the percentage of (suspected) sham relationships in the rejected applications at different stages of the partner migration application procedure?
- 3 Which manifestations of sham relationships exist (in the Netherlands)?

Study design

Various sources of information and research methods were used to answer the above research questions.

In order to answer the first research question, data from the System of social statistical datasets (SSD) of Statistics Netherlands (CBS) were analyzed. We compared

the relational breakup curves within specific groups where at least one of the partners came from outside the EU with those of control groups. The control groups were selected as similar as possible to the study groups. In this way we estimated the percentage of sham relationships for the period 1999 up to and including 2008. The groups under study were: 1) Southeast Asian women and autochthonous Dutch men, 2) men from sub-Saharan Africa and autochthonous Dutch women, 3) Anglo-Saxon non-European foreigners and autochthonous sponsors, 4) Turkish migration relations and 5) Moroccan migration relations. The control group for the first three subgroups were autochthonous Dutch couples and for the last two groups, respectively second generation Turkish, and second-generation Moroccan couples residing in the Netherlands

To answer the second question, IND files were analyzed. From all applications of non-EU citizens (so-called third country nationals) for family formation/reunification with a sponsor residing in the Netherlands, which were decided upon by the IND between January 2009 and mid-2014, a random sample was taken of 130 granted applications and 130 rejections. From the files, information was collected about the foreign partner, the sponsor, the procedure and (suspicions of) sham relationships. The third research question was answered by a systematic search in the (European) literature on sham relationships, by interviews with key figures, by a search in social media, and by investigating the forms of sham relationships encountered in the files studied.

Results

The prevalence of sham relationships

The analysis of the CBS data was conducted based on the expectation that relatively few sham relationships are broken just before the foreign partner can apply for an independent residence permit in the Netherlands after three years of relationship with the sponsor, and relatively many in the period thereafter. The results show that the number of relational breakups among autochthonous Dutch and among second-generation Turks and Moroccans slowly declines in the course of time, while it rises among migration relationships after three years. The estimated percentage of sham relationships among all migration relationships that were established between 1999 up to and including 2008, and that persisted at least three years, is 2.1%. Per subgroup these rates range from 1.2% in relations between Southeast Asian women and autochthonous Dutch men, 2.2% among Turkish migration relations, and 3.1% among Moroccan migration relations respectively, to 4.8% in relations between men from Sub-Sahara Africa and autochthonous Dutch women. The estimated percentage of sham relationships between Anglo-Saxon non-European foreigners and sponsors was close to zero.

Sham relationships according to the IND and the judiciary

Of all applications for family formation in the period January 2009 - mid-2014, where the IND took a decision nearly 70% was granted.

Decisions in the first instance

The IND rejected 4% of all applications in the first instance for reasons that had to do with a sham relationship and in an additional 6% there were suspicions of a sham relationship. The reasons for this are lack of a lasting and exclusive relationship between the partners, not living together, big age differences, cultural and religious differences, lack of a common language, contradictions in personal statements during the application procedure, and/or use of false documents.

Of all rejected applications, 12% of was rejected in the first instance because of a sham relationship.

Objection, appeal, appeal to a higher court, and withdrawals

Most rejections on the basis of sham marriages were objected by the couples, but these were dismissed by the IND in the majority of cases. In the event of an appeal against the dismissal, the decision of the IND was almost always maintained and the same goes for the few cases in which an appeal had been lodged to a higher court. Among all rejections, the share of rejections because of a sham relationship was at the end of these procedures, 9%.

Looking at the whole procedure (including possible objection and appeal) and all applications (granted and rejected ones), the percentage of rejections because of a sham relationship is 3%. In one case the residence permit granted was withdrawn later because of a sham relationship. In 9% of all cases there had been suspicions about a sham relationship at some point in the procedure.

Manifestations of sham relationships

According to the literature, partners in a relationship do not always share the sole motive of a sham relationship: obtaining a residence permit for the foreigner concerned. Examples are cited of relationships in which both parties share this purpose (defined as bilateral sham relationships), but also of cases where the sponsor believes to be involved in a genuine relationship (defined as unilateral sham relationships).

Bilateral sham relationships occur as commercial relationships where payments are made, but also as services for relatives or friends. In addition, *partner services* take place. In that case a couple stays together until the 'magical limit' after the relationship has ended, that is, until the foreign partner can apply for an independent residence permit. It also happens that a sham relationship evolves into a genuine one in the course of time (*green card relationships*).

In both bilateral and unilateral sham relationships third parties can be involved in different ways. This concerns for example, family members, friends, members of the own ethnic group, churches, employers, attorneys, and commercial and criminal organizations. They play a role in finding a sponsor, arranging the necessary papers, (fictive) work or housing, or they offer legal support. Family members sometimes act as sponsors for relatives. Criminal organizations are mentioned in connection with sham marriages in the context of human trafficking and human smuggling.

Sponsors and foreigners may have underlying reasons for entering into a sham relationship. Sponsors have, for example, humanitarian/idealistic grounds, financial and economic motives, or they want to help relatives, friends or acquaintances. For the foreigners concerned, a sham relationship is sometimes a last resort to obtain a residence permit, is used as a trick to reunite with the real partner after acquiring an independent residence permit, and/or there are other motives, such as living close to family members.

The sham relationships we encountered in the IND files were mainly bilateral agreements. It is not always known if others were involved in the construction of the relationship, but if others were mentioned, it concerned relatives or acquaintances, such as an employer. Sham relationships sometimes involve income fraud in order to meet the income requirement. Commercial sham marriages or involvement of (criminal) organizations were not encountered in the files.

Concluding remarks

Sham relationships occur in the Netherlands, but not on a large scale. Both the estimates based on the CBS data as the analysis of IND files show that the majority of partner migration relationships are no sham relationships. The estimates show a mean percentage of sham relationships of 2%, and with respect to 88% of all applications from third country nationals for family formation/reunification studied, there was no suspicion of a sham relationship at any moment during the procedure. It should also be noted that the findings relate to a period when the foreign partners could apply for an independent residence permit after three years of residence with their partner. In October 2012 the Dutch parliament extended this period to five years. This means that partners in a sham relationship have to keep up appearances for a longer period of time before they reach their goal. To what extent fewer sham relationships have been established after this policy change, can be investigated at the earliest in 2019.