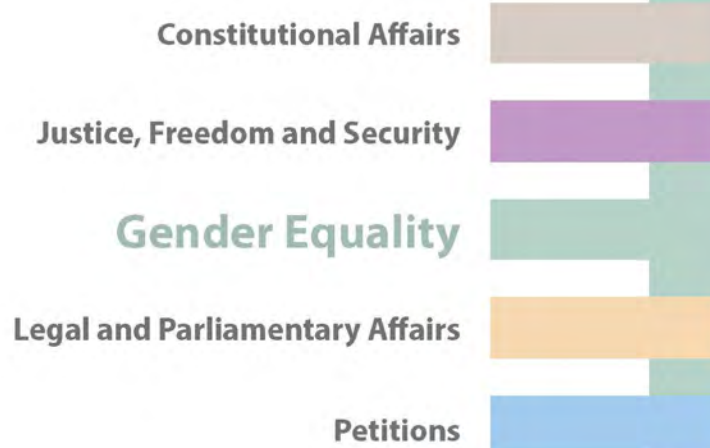


DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT **C**
CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS



Forced marriage from a gender perspective

STUDY FOR THE FEMM COMMITTEE



DIRECTORATE GENERAL FOR INTERNAL POLICIES
POLICY DEPARTMENT C: CITIZENS' RIGHTS AND
CONSTITUTIONAL AFFAIRS

WOMEN'S RIGHTS & GENDER EQUALITY

Forced marriage
from a gender perspective

STUDY

Abstract

This study provides an overview of the practice of forced marriage in the EU **from a gender equality and women's rights perspective. It analyses the** definitions of forced marriage and puts forward a definition from a gender perspective. It also provides an overview of the relevant international/EU legislation, policies and deliberations, as well as national policies, civil law and criminal law (in the 12 Member State that criminalise forced marriage). For those Member States that criminalise forced marriage, the study provides an assessment of the effectiveness and possible consequences of the implementation of the criminal legislation, including an analysis of data and case-law. The study includes a specific chapter focusing on forced marriage within Roma communities and five case-studies specifically focusing on Denmark, Germany, Spain, Slovakia and the UK. The study also puts forward recommendations for improving the response to forced marriage at EU and Member State level.

DOCUMENT REQUESTED BY THE COMMITTEE ON WOMEN'S RIGHTS AND GENDER EQUALITY

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LIST OF ABBREVIATIONS

- ARSIS** Association for the Social Support of Youth
- ASGI** Association on Juridical Studies on Immigration
- CEDAW** Convention on the Elimination of all Forms of Discrimination against Women
- CJEU** Court of Justice of the European Union
- CoE** Council of Europe
- CRC** Convention on the Rights of the Child
- CSW** Commission on the Status of Women
- EC** European Commission
- EU** European Union
- ECHR** European Convention on Human Rights
- ECOSOC** United Nations Economic and Social Council
- ECPAT** End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes
- ECtHR** European Court of Human Rights
- EEA** European Economic Area
- EFTA** European Free Trade Association
- EP** European Parliament
- EU** European Union
- FGM** Forced Marriage Unit
- FMU** Association for the Social Support of Youth
- FRA** European Union Agency for Fundamental Rights
- GC** General Comment

- GR** General Recommendation
- GREVIO** Group of Experts on Action against Violence against Women and Domestic Violence
- ICC** International Criminal Court
- ICCPR** International Covenant on Civil and Political Rights
- LGBT** Lesbian, Gay, Bisexual and Transgender
- JIT** Joint Investigation Team
- LOKK** National Organisation of Women's Shelters in Denmark
- NGO** Non Governmental Association
- RED** Rehabilitation Centre for Ethnic Youth in Denmark
- SPIRS** Social Protection Institute of the Republic of Slovenia
- STATEC** National Institute for Statistics and Economic Studies
- TEU** Treaty on European Union
- TFEU** Treaty on the Functioning of the European Union
- UN** United Nations
- UNICEF** Children's Rights & Emergency Relief Organization
- UNHRC** United Nation Human Rights Committee
- VAW** Violence Against Women

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EXECUTIVE SUMMARY

Forced marriage is internationally recognised as a **violation of human rights** and a **form of gender-based violence**.

In 2011, the Council of Europe adopted the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). The Convention recognises forced marriage as a **serious form of violence against women**. It has been signed by 25 EU Member States and ratified by twelve EU Member States. The EU and Member States are parties to several international conventions which prohibit forced marriage, and subject to European human rights law which has a principle ban on forced marriage. Nevertheless, this practice is still widespread in the EU. To date only thirteen EU Member States have introduced a specific criminal offence provision for forced marriage. Moreover, even where forced marriage is criminalised, this does not seem sufficient to tackle this practice unless it is combined with other measures.

There is no official internationally agreed upon **definition of forced marriage** and definitions at international and EU level differ. Common elements of forced marriage as interpreted by international and EU bodies include the issue of consent, coercion and duress. There is a close link between forced marriage and child marriage. The Joint General Recommendation No.31 of the United Nations Convention on the Rights of the Child (CRC) on harmful practices draws a link between forced marriage and child marriage due to the inability of children to give their free and full consent to marry and reiterates the importance of issuing and implementing laws establishing 18 as the minimum age to enter marriage.

Forced marriage needs to be **distinguished from arranged marriages** and **marriages of convenience**. Arranged marriages are marriages in which the families of one or both spouses take a leading role in choosing suitable partners but the spouses might still have the choice of whether to accept the arrangement. Marriages of convenience are marriages contracted for the sole purpose of enabling the person concerned to enter or reside in a Member State. The national research in most Member States revealed that arranged marriages and marriages of convenience are tantamount to forced marriage when elements such as coercion, duress, violence or threat vitiate the consent.

There is a general **lack of national data on forced marriages** in the EU. This can be partly explained by the fact that in some Member States (i.e. Malta, Portugal, Slovenia, Spain and Sweden), forced marriage has only recently been criminalised and the use of the legislation is too early to assess. Moreover, many cases of forced marriage are not reported at all. In some Member States, data is not reliable as cases of forced marriage are reported to different public authorities at the same time (e.g. counselling centres of different cities) or to private organisations and NGOs rather than to public authorities.

Civil law provisions in all Member States set out clear conditions to ensure the validity of marriages including specific age thresholds and the ability to give a fully informed consent that is not vitiated by coercion, duress, violence or threat or by other lack of capacity (i.e. if the victim suffers from psychosocial disabilities).

Criminal law provisions on forced marriage have been enacted in Belgium, Bulgaria, Croatia, Cyprus, Denmark, Germany, Spain, Luxembourg, Malta, Portugal, Slovenia, Sweden and the UK. In Latvia, Northern Ireland, Estonia, Lithuania, Ireland forced

marriage is criminalised within the context of trafficking of human being offence provisions. A number of challenges hindering the prosecution of these offences were identified. An important challenge raised by many national experts was the lack of structures to support/assist victims of forced marriage and the absence of protection programmes applicable to victims of forced marriage. This makes victims of forced marriage less likely to come forward and report crimes. Other challenges raised were **the victim's lack of** awareness on the existence of a legal remedy as well as legal uncertainty in the definition of forced marriage in some Member States. In particular, difficulties in application arise where the legislation does not provide a clear definition of forced marriage and fails to precisely identify and define the elements which constitute the offence (e.g. duress, threat, or violence).

While not all Member States have yet taken steps to criminalise forced marriage, many have put in place **national policies** to tackle this practice. Such policies specifically focus on forced marriage within the context of violence against women or policies on trafficking of human beings.

Among **Roma communities**, the issue of forced marriage must be examined taking into account its complexity and the context in which it takes place without further stigmatising Roma. Forced marriage has been observed among some traditional Roma communities in the form of child marriage or informal relationship among young couples. However, forced marriage is not a prevalent custom among all Roma groups. Policies targeting forced marriage among Roma exist in few Member States. In most Member States forced marriage is not regarded as an issue and, thus, the need for specific policies is not perceived. Where such policies are in place, they are rarely implemented in practice.

In light of these challenges and findings from the study, a number of **recommendations for action at EU and Member State level** have been put forward. These include the need for a common definition of forced marriage that would take into account all elements likely to vitiate the consent of one or both spouses, including violence, coercion, or one of the parties being underage. Forced marriage should also be regarded as a form of gender-based violence, as recommend by the Council of the European Union. This approach should be taken in the development of specific policies and criminal legislation covering all forms of gender-based violence. Appropriate victim support services are also crucial to ensure the effectiveness of criminal law provisions on forced marriage.

1. INTRODUCTION

1.1. Background

Pursuant to Article 16(1)(b) of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), States Parties should take all appropriate **measures to ensure for men and women alike 'the same right to freely choose a spouse and to enter into marriage only with their free and full consent'**¹. The 2011 Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) calls on State Parties to **criminalise the intentional conduct of forcing a person to enter into a marriage** and '[...] take the necessary legislative or other measures to ensure that marriages concluded under force may be voidable, annulled or dissolved without undue financial or administrative burden placed on the victim'². **So far, the Convention has been signed by 25 EU Member States**³ and ratified by 12 EU Member States⁴. The rights to marry and to found a family are also enshrined in the European Convention on Human Rights (ECHR) and the EU Charter of Fundamental Rights⁵. A 2011 United Kingdom (UK) **Supreme Court decision found that the '[...] forcing of a person into marriage is a gross and abhorrent violation of his or her rights under [...] Article 12 of the European Convention on Human Rights'**(ECHR)⁶.

EU and Member States are both parties to several international conventions which outlaw forced marriage, and subject to European human rights law which has a principle ban on forced marriage (see Section 3.1 below). Nevertheless, this practice is still widespread in the EU⁷. To date **only twelve EU Member States have introduced a specific criminal offence provision** for forced marriage⁸. Moreover, even where forced marriage is criminalised, this does not seem sufficient to tackle this practice unless it is combined with other measures⁹.

The 2014 EU Council Conclusions on 'Preventing and combating all forms of violence against women and girls, including female genital mutilation'¹⁰ recognised forced and child marriages as a particular form of violence against women and girls. The gender perspective of forced marriage has been also recognised at the international level. In the 2014 Resolution on Child, Early and Forced Marriage, the United Nations (UN) General Assembly **declared that 'forced marriage is a harmful practice** that violates, abuses and impairs human rights and is linked to and perpetuates other harmful practices and human rights violations and that such violations have a disproportionately negative impact on women and girls'.¹¹ Furthermore, in his annual report to the UN General Assembly (reporting on progress in the implementation of the Millennium Development Goals – MDGs), Ban Ki-

¹ [United Nations General Assembly, Convention on the Elimination of All Forms of Discrimination against Women.](#)

² [Council of Europe Convention on preventing and combating violence against women and domestic violence, Istanbul, 11.V.2011](#), Articles 37(1) and 32.

³ The EU Member States that have not yet signed the Convention are: Bulgaria; Czech Republic; Ireland and Latvia.

⁴ [Council of Europe Convention on preventing and combating violence against women and domestic violence CETS No. 210.](#)

⁵ [EU Charter of Fundamental Rights, 18.12.2000, 2000/C.364/01](#); [European Convention on Human Rights \(ECHR\), Article 12, 'Right to marry': Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.](#)

⁶ United Kingdom, *R (Quila and another) v. Sec of State for the Home Dept*, 2011, UKSC 45.

⁷ European Union Agency for Fundamental Rights (FRA), *Addressing forced marriage in the EU: legal provisions and promising practices*, 2014; 2008 European Parliament Study on Forced Marriages and Honour Killings.

⁸ The EU Member States that have currently introduced forced marriage as specific criminal offence are: BE, BG, CY, DE, ES, HR, MT, PT, SE, SI, UK.

⁹ [European Union Agency for Fundamental Rights \(FRA\), Addressing forced marriage in the EU: legal provisions and promising practices, 2014](#), p. 38.

¹⁰ [EU Council conclusions – 'Preventing and combating all forms of violence against women and girls, including female genital mutilation', 2014.](#)

¹¹ [United Nations General Assembly, Resolution 69/L.23 on 'Child, Early and Forced Marriage', 17 November 2014.](#)

moon, UN Secretary-General, emphasised that in order to ensure the equal rights of women and girls and their full participation in the political, economic and public spheres, 'the practice of child marriage must be ended everywhere'¹².

As demonstrated in the 2014 FRA Study on Addressing forced marriage in the EU, forced marriage is prevalent among certain ethnic communities and migrants¹³. Although the practice of forced marriage cannot be attributed to a specific culture or religion, its occurrence among these groups can be related to circumstances that affect to a greater extent **traditional-patriarchal family structures, low-income situations** and a **lack of education**¹⁴.

Moreover, to date, the **forced marriage of people with learning disabilities** is a largely hidden problem due to difficulties in ascertaining its occurrence given that it is extremely underreported. The proportions of males and females with learning disabilities being forced into marriage are similar. Nevertheless, males with learning disabilities are more at risk of being forced into marriage than males without learning disabilities¹⁵. The main reasons leading to forcing people with learning disabilities to marry include obtaining a carer for the person with learning disabilities or the marriage being seen as the only option for their future¹⁶. In a forced marriage these people are at **high risk of sexual assault and rape, domestic violence and abuse and abandonment**¹⁷.

1.2. Objective of the study

The aim of this study is to provide a comprehensive overview from a **gender equality and women's rights perspective** of the practice of forced marriage by assessing the existence, the application and possible consequences of the implementation of the legislation criminalising forced marriage across the 28 EU Member States, some EFTA and candidate countries (namely, Albania, Bosnia-Herzegovina, Norway, Serbia, Switzerland, Turkey).

Many different definitions of forced marriage are used at both EU and international level.

Section 2 discusses the **definition** and scope of the notion. Existing definitions are analysed focusing in particular on the issues of age and consent and on possible distinctions between the notion of forced marriage and arranged marriage or marriage of convenience.

Section 3 presents a detailed analysis of the **legal and policy framework** applicable to the practice of forced marriage at EU and international level, including deliberations from relevant bodies, including the CEDAW committee, the CoE and EU institutions.

Section 4 provides an overview of forced marriage in all EU Member States, including the legal and policy framework and definitions of forced marriage identified in legislation or literature. This section also provides an overview of literature findings on key observations on forced marriage in the EU, as well as relevant data.

¹² [Report of the Secretary-General to the UN General Assembly, A life of dignity for all: accelerating progress towards the Millennium Development Goals and advancing the United Nations development agenda beyond 2015, 26 July 2013](#), p.13.

¹³ 2008 European Parliament [Study on Forced Marriages and Honour Killings: European Union Agency for Fundamental Rights \(FRA\), Addressing forced marriage in the EU: legal provisions and promising practices, 2014](#).

¹⁴ See: [ICRH - International Centre for Reproductive Health, A. Sabbe, M. Temmerman, E. Brems & E. Leye, Forced marriage: an analysis of legislation and political measures in Europe, 2014](#).

¹⁵ [Rachael Clawson \(Ann Craft Trust\) & Pam Vallance \(Judith Trust\), UK Forced Marriage Unit, Forced Marriage and Learning Disabilities: Multi-Agency Practice Guidelines, December 2010](#).

¹⁶ [UK Forced Marriage Unit, Foreign and Commonwealth Office, Forced marriage and adults with learning disabilities, Information from the Forced Marriage Unit for staff](#).

¹⁷ [Forced Marriage of People with Learning Disabilities of Ann Craft Trust's website](#).

Section 6 assesses the effectiveness of the implementation of the national criminal legislation on forced marriage in those EU Member States which criminalise it.

Section 7 provides **Case-Studies** for Germany, Denmark, Slovakia, Spain and the UK.

Section 8 focuses specifically on forced marriages within the Roma communities, with a particular focus on assessing the relevance of the European Framework of National Roma Integration Strategies¹⁸.

Section 9 provides an overview and analysis of some relevant civil society initiatives.

Section 10 examines the EU's competence to act against the practice of forced marriage and puts forward **recommendations** for different institutions for activities aiming at the eradication of forced marriage.

Annex I presents the national legislation on forced marriage and related criminal, civil and immigration rules in the EU Member States, some EFTA and candidate countries, in the form of Country Fiches. More specifically, for each Country Fiche:

- **Paragraph I** provides an overview of criminal legislation including criminal provisions targeting forced marriage and alternative provisions specifically related to forced marriage. Other offence provisions such as those on coercion, threats, etc. might also apply in the context of forced marriage. Where no provisions targeting forced marriage or no alternative provisions specifically related to forced marriage have been identified for the country in question, other provisions such as those criminalising coercion have been included.
- **Paragraph II** contains the civil law rules on the legal conditions for the validity of marriage (age, consent, mental capacity) and the grounds for annulment.
- **Paragraph III** on immigration rules specifies the conditions for family reunification of spouses and the consequences of marriages concluded in bad faith on the legal status of the spouses.

1.3. Methodology

Data have been collected through research carried out by national experts from **each Member State**. National experts consulted and analysed relevant international, EU and national **literature on forced marriage** (including existing studies, academic articles and grey literature) and provided, where available, **data and statistics** relating to forced marriages for the reference period 2011-2015. Where data was not available, national experts identified the existing challenges.

The literature review aimed to identify:

- National definitions of forced marriage;
- Elements hindering the identification (and criminalisation) of forced marriage or influencing the extent of the practice of forced marriage;
- The gender perspective of forced marriage (including, for those Member States that criminalise this practice, the consequences following from the legislation

¹⁸ [Communication from the European Commission on 'An EU Framework for National Roma Integration Strategies up to 2020', 2011, COM\(2011\) 173 final.](#)

criminalising forced marriage from a gender equality and women's rights perspective);

- **The role of women's rights groups and groups representing migrants and ethnic minorities** in tackling the phenomenon of forced marriage;
- Possible inter-relations between the offence of forced marriage and other crimes (including trafficking in human beings and irregular migration);
- Specific national civil law provisions and policies aimed at combatting/preventing the practice of forced marriage.

Where forced marriage has been criminalised, data collected included **case-law** under the relevant offence provisions specifically sanctioning forced marriage. National experts also provided information on cases of forced marriage that were investigated but not prosecuted. In Member States that criminalise forced marriage, the national experts examined the **application of the relevant provisions**, including, where available, information on the particular impact of the criminal law provisions on women, migrants and minorities. This assessment was carried out through a review of the existing legal provisions, desk research and informal stakeholder consultation (through semi-structured interviews) with at least two stakeholders including:

- **A representative of women's rights groups; and**
- A representative of migrants and ethnic minorities groups¹⁹.

The aim of the stakeholder consultation was to fill possible gaps in information. The assessment of the practical application of the national legislation on forced marriage included:

- The clarity of the offence provision;
- The suitability of the offence provision to the national context and to protect victims of forced marriage;
- The impact of the legislation on women, migrant communities and ethnic minorities **and on the victims' willingness to come forward;**
- Obstacles in reporting the offence and other possible shortcomings of the relevant legislation.

National experts also provided a brief overview of the Member State policies on **forced marriage within Roma communities**, assessing the relevance of the European Framework of national Roma Integration Strategies²⁰. On the basis of their research, the national experts provided descriptions of the main characteristics of the practice of forced marriage in Roma communities, the main factors leading to the occurrence of forced marriage within these communities, and the possible role of groups representing Roma communities in tackling forced marriage (e.g. their possible role in identifying and reporting cases of forced marriage or raising awareness, assisting victims and avoiding stigmatisation).

The findings from the national research are synthesised in this Report and a comparative assessment has been made where data and information were comparable.

Five Case-studies i.e. Denmark, Germany, Slovakia, Spain and the United Kingdom are also presented.

¹⁹ It is noted that depending on the national context, the national experts may also have consulted other organisations such as fundamental/human rights groups or religious organisations.

²⁰ European Commission - Directorate-General for Justice, '[Report on the implementation of the EU framework for National Roma Integration Strategies](#)', 2014.

2. DEFINITION OF FORCED MARRIAGE

KEY FINDINGS

- There are different interpretations of forced marriage at EU and international level and there is no official internationally agreed upon definition of the term. Consent, coercion and duress are common elements reflected in the interpretations of forced marriage by EU and international bodies and in some **Member States'** criminal law provisions.
- There is a close link between forced marriage and child marriage. As forced marriage takes place in the absence of free and full consent of one or both spouses, at international and EU level, the notion of forced marriage necessarily encompasses child marriage.
- Arranged marriages are marriages in which the families of one or both spouses take a leading role in choosing suitable partners but the spouses might still have the choice of whether to accept the arrangement. A clear difference to forced marriage is the element of freedom to accept or refuse the arrangement. Marriages of convenience are marriages contracted for the sole purpose of enabling the person concerned to enter or reside in a Member State. However, the distinction with forced marriage is not always clear cut.
- The national research in most Member States revealed that arranged marriages and marriages of convenience are tantamount to forced marriage when elements such as coercion, duress, violence or threat vitiate the consent.
- Forced marriage is internationally recognised as a violation of human rights and a form of gender-based violence. In order to avoid stigmatisation of communities, it is important to stress the human rights and gender dimension of forced marriage.

2.1. Definition of forced marriage

Marriage is understood as both formal and informal union and in its widest sense it covers a betrothal or union between two people. Such union might be recognised under civil law, religious law and/or customary rites, and is binding on the spouses concerned, their families and the wider community, whether or not it has been formally registered²¹.

There are different interpretations of forced marriage at EU and international level and there is no official internationally agreed definition of the term. A politically non-binding comparative study of the Council of Europe defines forced marriage broadly **as 'an umbrella term covering marriage as slavery, arranged marriage, traditional marriage, marriage for reasons of custom, expediency or perceived respectability, child marriage, early marriage, fictitious, bogus or sham marriage, marriage of convenience, unconsummated marriage, putative marriage, marriage to acquire nationality and undesirable marriage'**²².

²¹ Turner C, 2013. Out of shadows: child marriage and slavery, Anti-Slavery International, London.

²² [Council of Europe, Edwige Rude-Antoine, 'Forced marriages in Council of Europe member states', A comparative study of legislation and political initiatives, 2005.](#)

The former United Nations Secretary General Kofi Annan further defined forced marriage in its extreme form as 'threatening behaviour, abduction, imprisonment, physical violence, rape and in some cases, murder'²³, thereby affirming forced marriage as a form of gender-based violence²⁴.

The 2014 Annual Report of the UN High Commissioner for Human Rights states that 'forced marriage is any marriage which occurs without the full and free consent of one or both of the parties and/or where one or both of the parties is/are unable to end or leave the marriage, including as a result of duress or intense social or family pressure'²⁵.

The 2008 Study on Forced Marriages and Honour Killings commissioned by the European Parliament distinguishes between broad definitions which should be used in the context of measures to help victims or in raising awareness on freedom of marriage and stricter, perpetrator-orientated legalistic definitions. In this more narrow approach, forced marriage is defined as 'a marriage contracted without the free and valid consent of one or both partners'.

Common elements in the interpretations of the concept of forced marriage in the international and EU legal and policy framework instruments include **the issue of consent, coercion, duress, distinctions with arranged marriages and marriages of convenience and child marriages**. These interpretations are summarised below.

Defining consent

The general principle enshrined in both international and EU law is that in order to conclude a valid marriage, the free will of both spouses has to occur at the moment of consent to marriage²⁶.

Both the **EU Advisory Committee on Equal Opportunities for Women and Men** and the **UN Committee on the Elimination of Discrimination against Women** focus on the **absence of consent** of one or both parties defining forced marriage respectively as 'the union of two persons at least one of whom has not given their full and free consent to the marriage'²⁷ and as a marriage 'where one or both parties have not personally expressed their full and free consent to the union'²⁸.

The debate is not as unanimous on whether the consent, in addition to being free, must be **given in person**. According to Principle 1-b of Resolution 2018 adopted by the UN General Assembly during its Twentieth Session²⁹, 'Marriage by proxy shall be permitted only when the competent authorities are satisfied that each party has, before a competent authority and in such manner as may be prescribed by law, fully and freely expressed consent before witnesses and not withdrawn such consent'.

²³ United National General Assembly, 2006, 'In-depth study on all forms of violence against women: Report of the Secretary General', 6 July 2006. A/61/122/Add.1, paragraph 122.

²⁴ A submission from the network Women Living Under Muslim Laws (WLUML) to the UNCHR proposes a conceptual framework which takes into account nuances in the debate on forced marriage, focusing on the absence of meaningful consent, on forced marriage as a form of gender-based violence (taking women's vulnerability into account) and as a severe human rights abuse.

²⁵ [Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General of 2 April 2014, 'Preventing and eliminating child, early and forced marriage', Office of the United Nations High Commissioner for Human Rights, A/HRC/26/22.](#)

²⁶ [Council of Europe, Edwige Rude-Antoine, 'Forced marriages in Council of Europe member states', 2005](#), p. 36.

²⁷ Council of Europe Parliamentary Assembly, [Forced marriages and child marriages](#), Report of the Committee on Equal Opportunities for Women and Men, Doc. 10590, 20 June 2005, Rapporteur: Mrs Rosmarie Zapfl-Helbling, Switzerland, Group of the European People's Party.

²⁸ [Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices, para. 23.](#)

²⁹ [UN General Assembly's Twentieth Session, Resolution 2018 \(XX\) on consent to marriage, minimum age for marriage and registration of marriages.](#)

According to a Council of Europe study, consent to marry consists of both the psychological intent (inner commitment i.e. the internal inclination leading to the decision to commit oneself) and the formal declaration of intent (external commitment i.e. the declared agreement expressed in the form required by the law) at the time the marriage is contracted³⁰.

This conceptualisation of the lack of consent does not define by itself what constitutes consent and the degree to which the validity of consent can vary. Although national civil legislation typically declares the nullity of a marriage concluded against the will of at least one of the spouses, the circumstances vitiating the consent may vary³¹. The consent could **be vitiated when 'either party to the marriage did not validly consent to it, whether in consequence of duress, mistake, unsoundness of mind or otherwise'**³². The lack of consent can originate, for example, from physical, psychological or emotional duress.

The UK Court of Appeal has ruled that the **test for 'duress' is whether 'the mind of the [victim] has in fact been overborne, howsoever that was caused'**³³. The UK, for example, recognises that duress can include physical, psychological, financial, sexual and emotional pressure³⁴. The UK government specifies that in the case of some vulnerable adults who lack the capacity to consent, coercion is not required for a marriage to be forced³⁵.

According to the interpretation of the UN Report on 'Forced and early marriage: a focus on Central and Eastern Europe and former Soviet Union countries with selected laws from other countries'³⁶ **psychological or emotional duress** may be an element hindering the validity of the consent. Psychological or emotional duress may involve vulnerable groups such as people with learning disabilities who may lack capacity to give full and informed consent to marry³⁷, or people transgressing traditional gender roles and norms, including LGBTI.

Physical coercion or violence is usually easier to prove than ascertaining the state of mind behind the explicit content of the marriage. However, **the term 'consent' is also** described as being context bound and embedded within power relations rather than to an act of pure individual agency³⁸.

Finding sufficient evidence to demonstrate that consent was not fully and freely expressed is therefore highly problematic³⁹.

The question of age and distinction from child marriage

Article 1 of the **UN Convention on the Rights of the Child** defines a child as anyone 'below the age of eighteen years unless under the law applicable to the child, majority is attained earlier'⁴⁰. Within the context of this study young people are understood as young adults just above the age of majority.

³⁰ [Council of Europe, Edwige Rude-Antoine, 'Forced marriages in Council of Europe member states', 2005.](#)

³¹ [FRA, Addressing forced marriage in the EU: legal provisions and promising practices, 2014](#), p. 22.

³² *Ibid.*

³³ Hirani vs Hirani (1984) 4 FLR 232 CA. A similar judgment was found in the case of P v R [2003] 1 FLR 661. However, duress was not established in the case of Singh v Singh [1971] 2 All E R 828.

³⁴ [The Right to Choose: Multi-agency statutory guidance for dealing with forced marriage, UK Government, June 2014.](#)

³⁵ *Ibid.*

³⁶ United Nations Division for the Advancement of Women & United Nations Economic Commission for Africa, Expert Group Meeting on good practices in legislation to address harmful practices against women, Expert Paper 'Forced and early marriage: a focus on Central and Eastern Europe and former Soviet Union countries with selected laws from other countries', 2009.

³⁷ [FRA, Addressing forced marriage in the EU: legal provisions and promising practices, 2014](#), p. 22.

³⁸ Chantler, K. (2012) Recognition of and intervention in forced marriage as a form of violence and abuse. Trauma, Violence & Abuse, 13(3), 176–183.

³⁹ Leye E, Sabbe A. Forced marriages in Belgium: an analysis of the current situation, forthcoming, 2016.

⁴⁰ [Convention on the Rights of the Child, entered into force on 2 September 1990.](#)

Child marriage can be defined as marriage in which one or both spouses is under 18. There is a close link between forced marriage and child marriage. As forced marriage takes place in the absence of free and full consent of one or both spouses, **the notion of forced marriage necessarily encompasses child marriage**, as it is recognised at international and EU level that children (i.e. persons below 18 years) lack the capacity to take a fully informed and consensual decision that may have consequences on their legal status, including the decision to enter into a marriage⁴¹. Moreover, according to the organisation Forward UK, 'Child marriages must be viewed within a context of force and coercion, involving pressure and emotional blackmail'⁴².

The CEDAW Committee defines child marriage (also referred to as early marriage) as '**any marriage where at least one of the parties is under 18 years of age**', it occurs when one or both parties have not expressed their full, free and informed consent⁴³. It is, however, noted that on the basis of legitimate exceptional grounds defined by the national law and on the evidence of maturity (without deference to cultures and traditions) of the child, a judge can decide to allow the marriage of a mature, capable child below the age of 18 provided that the child is at least 16 years old⁴⁴.

Many sources consulted in the national desk research also confirmed the approach taken at international and EU level that as forced marriage takes place where there is an absence of free and full consent of one or both spouses and as children lack the capacity to make a fully informed and consensual decision to marry, **the notion of forced marriage necessarily embraces child marriage**⁴⁵.

In Bulgaria, literature reviewed clearly interprets child marriage as forced marriage⁴⁶ and the Criminal Code also contains specific rules on child marriage in addition to rules criminalising forced marriage. These provisions do not specifically mention child marriage however they implicitly cover such situations. The Criminal Code penalises parents who force their children younger than 16 years of age to cohabit (Article 190 of the Criminal Code). It also criminalises the behaviour of any adult male who persuades or coerces a girl under 16 years of age to cohabit (Article 191 of the Criminal Code).

In Greece, the concept of forced marriage is also indistinguishable from child marriage. A special preparatory legislative committee⁴⁷ refers to the Convention of the Council of Europe on preventing and combating violence against women and domestic violence when defining forced marriage as a '**marriage which takes place without the full consent of at least one party or which is performed under emotional stress and/or physical abuse usually exerted by a) family members (usually the parents) and b) against children, especially young girls**'⁴⁸.

⁴¹ [Human Rights Council Resolution on Strengthening efforts to prevent and eliminate child, early and forced marriage, 1 July 2015.](#)

⁴² [FORWARD, Safeguarding rights & dignity, UK, Child Marriage.](#)

⁴³ [Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices, para. 23.](#)

⁴⁴ [Ibid.](#)

⁴⁵ BG: Center for Interethnicity Dialogue and Tolerance 'Amalipe' 'Prevention against early marriages': DK: Guidance on processing of marriage cases' No. 9399 of 4 June 2014, Retsinformation, 19 June 2014, Chapters 2-4, 6.2, 6.3, 7, 9.2.4.3, 9.2.4.3.1, 9.2.4.3.2, 9.2.4.3.3; NL: Cornelissen, A, Kuppens, J. en Ferwerda, H. (Bureau Beke), [Huwelijksdwang, een verbintenis voor het leven? Een verkennend onderzoek naar de aard en aanpak van gedwongen huwelijken in Nederland. In opdracht van het Ministerie van Justitie, Wetenschappelijk Onderzoek- en documentatiecentrum \(WOCD\)](#) (2009); PL: [Słubik, K., 'Protection of female migrants against violence in Poland and selected countries of the European Union. Comparative analysis', \[2013\] Association for Legal Intervention 1/2013, section 4.1.](#)

⁴⁶ Center for Interethnicity Dialogue and Tolerance 'Amalipe' '[Prevention against early marriages](#)' (Plovdiv, 2011).

⁴⁷ The Committee was created to process provisions which would improve and strengthen the existing legal framework for combating violence against women. [Decisions establishing the committee, conclusions and annexes to the conclusions of the committee.](#)

⁴⁸ [Special preparatory legislative committee for processing a draft law on combatting violence against women, Conclusions](#) (2012), p.13.

According to the literature reviewed in Belgium, the concept of child marriage highlights the inappropriate or illegal character of the marriage by directly linking it to the lack of personal and biological development of one or both spouses⁴⁹.

A different approach to the forced marriage/child marriage distinction is taken in Italy. A report of the Department of Equal Opportunity of the Government states that it is necessary to draw a difference between child marriage and forced marriage. According to this report, given that in Italy marriages of children above 16 years are, under certain circumstances, allowed by law (Section 4.3.3), such marriages would not necessarily fall under the category of forced marriage where coercion, violence or duress is not involved. However, according to the economic, social and cultural context a marriage of a child older than 16 might still be considered forced if the child is obliged by family members to get married in order to comply with cultural and social traditions and customs⁵⁰.

2.1.1. Distinction from arranged marriages and marriages of convenience

The distinction between forced marriage, arranged marriage and marriage of convenience raises some complex questions. **Arranged marriages** are marriages in which the families of one or both spouses take a leading role in choosing suitable partners but the spouses might still have the choice of whether to accept the arrangement, according to different rules that can vary from community to community⁵¹. A marriage may be arranged for economic reasons, to comply with cultural and religious ideals, to strengthen family links or to ensure that properties remain within the family⁵². For example, in Romania, arranged marriage is described as a culturally accepted practice mainly in wealthier Roma communities such as the *Gabori, Caldarari* or *Corturari*, where marriages are arranged with the aim of managing the family wealth⁵³.

A clear difference with forced marriage is the **element of choice** in accepting or refusing the arrangement. However, as highlighted by a study of the Finnish League for Human Rights, the distinction between forced and arranged marriage is not clear-cut as it is difficult to assess when the spouses have or have not been under pressure to consent to marry⁵⁴. **'Choice' is a variable** that operates along a continuum – between marriages imposed on individuals against their will and those arranged on their behalf with their consent, where there are inevitably 'grey areas'⁵⁵.

In some cases in fact, the will of the parties may be entirely subordinated to family desires to arrange a particular marital relationship⁵⁶. Where the role of the respective families is not limited to proposing potential matches and vitiates the will of one or both the spouses (e.g. through undue pressure or emotional blackmail), an arranged marriage can be considered forced as the consent of one or both spouses is not freely and fully given⁵⁷.

According to a report of the Italian NGO '*Le Onde Onlus*', cultural and societal customs might affect the influence of the family choice. In fact the more authoritative such choice is, the stronger the psychological pressure is for the spouse to accept the suggested partner

⁴⁹ Child and forced marriage: a blind spot in the Belgian development co-operation? Tackling child and forced marriage from a Belgian donor perspective. Fontenau B, Huyse H. Plan Belgium, 2014.

⁵⁰ Serughetti, Ruggerini, Lotti, Misiti, Virgilio, Gender Equality Department, '[The forced marriage in Italy: how to get figures on women and girls forced to marriage and which interventions have to be taken](#)' (March 2014).

⁵¹ [UK government. Young people & vulnerable adults facing forced marriage, 2004](#), p. 2.

⁵² *Ibid.*

⁵³ *Ibid.*

⁵⁴ Finnish League for Human Rights (2010) '[Research Report, May 2010](#)'.

⁵⁵ Philips, A & Dustin, M (2004) UK initiatives on forced marriage: regulation, dialogue and exit, London: LSE research online.

⁵⁶ [OCHCR, Child, Early and Forced Marriage: A Multi-Country Study, 15 December 2013](#).

⁵⁷ See [Frequently asked questions of Against Forced Marriages UK](#).

and the harder it is to draw a line between free consent and coercion and therefore to distinguish such marriages from forced marriages⁵⁸.

Recent research in Belgium on forced marriages demonstrated that it is challenging to distinguish between arranged and forced marriages. Each marriage should therefore be considered on a case by case basis. The spouses' story is in fact a key element in considering the nature of the marriage. The perception of the marriage can change over time. A marriage could be considered arranged at the moment of concluding it and then become forced later in life, when the victim is impeded from leaving her husband⁵⁹.

Marriages of convenience are marriages contracted 'for the sole purpose of enabling the person concerned to enter or reside in a Member State'⁶⁰. In such marriages, the consent of both parties exists, although it is not genuine as one party hopes to gain an immigration advantage from the marriage. However, the distinction with forced marriage is also not always clear cut. For example, a **Europol Early Warning Notification** highlights a trend of women from EEA countries being trafficked to be forced into a marriage of convenience with third country nationals seeking to obtain a residence permit or EEA nationality. Situations in which the women are trafficked under false pretenses (promise of employment) effectively amount to forced marriage as the consent to marry can be considered as vitiated by coercion, violence and duress⁶¹.

The fact that the will of both spouses occurs at the moment of consent to marriage, does not necessarily entail that such consent is freely and fully given and it is not vitiated by violence or coercion. The Guidance to the Marriage Act in Denmark explicitly states that marriage of convenience is distinguished from forced marriage because of the lack of coercion. However, the suspicion that the spouses may be coerced to enter into marriage to allow a person to obtain a residence permit or citizenship must be reported to the immigration authorities⁶². Moreover, according to the Danish preparatory work to immigration law, the definition and delimitation of marriage of convenience is not always entirely clear, and marriage of convenience and forced marriage appear to be mixed to some extent⁶³.

The national research in most Member States revealed that arranged marriage and marriage of convenience are considered equivalent to forced marriage when elements such as coercion, duress, violence or threat vitiate the consent.

2.1.2. Gender dimension of forced marriage

The UN Declaration on the Elimination of Violence Against Women⁶⁴ defines violence against women as any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. Forced marriage is a form of gender based violence as it **disproportionately affects women and girls** and has **particular impacts on women and girls** who are, for

⁵⁸ Le Onde Onlus '[Forced Marriage in Italy: a qualitative research](#)' (April 2014).

⁵⁹ Leye E, Sabbe A. Forced marriages in Belgium: an analysis of the current situation, forthcoming, 2016.

⁶⁰ [Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, L 251/12](#), Article 16 (2) b.

⁶¹ Europol [Early Warning notification](#).

⁶² 'Guidance on processing of marriage cases' ([Veiledning om behandling af ægteskabsager](#)), No. 9399 of 4 June 2014, Retsinformation, 19 June 2014.

⁶³ Bill No. L 152 of 28 February 2002 on Act on amendment of the Aliens Act and the Marriage Act, etc.' ([Forslag nr. L 152 af 28. februar 2002 til Lov om ændring af udlændingeloven og ægteskabsloven med flere love](#)) the Minister of Refugees, Immigration and Integration Affairs (resulting in [Act No. 365 of 6 June 2002](#)), general remarks paras. 1, 7, 7.1, 7.2, 10 and specific remarks to Section 1, No. 3 and Section 2.

⁶⁴ A/RES/48/104, [Declaration on the Elimination of Violence against Women](#).

example, more likely to be subject to sexual abuse⁶⁵. Forced marriage is also recognised as a form of domestic abuse⁶⁶.

Research across Member States highlights that women are disproportionately affected by forced marriage. In Bulgaria, for example, in 2014, 393 girls entered into a forced marriage, compared to 18 boys before the age of 18. This data concerns child marriages. However, in light of the close link between the latter and forced marriages as discussed above, these figures can be considered as an indication of the prevalence of forced marriages among the representatives of the female gender⁶⁷. A French study published in 2011 highlighted that only a third of victims of forced marriage in France are men or boys⁶⁸. However, the stakeholders consulted for this study also underlined that the reason for such low number might relate to the fact that very few men and boys reported being victims of forced marriage or sought help⁶⁹.

Men and boys are, in fact, less inclined to rebel against their family contrary to girls or women. They are less likely to be victims of physical violence from their family or within the couple and the fact that they are forced into a marriage does not impact on their possibility to be fully included in society⁷⁰. A study carried out in Belgium by the International Centre for Reproductive Health – Ghent University⁷¹ highlighted that the impact of forced marriage on women or girls is higher than on men, as women have fewer possibilities of escaping the forced marriage. It is in fact often accepted for men to have a double life beside their marriage (even when forced). Men therefore are less impacted by a forced marriage as they know they can have a life alongside their marriage without this having any honour related consequences⁷².

A 2014 study carried out by the University of Maastricht in the Netherlands challenges the gender patterns referred to in relation to forced marriage. According to this study both men and women can be victims of forced marriage and there is a need to move away from the **'automatic idea that the woman is the victim and the man is the offender'**⁷³. This approach is confirmed by research carried out in Germany which suggests that lesbian, gay, bisexual and transsexual (LGBT) persons might face pressures to marry to conform to perceived gender normativity. In fact, within patriarchal communities or families, same-sex relations are not tolerated and considered as a serious illness that might be cured through marriage⁷⁴.

Similarly, a Belgian study carried out on the occurrence of cases of forced marriage in Brussels, highlighted among the reasons for men to be forced into a marriage, the shared idea among parents that marriage is **'therapeutic' for their sons**. Within certain communities, parents in fact may believe that they need to force their sons to marry in order to prevent them from engaging in criminal activities, from having same sex relations

⁶⁵ Hester, M., Chantler, K., Gangoli, G., Devgon, J., Sharma, S. and Singleton, A. (2008) Forced marriage: the risk factors and the effect of raising the minimum age for a sponsor, and of leave to enter the UK as a spouse or fiancé(e). Bristol, School for Policy Studies, University of Bristol and School of Nursing, Midwifery and Social Work, University of Manchester.

⁶⁶ [The Right to Choose: Multi-agency statutory guidance for dealing with forced marriage, UK Government, June 2014.](#)

⁶⁷ National Statistical Institute, 'Number of marriages entered into by place of residence and age of the spouses'.

⁶⁸ André, M., 'Forced marriages, honour crimes (Acts of the symposium of 8 March 2010) – Report carried out in the name of the delegation to women's rights and equality between men and women of the Senate' (2010).

⁶⁹ Information gathered through consultation with national stakeholders.

⁷⁰ France, [report on the symposium on forced marriages and honor crimes organised by the Senate \('Rapport d'information sur les actes du colloque sur les mariages forcés et les crimes dits d'honneur'\)](#), 8 March 2010, p. 45.

⁷¹ Els Leye 'Forced marriages in Belgium: an analysis of the current situation' not publicly available.

⁷² *Ibid.*

⁷³ Maastricht University, ['Femmes for Freedom en Verwey Jonker Instituut, Zo zijn we niet getrouwd. Een onderzoek naar omvang en aard van huwelijksdwang, achterlating en huwelijkse gevangenschap'](#) (August 2014).

⁷⁴ Federal Ministry, for families, senior citizen, women and youth 'Combating forced marriage - affected persons protecting effectively. A handbook for child and youth welfare services' (*Bundesministerium für Familie, Senioren, Frauen und Jugend, Zwangsverheiratung bekämpfen – Betroffene wirksam schützen. eine Handreichung für die Kinder- und Jugendhilfe*) 3th edn, Silberdruck OHG, Niestetal, 2012) 42.

or developing drug additions or psychiatric issues. The sense of responsibility implied in a wedding is seen as having a potential positive impact on the behaviour of their sons⁷⁵.

Notwithstanding the existence of situations where men might also be impacted by forced marriage, the research carried out showed that **women and girls are disproportionately affected** by forced marriages. For example according to the UK Forced Marriage Unit (FMU) that collects some of the most extensive data on forced marriage at national level in the EU, in 2014 79% of cases involved female victims and 21% involved male victims⁷⁶.

Women and girls are also more seriously impacted by forced marriage. These impacts go beyond the coercion in contracting a marriage, and women that are forced into a marriage are often continually exposed to violence and rape during the marriage.

Besides, the prevalence of forced marriage among girls and women was also identified within the context of **trafficking in human beings**⁷⁷, in particular in Estonia, Latvia, Lithuania, Ireland and Slovakia. This occurs for example in the context of responding to fake job advertisements in other Member States. In these cases, the victims travel abroad only to find out upon arrival that the job does not exist. They are forced to enter into a marriage with a third-country national in order to repay their debts (see section 4.3.5)⁷⁸.

Gender dimension of forced marriage within Roma communities

A study by the European Roma Rights Centre (ERRC)⁷⁹ emphasised the connection between gender and race discrimination in the case of child marriages among Roma communities, showing how **external racism** to the Roma community, **marginalisation**, as well as **gender relations within Roma communities** have a greater effect on women and girls. As such it can be said that these phenomena from outside the Roma community, combined with the lack of response from the state, exacerbate child marriages which result from constraints within the Roma community.

In line with this finding, research carried out by the organisations *Romani Criss* and UNICEF concluded that Roma women are the most vulnerable category of the population in Romania because of the discrimination and social exclusion they face. In particular, 63% of the respondents of this study declared that women had fewer rights than men in Roma communities⁸⁰.

Girls without documents are a particular risk group in certain Roma communities. A study analysing forced marriage in Belgium highlights that 'within some gypsy groups [...] parents [...] smuggle girls, of 13 to 14 years, into Belgium to marry them. They earn a lot of money getting these girls over here. These girls are not registered in Belgium so no one knows these girls are here, they do not attend school and they get pregnant very quickly'⁸¹. In Lithuania a trend was noted whereby young Roma boys from Eastern Europe became involved in marriages of convenience following the recognition of same sex marriages in some Western European countries. However, due to the lack of data, there is no evidence of whether these marriages are the result of any coercion and/or any other abuse of the vulnerable situation of one of the parties.

⁷⁵ Timmerman C., Descheemaeker E., Heyse P., Clycq N., 'Choix de la conjointe et mariage des hommes allochtones : une analyse quantitative et qualitative du processus de choix de la conjointe et du mariage des homes marocains, Turcs et Sikhs', 2009 ; Bensaid, N. and Rea, A., 'Study on forced marriage in the Brussels-Capital Region (*Étude relative aux mariages forcés en région de Bruxelles-Capitale*)', ULB, 2012, pp.135-136.

⁷⁶ [Forced Marriage Unit Statistics](#) January to December 2014, 2015.

⁷⁷ See chapter 3, Palermo Protocoll.

⁷⁸ Eesti Päevaleht 'Fictious marriage leads to the firm arms of human trafficking' (May 2010).

⁷⁹ Alexandra Oprea, 'Children's Marriage: a cultural, access to education or racial problem? Deconstructing a dimension in understanding the oppression of the Roma' (2005), ERRC newsletter 2/2005.

⁸⁰ Romani CRISS and UNICEF, 'The case of early marriages in Roma communities in Romania. Are the rights of the child negotiable?' (2010), Alpha MDN.

⁸¹ Els Leye, 'Analytical report – MATRIFOR Forced marriage in Belgium: a qualitative research', pp. 28-30.

A study carried out by the Social Protection Institute of the Republic of Slovenia (SPIRS) showed that forced marriage is also a common practice in the country for boys within Roma communities⁸². Social work centres in Slovenia identify more cases of forced marriage among Roma boys than among Roma girls. However, these figures need to be treated with caution as they do not necessarily mean that the prevalence of forced marriage is higher among boys. It may also be explained by the fact that marriages of Roma boys are more often reported and recorded. According to the rules set in the Slovenian Marriage and Family Relations Act⁸³, parents need to seek the permission of social work centres for their sons to be wed. This happens more often with parents of Roma boys, as these boys usually marry girls from abroad, while Roma girls in Slovenia usually get married abroad and the parents therefore do not need to seek the authorisation of social work centres⁸⁴. Forced marriage within Roma communities are discussed in further detail in Section 5.

2.1.3. Elaborating a definition of forced marriage from a gender perspective

Forced marriage is internationally recognised as a **violation of human rights** and a form of **gender-based violence**. This approach avoids the stigmatisation of ethnic minorities or religious and cultural communities that are linked to this type of practice⁸⁵ and paves the way for effective solutions.

Therefore, for the purposes of this study, forced marriage is understood as a violation of human rights, focusing on the **absence of meaningful consent** and taking into account the **specific vulnerability of women and girls**. Forced and child marriage is also considered a form of gender-based violence, as women and girls are more vulnerable to this practice and subject to insidious emotional and physical violence through this practice.

The **absence of consent** is a core element of forced marriage. Within the context of this study, all causes that are likely to vitiate the consent of one or both spouses are taken into account (e.g. coercion, duress, violence, age).

Forced marriage refers to both **formal and informal unions**, including marriages under customary law or traditions or mere cohabitation.

Moreover, a holistic definition of forced marriages should consider not only the coercion when entering into a marriage but also those situations where someone is **forced to remain married** due to cultural or religious patterns or administrative reasons (related, for example, to immigration rules)⁸⁶.

⁸² The Social Protection Institute of the Republic of Slovenia '[Forced marriages of Roma girls, Final Report](#)'.

⁸³ Slovenia, '[Marriage and Family Relations Act](#)' Official Gazette No. 69/04 and subsequent modifications.

⁸⁴ The Social Protection Institute of the Republic of Slovenia '[Forced marriages of Roma girls, Final Report](#)'.

⁸⁵ Minister for Equal Opportunities, '[National Action Plan against partner violence and other forms of domestic violence 2010-2014](#)', pp. 25-28,; Bensaid, N. and Rea, A., '[Study on forced marriage in the Brussels-Capital Region](#)', ULB, 2012, p. 62.

⁸⁶ European Parliament, 2008, '[Forced marriages and honour killings](#)'.

3. INTERNATIONAL AND EU LEGAL AND POLICY FRAMEWORK AND DELIBERATIONS

KEY FINDINGS

- The Joint General Recommendation No.31 of the CRC on harmful practices asserts that forced marriage necessarily encompasses child marriage due to the inability of children to give their free and full consent to marry. It reiterates the importance of issuing and implementing laws establishing 18 as the minimum age to enter into marriage.
- In 2011, the Council of Europe adopted the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). The Convention recognises forced marriage as a serious form of violence against women. It has been signed by 25 EU Member States and 12 of them ratified it. The ECtHR has also pronounced itself on forced marriages in relation to both decisions related to asylum seekers and Article 4 of the Convention on the prohibition of slavery.
- **At EU level, the Victims' Directive (2012/29/EU) defines forced marriages as a form of gender-based violence.**
- Non-legally binding measures adopted at EU level tackle forced marriage (e.g. the 2008 EU Guidelines on violence against women and girls and combating all forms of discrimination against them or the 2015-2019 Action Plan on Human Rights and Democracy). The CJEU has mainly pronounced itself on forced marriages in relation to Directive 2003/86/EC on the right to family reunification, for cases of nationals from third countries applying for residence permits in the EU.

3.1. Legal and policy framework

3.1.1. International level

Legally binding measures

Since 1954⁸⁷, the **United Nations** have condemned the practice of forced marriage for being inconsistent with the principles of the Charter of the United Nations and of the Universal Declaration of Human Rights (UNDHR). **The 1948 UNDHR establishes that 'men and women of full age [...] have the right to marriage' and that 'marriage shall be entered into only with the free and full consent of the intending spouses'**. The 1966 International Covenants on Civil and Political Rights⁸⁸ (ICCPR) and on Economic, Social and Cultural Rights⁸⁹ (ICESCR) use similar wording to reiterate this right. The 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, calls for all States Parties to the Convention to take all practicable and

⁸⁷ [United Nations General Assembly, Resolution 843 \(IX\) 'Status of women in private law; customs, ancient laws and practices affecting the human dignity of women', 17 December 1954.](#)

⁸⁸ [United Nations General Assembly, International Covenant on Civil and Political Rights, Article 23.](#)

⁸⁹ [United Nations General Assembly, International Covenant on Economic, Social and Cultural Rights, Article 10 \(1\).](#)

necessary legislative and other measures to bring about progressively and as soon as possible the **complete abolition** or abandonment of, among other conducts, various institutions and practices which amount to forced marriage. This includes promising or giving in marriage a woman on payment of a consideration in money or in any kind or a woman being liable to be inherited by another person upon the death of her husband⁹⁰.

The Commission on the Status of Women (CSW) was established in 1946 as a functional commission of the United Nations Economic and Social Council (ECOSOC)⁹¹. The CSW elaborated the **Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages**⁹², adopted on 7 November 1962, and the Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages⁹³ adopted on 1 November 1965. Both texts highlight the equality of men and women of full age to marry and to do so with free and full consent. They call upon States Parties to adopt legislative action to specify a minimum age for marriage, recommending 15 to be the minimum. However, they **do not put forward measures to ensure that the spouses enter the marriage with free and full consent**. The only safeguard for this is that marriage must be celebrated in the presence of the authority competent to solemnise the marriage and of witnesses. Although marriage by proxy is possible, the Recommendation requires that for the competent authorities to authorise the marriage, they must **be satisfied that 'each party has, before a competent authority and in such manner as may be prescribed by law, fully and freely expressed consent before witnesses and not withdrawn such consent'**⁹⁴.

In 1980, **the Convention on the Elimination of All Forms of Discrimination against Women** (CEDAW)^{95, 96} was adopted. Article 16(1) of the Convention includes forced marriage as a form of discrimination against women. The Committee on the Elimination of Discrimination against Women⁹⁷ was created to ensure the implementation of CEDAW. The CEDAW Committee first referred to forced marriage in its General Recommendation (GR) No. 19 in 1992⁹⁸ declaring that it is **a practice resulting from 'traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles'**.

Bearing in mind the close link between forced marriage and child marriage (see Section 2 of this Study), it can be considered that the phenomenon of forced marriage can also be read into the **1989 Convention on the Rights of the Child** (CRC) since one of the essential elements of forced marriage is the lack of free and full consent. The Committee on the Rights of the Child has worked closely with the CEDAW Committee on the issue of forced marriages. In a Joint Recommendation from November 2014, the CRC and CEDAW Committees declared that **'allowing marriage to be arranged [...] violates the right to freely choose a spouse'**⁹⁹.

Also in November 2014, the UN General Assembly adopted by consensus its first ever **Resolution on Child, Early and Forced Marriage**. With this Resolution UN Member States have agreed upon **substantive recommendations for the steps that States,**

⁹⁰ [United Nations Economic and Social Council, Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, Article 1 \(c\)](#).

⁹¹ In 1996 the Commission's mandate was expanded so as it could take a leading role in monitoring and reviewing progress and issues concerning the implementation of the Beijing Declaration and Platform for Action or the gender mainstreaming in UN activities. [United Nations Economic and Social Council, Council resolution 11\(II\) of 21 June 1946](#).

⁹² [United Nations General Assembly, Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages](#).

⁹³ [Ibid.](#)

⁹⁴ [Ibid.](#), Principle I (b).

⁹⁵ [United Nations General Assembly, Resolution 1921 \(XVIII\) 'Draft declaration on the elimination of discrimination against women', 5 December 1963](#).

⁹⁶ [United Nations General Assembly, Convention on the Elimination of All Forms of Discrimination against Women](#).

⁹⁷ [Ibid.](#), Article 17.

⁹⁸ [CEDAW, General Recommendations made by the Committee on the Elimination of Discrimination against Women, General Recommendation No. 19 \(11th Session, 1992\)](#).

⁹⁹ [Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices, para. 23](#).

international organisations and others must take to address the problem¹⁰⁰. This Resolution was followed by the first ever Resolution of the Human Rights Council on the same issue, adopted by consensus in July 2015. It was co-sponsored by a cross-regional group of 107 countries, including countries with high rates of child marriage (Ethiopia, South Sudan, Sierra Leone, Chad, Guatemala, Honduras and Yemen). The resolution recognises that the elimination of child, early and forced marriage should be considered in developing the new agenda for the international community for the end of the Millennium Development Goals in 2015¹⁰¹. In addition, Goal 5 of the Sustainable Development Goals aims to achieve gender equality and empower women and girls. One of the measures to fulfil this objective will be to eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation¹⁰².

The Protocol to Suppress and Punish Trafficking in Persons, Especially Women and Children to the UN Convention against Transnational Organized Crime of December 2000 (also known as the Palermo Convention) covers forced marriages as a form of trafficking in human beings¹⁰³.

The International Criminal Court (ICC) Statute also considers forced marriages as a form of **enslavement**¹⁰⁴.

According to the United Nations Economic and Social Council, forced marriage may also be comprised in **the prohibition of torture** or other cruel, inhuman and degrading treatment¹⁰⁵.

All EU Member States have ratified the ICCPR, ICESCR, CEDAW, CRC and support the UNDRH.¹⁰⁶

Non-legally binding measures

A common theme underlying international deliberations on forced marriage is that as forced marriage is both a form of gender-based violence (which is a growing practice in certain situations, such as armed conflict and post-conflict circumstances), and a gross violation of human rights, it **should be criminalised**. The deliberations focus on the two components that have to be taken into account when defining forced marriage: (1) consent and (2) age. In addition, the link to the cultural and gender perspective of forced marriage and its relationship with child marriage has also been reflected in the documents resulting from these deliberations.

Consent

As regards the issue of consent, the UN Human Rights Committee (UNHRC) provided in its **General Comment (GC) No. 28** that States have the obligation to protect the equal right of men and women to enter into marriage only with their free and full consent¹⁰⁷. The GC highlighted that a woman's **free and full consent might be hindered by social attitudes and laws** which tend to marginalise women victims of rape and put pressure on them to agree to marry the rapist, who is then permitted to escape criminal sanctions¹⁰⁸.

¹⁰⁰ United Nations [General Assembly, Resolution on Child, Early and Forced Marriage, 17 November 2014.](#)

¹⁰¹ [Human Rights Council Resolution on 'Strengthening efforts to prevent and eliminate child, early and forced marriage', 1 July 2015.](#)

¹⁰² [United Nations General Assembly, Draft outcome document of the United Nations summit for the adoption of the post-2015 development agenda, 12 August 2015.](#)

¹⁰³ [Protocol to Suppress and Punish Trafficking in Persons, Especially Women and Children to the UN Convention against Transnational Organized Crime, Article 3.](#)

¹⁰⁴ [Rome Statute of the International Criminal Court, Article 7\(1\)\(c\).](#)

¹⁰⁵ United Nations Economic and Social Council, 2001, '[Contemporary forms of slavery](#)', para.87.

¹⁰⁶ UN OHCHR Europe Regional Office, '[The European Union and International Human Rights Law](#)', p.7.

¹⁰⁷ [Human Rights Committee, General Comment 28, Equality of rights between men and women \(article 3\), U.N. Doc. CCPR/C/21/Rev.1/Add.10 \(2000\)](#), para 23.

¹⁰⁸ *Ibid.*, [para.24.](#)

The **CEDAW Committee** has continued to raise and assess the matter in its deliberations. In **GR No. 21**, the Committee proclaimed that 'a woman's right to choose a spouse and enter freely into marriage is central to her life and to her dignity and equality as a human being'¹⁰⁹. Moreover, this GR calls on States Parties to ensure that in both public and family life, women will be free of gender-based violence that so seriously impedes their rights and freedom as individuals¹¹⁰.

Age

Regarding the issue of age, the **UNHRC's** General Comment No. 28 states that the minimum age requirement for marriage should be set out by States on the basis of **equal criteria** for men and women. In other words, domestic laws prescribing lower legal age of marriage for females than for males are inconsistent with contemporary international law, since they reinforce oppressive cultural assumptions that girls do not need the same preparation for adult life as boys¹¹¹. GC 19 of the ICCPR Committee is expressed in the same terms¹¹². On the requirement of a minimum age for marriage, the CEDAW Committee's General Comment No. 21 establishes it at **18 for both sexes**¹¹³.

The **links between forced marriage and child marriage** are discussed in the context of consent and age. The Joint GR No.31 with the CRC on harmful practices¹¹⁴ reviews the **different situations** in which forced marriage may occur, **such as in the context of migration or armed conflicts**, and draws a link to child marriage due to the inability of children to give their free and full consent to marry. This document reiterates the importance of issuing and implementing laws which establish 18 as the minimum age to enter marriage to protect the rights of children to grow and develop in a healthy and normal fashion, under all circumstances¹¹⁵. CEDAW's **GR No.30 on women in conflict prevention, conflict and post-conflict situations**¹¹⁶ again identifies forced marriage as an increasingly common practice in these situations. Families force girls into marriage due to **poverty** and misconception that it may **protect them against rape**¹¹⁷.

On 22 July 2014, the UK and UNICEF co-hosted the first **Girl Summit**, aimed at mobilising domestic and international efforts to end child, early and forced marriage and female genital mutilation within a generation. During the Girl Summit, the UK, the Netherlands, Canada and other governments committed over 65 million dollars exclusively for the prevention of child marriage as part of their overseas development budgets. The US Government announced 15 million dollars in funding over the next two years to combat child marriage. As a result of the Summit over 100 commitments for action on child marriage were posted online¹¹⁸.

¹⁰⁹ [CEDAW, General Recommendations made by the Committee on the Elimination of Discrimination against Women, General Recommendation No. 21 \(13th Session, 1994\), para. 16.](#)

¹¹⁰ *Ibid.*, para.40.

¹¹¹ [Human Rights Committee, General Comment 28, Equality of rights between men and women \(article 3\), 2000,](#) supra, para 23.

¹¹² [Committee on Civil and Political Rights, General comment No. 19: Article 23 \(The Family\) 'Protection of the Family, the Right to Marriage and Equality of the Spouses' \(adopted at the 39th Session of the Human Rights Committee, on 27 July 1990\).](#)

¹¹³ [CEDAW, General Recommendation No. 21, \(13th Session, 1994\),](#) supra, para. 36.

¹¹⁴ [Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices](#) (14 November 2014).

¹¹⁵ *Ibid.*, paras. 20-24.

¹¹⁶ [CEDAW, General recommendation No. 30 on women in conflict prevention, conflict and post-conflict situation](#) (18 October 2013).

¹¹⁷ *Ibid.*, para. 62.

¹¹⁸ [Girl Summit 2014.](#)

3.1.2. Regional level: Council of Europe

Legally binding measures

The 1950 European Convention on Human Rights establishes the general right to marry of men and women of marriageable age¹¹⁹. However, it does not refer to the element of consent required by other international human rights' instruments.

Under its mandate to protect women against violence, the **Council of Europe** has undertaken a series of initiatives to prevent and tackle the practice of forced marriage since the 1990s. In particular, these initiatives have resulted in the adoption, in 2002, of the **Council of Europe Recommendation Rec(2002)5** of the Committee of Ministers to Member States on the protection of women against violence which includes forced marriage as a form of violence against women¹²⁰. The Parliamentary Assembly has also taken a firm political stance against forced marriages. It has adopted a number of resolutions and recommendations calling for legally-binding standards on preventing, protecting against and prosecuting the most severe and widespread forms of gender-based violence, including forced marriage. For example, in 2005 it adopted **Resolution no. 1468** on forced marriages and child marriages¹²¹ calling for Member States to criminalise forced marriages as an independent criminal offence¹²². In 2009, the Parliamentary Assembly of the CoE brought to the attention of the States Parties that forced marriage, among other practices, continued to be more common among immigrant communities and it affected more women and girls¹²³.

In 2011, the Council of Europe adopted the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)¹²⁴, recognising forced marriage as a serious form of violence against women. The Convention regulates the **civil and criminal consequences of forced marriages**¹²⁵. It requires that States Parties take the necessary legislative or other measures to ensure that forced marriages may be **voidable, annulled or dissolved** without undue financial or administrative burden placed on the victim. In addition, States Parties must also ensure the **criminalisation and punishment** of this practice. The Convention creates a two-pillar monitoring mechanism comprised of the independent expert body, the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), and the political body, the Committee of the Parties.

Twenty-five EU Member States have signed the Istanbul Convention and eleven have ratified it. All EU Member States have ratified the ECHR.

Case-law of the European Court of Human Rights (ECtHR)

As explained above, although the ECHR establishes the general right to marry of men and women of marriageable age¹²⁶, it does not refer to the element of consent required by other international and regional human rights' instruments. The European Court of Human Rights, in charge of ensuring the implementation of the Convention, has interpreted Article 12 on the right to marry in cases of divorce and same-sex marriages¹²⁷.

¹¹⁹ [Council of Europe, Convention for the Protection of Human Rights and Fundamental Freedoms, Article 12.](#)

¹²⁰ [Council of Europe, Recommendation Rec \(2005\) 5, Appendix \(1\) \(a\).](#)

¹²¹ [Council of Europe, Parliamentary Assembly, Resolution1468 \(2005\), Forced marriages and child marriages.](#)

¹²² [Ibid., para. 14 \(4\).](#)

¹²³ [Council of Europe, Parliamentary Assembly, Resolution1662 \(2009\), Action to combat gender-based human rights violations, including the abduction of women and girls.](#)

¹²⁴ [Council of Europe, Convention on preventing and combating violence against women and domestic violence.](#)

¹²⁵ [Ibid., Article 32 and Article 37.](#)

¹²⁶ [Council of Europe, Convention for the Protection of Human Rights and Fundamental Freedoms, Article 12.](#)

¹²⁷ Dutertre, G., *Key case-law extracts – European Court of Human Rights* (Council of Europe Publishing, Germany, 2003) 350-352; Mowbray, A., *Cases, Materials and Commentary on the European Convention of Human*

Regarding forced marriages, the Court has mainly issued decisions in cases related to asylum seekers¹²⁸. Forced marriage has been alleged by victims seeking asylum as a **cause of persecution** in their countries of origin that puts their lives and their right to integrity at risk¹²⁹. However, in these cases, the Court has not considered that forced marriage constitutes a violation of the right to life (Article 2 of the Convention) or of the right not to be subjected to torture or to inhuman or degrading treatment or punishment (Article 3 of the Convention). Contrary to this assumption, in the case *A.A and others v. Sweden*, Judge Power-Forde issued a dissenting opinion declaring that forced marriages should be considered as a form of gender-based violence and, hence, a violation of Articles 2 and 3 of the Convention. Therefore, forced marriages should fall under the acts of persecution that can found a request for asylum¹³⁰.

The ECtHR has also pronounced itself on forced marriages in relation to Article 4 of the Convention on the **prohibition of slavery**. In one case involving a girl who had been sold in marriage, the Court considered that it was neither a case of slavery nor of forced marriage. **The Court reiterated that 'marriage has deep-rooted social and cultural connotations which may differ largely from one society to another and that therefore this payment can reasonably be accepted as representing a gift from one family to another, a tradition common to many different cultures in today's society'**¹³¹. This court ruling shows that the lack of a human rights and gender based violence approach to forced marriages can prevent measures to assist victims and to abolish this practice.

3.1.3. European Union

EU legally binding measures

The 2007 European Union **Charter of Fundamental Rights** does not refer to the requirements of age and consent when establishing the right to marry. Article 9 only establishes that such a right must be guaranteed in accordance with the national laws governing the exercise of these rights¹³².

In addition, such requirements are included in other EU instruments. For instance, under **Council Directive 2003/86/EC on the right to family reunification**¹³³, Member States may require, in order to prevent forced marriages and to ensure better integration, that the sponsor and his/her spouse to be of a minimum age, before the spouse is able to join him/her¹³⁴. This Directive also establishes that Member States may reject an application for entry and residence for the purpose of family reunification, or withdraw or refuse to renew **the family member's residence permits, where it is shown that: 'the marriage, partnership or adoption was contracted for the sole purpose of enabling the person concerned to enter or reside in a Member State'**¹³⁵.

Rights (3rd ed., Oxford University Press, Oxford, 2012) 786-795.

¹²⁸ For example, [ECtHR, Case 49341/10, W.H. v. Sweden](#) (judgment 8 April 2015) and [Case 23505/09 N. v. Sweden](#) (judgment 20 July 2010); ECtHR, [Case 14499/019, A.A. and others v. Sweden \(judgment of 28 June 2012\), Dissenting Opinion of Judge Power-Forde](#); ECtHR; [Case 40020/03, M. and others v. Italy and Bulgaria](#) (judgment of 31 July 2012).

¹²⁹ For example, [ECtHR, Case 49341/10, W.H. v. Sweden](#) (judgment 8 April 2015) and [Case 23505/09 N. v. Sweden](#) (judgment 20 July 2010).

¹³⁰ ECtHR, [Case 14499/019, A.A. and others v. Sweden \(judgment of 28 June 2012\), Dissenting Opinion of Judge Power-Forde](#).

¹³¹ ECtHR; [Case 40020/03, M. and others v. Italy and Bulgaria](#) (judgment of 31 July 2012), para. 161.

¹³² [European Parliament, Council of the European Union, European Commission, Charter of Fundamental Rights of the European Union](#).

¹³³ [Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, \(OJ L 251/12, 3.10.2003\)](#).

¹³⁴ *Ibid.*, Article 4 (5).

¹³⁵ *Ibid.*, Article 16 (2) (b).

In addition, while the **Qualification Directive** (2011/95/EU)¹³⁶ does not expressly refer to forced marriages, they have been considered to fall under the gender-based acts of persecution¹³⁷ from which the persons covered by the Directive are protected¹³⁸.

On the other hand, the **Victims' Directive** (2012/29/EU)¹³⁹ expressly includes forced marriages as a form of gender-based violence when setting the rights of victims and the obligations of EU Member States to ensure that victims of crime receive appropriate information, support and protection and to ensure their participation in criminal proceedings. The EU *acquis* on criminal justice counts with certain tools to enhance cooperation in the area of freedom, justice and security such as the European Arrest Warrant framework decision¹⁴⁰, the European Protection Order¹⁴¹ or the European Investigation Order¹⁴². **Considering that forced marriages are a gender-specific criminal offence**, these instruments could be used to investigate and prosecute offenders¹⁴³. For example, European Arrest Warrants could be used in cases of surrender of an offender who has forced a victim into marriage and has fled the country where the offence was committed, or European Investigation Orders could be used to obtain more evidence in an investigation on a possible case of forced marriage. However, no examples have been found of these cases.

EU non-legally binding measures in the area of EU external policies

At policy level, the 2008 EU **Guidelines on violence against women and girls and combatting all forms of discrimination against them**¹⁴⁴ include forced marriage in the definition of violence against women and girls. The guidelines set out the EU operational objectives and intervention tools for its **external action** on combatting violence against women and girls, including all forms of discrimination directed at them.

The **2015-2019 Action Plan on Human Rights and Democracy 'Keeping human rights at the heart of the EU agenda'**¹⁴⁵ establishes as one of the key priorities to combat the practice of forced marriages as part of the more general aim to promote gender equality, empowerment and participation of women and girls. For such purposes, the Action Plan suggests issuing a more ambitious and robust EU Action Plan for Gender Equality and **Women's Empowerment in International Cooperation and Development (2016-20)** aimed at protecting women's physical and psychological integrity, with special attention to ending Female Genital Mutilation (FGM), child, early and forced marriage and sexual violence in conflict.

The **European Parliament** (EP) has taken a strong position on combatting all types of discrimination and violence against women, including forced marriage. In 2002, the EP

¹³⁶ [Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.](#)

¹³⁷ *Ibid.*, Article 9 (2).

¹³⁸ [Fundamental Rights Agency, 2014, 'Addressing forced marriage in the EU: legal provisions and promising practices'](#), p.10.

¹³⁹ [Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.](#)

¹⁴⁰ [Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States.](#)

¹⁴¹ [Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order.](#)

¹⁴² [Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters.](#)

¹⁴³ [FRA, Addressing forced marriage in the EU: legal provisions and promising practices, 2014](#), p. 10.

¹⁴⁴ [EU Guidelines on violence against women and girls and combating all forms of discrimination against them.](#)

¹⁴⁵ [High Representative of the European Union for Foreign Affairs and Security Policy Joint Communication to The European Parliament and the Council Action Plan on Human Rights and Democracy \(2015-2019\) 'Keeping human rights at the heart of the EU agenda'.](#)

issued a motion for a resolution on forced marriages¹⁴⁶. In this motion, a number of Members called on the Council, the Commission and the Member States to take action to combat forced marriages, making it a priority in EU relations with third countries and considering it a sufficient reason for a person to be granted the right to repatriation to the EU. In 2011, the EP held a hearing on the criminalisation of forced marriages¹⁴⁷ as part of **the European Foundation for Democracy's campaign on the issue**¹⁴⁸. In its 2015 Annual Report on Human Rights and Democracy in the World and the European Union's policy on the matter¹⁴⁹, the EP stresses the importance of **conducting information and awareness raising campaigns** since forced marriages and the failure to enforce a **minimum age for marriage 'constitute not only a violation of children's rights but also an obstacle to women's empowerment'** and **emphatically condemned the practice of forced marriages**¹⁵⁰. Forced marriages should never be justified by any political, social, religious or cultural grounds or in relation to any popular or tribal traditions¹⁵¹.

EU non-legally binding measures in the area of EU internal policies

In 2008, the EP published a study on forced marriages and honour killings¹⁵² to provide a comparative analysis of the different laws and practices of the EU Member States.

In June 2014, the Council adopted **conclusions on 'Preventing and combatting all forms of violence against women and girls, including female genital mutilation'** which qualify forced marriage as a form of violence against women. The Council also called upon the Member States to develop and implement activities to fight all forms of violence against women, to improve the collection of data and reporting, to assist victims, and to ratify the Istanbul Convention¹⁵³.

Recently, the EP highlighted the issue of forced and child marriages to the Commission by formulating parliamentary questions on 6 May 2015 and on 24 June 2015. In these questions, the EP asked the Commission to indicate the steps taken to urge the EU and its Member States to sign and ratify the Istanbul Convention. The EP also asked the Commission on the means and measures it intends to adopt to reduce and discourage such practice and, eventually, eliminate forced marriage¹⁵⁴.

The EP has also urged the Commission to promote national ratification and to launch the procedure for the EU's accession to the Istanbul Convention¹⁵⁵. This step is being pursued by the current Commissioner responsible for gender equality¹⁵⁶.

Case-law of the Court of Justice of the European Union (CJEU)

The Court of Justice of the European Union (CJEU) has referred to forced marriages mainly in cases of third country nationals (TCNs) applying for residence permits in the EU, in relation to Directive 2003/86/EC on the right to family reunification¹⁵⁷.

¹⁴⁶ European Parliament, 2002, [Motion for a European Parliament resolution on forced marriage](#).

¹⁴⁷ European Parliament, 2011, '[Forced marriage in the EU – the legal situation](#)'.

¹⁴⁸ European Foundation for Democracy, Campaign '[Criminalising Forced Marriage](#)', last accessed 28 August 2015.

¹⁴⁹ European Parliament, 2015, '[Annual Report on Human Rights and Democracy in the World 2013 and the European Union's policy on the matter](#)'.

¹⁵⁰ *Ibid.*, paras. 143, 144.

¹⁵¹ European Parliament, 2015, '[Opinion of the Committee on Women's Rights and Gender Equality on the Annual Report on Human Rights and Democracy in the World 2013 and the European Union's policy on the matter](#)'.

¹⁵² European Parliament, 2008, '[Forced marriages and honour killings](#)'.

¹⁵³ '[Council's Conclusions on 'Preventing and combatting all forms of violence against women and girls, including female genital mutilation'](#) 5 and 6 June 2014.

¹⁵⁴ European Parliament, '[Question for written answer to the Commission, Fulvio Martusciello, 24 June 2015](#)'; European Parliament, '[Question for written answer, Iratxe García Pérez, Anna María Corazza Bild, on behalf of the Committee on Women's Rights and Gender Equality, 6 May 2015](#)'.

¹⁵⁵ European Parliament, 2015, '[Annual Report on Human Rights and Democracy in the World 2013 and the European Union's policy on the matter](#)', *supra*, para. 137.

¹⁵⁶ *Ibid.*, para 65.

The Court has stated that '**Article 4(5) of Directive 2003/86/EC** permits Member States to fix a minimum age, which must not be greater than 21 years, that must be attained by the sponsor and his or her spouse prior to the latter being permitted to join the sponsor for reunification'. **However, this provision does not define the date by reference to which the national authorities must assess whether or not the minimum age of 21 laid down by the provision has been attained. The Court has stated that the minimum age 'ultimately corresponds with the age at which, according to the Member State concerned, a person is presumed to have acquired sufficient maturity not only to refuse to enter into a forced marriage but also to choose voluntarily to move to a different country with his or her spouse, in order to lead a family life with him or her there and to become integrated there'**¹⁵⁸.

Regarding the element of consent, the Court has considered that the free and full consent necessary to marry would be missing when a person uses the rights granted by Directive 2003/86/EC for the sole purpose of entering or residing in a Member State and, hence, the marriage would be at least simulated, if not forced¹⁵⁹.

¹⁵⁷ [Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, \(OJ L 251/12, 3.10.2003\)](#). For instance, CJEU (Second Chamber), [Case C-338/13](#), Judgment of the Court of 17 July 2014 *Marjan Noorzia v. Bundesministerin für Inneres* (Austrian Minister for the Interior); [Case C-138/13](#), Judgment of the Court of 10 July 2014, *Naiime Dogan v. Bundesrepublik Deutschland*.

¹⁵⁸ ECJ, [Case C-338/13, Marjan Noorzia v. Bundesministerin für Inneres](#) (judgment of 17 July 2014), paras. 12, 13 and 15.

¹⁵⁹ ECJ, [Case C-109/01, Hacene Akrich](#), (judgment of 23 September 2003), para. 57.

4. RELEVANT DATA ON AND DRIVERS OF FORCED MARRIAGE

KEY FINDINGS

- International data on forced marriage show that young women are disproportionately affected by this practice. Most data available at the international level concern child marriage involving girls.
- There is a general lack of data on forced marriages in EU Member States. Available national data on the number of forced marriages cannot always be considered as representative of the number of forced marriage cases per Member State as many cases are not reported. Some cases are reported to (and registered by) different organisations or NGOs rather than to public authorities.

Almost uniformly in the EU forced marriage disproportionately affects women and girls and as such it is considered as a form of gender-based violence. This practice should therefore not be linked to specific racial and ethnic origins. Civil society organisations have warned against reinforcing this link as it can result in further stigmatisation of these groups.

4.1. International, EU and national data on forced marriage

International and EU data on forced marriage

There is a scarcity of data relating to forced marriage at international and EU level. Most available data relate to child marriages involving girls gathered by UNICEF, the World Policy Analysis Center and NGOs.

At Member State level, data is generally not comparable nor is not representative across Member States as it is collected on the basis of diverging national definitions set out in the respective offence provisions, or gathered from *ad hoc* sources of information (e.g. public authorities, counselling centres and NGOs). Consequently, an estimation of the total number of cases of forced marriage in the EU is highly problematic.

Most available data on forced marriage at international level concern child marriages involving **girls**. This can be explained by the fact that girls **are disproportionately affected** by this issue compared to boys on a global scale. The main sources of data are UNICEF and the World Policy Analysis Center.

According to data published by UNICEF in 2015, each year, 15 million girls are married before the age of 18¹⁶⁰. 720 million women living today were married before their 18th birthday compared to 156 million men forced to marry before they were 18 years old¹⁶¹. Approximately 250 million women alive today were married before their 15th birthday¹⁶².

Findings from the World Policy Analysis Center in 2014 demonstrate that in 9% of the States Parties to the Convention on the Rights of the Child (CRC) such **inequality is**

¹⁶⁰ [UNICEF, Ending Child Marriage: Progress and prospects, 2014](#), supra; [UNICEF, State of the World's Children, 2015](#).

¹⁶¹ [UNICEF, Ending Child Marriage: Progress and prospects, 2014](#), supra.

¹⁶² *Ibid.*

reinforced by national legislation which allows girls to get married three or four years earlier than boys¹⁶³.

*National data on forced marriage*¹⁶⁴

Research at Member State level also reveals a **significant lack of comprehensive data** on forced marriages. The small amount of available crime statistics at national level can be explained by the fact that only 12 EU Member States criminalise forced marriage¹⁶⁵. In some of these Member States (i.e. Malta, Portugal, Slovenia, Spain and Sweden), forced marriage has become a criminal offence quite recently and its impact is yet to be assessed¹⁶⁶. The table below provides a summary overview of the number of cases of forced marriage recorded between 2011 and 2015 in the Member States where data was identified.

Table 1 Number of forced marriages in the period 2011-2015

Member States	2011	2012	2013	2014	2015
AT	29	31	n.a.	+/- 200 ¹⁶⁷	n.a.
BE	12	14	11	13	n.a.
CY	2	2	5	5	2 ¹⁶⁸
DE	n.a.	56	62	58	n.a.
DK	19	8	20	21	n.a.
HR	1	n.a.	1	1	n.a.
SE	n.a.	n.a.	n.a.	n.a.	23
SI	n.a.	n.a.	20	1	1
SK	2	3	7	9	n.a.
UK	n.a.	1485	1302	1267	n.a.

National data on forced marriage were collected from different sources including:

- Studies and surveys (e.g. in Austria; France; Germany);
- Victim support services, such as shelters or NGOs working in the area of honour related violence and counselling centres (e.g. in Slovenia; Sweden; United Kingdom);
- Ministries (e.g. in Austria, Slovakia) and government statistics related to the police or the judicial system (e.g. in Belgium; Cyprus; Denmark; Germany);
- National Statistical Institutes (e.g. in Bulgaria).

This data should be considered cautiously and cannot be considered as actually representative of the number of forced marriage cases per Member State **as there are**

¹⁶³ [World Policy Analysis Center, Assessing National action on protection from Child Marriage, November 2014.](#)

¹⁶⁴ The research carried out at national level analysed the data collected between 2001 and 2015.

¹⁶⁵ The EU Member States that currently criminalise forced marriage are: AT, BE, BG, CY, DE, ES, HR, LU, MT, PT, SE, SI, UK.

¹⁶⁶ Slovenia (Article 132a, added by the Act Amending the Criminal Code, KZ-1C, Official Gazette No. 54/2015 entered into force on 18 October 2015); Sweden (Chapter 4, Article 4c, added by Government Bill 2013/14:208); Malta (Article 251G of the Criminal Code, added by Act I of 2014); Spain (Article 172 bis of the Criminal Code, added by Law N. 1 of 30 March 2015); Portugal (Article 154-B of the Criminal Code, added by Law N. 83 of 5 August 2015).

¹⁶⁷ [Federal Ministry of Education and Gender Equality \(Bundesministerium für Bildung und Frauen\), 'Tradition and violence against women' \(Tradition und Gewalt an Frauen\), 2014, p. 10.](#)

¹⁶⁸ It is noted that his number refers to the cases of forced marriage recorded till September 2015.

significant limitations with the data. Many cases of forced marriage are not reported at all¹⁶⁹, are not nationally representative, suffer from methodological shortcomings, and are not collected systematically¹⁷⁰. In some instances, the same cases of forced marriage are reported to different public authorities at the same time (e.g. counselling centres of different cities) or to private organisations and NGOs rather than to public authorities.

As highlighted in the table above, while in Croatia, Cyprus, Slovakia, Slovenia and Sweden, a low number of forced marriages was recorded between 2011 and 2015, there was comparatively a higher prevalence of forced marriage in Austria, Belgium, Bulgaria¹⁷¹, Denmark, Germany and the UK.

In Austria, the social service/association provided advice in respectively 29 (2011) and 31 (2012) forced marriage cases¹⁷². Furthermore, the Austrian Ministry of Education and Gender Equality registered approximately 200 cases of forced marriage in 2014¹⁷⁴.

Although in Belgium, there is currently no specific recording mechanism of forced marriage cases, the Belgian Federal Police registered 65 complaints of forced marriage between 2010 and 2014¹⁷⁵. Some associations counted 1 to 5 cases of forced marriage per year over these last five years¹⁷⁶, while other organisations revealed an annual average of 20 to 30 cases¹⁷⁷.

In Bulgaria 1458 cases of **child marriage** (involving children under 18) were registered between 2011 and 2014¹⁷⁸.

In Croatia only 3 cases of forced marriage were registered between 2011 and 2014¹⁷⁹ (see table 1 above).

In Cyprus, although forced marriage is criminalised under Article 150 of the Criminal Code, only few cases of forced marriage were reported by the Police Anti-trafficking Unit (14 cases between 2011 and 2014)¹⁸⁰ and no court decision has been identified in the past few years (see table 1 below).

In Denmark, although forced marriage is not explicitly criminalised under a standalone provision of the Criminal Code, Section 260(1) of the Danish Criminal Code on unlawful coercion can be applied to forced marriage. In case someone is forced to contract a marriage or a religious wedding with no civic validity, the penalty is explicitly increased under Section 260(2)¹⁸¹. After the Circular Letter of 30 June 2006, the Danish National Police set out a systematic monitoring of honour related conflicts on a national basis¹⁸². Sixty-eight cases/complaints concerning forced marriages were reported to the National Police by local police districts between 2011 and 2014 (see table 1 below).

¹⁶⁹ Information stemming from the consultation of the pool of EU national experts.

¹⁷⁰ Leye E, Sabbe A. National report Belgium MATRIFOR project.

¹⁷¹ It is noted that Bulgaria has not been mentioned in the table below as the reported Bulgarian cases specifically refer to child marriages.

¹⁷² [Völkl, K., 'In love?- Engaged? - Married! Forced marriage in the germanophone area' \(Verliebt?- Verlobt?- Verheiratet! Zwangsverheiratung im deutschsprachigen Raum\), 2014, p. 9-10.](#)

¹⁷³ *Ibid.*

¹⁷⁴ [Federal Ministry of Education and Gender Equality \(Bundesministerium für Bildung und Frauen\), 'Tradition and violence against women' \(Tradition und Gewalt an Frauen\), 2014, p. 10.](#)

¹⁷⁵ [Federal Police Statistics, National register \(Criminaliste enregistrée commise au niveau national\).](#)

¹⁷⁶ The Institute for Equality between Women and Men 'Forced Marriage ? Guide for professionnels', 2015, p. 12.

¹⁷⁷ Bensaïd, N. and Rea, A., 'Study on forced marriage in the Brussels-Capital Region', ULB, 2012.

¹⁷⁸ [U.S. Department of State, 'Country Reports on Human Rights Practices for 2014 - Bulgaria', 2014.](#)

¹⁷⁹ Ministry of Interior – Croatian Government's Office for Human Rights and Rights of National Minorities.

¹⁸⁰ The Cypriot Police Anti-trafficking Unit collects data and statistics on forced marriage in the context of its anti-trafficking activities. These activities also relate to cases of people trafficked in order to be forcibly married.

¹⁸¹ Criminal Code, [Chapter 26 Offences against personal liberty](#), Section 260.

¹⁸² ['Strategy for the Police's Effort against Honour-related Crimes'](#) the National Police, 22 January 2007.

A population survey of migrants and their descendants conducted in 2008 (and published in 2011) shows that in France 4% and 2% of immigrant women and their daughters, respectively, experienced non-consensual marriage. The study showed a declining trend in **the number of marriages in which the woman's decision to marry someone is not based solely on individual choice**¹⁸³.

In Germany 176 cases of forced marriage were reported between 2012 and 2014¹⁸⁴. Comparing two surveys on forced marriages (conducted in Berlin in 2007 and 2013), it appears that after the criminalisation of forced marriage in 2011 the reported cases increased by 18%. This may be linked to the larger number of institutions interviewed to **collect data and an increased victims' awareness of the availability of counselling services**¹⁸⁵.

In Slovakia an increasing trend in the number of cases of human trafficking for the purpose of forced begging and forced marriage has been observed¹⁸⁶. In 2014, 9 out of the 34 **persons included into the 'Programme for protection and support of victims of trafficking'** were victims of forced marriage¹⁸⁷. The number of forced marriages increased from 7 cases in 2013 to 9 in 2014. In 2014, all victims of forced marriage were women¹⁸⁸. In Slovenia¹⁸⁹, between 2013 and 2015, 22 cases of forced marriage were recorded (20 out of the total in 2013)¹⁹⁰.

In Sweden, the National Council for Crime Prevention¹⁹¹ has not released any statistics on forced marriage yet. However, in the region of Östergötland, 23 cases of forced marriage were reported in the first 6 months of 2015. None of them have been prosecuted yet¹⁹².

The table below provides a specific example of data collection in the UK.

Table 2 UK: Data identified in the period 2012-2015

The UK Forced Marriage Unit (FMU), a joint Foreign, Commonwealth and Home Office unit set up in January 2005, annually publishes statistics related to forced marriage.

The FMU only deals with cases of forced marriage it has been made aware of. It does not handle all cases of forced marriage in the UK, therefore the full scale of forced marriage in the UK is not known. The table below provides information on cases recorded by the FMU between 2012 and 2014, including people or groups of people thought to be at potential risk of future forced marriage, those currently going through a forced marriage and those who have already been forced to marry. The data show that most cases recorded by the FMU are from women, and a significant number of cases involve persons under the age of 18.

¹⁸³ Hamel Christelle, 'Immigrants and daughters of immigrants : the drop of forced marriages' (*'Immigrées et filles d'immigrés : le recul des mariages forcés'*), Population et Sociétés, No. 479, June 2011.

¹⁸⁴ Police Crime Statistics.

¹⁸⁵ Women- and equal opportunities representative of the district Friedrichshain-Kreuzberg in Berlin 'Results of a survey of the berlin working group against forced marriage to the extent of forced marriage in Berlin 2013' (2015) p. 1-2.

¹⁸⁶ [Council of Europe – Group of experts on action against trafficking in human beings \(GRETA\)](#). Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Slovak Republic, published on 9 November 2015.

¹⁸⁷ *Ibid.*

¹⁸⁸ [Ministry of Interior, 'Evaluation of the Programme of support and protection of victims of trafficking for 2014'](#).

¹⁸⁹ Slovenia (Article 132a, added by the Act Amending the Criminal Code, KZ-1C, Official Gazette No. 54/2015 entered into force on 18 October 2015).

¹⁹⁰ Data stemming from the consultation of the Slovenian national expert upon request to the General Police Directorate.

¹⁹¹ [The Swedish National Council for Crime Prevention](#).

¹⁹² Information collected through consultation with national stakeholders on 27 August 2015 (representatives of the County Administrative Board of Östergötland).

Data on forced marriages	2012 ¹⁹³	2013 ¹⁹⁴	2014 ¹⁹⁵
Number of forced marriages per year	1485	1302	1267
	82% involved female victims and 18% involved male victims.	82% of cases involved female victims and 18% involved male victims.	79% of cases involved female victims and 21% involved male victims.
	114 cases involved victims with disabilities.	97 cases involved victims with disabilities.	135 cases involved victims with disabilities.
	22 involved victims who identified themselves as LGBT.	12 involved victims who identified themselves as LGBT.	8 involved victims who identified themselves as LGBT.
	Where the age was known, 35% of cases involved victims below 18.	Where the age was known, 40% of cases involved victims under the age of 18 years.	Where the age was known, 22% of cases involved victims below 18.

4.2. Drivers of forced marriage in the EU Member States and difficulties in identifying forced marriage cases

The national research showed that main drivers of forced marriages are social, cultural and economic factors¹⁹⁶.

Forced marriage is the result of a patriarchal-structured society and culture. A high value is placed on virginity and marriage is identified as the safest and most acceptable settlement for girls and women who are constantly protected by a male guardian (the father, brothers or male relatives prior to a marriage, the husband upon marriage). In this cultural context, parents may genuinely feel that forcing their daughters to marry a suitable spouse will protect them from both sexual assaults and premarital sexual activities¹⁹⁷. For example, in Romania one of the reasons for parents to resort to forced marriage is the wish to ensure the children do not lose the cultural and traditional values¹⁹⁸. Moreover, another strong and common belief in societies that value virginity before marriage is that the marriage should occur as soon as girls have reached puberty¹⁹⁹.

The social control exerted by both the family and the community over the freedom of young people (Section 2) constitutes a significant barrier to their social integration. A

¹⁹³ [Forced Marriage Unit Statistics](#) January to December 2012.

¹⁹⁴ [Forced Marriage Unit Statistics](#) January to December 2013.

¹⁹⁵ [Forced Marriage Unit Statistics](#) January to December 2014.

¹⁹⁶ [ICRH - International Centre for Reproductive Health, A. Sabbe, M. Temmerman, E. Brems & E. Leye, Forced marriage: an analysis of legislation and political measures in Europe, 2014](#), p. 9; R. Phillips, Interventions against forced marriage: contesting hegemonic narratives and minority practices in Europe. *Gender, Place & Culture: A Journal of Feminist Geography*, 2012, p. 19, 21–41; Office fédéral des migrations, A. Neubauer & J. Dahinden, "Mariages forcés" en Suisse: causes, formes et ampleur, 2012; E. Ratia & A. Walter, International exploration on forced marriages. A literature study on legal measures, policy and public debates in Belgium, France, Germany, United Kingdom and Switzerland, 2009.

¹⁹⁷ [International Center for Research on Women – ICRW, The Causes, Consequences and Solutions to Forced Child Marriage in the Developing World, July 2010](#), p. 3; [UNICEF, Ending Child Marriage: Progress and prospects, 2014](#).

¹⁹⁸ Romani CRISS and UNICEF, 'The case of early marriages in Roma communities in Romania. Are the rights of the child negotiable?' (2010).

¹⁹⁹ Center for Interethnicity Dialogue and Tolerance 'Amalipe', 'Prevention against early marriages', p. 92.

survey conducted in Denmark on immigrant youth's experience of social control shows that '[...] approximately 25% of immigrant youths from non-Western countries experience that their family participates actively in their choice of spouse, and about 25% are [very much or a little] afraid that their family will choose a partner against their will'²⁰⁰.

For example, a trend noted among migrant and ethnic minorities is **of women and girls being sent overseas to be forced into marriage**. In view of the protection of their community cultural values, families may oblige their daughters to leave the country where they grew up, to go and get married in their family's country of origin. Holiday periods in the parents' country of origin have therefore been highlighted as potentially dangerous for young people living in the EU by some Member State authorities as they increase opportunities for forced marriage²⁰¹. In fact, in some cases, re-education journeys to the parents' country of origin are organised as part of a planned marriage.

According to the Danish embassy in Pakistan, each year a certain number of 10 to 12 year old girls are sent for re-education trips with relatives in preparation of a forced marriage²⁰². In those cases, where the girls get married during their stay in the country of origin, the prospects of returning to Denmark are slim because of their husband's choice to stay in that country²⁰³.

The occurrence of re-education trips was also identified in France. The celebration of the marriage abroad makes it very hard for the victim to report the forced marriage, however, the French Consulates in several countries are active together with the French social services to help to identify victims and eventually repatriate them²⁰⁴.

Another recurring trend was identified in Belgium where a study carried out in Brussels noted cases of **girls being sent by their families to Belgium with the aim of getting married**. Third country national girls in such situations would enter the country only with a temporary visa and would therefore be completely dependent on the spouse from an economic and administrative point of view. Such dependence may prevent the girl from reporting a forced marriage, especially if she wishes to stay in EU²⁰⁵.

However, a study by the Institute for Equality between Women and Men in Belgium cautions against linking forced marriage to specific racial, ethnic or religious characteristics. According to the study, the practice of forced marriage is not specific to a migrant, religious or ethnic community but can rather be explained by the perpetuation of a specific cultural practice²⁰⁶. A study carried out by the International Centre for Reproductive Health – Ghent University also confirmed that the persistence of this practice is mainly due to the strong psychological or emotional pressure of the family on the spouses²⁰⁷.

Similarly, a study conducted by the Free University of Brussels explains that the roots of forced marriage are to be sought in the intergenerational conflicts that characterise the phenomenon rather than in specific cultures or communities. By neglecting the values of

²⁰⁰ 'Young in 2011 - Immigrant youths' experiences with social control, freedom and restriction' ([Ung i 2011 - Nydanske unges oplevelse af social kontrol, frihed og grænser](#)) Als Research, the Ministry of Refugees, Immigration and Integration Affairs (2011), pp. 13, 35, 40-45, 164-165.

²⁰¹ The Social Protection Institute of the Republic of Slovenia (*Inštitut RS za socialno varstvo*), 'Forced marriages of Roma girls, Final Report' (2014).

²⁰² Study on long-term stays abroad amongst children with a non-Western background' the Ministry of Refugees, Immigration and Integration Affairs (Copenhagen, 2005), pp. 12, 17-22.

²⁰³ *Ibid.*

²⁰⁴ France, '[Report on the symposium on forced marriages and honor crimes organised by the Senate](#)' (March 2010) p. 58.

²⁰⁵ Bensaid, N. and Rea, A., '[Study on forced marriage in the Brussels-Capital Region](#)', ULB, 2012, p.51.

²⁰⁶ Myria 'Victims of child marriages and forced marriages' (*Slachtoffers van kindhuwelijken en van gedwongen huwelijken*) (2015), p.12.

²⁰⁷ Els Leye 'Forced marriages in Belgium: an analysis of the current situation' not publicly available.

their parents, the new generations risk being confronted with the opposition of the parents to their choices and this might lead to a forced marriage²⁰⁸.

The **economic conditions** of the spouses and their families also play a role in forced marriage. **Poverty** is in fact one of the main drivers of forced marriage²⁰⁹. Globally, poverty is a major cause, as well as a consequence, of forced marriage for many girls. For many poor families, marrying their daughters at an early age is essentially a strategy for economic survival: through an early marriage families pass the economic burden for their **daughters' care to the husbands' families**²¹⁰. For example in Romania the socio-economic status and the economic competition between families represent the main factors in initiating marriage between children and in Ireland poverty and insecurity are root causes of forced marriage that are strongly associated with girls who have received little or no formal education. In fact, girls who marry young do not receive the educational and economic opportunities that would help them and their families to escape poverty²¹¹.

Religious reasons can also be at the basis of forced marriage. Such religious reasons are particularly relevant in Greece where the Muslim minority is allowed to apply *Sharia* and be subject to the judicial and religious competence of the *Mufti*, as regards family law (Section 4.3)²¹². For example, the Greek national expert reported on a marriage in Greece which took place in Thrace in 2004 between a 20 year old young man and an 11 year old girl, both Greek Muslim Roma. The couple had moved to Düsseldorf and following some administrative procedure that required their marriage certificate, a German Court ordered the mandatory separation of the couple. The young girl was placed under juvenile protection and her spouse was prosecuted²¹³.

The identification and eradication of forced marriage in certain communities and cultures has proven difficult. Victims may be reluctant to report forced marriage because of fear towards their family and community or because they feel they need to be loyal.

One additional difficulty is that marriages in such communities are often unofficial, only solemnised in accordance with traditional customs. For example, as mentioned in a study carried out by a Slovenian research institute, forced marriage might be considered as 'something completely normal' within the Roma community²¹⁴.

Another difficulty in identifying forced marriage is the fear of stigmatisation by victims, which can be a reason for victims not coming forward to report the offence, as discussed in in Section 5.4 below²¹⁵.

²⁰⁸ Santelli E. Collet B., 'Entre consentement et imposition. Réalités politiques et sociales des mariages dits 'forcés'' [2008], 49.

²⁰⁹ UNICEF, [Ending Child Marriage: Progress and prospects, 2014](#), supra; FRA, [Addressing forced marriage in the EU: legal provisions and promising practices, 2014](#), p. 15; International Center for Research on Women – ICRW, [The Causes, Consequences and Solutions to Forced Child Marriage in the Developing World, July 2010](#), p. 3; 2008 European Parliament [Study on Forced Marriages and Honour Killings](#), p. 33; Naana Otoo-Oyortey and Sonita Pobi, [Forum on Marriage and the Rights of Women and Girls, Early Marriage and Poverty: Exploring links for policy and programme development, 2002](#), p. 11. Moreover, visit [Girls Not Brides' website, What is the impact of child marriage: poverty](#).

²¹⁰ UN Department of Public Information, [UN Platform for Action and the Beijing Declaration, 1996](#), p. 38.

²¹¹ For an in-depth analysis of the consequences of forced marriage on children see next Section.

²¹² Kotzampasi A., Family law relations of Greek Muslims, 2001, [Research Center for Equality Issues](#), p.29; Doudos G., Brief overview of the sharia law system in dialectical inter-relation with the Greek legal order, available [here](#), p.6; Vergou M., [The application of the Sacred Muslim Law \(Sharia\) in the Greek legal order](#), 2013, p.5.

²¹³ Doudos G., Brief overview of the sharia law system in dialectical inter-relation with the Greek legal order, available [here](#), p.14-15 for a description of the case.

²¹⁴ The Social Protection Institute of the Republic of Slovenia (Inštitut RS za socialno varstvo), 'Forced marriages of Roma girls, Final Report' (2014).

²¹⁵ Center for Interethnicity Dialogue and Tolerance 'Amalipe', 'Prevention against early marriages' (Plovdiv, 2011).

5. LEGISLATIVE AND POLICY RESPONSE TO FORCED MARRIAGE AT NATIONAL LEVEL

KEY FINDINGS

- While not all Member States have yet taken steps to criminalise forced marriage, many have put in place policies to tackle this practice. Such policies specifically focus on forced marriage within the context of violence against women or within the context of policies addressing trafficking of human beings.
- Civil law provisions in all Member States set out clear conditions to ensure the validity of marriages including specific age thresholds and the ability to give a fully informed consent that is not vitiated by coercion, duress, violence or threat or by psychosocial disabilities.
- Research conducted in EU Member States reveals an inter-relation between forced marriage and trafficking in human beings offences. Trafficking in human beings leading victims to be forced into a marriage takes different forms. For example, victims move to another Member State to pursue what they believe to be a job opportunity and instead are lured into forced marriage. Cases of women moving abroad for marriages of convenience have also been observed, where women originally consented to the marriage but finally ended up in a forced marriage situation.

5.1. Civil law provisions relevant to forced marriage

Civil law provisions in all Member States set out clear conditions to ensure the **validity of marriages** (e.g. specific age thresholds and ability to give a fully informed consent).

Table 3 below presents an overview of the elements (indicated by 'Ticks' (✓)) that could lead to the annulment of a marriage or sanctions in the EU Member States' civil law frameworks. Annex I provides an overview of the relevant civil law provisions.

Table 3 Breach of civil law provisions leading to annulment of marriages or sanctions according to the applicable civil law in each Member State

MS	under age*	coercion/ duress/threat/ violence	Psycho-social disabilities
AT	✓	✓	✓
BE	✓	✓	✓
BG	✓	✓	✓
CY	✓	✓	✓
CZ	✓	✓	✓
DE	✓	✓	
DK			
EE	✓	✓	✓
EL	✓	✓	✓
ES	✓	✓	✓
FI	✓		✓
FR	✓	✓	✓
HR	✓		✓
HU	✓		✓
IE	✓		
IT	✓	✓	✓
LT	✓	✓	✓
LU	✓	✓	✓
LV	✓	✓	
MT	✓	✓	✓
NL	✓	✓	✓
PL	✓	✓	✓
PT	✓	✓	✓
RO	✓	✓	✓
SE	✓	✓	
SI	✓	✓	✓
SK	✓	✓	✓
UK	✓	✓	✓

*In some Member State certain exceptions concerning marital age apply.

National civil laws typically declare the invalidity of a marriage concluded where the will of at least one of the parties is vitiated by a defect in consent. However, the circumstances vitiating the consent vary across different Member States²¹⁶. The validity of a marriage may be affected by the **lack of consent** stemming, for example, from **physical coercion** (including threats, actual physical violence, sexual violence and abduction) or **psychological or emotional coercion** (including pressure of various kinds, emotional blackmail, confinement and confiscation of official papers)²¹⁷, or **lack of capacity to act** of one or both parties either where they do not have the **minimum age** or due to **psycho-social disabilities**.

Marriages concluded under duress and/or coercion, threat and violence

Although not all Member States criminalise forced marriages, most (with the exception of Croatia, Finland, Hungary, and Ireland) provide specific civil law rules granting the possibility for the spouses to **challenge a marriage** concluded under duress and/or coercion, threat, violence.

²¹⁶ [FRA, Addressing forced marriage in the EU: legal provisions and promising practices, 2014.](#)

²¹⁷ *Ibid.*

In Denmark, the legislation does not specifically refer to such elements, but it generally refers to the possibility for the spouses to challenge a marriage if they were forced to contract it²¹⁸.

Marriages concluded by persons with psycho-social disabilities

Relevant protection is provided through civil law rules in cases of a marriage concluded by persons with psycho-social disabilities.

Such marriages may be challenged according to the civil laws of most Member States (with the exception of Denmark, Ireland, Latvia and Sweden).

Marital age

With regard to **age**, Member States are also bound by international instruments prohibiting child marriage. For example, Article 2 of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages²¹⁹ calls upon States Parties to specify within their national legislation **a minimum age for marriage, adding that 'no marriage shall be legally entered into by any person under this age, except where a competent authority has granted a dispensation as to age, for serious reasons, in the interest of the intending spouses'**²²⁰.

National civil law rules provide that a marriage cannot be concluded by a person below 18 years of age and that only in specific cases and under certain conditions (e.g. consent of the parents and/or authorisation of a judge) children below 18 can get married. In most Member States where such an exception exists, it only applies to children between 16 and 18 years of age (Austria²²¹, Bulgaria²²², Cyprus²²³, Czech Republic²²⁴, Germany²²⁵, Croatia²²⁶, Hungary²²⁷, Malta²²⁸, Italy²²⁹, Latvia²³⁰, Poland²³¹, Portugal²³², Romania²³³, Slovakia²³⁴, Spain²³⁵, and the UK²³⁶).

In Poland the exception to the minimum age to enter into a marriage specifically applies to **girls between 16 and 18 years of age**. In Lithuania²³⁷ this exception applies to children between 16 and 18 years of age, however, the law also specifies that in case of pregnancy a girl can be allowed to enter into a marriage even if she is younger than 16. The law does not state a minimum age to which such exception applies. Such differentiation between girls and boys **is in contradiction with Article 2 of the Convention on Consent to Marriage** that precludes differentiation on the ground of sex.

²¹⁸ Chapter 3 of the Marriage Act.

²¹⁹ [Convention](#) on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages Opened for signature and ratification by General Assembly resolution 1763 A (XVII) of 7 November 1962 Entry into force: 9 December 1964, in accordance with article 6.

²²⁰ *Ibid.*

²²¹ Section 1 of the [Marriage Act](#) consolidated version 23 October 015, last amended through [Federal Law No. 15/2013](#).

²²² Article 6 of [Family Code](#), SG No. 45 of 23 June 2009, last amended by SG No. 68 of 2 August 2013.

²²³ Article 15 of the Marriage Act of 200 N.104 (I)/2003.

²²⁴ Section 672 of the Act. No. 89/2012, Civil Code in force since 1 January 2014.

²²⁵ Section 1303 of the Civil Code of Germany.

²²⁶ Article 25 of O.J. No 103/15.

²²⁷ Article 4:9 of the [Act V of 2013 on the Civil Code \(2013 Civil Code\)](#) as last amended by [Act CCLII of 2013 on the amendment of certain laws as a result of the entry into force of the Civil Code \(2013\)](#).

²²⁸ Article 3 of [Chapter 255 of Criminal Code of Malta](#).

²²⁹ Article 84 of [The Civil Code of Italy](#).

²³⁰ Article 33 of the [Civil Law](#).

²³¹ Article 10 of [The Family and Guardianship Code](#).

²³² Article 1612 of [The Civil Code of Portugal](#).

²³³ Article 272 of [The Civil Code of Romania](#).

²³⁴ Article 17 of the Act No. 36/2005 Coll, on Family.

²³⁵ Article 46 of the [Civil Code](#), Title IV On marriage.

²³⁶ [Marriage Act 1949](#).

²³⁷ Article 3.14 of the [Civil Code](#) of the Republic of Lithuania.

In Estonia²³⁸ and in the Netherlands²³⁹ the exception to the minimum age to enter into marriage applies to children **between 15 and 18 years of age** and in Greece²⁴⁰ to children between 14 and 18 years of age with the permission of the court. The opinion of Greek legal theory is that a court permission to marry should not be given to persons under 14 years of age which is the latest grade of limited competence for legal acts, despite the fact that 10-year old minors²⁴¹ also have a very limited competence²⁴². In Belgium²⁴³, Denmark²⁴⁴, Finland²⁴⁵, France²⁴⁶, Greece²⁴⁷, Luxembourg²⁴⁸ and Slovenia²⁴⁹ the legislation states that children below 18 can get married under certain conditions. However, it does not state a minimum age to which the exception may apply. There are **no exceptions** to marital age in Ireland and Sweden.

Laws setting a minimum age for marriage are important tools and may dissuade families and communities from forcing their underage daughters and sons into a marriage. Nevertheless, the **exceptions** provided by many Member States' legislation to the minimum age of marriage may **undermine the effectiveness of legal protections** against child marriage. For example in Denmark, concerns were publicly raised about the rule of the Marriage Act, allowing for young persons below the age of 18 to enter into marriage. Such rule in fact seemed outdated and could represent a legitimization of issuing permission for children to contract a marriage that may have serious impacts on their **further life and development**²⁵⁰.

A specific situation with regard to marital age was highlighted by the Greek national expert and it is described in Box 1 below. While the described situation is in line with principles and obligations to respect rights of religious minorities, it seems to raise issues and concerns from a gender perspective. See in this respect Section 5.4.

Box 1 Application of Sharia law in Greece

Pursuant to the 1923 Treaty of Lausanne, Greece has undertaken specific obligations as regards the status and respect of the Muslim minority²⁵¹. On the basis of several legal acts²⁵² and the most recent Law 1920/1991²⁵³ a particular dual judicial system regime applies for the Muslim minority which is mainly located in the region of Western Thrace. **In fact, both Islamic Law (Sharia) and the Greek Civil Code apply and the Islamic 'Mufti' (Μουφτής) has jurisdiction among Muslim Greek citizens of this region on family law issues, namely marriages, divorces, alimonies, custodies, guardianships, emancipation of minors, Muslim wills, and inheritance disputes**²⁵⁴.

²³⁸ Section 2 of [The Family Law Act](#), 18.11.2009 (RT I 2009, 60, 395).

²³⁹ Article 10 of the Civil Code.

²⁴⁰ Article 1350 of the Greek Civil Code, Mandatory Law 2250/1940 'Civil Code', as updated to modern Greek by Presidential Decree 456/1984 (OJ 164/A/1984)'Civil Code and its Introductory Law'.

²⁴¹ Articles 128(1) and 129(1) of the Greek Civil Code.

²⁴² Karakostas I., Civil Code – Interpretation – Comments – Case law, Vol.8A, Family Law Articles 1346-1484, 2011, p.81.

²⁴³ Article 144 of the Civil Code.

²⁴⁴ Chapter 1 of [The Consolidation Act No. 1096 of 7 October 2014](#), 'Promulgation of Act on the Formation and Dissolution of Marriage', Official Journal A, 10 October 2014.

²⁴⁵ Section 2 of [The Finnish Marriage Act](#).

²⁴⁶ Article 145 of the Civil Code.

²⁴⁷ Article 1350 of the Greek Civil Code, Mandatory Law 2250/1940 'Civil Code'.

²⁴⁸ Article 144 of the [Code civil version coordonnée du 1^{er} août 2015](#).

²⁴⁹ Article 23 of the Marriage law.

²⁵⁰ Jørgensen, S., 'Sexual rights' ('*Seksuelle rettigheder*') in Jørgensen, S., 'The social rights of ethnic minority women' (*Etniske minoritetskvindens sociale rettigheder*) (1st print, 1st edition, Jurist- og Økonomiforbundets Forlag, Copenhagen, 2007).

²⁵¹ [Comments of the Greek Authorities on the Draft Report of the Commissioner for Human Rights of the Council of Europe following his visit to Greece on 8-10 December 2008](#).

²⁵² Law 1477/1914 (OJ A' 25/01.02.1914) 'on the applicable law and judicial organisation of integrated territories'; Law 2345/1920 (OJ A'148 /03.07.1920) 'on the provisional head mufti and muftis of the Muslims in the State and on the management of the properties of the Muslim Communities'.

²⁵³ Law 1920/1991 (OJ A' 11/04.02.1991)' Ratification of the Act of Legislative Content of 24th December 1990 on Muslim Religious Authorities'.

²⁵⁴ Kakoulidou E., '[The application of Shari'ah in the Greek area of Western Thrace: Protecting the religious](#)

There are divergent opinions in theory regarding the territorial scope and compatibility of the application of Sharia. The Greek Supreme Court²⁵⁵ has ruled in favour of the application of Sharia in the Greek territory beyond the region of Thrace (so to include all Greek Muslims residing in Greece - apart from the Dodecanese²⁵⁶) as special law establishing privileges for Muslims²⁵⁷.

In June 2000, the Mufti of Xanthi in Western Thrace issued 'a marriage licence for virgin women according to the Sharia', laying down the terms for performing wedding ceremonies²⁵⁸. According to the Islamic Sacred Law, a person can get married once they have reached puberty. Usually for girls this is established by the first menstrual cycle and when this cannot be proven, at the age of 15 years, while the minimum possible marital age for them is nine years old²⁵⁹. A characteristic of the 'marriage licence' under Sharia is that a woman, even when adult, is represented by her guardian, which is her father, brother or grandfather and the declaration of will is not given in person²⁶⁰.

5.2. Criminal law provisions relevant to forced marriage

Although the **Istanbul Convention** explicitly requires State Parties to 'take the necessary legislative or other measures to ensure that the intentional conduct of forcing an adult or a child to enter into a marriage is criminalised', not all EU Member States have taken steps to specifically criminalise forced marriage.

Specific provisions criminalising forced marriage are in place in Belgium²⁶¹, Bulgaria²⁶², Croatia²⁶³, Cyprus²⁶⁴, Denmark²⁶⁵, Germany²⁶⁶, Spain²⁶⁷, Luxembourg²⁶⁸, Malta²⁶⁹, Portugal²⁷⁰, Slovenia²⁷¹, Sweden²⁷² and the UK²⁷³. The UK Family Law Act 1996 (as amended by section 120 of the Anti-social Behaviour, Crime and Policing Act 2014) also makes it a criminal offence to breach a forced marriage protection order (Annex I provides an overview of the relevant criminal law provisions).

In Denmark, Section 260(1) of the Criminal Code criminalises forcing someone to do something by means of violence or threats, and Section 260(2) specifically adds the circumstance of forced marriage to this (with an increased penalty). A similar situation

[freedom of the Muslim minority or dismantling the Greek Constitution?](#)'.

²⁵⁵ Supreme Court, Judgments 1723/1980 and 1097/2007.

²⁵⁶ Doudos G., Brief overview of the sharia law system in dialectical inter-relation with the Greek legal order, available [here](#) with further references.

²⁵⁷ According to the Supreme Court the application of Sharia derives from international convention, which according to Article 28 of the Greek Constitution have an increased legal force and override any other, contrary provision of law.

²⁵⁸ No. 157/22.06.2000. See Kakoulidou E., 'The application of Shari'ah in the Greek area of Western Thrace: Protecting the religious freedom of the Muslim minority or dismantling the Greek Constitution?', p.5-6.

²⁵⁹ Papadopoulou L., 'Imprisoned in history: Greek Muslim Women under the Sacred Islamic Law', 2012, p.6.

²⁶⁰ Kotzampasi A., 'Family law relations of Greek Muslims', 2001, Research Center for Equality Issues, p.21.

²⁶¹ Article 391 sexies of the Criminal Code.

²⁶² Article 177 of the Criminal Code.

²⁶³ Article 169 of the Criminal Code.

²⁶⁴ Chapter 154 of the Criminal Code.

²⁶⁵ Section 260 of the Criminal Code.

²⁶⁶ Section 237 of the Criminal Code.

²⁶⁷ Article 172 bis of the Criminal Code.

²⁶⁸ Article 387 of the Criminal Code.

²⁶⁹ Article 251G of the Criminal Code.

²⁷⁰ Article Article 154-B of the Criminal Code.

²⁷¹ Article 132.a of the Criminal Code.

²⁷² Chapter 4 of the Criminal Code.

²⁷³ UK Anti-social Behaviour, Crime and Policing Act 2014, section 121 (England and Wales) and 122 (Scotland); Section 16 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (Northern Ireland).

exists in Austria where the Criminal Code penalised whoever forces someone to enter into a marriage or into a registered partnership (Section 106 of the Criminal Code). However it is noted that a specific provision criminalising forced marriage only entered into force in January 2016 (Section 106a of the Criminal Code).

In Spain, Germany and Sweden, the provisions criminalising forced marriage include within their scope the criminal liability of whoever forces another person to leave the country (Spain) and/or to enter the country (Germany) or any other country (Sweden) for the purpose of forcing him/her into a marriage. A similar protection will be provided in Austria from January 2016²⁷⁴. These elements are considered **relevant to provide a better protection to potential victims** of forced marriage who usually belong to migrant and ethnic minority communities and, in view of a protection of their community cultural values, may be obliged by their families to leave the country where they grew up to get married in **their family's country of origin (Section 4.2.1)**. The research carried out showed that in those Member States that do not specifically criminalise forced marriage, general provisions (e.g. on coercion, violence, threat) would apply.

The definitions and interpretations of forced marriage in the relevant criminal law provisions vary between Member States but contain several common elements. These include the notions of force, coercion, violence or duress (Belgium, Cyprus, Denmark, Germany, Malta, Portugal, Slovenia, Spain, Sweden and the UK).

The element of threat is referred to in the relevant offence provisions in Belgium, Germany, Luxembourg, Malta, Slovenia and the UK.

The Bulgarian provision criminalising forced marriage refers more generally to the behaviour of someone who induces another in a compulsory manner to enter into a marriage. **However, no further clarification of what is considered 'compulsory manner' is provided in legislation.** The Croatian criminal provision on forced marriage simply **criminalises '[w]hoever forces another person to a marriage' and it does not provide any of the elements mentioned above.**

Certain Member States refer to specific indicators of forced marriage. These indicators **include the exploitation of a persons' vulnerable situation**²⁷⁵, intimidation²⁷⁶, bribery²⁷⁷, and deception²⁷⁸.

5.2.1. Inter-relation between forced marriage and trafficking of human beings

Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims²⁷⁹ does not explicitly mention forced marriage in the minimum list of types of exploitation set out in Article 2. It however suggests in the preamble that the definition of trafficking in human beings should also cover forced marriage as a form of exploitation²⁸⁰.

Research conducted in the EU Member States reveals an inter-relation between forced marriage and trafficking in human beings.

²⁷⁴ Section 106a of the [Austrian Criminal Code](#), consolidated version 22 October 2015. Adopted by [Federal Law No. 60/1974 'on actions subject to judicial penalty \(Criminal Code\)'](#) and last amended by the [Federal Law No. 113/2015](#).

²⁷⁵ Chapter 4 of the Criminal Code of Sweden.

²⁷⁶ Article 172 bis of the Criminal Code of Spain.

²⁷⁷ Article 251G of the Criminal Code of Malta.

²⁷⁸ Section 237 of the Criminal Code of Germany and Article 251G of the Criminal Code of Malta.

²⁷⁹ Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims and replacing Council Framework Decision 2002/629/JHA, OJ L 101/1 of 15 April 2011.

²⁸⁰ Recital 11 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims and replacing Council Framework Decision 2002/629/JHA, OJ L 101/1 of 15 April 2011.

Trafficking in human beings leading victims to be forced into a marriage was reported in some EU Member States²⁸¹, usually resulting from the **victim's** poor financial situation and low employment prospects²⁸².

A trend was identified with regard to female EU citizens trafficked to another Member State and forced to enter into a **marriage of convenience** with a third country national (Croatia²⁸³, Estonia²⁸⁴, Ireland²⁸⁵, Latvia²⁸⁶, Lithuania²⁸⁷ and Slovakia²⁸⁸)²⁸⁹.

A report of the Estonian Ministry of Justice demonstrates that women trafficked and forced into marriage are often Estonian national women who have problems with tax obligations, a low income and are an easy target to (initially) consent to marriages of convenience in other Member States with the aim of earning an additional income. There is a high risk of these women being forced into a marriage of convenience (to which they do not necessarily consent anymore) by a third party seeking to benefit from the transaction²⁹⁰.

Another trend noted in Latvia involves young Latvian national women, single mothers or women with disabilities being lured under false pretences such as a well-paid job by a third party in the destination country and then forced into a marriage²⁹¹.

The UK National Crime Agency reports that 28,11% of human trafficking cases in the UK relate to forced marriages. The cases usually involve Eastern European females trafficked to the UK for the purpose of marrying Asian males, who are not legally entitled to stay in the UK. Victims are often brought to the UK on the promise of legitimate employment²⁹². The report states that trafficking for forced marriage is often combined with other forms of exploitation such as sexual exploitation.

A UK report from End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT) documents cases of children being trafficked out of and into the UK for forced marriage. This includes British children trafficked out of the UK to be forcibly married abroad and children trafficked to the UK on the basis of a false promise of marriage who end up in sexual exploitation²⁹³.

Forced marriage criminalised under trafficking in human beings offence provisions

²⁸¹ Article 16(2)b) of the Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, OJ L 251, 3.10.2003. See also the Handbook of the European Commission on addressing the issue of alleged marriages of convenience between EU citizens and non-EU nationals in the context of EU law on free movement of EU citizens (SWD(2014)284final).

²⁸² Ministry of the Interior of the Republic of Latvia, '[National guidelines for the prevention of trafficking of human beings 2014-2020](#)' (*Cilvēku tirdzniecības novēršanas pamatnostādnes 2014. – 2020.gadam*) (2013).

²⁸³ Website of the Croatian Red Cross.

²⁸⁴ Ministry of Justice '[Criminal offences in Estonia 2011](#)' (2012).

²⁸⁵ Ruadhan MacCormaic, '[Judgment points to legal lacuna on forced marriages](#)', 19 June 2013.

²⁸⁶ European Migration Network (EMN), '[Marriages of convenience and false declarations of parenthood](#)', June 2012, p. 21.

²⁸⁷ Information collected through consultation with national stakeholders (representative of Lithuanian Institute For Ethnical Studies, representative of Vilnius Bureau of International Migration Organisation, representative of NGO Lithuanian Caritas).

²⁸⁸ Council of Europe – Group of experts on action against trafficking in human beings (GRETA), '[Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Slovak Republic](#)' (published 9 November 2015).

²⁸⁹ Europol '[Early Warning notification](#)'.

²⁹⁰ Ministry of Justice '[Criminal offences in Estonia 2011](#)' (2012).

²⁹¹ Ministry of the Interior of the Republic of Latvia, '[National guidelines for the prevention of trafficking of human beings 2014-2020](#)' (*Cilvēku tirdzniecības novēršanas pamatnostādnes 2014. – 2020.gadam*) (2013).

²⁹² [National Crime Agency](#) (NCA, NCA Strategic Assessment, The Nature and Scale of Human Trafficking in 2013, September 2014, 0093-UKHTC).

²⁹³ Bokhari, F., Stolen Futures: Trafficking for forced child marriage in the UK, ECPAT UK and Wilberforce Institute for the Study of Slavery and Emancipation (WISE), University of Hull, 2009, available at http://www.ecpat.org.uk/sites/default/files/stolenfutures_ecpatuk_2009.pdf, accessed on October 2015.

In Croatia²⁹⁴, besides being punished through a specific offence provision on forced marriage, forced marriage is also explicitly incorporated in the offence of trafficking in human beings in the Croatian Criminal Code²⁹⁵. Women and children are reportedly particularly affected by this practice especially within the Roma community²⁹⁶. There is no specific criminal offence provision on forced marriage in Slovakia²⁹⁷, however, forced marriage is specifically recognised as a form of trafficking in human beings and it is explicitly incorporated in the Article of the Criminal Code defining that offence.

Forced marriage considered as falling within the scope of trafficking offences

Cases of forced marriage have also been investigated under the trafficking provisions in Ireland. In 2007, the Irish Police Force investigated under a broad interpretation of the provision on trafficking in human beings a number of cases of forced marriage involving migrant children as young as 12 years of age. The girls had been trafficked into the country and coerced into marrying older men²⁹⁸.

In Estonia²⁹⁹ and Latvia³⁰⁰, literature reviewed suggests that cases of forced marriage might fall within the scope of trafficking in human beings provisions, even though the relevant provisions do not explicitly refer to forced marriage.

In Lithuania, forced marriage is not criminalised as a stand-alone offence and while not specifically referred to in the trafficking in human beings offence provision, it is nevertheless considered as falling within the scope of the trafficking offence. This would mean however that when it is not possible to identify and prove elements characterising the offence of trafficking in human beings in a situation involving forced marriage, the offence will not be punished³⁰¹.

The UK Modern Slavery Act does not explicitly refer to forced marriage as a form of exploitation. However, government guidance on trafficking of children refers to forced marriage as a type of exploitation³⁰².

5.3. National policies relevant to forced marriage

National policies specific to forced marriage

Most Member States have civil law provisions against forced marriage in place, providing the possibility to challenge those marriages that are concluded under coercion, violence or duress, by persons with psycho-social disabilities, or by children (with certain exceptions). Twelve Member States have also taken steps to criminalise forced marriage.

Annex I provides further information on criminal and civil law provisions addressing forced marriage in EU Member States. While not all Member States have yet taken steps to criminalise forced marriage, many have put in place policies to tackle this practice.

²⁹⁴ Article 169 of the Criminal Code (O.J. No. NN 125/11, 144/12, 56/15, 61/15, in force from 30.05.2015).

²⁹⁵ Criminal Code O.J. No 125/11, 144/12, 56/15, 61/15.

²⁹⁶ Article 285.2, Criminal Law, LV, 199/200 (1260/1261), 08.07.1998 (last amendments to the Criminal.

²⁹⁶ Information collected through consultation with representative of Roma women's rights group on 14 September 2015.

²⁹⁷ Section 179 of Law 300/2005 of the Criminal Code.

²⁹⁸ Ruadhan MacCormaic, '[Judgment points to legal lacuna on forced marriages](#)', 19 June 2013.

²⁹⁹ Ministry of Justice 'Criminal offences in Estonia 2011' (Kuritegevus Eestis 2011) (2012) available at http://www.kriminaalpoliitika.ee/sites/www.kriminaalpoliitika.ee/files/elfinder/dokumendid/kuritegevus_eestis_2011.pdf p. 73.

³⁰⁰ European Migration Network (EMN), '[Marriages of convenience and false declarations of parenthood](#)', June 2012.

³⁰¹ Information collected through consultation with national stakeholders (representative of Lithuanian Institute For Ethnical Studies, representative of Vilnius Bureau of International Migration Organisation, representative of NGO Lithuanian Caritas).

³⁰² See [Crown Prosecution Service](#) guidance, Human Trafficking, Smuggling and Slavery, Human Trafficking, Smuggling and Slavery.

A number of policies specifically addressing forced marriage were identified in many Member States, including policies aimed at supporting victims, prevention and awareness raising. National policies specifically addressing forced marriage were identified in Germany, Denmark, Finland, Ireland, Latvia, the Netherlands, Poland, Romania, Spain, Sweden and the UK.

Initiatives with a more specific focus on **victim support** include the activities aimed at offering adequate help and psychological assistance to young people especially the ones that were identified by local actors (e.g. schools, social services) as being obliged by their parents to stay abroad in the context of a re-education journey³⁰³ (Section 4.2). Such initiatives include **public helplines** such as the one set up by the County Administrative Board for Östergötland³⁰⁴, or hotlines providing **advice** to victims and practitioners working on forced marriage cases such as the one set up by the '**Forced Marriage Unit**' (FMU) in the UK.

According to the UK government 2010-2015 progress report, the FMU has among other activities, delivered nearly 500 outreach events to professionals and communities, carried out a preventative media campaign to raise awareness in the run-up to the school summer holidays and community engagement work to challenge attitudes and change behaviours³⁰⁵.

Activities specifically focusing on **prevention** include **training** of professional and public authorities, **support and counselling to parents and children**³⁰⁶ (especially from ethnic minorities) as well as **awareness raising campaigns addressed to religious communities**³⁰⁷. Awareness initiatives analysed include information campaigns, seminars and conferences aimed to initiate a public debate, raise awareness and educate the public about forced marriage³⁰⁸.

National policies on violence against women addressing forced marriage

A number of policies addressing forced marriage within the context of violence against women were also identified in EU Member States. Such policies implemented **awareness raising activities** in schools to inform students about victim protection services, emergency housing for girls and women forced into a marriage³⁰⁹ or initiatives aimed at improving the **prosecution** of forced marriage cases³¹⁰.

The Finnish National Action Plan on Sexual and Reproductive Health 2014–2020 recognises the practice of forced marriages as a potential threat for migrant women's **sexual health and rights**³¹¹. Similarly, the Irish government's National Strategy on Domestic, Sexual and Gender-Based Violence 2010-2014 mentioned forced marriage within the context of

³⁰³ Danish 'National Strategy against Honour-related Conflicts - a targeted effort against honour related conflicts' of the Ministry for Children, Equal Treatment, Integration and Social Affairs.

See County Administrative board for Östergötland final report '[Married against their will](#)', 2015.

³⁰⁵ UK Government progress report, [A Call to End Violence against Women and Girls Progress Report](#) 2010- 2015.

³⁰⁶ In Denmark '[The Government's Strategy against parallel conceptions of law](#)' the Ministry of Children, Gender Equality, Integration and Social Affairs (April 2014).

³⁰⁷ Ibid.

³⁰⁸ For example, the campaign 'Her freedom - his honour', developed by the Ministry of Integration in North Rhine-Westphalia (Germany) in cooperation with several migrants' organisations.

³⁰⁹ Austrian Federal Ministry for Education and Women, '[National action plan for protection of women from violence 2014-2016](#)' (2014).

³¹⁰ For example the UK Guidance on Identifying and Flagging Cases of Forced Marriage and Honour Based Violence and Guidance on Prosecuting Cases of Forced Marriage and Honour Based Violence Available online in the Legal Guidance section on the UK Crown Prosecution Service website: [Forced Marriage and Honour Based Violence Identification and Flagging Guidance \(opens in new window\)](#).

³¹¹ Klemetti, R. & Raussi-Lehto, E. (eds) (2014) *Edistä, ehkäise, vaikuta – Seksuaali- ja lisääntymisterveyden toimintaohjelma 2014 – 2020*. Guidebook, 33/2014. Helsinki: [National Institution for Health and Welfare](#) pp. 152 – 155.

gender-based violence. The Strategy acknowledges that these have not been raised as a significant issue in Ireland yet, however, they could become more salient issues in the future³¹².

Belgium has been particularly active in adopting policies at federal and community (local) level to address forced marriage within the broader context of violence against women. Forced marriage was also included as one of the issues to tackle in the bilateral development cooperation partnerships that Belgium concluded with third countries.

For example, the Institute for Equality between Women and Men is elaborating the next '**National Action Plan fighting against all forms of gender-based violence 2015-2019**' which will focus on all forms of gender-based violence, including forced marriage, in collaboration with the federal entities and on the basis of consultations with civil society and NGOs³¹³.

Moreover, in March 2015 the Belgian Parliament submitted a resolution urging the Belgian government to prioritise the fight against forced marriage in its bilateral agreements on **development cooperation partnerships** with those countries where the prevalence of forced marriage within those countries is high³¹⁴.

The UK government 2011 Call to End Violence Against Women and Girls Action Plan³¹⁵ called for the FMU to raise awareness of forced marriage and **challenge attitudes** which condone this practice through media activities, training events and community engagement. This included exploring good practice approaches to further engage communities and running an annual preventive media campaign in the run-up to the school summer holidays³¹⁶.

National policies targeting forced marriage within the context of policies addressing trafficking in human beings

To tackle the interrelation between forced marriage and trafficking in human beings, in 2015, the project '**Preventing human trafficking and sham marriages: A multidisciplinary solution (HESTIA)**' was launched by the Latvian Ministry of the Interior with the support of the Directorate General of Home Affairs of the European Commission and in collaboration with public and non-governmental organisations of Estonia, Ireland, Latvia, Lithuania and Slovakia³¹⁷. The objective of this project is to reduce marriages of convenience that may in fact be forced marriage (see Section 5.3) by implementing activities such as comprehensive research on marriages of convenience and forced marriage, information campaigns and training sessions for relevant actors in the six countries involved³¹⁸.

Moreover, the current '**National Programme on the Fight against Human Trafficking for 2015-2018**' adopted by the Slovak Government on 4 February 2015³¹⁹ provides for both **statistical data on forced marriage** and the establishment of a **Joint Investigation Team (JIT)** between the UK and the General Prosecutor's Office of the Slovak Republic aimed to facilitate investigation and prosecution of transnational cases of forced marriage and sexual violence. A JIT with the same aim was also established between the UK and the Unit for Combating Organised Crime of the Criminal Police and Investigation Service of the

³¹² The National Office for the Prevention of Domestic, Sexual and Gender-based Violence and the Department of Justice, Equality and Law Reform, '[National Strategy on Domestic, Sexual and Gender-based Violence 2010-2014](#)', March 2010.

³¹³ [Secretary of State for Equal Opportunities](#), Parliamentary Question nr. 6-584.

³¹⁴ '[La Belgique adopte une résolution décisive contre les mariages d'enfants](#)', Plan Website.

³¹⁵ The [UK National Action Plan](#).

³¹⁶ UK [Government progress report](#), A Call to End Violence against Women and Girls Progress Report 2010- 2015.

³¹⁷ [Website](#) of The European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI).

³¹⁸ European Commission, [Together Against Trafficking in Human Beings](#), Information on Latvia.

³¹⁹ [The Government of the Slovak Republic, 'National programme on the fight against human trafficking for the years 2015-2018'](#).

Police of the Czech Republic³²⁰.

5.4. Forced marriage as a form of gender based violence and avoiding the risk of stigmatisation of migrant or ethnic communities

The research carried out highlighted the importance of considering forced marriages a **gender violence** issue that should not be linked to racial, ethnic or religious characteristics³²¹. The Belgian Institute for Equality between Women and Men also emphasised that it is very important to use certain terms such as 'honour related violence' with caution in order not to excuse violence by linking it to the possible protection of one's honour³²².

The Marriage and Migration Network which is an umbrella structure for associations dealing with forced marriage in Belgium pays particular attention to **avoiding the risk of stigmatisation** in its activities by trying not to address its message to specific migrant or ethnic minority communities. For example, in the context of their awareness raising activities, they organise theatre plays in schools. In one of these theatre plays, they described forced marriage within four families: an aristocrat family, an Italian-Flemish family, a family of Moroccans and a fantasy family called 'Juliette Capulet'³²³.

Similarly, victims associations also showed their concern with regard to the risk of stigmatisation leading to gender, cultural or religious discrimination³²⁴. They supported the **recognition of 'forced marriage' as a form of gender-based violence** (comparable to any other form of gender-based violence) in order to avoid stigmatisation of populations of foreign origin. **Domestic violence** in fact occurs in all social and cultural assets and as such does not necessarily relate to immigrant or ethnic minority families. This view was **reflected in the 'National Action Plan against partner violence and other forms of domestic violence 2010-2014' that recognised forced marriage among the forms of domestic violence**³²⁵ (Section 5.1).

Moreover the research carried out also highlighted that it is important to take into account **structural factors**, such as poverty, in understanding forced marriage³²⁶.

At the same time, there are also concerns that some professionals do not act to avoid stigmatising communities. For example, according to the Bulgarian Centre for Inter-ethnicity Dialogue and Tolerance, NGOs dealing with Roma issues are reluctant to discuss the topic of forced marriage because of the high risk of exacerbating Roma stigmatisation³²⁷.

³²⁰ National strategy to combat trafficking in human beings for the period 2012 - 2015.

³²¹ The Institute for Equality between Women and Men '[Étude phénoménologique scientifique de la violence liée à l'honneur en Belgique - Rapport final \(2011\)](#)'.

³²² The Institute for Equality between Women and Men '[Étude phénoménologique scientifique de la violence liée à l'honneur en Belgique - Rapport final \(2011\)](#)'.

³²³ Bensaïd, N. and Rea, A., 'Study on forced marriage in the Brussels-Capital Region ([Étude relative aux mariages forcés en région de Bruxelles-Capitale](#))', ULB, 2012, p. 41.

³²⁴ Minister for Equal Opportunities, Marriage choisi, mariage subi : quels enjeux pour les jeunes ? Actes du colloque, p. 9, 54, 64.

³²⁵ Bensaïd, N. and Rea, A., 'Study on forced marriage in the Brussels-Capital Region ([Étude relative aux mariages forcés en région de Bruxelles-Capitale](#))', ULB, 2012, p. 62.

³²⁶ Gangoli, G; Chantler, K; Hester, M., Singleton, A. 'Understanding forced marriage: definitions and realities', p. 34, in Gill, A.K, Anitha, S., Forced Marriage, Introducing a Social Justice and Human Rights Perspective, p. 31, Zed Books, London and New York, 2011.

³²⁷ Center for Interethnicity Dialogue and Tolerance 'Amalipe', 'Prevention against early marriages' (Plovdiv, 2011).

It has to be made clear that this is not in the best interests of the (potential) victims of forced marriage either. Rather, as recommended by the Lithuanian Institute for Ethnical Studies, it would be more efficient to address forced marriage issues through representatives belonging to migrant and ethnic communities rather than through people that do not belong to such communities in order to avoid further stigmatisation³²⁸. Overall, addressing forced marriage as a form of violence against women would help to avoid stigmatisation.

Potential stigmatisation of migrant and ethnic minority groups due to criminalisation of forced marriage

The potential discriminating and stigmatising effect of creating a specific offence criminalising forced marriage on migrant population groups and ethnic minorities has also been discussed in a study from the International Centre for Reproductive Health³²⁹. According to a study carried out by the International Centre for Reproductive Health ICRH the introductions of specific provision making forced marriage an offence might cast suspicion on communities already overrepresented in the criminal justice system, contributing to negatively affect the cultural assimilation of migrants and ethnic minorities³³⁰. As in the EU there is a high risk to pair the issue of forced marriage with migrant communities culture, the generalisation from individual cases of forced marriage to the marriage practices of whole minority groups might exacerbate conflicts between minority and majority groups about cultural values linked to marriage and gender roles³³¹.

³²⁸ Information collected through consultation with national stakeholders (representative of the Lithuanian Institute For Ethnical Studies).

³²⁹ [ICRH - International Centre for Reproductive Health, A. Sabbe, M. Temmerman, E. Brems & E. Leye, Forced marriage: an analysis of legislation and political measures in Europe, 2014, p. 8](#); R. Kool, 'Step forward, or forever hold your peace: penalising forced marriages in the Netherlands', *Netherlands Quarterly of Human Rights*, 2012, p. 388-413; A. Cornelissens, J. Kuppens, & H. Ferwerda, 'Huwelijkswang. Een verbintenis voor het leven?', 2009, Den Haag: Ministry of Justice; [Els Leye, 'Analytical report - MATRIFOR Forced marriage in Belgium: a qualitative research'](#), p. 28-30.

³³⁰ [ICRH, Forced marriage: an analysis of legislation and political measures in Europe, 2014, p. 8](#)

³³¹ *Ibid.*, p. 9 - p.14.

6. IMPLEMENTATION AND CONSEQUENCES OF LEGAL PROVISIONS CRIMINALISING FORCED MARRIAGE

KEY FINDINGS

- In Member States where forced marriage is criminalised, only a very limited amount of case-law was identified. This can partly be explained by the fact that the offence provisions are relatively new in some Member States.
- Moreover, some challenges hindering the prosecution of such offences were identified, including:
 - The lack of structures to support/assist victims of forced marriage and the absence of protection programmes applicable to victims of forced marriage;
 - Lack of awareness on the existence of a legal remedy;
 - The exclusion in many Member States, of child marriages and religious marriages with no civil validity from the scope of national legislation criminalising forced marriage;
 - Legal uncertainty in the definition of forced marriage in some Member States.
- Legislation criminalising forced marriage may have potential long-term benefits in changing entrenched views on forced marriage and a strong deterrent effect for perpetrators. However, criminalisation should also be accompanied by other measures aimed at prevention and victim support in order to achieve long-term positive consequences.

This Section analyses the implementation of the national legal provisions criminalising forced marriage in those Member States where forced marriage is a criminal offence i.e. Belgium, Bulgaria, Croatia, Cyprus, Denmark, Germany, Spain, Luxembourg, Malta, Portugal, Slovenia, Sweden and the UK (Section 5.2).

6.1.1. Application of forced marriage criminal provisions in relevant Member States

Prosecution of forced marriage

The table below provides an overview of the **number of national court cases** concerning forced marriage, the number of convictions and the type of sentences imposed during the reference period for this study (2011-2015), as identified by national experts³³². These figures are not representative of the full number of cases in those Member States, given the considerable limitations in accessing such cases (example.g. due to a lack of centralised case-law databases recording these cases).

³³² It is noted that this information was collected consulting a pool of national experts (one per Member State) who were asked to describe the application of the national legislation specifically criminalising forced marriage (where applicable), through the identification of case-law. Member States not criminalising forced marriage were not included in the table.

Table 4 Court cases concerning forced marriage

Member States	Number of cases	Number of cases where the offender was convicted	Type of sentence imposed
BE	2	1	Imprisonment
BG	3	3	Imprisonment
CY	n.a	n.a	n.a
DE	3	1	Imprisonment (suspended)
ES	n.a	n.a	n.a
HR	n.a	n.a	n.a
LU	n.a	n.a	n.a
MT	n.a	n.a	n.a
PT	n.a	n.a	n.a
SE	n.a	n.a	n.a
SI	n.a	n.a	n.a
UK	1	1	imprisonment

Case-law on forced marriage was identified in Belgium, Bulgaria, Germany and the UK.

In **Belgium**, one case of attempted forced marriage was recorded in 2011³³³. The case of two Roma minors forced into marriage was reported in 2014 by the Federal Migration Centre³³⁴. Nevertheless, in this case, the perpetrators were condemned for trafficking in human beings (and sexual exploitation) rather than for forced marriage (see table 6 below).

Three cases were identified in the reference period in **Bulgaria**. In two out of the three reported cases, the defendants and victims were Roma and the victims were minors³³⁵. In all the three cases the defendants were found guilty under Article 177(2) of the Bulgarian Criminal Code (kidnapping a woman with the aim of forcing her to marry)³³⁶.

Similarly, three cases were identified in the reference period in **Germany**. In two of the three German cases reported, the charges were dropped³³⁷. In the third case, the defendant was convicted to imprisonment in first instance³³⁸.

In the **UK**, forced marriage was only criminalised through the Anti-social Behaviour, Crime and Policing Act 2014, which came into force in June 2014. To date, one case of forced marriage has been tried in the Merthyr Tydfil Court (Wales) (see table in Annex II).

The table in Annex II identifies the key facts of the case-law on forced marriage recorded in **Belgium, Bulgaria and Germany** and briefly describes the court's decision, the sentence applied as well as the key interpretation issues relating to the forced marriage offence provision identified from the reasoning of the court, where available.

As can be seen from the case-law described above, only a **few cases** of forced marriage have been identified, even though data or reports of forced marriage analysed in some of

³³³ Criminal Court Charleroi 2011; Criminal Court Mons 2011. Information on the case available on newspaper: [Skynet.be, 'L'affaire Sadia Sheikh : crime d'honneur'](#); [RETBF, 'Sadia Sheikh, victime d'un crime d'honneur?'](#).

³³⁴ Criminal Court Verviers, 30 January 2014, 11th. [Federal Migration Centre, 'Annual Report 2015', 2015](#), p. 22.

³³⁵ [Case N.O.H.D. 292/2012 of Regional Court Asenovgrad](#); [Case N.O.H.D. 2/2012 of Regional Court Purvomay](#).

³³⁶ [Case N.O.H.D. 292/2012 of Regional Court Asenovgrad](#); [Case N.O.H.D. 113/2013 of Regional Court Popovo](#); [Case N.O.H.D. 2/2012 of Regional Court Purvomay](#).

³³⁷ Case 51 KLs 12Js 210/09-39/09 2011 of the Provincial Court of Essen; Case 6035 Js 15308/12 4. KIs of the Provincial court of Kaiserslautern.

³³⁸ Case 26 Ns11/15 of the Local Court of Potsdam.

these Member States suggest that the practice of **forced marriage occurs**. For example, although Luxembourg's criminal law prohibits forced marriage and NGOs have reported on cases of forced marriage occurring in the country³³⁹, no cases have been prosecuted yet under the specific offence provision (nor under any other criminal law provisions). In the UK for example, only one conviction has been obtained under the Anti-social Behaviour, Crime and Policing Act 2014 - yet as discussed above, the Forced Marriage Unit handled 1267 cases in 2014.

One of the reasons for the low amount of case-law on forced marriage is that **the offence provision has only recently been introduced in some Member States**³⁴⁰. For example, in Spain, forced marriage was not a specific criminal offence until 30 March 2015. For the time being, no case-law implementing the new Article 172-*bis* criminalising forced marriage has been identified.

Another reason for the limited case-law is that often **cases of forced marriage do not reach the courts**. A number of challenges relating to the application of the national criminal provisions on forced marriage were identified by national experts, including shortcomings in victim support systems as well as difficulties arising from the scope and lack of clarity of certain offence provisions on forced marriage.

Lack of adequate victim support

The lack of support-structures aimed to assist victims of forced marriage is perceived as a **key element hindering the prosecution of forced marriage** by national experts in four of the eight Member States currently criminalising forced marriage (Cyprus, Germany, Croatia, Malta and the UK).

In the majority of cases of forced marriage, the perpetrators are members of the victim's immediate **family or extended family**³⁴¹. Therefore, victims of forced marriage who decide to report their case are particularly vulnerable and in need of psychological assistance and financial support during the criminal proceedings. An interviewed stakeholder from the Danish NGO Ethnic Minority Youth (LOKK) highlighted that among migrants and ethnic minorities young people normally establish very close ties with their extended family, representing the central unit of their entire social network. Therefore, **should the perpetrators be members of the victim's family**, the strong loyalty existing in this network may deter the victim from coming forward³⁴².

Where such support structures are lacking, the criminalisation of forced marriage may prevent victims from reporting their case to the competent authority by fostering the **'conflict of loyalties'** that victims of forced marriage often experience with regard to their families³⁴³. This concern was highlighted by national experts in Belgium, Cyprus, Germany, Denmark and the Netherlands.

Moreover, the lack of support structures negatively affects the prosecution of the offence as victims are not helped in becoming aware of their situation. Victims of forced marriage require specialist support services including legal services. Yet in the UK for example,

³³⁹ [European Migration Network – National Contact Point Luxembourg, 'EMN Focussed Study 2012 - Misuse of the Right to Family Reunification: marriages of convenience and false declarations of parenthood', 2012](#), p.26

³⁴⁰ Slovenia (Article 132a, added by the Act Amending the Criminal Code, KZ-1C, Official Gazette No. 54/2015 entered into force on 18 October 2015); Sweden (Chapter 4, Article 4c, added by Government Bill 2013/14:208); Malta (Article 251G of the Criminal Code, added by Act I of 2014); Spain (Article 172 bis of the Criminal Code, added by Law N. 1 of 30 March 2015); Portugal (Article 154-B of the Criminal Code, added by Law N. 83 of 5 August 2015); UK Anti-social Behaviour, Crime and Policing Act 2014 came into force in June 2014.

³⁴¹ [FRA, 'Addressing forced marriage in the EU: legal provisions and promising practices' \(2014\), p. 14; Council of Europe, Parliamentary Assembly, Resolution 1468 \(2005\), Forced marriages and child marriages, 5 October 2005.](#)

³⁴² Information collected through consultation with a representative from Ethnic Minority Youth, LOKK on 14 September 2015.

³⁴³ [ICRH - International Centre for Reproductive Health, A. Sabbe, M. Temmerman, E. Brems & E. Leye, Forced marriage: an analysis of legislation and political measures in Europe, 2014](#), p. 9.

research by Rights of Women³⁴⁴ suggests that often **victims of forced marriage cannot afford to pay** for legal assistance and cuts to legal aid in the UK have had a negative impact on **victims' ability to obtain legal advice**³⁴⁵. Research in the UK also suggests that victims of forced marriage are reportedly more likely to trust minority ethnic **women's** services rather than State agencies, but that these services are underfunded in the UK. The **UN's Special Rapporteur on violence against women has called for the UK government to 'urgently evaluate the way women's support services are funded and then act to ensure a network of women-centred services are available to all who need them'**.

Deterrent criminal penalties therefore need to be accompanied by appropriate structures giving psychological assistance to the victims.

Arranged or forced marriage: victims do not recognise themselves as such

The research carried out by national experts also revealed that in many cases victims of forced marriage do not recognise themselves as such. In many traditional Roma communities, for example, arranged marriages represent a common practice (see Section 8). As reported by national experts in the Czech Republic, Lithuania, Poland, Portugal and Romania, most Roma **accept forced marriage as a part of their culture**. Such marriages are considered as customary and are respected and followed by the community³⁴⁶. Leaders of groups representing Roma communities deny the existence of forced marriages, claiming that their tradition does not entail any constraint over the betrothed³⁴⁷. For this reason potential or actual victims of forced marriage may not report the case to the authorities³⁴⁸.

It has to be recalled in this context that forced marriage necessarily embraces child marriage. Therefore, also child victims often do not recognise themselves as such. (see Section 2).

Difficulties arising from the scope of the offence provisions

Some difficulties stemming from the legislation and scope of the specific national offence provisions were reported by national experts. In Cyprus and Sweden, while victims of forced marriage are often under-age women, the national legislation criminalising forced marriage **does not specifically include child marriages** in its scope. As specific provisions regarding the protection of children are not included in the offence provision, the result is that the criminal provision is not able to target the persons most affected by this practice³⁴⁹.

Another factor hindering the prosecution of forced marriage is that most national provisions criminalising forced marriage (with the exception of the Danish, Slovenian and Swedish provisions) **do not include in their scope religious marriages or mere cohabitation**. Some migrant and ethnic minorities (including Roma) frequently celebrate the marriage through a religious ritual with no civil validity according to the national legislation³⁵⁰. The result is that if the forced marriage takes place in these Member States within a religious marriage or cohabitation and the criminal provision on forced marriage does not explicitly

³⁴⁴ Rights of Women 'Evidencing domestic violence: a barrier to family law legal aid' available at <http://rightsofwomen.org.uk/wp-content/uploads/2014/10/Evidencing-DV-a-barrier-2013.pdf>.

³⁴⁵ The Guardian 'Legal aid cuts: The forgotten pillar of the welfare state – a special report' available at <http://www.theguardian.com/law/2014/sep/25/-sp-legal-aid-forgotten-pillar-welfare-state-special-report-impact-cuts>

³⁴⁶ Information stemming from the interview of the President of the Portuguese Federation of Roma Association.

³⁴⁷ *Ibid.*

³⁴⁸ Information stemming from the interview of the President of the Portuguese Federation of Roma Association and from the conclusions of the consulted Slovenian national expert.

³⁴⁹ Conclusions of the Cypriot and Swedish national experts, (Cypriot and Swedish national researches).

³⁵⁰ Information stemming from the consultation of the pool of EU national experts.

include them in its scope, forced marriage cannot be prosecuted as the union is not valid under the national civil law.

In contrast, in Denmark religious marriages with no civic validity were explicitly added to Section 260(2) of the Criminal Code criminalising forced marriage in 2013³⁵¹. It is worth noting that pursuant to the Act on Partnerships (*Partnerskabsloven*)³⁵², civil partnerships are likewise covered by Section 260(2).

In Slovenia, Article 132a(1) of the Criminal Code criminalising forced marriage applies more broadly to unions equivalent to marriages according to Slovenian law, such as legal cohabitations:

'Whoever, with the use of force or the threat to use force or abusing of the subordinate or dependent position of another person, forces this person to marriage or to form of a similar union, which is equivalent to marriage in accordance with the law, shall be sentenced to imprisonment for up to three years'³⁵³.

Swedish legislation criminalising forced marriage also applies to 'marriage-like-relationships' which are defined as 'any relationship celebrated or formally accepted as such according to the cultural/religious/social value applied within a certain group or community whose parties are regarded as spouses [...]'³⁵⁴. The scope of this criminal provision is even wider than the Slovenian provision because it is not limited to legal cohabitation only, but can potentially apply to religious marriages or unions that do not have any civil validity under the national legislation.

Lack of clarity in the offence provision

The lack of clarity of the offence provision on forced marriage was also raised by national experts in Cyprus, Germany and Spain as a factor which led to legal uncertainty. In particular, difficulties in application arise where the legislation **does not provide a clear definition** of forced marriage and fails to precisely identify and define the elements which constitute the offence.

For example, the lack of consent is defined as involving the element of **duress** in the Criminal Code of Cyprus. However, the provision neither defines duress, nor specifies if it is limited to physical duress or if it also encompasses psychological and emotional duress³⁵⁵.

The German and Spanish criminal provisions do not define the element of duress either. Nevertheless, the **use of force** or the **threat of serious harm, and violence or serious intimidation**, respectively, can be considered as elements vitiating the consent³⁵⁶.

³⁵¹ Bill No. L 143 of 6 February 2013 on amendment of the Criminal Code, the Aliens Act and the Act on Restraining Orders etc. (Strengthened effort against coercion in connection with marriages and religious wedding ceremonies), (*Forslag nr. L 143 af 6. februar 2013 til Lov om ændring af straffeloven, udlændingeloven og lov om tilhold, opholdsforbud og bortvisning (Styrket indsats mod tvang i forbindelse med ægteskaber og religiøse vielser)*) the Minister of Justice, general remarks para. 2.1 and specific remarks to Section 1 (resulting in [Act No. 434 of 1 May 2013](#)).

³⁵² Section 3 (2) of Consolidation Act No. 938 of 10 October 2005 (as amended) '[Promulgation of Act on Civil Partnerships](#)', Official Journal A, 18 October 2005, stipulating that 'Provisions of Danish law about marriage and spouses must be applied correspondingly to civil partnerships and civil partners'.

³⁵³ Article 132a (1), added by the Act Amending the Slovenian Criminal Code KZ-1C, Official Gazette No. 54/2015 entered into force on 18 October 2015.

³⁵⁴ [Government Bill 2013/14:208](#) 'Greater protection against forced marriage and child marriage, and accession to the Council of Europe Convention on preventing and combating violence against women'.

³⁵⁵ [Criminal Code of Cyprus, Article 150](#): 'Anyone who by means of duress forces any person to marry against his or her will is guilty of a misdemeanour'.

³⁵⁶ [Criminal Code of Germany, last amended by Law of 10.10.2013 \(Federal Law Gazette I p 3799\), Article 237 \(1\)](#): 'Whosoever with force or threat of serious harm forces a person to enter into a marriage shall be imprisoned from six months to five years. [...]'. [Criminal Code of Spain, Article 172 bis](#), introduced by [Law 1/2015](#), : 'Who with serious intimidation or violence coerces another person to marry will be punished with 6 months to 3 years and 6 months imprisonment or with a fine of 12 to 24 months [...]'.
'

Article 172bis of the Spanish Criminal Code sanctions anyone who 'with serious intimidation or violence coerces another person to marry' **with** imprisonment of 6 months to 3 years and 6 months or with a fine of 12 to 24 months. This raises issues of interpretation with regard to the extent of the '**seriousness**' of the intimidation: the Spanish Council of Prosecutors and the Council of the Judiciary criticised the provision for leaving out of its scope any form of intimidation which, although not 'serious' could be sufficient to alter the will of the victim³⁵⁷.

In Germany, Article 237(1) of the Criminal Code refers to forcing a person to enter into a marriage '**with force or threat of serious harm**'. This does not take into account the possibility that someone could also be forced to marriage through **emotional duress**, which is particularly likely to occur where the potential victim is psychologically or financially dependent on his/her family, for example. Furthermore, Article 237(3) of the German Criminal Code specifies that the **attempt of forced marriage** is also punishable³⁵⁸. This also generates legal uncertainty as Article 237(3) does not provide any indication on the extent to which a certain act can be considered as such or of any circumstances that could indicate an attempt to force someone into a marriage.

In Malta, Article 251G of the Criminal Code punishes 'any person who by force, bribery, deceit, deprivation of liberty, improper pressure or any other unlawful conduct or by threats of such conduct forces anyone to enter into a marriage'. The Maltese provision criminalising forced marriage lists different elements likely to hinder the consent to marriage: force, bribery, deceit, deprivation of liberty, and improper pressure. The list also refers to '**any other unlawful conduct or [...] threats of such conduct**'³⁵⁹, which leaves a large margin for interpretation causing legal uncertainty.

Prosecution is dependent on a complaint by the victim

In Bulgaria, **the offence of forced marriage cannot be prosecuted ex officio**. This was considered to be a significant problem given that the main group of victims of forced marriage in Bulgaria are under-age women who are usually more likely to be subject to the emotional pressure of their families. As a result, when the victim is a minor girl and the perpetrators are members of her own family, the case often remains unreported³⁶⁰.

6.1.2. Consequences of criminal legislation

Legislation criminalising forced marriage may have potential long-term benefits in **changing entrenched views** on forced marriage and a **strong deterrent effect** for perpetrators. However, criminalisation should also be accompanied by other measures aimed at **prevention and victim support** in order to achieve long-term positive consequences (see Section 4 and Section 5).

The criminal provisions on forced marriage are recognised as having a positive impact at least in terms of **reassuring the victims on the existence of accessible legal remedies** to their situation as well as sending an unequivocal signal to the potential perpetrators that the practice is unacceptable³⁶¹.

³⁵⁷ Conclusions of the Spanish national expert. (Spanish national research).

³⁵⁸ [Criminal Code of Germany, last amended by Law of 10.10.2013 \(Federal Law Gazette I p. 3799\), Article 237 \(3\): 'The attempt shall be punishable'](#).

³⁵⁹ Conclusions of the Maltese national expert, (Maltese national research). [Criminal Code of Malta, Article 251G: 'Any person who by force, bribery, deceit, deprivation of liberty, improper pressure or any other unlawful conduct or by threats of such conduct, forces anyone to enter into a marriage shall be guilty of causing a forced marriage \[...\]'](#).

³⁶⁰ Conclusions of the Bulgarian national expert (Bulgarian national research).

³⁶¹ Information stemming from the consultation of the pool of EU national experts.

Nevertheless, research from national experts suggested that the positive impact of the legislation has been significantly limited by the widespread **lack of awareness** concerning the applicable legal framework, and available safeguards for victims³⁶².

The lack of awareness detected by the national research reinforces the need, as set out in Articles 13 to 17 of the Istanbul Convention, for **greater awareness raising at all levels**, the inclusion of teaching materials in education *curricula*, training for relevant professionals, preventive intervention and treatment programmes, and participation of the private sector and the media³⁶³.

The success of the criminal legislation also depends on how **effective** it proves for victims. As discussed above for some Member States, shortfalls in victim protection safeguards are a significant factor in limiting the effectiveness of forced marriage criminal provisions.

³⁶² Conclusions of the Belgian, Croatian, German, Luxembourg and Slovenian national experts, (Belgian, Croatian, Luxembourg, German and Slovenian national researches).

³⁶³ [Council of Europe Convention on preventing and combating violence against women and domestic violence, Istanbul, 11.V.2011](#), Articles 13-17.

7. CASE-STUDIES ON FORCED MARRIAGE IN SELECTED MEMBER STATES WITH A SPECIFIC GENDER EQUALITY PERSPECTIVE

KEY FINDINGS

- In **Denmark** forced marriage is criminalised under the offence provision on unlawful coercion under Section 260 of the Criminal Code, however no conviction of forced marriage has yet been secured under this provision. Forced marriage is tackled for example within a broader government strategy against honour related conflicts. Between 2011 and 2014 sixty-eight complaints specifically concerning forced marriages were reported, mostly involving women. Significant challenges are observed with regard to a lack of harmonised data collection and unwillingness of victims to report their cases.
- In **Germany** forced marriage is criminalised under a standalone offence provision (Section 237 of the Criminal Code). 176 cases of forced marriage were reported between 2012 and 2014, and girls/women are reportedly mostly affected by forced marriage. The low level of prosecuted cases can be attributed to difficulties in applying criminal provisions to forced marriage that do not have civil validity in Germany, and a reported lack of support structures and protection programmes.
- In **Spain** Article 172bis of the Criminal Code specifically criminalising forced marriage was introduced in March 2015. Difficulties arise regarding the definition of forced marriage under the offence provisions and insufficiently deterrent penalties. There is a significant lack of data and case-law at national level, which can be attributed to the fact that forced marriage was only recently criminalised, as well as significant under-reporting by victims. Regional efforts to measure forced marriage are noted however, including in Catalonia.
- In **Slovakia**, forced marriage is sanctioned under the offence of trafficking in human beings. Government initiatives to tackle forced marriage were also identified in the context of efforts to tackle trafficking in human beings. Young people from marginalised communities are particularly vulnerable to human trafficking, including Roma communities. Cases of forced marriage mostly affect women and girls.
- In the **UK**, forced marriage was initially addressed through civil remedies (victims could apply to the courts for Forced Marriage Protection Orders). Forced marriage has recently been criminalised under the Anti-Social Behaviour, Crime and Policing Act 2014 (**England & Wales, Scotland**) and the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act 2015 (**Northern Ireland**). The Forced Marriage Unit (FMU), set up in 2005 is a joint Foreign and Commonwealth Office and Home Office institution designed to help people who are being forced into marriage. While the FMU reports having handled 1267 cases in 2014, only one case has been prosecuted under the criminal law. A key challenge relates to the underfunding of services and insufficient support for victims of forced marriage.

This Section contains five case-studies for selected EU Member States criminalising forced marriage. Three of the Case-studies aim to update those already developed for **Denmark, Germany** and the **UK** by the 2008 Study on Forced Marriages and Honour Killings commissioned by the European Parliament. Two new Case-studies on **Slovakia** and **Spain** have been developed on request of the European Parliament. All case-studies briefly describe the **legal and policy framework** existing in the relevant country including, where relevant, special bodies set up to combat/prevent forced marriages (e.g. the Forced Marriage Unit in the UK). Furthermore, **implementation issues** or particular challenges in the prosecution of the offence are highlighted when relevant and cross-references are made to specific Sections of the present study where such points are further analysed. Regarding Denmark, Germany and the United Kingdom, it is noted that, due to the different objective of this study when compared to that of the 2008 Study, the extent of the update is limited by the scope of this new study. At the same time, other issues have been introduced in both the updated and new case-studies when relevant for the purposes of this study.

7.1.1. Denmark

As highlighted under Section 4 of the present study, between 2011 and 2014 **sixty-eight (68) cases/complaints** specifically concerning forced marriages were reported to the National Police by local police districts. According to statistics collected between 2011 and 2014 by the National Organisation of Women's Shelters in Denmark³⁶⁴ and the Rehabilitation Centre for Ethnic Youth in Denmark³⁶⁵, forced marriages mainly occur among some ethnic groups, namely Pakistanis, Afghan, Iraqi, Turkish and Lebanese communities. A 2004 survey showed that forced marriage occurs primarily amongst young people of Pakistani origin (14 %)³⁶⁶, attributing the occurrence of the practice to the Pakistani *zaat*-system³⁶⁷. According to the survey, 4 % of young people of Lebanese origin and 2 % with Turkish background were not at all involved in the process of finding their spouses³⁶⁸. Furthermore, on average, in Denmark, women appear to be the most affected by this practice³⁶⁹. Since the 1990s, the Danish government has made efforts to combat forced marriages along with efforts to reduce immigration, improve integration and combat marriages of convenience. Efforts have been made at various legislative and political levels.

In the **Criminal Code** forcing someone to marriage by means of violence, threats, substantial damage to property, deprivation of liberty, false accusation of having committed a punishable act or dishonourable conduct or of revealing matters belonging to someone's private affairs, is criminalised (non-explicitly) under Section 260(1) on unlawful coercion. Nevertheless, it seems that **no one in Denmark has ever been convicted** for forced marriage under Section 260³⁷⁰. Over the past years, Section 260 has been amended with regards specifically to forced marriage:

³⁶⁴ [LOKK website](#).

³⁶⁵ [RED-Safehouse website](#).

³⁶⁶ Schmidt, G. and Jakobsen, V., 'Couple making amongst ethnic minorities in Denmark' (*Pardannelse blandt etniske minoriteter i Danmark*) the National Centre for Social Research (04:09, Copenhagen, 2004), pp. 7, 24-35, 45-48, 122-127, 133-181.

³⁶⁷ The study informs that the *zaat* is a Pakistani caste system. In the *zaat* system it is quite common that marriages exclusively occur within the same clan.

³⁶⁸ Schmidt, G. and Jakobsen, V., 'Couple making amongst ethnic minorities in Denmark', pp. 7, 24-35, 45-48, 122-127, 133-181, supra.

³⁶⁹ 'Forced marriages - statistics for the European Parliament' (*Tvangsægteskaber - statistik til Europa-Parlamentet*), Ethnic Minority Youth, LOKK, 16 September 2015, sent by e-mail on 17 September 2015.

³⁷⁰ Consultation of printed judgments in the 'Weekly Legal Journal' (*Ugeskrift for Retsvæsen*) and the 'Criminal Law Journal' (*Tidsskrift for Kriminalret*); information also confirmed by consultation with [Ethnic Minority Youth, LOKK](#), on 14 September 2015. It is noted that convictions for other offences, such as violence, abduction, female genital mutilation or murder, in cases partly involving forced marriages have occurred. See: Grøndahl, M., 'The fight against forced marriages in Denmark' (Kampen mod tvangsægteskaber i Danmark) (iBureauet/Dagbladet Information, 2004); Annotated Bibliography on Comparative and International Law relating to Forced Marriage The Department of Justice, The Government of Canada (modified July 2015), paragraph 5.2.3; and Jørgensen, S., 'The social rights of ethnic minority women' (Etniske minoritetskvindens sociale rettigheder) (1st print, 1st edition, DJØF's Forlag/Publisher, Copenhagen, 2007), p. 214.

- In 2008, Subsection 2, explicitly doubling the penalty foreseen under Section 1 for the offence of unlawful coercion should a forced marriage occur, was inserted to reflect Danish society's strong disapproval of this practice³⁷¹.
- In 2013, the increased penalty was extended to religious marriages with no civil validity³⁷².

In the **Aliens Act** the rules on residence permits for spouse reunification³⁷³ have been adopted to prevent and to combat forced marriages, to reduce immigration and to improve integration³⁷⁴:

- The '**24-year requirement**' of Section 9(1)(i) sets out that the minimum age for spouse reunification is 24. This rule was introduced *inter alia* assuming that the older a person is, the better he/she can resist to his/her family's or other people's undue pressure to contract marriage against his/her will³⁷⁵. However, the impact of this provision on the effective reduction of forced marriages in Denmark remains undetermined³⁷⁶. Furthermore, most critics of the 24-year rule question its objective and proportionality and the rule's compatibility with human rights law³⁷⁷.
- The '**voluntariness requirement**' and the related '**presumption/cousin rule**' of Section 9(8) set out that: spouse reunification is not allowed if it is doubtful that the marriage was contracted at both parties' own will; it is considered doubtful that a marriage contracted between close relatives - e.g. cousins - was contracted at both parties' own will³⁷⁸.

The most recent **policies aimed at combating or preventing forced marriages** are the 2012 '**National Strategy against Honour-related Conflicts** - a targeted effort against honour related conflicts'³⁷⁹ (where forced marriage is targeted as part of a wider effort against honour related conflicts); and the 2012 '**Government's Strategy against Parallel Conceptions of Law** - A crackdown on force and oppression in connection with religious wedding ceremonies'³⁸⁰, aiming at preventing women and minors from suffering undue pressure to contract a religious marriage against their will. Moreover, NGOs such as the

³⁷¹ By [Act No. 316 of 30 April 2008](#), Official Journal A, 1 May 2008; cf. [Bill No. L 68, 2008](#), general remarks, paragraph 1.

³⁷² *Ibid.*

³⁷³ For a brief overview, see [Spouses and cohabiting partners](#) The Danish Immigration Service (February 2015).

³⁷⁴ Consolidation Act No. 1021 of 19 September 2014, 'Promulgation of the Aliens Act' ([Bekendtgørelse af udlændingeloven](#)), Official Journal A, 26 September 2014.

³⁷⁵ The Minister of Refugees, Immigration and Integration Affairs (hereafter [Bill No. L 152, 2002](#)), general remarks under paragraph 7.1.

³⁷⁶ Schmidt, G., et al., 'Amended rules on family reunification: What impact did the new rules have on the couple making pattern amongst ethnic minorities?' ([Ændrede familiesammenføringsregler: Hvad har de nye regler betydet for pardannelsesmønstret blandt etniske minoriteter?](#)), The National Centre for Social Research, 2009; N. Billie, '[The 24-rule failed](#)' ('24-årsreglen har fejlet') in *Opinionen* (7 November 2013); and [Memorandum to the Danish Government: Assessment of the progress made in implementing the 2004 recommendations of the Council of Europe Commissioner for Human Rights](#), CommDH(2007)11, Commissioner for Human Rights (Strasbourg, 11 July 2007), paragraph 9.

³⁷⁷ Hearing statements submitted to the Bill by: [The Documentation and Counselling Centre on Racial Discrimination](#) (6 February 2012); [SOS against Racism](#) (17 February 2012); [Marriage Without Limits](#) (February 2012); [The Danish Institute for Human Rights](#) (9 February 2012); [Refugees Welcome](#) (February 2012); and [The Legal Policy Association](#) (8 February 2012).

³⁷⁸ [Act No. 473 of 1 July 1998](#), Official Journal A, 2 July 1998, as last amended by [Act No. 1204 of 27 December 2003](#), Official Journal A, 30 December 2003.

³⁷⁹ [National strategi mod æresrelaterede konflikter - en målrettet indsats mod æresrelaterede konflikter](#) The Ministry for Children, Equal Treatment, Integration and Social Affairs (6 July 2012).

³⁸⁰ [Regeringens strategi mod Parallelle retsopfattelser - opgør med tvang og undertrykkelse ifm. religiøse vielser](#) The Government (27 November 2012).

National Organisation of Women's Shelters in Denmark in Denmark (LOKK)³⁸¹ and the RED-Safehouse³⁸² play a vital role in combatting/preventing forced marriages and implementing governmental initiatives.

The most important challenges in Denmark with regards to combating and preventing forced marriages appear to be mainly related to the **lack of a unified data collection** system on forced marriages³⁸³ and the unwillingness of victims to report their cases to the competent authorities (see Section 4 of the present study)³⁸⁴. While some literature and stakeholders argue that the concept of coercion under Section 260 should be wider, and that the prohibition of forced marriage should be transposed into an independent provision of the Criminal Code³⁸⁵, other stakeholders argue that the practice of forced marriage could be more efficiently combated and prevented by raising awareness on the phenomenon among potential victims and perpetrators rather than through criminalisation³⁸⁶.

7.1.2. Germany

According to the study *Forced marriages in Germany – number and analysis of consultation cases*, girls and women are mainly affected by forced marriage (93 % of girls and women compared to 7 % of boys and men). Women between 18 and 21 years of age are the first age-group affected by the practice (40 %), followed by girls under 18 (30 %)³⁸⁷. Almost all affected persons have a migration background (i.e. they were either born abroad or had at least one parent who migrated to Germany or is of foreign citizenship) and a great number of them have German citizenship³⁸⁸. In 2008, a total of 3,443 persons were assisted by counselling centres due to a threatened or celebrated forced marriage³⁸⁹. Between 2012 and 2014 176 cases of forced marriage were reported in Germany (see Section 4 of this study).

In 2011, the German Federal Government criminalised forced marriage as an individual statutory offence (Section 237 of the German Criminal Code)³⁹⁰. In 2015 the crime of forced marriage was also included in the so-called catalogue of offences committed abroad against domestic legal interests with the result that if a forced marriage involving a person having his/her domicile or usual residence in Germany takes place abroad it can be prosecuted in Germany (Section 5 of the German Criminal Code)³⁹¹. Nevertheless, in order

³⁸¹ [National Organisation of Women's Shelter in Denmark](#) (LOKK).

³⁸² [RED-Safehouse website](#).

³⁸³ '[National Strategy against Honour-related Conflicts](#)', pp. 12 and 60; [Bill No. L 143, 2013](#), general remarks, paragraph 5.2.1; and [The Minister of Justice's response to question No. 451 from the Parliament's Committee for Immigration and Integration Policy](#) (9 October 2012).

³⁸⁴ [Bill No. L 143, 2013](#), general remarks, paragraph 5.2.3; [The Minister for Children, Equal Treatment, Integration and Social Affairs' response to question No. 63 from the Parliament's Committee on Equal Treatment](#) (20 May 2015); [The Minister for Children, Equal Treatment, Integration and Social Affairs' response to question No. 66 from the Parliament's Committee on Equal Treatment](#) (20 May 2015); and information collected through consultation with [Ethnic Minority Youth, LOKK](#), on 14 September 2015.

³⁸⁵ Sabba, 'The provisions on forced marriages of the Criminal Code' ('*Tvangsægteskabsbestemmelserne i straffeloven*') in *Justitia* (No. 4, Vol. 35, DJØF's Publisher, Copenhagen, 2012), p. 3; hearing statements submitted to [Bill No. L 68, 2008](#) by [LOKK \(10 January 2008\)](#) and [The Women's Council in Denmark \(10 January 2008\)](#). See also [Bill No. L 68, 2008](#), general remarks, paragraph 3.3; and '[Denmark's forced marriage law under fire](#)' in *Global Justice Initiative* (4 October 2012).

³⁸⁶ Hearing statements submitted to [Bill No. L 143, 2013](#) by [The Council for Ethnic Minorities \(17 January 2013\)](#); [The Danish Turkish Islamic Foundation \(17 January 2013\)](#); [The Islamic Religious Community in Denmark/The Muslim Association of Denmark \(24/23 January 2013\)](#); and [Refugees Welcome \(January 2013\)](#); and information collected through consultation with [The Islamic Religious Community in Denmark](#) on 23 September 2015.

³⁸⁷ Mirbach, Th., Schaak, T., Triebel, K., *Forced marriages in Germany – number and analysis of consultation cases, (Zwangsverheiratung in Deutschland - Anzahl und Analyse von Beratungsfällen)* (1th edn, Verlag Barbara Budrich, Opladen, Berlin & Farmington Hills, 2011) 67-69. It is noted that according to consultation with national stakeholders, the cases of early marriages within Roma communities in Germany are increasing.

³⁸⁸ *Ibid.*, p. 72-75.

³⁸⁹ *Ibid.*, p. 53.

³⁹⁰ [German Criminal Code, Special Part, Chapter 18, Section 237 'Offences against personal freedom, Forced Marriage, \(Strafgesetzbuch, Achtzehnter Abschnitt, Straftaten gegen die persönliche Freiheit §237 Zwangsheirat\)](#), 30/06/2011 Federal Law Gazette.

³⁹¹ [German Criminal Code, General Part, Chapter One, Section 5 'Offences committed abroad against domestic](#)

to apply both Section 237 and Section 5 of the Criminal Code, it is necessary that the marriage has been celebrated according to the **formalities required by the national civil provisions on marriage**. Therefore, the impossibility of applying the criminal provisions to forced marriages that do not have civil validity in Germany (e.g. religious marriages or mere cohabitations that, in some communities, are considered to create valid commitments) appears as a shortcoming of the current legal framework (see Section 6 of the present study)³⁹².

The German Federal Government has largely acknowledged that the issue of forced marriage has a significant impact on German society. Therefore, several measures have been implemented in order to combat and prevent this practice. For example, a national **multilingual and anonymous telephone helpline** was set up in 2013 to assist women affected by violence, including forced marriage³⁹³. Additionally, the Federal Commissioner for Migration, Refugees and Integration published an informative brochure for schools to **train teachers** on discussing the issue of forced marriage and assisting students who could be potential victims or potential perpetrators³⁹⁴.

Some German states as well as local governments also implemented **measures** in order to combat and prevent the practice of forced marriage. In 2014, Hamburg published a plan of intervention to combat/prevent forced marriage highlighting the possibility to develop interdisciplinary cooperation strategies with different entities such as schools, counselling centres, police, youth welfare services, Aliens Authority, prosecutors, etc.³⁹⁵. The initiative of Hamburg aims to guarantee the effective cooperation of all relevant institutions and authorities to offer the best possible support to victims of forced marriage. The Ministry for Integration of Baden-Württemberg in 2014 supported a theatre project of the NGO Terre Des Femmes aimed at raising awareness among adolescents on the issue of forced marriage³⁹⁶. In 2012, the local government of Munich established a specialised counselling centre for forced marriage³⁹⁷.

As highlighted in Section 4 of the present study, a discrepancy between the number of cases of forced marriage investigated by police authorities, cases reported to counselling services and the prosecuted cases has been identified in Germany. The **lack of support-structures** aimed to assist victims of forced marriage and help them to deal with the 'conflict of loyalties' (that they often experience when the perpetrators are members of their direct families) makes victims more reticent in reporting their cases to the competent authorities. The lack of support-structures also negatively affects the prosecution of the offence as victims are not helped in taking awareness of their situation and of the existence of a legal remedy (see Section 6 of the present study)³⁹⁸. Moreover, the **lack of protection programmes** applicable to victims of forced marriage exposes those who denounce their situation to a high risk of retaliation or discourage victims from reporting their cases³⁹⁹. **An improved victims' support-system** may consist in⁴⁰⁰:

legal interests'. (*Strafgesetzbuch, Erster Abschnitt, § 5 Auslandstaten mit besonderem Inlandsbezug*), 26/01/2015 Federal Law Gazette.

³⁹² Women and equal opportunities representative of the district Friedrichshain-Kreuzberg in Berlin 'Results of a survey of the Berlin Working Group Against Forced Marriage on the extent of forced marriage in Berlin 2013'(Ergebnisse einer Umfrage des Berliner Arbeitskreises Gegen Zwangsverheiratung zum Ausmaß von Zwangsverheiratungen in Berlin 2013), 2015, p. 2. Concerns raised also by the [Berlin Senator for Labour, Integration and Women, Dilek Kolat, on 7 February 2015](#).

³⁹³ [Website of the national telephone helpline](#).

³⁹⁴ [Minister of State to the Federal Chancellor and Federal Government, Commissioner for Migrants, Refugees and Integration 'Guideline for schools for the handling of forced marriages' \(Leitfaden für Schulen zum Umgang mit Zwangsverheiratungen\), 2010](#).

³⁹⁵ [Government agency of the Land Hamburg for Labour, Social Issues, Family and Integration 'Intervention in cases of forced marriages' \(Intervention bei Zwangsverheiratungen\), 2014](#).

³⁹⁶ ['Combating forced marriage', website of the Ministry for Integration of the Land Baden-Württemberg](#).

³⁹⁷ [Website of the specialised counselling centre for forced marriage](#).

³⁹⁸ Conclusions of the German national expert (German national research).

³⁹⁹ Information collected through consultation with national stakeholder on 1 September 2015 (representative of women's rights group Terre Des Femmes) and on 31 August 2015 (representative of migrant group PAPATYA).

⁴⁰⁰ *Ibid*.

- Providing victims with accommodation to protect them at least while the case is prosecuted.
- Reducing the risk that victims of forced marriage do not report their cases because they fear losing their residence permit⁴⁰¹.
- **Guaranteeing victims' anonymity, so** as to protect them from potential retaliations.
- Providing victims affected by forced marriage with psychological support at least during legal proceedings.

7.1.3. Spain

With the criminalisation of forced marriages being so recent, in Spain there is a **lack of data and case-law** depicting the reality of forced marriages at national level. Nevertheless, the occurrence of the practice has been measured at regional level in Catalonia by the Unit of Victim Support of Catalonia which reported 11 cases of forced marriages (6 involving minors and 5 people over 18-years-old) in the first six months of 2015⁴⁰². In 2014, 10 cases (of which 6 involving minors) were identified in Catalonia⁴⁰³. Between 2011 and 2013 the number of recorded forced marriages in Catalonia has been relatively constant (21, 16, and 26 cases were identified in 2011, 2012 and 2013, respectively)⁴⁰⁴. It is worth noting that 60% of the reported cases in Catalonia involved underage girls⁴⁰⁵. Most of the cases of forced marriage in Spain are reported to enforcement authorities by NGOs, the Red Cross or private individuals (teachers or neighbours of potential victims)⁴⁰⁶. The **lack of data at national level** could be attributed both to the recent criminalisation of forced marriage (see Section 4 of the present study) and to the frequent occurrence of the practice among ethnic groups and migrants whose members are reluctant to report such cases to the competent authorities as they usually do not recognise themselves as victims (see Section 6 of this study).

Article 172 *bis* of the Spanish Criminal Code was introduced by Organic Law 1/2015 of 30 March 2015⁴⁰⁷ to punish forced marriage as a separate, **independent criminal offence**.

⁴⁰¹ It is noted that according to Section 31 (Independent right of residence of spouses), Article 1 of the Residence Act as last amended by Article 3 of the Act of 6 September 2013 ([Federal Law Gazette I, p. 3556](#)) a third-country national has to prove that he/she legally cohabitated with his/her spouse (with German residence permit) at least three years in the federal territory to obtain a residence permit. Until 1 July 2011 a two-year marital cohabitation was required.

⁴⁰² [Generalitat of Catalonia, Department of Interior Affairs, Unit of Victim Support, 'Data on gender-based violence 2015'](#) (*Generalitat de Catalunya, Departament d'Interior, Unitat de Suport a l'Atenció de Victimes, Dades sobre violència masclista - 2015*).

⁴⁰³ [Generalitat of Catalonia, Department of Interior Affairs, Unit of Victim Support, 'Data on gender-based violence 2014'](#) (*Generalitat de Catalunya, Departament d'Interior, Unitat de Suport a l'Atenció de Victimes, Dades sobre violència masclista - 2014*).

⁴⁰⁴ [Generalitat of Catalonia, Department of Interior Affairs, Unit of Victim Support, 'Data on gender-based violence 2013'](#) (*Generalitat de Catalunya, Departament d'Interior, Unitat de Suport a l'Atenció de Victimes, Dades sobre violència masclista - 2013*). [Generalitat of Catalonia, Department of Interior Affairs, Unit of Victim Support, 'Data on gender-based violence 2012'](#) (*Generalitat de Catalunya, Departament d'Interior, Unitat de Suport a l'Atenció de Victimes, Dades sobre violència masclista - 2012*). [Generalitat of Catalonia, Department of Interior Affairs, Unit of Victim Support, 'Data on gender-based violence 2011'](#) (*Generalitat de Catalunya, Departament d'Interior, Unitat de Suport a l'Atenció de Victimes, Dades sobre violència masclista - 2011*).

⁴⁰⁵ [La Vanguardia, 'The Mossos avoid the forced marriage of a 13 year old' \(Los mossos evitan el matrimonio forzado de una niña de 13 años\)](#), 2012; [La Vanguardia, 'Four cases of forced marriage detected in Girona' \(Detectan cuatro casos de matrimonios forzados en Girona\)](#), 2014; [El País, García, J., 'Forced marriages in the spotlight' \(Las bodas forzadas salen a la luz\)](#), 2010.

⁴⁰⁶ [Vargas Gallego, A., 'On forced marriage' \(Sobre los matrimonios forzados\)](#), 2014; ; [Carrillo, M., 'The forced marriage case' \(El caso del matrimonio forzado\)](#), 2009; [Cadena Ser, 'Women's rights associations call for fighting against forced marriages' \(Asociaciones de mujeres piden luchar contra los matrimonios forzados\)](#); [Familia en Derechos, 'The reality of forced marriages in Spain' \(La realidad de los matrimonios forzados en España\)](#), 2014.

⁴⁰⁷ Organic Law 1/2015 of 30 March modifying Organic Law 10/1995 of 23 November of the Criminal Code (*Ley Orgánica 1/2015, de 30 de marzo, por la que se modifica la Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal*) available in Spanish at <http://www.boe.es/buscar/act.php?id=BOE-A-2015-3439>.

According to Article 172 *bis* of the Spanish Criminal Code forced marriage occurs when anyone '[...] with serious intimidation or violence coerces another person to marry [...]'.

Some **criticisms concerning the definition** of forced marriage under this new Article have been formulated by the Council of Prosecutors and the General Council of the Judiciary. Some **issues of interpretation with regard to the extent of the 'seriousness' of the intimidation** have been highlighted as elements potentially leading to legal uncertainty and narrowing the scope of the provision. The provision, indeed, has been criticised for leaving **out of its scope any form of intimidation which, although not 'serious' could be sufficient to alter the will of the victim**⁴⁰⁸. Moreover, the **foreseen punishment ('6 months to 3 years and 6 months imprisonment or ... a fine of 12 to 24 months'**⁴⁰⁹) has been criticised for being the same as the one foreseen for a simple case of coercion. When coercion affects fundamental rights, the Criminal Code imposes an aggravated punishment⁴¹⁰. However, this **increased penalty has not been foreseen** for forced marriage (see Section 6 of the present study). The draft version of Article 172 *bis* originally did not provide an aggravated circumstance for when a minor is the victim of the forced marriage. However, this was amended and the final version of Article 172 *bis* now contains such a provision.

The non-criminalisation of forced marriage as a separate offence until March 2015 may explain the **lack of policies at national level** addressing the issue. However, a relevant example of good practice can be identified in Catalonia where in 2009 a programme to train the police force in early identification and prevention of forced marriages was launched⁴¹¹. Furthermore, in May 2015, the Institute for Women and for the Equality of Opportunities (*Instituto de la Mujer y para la Igualdad de Oportunidades*) organised the seminar '**We, Roma Women. A strategy to empower Roma Women' to tackle discrimination** against Roma women. One of the workshops focusing on combatting violence against women also dealt with the issue of forced marriage⁴¹².

In Spain, forced marriage cases are mainly reported by the police, NGOs working on **women's and migrants' rights** and acquaintances of the victims. The criminalisation of forced marriage is considered a first step in tackling this practice. However, other specific measures, such as a national policy on the issue or targeted awareness raising campaigns and data collection on the incidence of this phenomenon are still needed⁴¹³.

7.1.4. Slovakia

In Slovakia various cases of labour exploitation, sexual exploitation and forced marriages as well as sham marriages, have been recorded in the Roma community.⁴¹⁴ Besides the Roma community, young girls represent the most vulnerable group to this practice⁴¹⁵. According to statistic data provided by the Ministry of Interior, all 9 victims of forced marriage in 2014 were women (see Section 4 of this study)⁴¹⁶.

As highlighted under Section 4.3 of the present study, in Slovakia forced marriage is

⁴⁰⁸ Conclusions of the Spanish national expert, (Spanish national research).

⁴⁰⁹ Art. 172 *bis* Organic Law 10/1995, supra.

⁴¹⁰ Art. 172 (1) second paragraph of the Spanish Criminal Code.

⁴¹¹ *Programa de Seguretat contra la Violència Masclista* (Security Programme against Gender-based Violence), Catalonia, 2009.

⁴¹² Minister of Health, Social Services and Equality, Institute for Women and the Equality of Opportunities, Seminar '[We, Roma Women. A strategy for the empowerment of Roma women](#)' (19 May 2015).

⁴¹³ Conclusions of the Spanish national expert, (Spanish national research).

⁴¹⁴ Medvedová, R., Stránská, T., Frický, V., '[Countering new forms of Roma child trafficking: Country report draft Structure Slovakia](#)'.

⁴¹⁵ The Slovak Catholic Charity, '[Educational guide on trafficking for pedagogues and social workers](#)' (*Vzdelávacia príručka o obchodovaní s ľuďmi pre pedagógov a sociálnych pracovníkov*) (2014), p.27.

⁴¹⁶ Ministry of Interior, '[Evaluation of the Programme of support and protection of victims of trafficking for 2014](#)' (*Vyhodnotenie Programu podpory a ochrany obetí obchodovania s ľuďmi za rok 2014*).

specifically recognised as a form of trafficking in human beings and it is explicitly incorporated in the Article of the Criminal Code defining that offence. Indeed, in 2013 Slovakia indirectly criminalised forced marriage under Section 179 of the Criminal Code on trafficking in human beings (THB).⁴¹⁷ Section 179 was amended (so as to include forced marriage among the forms of exploitation) in order to comply with Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims⁴¹⁸. According to Section 179, **'Any person who, by using fraudulent practices, [...] entices, transports, harbours, hands over or takes over another person, [...] for the purposes of forcing him/her to prostitution or another form of sexual exploitation, including [...] forced marriage, shall be punished by imprisonment from four to ten years'**⁴¹⁹. From a gender perspective, the majority of victims of human trafficking in Slovakia are women.

The introduction of Section 179 has been welcomed by the Group of experts on action against trafficking in human being (GRETA)⁴²⁰ for making anti-trafficking measures more effective. The Slovak Ministry of Interior has observed an **increasing number of cases of THB for the purpose of forced marriage**, amounting to seven and nine in 2013 and 2014, respectively, compared to the three cases recorded in 2012 before the amendment of the relevant criminal provision (see Section 4 of the present study)⁴²¹.

To reduce the number of marriages of convenience/sham marriages and, thus, as part of this phenomenon, forced marriages, the Slovak Ministry of the Interior is taking part in the EU funded project **'Preventing human trafficking and sham marriages: A multidisciplinary solution' (HESTIA)**⁴²², which has been implemented since January 2015 by six EU Member States (Estonia, Finland, Ireland, Latvia, Lithuania, and Slovakia). Within the framework of the project a variety of activities are provided (e.g. discussions of legislators, policy planners and practitioners at national and regional level, a comprehensive research of the problem of sham marriages, training for social workers, awareness raising campaigns)⁴²³. As a result of these activities, the project is expected to contribute to increasing awareness, even though indirectly, on forced marriage and outlining effective strategies to prevent it⁴²⁴.

Moreover, the current **'National Programme on the Fight against Human Trafficking for 2015-2018'** adopted by the Slovak Government on 4 February 2015⁴²⁵ provides for both **statistical data on forced marriages** and the establishment of a Joint Investigation Team (JIT) between the UK and the General Prosecutor's Office of the Slovak Republic aimed to facilitate investigation and prosecution of trans-national cases of forced marriage and sexual violence.

⁴¹⁷ Section 197 of the Slovak Criminal Code as last amended by Law 204/2013 'Law amending and supplementing Law 300/2005 'Criminal Code' (*Zákon, ktorým sa mení a dopĺňa zákon č. 300/2005 Z. z. Trestný zákon v znení neskorších predpisov a ktorým sa menia a dopĺňajú niektoré zákony*).

⁴¹⁸ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

⁴¹⁹ Section 197 of the Slovak Criminal Code, supra.

⁴²⁰ GRETA: the Group of experts on action against trafficking in human beings has been set up pursuant to Article 36 of the Council of Europe Convention on Action against Trafficking in Human Beings. GRETA composed of 15 independent experts selected on the basis of their professional experience in the areas covered by the Convention, See: ['Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Slovak Republic', 9 November 2015](#), p. 8.

⁴²¹ [Ministry of Interior, 'Statistics of crime – the crime of human trafficking' \(Štatistika kriminality - trestného činu obchodovania s ľuďmi\)](#).

⁴²² [Ministry of Interior, 'In order to combat forced marriage, the Slovak Republic involved in the project HESTIA' \(S cieľom bojovať proti núteným sobášom sa Slovenská republika zapája do projektu HESTIA\), 16 February 2015](#).

⁴²³ HESTIA [against human trafficking](#), the European Commission website.

⁴²⁴ Information collected through consultation with national stakeholder on 20 September 2015 (representative of NGO 'People in need' (*Človek v tísní*)).

⁴²⁵ [The Government of the Slovak Republic, 'National program on the fight against human trafficking for the years 2015-2018' \(Národný program boja proti obchodovaniu s ľuďmi na roky 2015 – 2018\)](#).

By reporting cases of forced marriage, raising awareness and assisting victims, Slovak **NGOs** also play a very important role in tackling the practice of forced marriage. For example, from 24 November 2014 to 31 March 2015, the NGO People in Need Slovakia (*Člověk v tísní*), with the **financial support** of the Ministry of Interior, ran the project 'Defend yourself against trafficking' (*Bráňme sa pred zobchodovaním*) which, targeting a group of young people from marginalised communities, aimed at **raising awareness** among them on human trafficking activities (including those realised through forced marriages)⁴²⁶.

Currently, young people belonging to marginalised communities in Slovakia are the most vulnerable to forced marriage. Various cases of trafficking in human beings occurring through forced marriages as well as marriages of convenience/sham marriages have been recorded amongst **Roma communities**⁴²⁷. The Roma media centre (*Rómske mediálne centrum*) reported that most cases of forced marriage of young Roma women involve illegal immigrants residing in the territory of another EU Member State (e.g. Pakistanis residing in the UK) who are willing to marry a Roma woman (who is forced to marriage) in order to obtain a residence permit⁴²⁸. As the vulnerability of Roma people to forced marriage can be mainly attributed to their **social exclusion**, the adoption of a national strategy for social and economic inclusion of these communities would have a positive impact on tackling the practice of forced marriage in Slovakia.

7.1.5. The United Kingdom

Forced marriage was initially addressed under the Forced Marriage (Civil Protection) 2007 Act (applicable in England & Wales and Northern Ireland), providing for civil remedies for victims or potential victims of forced marriage. Under the act, victims could apply to the court for a 'Forced Marriage Protection Orders' (FMPO).

In Scotland, the Forced Marriage etc. (Protection and Jurisdiction)(Scotland) Act 2011 mirrors the UK's Forced Marriage (Civil Protection) Act 2007 and provides that a breach of the Forced Marriage Protection Order is a criminal offence.

The 2014 Anti-Social Behaviour, Crime and Policing Act 2014⁴²⁹ introduced forced marriage as a specific criminal offence in England & Wales and Scotland. Section 121 (England and Wales) and Section 122 (Scotland) provide that a person commits an offence if he or she '(a) uses violence, threats or any other form of coercion for the purpose of causing another person to enter into a marriage, and (b) believes, or ought reasonably to believe, that the conduct may cause the other person to enter into the marriage without the free and full consent.'

The offence carries a **maximum penalty of twelve months imprisonment** and/or a fine on summary conviction, or seven years on conviction on indictment and/or a fine⁴³⁰.

Section 120 of the Anti-social Behaviour, Crime and Policing Act 2014 also amends the UK Family Law Act 1996 to make it a criminal offence to breach an FMPO in England and Wales⁴³¹.

⁴²⁶ [People in Need Slovakia, 'Bráňme sa pred zobchodovaním' \(20 November 2014\).](#)

⁴²⁷ [Medvedová, R., Stránská, T., Frický, V., 'Countering new forms of Roma child trafficking: Country report draft Structure Slovakia', 2014.](#)

⁴²⁸ [Roma media center \(Rómske mediálne centrum\), 'How is calling your husband? Pakistani...' \(Ako sa volá tvoj manžel? Pakistanec...\), 16 July 2013.](#)

⁴²⁹ [Anti-social Behaviour, Crime and Policing Act 2014.](#)

⁴³⁰ [Anti-social Behaviour, Crime and Policing Act 2014.](#), sections 121(9) (England & Wales) and 122 (9) (Scotland).

⁴³¹ [Family Law Act 1996](#) as amended by Anti-social Behaviour, Crime and Policing Act 2014.

Section 16 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 criminalises forced marriage in Northern Ireland⁴³². Section 16(1) provides that a person commits an offence if he or she (a) uses violence, threats or any other form of coercion for the purpose of causing another person to enter into a marriage, and (b) believes, or ought reasonably to believe, that the conduct may cause the other person to enter into the marriage without free and full consent. The offence carries a maximum penalty of imprisonment of 6 months and or a fine on summary conviction (Article 16(7)(a)), and imprisonment of a maximum of 7 years on conviction on indictment (Article 16(7)(b)).

The Crown Prosecution Service has developed a strategy against Violence Against Women and Girls (VAWG) focused on improving prosecutions. This includes **Guidance on Identifying and Flagging Cases** of Forced Marriage and Honour Based Violence⁴³³, as well as Guidance on Prosecuting Cases of Forced Marriage and Honour Based Violence⁴³⁴.

The '**Forced Marriage Unit**' (FMU), a joint Foreign and Commonwealth Office and Home Office institution designed to help people who are being forced into marriage, was set up in 2005. The FMU has a public helpline and provides advice to victims and practitioners working on forced marriage cases.

The UK government 2011 **Call to End Violence Against Women and Girls Action Plan**⁴³⁵ called for the FMU to raise awareness of forced marriage and challenge attitudes which condone this practice through media activities, training events and community engagement. This included exploring **good practice** approaches to further engage communities and running an annual preventive media campaign in the run-up to the school summer holidays. The action plan also called for capacity building for police on handling forced marriage cases (among other offences) as well as amongst NGOs to establish local initiatives and services to raise awareness of and tackle forced marriage. According to the UK government 2010-2015 progress report, the FMU has among other activities, delivered nearly 500 outreach events to professionals and communities, carried out a preventative media campaign to raise awareness of forced marriage in the run-up to the school summer holidays and community engagement work to challenge attitudes and change behaviours⁴³⁶.

The FMU handled 1267 cases of forced marriage in 2014⁴³⁷, however only one case has been prosecuted so far under the Anti-Social Behaviour, Crime and Policing Act 2014⁴³⁸. While the 2011 Action Plan called for capacity building among local NGOs and greater community engagement, there is a **reported lack or underfunding of specialised services** to support victims of forced marriage, including legal aid, foster homes, specialist carers with appropriate training⁴³⁹. This is underlined as a clear challenge for effective access to justice and protection of victims of forced marriage⁴⁴⁰.

⁴³² [Human Trafficking and Exploitation](#) (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.

⁴³³ Available online in the Legal Guidance section on the UK Crown Prosecution Service website: [Forced Marriage and Honour Based Violence Identification and Flagging Guidance \(opens in new window\)](#).

⁴³⁴ Available online in the Legal Guidance section on the UK Crown Prosecution Service website: [Forced Marriage and Honour Based Violence Legal Guidance \(opens in new window\)](#).

⁴³⁵ The [UK national Action Plan](#).

⁴³⁶ UK Government progress report, [A Call to End Violence against Women and Girls Progress Report 2010- 2015](#).

⁴³⁷ [Forced Marriage Unit Statistics January to December 2014](#).

⁴³⁸ [Merthyr Tydfil Crown Court](#), 10 July 2015.

⁴³⁹ [Evidencing Domestic Violence](#): a Barrier to Family Law Legal Aid, Rights of Women.

⁴⁴⁰ Gill, A., '[Criminalising forced marriage has not helped its victims](#)', *the Conversation*, 17 June 2015.

8. THE PRACTICE OF FORCED MARRIAGE IN ROMA COMMUNITIES

KEY FINDINGS

- The characteristics of the Roma marriage vary across Roma communities. Roma marriage must be examined taking into account its complexity and the context in which it takes place without further stigmatising Roma. Moreover, forced marriage is not a prevalent custom among all Roma groups. Elopement and cohabitation out of wedlock are more widespread.
- Child marriage is still a common practice in traditional Roma communities of some Member States.
- The trend in many Roma communities is to marry at a young age although marital age is gradually increasing. This increase seems to be due to a change of perspective within the Roma communities whereby marriage is perceived as inappropriate for young people below a certain age.
- A range of factors lead to the prevalence of the practice of forced/child marriage in most Roma groups including the lack of economic resources and cultural practices and traditions. The practice of forced marriage seems also to be linked to human trafficking.
- The prevalence of forced marriage and related practices in Roma communities is difficult to measure. The lack of data is due to various factors such as that many marriages are unregistered and/or the lack of personal documents of spouses. Moreover, statistical data on child marriages disaggregated according to ethnicity are not available in most EU Member States.
- Policies targeting forced marriage among Roma exist in a few Member States. In most Member States forced marriage is not regarded as an issue (this might depend, for example, from the fact that there is a rather small Roma population). Therefore, the need for specific policies is not deemed necessary. Where such policies are in place, they are often not implemented in practice.

8.1. The institution of marriage in the Roma communities

In order to explore the practice of forced marriage in Roma communities it is necessary to understand the characteristics of the Roma marriage. Since Roma communities are very heterogeneous, **significant variations** occur across different groups. This section provides an overview of the most common forms of Roma marriage and the values attached to it. A description of the driving factors leading to forced marriage and child marriage among the Roma is also provided.

When describing the practice of Roma marriage, caution must be paid not to further stigmatise Roma communities by failing to **look at the issue in its complexity** and also in its particular contexts. As highlighted by Roma organisations, there is a risk of generalising a local phenomenon specific to certain communities and, thus, to misrepresent the reality. Child marriages among Roma are very often depicted in a stereotypical manner⁴⁴¹. It is, therefore, important to consider the practices of Roma marriage not only

⁴⁴¹ European Roma and Travellers Forum & Romani Women Informal Platform Phenjalipe (2013) [Making Early](#)

in relation to Roma traditions, but within a broader context which takes into account various factors such as the socio-economic level and the education of the spouses.

In light of the above considerations, some differences among **non-traditional and traditional Roma communities**⁴⁴² have been identified by the current study. While marriages between children seem to be rare within the former they are a common practice within the latter. In particular, non-traditional Roma communities support the alignment of the Roma community to European standards by constant efforts to reach a higher level of education. There is an understanding among non-traditional Roma that renouncing child marriages and allowing children to access school represents one of the solutions for increasing the chances of emancipation of the Roma community. Conversely, more traditional Roma communities support the idea that renouncing certain traditional practices, such as child marriage, represents the sure path towards the disappearance of the Roma culture. In their view, increasing children's sense of responsibility by conferring them the status resulting from marriage is the only way to preserve the healthy moral, unaltered traditions and spirit of the community⁴⁴³. Another difference between traditional and non-traditional Roma communities concerns mixed marriages between Roma and non-Roma citizens. While this practice is considered negatively in the former such mixed marriages are acceptable in the latter⁴⁴⁴.

The trend in many Roma communities is to marry at a young age although recent studies indicate that **the age at which Roma enter into marriage is gradually increasing** (see Section 8.3)⁴⁴⁵. According to the more conservative Roma culture, girls who enter into **marriage must be 'virtuous'**⁴⁴⁶ and this leads to marriages being contracted at an early age. The 'purchase' of wives at an early age is regarded as a means to preserve the virginity of girls, and, thus, their dignity. After reaching sexual maturity, Roma girls are usually forced to stop school. The fear of sexual intercourse before marriage leads parents to force their daughters to marry young. While the practice of 'stealing the bride is not so common nowadays', it is still widespread in some Roma communities in Bulgaria for example. In this case the social legitimation of marriage is achieved through its consummation⁴⁴⁷.

Although concluded at a young age, in most of the cases marriages are contracted voluntarily according to the desk research and stakeholder consultations undertaken for this study. Young people choose who they want to marry and the girl is always entitled to say no. A report by the Swedish National Education Agency indicates that Roma girls have become freer and it is more common that they can choose for themselves who they want to marry⁴⁴⁸. However, some women are **trapped by traditional gender roles**. In this regard, a Swedish governmental report refers to cases of girls not being allowed to go to school once they become teenagers because they are expected to learn how to take care of a household⁴⁴⁹.

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⁴⁴² In this study the term 'non-traditional' refers to groups which conform with the values of the majority of the population of the country where they live whereas the term 'traditional' refers to groups which hold and maintain cultural practices typical of the Roma culture.

⁴⁴³ Romani CRISS and UNICEF, '[The case of early marriages in Roma communities in Romania. Are the rights of the child negotiable?](#)' (*Drepturile copilului sunt negociabile? Cazul mariajelor timpurii in comunitatile de romi din Romania*) (2010), Alpha MDN, p. 11.

⁴⁴⁴ Radu, M. (2011), Promoting the Social Inclusion of Roma. Romania, available at <http://ec.europa.eu/social/main.jsp?catId=1024&langId=en>.

⁴⁴⁵ European Roma And Travellers Forum & Romani Women Informal Platform Phenjalipe (2013) [Making Early Marriage In Roma Communities A Global Concern](#).

⁴⁴⁶ Save the Children and Educap (2010), Virginity, Early Marriage and Well-being of Roma Girls. [The Children's Rights Perspective](#).

⁴⁴⁷ Center for Interethnicity Dialogue and Tolerance 'Amalipe', 'Prevention against early marriages'.

⁴⁴⁸ The Swedish Agency for Youth and Civil Society, '[Married against their will](#)' 2009, p.179-180.

⁴⁴⁹ National Board for Health and Welfare, '[Taking custody of Roma children](#)', 2006.

Marriage as a legal act is not traditionally a prevalent custom among some Roma groups, such as the Roma Dolenjska in Slovenia. The fact that two people have agreed to live together constitutes marriage and **no formal ritual is required**⁴⁵⁰. Cohabitation out of wedlock is culturally/socially accepted and the pressure to marry does not arise. Despite having become more common recently, marriage is not celebrated as a social event among the extended family. Young couples establish an **informal relationship** in secret and usually only persons of the same age group, not parents or grandparents, participate in the wedding ceremonies⁴⁵¹.

Elopement is also a typical form of marriage which is common to many Roma communities. Elopement consists simply of the couple leaving together for a period of time **without the family's consent**⁴⁵². When the couple returns they are usually chastised by the family. However, after a certain period of time they are usually accepted as a married couple.

Roma marital unions may also be agreed upon by the parents during the childhood of their children or even before they are born in some Roma communities. In this process, it is the family of the boy who has the right to choose the girl he is going to marry. However, this agreement can be breached by the girl, who has the right to refuse her betrothed until the celebration of marriage. The boy has no right to refuse the arranged marriage, and can thus be forced into marriage. Nevertheless, he can still oppose marriage by 'running away' and obtaining shelter with other relatives of his or relatives of the girl he wants to marry. In such cases, the **boy's parents are obliged to accept the boy's wishes to marry another girl**⁴⁵³.

While from the above considerations it is clear that each Roma community is unique, a range of factors seem to lead to the prevalence of the practice of forced/child marriage in most Roma groups. The reasons for being forced into marriage are only partly rooted in the Roma tradition and culture. In addition to cultural aspects, other factors have an impact on forced marriage, including **gender inequality, low social-economic status and education of the family, social isolation**, the **rigidity of family models** or the fact of belonging to a **traditionalist community**. Other influencing factors are: the patriarchal structure within Roma communities; the perception of forced marriage as a means to strengthen family ties; the preservation of cultural values and norms; and the protection of religious ideals.

Of all these factors, the lack of economic resources plays a major role. According to a Romanian study, these marital practices are often a solution to extreme poverty⁴⁵⁴. Marriage is often seen as a form of **financial security** by many disadvantaged families who consider the economic benefits deriving from it, such as receiving gifts for a bride or a groom and/or annulment of family debts, etc., as a strategy for survival. In this regard, in Spain a return to weddings among Roma teenagers has been recorded in the context of the economic crisis. Child marriages can also have a 'traditional' function in rich Roma communities where they display a social function of managing the family's wealth and heritage⁴⁵⁵.

The aspect of **honour** is also a trigger for the practice of forced/child marriage. A study reporting on forced marriage in Belgium highlights that among Roma communities, there is

⁴⁵⁰The PatrIn Web [Journal](#), Romani Customs and Traditions: Marriage.

⁴⁵¹Törmä, S., Tuokkola, K., Hurtig, J. (Ministry of Social Affairs and Health ([Sosiaali- ja terveysministeriö/Social- och hälsovårdsministeriet](#)): *Raportteja ja muistioita* 2013: 33), 30-31.

⁴⁵²[Romani Marriage Traditions](#).

⁴⁵³Mourão, JS, *O casamento cigano – Estudo sócio-jurídico das normas ciganas sobre as uniões conjugais* (Universidade Fernando Pessoa, Porto, 2011), 69-77.

⁴⁵⁴[Origo \(online news channel\)](#), 'Poverty as a driving force behind the marriages of teenagers', 2003.

⁴⁵⁵Gabor Fleck, 'Come Closer: Exclusion and Inclusion of Roma in Present-Day Romania' (2008), research report elaborated within the PHARE project 'Strengthening Capacity and Partnership Building to Improve the Roma Condition and Perception'.

a high social pressure to accept the proposed partner in order not to dishonour the family. Sometimes, promises for marrying children are made between families when children are very young. In order to preserve the good name of the family, such promises cannot be broken⁴⁵⁶. The lack of efficient integration policies were also identified by the stakeholders interviewed for this study as one of the causes of forced marriage within Roma communities⁴⁵⁷.

Finally, the practice of forced marriage seems to be linked to **human trafficking**. By way of example, in Slovakia, the Roma community is one of the vulnerable groups of human trafficking, forced marriage and sham marriage/marriage of convenience⁴⁵⁸. The fact that some Roma communities are marginalised and have social and financial problems is regarded as one of the reasons why members within the community would be trafficked and forced to marry due to the financial restraints of the family. According to the social workers of the Slovak Catholic Charity in Spišský castle 'the family itself offers their daughters to wealthy Pakistanis who have different shops in England'⁴⁵⁹. Demand for forced marriage comes mainly from illegal immigrants residing in the territory of the target country (e.g. Pakistanis in the UK) and marriage with EU nationals allows them to legalise their stay. The 'brides' are mostly recruited from a socially excluded Roma community in eastern Slovakia and trafficked to other EU Member States where they are forced to marry. The Roma media centre confirms that forced marriages in order to obtain a **residence permit** for a citizen of Pakistan are quite common, and today, no one can answer the question of how many women in the Roma community are officially married to Pakistanis⁴⁶⁰.

8.2. Prevalence of forced marriage and related practices in Roma communities

The prevalence of forced marriage and related practices in the EU is **difficult to measure** for various reasons. First, statistical data on child marriages disaggregated according to ethnicity are not available in most EU Member States. The collection of data disaggregated by ethnicity is prohibited by the legislation of some Member States to avoid possible discrimination on the grounds of ethnic origin. Consequently, public authorities cannot demand and/or record this type of information. The lack of data on child marriages in general and the fact that many marriages are unregistered due to the age of the spouses or the lack of personal documents are additional reasons explaining difficulties in obtaining reliable data on such marriages⁴⁶¹.

Only a few cases of forced marriage among Roma in the EU were identified in this study, with some isolated cases reported in a minority of Member States. In general, it should be noted that where incidents are identified they do not involve the entire Roma population, but only specific groups.

Cases of **forced marriage** have been recorded in Belgium, Croatia, Germany, Greece, Hungary, Lithuania⁴⁶², Romania, Slovenia, Slovakia and, to a limited extent, in Sweden. In

⁴⁵⁶ Els Leye, 'Analytical report – MATRIFOR Forced marriage in Belgium: a qualitative research', pp. 28-30.

⁴⁵⁷ Information gathered through consultation with national stakeholder (representative of NGO).

⁴⁵⁸ Medvedová, R. et Al. (2015), [Countering New Forms Of Roma Child Trafficking Confront Country Report: Slovakia](#).

⁴⁵⁹ The Slovak Catholic Charity, '[Educational guide on trafficking for pedagogues and social workers](#)' (*Vzdelávacia príručka o obchodovaní s ľuďmi pre pedagógov a sociálnych pracovníkov*) 2014.

⁴⁶⁰ Roma media centre, 'How is calling your husband? Pakistani...' (*Ako sa volá tvoj manžel? Pakistanec...*) 2013.

⁴⁶¹ European Roma and Travellers Forum & Romani Women Informal Platform Phenjalipe (2013) [Making Early Marriage In Roma Communities A Global Concern](#).

⁴⁶² Strasbourg, 23 October 2014 Ad Hoc Committee of Experts on Roma 462 Issues (Cahrom) Conclusions Thematic Report on Roma women empowerment and gender dimension of Roma inclusion policies/strategies (further to the CAHROM thematic visit to Vilnius, Lithuania, on 3-6 June 2014).

Sweden, forced marriages are rare but some cases have been detected in a very limited group within the Roma community, especially among non-Nordic Roma or Roma who recently arrived in Sweden⁴⁶³. The National Report of the Greek Observatory on Violence Against Women reports cases of Muslim Roma girls, as young as 13-16 years old, who married after being pressured by their parents/guardians through the use of physical or psychological violence⁴⁶⁴. **Marriages among children** are also present as 'traditional practices' in some Roma communities of Belgium⁴⁶⁵, Croatia, Germany and Hungary. Three cases, concerning minor Roma females being forced into marriage were identified between 2011 and 2015 in Croatia. **According to the Government's Office for Human Rights, all three victims were helped and protected by the state within which the victim protection programmes and criminal charges were launched⁴⁶⁶. Child marriages** expose girls to sexual violence and exploitation, but also completely block any possibility of education, particularly secondary education and, as a result, employment. Based on the information given by the *Bolja Budućnost*, a Croatian Roma women's association, it is not uncommon for the girls to experience abuse in those marriages and return for help and comfort back to their families.

No incidents of forced marriages within the Roma community were identified by national experts in Cyprus, Denmark and Luxembourg. Similarly, there is no public information that would confirm the practice of forced marriages in the Roma communities of Estonia, Finland, Ireland, Latvia and the Netherlands.

This may be explained by the fact that the Roma population in some of these countries is rather small. The Social Welfare Services of Cyprus estimate that there are between 650 and 700 Roma who are Cypriot citizens in the area under the control of the Republic of Cyprus, out of a total of 1250 Roma in the whole of Cyprus⁴⁶⁷. The Roma community in Luxembourg was estimated at 300 persons in 2012, only 0.06% of the total population⁴⁶⁸. There is no reported Roma population in Malta⁴⁶⁹. Other reasons behind the low rates of forced marriage may be the fact that in certain Roma groups, alternative practices to forced marriage such as cohabitation out of wedlock, elopement and arranged marriages are widespread (see section 8.1). The latter are frequent in immigrant Roma communities⁴⁷⁰ who tend to become 'more conservative' once they have left their home country⁴⁷¹.

In certain Roma communities forced marriage does exist but it is a **hidden phenomenon which takes place within the privacy of the family and is difficult to identify**. Moreover, where incidents of forced marriage occur they are rarely reported to the authorities. The fear of the possible consequences of reporting (e.g. family members being prosecuted) deters victims from reporting cases. Lack of trust in state authorities and even in NGOs dealing with Roma issues is another reason for low reporting rates in some Member States, such as the Czech Republic. Furthermore, many Roma victims sometimes do not recognise themselves as such. This is the case for example in Slovakia. Finally, some studies⁴⁷² suggest that state institutions are reluctant to monitor forced and child

⁴⁶³ The Swedish Agency for Youth and Civil Society, 'Married against their will' (*Gift mot sin vilja*), 2009, p.179-180.

⁴⁶⁴ National Observatory for combating violence against women, [First National Report of Greece](#), November 2004, p. 14.

⁴⁶⁵ Els Leye, '[Analytical report – MATRIFOR Forced marriage in Belgium: a qualitative research](#)', p. 17.

⁴⁶⁶ Interview with Maja Bukša, assistant director of the Government's Office for Human Rights and Rights of National Minorities, held on 10th of September 2015.

⁴⁶⁷ Oral and written exchange of communication with the Social Welfare Services of the Ministry of Labour, Welfare and Social Insurance, 27-28 November 2014.

⁴⁶⁸ European Commission '[The European Union and Roma. Luxembourg Factsheet](#)', (2014).

⁴⁶⁹ European Commission, [Country Factsheet](#).

⁴⁷⁰ The Social Protection Institute of the Republic of Slovenia (*Inštitut RS za socialno varstvo*), '[Forced marriages of Roma girls. Final Report](#)' (*Prisilne poroke romskih deklic, Končno poročilo*) (2014).

⁴⁷¹ European Roma And Travellers Forum & Romani Women Informal Platform '["Phenjalipe"](#)' (2013), Making Early Marriage In Roma Communities A Global Concern.

⁴⁷² A. Oprea, « [Child Marriage a Cultural Problem, Educational Access a Race Issue? Deconstructing Uni-](#)

marriage. This reluctance contributes to a lack of reporting mechanisms and, thus, the absence of data (see section 8.4).

8.3. Marital age and the age of victims of forced marriage

Trends in marital age among the Roma population

In 2011, the EU Agency for Fundamental Rights undertook a survey on the situation of Roma in 11 countries⁴⁷³. The survey showed that only around 2% of Roma girls aged 10-15 were reportedly 'traditionally married' or cohabitating with a partner across the surveyed EU Member States. On **average around 16%** of Roma boys and girls aged 16-17 were legally or traditionally married or cohabiting. Girls seemed to be more affected by child marriage than boys in Bulgaria, Greece, Portugal, and Romania. In line with these findings, research by the Open Society Foundation indicated that 53% of Romani women surveyed, and 43% of their daughters were married before the age of 18. Similarly, a UNDP survey found that 35% of Romani girls were married before reaching the age of 16⁴⁷⁴.

In line with this, findings from the current study indicate that although the Roma population tends to marry at an early age compared to the general population, **marital age is increasing in many Roma communities**. Child marriage among Roma communities takes place to a much lesser degree than ten or twenty years ago⁴⁷⁵. In particular, a rise in marital age has been observed in Bulgaria and Romania. This trend is, however, less pronounced in the most traditional communities where at the onset of puberty girls are pressured to marry and leave school⁴⁷⁶. In Poland, the age at which Roma people enter into marriage has also reportedly risen⁴⁷⁷: marriages of 12 year old girls with 13-14 year old boys do not occur anymore and the typical age for entering into a marriage is now between 15 and 17 years of age. In line with this trend, Roma tend to marry between the age of 18 and 22 years in Denmark⁴⁷⁸.

In contrast to this general trend, the marital age still tends to be low in the Roma communities of some Member States, **especially due to poverty and social marginalisation**. In Belgium and Hungary, studies show that many Roma children are engaged at between 10 and 13 years age, and married at between 13 and 14 years of age⁴⁷⁹. Research conducted in Slovenia shows that some Roma girls are married very young. According to the assessment of the social work centres and other organisations, the lowest age of girls at the time of marriage is between 12 and 13, according to some data even 10; the lowest among boys is 14. The practice of elopement in Slovenia involves girls and boys between 13 and 14 years of age⁴⁸⁰. A study by ERRC⁴⁸¹ conducted among Roma women in Italy found that 47 of 74 (64%) female respondents got married before the age

[Dimensional Understanding of Romani Oppression](#) », July 2005, ERRC.

⁴⁷³ EU Agency for Fundamental Rights (2011), The situation of Roma in 11 EU Member States Survey results at a glance, available at http://fra.europa.eu/sites/default/files/fra_uploads/2099-FRA-2012-Roma-at-a-glance_EN.pdf

⁴⁷⁴ European Roma And Travellers Forum & Romani Women Informal Platform "[Phenjalipe](#)" (2013), Making Early Marriage In Roma Communities A Global Concern.

⁴⁷⁵ European Roma And Travellers Forum & Romani Women Informal Platform "[Phenjalipe](#)" (2013), Making Early Marriage In Roma Communities A Global Concern.

⁴⁷⁶ World Bank, [Gender Dimensions of Roma Inclusion](#).

⁴⁷⁷ [Isztok M, "Romas' women" \(Romskie kobiety\), 2006.](#)

⁴⁷⁸ Consultation with a representative from Romnet.dk on 10 September 2015.

⁴⁷⁹ [Els Leye, 'Analytical report – MATRIFOR Forced marriage in Belgium: a qualitative research', p. 17.](#)

⁴⁸⁰ The Social Protection Institute of the Republic of Slovenia ([Inštitut RS za socialno varstvo](#)), 'Forced marriages of Roma girls, Final Report' (2014).

⁴⁸¹ ERRC, Submission to the Joint CEDAW-CRC General Recommendation/Comment on Harmful Practices: [Child Marriages among Roma](#) (2011).

of 18; 22 (30%) were below the age of 16 (the youngest were 12 at the time). Of the respondents that married below the age of 18, five women stated that they were forced to marry against their will.

Research in Romania shows that there are significant differences between the traditional Roma communities (Calderash, Horahai and Spoitor Roma communities) and the non-traditional Roma communities. The self-declared age of first marriage is 10-12 in the case of Horahai Roma (Babadag), 14-16 in the case of Calderash Roma (Fetesti) and over 18 in the case of non-traditional ('modern') Roma (Harsova)⁴⁸².

Changing perceptions of what is an appropriate age for marriage among the Roma

The increase in marital age seems to be due to a change of perspective within the Roma communities whereby marriage is perceived as **inappropriate for young people below a certain age**. Child marriage is met with social disapproval by the majority of non-traditional Roma communities, with only a few Roma supporting child marriage as part of their traditions⁴⁸³. In Romania a study reporting on views from the NGO community reflects that there is a general condemnation of marriage involving girls and boys below the age of 14⁴⁸⁴. A survey conducted in selected Roma communities from 11 countries shows that most respondents are against marriage at an early age. When asked at what age it would be appropriate for a girl to get married, the majority of the surveyed Roma (67%) indicated that the appropriate age would be after the age of 18 whereas 31.9% of the Roma respondents indicated an age below 18 for girls⁴⁸⁵.

Similarly, according to a Bulgarian study on child victimisation, 46% of the women interviewed stated that the most suitable age for marrying was between 18-20 years, 27% thought that the best period for marriage was 20-25 years of age and only 6% indicated an age below 16 years. Those numbers were even higher in protestant Roma communities with 83.9% reporting that the best age for marriage was 18-25 and only 3.6% in favour of marriage below the age of 16⁴⁸⁶.

The age of victims of forced marriage

Despite an increase in marital age observed within many Roma communities, alarming trends emerge across some Roma communities in Bulgaria, Croatia, Germany and Romania where younger Roma people have been increasingly affected by forced marriage. In particular, several studies show that child marriage is still practised among some Roma groups where it is seen as a **part of internal cohesion rituals or in remote and poor urban areas**. Statistics by the Institute for Research of the Quality of Life reveal that 35% of Roma women are married before the age of 16⁴⁸⁷. Instead of being viewed as children, Roma girls are often viewed as wives and mothers. This exposes girls to responsibilities and risks that they are not physically or mentally prepared to undertake while at the same time disrupting their prospects for education and employment⁴⁸⁸. Early marriage is usually

⁴⁸² Malina Voicu, Raluca Popescu, UNICEF and CEDU 2000+, '[Marriage and early pregnancy in the Roma communities](#)' (*Nașterea și căsătoria la populația de romi*) (2006), published in CALITATEA VIEȚII, XVII, nr. 3-4.

⁴⁸³ Consultation with a representative from Romnet.dk on 10 September 2015.

⁴⁸⁴ Eugen Crai, '[Early and Forced Marriages in Roma Communities](#)', Minutes of the preparatory meeting with Roma NGOs from 1 April 2015.

⁴⁸⁵ Malina Voicu, Raluca Popescu, UNICEF and CEDU 2000+, '[Marriage and early pregnancy in the Roma communities](#)', published in CALITATEA VIEȚII, XVII, nr. 3-4 (2006).

⁴⁸⁶ ⁴⁸⁶ D. Rouseva, 'Research on the violence against children in Bulgaria for the period 1999-2009', p. 27.

⁴⁸⁷ Liga Pro Europa, '[Country Report Early/Forced Marriage in Romania](#)' (2013).

⁴⁸⁸ Ivan Ivanov et Al, '[Improving the Quality of Childhood in the European Union: the Case of the Roma Children](#)' (2010).

followed by early pregnancy and subsequent school dropout. In Romania, 37% of Roma girls have children before the age of 18⁴⁸⁹. In Bulgaria this percentage is even higher with 50% of Roma girls having a first pregnancy before the age of 18.

Cases involving children have also been reported in Italy and Ireland. Evidence shows that Italian Roma girls usually marry very young, sometimes already when they are nine years old to older men⁴⁹⁰. The Irish **Children's Rights Alliance highlights cases where children who had gone missing from the health care service have been found to be forced into marriage.** One case concerned a missing 10-year-old Romanian Roma girl who had been taken into state care by the Irish Police Force under an Emergency Care Order and who was suspected to have been subject to an arranged marriage to an 18-year-old⁴⁹¹. Child marriages are also present within the Roma communities of Lithuania.

8.4. National policies targeted at Roma

The findings of the study indicate that **only a minority of EU Member States have adopted policies targeting forced marriage among Roma.** In most Member States, forced marriage is not regarded as an issue and, thus, the need for specific policies is not perceived. No serious governmental response to the practice of child and/or forced marriage has been given by central authorities in these countries. This unwillingness to act **is often justified with the argument that 'this is a Roma tradition, their internal issue'**⁴⁹². Where policies/measures targeting forced marriage are in place, they are not implemented in practice as authorities, professionals and Roma organisations themselves find it difficult to address forced marriage. Finally, some Member States have indirectly addressed forced marriage and related practices in the context of broader reforms such as reforms on education, child protection and/or the integration of Roma.

Some Member States have a rather small Roma population which could explain the reason why no policies have been adopted in this area. However, 750,000 Roma live in Bulgaria (10.33% of the population)⁴⁹³, 1.85 million in Romania (8.32% of the population)⁴⁹⁴, 700,000 in Hungary (7.05% of the population)⁴⁹⁵ and 500,000 in Slovakia (9.17% of the population)⁴⁹⁶.

In these countries, policy makers have been criticised for a **passive approach** to forced marriages among Roma. In Bulgaria, the institutions have been regarded as unwilling to act **under the pretext that forced marriage 'is a Roma tradition and mentality'**⁴⁹⁷. Besides policy inaction, discussions on the topic are rare within civil society organisations and within the Roma communities themselves. The fear of associating forced marriage with Roma traditions and, thus, stigmatising the Roma population prevents an open debate and action on this problem. Likewise, the issues of child and forced marriage are almost absent from the most relevant policies in Romania under the pretext that such matters fall under the tradition of Roma communities⁴⁹⁸. However, the *Center Educatia 2000+* and *Romani Criss*

⁴⁸⁹ Liga Pro Europa, [Country Report Early/Forced Marriage in Romania](#) (2013).

⁴⁹⁰ *Infanzia negate, Futuro zero 'Roma women'*.

⁴⁹¹ Children's Rights Alliance, '[Response to HSE statement that no missing child from HSE care has been trafficked](#)' (2010).

⁴⁹² European Roma and Travellers Forum & Romani Women Informal Platform [Phenjalipe](#) (2013) Making Early Marriage In Roma Communities A Global Concern.

⁴⁹³ European Commission, [National strategy for Roma integration](#).

⁴⁹⁴ *Ibid.*

⁴⁹⁵ *Ibid.*

⁴⁹⁶ *Ibid.*

⁴⁹⁷ Center for Interethnic Dialogue and Tolerance 'Amalipe', 'Prevention against early marriages'.

⁴⁹⁸ [Amalipe Center for Interethnic Dialogue and Tolerance](#) (Bulgaria), Liga Pro Europa (Romania), Association for Social Support of Europe – ARSIS (Greece), 'Preventing Early Marriages' (*Prevenirea casatoriilor timpurii*) (2011).

produced studies containing important proposals and recommendations for public policies. For example, the 'Marriage and early pregnancy in the Roma communities' report of the *Center Educatia 2000+* analyses the findings of research undertaken in 11 counties of Romania and reveals the maintenance of the traditional model of early marriages and early birth, giving recommendations on how to tackle it⁴⁹⁹.

Similarly, in Slovenia, research⁵⁰⁰ highlights that any intervention with the aim of preventing forced marriage is deemed unnecessary, as this form of marriage is considered as something normal for the Roma. Such understanding is present also among experts, by which they are contributing to '**pathologisation**' of Roma culture⁵⁰¹. In Hungary, evidence suggests that child marriages occur within the Roma communities affected by extreme poverty⁵⁰²; however, they are regarded as not being forced⁵⁰³. The authorities have been reluctant to acknowledge the problem, thus, cases continue to occur⁵⁰⁴. The reluctance of authorities to acknowledge the issue has been regarded as problematic by some Roma organisations. A report by the European Roma Rights Centre on the situation of Roma women in Italy highlighted that organisations representing the Roma population do not agree with the Italian authorities with respect to the prevalence of child and forced marriage among Roma being justified as part of the culture. Such organisations advocate against the belief that child and forced marriage is a cultural practice of Roma, and they rather link this harmful practice to the poor socio-economic and education situation of many Roma families⁵⁰⁵.

Issues pertaining to the Roma community are also particularly sensitive in Lithuania. This community is not integrated within society and is challenged by constant stigmatisation. To prevent further stigmatisation, public authorities tend to avoid any interference in the internal life of the Roma communities and/or touch any issues that relate to their social concerns. **Fears of stigmatisation** are also reported in Portugal. During the public discussion of the law project on the criminalisation of forced marriages, the President of the Federation of Roma Associations in Portugal stated that there are no cases of forced marriage in the Portuguese Roma community and the new law aims solely to pursue Roma people in their traditions and beliefs⁵⁰⁶.

Despite the lack of policies targeting forced and child marriage specifically, in certain Member States these practices have been addressed within the framework of **broader policies such as policies on Roma integration or policies on child protection**. For

Reference number: JLS/2008/DAP3/AG/1298-30-CE-03124780080, p. 163.

⁴⁹⁹ Malina Voicu, Raluca Popescu, UNICEF and CEDU 2000+, '[Marriage and early pregnancy in the Roma communities](#)' (*Nașterea și căsătoria la populația de romi*) (2006), published in CALITATEA VIETII, XVII, nr. 3-4.

⁵⁰⁰ The Social Protection Institute of the Republic of Slovenia (*Inštitut RS za socialno varstvo*), 'Forced marriages of Roma girls, Final Report' (2014).

⁵⁰¹ *Ibid.*

⁵⁰² Humanium, Together for Children's Rights, '[Children of Hungary – Realising Children's rights in Hungary](#)', date of publication unknown; Lengyel G., 'VIII. [The Roma population of Tiszavasvári](#)' (*VIII. Tiszavasvári cigány népessége*), in Kemény I., Jankó B., Lengyel G. (ed) *The Hungarian Roma population 1971-2003 (A magyarországi cigányság, 1971-2003)*, (Gondolat Kiadó, 2003); Ministry of Foreign Affairs, '[Gypsies/Roma in Hungary](#)' 2004; Origo (online news channel), '[Poverty as a driving force behind the marriages of teenagers](#)' (*A szegénység miatt házasodnak gyakrabban a roma kamaszok*), 2003.

⁵⁰³ Lengyel G., 'VIII. [The Roma population of Tiszavasvári](#)' (*VIII. Tiszavasvári cigány népessége*), in Kemény I., Jankó B., Lengyel G. (ed) *The Hungarian Roma population 1971-2003 (A magyarországi cigányság, 1971-2003)*, (Gondolat Kiadó, 2003).

⁵⁰⁴ [Humanium, Together for Children's Rights, 'Children of Hungary – Realising Children's rights in Hungary'](#) (date of publication unknown).

⁵⁰⁵ [European Roma Rights Centre, Parallel Submission to the Committee on the Elimination of all forms of Discrimination Against Women on Italy Under Article 18 of the Convention on the Elimination of all forms of Discrimination Against Women for its consideration at the 49th Session 11 to 29 July 2011 Concerning the Situation of Romani Women in Italy \(June 2011\)](#).

⁵⁰⁶ [Interview](#) of the President of the Federation of Roma Associations in Portugal.

example, child marriages are addressed within the policy on Roma integration in Bulgaria. The Bulgarian Framework Programme for the integration of Roma into Bulgarian Society⁵⁰⁷ includes, among its priority areas, the implementation of information activities for clarifying the risks related to child marriages and early pregnancies.

Similarly, the Croatian Government adopted the 'National Roma inclusion Strategy from 2013–2020' which covers, among other topics, forced marriage⁵⁰⁸. One of the primary objectives of the Strategy is to encourage the **social inclusion of the Roma minority** and to reduce inequalities between the socio-economic status of the Roma and the rest of the population by securing the same level of quality and availability of social welfare. Forced marriages of Roma children have been identified as one of the issues related to trafficking in human beings. Following the Strategy, the 'Action Plan for the implementation of the National Roma inclusion Strategy for the period 2013-2015'⁵⁰⁹ was adopted by the Government in 2013. The Action Plan aims at raising awareness of the Roma population regarding teenage marriages and raising the education level of young people. Although the issue of forced marriages has been targeted by these policies it has not been elaborated in much detail according to civil society organisations consulted for this study⁵¹⁰. In addition, there are no specialised programmes or projects dealing with this matter.

Furthermore, the Bulgarian National Strategy for the Child 2008-2018⁵¹¹ acknowledges the problem of child marriage and recognises that it may lead to **exclusion of girls from the educational system**. In Belgium, as in many other Member States such as Bulgaria, Croatia, Cyprus and Greece, although the National Roma Integration Strategy does not foresee any specific measure on forced **marriage, it puts a special focus on Roma children's** education. According to research on forced marriage in Belgium⁵¹², education has an indirect impact on the reduction of child marriages given that in most of the cases girls/boys who marry at a young age drop out of school. Keeping children in school increases opportunities for future employment and reduces the likelihood that children will be forced to marry or postpones the age at which they marry. Forced marriages among Roma are also addressed through measures on improving access to primary healthcare including sexual education and family planning services in Greece⁵¹³.

⁵⁰⁷ Government of the Republic of Bulgaria (*Правителство на Република България*) '[Framework Programme for integration of Roma in the Bulgarian Society](#)' (*Рамкова програма за интегриране на ромите в българското общество (2010-2020)*), 2010.

⁵⁰⁸ [National Roma inclusion Strategy 2013-2020](#) (*Nacionalna strategija za uključivanje Roma za razdoblje od 2013 do 2020 godine*).

⁵⁰⁹ [Action Plan for the implementation of the National Roma inclusion Strategy from 2013 to 2015](#)' (*Akcijski plan za provedbu nacionalne strategije za uključivanje Roma za razdoblje od 2013-2020*).

⁵¹⁰ The Better Future – Croatian Roma women association.

⁵¹¹ National Assembly of the Republic of Bulgaria, '[National Strategy for the Child 2008-2018](#)', SG No.14 of 12 February 2008.

⁵¹² Els Leye, '[Analytical report – MATRIFOR Forced marriage in Belgium: a qualitative research - Project 'MATRIFOR - Approaching forced marriages as a new form of trafficking in humans beings in Europa'](#) Co-financed to European Commission DG Home Affairs Directorate A – Internal security Programme Prevention of and Fight against Crime (2015) p. 20, 21, 23.

⁵¹³ Ministry of Labour and Social Security, [National Strategic Framework for Roma](#), 2011, p.22.

9. CIVIL SOCIETY INITIATIVES

KEY FINDINGS

- Initiatives from civil society groups representing migrants and ethnic minorities were identified in several Member States.
- **Almost all Member States women's rights' groups** are active in dealing with forced marriage issues especially in supporting forced marriage victims through counselling services including hotlines and awareness raising activities.
- In some Member States, the phenomenon of forced marriage is closely related to trafficking in human beings and the activities of NGOs focus on specific issues such as raising awareness of trafficking in human beings and forced marriages as a consequence of marriages of convenience.
- Specific initiatives on forced marriage and on child marriage have been taken by groups representing Roma communities.

Civil society initiatives, particularly from women and migrant groups, have also been identified in the context of this study.

Initiatives of groups representing migrant and ethnic minorities

Initiatives from civil society groups representing migrants and ethnic minorities were identified in several Member States. However, in most cases forced marriage is not specifically targeted on its own, rather it is targeted within the **framework of other initiatives**, such as tackling trafficking in human beings, gender-based violence and honour related conflicts.

In Denmark, the Rehabilitation Centre for Ethnic Youth in Denmark (RED-Safehouse)⁵¹⁴ and the **National Organisation of Women's Shelters in Denmark (LOKK)**⁵¹⁵ are the two main organisations which support victims of forced marriage. They play a vital role in **identifying cases** of forced marriage⁵¹⁶. In particular, the RED-Safehouse provides assistance to young people fleeing from forced marriage also by offering accommodation. LOKK manages a hotline and a mailbox and offers counselling and **mediation services** to youths belonging to ethnic minorities. Since 2002, LOKK has provided, via the programme 'Ethnic Minority Youth', specific counselling to youths belonging to ethnic minorities that had been forced into a marriage⁵¹⁷. Since 2007 it has also offered through the programme, Ethnic Minority Parents, a counselling service to parents belonging to ethnic minorities⁵¹⁸.

Initiatives of groups representing women

The national research also shows evidence in almost all Member States of women's rights' groups being active in dealing with forced marriage issues especially in **supporting forced**

⁵¹⁴ 'About us' (*Om os*) RED-Safehouse.

⁵¹⁵ 'About LOKK' LOKK.

⁵¹⁶ Information collected through consultation with a representative from Ethnic Minority Youth, LOKK on 14 September 2015.

⁵¹⁷ 'The story behind Ethnic Minority Youth' (*Historien bag Etnisk Ung*) Ethnic Minority Youth, LOKK. Cf. also 'Honour related conflicts' and 'Counselling to ethnic minorities' LOKK.

⁵¹⁸ 'Counselling to ethnic minority parents' LOKK.

marriage victims through counselling services including hotlines and awareness raising activities.

In Germany for example, specialised institutions such as women's refuges have been assigned particular importance in identifying and reporting cases of forced marriage. For example, as part of the Daphne III Programme of the European Union a two-year project 'Sheroes - empowering girls with migration background to lead self-determined lives' directly involved girls and young women and tested various strategies aimed at empowering girls and at enabling them to better defend themselves against violence. Programmes funded by the **European Integration Fund** were also active in the entire country in organising several projects with the objective of improving the protection and support system for victims of forced marriage.

Initiatives of groups dealing with trafficking in human beings

In some Member States, the phenomenon of forced marriage is closely related to trafficking in human beings and the activities of NGOs focus on specific issues such as **raising awareness** of trafficking in human beings and forced marriages as a consequence of marriages of convenience.

Within this context, the Latvia NGO 'Shelter Safe House'⁵¹⁹ has provided rehabilitation services to 113 women since 2007. In addition to the most frequent activities mentioned above, 'Shelter Safe House' also carried out an analysis and comprehensive research on the phenomenon of marriages of convenience in Estonia, Ireland, Latvia, Lithuania and Slovakia (Section 4.3.5).

In Estonia, the NGO 'Living for Tomorrow', dealing with the prevention of trafficking in human beings, helps victims and, since October 2004, runs a hotline aimed at providing potential victims with advice on work and study⁵²⁰.

'People in Need Slovakia' ran a project from 24 November 2014 to 31 March 2015 funded by the Ministry of Interior. The project focused on a group of young people from socially excluded localities and implemented awareness raising activities through which young people were informed about the forms and consequences of trafficking in human beings⁵²¹.

Initiatives of groups representing Roma

Particular initiatives on forced marriage and on child marriage have been taken by groups representing Roma communities.

In the past decade a clear shift has been recorded in how the issues related to child and forced marriages in Roma communities are approached. In Romania, for example, the traditional Roma community leaders and members are increasingly aware that there is a **need for change**⁵²². Within this context, a noteworthy initiative was the project 'Between Tradition and Law' of the Roma Christian Centre in Sibiu, financed by the Contact Point for Roma and Sinti Issues of the Organisation for Security and Cooperation in Europe (2005 - 2006). Following a series of discussions carried out in Roma communities and the analysis of the answers provided in a questionnaire, they concluded that changes regarding the traditional phenomenon of child marriages slowly occur within the communities and that such changes should not be imposed from outside⁵²³.

⁵¹⁹ [Press Release](#) by the Ministry of Interior (Latvia).

⁵²⁰ Living for Tomorrow 'Not One Victim More: Human Trafficking in the Baltic States' (Tallinn 2008), p.12.

⁵²¹ People in Need Slovakia, 'Bráňme sa pred zobchodovaním' November 2014.

⁵²² Amalipe Center for Interethnic Dialogue and Tolerance (Bulgaria), Liga Pro Europa (Romania), Association for Social Support of Europe - ARSIS (Greece), 'Preventing Early Marriages' (2011), Reference number: JLS/2008/DAP3/AG/1298-30-CE-03124780080, p. 163.

⁵²³ *Supra* footnote 3.

In Croatia the 'Better Future' association supports Roma women forced into marriage by providing training courses, helping them to find a job and to **achieve financial independence**⁵²⁴.

Multi-country initiatives were also identified. One of these took place in Greece where the NGO 'Association for the Social Support of Youth' (ARSIS) carried out an inter-state programme for the prevention of forced marriages in Roma communities together with Liga Pro Europa (Romania) and the Amalipe Centre for Interethnic Dialogue and Tolerance (Bulgaria), in 2010, in the context of the Daphne III Programme. The agenda of an event organised in Thessaloniki in the context of this project explicitly referred to early and forced marriages and focused on these practices within the Roma and Muslim communities⁵²⁵.

⁵²⁴ Information collected through consultation with representative of Roma women's rights group (representative of 'Better Future' association).

⁵²⁵ Final Report of the project, '[Preventing Early Marriages](#)', 2011, Amalipe Centre for Interethnic Dialogue and Tolerance.

10. RECOMMENDATIONS

10.1. EU competence to act

Under the principle of conferral set forth in Article 5(2) of the Treaty on European Union (TEU)⁵²⁶, the EU can only act within the limits of the powers assigned to it. The EU may have exclusive competence, shared competence or competence only to take supporting, coordinating or supplementary action.

When the EU has competence to act, its actions still need to comply with the principle of subsidiarity, i.e. it should act only where issues cannot be dealt with effectively at national, regional or local level. As regards equality between women and men, **Article 8 TFEU**⁵²⁷ provides that 'in all its activities, the Union shall aim to eliminate inequalities, and to promote equality, between men and women'. As regards forced marriages, the EU has competence to act in the framework of immigration rules under **Article 63(3) TFEU**⁵²⁸ which confers the Council the competence to adopt measures on immigration policy, including conditions of entry and residence, such as Directive 2003/86/EC on the right to family reunification⁵²⁹. In addition, Declaration No.19 on Article 8 TFEU⁵³⁰ specifically states that 'in its general efforts to eliminate inequalities between women and men, the Union will aim in its different policies to combat all kinds of domestic violence. The EU Member States should take all necessary measures to prevent and punish these criminal acts and to support and protect the victims'⁵³¹.

The EU therefore has a clear mandate to protect victims of forced marriage and take steps to promote the prevention of this offence, while competence for European legal acts in this field seem a less straight forward option.

10.2. Conclusions

Definition of forced marriage in the EU

Forced marriage is internationally recognised as a violation of human rights and a form of gender-based violence, however there is no coordinated definition of forced marriage at international and EU level.

Data on forced marriages in the EU

There are significant limitations in the collection of data relating to forced marriage cases in the EU. Many cases of forced marriage are not reported or they are reported to private organisations and NGOs rather than to public authorities. Even when cases are reported to national authorities, no consistent data collection system exists at Member State level. Robust and reliable data are essential to provide an evidence-base for policy making and better target interventions and resources.

⁵²⁶ [Consolidated Version of the Treaty establishing the European Community, Article 63\(3\).](#)

⁵²⁷ [Consolidated Version of the Treaty establishing the European Community, Article 8.](#)

⁵²⁸ [Consolidated Version of the Treaty establishing the European Community, Article 63\(3\).](#)

⁵²⁹ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, OJ L 251/12 of 3 October 2003.

⁵³⁰ [Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union - Consolidated version of the Treaty on the Functioning of the European Union, Declarations annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, signed on 13 December 2007, 19. Declaration on Article 8 of the Treaty on the Functioning of the European Union.](#)

⁵³¹ [Declaration on Article 8 of the Treaty on European Union.](#)

Addressing forced marriage through awareness raising activities

The occurrence of forced marriage may also be linked to the inadequacy of education and employment policies. Ensuring access to education would increase the chance of victims or potential victims of forced marriage to increase their employment opportunities and employment could in turn help them achieve financial independence from their family or spouse. Actions tackling forced marriage should also take into account different factors such as gender, ethnicity, social class, and the intersectionality of these issues.

The study revealed that in certain communities including among the Roma, forced marriage often occurs in the form of child marriage. The reasons for forcing girls into marriage may be linked to the need to preserve their their dignity, the traditions of the community, and to overcome poverty.

Marriages concluded abroad

A form of forced marriage observed in Belgium, Finland, France and Denmark involves women and girls being sent overseas to be forced into marriage. Holiday periods in the **parents' country of origin therefore represent a threat for many young people living in the EU** as they increase opportunities for forced marriage. In some Member States such as Spain, Germany and Sweden the respective provisions criminalising forced marriage include within their scope criminal liability for forcing another person to abandon the country and/or to enter the country or any other country for the purpose of forcing him/her into a marriage. These elements aim to better protect potential victims of forced marriage.

Forced marriage as a form of gender-based violence

Forced marriage is a form of gender-based violence that, as such, affects women because of their sex and should not be considered as specifically related to certain cultures or religions. Women and girls are more vulnerable to this practice because of stereotyped ideas of women related to their family obligations. Besides, forced marriages entail insidious emotional and physical violence for them.

Trafficking in human beings and forced marriage

Links between forced marriage and trafficking of human beings have been reported in several EU Member States, including Croatia, Estonia, Ireland, Latvia, Lithuania and Slovakia. The EU institutions have already implemented projects to address this issue, such as the HESTIA project carried out in Estonia, Ireland, Latvia, Lithuania and Slovakia to reduce marriages of convenience that may in fact be forced marriage by implementing activities such as carrying out comprehensive research or developing training and awareness raising campaigns on marriages of convenience and forced marriages in the six countries involved.

Support for victims of forced marriage

The limited amount of case-law relating to forced marriage is partly attributed to shortcomings in victim support services. Victims of forced marriage often do not come forward as they fear revenge or isolation from their social environment, especially where the perpetrator is a family member. In order to be effective, criminal penalties need to be accompanied by robust safeguards aimed at protecting and supporting victims⁵³².

Moreover, since most of the victims of forced marriage do not recognise themselves as such, programmes and activities should increase awareness of their human rights and of the detrimental impact of forced marriage on the health and well-being of its victims, in particular, women and girls.

In light of these findings the following recommendations are put forward.

⁵³² [Council Conclusions on 'Combating violence against women, and the provision of support services for victims of domestic violence', 22 November 2012, 16382/12.](#)

10.3. Recommendations

The **European Parliament** should:

- Support the development of coordinated comprehensive, multidisciplinary and multi-agency coordinated action plans, programmes or strategies to combat all forms of violence against women including forced marriage within the context of trafficking in human beings⁵³³. Moreover, the European Parliament should support the exchange of good practices among Member States and between Member States and EU institutions.

The European Parliament should call on the **European Commission** to:

- Propose the inclusion of forced marriage as a form of trafficking in human beings in Article 2 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims (as suggested in the Preamble of the same Directive)⁵³⁴. Forced marriage within the context of human trafficking should also be introduced within the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (Palermo Protocol)⁵³⁵.
- Monitor the implementation **of the EU Victims' Directive by the Member States**.

In line with the recommendations of the Council's Conclusions on 'Preventing and combating all forms of violence against women and girls, including female genital mutilation'⁵³⁶, the European Parliament should call on the **Member States to:**

- Improve the collection of comparable, reliable, regularly updated administrative and statistical data on (potential) victims and perpetrators (disaggregated at least by age and gender) of forced marriage as a form of violence against women and to support research and the exchange of good practices in this field. The 2014 FRA study⁵³⁷ on '**Addressing forced marriage in the EU: legal provisions and promising practices**', provides some data on forced marriage in France, Germany, the Netherlands, Sweden and the UK which should be further disseminated. Eurostat should promote and monitor such data collection at national level.
- Pay attention to primary prevention of forced marriage as a form of violence against women, inter alia by recognising the role of the educational system as one of the primary sources of socialisation.
- Promote awareness raising campaigns aimed, for example, at implementing education activities in schools, family centres, professional training courses or centres typically aimed at socialisation such as libraries or youth centres. Migrant and ethnic minority community leaders and organisations working on forced marriage should be engaged in such campaigns in the promotion of social change in

⁵³³ [Council's Conclusions on 'Combating violence against women, and the provision of support services for victims of domestic violence', 22 November 2012, 16382/12.](#)

⁵³⁴ Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims and replacing Council Framework Decision 2002/629/JHA, OJ L101/1 of 15 April 2011.

⁵³⁵ See Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, Dec. 12, 2000, 2237 U.N.T.C. 319, available at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&lang=en

⁵³⁶ [Council's Conclusions on 'Preventing and combating all forms of violence against women and girls, including female genital mutilation' 5 and 6 June 2014.](#)

⁵³⁷ [European Union Agency for Fundamental Rights \(FRA\), Addressing forced marriage in the EU: legal provisions and promising practices, 2014.](#)

order to discourage forced marriage within their communities. EU funding from the Rights and Citizenship programme could be provided within this context following examples from previous funding periods (e.g. the Daphne Programme). Moreover, since most of the victims of forced marriage do not recognise themselves as such, programmes and activities should increase awareness of their human rights and of the detrimental impact of forced marriage on the health and well-being of its victims, in particular, women and girls.

- **Ensure the effective implementation of the EU Victims' Directive in particular by** improving access for victims of violence against women to general victim support and specialised support⁵³⁸. Effective reporting mechanisms should be in place in order to encourage victims of forced marriage to report the offence. These mechanisms should ensure the respect of anonymity and confidentiality of victims as well as prevent their further stigmatisation.

The European Parliament should call on the **European Commission and the Member States** to:

- Develop specific measures such as training or awareness raising activities aimed at providing teachers, cultural mediators and social assistants with adequate tools to strengthen their capacities to deal with child marriages in the framework of the Open Method of Coordination.
- Endorse the Council Conclusions '**Preventing and combating all forms of violence against women and girls, including female genital mutilation**'⁵³⁹ which include forced marriage as a form of gender-based violence, and to incorporate appropriate measures in the specific policies and criminal legislation addressing gender-based violence more generally, in order to stress the human rights and gender equality issues related to forced marriage and to recognise specifically the vulnerability of women to this practice.

The European Parliament should cooperate with the **European Commission and the Council** to:

- Adopt a shared policy and common definition of forced marriage that would take into account all elements likely to vitiate the consent of one or both spouses i.e. violence, coercion, threat, marital age and psychosocial disabilities. The definition should also specifically refer to gender-based violence and cover religious marriages and mere cohabitation. Such a definition should be used consistently at national level in policies, civil and criminal law provisions on forced marriage.

⁵³⁸ Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, OJ L 315/57 of 14 November 2012.

⁵³⁹ [Council's Conclusions on 'Preventing and combating all forms of violence against women and girls, including female genital mutilation' 5 and 6 June 2014.](#)

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List of stakeholders referred to in the final report

- Cypriot Police
- Official of Croatian Government's Office for Human Rights and Rights of National Minorities
- Official of Croatian Ministry of Interior
- Official of Cypriot Social Welfare Services of the Ministry of Labour, Welfare and Social Insurance
- Official of Sweden County Administrative Board of Östergötland
- **Representative of Croatian NGO (Bolja Budućnost)**
- Representative of Croatian NGO (Udruga Brod)
- Representative of Danish NGO (LOKK)
- Representative of Danish NGO (Romnet.dk)
- Representative of Lithuanian Caritas
- Representative of Lithuanian Institute for Ethnical Studies

- Representative of Portuguese Federation of Roma Association
- Representative of Vilnius Bureau of International Migrations Organisation
- Slovenian Police

ANNEX I COUNTRY FICHE ON NATIONAL LEGISLATION AND RELATED SANCTIONS ON FORCED MARRIAGE IN EU MEMBER STATES, EFTA AND CANDIDATE COUNTRIES

Country Fiche on national legislation

The following Country Fiche contains updated information on laws relevant to forced marriage as found in the 2008 EP Study on Forced Marriages and Honour Killings⁵⁴⁰. They cover the 28 EU Member States and the selected EFTA and candidate countries (Albania, Bosnia-Herzegovina, Norway, Serbia, Switzerland and Turkey). More specifically for each Country Fiche:

- **Section 1** provides an overview of criminal legislation including criminal provisions targeting forced marriage and alternative provisions specifically related to forced marriage. Other offence provisions such as those on coercion, threats, etc. might also apply in the context of forced marriage. Where no provisions targeting forced marriage or no alternative provisions specifically related to forced marriage have been identified for the country in question, other provisions such as those criminalising coercion have been included.
- **Section 2** contains the civil law rules on the legal conditions for the validity of marriage (age, consent, mental capacity) and the grounds for annulment.
- **Section 3** on immigration rules specifies the conditions for family reunification of spouses and the consequences of marriages concluded in bad faith on the legal status of the spouses.

⁵⁴⁰ European Parliament (2008) '[Forced Marriages and Honour Killings](#)'.

ALBANIA

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

*Criminal Code*⁵⁴¹

§130

(1) Coercion or prohibition from beginning or continuing cohabitation, or coercion to enter into or dissolve a marriage, shall constitute a criminal contravention and is punishable with a fine or imprisonment up to three months.

(2) Intentionally requesting an adult or child to leave the territory of the Republic of Albania for purposes of obliging him to enter into a marriage shall constitute a criminal contravention and is punishable with a fine or imprisonment up to three months.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

None identified.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

*Family Code*⁵⁴²

§ 7

Marriage can be concluded between a man and a woman who are 18 years or older. The court in the location where the marriage is to be concluded may, for sufficient reasons, allow marriage prior to this age.

§ 8

Marriage is concluded in front of the civil registration office clerk upon the free consent of the future spouses.

§ 12

A person who suffers from a mental illness or lacks the mental capacity to understand the nature of marriage cannot enter into matrimony.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Family Code

§ 33

A marriage concluded without the full and free consent of one or both of the spouses is void.

§ 35

A marriage concluded by a person suffering from a grave mental illness or with impaired mental development so as to make him/her incapable of understanding the scope of the marriage, is void.

⁵⁴¹ [The Criminal Code of Albania](#), Law No. 7895 27 January 1995, amended by Law 2013/144.

⁵⁴² [The Family Code](#) (Law Nr. 9062, 8 May 2003)

§ 36

A marriage concluded by spouses without the intention of having a joint life as husband and wife is void.

§ 37

A marriage concluded as a result of a threat against one of the parties, without which the marriage would not have taken place, is voidable.

§ 39

A marriage concluded by a person not meeting the age requirements of this Code is void. The marriage may not be declared void after the person has reached the required age, or when the woman has given birth to a child or is pregnant.

3. Immigration rules**3.1. Conditions for family reunification of spouses**

*Law No. 108/2013 on Aliens*⁵⁴³

§ 55

The alien, who is the spouse of an Albanian national, shall be issued with a residence permit with a period of validity of no longer than one year when the residence permit is issued for the first time, unless otherwise foreseen in agreements or in this law. **The residence permit may be renewed for a validity period of two years. [...]**

§ 56

1. The alien who has been issued with a residence permit in the Republic of Albania, may lodge an application with the local Border and Migration Police for family reunification purposes, if the following requirements are fulfilled:

- a) family members of the alien reside outside the territory of the Republic of Albania. In exceptional cases, for humanitarian grounds, according to the criteria approved by decision of the Council of Ministers and procedures approved by Instruction of the Minister of Interior, the application may be lodged when the family member of the alien is in the territory of the Republic of Albania;
- b) the alien has been issued with a residence permit in the Republic of Albania for a validity period of at least one year and has the possibility to renew the permit in compliance with the provisions of this law;
- c) the alien ensures normal accommodation according to the general standards of health and security;
- ç) the alien has sickness insurance covered for him or her and his/her family members for whom he/she has applied for family reunification;
- d) the alien has for him/herself and family members sufficient funds to prevent them resorting to social aid scheme;
- dh) the alien submits the documentation based on the provisions of the decision of the Council of Ministers.

2. The residence permit for family reunification purposes issued for the first time has a validity period of one year and may be renewed, unless otherwise foreseen in agreements or in this law.

[...]

7. In case of refusal of issue of the residence permit for family reunification, the alien or the family members have the right to appeal according to the legislation in force.

⁵⁴³ [Law No. 108/2013](#)

3.2. Consequences of bad faith marriages on the status of third country national

Law No. 108/2013 on Aliens

§ 55(2)

The alien shall not be issued with a residence permit or shall have the residence permit annulled if it is proved that the marriage is of convenience based on the provisions of article 59 of this law.

§ 59

1. Marriage of convenience according to this law shall be the marriage entered into for the purpose of avoiding the fulfilment of conditions for entry and stay of aliens in the Republic of Albania.
2. A marriage shall be considered to be a marriage of convenience if one of the following circumstances is found:
 - a) the spouses, after family reunification, do not maintain their marital union based on no reasons at all; b) the spouses after family reunification do not perform their marital obligations;
 - c) the spouses have never met before the conclusion of marriage;
 - ç) the spouses fail to provide consistent personal data for one-another;
 - d) the spouses do not speak a language that they both understand;
 - dh) money was exchanged for the conclusion of marriage, unless the money is dowry, and the spouses come from countries where the presentation of dowry is a custom;
 - e) there is proof of previous marriages of convenience on the part of any of the spouses either in the Republic of Albania or abroad.
3. The alien shall not be issued a residence permit for family reunification in case of marriage of convenience.

§ 60

The authority responsible for border and migration shall annul the residence permit of the alien obtained for family reunification purposes if it is proved that:

- a) the marriage of the sponsor and the person concerned was contracted for the sole purpose of enabling issuing of the residence permit;
- b) the sponsor or the person concerned have committed fraud in the presentation of information or have presented false information;
- c) it has been issued for family reunification purposes and the marriage is broken within five years from the issuing of the residence permit; and within 3 years from the issuing of the residence permit in case of death of a spouse; and the rights for parental care have ceased to exist, except for the case where the alien has resided in the Republic of Albania based on a five year residence permit;
- ç) [...]

AUSTRIA

4. Criminal law provisions

4.1. Criminal provisions specifically addressing forced marriage

Criminal Code⁵⁴⁴

§106a⁵⁴⁵

(1) Whoever forces another person into marriage or into founding a registered partnership through violence or dangerous threat or threat of termination or deprivation of family contacts shall be punished with imprisonment of six months up to five years.

(2) Punished should be also who – with the intention that a person shall be forced into marriage or into founding a registered partnership in another national state than the one of which the person is a citizen or in which the person has their usual residence – entices a person through misrepresentation of the undertaking or forces the person through violence or through dangerous threat or threat of termination or deprivation of family contacts to move to another nation state or who transports this person with violence or by abusing their misconception of the undertaking into another nation state.

[...].

4.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

Criminal Code

§106 (1) Whoever commits grave coercion by

1. [...]
2. [...]
3. inciting the coerced person to marriage, to create a registered partnership, to prostitution or to participation in a pornographic production (...)

is to be punished with imprisonment of six months up to five years.

(2) If the crime implicates suicide or attempted suicide of the coerced or another person, against whom the violence of the dangerous threat is posed, the perpetrator is to be punished with imprisonment of up to ten years.

5. Civil law provisions on marriage

5.1. Conditions (consent limited to: age, mental infirmity)

Marriage Act⁵⁴⁶

§1

(1) Persons who completed the 18th life year are authorised to marry.

⁵⁴⁴ [Austrian Criminal Code](#), consolidated version 22 October 2015. Adopted by [Federal Law No. 60/1974](#) 'on actions subject to judicial penalty (Criminal Code)' and last amended by the [Federal Law No. 113/2015](#)

⁵⁴⁵ Introduced by Amendment Act 2015 to the Criminal Code and will enter into force in January 2016 (Response to Parliamentary Enquiry to the Ministry of Justice, 4489/AB from 22 June 2015).

⁵⁴⁶ [Marriage Act \(Ehegesetz\)](#) consolidated version 23 October 015, last amended through [Federal Law No. 15/2013](#).

- (2) The Court has to declare a person who completed his/her 16th life year, authorized to marry upon their request if the future spouse is of full age and if the person decides maturely for this marriage.

§2 A person who is under limited contractual capability cannot conclude a marriage.

§3

- (1) A minor or a person who for other reasons has limited contractual capability needs the consent of their legal representative in order to conclude a marriage.
- (2) Furthermore, this person needs the consent of those who are entitled to his/her care and upbringing.
- (3) If the declarations of consent according to (1) and (2) are refused, the Court has to replace them upon request of the engaged person who needs it, if no justified reasons for their refusal are present.

§17

- (1) A marriage is concluded in the way that the engaged persons declare in person and in at the same time in the presence of a registrar that they want to conclude the marriage with each other.
- (2) The declarations cannot be made under any condition or a timely restriction.

5.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Marriage Act⁵⁴⁷

§21

A marriage is invalid if it has not been concluded in the form foreseen in §17.

§22

A marriage is invalid if one of the spouses had limited contractual capability at the point of conclusion of the marriage or was in a state of unconsciousness or a temporary state of mental disturbance.

§35

- (1) A spouse can ask for the annulment of a marriage if he/she at the point of marriage (...) **was of limited contractual capability and his/her legal representative did not give the consent to the conclusion of marriage.** (...)

§36

- (1) A spouse can ask for an annulment of the marriage if at the point of conclusion of marriage he/she did not know that the subject of the action was conclusion of a marriage or if he/she knew this but did not want to give a declaration to conclude a marriage. The same is valid if the spouse was mistaken about the person of the other spouse.

§38 (1)

A spouse can ask for the annulment of the marriage if he/she was put into marriage through fraudulent misrepresentation about circumstances which, had he/she known about them and had the essence of marriage been properly respected, would have prevented him/her to conclude the marriage.

⁵⁴⁷ [Marriage Act \(Ehegesetz\)](#) consolidated version 23 October 015, last amended through [Federal Law No. 15/2013](#).

§39 (1)

A spouse can ask for annulment of the marriage if he/she was unlawfully put into marriage through threat.

6. Immigration rules**6.1. Conditions for family reunification of spouses*****Settlement and Residence Act*⁵⁴⁸****§ 2 Definitions**

(1) For the purposes of this Federal law:

[...] **9. Family members: spouse or whoever is a minor unmarried child, including adopted or step-child (nuclear family).** This applies further for registered partners; spouses and registered partners must have been 21 years old at the time of the application; in the event of a multiple marriage where there is already a spouse living with him in the federal territory, the other spouse is not an eligible family member for obtaining a residence permit;

General Requirements: General conditions for a residence permit:**§ 11**

(2) a residence permit may only be issued to a foreigner if:

1. the stay of the foreigner does not contradict the public interest;
2. the foreigner proves his equal right to the same level of accommodation as a local family would be entitled to;
3. the foreigner has an all risks covering sickness insurance and is also liable to pay benefits in Austria;
4. **the foreigner's stay will not lead to a financial burden for the State;**
5. the relations of the Republic of Austria are not substantially impaired with another State or another subject of international law by granting a residence permit; and
6. in the case of an application for extension (§ 24), the foreigner undertakes the module 1 of the integration agreement in accordance with § 14a fulfilled on time.

(3) A residence permit can, despite the existence of a grant obstacle according to para 1 no. 3, 5 or 6, and despite the absence of a requirement in accordance with para 2 nos. 1 to 6, be issued, if necessary for the maintenance of private and family life within the meaning of Art. 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights - ECHR)..., Federal Law Gazette No. 210/1958 is commanded. . In assessing the private and family life within the meaning of Article 8 of the ECHR, the following must be considered in particular:

1. the nature and duration of the stay so far and the question of whether the former residence of third-country nationals was unlawful;
2. the actual existence of family life;
3. the privileged nature of private life;
4. the degree of integration;
5. the ties with the country of origin of third-country nationals;
6. no criminal court file;

⁵⁴⁸ [Settlement and Residence Act](#)

7. breaches of public order, especially in the field of asylum, immigration and Fremdenpolizei- law;
 8. the question whether the private and family life of third-country nationals was created at a time when the parties were aware of their insecure immigration status;
 9. the question whether the duration of the recent stay of foreigners is due to overly long delays in administrative procedures.
- (4) The stay of a foreigner contradicts the public interest (para 2 no. 1), if
 1. his stay would endanger public order or security or
 2. the stranger has a close relationship with an extremist or terrorist group [...]
 - (5) The stay of a foreigner does not lead to a financial burden for the local authority (para 2 no. 4), if the alien has their own stable and regular income, which allows him a life without recourse to the social assistance of the authorities and complies with the amount of the recommended rates of § 293 of the General Social Security Act (ASVG), Federal Law Gazette. no. 189/1955. Regular own income will be reduced by regular expenses, particularly by rental charges, credit strains, garnishments and child support payments to third parties who do not live in the same household. A lump sum amount up to that specified in § 292 para. 3 second sentence ASVG specified amount and results in no increase in the necessary income within the meaning of the first sentence. For proof of maintenance means through maintenance claims (§ 2 para. 4 3) or through a declaration of liability (§ 2 para 1 no. 15) only this part of the income which exceeds the minimum of existence exempted from execution according to § 291a of the Enforcement Code (EO) RGBI. No. 79/1896 is to be used to calculate the economic capacity. During the process of initial applications the receipt of social benefits should not be included, the entitlement would arise only through issue of the permit, in particular social assistance or the compensatory allowance.
 - (6) be able to provide the admissibility, the detection of one or more requirements of para 2 nos. 2 to 4 with a declaration of liability (§ 2 para 1 no. 15), must be expressly stated in the respective purpose of residence.
 - (7) The alien shall submit a health certificate in the first application, if he (FPG 21 §) would require a health certificate in accordance with § 23 FPG also for obtaining a visa.

§ 27 Establishment of family members

- (1) Family members with a residence permit in accordance with § 8 para 1 no. 2, 4, 5 and 8 have an independent right of establishment. If the prerequisites for family reunification no longer apply, the family member shall be issued a residence permit, the purpose of residence in any event, equivalent to the old purpose of residence if no grant obstacle in accordance with § 11 para. 1 exists and it meets the grant requirements of § 11 para. 2,
- (2) The family member is, despite the existence of an obstacle to grant pursuant to § 11 para 1 no. 4 to 6, and despite the absence of a requirement in accordance with § 11 para. 2, issued a residence permit, the purpose of residence in any event, equivalent to the old purpose of residence,
 1. should the spouse , registered partner or parent die;
 2. in divorce or dissolution of a registered partnership for overriding the fault of the other spouse or registered partner; or
 3. in particularly extenuating reasons.
- (3) Particularly extenuating reasons within the meaning of para 2 no. 3 occur when
 1. the family member is a victim of a forced marriage or forced partnership (§ 30a);

2. the family member has been a victim of violence and against the sponsor an injunction pursuant to §§ 382b or 382e EO was adopted; or
 3. the loss of the residence permit of the applicant was the result of an action by the FPG, which was set on the basis of the final conviction of the applicant for an intentionally committed criminal offence in court.
- (4) The family member has to announce the circumstances mentioned in para. 1 to 3 to the authority immediately, at the latest within one month.

§ 30 Forced marriage and forced partnership

- (1) If a person was forced against her/his will to conclude a marriage or a registered partnership, neither the spouses nor registered partner can invoke upon this marriage or this registered partnership for an issuance or continuation of a residence title or for the acquisition or continuation of a settlement right according to Union law.

§ 46 Provisions on family reunification

- (1) Family members of third country nationals receive a residence title "Red-White-Red - Card plus" which is granted if they fulfil the requirements of the 1st part, and
1. a sponsor residence permit "Red-White-Red - Card" in accordance with § 41 or a residence permit "Red-White-Red - Card plus". pursuant to § 41a para 1 or 4 holds, or
 2. a quota place is available and the sponsor:
 - a) holds a residence permit "Permanent residence - EU";
 - b) holds a residence permit "Red-White-Red - Card plus" except in accordance with § 41a para such as 1 or 4 holds; or
 - c) is entitled to asylum and § 34 para. 2 of the Asylum Act 2005 does not apply.
- (2) If in the case of family reunification in accordance with para 1 no. 2 or para. 4, a residence permit is granted without quota, the authority has to decide on a separate application as a preliminary issue for consideration of the reasons according to § 11 para. 3 and a separate chapter of this denied if the request is not taken into account. Such a request shall be admissible only if at the same time an application in the main question is introduced to family reunification or such is already pending.
- (3) family members of holders of a residence permit "EU Blue Card", a residence title "Red-White-Red - Card plus" will be issued if they fulfil the requirements of the 1st part. The same applies if the actual proprietor holding a residence permit originally held an "EU Blue Card" residence permit. For family members of holders of a residence permit "EU Blue Card" is directed, the validity of the residence permit "Red-White-Red - Card plus" after the period of validity of the residence permit of the sponsor.
- (4) family members of third-country nationals shall be granted a "residence permit" if
1. they meet the requirements of the 1st part,
 2. a quota place is available and
 3. the sponsor a "residence permit" or a "residence permit - national" holds.
- (5) family members of third-country nationals in accordance with §§ 43 para 2 or 44 can be granted a "settlement permit - except employment" if
1. they meet the requirements of the 1st part and
 2. in the case of family members of third country nationals within the meaning of § 44 para. 1, a quota space is available.

§ 52

(1) Due to the Free Movement Directive, EEA citizens who are relatives of EEA citizens, entitled to residence according to European Union law (§§ 51 and 53a), have the right to stay for more than three months if they

1. **are a spouse or registered partner [...]**

BELGIUM

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

Criminal Code⁵⁴⁹

Article 391sexies:

Whoever, by violence or threats, has forced someone to enter into a marriage shall be punished with imprisonment of three months to five years and a fine of two hundred fifty euros to five thousand euros.

The attempt shall be punished with imprisonment of two months to three years and a fine of one hundred twenty-five euros to two thousand five hundred euros.

Article 391septies:

Whoever, by violence or threats, has forced someone to enter into legal cohabitation shall be punished with imprisonment of three months to five years and a fine of two hundred fifty euros to five thousand euros.

The attempt shall be punished with imprisonment of two months to three years and a fine of hundred twenty-five euros to two thousand five hundred euros.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

None identified.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

Civil Code⁵⁵⁰

Article 144

No person may contract marriage before eighteen years of age.

Article 145

The family court may, on serious grounds, lift the prohibition of the preceding article. [...]

Article 145/1

The person who has been expressly declared incapable of contracting marriage under Article 492/1⁵⁵¹, § 1, paragraph 3, 2, may, however, at his request, be authorised to marry by a Civil Magistrate's Court under article 628, 3° of the Judicial Code. The magistrate shall consider the capacity of the protected person to express his/her will.

⁵⁴⁹ [The Criminal Code of Belgium](#) Law 8 June 1867, as amended by Act of 25 April 2007.

⁵⁵⁰ [The Civil Code of Belgium](#) as amended by Act of 25 April 2007.

⁵⁵¹ This provision includes any person unable to act, taking into account his/her personal circumstances including mental health.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Civil Code

Article 146

There is no marriage when there is no consent.

Article 146ter

There is no marriage either when it has been contracted without the free consent of both spouses or that the consent of at least one of the spouses has been given under violence or threat.

3. Immigration rules

3.1. Conditions for family reunification of spouses

***Act of 15 December 1980 on access to the territory, residence, establishment and removal of foreigners*⁵⁵²**

Article 10

1. [...] shall be deemed allowed to stay more than three months in the Kingdom: [...]
4. the following family members of a foreigner admitted or authorised, since at least twelve months, to stay in the Kingdom indefinitely, or authorised since at least twelve months to reside. This period of twelve months is not applicable if the marital relationship or registered partnership existed before the arrival of foreigner joined in the Kingdom or have a common minor child, or in the case of family members a recognised refugee or foreigner granted subsidiary protection:
 - The foreigner or foreign spouse with whom (s)he is bound by a registered partnership considered as equivalent to marriage in Belgium, who comes to live with him/her, provided that the two persons are older than the age of twenty-one years old. [...] **This minimum age is however reduced to eighteen years old when the marital relationship or registered partnership that, as applicable, existed before the arrival of the foreigner joined in the Kingdom [...].**

[...]

6.2. Consequences of bad faith marriages on the status of third country national

Civil Code⁵⁵³

There is no marriage when, albeit formal consents have been given, it follows from a combination of circumstances that the intention of at least one of the spouses is obviously not creating a lasting common life, but seeks only an advantage in terms of stay, related to the status of the spouse.

⁵⁵² [The Act of 15 December 1980](#), amended by Act of 8 July 2011.

⁵⁵³ [Civil Code](#) as amended by Act of 25 April 200.

BOSNIA-HERZEGOVINA

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

None identified.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

1.2.1. BOSNIA-HERZEGOVINA- state⁵⁵⁴ level

Criminal Code of BiH⁵⁵⁵

None identified.

1.2.2. BOSNIA-HERZEGOVINA – Federation of BiH

Criminal Code of FBiH⁵⁵⁶

Article 216

1. An adult cohabiting with a minor younger than 16 years shall be punished with imprisonment of three months to three years.
2. The penalty referred to in paragraph 1 of this Article shall be imposed also on a parent, adoptive parent or guardian who makes it possible or induces a minor aged 14 to 16 to cohabit with another person.
3. If the offence referred to in paragraph 2 of this Article is committed for gain, the offender shall be punished with imprisonment of from six months to five years.
4. If a marriage is entered into, prosecution shall not be undertaken, and if undertaken, it shall be discontinued.

1.2.3. BOSNIA-HERZEGOVINA – Republika Srpska

Criminal Code⁵⁵⁷

Article 204

1. An adult cohabiting with a minor younger than 16 years shall be punished with a monetary penalty or imprisonment up to two years.
2. The penalty referred to in paragraph 1 of this Article shall be imposed also on a parent, adoptive parent or guardian who makes it possible or induces a minor referred to in paragraph 1 to cohabit with another person.
3. If the offence referred to in paragraph 2 of this Article is committed for gain, the offender shall be punished with imprisonment of up to three years.
4. If a marriage is entered into, prosecution shall not be undertaken, and if undertaken, it shall be discontinued.

⁵⁵⁴ Given that only local legislation relates to forced marriage, no legislation at state level has been inserted in the table.

⁵⁵⁵ [Criminal Code of BiH](#), last amended by 47/14, 22/15, and 40/15.

⁵⁵⁶ [Criminal Code of FBiH](#) as last amended by 42/10, 42/11, 59/14, and 76/14.

⁵⁵⁷ [The Criminal Code of BH-RS](#) "O.G. RS", No. 49/03, 70/06, and 73/10

1.2.4. BOSNIA-HERZEGOVINA – Brčko District BiH

***Criminal Code of Brčko District of BiH*⁵⁵⁸**

Article 213

1. An adult cohabiting with a minor younger than 16 years, shall be punished with imprisonment of three months to three years.
2. The penalty referred to in paragraph 1 of this Article shall be imposed also on a parent, adoptive parent or guardian who makes it possible or induces a minor aged 14 to 16 to cohabit with another person.
3. If the offence referred to in paragraph 2 of this Article is committed for gain, the offender shall be punished with imprisonment of from six months to five years.
4. If a marriage is entered into, prosecution shall not be undertaken, and if undertaken, it shall be discontinued.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

2.1.1. BOSNIA-HERZEGOVINA⁵⁵⁹(Federation of Bosnia and Herzegovina)

***Family Act of the Federation of Bosnia and Herzegovina*⁵⁶⁰**

Article 7(1)

A marriage shall be concluded by a consensual statement of a woman and a man (...).

Article 11

Marriage may not be concluded by a person who does not have the capacity to enter into agreements or who is incapable of reasoning. Exceptionally, the court may, in an extra-judicial proceeding, allow conclusion of the marriage to the person incapable of reasoning if it concludes that the person is able to understand the meaning of marriage and obligations stemming from it, and if the marriage is obviously in his/her interests.

Article 15

1. A marriage may not be concluded by a person who has not reached 18 years of age.
2. The court may, in an extra-judicial proceeding, allow conclusion of the marriage by a person who reached 16 years of age, if it establishes that there are justified reasons, that the person is physically and mentally mature to fulfill rights and duties in the marriage and that the marriage is in his/her interest.

2.1.2. BOSNIA-HERZEGOVINA(Republic of Srpska)

***Family Act of the Republic of Srpska*⁵⁶¹**

Article 4

2 A marriage is based on the free will of a man and a woman to conclude the marriage [...]

⁵⁵⁸ [The Criminal Code of Brčko District of BiH](#) "O.G. BD", No. 33/13

⁵⁵⁹ Competence in Civil Law is only at local level not at state level. Therefore, only provisions at local level have been inserted in the table.

⁵⁶⁰ [The Family Act of the Federation of Bosnia and Herzegovina](#) O.G. FBIH, No. 35/05 amended by No. 35/05 and 31/14.

⁵⁶¹ [Family Act of the Republic of Srpska](#) ("O.G. RS", No. 54/02 and 63/14)

Article 5

1 Everybody is free to decide on whether to conclude a marriage

[...]

Article 14

A marriage is concluded (...) by consent of freely stated wills

[...]

Article 36

1 A marriage may not be concluded by a person who has not reached 18 years of age

2 The court may, in an extra-judicial proceeding, allow conclusion of the marriage to a person who reached 16 years of age, if it establishes that there are justified reasons, that the person is physically and mentally mature to fulfill rights and duties in the marriage.

[...]

2.1.3. BOSNIA-HERZEGOVINA(Brčko District of Bosnia and Herzegovina)

Family Act of the Brčko District of BiH⁵⁶²

Article 4(2)

Marriage is based on the free will of a man and a woman to conclude the marriage, (...).

Article 6(1)

Marriage is concluded (...) by consent of freely stated wills

[...]

Article 22

Marriage may not be concluded by a person who, due to mental illness, mental development or other reasons is incapable of reasoning.

Article 26

Marriage may not be concluded by a person who has not reached 18 years of age.

Court may, in an extra-judicial proceeding⁵⁶³, allow conclusion of the marriage to a person who reached 16 years of age, if it establishes that there are justified reasons for it.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

2.2.1. BOSNIA-HERZEGOVINA⁵⁶³(Federation of Bosnia and Herzegovina)

Family Act of the Federation of Bosnia and Herzegovina

Article 8

1. In order for the marriage to exist (...) consent to conclude the marriage by future spouses (...) is needed.

2. In case one of the conditions stipulated in paragraph 1 of this article has not been met when concluding the marriage, the legal effect of the marriage shall not enter into force.

Article 8(1)(b)

⁵⁶² [Family Act of the Brčko District of BiH](#)

⁵⁶³ Competence in Civil Law is only at local level not at state level. Therefore, only provisions at local level have been inserted in the table.

In order for the marriage to exist (...) consent to conclude the marriage by future spouses (...) is needed.

Article 16(1)

Marriage is null if a spouse had consented to its conclusion because of fear caused by a serious threat.

Article 34

The marriage shall be annulled in case it is established that one of the conditions for the validity of the marriage referred to in articles 10 to 16 of this Act did not exist at the moment of the conclusion of the marriage.

Article 35

Marriage shall be annulled in case it has not been concluded for the purpose of forming a marital community.

Article 39

2. The Court may refuse a request for annulment of the marriage in case justified reasons existed, at the moment or following the conclusion of the marriage, due to which it could have allowed conclusion of the marriage prior to coming of age of the spouse.

3. The marriage shall not be annulled in case the spouse, who was a minor, turned 18, but the spouse who came of age may submit a claim for annulment of the marriage within one year of coming of age.

Article 40

Annulment of the marriage concluded in fear caused by a serious threat may be requested only by the spouse who concluded the marriage under threat. The request may be submitted within one year from the day when the danger of carrying out the threat ceased to exist, and the spouses lived together during this time.

2.2.2. BOSNIA-HERZEGOVINA(Republic of Srpska)

Family Act of the Republic of Srpska

Article 15

The marriage is null in case any of the conditions referred to in the previous article had not been met.

Article 30

The marriage is not valid if a spouse agreed on the marriage out of fear caused by a serious threat.

Article 45

The marriage shall be annulled in case it is established that one of the conditions for the validity of the marriage referred to in articles 29 to 36 of this Act did not exist at the moment of the conclusion of the marriage.

Article 51

2 The Court may refuse a request for annulment of the marriage in case justified reasons existed, at the moment or following the conclusion of the marriage, due to which it could have allowed conclusion of the marriage prior to coming of age of the spouse.

3 The marriage shall not be annulled in case the spouse, who was a minor, turned 18, but the spouse who came of age may submit a claim for annulment of the marriage within one year of coming of age.

2.2.3. BOSNIA-HERZEGOVINA(Brčko District of Bosnia and Herzegovina)

Family Act of the Brčko District of BiH

Article 6(2)

In case when concluding the marriage, any of the conditions referred to in paragraph 1 had not been met, it will be considered as if the marriage had never existed.

Article 19

Marriage is null in case it has not been concluded for the purpose of forming a marital community of the spouses.

Article 20(1)

Marriage is null if spouse had consented to its conclusion under serious threat.

Article 32

Marriage shall be annulled in case it is established that one of the conditions for the validity of the marriage referred to in articles 19 to 26 of this Act did not exist at the moment of the conclusion of the marriage.

Article 33(1)

Annulment of the marriage concluded in fear caused by a serious threat may be requested only by the spouse who concluded the marriage under threat. The request may be submitted within one year from the day when the danger of carrying out the threat ceased to exist, and the spouses lived together during this time.

Article 38(2)

Court may refuse the request for annulment of marriage in case, at the time of conclusion or following the conclusion, justified reasons permitting conclusion of marriage prior to coming of age of the spouses existed.

3. Immigration rules

3.1. Conditions for family reunification of spouses

***Act on the Movement and Stay of Aliens*⁵⁶⁴**

Article 5

1 (t) family reunification means an entry or stay in BiH of aliens who are close family members of a person residing legally in BiH, in order to preserve the family union [...]

Article 52

1 A temporary residence permit may be issued for justified reasons such as: marriage to or an extra marital community with a BiH citizen, family reunification [...]

Article 53

1 Temporary residence can be granted to an alien on condition that:

(...)

b) the alien is in possession of sufficient funds to support himself/herself,

(...)

d) the alien has confirmed adequate accommodation in BiH,

e) the alien has confirmed health insurance in BiH,

⁵⁶⁴ [Act on the Movement and Stay of Aliens and Asylum](#) "O.G. BiH", No. 36/08 and 87/12

[...]

Article 57

1 Close family members of a BiH national who has taken permanent residence in BiH, or of an alien holding a permanent residence permit in BiH, or of an alien residing on the basis of an approved temporary residence in BiH longer than 18 months, may be granted a temporary residence for the purpose of family reunification under the following conditions:

a) where a BiH citizen and/or an alien holding a residence permit in BiH has a definite place of accommodation for himself/herself and family members for whom he/she is requesting the residence permit on the grounds of family reunification, has a permanent source of income, or where he/she is in possession of sufficient means of subsistence in order to support the respective applicants in BiH,

b) where a BiH citizen and/or an alien holding a residence permit in BiH has confirmed health insurance for himself/herself and the family members for which he/she requests the residence permits on the grounds of family reunification,

[...]

Article 59

1 A permanent residence permit shall be issued to an alien on the following conditions:

a) that he/she has resided on the territory of BiH on the basis of a temporary residence permit for at least five years uninterruptedly prior to submitting the application for issuance of a permanent residence permit,

b) that he/she has sufficient and regular funds in order to support himself/herself,

c) that he/she has confirmed adequate accommodation,

d) that he/she has confirmed health insurance,

(...)

3.2. Consequences of bad faith marriages on the status of third country national

Act on the Movement and Stay of Aliens

Article 5

1 Marriage of convenience or common law marriage of convenience is a marriage or common law marriage concluded exclusively to provide an alien with entry and/or stay in BiH.

Article 62

1 An application for the approval, i.e. renewal of temporary residence permit and an application for the approval of permanent residence permit shall be refused if:

[...]

k) the Service determines that a marriage was concluded, common law marriage was established, or adoption was conducted exclusively for the purpose of entry and/or stay of an alien in the territory of BiH

[...]

Article 68

1 The right of residence shall be cancelled if:

[...]

d) The Service determines that a marriage or common law marriage was entered into or adoption carried out, exclusively for the purpose of entry and/or stay of an alien in the **territory of BiH, (...)**

BULGARIA

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

Criminal Code⁵⁶⁵

Article 177(1)

A person who has induced another in a compulsory manner to enter into marriage, and therefore the marriage was proclaimed null and void, shall be punished with deprivation of liberty for up to three years.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

None identified.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

Family Act⁵⁶⁶

Article 5 Consent to marry

Marriage shall be concluded upon mutual, free and explicit consent of a man and a woman, given in person and simultaneously before the officer for civil status.

Article 6 Age for entering into marriage

(1) A marriage may be contracted by a person who has completed eighteen years of age.

(2) Where there are important reasons which necessitate this as an exception, the marriage may be entered into by a person who has completed sixteen years of age with the permission of the regional judge at the place of residence of the person. Where both parties are minors and live in different regions permission is given by regional judge of the place of residence of one of the persons contracting the marriage by their choice. The president hears the minor, the parents or the guardian. The opinion of the parents or the guardian may be submitted in writing with their signatures attested by the Notary public.

[...]

Article 7 Obstacles for entering into marriage

(1) A marriage may not be contracted by a person:

[...]

2. Who is under full interdiction or suffers from a mental disease or imbecility which are sufficient reasons to place him under full interdiction;

[...]

⁵⁶⁵ [The Criminal Code of Bulgaria](#) 01 May 1968, amended by SG No. 41 of 5 June 2015.

⁵⁶⁶ [The Family Code](#), SG No. 45 of 23 June 2009, amended by SG No. 68 of 2 August 2013.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Family Act

Article 46 Grounds For Annulment of e Marriage

(1) The marriage is annulled where:

1. By its contraction the rules under Articles 6 and 7 have been violated;
2. One of the parties contracting the marriage has been forced to contract it under threat of a serious and immediate peril for his or her own, and that of his or her close relatives and friends' life, health and honour.

(2) No one is entitled to refer to the annulment of the marriage until it is decreed by the court.

Article 47 Bringing an action for annulment of marriage

(1) An action for annulment of the marriage may be brought:

1. Where the rules under Article 6 have been violated, only by the minor spouse, but not later than six months after attaining majority, and on the condition that there are no children from the marriage and the spouse is not pregnant.
2. In the case under Article 46, para. 1, point 2, only by the threatened spouse, but not later than one year from the conclusion of the marriage;

[...]

4. In the case under Article 7, para. 1, points 2 and 3, and para. 2 - by each one of the spouses, and by the public prosecutor.

(3) [...]

(4) In case of violation of Article 7(1), point 2 the action may be brought by the sick or fully interdicted spouse not later than six months from recuperation or revocation of the interdiction.

(5) [...]

3. Immigration rules

3.1. Conditions for family reunification of spouses

***The Foreigners in the Republic of Bulgaria Act*⁵⁶⁷**

Article 2

(6) Members of the family of a Bulgarian citizen shall be the persons living together with him/her in the same household and are:

1. spouse;

[...];

Article 24

An extended residence permit may be granted to foreigners who possess a visa under Article 15, paragraph 1 and:

.....

18. are members of the family of a Bulgarian citizen under Article 2, paragraph 6.

Article 25

Permission for a permanent residence may receive aliens:

.....

18. members of the family of a Bulgarian citizen if they have resided without interruption on the territory of the Republic of Bulgaria in the last five years;

⁵⁶⁷ [The Foreigners in the Republic of Bulgaria Act](#) , SG No. 153 of 23 December 1998, amended by SG No. 53 of 27 June 2014.

3.2. Consequences of bad faith marriages on the status of third country national

The Foreigners in the Republic of Bulgaria Act

Article 26

[...]

(3) A foreigner shall be refused a residence permit or extension of the authorised period of residence where the foreigner has contracted a marriage with a Bulgarian citizen or with a foreigner, or who has been adopted by a Bulgarian citizen or a foreigner who has been granted a residence permit, if there is information that the marriage has been contracted and the adoption performed for the sole purpose of circumventing the standards regulating the regime applicable to foreigners in the Republic of Bulgaria, and of obtaining a residence permit.

(4) The foreigners administrative control services shall determine whether to refuse the permit under Paragraph (3) on the basis of information inviting a reasoned conclusion that the marriage has been contracted or the adoption performed for the sole purpose of circumventing the standards regulating the regime applicable to foreigners in the Republic of Bulgaria, and of obtaining a residence permit. The following shall qualify as such information:

1. the fact that the spouses or the adopted and the adopters do not live together;
2. the lack of contribution to the obligations ensuing from the marriage;
3. the fact that the spouses did not know each other prior to contracting the marriage;
4. the giving of conflicting information regarding personal data of the other spouse or the adopted (name, address, nationality, profession), regarding the circumstances of the acquaintance thereof, or regarding other important personal information;
5. the fact that the spouses or the adopted and the adopters do not speak a language that they both understand;
6. the payment of a sum of money for contracting a marriage beyond the customary dowry;
7. the existence of previous marriages or adoptions contracted for the purpose of circumventing the standards regulating the regime applicable to foreigners;

(5) The information covered under Paragraph (4) may be derived from interviews conducted by officers of the foreigners administrative control services, from statements made by the parties concerned or by third parties, from documents, or from checks and investigations performed by government authorities. The foreigners administrative control services shall be obligated to give the parties concerned a hearing.

Article 39a

The following coercive administrative measures may be imposed on foreigners under this Act:

1. withdrawal of the entitlement to reside in the Republic of Bulgaria;
2. forcible escort to the border of the Republic of Bulgaria
3. expulsion;
4. bar to entering the territory of a member state of the European Union;
5. bar to leaving the Republic of Bulgaria.

Article 40

(1) Withdrawal of the entitlement of a foreigner to reside in the Republic of Bulgaria shall be imposed where:

[...]

2. the grounds covered under Article 10, (1), pts. 1 - 4, 6 - 11, 14, 16, 20 - 22 as well as in the cases under Article 26(3);

CROATIA

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

*Criminal Code*⁵⁶⁸

Article 169 Forced Marriage

(1) Whoever forces another person to a marriage, shall be punished with imprisonment from six months to five years.

(2) Whoever entices another person to a state excluding the one in which such a person has residence for the purpose of forced marriage shall be punished with imprisonment of up to three years.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

Criminal Code

Article 106 Human Trafficking

(1) Whoever uses force or threatens to use force or by deception, fraud, kidnapping, abuse of a position or authority or grave situation or addiction by receiving or giving financial means or other benefits in order to receive consent of the person who is in control over another person or solicits purchases, sells, hands over, transports, transfers, encourages or mediates in the buying, selling or handing over of another person or who conceals or receives a person in order to establish slavery or a similar relationship, forced labour or servitude, sexual abuse or other forms of sexual exploitation, including pornography, or to conceive unlawful or illegal marriage or illegal transplantation of parts of a human body, or using a person in armed conflicts or for the purpose of committing any crime or offence, shall be punished with imprisonment for one to ten years.

(2) By the punishment as prescribed in paragraph 1 of this Article shall be punished whoever recruits, transfers, hides or takes a child or transfers the supervision of the child in order to establish slavery or a similar relationship, forced labour or servitude, sexual abuse or other forms of sexual exploitation, including pornography, or to conceive unlawful or illegal marriage or unlawful adoption or illegal transplantation of parts of a child's body, or using a child in armed conflicts.

(3) If the criminal offense referred to in paragraph 1 of this Article is committed against a child, and if the criminal offense to in paragraph 1 and 2 of this Article is committed while the perpetrator is performing his duties, or if it is committed against a larger number of persons or has caused a threat for life of one or more persons the perpetrator shall be punished by imprisonment for three to fifteen years.

(5) Whoever seizes or destroys an identification card, a passport or some other document of identification in the perpetration of a criminal offense referred to in paragraphs 1, 2 and 3 of this Article shall be punished by imprisonment to three years.

⁵⁶⁸ [The Criminal Code of Croatia](#) O.J. No. NN 125/11, 144/12, 56/15, 61/15, in force from 30.05.2015.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

The Family Act⁵⁶⁹

Preconditions for the existence of marriage

Article 23

(1) For the existence of marriage it is necessary:

1. [...]

2. for the spouses to have given their consent to enter into marriage;

3. for a civil marriage to be contracted before a registrar or a religious marriage to be contracted in accordance with the provision referred to in Article 13 paragraph 3 and paragraphs 1 and 4 of Article 20 of this Act.

(2) If at the time of entering into marriage any of the preconditions referred to in paragraph 1 of this Article has not been fulfilled, the marriage shall have no legal effects.

Preconditions for the validity of the marriage

Article 25

(1) A marriage may not be entered into by a person under the age of eighteen.

(2) As an exception to the provision under paragraph 1 of this Article, the court may allow a 16 year old person to enter into marriage in an extra-contentious procedure, provided that the court finds the concerned person mentally and physically mature to marry, and that the marriage is beneficial to that person.

Legal capacity and ability for reasoning

Article 26

(1) Marriage may not be entered into by a person deprived of legal capacity or person incapable of discernment.

(2) Person deprived of legal capacity or incapable of discernment may conclude the marriage only with the consent of the guardian.

(3) A proposal for issuing the decision on the permission for marriage may be submitted only by the person under paragraph 2 of this Article.

(4) In the procedure related to the proposal referred to in paragraph 3 of this Article, the court shall obtain the opinion of the guardian or the parent who takes care of a full aged child deprived of legal capacity and a social welfare centre.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

The Family Act⁵⁷⁰

Article 29

A marriage that is contracted contrary to the provisions of Articles 25 to 28 of this Act is not valid and the provisions for annulment shall apply.

Article 49 Annulment of marriage

(1) The claim of annulment of marriage may be filed by:

1. the marital spouse,

2. the social welfare service, and

3. the person with the legal interest.

(2) The parents of a minor may also request the annulment of the marriage contracted contrary to the provisions under Article 25 of the Family Act.

⁵⁶⁹ [The Family Act](#) O.J. No 103/15.

⁵⁷⁰ [The Family Act](#) O.J. No 103/15.

(3) Deadlines for the submission of the file for annulment of marriage are prescribed by Articles 374-376 of this Act.

3. Immigration rules

3.1. Conditions for family reunification of spouses

*Law on Foreigners*⁵⁷¹

Conditions for temporary residence

Article 54

Foreigners will be granted temporary residence if they:

1. prove the purpose of the temporary residence
2. have valid travel documents
3. have means of subsistence
4. have health insurance
5. are not prohibited from entering and staying in Croatia
6. pose no threat to public order, national security or public health

Temporary residence for the purpose of family reunification

Article 55

(1) Temporary residence for the purpose of family reunification may be granted to an alien who fulfils the requirements of Article 54 of this Act and who is a close family member:

1. of the Croatian citizen
2. of the foreigner who has a permanent residence in Croatia
3. of the foreigner who has a temporary residence in Croatia
4. of the foreigner who was granted protection pursuant to the provisions of the Asylum Act

(2) Notwithstanding paragraph 1(3) of this Article, a member of the immediate family of an alien who resides in the Republic of Croatia on the basis of a valid work residence permit approved for one year, in accordance with the annual quota for the employment of aliens, can be granted temporary residence for the purpose of family reunification only if the alien with whom the reunification is requested has a residence permit of at least two years.

(3) Temporary residence for the purpose of family reunification shall not be granted to a family member of an alien who has been issued a work residence permit for the purpose of seasonal work.

Members of the family

Article 56

(1) In the sense of this Law, members of the immediate family are deemed to be :

1. spouses

[...]

(2) Notwithstanding paragraph 1 of this Article, a member of the immediate family of a Croatian national, an alien who has been granted temporary or permanent residence and an alien who has refugee status, may be considered as another relative, if there are special personal or humanitarian reasons for family reunification in Croatia.

(3) [...]

⁵⁷¹ [Law on Foreigners](#) O.J. No. 130/11, 74/13.

(4) Family reunification will not be granted if the spouse or common-law partner is married or is in a long-term relationship with another person.

Validity of the temporary residence for the purpose of family reunification

Article 59

(1) A temporary residence permit for the purpose of family reunification shall be issued with a validity of one year or until the expiry of the temporary residence permit of the foreigner with whom the family reunification is requested.

(2) A foreigner who has previously had approved uninterrupted temporary residence for the purpose of family reunification for at least two years, a temporary residence permit for the same purpose may be granted with a validity period of up to 2 years, or until the expiry of the temporary residence permit of the foreigner with whom the family reunification is requested.

3.2. Consequences of bad faith marriages on the status of third country national

Law on Foreigners

Marriage of convenience

Article 57

(1) Temporary residence shall not be authorised for the purpose of joining the family if the marriage has been concluded out of convenience.

(2) In this Law "a marriage of convenience" means a marriage entered into for the purpose of avoiding the conditions to be fulfilled for entering and residing of the foreigners.

(3) Evidence that tends to show that there is a marriage of convenience are the following:

1. The couple does not reside under the same roof;
2. Lack of proper contribution to the obligations stemming from the marriage;
3. **The spouses had never met before their wedding ceremony took place;**
4. Statements made by the spouses regarding their identifications are conflicting;
5. The spouses do not speak a language understood by both;
6. A pecuniary amount was given for the conclusion of the wedding (other than the money given as a dowry in cases of nationals of a country where providing dowry is the usual practice);
7. There are indications that either one or both spouses had in the past entered into a marriage in the Republic of Croatia.

(4) Provisions of this Article are applicable as well to the extramarital cohabitation and to the proceedings related to the approval of the permanent residence.

CYPRUS

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

Criminal Code⁵⁷²

§150

Anyone who by duress causes any person to marry against his or her will is guilty of a misdemeanour.

§35

When in the Code [Criminal] a penalty is not specifically provided for whichever misdemeanor, misdemeanors are penalized with confinement which does not exceed two years or with a monetary penalty which does not exceed 1500 Cypriot pounds or with both these penalties.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

None identified.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

The Marriage Act⁵⁷³

Article 14 Voidable marriages

(1) For entering into a marriage, the free consent of the persons entering into the marriage is required.

(2) There is no free consent of the persons entering into a marriage, as required by sub-article (1) of this Article, if any of these persons:

(a) is unfit for marriage within the meaning of sub-article (3) of this Article, or

(b) is mistaken about the identity of the other person; or

(c) has been forced to enter into the marriage by threat, as defined in sub-article (4) of this Article.

(3) For the purposes of paragraph (a) of sub-article (2) of this Article, a person incapable of marriage is every person who:

(a) subject to the provisions of Article 16, has not attained eighteen years of age, or

(b) is unable at the time of marriage to perceive and assess his act in order to consent to marriage, due to mental disorder or failure, or due to brain or other disease or illness, or because of dependence on addictive substances.

(4) For the purposes of paragraph (c) of sub-article (2) a threat is defined as:

(a) any action, act or omission that may cause fear in the average reasonable person, that his life, honour, freedom, physical integrity or property or that of his family members will be exposed to an immediate and significant risk, and he gives his consent to marriage out of such fear;

⁵⁷² [The Criminal Code of Cyprus](#)

⁵⁷³ [The Marriage Act](#) of 200 N.104 (I)/2003. amended by Law N.66(I)/2009.

(b) any act or statement that is legal, illegal or against public morals or which causes fear to the average reasonable person and because of this the consent of one or two persons for marriage is extracted.

Article 15 Marital Age

(1) If one or both persons are under eighteen years of age they may marry if:

- (a) they both have completed their sixteenth year of age,
- (b) the persons who have parental responsibility over them consent in writing towards this,
- (c) there are serious grounds which justify this.

(2) In the event where:

persons who have parental responsibility unjustifiably do not provide their consent, as provided in par. (b) of subsection (1) above, or

there is no person who has parental responsibility in order to consent to the marriage,

the Court of the District where the person about to be married resides, may authorise its conclusion.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

The Marriage Act

Article 13 Faulty marriages

(1) A marriage is defective and subject to annulment or declaration of nullity or non-existence under the provisions of this Law, if it is voidable, invalid or nonexistent, as provided in sub-article (2) of this article.

(2) A marriage is voidable when it is concluded in breach of Article 14, void when it is concluded in breach of Article 17 and inexistent if it is concluded in breach of Article 19.

(3) A voidable marriage can be remedied in accordance with Article 16.

Article 16 Lifting of Nullity

A marriage is no longer voidable:

- (a) If, despite having been conducted without the free consent of the persons, free and full consent of the spouses follows thereafter,
- (b) if, although concluded by a person incompetent to marry, that person recognises the marriage if and when he becomes fit for marriage,
- (c) if, although concluded without the consent of persons having parental responsibility given, their written consent is granted after the event,
- (d) if, although concluded due to a mistake as to the identity of the other spouse, the person who had been mistaken recognises the marriage after he has realised the mistake,
- (e) if, despite the fact that the marriage was the result of coercion of any person in the marriage, the coerced person recognises the marriage after the threat is gone.

3. Immigration rules

3.1. Conditions for family reunification of spouses

***Aliens and Immigration Law*⁵⁷⁴**

Family

members

18L

(1) The Director⁵⁷⁵ shall authorise the entry into the Republic and stay in the government-controlled areas of the Republic for the purposes of family reunification, subject to the

⁵⁷⁴ [Aliens and Immigration Law Cap 105](#) last amended by Law 17(I)/2015.

conditions laid down in Articles 18LB, 18LC and 18LZ of this Law, the following family members:

(a) the sponsor's spouse, provided that the marriage took place at least one year before submitting the application for family reunification.

....

(4) [...]

(5) The Director does not permit entry into the Republic of a spouse for family reunification purposes, if he/she has not attained the age of twenty-one years.

Preconditions for the exercise of the right to family reunification

18LB

(1) For the purpose of exercising the right to family reunification, the sponsor must

(a) be legally residing in the territories controlled by the government of the Republic for at least two years; provided that the Director shall have discretion in case the sponsor is employed by a company within the meaning of the Companies Law which is approved to employ foreign labour, not to demand prior residence of two years;

(b) have accommodation considered satisfactory for an equivalent family in the same area, complying with the general specifications of safety and health and generally ensure dignified living;

(c) have health insurance for himself and for his family covering all the risk usually covered by insurance contracts for citizens of the Republic;

(d) have stable and regular means, sufficient for himself and his family members so that neither he nor any member of his family burdens the social welfare of the Republic, for the assessment of which the provisions of article 18 TH of this Law shall apply *mutatis mutandis*.

Autonomous residence permit for family member

18LE

(1) The children who have come of age and the spouse of the sponsor who have completed five years of residence in the Republic and provided that they have not secured other type of residence permit under this Act or under regulations issued thereunder have the right to be issued, upon application, an autonomous residence permit which will be independent from the sponsor's permission.

(2) In case of divorce, the Director may grant the autonomous residence permit referred to in subsection (1) only to the spouse of the sponsor.

(3) In cases of particularly difficult circumstances, at the discretion of the Director, and particularly in the case of the sponsor's death or where family members are victims of domestic violence as defined in the Violence in the Family (Prevention and Protection of Victims) Law or victims of trafficking and exploitation under the Protocol for the Prevention, Suppression and Punishment of Trafficking in Persons, Especially Women and Children, which has been adopted by the Law ratifying the United Nations Convention against Transnational Organized Crime and Protocols of and the Law on Combating of Trafficking in Persons and Sexual Exploitation of Minors, the Director shall grant an autonomous residence permit to the said family member or members.

18 KA

(1) When a long-term resident first Member State other than the Republic exercises the right of residence in the Republic and his family was already constituted in the first Member State, the members of his family are permitted to accompany or to join the long-term resident of the first Member State in the government-controlled areas of the Republic, in accordance with the provisions of this Law.

⁵⁷⁵ In this and the following provisions the "Director" means the director of the immigration department, i.e. the Chief Immigration Officer.

(2) Where the family of a long-term resident in the first Member State other than the Republic who exercises his right of residence in the controlled by the Government of the Republic areas is not already constituted in the first Member State the provisions of Articles 18KTH-18LH of this Law shall apply mutatis mutandis.

(3) The family members of the long term resident in the first Member State other than the Republic are granted an immigration permit if the conditions of this Article are met and subject to the provisions of Articles 18KB and 18KC and with regard to applying for the granting of the said permit the provisions of subsection (1) of section 18K shall apply mutatis mutandis.

3.2. Consequences of bad faith marriages on the status of third country national

***Aliens and Immigration Law*⁵⁷⁶**

Refusal, revocation or non-renewal of application

18LST

- (1) The Director may reject an application, withdraw or refuse to renew the residence permit of a family member, where-
 - (a) the conditions for exercising the right to family reunification under Articles 18LV, 18LG and 18LZ are not **met or are no longer met** [...]
 - (b) subject to the provisions of Article 18LE, the sponsor and the members of his family do not live or no longer live in a real marital or family situation,
 - (c) it emerges that the sponsor is married or is in a stable long-term relationship with another person
 - (d) it is proven that false or misleading information or false or falsified documents were used, or that fraud or other illegal means were used,
 - (e) it is proven that the marriage or adoption, where applicable, are false, within the meaning of this Law, or that the adoption was solely aimed at enabling the person concerned to enter or remain in the Republic: Provided that in the course of assessing the marriage or adoption, consideration will be given to whether marriage or adoption was made after the issuance of the **sponsor's residence permit.**
- (2) The Director may conduct specific checks and inspections where there is reason to suspect fraud or a marriage of convenience or adoption, including special audits carried out in an examination of an application for renewal of residence permits for family members.
- (3) [...]
- (4) [...]

Section 2.(1) In this Law, unless the context otherwise requires- "a marriage of convenience" means a marriage entered into by a citizen of the Republic or an alien residing permanently in the Republic of Cyprus and an alien exclusively aiming at the latter's entrance and residence in the Republic;

Section 7A. (1) If the Chief Immigration Officer, based on evidence mentioned in section (3) of the present article or by any other way and after he consults with the Advisory Committee established by article 7B of the present Law, concludes that an alien has entered into a marriage of convenience, then - (a) He forbids the said alien to remain in the Republic; (b) Cancels or denies the renewal of the alien's residence permit and orders his deportation according to the sections of article 14.

⁵⁷⁶ [Aliens and Immigration Law Cap 105](#) last amended by Law 17(I)/2015.

Section 7A.(3) Elements that tend to show that a marriage is of convenience are mainly the following:

- (a) The couple does not reside under the same roof;
- (b) The spouses had never met before their wedding ceremony took place;
- (c) lack of proper contribution to the obligations stemming from the marriage;
- (d) Statements made by the spouses regarding elements of their identification (name, residence address, nationality and profession), the circumstances under which they first met or regarding other essential information of personal nature that are conflicting;
- (e) The spouses do not speak a language understood by both;
- (f) A pecuniary amount was given for the conclusion of the wedding (other than the money given as a dowry

in cases of nationals of a country where providing dowry is usual practice);

- (g) There are indications that either one or both spouses had in the past entered into a marriage of convenience or face problems regarding their residence permit in the Republic.

Section 7D. An alien or a citizen of the Republic who has performed a marriage of convenience or in any way has contributed to the performance of such marriage is guilty of an offence and shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding three thousand pounds or both such imprisonment and fine.

The Marriage Act⁵⁷⁷

Unsubstantiated marriages

§19. (1) A marriage is groundless:

[...]

(c) if it is a marriage of convenience;

[...]

(2) For the purposes of this Article, a "marriage of convenience" is a marriage which takes place between citizens of the Republic or an alien lawfully residing in the Republic and a foreigner with the sole purpose of entry and stay of the latter in Cyprus

⁵⁷⁷ [The Marriage Act](#) of 200 N.104 (I)/2003. amended by Law N.66(I)/2009.

THE CZECH REPUBLIC

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

None identified.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

None identified.

Other provisions such as coercion could apply.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

Civil Code⁵⁷⁸

§ 656

(1) Marriage is formed by free and full affirmative expressions of will by a man and woman (hereinafter "fiancés") having an intention to enter into marriage.

§ 672

(1) Marriage may not be entered into by a minor lacking full legal capacity.

(2) A court may, in exceptional cases, allow a minor who lacks full legal capacity and has reached sixteen years of age to enter into marriage, if justified by important grounds.

§ 673

Marriage cannot be concluded by a person whose legal capacity has been limited in this area.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Civil Code

§ 684

(1) A court shall declare a marriage invalid on the application of a spouse whose will to enter into marriage was expressed under duress consisting in the use or threat of violence, or whose will to enter into marriage was expressed as a result of error regarding the identity of the fiancé or the nature of the juridical act constituting a wedding. The application may be submitted no later than one year from the date on which the spouse could have done so under the circumstances, or on which he learned of the real state of affairs.

(2) In the case provided in Subsection (1), a court shall declare a marriage invalid even where it terminated by the death of a spouse before the proceedings on the invalidity of the marriage initiated by the other spouse were completed, or if the descendants of the spouse who filed the application to declare the marriage invalid apply, within one year after his death, to the court to declare the marriage invalid.

⁵⁷⁸ [Civil Code Act No.89/2012](#)

3. Immigration rules

3.1. Conditions for family reunification of spouses

Act No. 326/1999 Coll., on the Residence of Foreign Nationals in the Territory of the Czech Republic⁵⁷⁹

§ 42a

Long-term Residence Permit for the Purpose of Family Reunification in the Czech Republic

(1) An application for a long-term residence permit for the purpose of family reunification in the Czech Republic (hereinafter referred to as 'family reunification') may be filed by a foreign national who is

a) the spouse of a foreign national in possession of a residence permit (hereinafter referred to as the 'sponsor');

[...]

(3) A foreign national pursuant to paragraph 1 who has been granted a residence permit or asylum in the Czech Republic shall be deemed for the purpose of the Act to be a sponsor.

[...]

(6) A foreign national shall be granted a long-term residence permit for the purpose of family reunification if

a) a sponsor is a holder of long-term residence permit or a permanent residence permit and has resided in the Czech Republic for at least 15 months; as regards reunification of spouses, each of them must be at 20 years of age;

b) a sponsor has resided in the Czech Republic for at least six months and is a holder of residence permit issued pursuant to Section 42g)3) (a) or for at least for one year and is a holder of a residence permit issued under Section 42g (3) (b);

c) a spouse, subject to family reunification, has been granted asylum under the special legal regulation and such marriage was entered into prior to his/her arrival in the Czech Republic;

[...]

§ 42b

Requirements for an Application for a Long-term Residence Permit for the Purpose of Family Reunification

(1) A foreign national shall be obliged to submit with the application for a long-term residence permit for the purpose of family reunification the following:

a) [...]

b) documentary **evidence of the family relationship** [...];

d) a document proving that aggregate monthly household income of the family after its reunification will not be lower than the sum of

1. the amount of the subsistence minimum 9d) of all family members and

2. the highest amount of standard costs for accommodation specified for the purpose of a contribution for accommodation by the special legal Regulation 9e), or the amount which a foreign national can credibly prove as an amount of reasonably justified costs for accommodation of the family.

[...]

⁵⁷⁹ [Act No. 326/1999](#) Coll., on the Residence of Foreign Nationals in the Territory of the Czech Republic, amended by the Act No. 203/2015 Coll.

3.2. Consequences of bad faith marriages on the status of third country national

Act No. 326/1999 Coll., on the Residence of Foreign Nationals in the Territory of the Czech Republic

§ 46a

Cancelling the Validity of a Long-Term Residence Permit for the Purpose of Family Reunification

...

(2) The Police shall also cancel a long-term residence permit for the purpose of family reunification if

...

(j) the Police find that a foreign national violated this Act with the aim to acquire the permit in question, in particular if such foreign national entered into a fake marriage or declared paternity just for the purpose of acquiring the permit in question;

...

upon the condition that the consequences of such decision are adequate to the reason for cancelling the validity of the long-term residence permit. When considering the adequacy, the Police shall in particular take into account the impact of such decision on both the private and family life of the foreign national concerned.

DENMARK

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

Criminal Code⁵⁸⁰

Section 260

Subsection 1

Any person who

i) by means of violence or by means of threats of violence, of considerable damage to property, of deprivation of liberty or of advancing a false charge of a criminal offence or honour-related circumstances or of disclosing matters appertaining to privacy, forces someone to do, suffer or abstain from doing something; or who

ii) by means of threats to report or disclose a criminal offence or to advance true honour-related accusations, forces someone to do, suffer or abstain from doing something, insofar as the forcing cannot be considered duly justified by the circumstances to which the threat relates;

shall be liable to punishment for unlawful coercion by fine or imprisonment for up to two years.

Subsection 2⁵⁸¹

If someone is forced to conclude marriage or to a religious wedding with no civic validity, the punishment may increase to imprisonment for up to four years.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

None identified.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

The Marriage Act⁵⁸²

Section 1a. A person who is under 18 years of age may not contract marriage without the authorisation from the authority who must examine the marriage conditions pursuant to Section 13. When issuing a young person under 18 an authorisation to marry, the authority, who pursuant to Section 13 must examine the marriage conditions, may lay down conditions to the effect that despite the marriage, the young person remains a minor and consequently legally incompetent until attaining the age of 18.

⁵⁸⁰ [Consolidation Act No. 873 of 9 July 2015](#) 'Promulgation of the Criminal Code' Official Journal A

⁵⁸¹ Subsection 2 tightening of the penalty for unlawful coercion in connection with the conclusion of marriage as amended by [Act No. 316 of 30 April 2008](#), Official Journal A, 1 May 2008 and [Act No. 434 of 1 May 2013](#), Official Journal A, 2 May 2013.

⁵⁸² [The Consolidation Act No. 1096 of 7 October 2014](#), 'Promulgation of Act on the Formation and Dissolution of Marriage', Official Journal A, 10 October 2014.

Section 2.

Subsection 1. A person who is under 18 years of age and has not previously been married, may not contract marriage without the consent of the parents.

Subsection 2. If either of the parents is dead, of unsound mind, mentally deficient or does not share custody or if his statement cannot be obtained without special difficulty or delay, **the other parent's consent shall be sufficient.**

Section 3. A person under guardianship according to Section 5 of the Act on Guardianship or under guardianship involving deprivation of his legal capacity, cf. Section 6 of the Act on Guardianship, may not contract marriage without the consent of the guardian.

Section 4. Where consent is refused under Sections 2-3, the authority, who pursuant to Section 13 must examine the marriage conditions, may issue authorisation to the marriage, if there is no reasonable ground for the refusal.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

The Marriage Act

Section 24.

Subsection 1. A marriage is also annulled by a court ruling based on a claim made by either spouse:

- i) if, at the time of the contracting of marriage, he was in a state rendering him incapable of acting in accordance with reason;
- ii) if he was forced to contract marriage;
- iii) [...]
- iv) if he was induced to contract marriage by being misled by the other spouse through false information or fraudulent non-disclosure of the truth about who the other person is or about such circumstances in the other person's previous life [...]

3. Immigration rules

3.1. Conditions for family reunification of spouses

***Aliens Act*⁵⁸³**

Section 9⁵⁸⁴

Subsection 1

Upon application, a residence permit may be issued to

- i) an alien over the age of 24 who cohabits at a shared residence, either in marriage or in regular cohabitation of prolonged duration, with a person permanently resident in Denmark over the age of 24 who
 - (a) is a Danish national;
 - (b) is a national of one of the other Nordic countries;
 - (c) is issued with a residence permit under Section 7 (1) or (2) or Section 8;
 - (d) is issued with a residence permit under Section 7 (3), and this residence permit has been extended; or
 - (e) has held a permanent residence permit for Denmark for more than the last three years [...]

⁵⁸³ [The Consolidation Act No. 1021 of 19 September 2014](#), amended by Act No. 685 of 27 May 2015, Official Journal A, 28 May 2015

⁵⁸⁴ Section 9 is the provision of the Danish Aliens Act specifically about family reunification where the sponsor is not comprised by the EU free movement rules. Persons who exercised free movement rights are not comprised by Section 9 of the Aliens Act but instead by the [EU Residence Order](#).

Subsection 2. It must be made a condition for a residence permit under subsection (1) (i) that the applicant and the person living in Denmark sign a declaration stating that, to the best of their ability, they will involve themselves actively in the Danish language course and integration into Danish society for the applicant, and any accompanying foreign children.

Subsection 3. It must be made a condition for a residence permit to a cohabitant under Subsection (1) (i) that the person living in Denmark undertakes to maintain the applicant. If highly exceptional reasons make it appropriate, it may be made a condition for a residence permit under Subsection (1) (i) to (iii) that the person living in Denmark proves that he can maintain the applicant.

Subsection 4. Unless exceptional reasons conclusively make it inappropriate, including regard for family unity, it must be made a condition for a residence permit under Subsection (1) (i) that the person living in Denmark, who shall maintain the applicant, provides financial security of DKK 50,000 to cover any future public expenses for assistance granted to the applicant under the Act on an Active Social Policy or the Integration Act, see Subsection (23). The Minister for Justice shall lay down detailed rules on financial security. The amount stipulated has been fixed at the 2012 level and will be adjusted as of 2013 once a year on 1 January by the rate adjustment percentage, see the Rate Adjustment Percentage Act.

Subsection 5. Unless exceptional reasons conclusively make it inappropriate, including regard for family unity, it must be made a condition for a residence permit under Subsection (1) (i) that the person living in Denmark has not received any assistance under the Act on an Active Social Policy or the Integration Act for the three years prior to the decision on the residence permit being made. Unless exceptional reasons conclusively make it inappropriate, including regard for family unity, it must, moreover, be made a condition for a residence permit under Subsection (1) (i) that the applicant and the person living in Denmark do not receive any assistance under the Act on an Active Social Policy or the Integration Act during the period until the applicant is issued with a permanent residence permit. The first and second sentences hereof do not comprise assistance in the form of small amounts of isolated benefits not directly related to maintenance, or benefits that are comparable with wages or salaries or pension payments, or replace such income.

Subsection 6. Unless particular reasons make it inappropriate, including regard for family unity, it must be made a condition for a residence permit under Subsection (1) (i) that the person living in Denmark proves that he disposes of his own dwelling of a reasonable size, see Subsection (27).

Subsection 7. Unless exceptional reasons make it inappropriate, including regard for family unity, a residence permit under Subsection (1) (i) (a) when the person living in Denmark has not been a Danish national for 26 years or under Subsection (1) (i) (b) to (d) **may only be issued if the spouses' or the cohabitants' aggregate ties with Denmark are stronger than the spouses' or the cohabitants' aggregate ties with another country.** [...]

3.2. Consequences of bad faith marriages on the status of third country national

Aliens Act

Section 9

Subsection 8 Unless exceptional reasons conclusively make it appropriate, including regard for family unity, no residence permit will be issued under Subsection (1) (i) if it must be considered doubtful that the marriage was contracted or the cohabitation was **established at both parties' own desire.** **If the marriage has been contracted or the cohabitation established between close relatives or otherwise closely related parties, it must be considered doubtful, unless particular reasons make it inappropriate, including regard for family unity, that the marriage was contracted or the cohabitation was established at both parties' own desire.**

Subsection 9. No residence permit will be issued under Subsection (1) (i) if there are definite reasons for assuming that the decisive purpose of contracting the marriage or establishing the cohabitation is to obtain a residence permit.

Section 19

Subsection 2. A time-limited or a permanent residence permit may always be revoked if (i) the alien has obtained his residence permit by fraud;

[...]

Section 59

Subsection 1. An alien is liable to a fine or imprisonment for up to six months if he

[...]

(ii) by deliberate misrepresentation or fraudulent non-disclosure secures for himself admission into Denmark through a passport check-point or obtains for himself a visa, passport, or other travel document or a Danish residence or work permit.

[...]

ESTONIA

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

None identified

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

***Criminal Code*⁵⁸⁵**

None identified

Other provisions such as human trafficking could apply.

§133. Trafficking in human beings

(1) Placing a person in a situation where he or she is forced to work under unusual conditions, engage in prostitution, beg, commit a criminal offence or perform other disagreeable duties, or keeping a person in such situation, if such act is performed through deprivation of liberty, violence, deceit, threatening to cause damage, by taking advantage of dependence on another person, helpless or vulnerable situation of the person, is punishable by one to seven years' imprisonment.

(2) The same act if:

- 1) [...]
 - 2) committed against a person of less than eighteen years of age;
 - 3) committed against a person in a helpless situation;
 - 4) committed in a torturous or cruel manner;
 - 5) [...];
 - 6) danger to life is caused thereby;
 - 7) [...];
 - 8) [...];
 - 9) serious consequences are caused thereby;
 - 10) committed by a person who has previously committed a criminal offence provided for in this section or §§ 1331, 1332, 1333 or 175;
- is punishable by three to fifteen years' imprisonment.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

***Family Law Act*⁵⁸⁶**

§2 Prerequisites for contracting marriage

⁵⁸⁵ [The Criminal Code of Estonia](#) RT I 2001, 61, 364; 06 June 2001, amended by RT I, 12.07.2014

⁵⁸⁶ [The Family Law Act](#), 18.11.2009 (RT I 2009, 60, 395) entered into force 1 July 2010, amended on 19.06.2014 entered into force 01.07.2014 RT I, 29.06.2014.

- (1) A marriage is contracted between a man and a woman.
- (2) Only adults may get married.
- (3) A court may extend the active legal capacity of a person who has attained at least 15 years of age pursuant to the provisions concerning the extension of active legal capacity of minors for the performance of acts required for the contraction of marriage and for the exercise of the rights and performance of the obligations related to marriage.
- (4) An adult with restricted active legal capacity may marry only if he or she understands sufficiently the legal consequences of marriage. If a guardian has been appointed to a person, it is presumed that the person is unable to understand the legal consequences of marriage unless otherwise provided in the ruling concerning the appointment of a guardian.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Family Law Act

§ 9 Grounds for annulment of marriage by court

- (1) A court may annul a marriage by an action if:
 - 1) a requirement for marrying age or active legal capacity has been violated upon the contraction of the marriage;
 - 2) the prohibition on marriage provided for in §§ 2–4 of this Act has been violated upon the contraction of the marriage;
 - 3) [...];
 - 4) at the time of contraction of the marriage, at least one spouse had a temporary mental disorder or was incapable of exercising his or her will for any other reason;
 - 5) the marriage was contracted by fraud, threat or violence, including by concealing the state of health or other personal details of a spouse, where such details are relevant to the contraction of the marriage;
 - 6) it was not the intention of one or both parties to perform the obligations arising from the marital status, but the marriage was contracted with other intentions, in particular with an aim to obtain a residence permit of Estonia (ostensible marriage);
 - 7) [...]

§ 10 Nullity of marriage

A marriage is void if:

- 1) [...]
- 2) [...]; or
- 3) even only one party has not expressed his or her will to contract marriage.

3. Immigration rules

3.1. Conditions for family reunification of spouses

Aliens Act⁵⁸⁷

§ 137 Alien's spouse

- (1) A temporary residence permit may be issued to an alien to settle with his or her spouse who resides in Estonia permanently and who is an Estonian citizen or to settle with his or her spouse who is an alien who has resided in Estonia on the basis of a residence permit for at least two years.

⁵⁸⁷ [The Aliens Act](#) Passed 09.12.2009 (RT I 2010, 3, 4), entered into force on 01.10.2010, amended by RT I 23.03.2015.

(2) The requirement to reside in Estonia permanently does not apply to a spouse who is an Estonian citizen for the purposes of settling with whom the residence permit is applied for if the family settles in Estonia together.

(3) The requirement specified in subsection (1) of this section for prior residence of a spouse in Estonia for at least two years shall not be applied if the spouse for the purposes of settling with whom the residence permit is issued, has received a residence permit for **enterprise, for study in Master's or Doctoral studies or for employment in one of the following cases:**

1) persons engaged in creative activities who work in a performing arts institution for the purposes of the Performing Arts Institutions Act;

[..]

§ 138 Requirements for family life

(1) A residence permit may be issued to settle with his or her spouse if the spouses share close economic ties and a psychological dependence, the family is stable and the marriage is not fictitious.

(2) The marriage is fictitious if the marriage has been contracted with the purpose of getting a residence permit and there is no real family life between the persons.

§ 139 Requirement for legal income of family

If an alien applies to settle with his or her spouse who resides in Estonia, his or her spouse is required to have a permanent legal income that shall ensure the subsistence of the family in Estonia, or the joint permanent legal income of the spouses shall ensure the subsistence of the family in Estonia.

§ 140 Requirement for registered residence and actual dwelling

(1) If an alien applies to settle with his or her spouse who resides in Estonia, the family must have a registered place of residence and an actual dwelling in Estonia.

(2) If an alien is issued a residence permit to settle with his or her spouse in the case provided for in subsection 137 (3) of this Act, the requirement regarding the existence of a registered place of residence and an actual dwelling does not apply as a condition of the issue of a residence permit.

§ 142 Unjustified application for issue of temporary residence permit to settle with spouse

(1) An application for a residence permit to settle with a spouse who is an Estonian citizen may be considered unjustified if it is possible for the spouse who resides in Estonia to settle in the country of nationality or the country of location of his or her spouse or if it is possible for the spouses to settle in another country.

(2) An application for a residence permit to settle with a spouse who resides in Estonia and who is an alien shall be considered unjustified if an alien who applies for a residence permit and the spouse for the purposes of settling with whom the residence permit is applied for do not prove that it is not possible for them to settle in the country of their common nationality, or in the country of nationality or the country of location of an alien who applies for a residence permit.

§ 293 Burden of proof

(1) Upon application for a legal basis of the temporary stay, residence and employment in Estonia, an alien is required to prove the facts forming the basis for the issue of a visa, the facts of the extension of the period of stay and the urgency thereof, the facts of the registration of short-term employment in Estonia, the facts of the issue of a temporary residence permit and the extension thereof, the facts of the issue of a residence permit for a long-term resident and the resumption thereof and the facts of the registration of the absence from Estonia and other facts which may be relevant for the legal basis of the temporary stay, residence and employment in Estonia of an alien.

(3) An alien, his or her family member, his or her employer and other person or agency concerned are required, at the request of the Ministry of Foreign Affairs, the Police and Border Guard Board and the Estonian Internal Security Police, to verify the facts of the

application for, holding, application for extension and revocation of the legal basis for the temporary stay, residence and employment in Estonia of an alien and of the facts for registration of the absence from Estonia.

3.2. Consequences of bad faith marriages on the status of third country national

Aliens Act

§ 146 Additional bases for revocation of temporary residence permit issued to settle with spouse

(1) A temporary residence permit to settle with a spouse shall be cancelled if:

- 1) the basis or grounds for the issue of the residence permit has ceased to exist;
- 2) the marriage has been terminated;
- 3) one or both spouses do not permanently reside in Estonia;
- 4) the legal income of a spouse or the joint income of the family do not ensure subsistence of the family in Estonia;
- 5) the family does not have a registered place of residence in Estonia; or
- 6) the family does not have an actual dwelling in Estonia.

(2) A temporary residence permit that was issued to settle with a spouse shall be cancelled concurrently with the revocation of the residence permit of the spouse for the purposes of settling with whom the residence permit was issued.

(3) A residence permit that was issued to settle with a spouse may be cancelled on the basis specified in subsection (1) of this section within four years as of the issue of the residence permit.

§282 Obligation to bear proceeding costs

(2) If an alien does not fulfil the obligation to co-operate or acts in bad faith in any other manner, causing additional costs of proceeding to an administrative authority, these costs shall be recovered from an alien, but to an amount not exceeding EUR 6,400.

FINLAND

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

None identified

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

Criminal Code⁵⁸⁸

None identified.

Other provisions such as coercion could apply.

Section 8 - Coercion (578/1995):

A person who unlawfully by violence or threat forces another to do, endure or omit to do something shall be sentenced for coercion to a fine or to imprisonment for a maximum of two years unless a more severe penalty for the act is provided elsewhere in the law.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

Marriage Act⁵⁸⁹

Section 4

(1) A person under 18 years of age shall not marry.

(2) The Ministry of Justice may, however, for special reasons grant a person under 18 years of age a dispensation to marry. Before the matter is decided, the custodian of the applicant shall be reserved an opportunity to be heard if his or her whereabouts can be determined with reasonable measures.

Section 15

The engaged persons shall be simultaneously present at the marriage ceremony. After both engaged persons have given the officiator of the ceremony an affirmative answer to the question whether he or she wants to marry the other, the officiator shall pronounce them husband and wife.

Section 18

A marriage ceremony shall not be performed if the officiator is aware of a fact that forms an impediment to the marriage or if the officiator deems that an engaged person is evidently unable to understand the significance of marriage due to his or her disturbed state of mind.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Marriage Act

Section 19

⁵⁸⁸ [The Criminal Code of Finland](#) (39/1889), amended by The Act on Amending the Sections 6 and 6a in Chapter 17 of the Criminal Code (1087/2015) on 21 August 2015 Finland.

⁵⁸⁹ [The Finnish Marriage Act](#) 234/1929

(1) A marriage ceremony shall be void if it has not been performed in accordance with the provisions of section 15 or if the ceremony has been performed by a person without the right to perform marriage ceremonies.

[...]

3. Immigration rules

3.1. Conditions for family reunification of spouses

***Aliens Act*⁵⁹⁰**

Section 37

Family members

(1) When applying this Act, the spouse of a person residing in Finland [...] is considered a family member. [...]

(2) 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. [...]

Section 45

Issuing temporary residence permits to persons residing abroad

(1) Temporary residence permits are issued to persons residing abroad for:

- 1) working on a temporary basis;
- 2) pursuing a trade on a temporary basis;
- 3) studying; or
- 4) other special reasons.

[...]

(3) 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.

Section 47

Issue of continuous residence permits to persons residing abroad

[...]

(3) 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 ground basis under section 161d or 161e. (360/2007)

(4) Issuing a continuous residence permit under subsection 1(1) does not require that the alien or his or her family members have secure means of support.

(5) 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.

Section 49a

⁵⁹⁰ [The Aliens Act](#) 301/2004.

Issuing residence permits to third-country nationals who have been issued with a long term **resident's EC residence permit** by another Member State of the European Union, and to their family members

[...]

(4) When a third-country national with a long-term **resident's EC residence permit** issued by another Member State of the European Union is issued with a temporary or continuous residence permit, the family members are also issued with a temporary or continuous residence permit in Finland for the same period of time, whether applied for in Finland or abroad.

Section 50a

Issuing residence permits to family members of EU citizens residing in Finland

(1) 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.

(2) 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.

Section 114

Issuing residence permits to family members of beneficiaries of international or temporary protection

(1) 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. (323/2009)

(2) If any of the circumstances mentioned in subsection 1(2) emerge, an overall consideration is made taking account **of the sponsor's** possibilities for 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.

(3) 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. (323/2009)

3.2. Consequences of bad faith marriages on the status of third country national

Aliens Act

Section 36

General requirements for issuing residence permits

(3) 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. (549/2010)

Section 65

Establishing family ties by means of DNA Analysis

[...]

(3) If the person concerned has deliberately given false information on his or her family ties, as a result of which the person and the family member indicated by him or her have been ordered to take a DNA test, the Finnish Immigration Service shall order the person concerned to reimburse the cost of the test to the State unless this is unreasonable under the circumstances. The decision of the Finnish Immigration Service is enforced as provided in the Act on the Recovery of Taxes and Charges through Execution (973/2007).

Section 153

Scope of application of the Chapter

(1) This Chapter applies to EU citizens and comparable persons and their family members and other relatives.

Section 154

EU citizens' family members

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

1) his or her spouse; [...]

Section 172a

Abuse of rights

Any rights conferred in this Chapter may be refused, terminated or withdrawn, if they have **been 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, such as marriages of convenience for the purpose.**

FRANCE

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

None identified.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

Criminal Code⁵⁹¹

[Article 222-14-4](#)

The fact , in order to compel a person to contract a marriage or conclude a union abroad, of using fraudulent tactics to incite her to leave the territory of the Republic is punishable by three years imprisonment and a € 45,000 fine.

[Article 221-4](#)

Murder is punished by criminal imprisonment for life where it is committed:

(...)

10° Against a person because of his refusal to contract a marriage or a union.

[Article 222-3](#)

The offence defined at article 222-1⁵⁹² is punishable by 20 years of imprisonment where it is committed:

(...)

6°bis Against a person in order to force him or her to contract a marriage or to a union or because of his or her refusal to contract this marriage or union;

(...)

[Article 222-6-3](#)

In the case where the crime provided for by 6°bis of article 222-3 is committed abroad against a person who is ordinarily resident on French territory, French law is applicable in derogation with the dispositions of article 113-7.

[Article 222-8](#)

The offence defined at article 222-7⁵⁹³ is punished by 20 years of imprisonment where it is committed:

(...)

6°bis Against a person in order to force him or her into contracting a marriage or a union or because of his or her refusal to contract this marriage or union;

(...)

[Article 222-10](#)

The offence defined at article 222-9⁵⁹⁴ is punished by 15 years of imprisonment where it is committed:

(...)

6°bis Against a person in order to force him or her into contracting a marriage or a union or because of his or her refusal to contract this marriage or union;

(...)

[Article 222-12](#)

⁵⁹¹ [French Criminal Code Act of 22 July 1992 as last amended on 16 October 2015.](#)

⁵⁹² Article 222-1 : 'Torture'.

⁵⁹³ Article 222-7 : 'Non-intentional Murder'

⁵⁹⁴ Article 222-9 : 'Violence which resulted in mutilation or infirmity'

The offence defined at article 222-11⁵⁹⁵ is punished by 5 years of imprisonment and a fine of 75 000 euros where it is committed:

(...)

6°bis Against a person in order to force him or her into contracting a marriage or a union or because of his or her refusal to contract this marriage or union;

(...)

Article 222-13

Acts of violence causing an incapacity to work of eight days or less or causing no incapacity to work are punished by three years' imprisonment **and a fine of €45,000 where they are committed:**

(...)

6°bis Against a person in order to force him or her into contracting a marriage or a union or because of his or her refusal to contract this marriage or union;

(...)

Article 222-16-3

In the cases where the offences provided by the 6°bis of Articles 222-8, 222-10, 222-12 and 222-13 are committed abroad against a person who is ordinarily resident on French territory, French law is applicable by derogation of Article 113-7. If it is a misdemeanour, the dispositions of the second sentence of Article 113-8 are not applicable.

Article 222-47

(...)

In the cases provided for by Articles 222-23 to 222-30⁵⁹⁶, when they are committed against minors, by the 6°bis of Articles 222-3, 222-8, 222-10, 222-12 and 222-13, by Article 222-14-4 and by Articles 222-34 to 222-40, may also be pronounced a ban, for duration of 5 years or more, to leave the territory of the Republic.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

***Civil Code*⁵⁹⁷**

Article 144

Marriage cannot be entered into before completion of eighteen years of age.

Article 145

Nevertheless, the Government procurator of the place where a marriage is to be celebrated may grant dispensations as to age for serious reasons.

Article 146

There is no marriage where there is no consent.

Article 148

Minors may not contract marriage without the consent of their father and mother; in case of disagreement between the father and mother, that division implies consent.

Article 149

Where one of the parents is dead or is unable to express his or her intention, the consent of the other suffices.

It is not necessary to produce the records of death of the father or mother of one of the future spouses where the spouse or the father and mother of the deceased certify the death under oath.

⁵⁹⁵ Article 222-11: 'Violence which resulted in total unfitness for work for eight days or more'.

⁵⁹⁶ Articles 222-23 to 222-30 : 'Rape and sexual aggression'

⁵⁹⁷ [French Civil Code](#) Act of 21 March 1804, as last amended on 17 October 2015.

Where the present residence of the father or mother is unknown, and where he or she has not been heard from for one year, the marriage may be celebrated if the child and the parent who consents make declaration of this under oath.

All of which shall be mentioned on the record of marriage.

A false oath taken in the cases specified in this Article and the following Articles of this Chapter shall be punished by the penalties enacted by Article 363 [Article 434-13] of the Penal Code.

Article 150

Where the father and mother are dead or are unable to express their intention, the grandfathers and grandmothers take their place; where there is disagreement between a grandfather and a grandmother in the same lineage, or where there is disagreement between the two lineages, that division implies consent.

Where the present residence of the father and mother is unknown and where they have not been heard from for one year, the marriage may be celebrated if the grandfathers and grandmothers, together with the child himself, make declaration of this under oath. It shall be likewise where, if one or several grandfathers or grandmothers give their consent to the marriage, the present residence of the other grandfathers or grandmothers is unknown and they have not been heard from for one year.

Article 159

Where there are no father, or mother, or grandfathers, or grandmothers, or where all are unable to express their intention, minors under eighteen years may not contract marriage without the consent of the family council.

Article 460

The marriage of a person under curatorship is permitted only with the authorisation of the curator or, if need be, the authorisation of the judge.

The marriage of a person under tutorship is permitted only with the authorisation of the judge or of the family council, if one has been constituted, and after a hearing of the future spouses and, if need be, with the opinion of his relatives and of his circle of friends.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Civil Code

Article 180

A marriage contracted without the free consent of the two spouses, or of one of them, may be attacked only by the spouses, or by the spouse whose consent was not free, or by the State prosecutor. The use of coercion on the spouses or one of them, even resulting from reverential fear towards an ascendant, constitutes a ground of nullity of the marriage.

If there was error as to the person, or as to essential qualities of the person, the other spouse may demand the nullity of the marriage.

Article 181

In the case of the preceding Article, the demand in nullity may no longer be admissible after a period of five years from the marriage.

Article 182

A marriage contracted without the consent of the father and mother, of the ascendants or of the family council, in those instances where this consent was necessary, may be attacked only by those whose consent was required, or by the one of the spouses who needed that consent.

Article 183

An action for nullity may no longer be brought by the spouses or the parents whose consent was required, whenever the marriage was expressly or tacitly approved by those

whose consent was necessary, or where five years have elapsed without claim on their part since they have had knowledge of the marriage. Nor may it be by the spouse where five years have elapsed without claim on his part, after he has reached the competent age to consent to the marriage by himself or herself.

Article 184

A marriage contracted in violation of the provisions contained in Article 144, 146, 146-1, 147, 161, 162 and 163 may be attacked, for thirty years from its celebration, either by the spouses themselves, or by all those who have an interest therein, or by the State Prosecutor's office.

Article 202-2

A marriage is validly celebrated if it has been celebrated according to the formalities contemplated by the law of the State within which the celebration has occurred.

3. Immigration rules

3.1. Conditions for family reunification of spouses

***Code of Entry and Stay of Foreigners and Asylum*⁵⁹⁸**

Article L411-1

A foreign national staying regularly in France for at least eighteen months, under one of the permit with a validity of at least one year provided for in this Code or by international conventions, can apply for his right to be joined, for family reunification, by his or her spouse where he/she is at least eighteen years old, and the couple's children are minors of less than eighteen years.

Article L411-5

Family reunification may be refused only for one of the following reasons:

1. The applicant does not justify stable and sufficient resources to provide for his family. All the resources of the applicant and spouse are taken into account regardless of family benefits and allowances provided for in Article L. 262-1 of the Code of Social Action and Families, in Article L. 815-1 of the Code of Social Security and Articles L. 351-9, L. 351-10 and L. 351-10-1 of the Labour Code. Resources must reach an amount that takes into account the size of the applicant's family. The decree in Council of State provided for in Article L. 441-1 sets the amount to be at least equal to the growth-indexed minimum monthly wage and at most equal to this wage plus a fifth. These provisions are not applicable when the person seeking family reunification holds the allowance for disabled adults referred to in Article L. 821-1 of the code of social security and the supplementary allowance mentioned in article L. 815-24 of the same code;
2. **The applicant does not have, nor will have, on the date of his family's arrival in France** accommodation regarded as normal for a comparable family living in the same geographic region;
3. The applicant does not comply with the key principles⁵⁹⁸ which, in accordance with the laws of the Republic, govern family life in France, the host country.

Article L411-6

May be excluded from the family reunification:

1. A family member whose presence in France would be a threat to public order;
2. A family member suffering from a disease recorded in the International Health Regulations;
3. A family member residing in France.

Article L411-8

⁵⁹⁸ [French code of Entry and Stay of Foreigners and Asylum](#)

To enable it to prepare its republican integration into French society, a foreigner aged over sixteen and under sixty-five years for which family reunification is requested will, in his country of residence, submit to an assessment of its degree of knowledge of the language and values of the Republic. If the assessment establishes the need, the administrative authority organises for the foreigner, in their country of residence, a training course whose duration cannot exceed two months, after which he is subject to a new evaluation of his knowledge of the language and values of the Republic. The visa is conditional on production of a certificate of attendance at this training. This certificate is issued immediately after training [...].

3.2. Consequences of bad faith marriages on the status of third country national

Code of Entry and Stay of Foreigners and Asylum

Article L. 623-1

The fact of contracting a marriage for the sole purpose of obtaining or procuring a residence permit, or the sole purpose of acquiring, or to acquire French nationality is **punishable by five years' imprisonment and €15,000 fine.**

The same penalties apply in case of organisation or organisational attempt of marriage for the same purposes.

The penalties are increased to ten years' imprisonment and a fine of €750,000 where the offence is committed in organised gang.

Article L. 623-2

Natural persons convicted of any of the offences referred to in Article L. 623-1 also incur the following additional penalties:

- 1 ° prohibition of stay for a period of five years at most;
- 2 ° prohibition from entering the French territory as provided by Articles 131-30 to 131-30-2 of the Criminal Code, for a period of ten years or more or definitively;
- 3 ° prohibition for a period of up to five years, to exercise the professional or social activity in the course of which the offence was committed, subject to the reservations mentioned in Article 131-27 of the Criminal Code.

Individuals convicted under the offence in the third paragraph of Article L. 623-1 also incur the additional penalty of confiscation of all or part of their property, whatever kind, movable or immovable, separately or jointly.

GERMANY

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

***Criminal Code*⁵⁹⁹**

§ 237 Forced Marriage

(1) Whosoever unlawfully with force or threat of serious harm causes a person to enter into a marriage shall be liable to imprisonment from six months to five years. The act shall be unlawful if the use of force or the threat of harm is deemed inappropriate for the purpose of achieving the desired outcome.

(2) The same penalty shall apply to a person who, for the purposes of committing an offence under subsection (1) above, with force or threat of serious harm or through deception, transports that person, or causes that person to travel, to a territory outside the Federal Republic of Germany, or prevents that person from returning from there.

(3) The attempt shall be punishable.

(4) In less serious cases the penalty shall be imprisonment not exceeding three years or a fine.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

None identified

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

***Civil Code*⁶⁰⁰**

§ 1303 Marriageable age

(1) A marriage should not be entered into before the parties reach the age of majority.

(2) The family court, on application, may grant exemption from this provision if the applicant has reached the age of sixteen and his future spouse is of full age.

(3) Where the legal representative of the applicant or another person with care for the person of the child objects to the application, the family court may grant exemption only if the objection is not based on weighty reasons.

(4) If the family court grants exemption under subsection (2), the applicant no longer requires the prior consent of the legal representative or of another person with care for the person of the child in order to enter into marriage.

§ 1310 Jurisdiction of the registrar of births, deaths and marriages, curing defective marriages

(1) Marriage is entered into only if the parties contracting the marriage declare before the registrar that they wish to enter into the marriage. The registrar may not refuse his cooperation in the entering into of the marriage if the requirements for the marriage are

⁵⁹⁹ [The Criminal Code of Germany](#), amended by Law of 10.10.2013 (Federal Law Gazette I p 3799).

⁶⁰⁰ [The Civil Code of Germany](#), amended by law of [29th June 2015](#) (BGBl I. S. 1042).

satisfied; he must refuse his cooperation if it is obvious when the marriage is entered into that it would be voidable under section 1314(2).

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Civil Code

§ 1314 Grounds of annulment

(1) A marriage may be annulled if it was entered into contrary to the provisions of sections 1303, 1304, 1306, 1307 and 1311.

(2) In addition, a marriage may be annulled if

1. a spouse was in a state of unconsciousness or temporary mental disturbance on the occasion of the marriage;
2. a spouse did not know, on the occasion of the marriage, that a marriage was taking place;
3. a spouse was induced to enter into the marriage by deceit as to circumstances such as, if he had known the factual position and if he had correctly appreciated the nature of marriage, would have prevented him from entering into the marriage; this does not apply where the deceit relates to financial circumstances or was exercised by a third party without the knowledge of the other spouse;
4. a spouse was unlawfully induced to enter into the marriage by duress;
5. both spouses were in agreement on the occasion of the marriage that they did not intend to create a duty under section 1353(1).

3. Immigration rules

3.1. Conditions for family reunification of spouses

***Residence Act of 25 February 2008*⁶⁰¹**

Section 30 Subsequent immigration of spouses

(1) A foreigner's spouse shall be granted a residence permit if:

1. both spouses are at least 18 years of age;
2. the spouse is able to communicate in the German language on a basic level at least; and
3. the foreigner:
 - a) possesses a settlement permit;
 - b) possesses an EC long-term residence permit;
 - c) possesses a residence permit pursuant to Section 20 or Section 25 (1) or (2);
 - d) has held a residence permit for two years and the residence permit is not subject to a subsidiary provision pursuant to Section 8 (2) or the subsequent issuance of a settlement permit has not been ruled out by virtue of a rule of law;
 - e) is in possession of a residence permit, if the marriage existed at the time of said permit being granted and the duration of the foreigner's stay in the Federal territory is expected to exceed one year;
 - f) possesses a residence permit pursuant to Section 38a and the marriage already existed in the Member State of the European Union in which the foreigner has the status of a long-term resident; or
 - g) holds an EU Blue Card.

Sentence 1, nos. 1 and 2 shall have no bearing on issuance of the residence permit where:

⁶⁰¹ [The Residence Act of 25 February 2008](#) (Federal Law Gazette I, p. 162), as amended by Article 3 of the Act of 6 September 2013 (Federal Law Gazette I, p. 3556).

1. the foreigner is in possession of a residence title pursuant to Sections 19 to 21 and the marriage already existed at the time when he or she established his or her main ordinary residence in the federal territory;

2. the foreigner held a residence permit pursuant to Section 20 immediately before a settlement permit or an EU long-term residence permit was issued; or

3. the conditions specified in sentence 1, no. 3, letter f apply.

Sentence 1, no. 2 shall have no bearing on issuance of the residence permit where:

1. the foreigner holds a residence title pursuant to Section 25 (1) or (2) or Section 26 (3) and the marriage already existed at the time when the foreigner established his or her main ordinary residence in the federal territory;

2. the spouse is unable to provide evidence of a basic knowledge of German on account of a physical, mental or psychological illness;

3. the spouse's need for integration is discernibly minimal within the meaning of a statutory instrument issued pursuant to Section 43 (4) or the spouse would, for other reasons, not be eligible for an integration course pursuant to Section 44 after entering the federal territory;

4. by virtue of his or her nationality, the foreigner may enter and stay in the federal territory without requiring a visa for a period of residence which does not constitute a short stay; or

5. the foreigner holds an EU Blue Card.

(2) By way of derogation from sub-section 1, sentence 1, no. 1, the residence permit may be issued to avoid particular hardship. Where the foreigner holds a residence permit, the other conditions stipulated in sub-section 1, sentence 1, no. 3, letter e, may be waived.

(3) By way of derogation from Section 5 (1), no. 1 and Section 29 (1), no. 2, the residence permit may be extended for as long as the marital cohabitation continues.

(4) Where a foreigner is simultaneously married to several spouses and lives together with one spouse in the federal territory, no other spouse shall be granted a residence permit pursuant to sub-section 1 or sub-section 3.

Section 31 Independent right of residence of spouses

(2) The requirement stipulated in sub-section 1, sentence 1, no. 1 for marital cohabitation to have existed lawfully for three years in the Federal territory shall be waived if necessary to enable the spouse to continue his or her residence in order to avoid particular hardship, unless an extension of the foreigner's residence permit is not permitted. Particular hardship shall be deemed to apply if the obligation to return to the country of origin, resulting from the termination of marital cohabitation, threatens to substantially harm the foreigner's legitimate interests, or if the continuation of marital cohabitation is unreasonable due to the harm to the foreigner's legitimate interests; in particular this is to be assumed where the spouse is the victim of domestic violence. Such legitimate interests shall also include the well-being of a child living with the spouse as part of a family unit. In order to avoid abuse, extension of the residence permit may be refused if the spouse is reliant on benefits in accordance with Book Two or Book Twelve of the Social Code for reasons for which he or she is responsible

3.2. Consequences of bad faith marriages on the status of third country national

Residence Act of 25 February 2008

Section 27 Principles pertaining to the subsequent immigration of dependents

(1a) The subsequent immigration of dependants shall not be permitted:

1. if it is established that the marriage has been entered into or kinship established solely for the purpose of enabling the subsequently immigrating persons to enter and stay in the Federal territory; or

2. if there are concrete indications that one of the spouses has been forced into marriage.

GREECE

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

None identified

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

Criminal Code⁶⁰²

Article 327 Involuntary kidnapping

1. Anyone who, with the intent of marriage or debauchery, abducts or withholds illegally (Article 325 PC) a woman against her will/involuntarily or a woman who has an impaired cognition or is unable to resist due to loss of consciousness or mental defect/challenge or otherwise, is punished if that act was committed for the purpose of marriage, with confinement of at least one year. If [he/she] has committed that act for the purpose of debauchery with imprisonment up to ten years.
2. An indictment/complaint is required for the prosecution.

Article 328 Elopement

1. Anyone who abducts or retains for the purpose of marriage or debauchery an unmarried and underage woman willingly, but without the consent of the persons under whose authority she submits or who under law have the right to care for her, is punished if that act was committed for the purpose of marriage with confinement of up to three years, if with the purpose of debauchery, with confinement.
2. An indictment/complaint is required for the prosecution.

Article 329 General provision

If in the cases of Articles 327 and 328, the wedding that was intended by the kidnap was concluded with the kidnapped woman, the prosecution is carried out only after its annulment.

Article 330 Illegal violence

Anyone who by using physical violence or threat of physical violence or of other illegal act or omission coerces other to an act, omission or tolerance for which the victim is not obliged shall be punished with confinement of up to two years, regardless of whether the threatened harm was directed against the person threatened or any of his/her close ones.

Article 355 Fraud related to marriage

Anyone who with fraudulent/deceptive means persuades someone to commit/perform a void or voidable marriage is punished with confinement, in case that marriage has been declared invalid irrevocably (by a final court judgment). The prosecution is exercised only after indictment/complaint.

⁶⁰² The Greek Criminal Code Law 1492 of 17/7 as amended by Law 4322/2015 (OJ 42/A/27.04.2015) 'Reforms of penal provisions, elimination of C-type prisons and other provisions'. (Greek legislation is not publicly available online in a consolidated version).

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

Civil Code⁶⁰³

Article 1350 Conditions for concluding marriage

For concluding a marriage [the] agreement of the intending spouses is required. The relevant statements shall be made in person and without condition or a time limitation. The intended spouses must have completed eighteen years of age. The court may, after hearing the couple and the persons exercising the custody of the minor, to allow marriage even before this age is completed, if the marriage is imposed by [an] extraordinary [good] reason.

Article 1351

Marriage shall not be concluded by people falling under one of the instances of Article 128⁶⁰⁴ and of the first paragraph of Article 131⁶⁰⁵, and those for whom concluding a marriage is specifically prohibited, under Article 129 no. 2⁶⁰⁶.

Article 1352

Whoever is under subsidised guardianship, partial or complete, which includes marriage, shall conclude marriage only with the consent of the judicial guardian. If the latter refuses to consent, the court may, after hearing him, to give permission for the conclusion of the marriage, if required by the interests of the person subject to guardianship.

Article 1367 Performance of marriage

The marriage is concluded either with a simultaneous declaration of the intended spouses that they agree to it (civil wedding), or with a religious service of marriage by a priest of the Eastern Orthodox Church or by an official of another doctrine or religion known in Greece.

The declaration shall be made in public in a festive manner before two witnesses, before the mayor or the president of the community of the place where the marriage takes place or before their legal substitute, who are obliged to draft the relevant act immediately.

The conditions of the rite and any issue relevant to it are subject to the formalities and rules of doctrine or religion according to which the rite is performed, provided these are not if not contrary to public order. The religious official is obliged to draft the relevant act immediately. Concluding a civil marriage does not preclude the service of the same marriage according to the religion and doctrine of the spouses.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Civil Code

Article 1372 Void and non-existent marriage

⁶⁰³ Greek Civil Code (Mandatory Law 2250/1940), amended by Law 4055/2012 and 4139/2013 (Greek legislation in a consolidated version is not publicly available online).

⁶⁰⁴ **Article 128** Incompetent for legal acts: [The following people] are Incompetent for legal acts: 1. whoever has not completed their tenth year 2. whoever is under complete legal guardianship.

⁶⁰⁵ **Article 131** The declaration of will is void if, at the time it took place, the person was not aware of his actions or was in psychic or mental disorder that decisively limited the function of its will.

⁶⁰⁶ **Article 129** Persons of limited competence. [The following people] have limited competence for legal acts: 1. minors who have completed the tenth year 2. whoever is placed under partial legal guardianship 3. whoever is under subsidised guardianship.

A marriage is invalid only if it took place in breach of Articles 1350 to 1352, 1354, 1356, 1357 and 1360.

A marriage is not void, if the declaration under Article 1367 has taken place towards [before] the mayor or the president of the community or their legal substitute, even if other conditions for concluding a marriage have been omitted.

[...]

Article 1373

The nullity of marriage shall be lifted:

1. if, in the case of the first paragraph of Article 1350, a free and full consent of the spouses follows,
2. if, in the case of the second paragraph of article 1350, *a posteriori* authorisation of the court is provided or if the spouse, after completing eighteen years of age, recognises the marriage,
3. if, in the case of Article 1351, the spouse, after becoming competent for legal acts, recognises the marriage,
4. if, in the case of Article 1352, the judicial guardian, the court or the spouse him/herself, after becoming competent for legal acts, approves the marriage.

Article 1375 Marriage voidable due to threat

A marriage that has been concluded may be annulled if the spouse was forced to conclude it with a threat, illegally or contrary to good usages.

The annulment is excluded if the he/she who was forced, recognised the marriage after the threat passed.

Article 1376 How the annulment takes place

In the case of void marriage, as well as marriage which was concluded under deception or with threat, a court order annulling it is required.

3. Immigration rules

3.1. Conditions for family reunification of spouses

Immigration and Social Integration Code⁶⁰⁷

Article 1 Definitions

1. For the application of the provisions of this Code:

[...]

la) Family reunification: The entry into and residence in the country by family members of a third country national residing lawfully in Greece in order to preserve the family unit, whether the family relationship arose before or after [the resident's] entry in the country.

lb) Sponsor: a third country citizen residing lawfully in Greece and applying for family reunification in order for the members of his/her family, as these defined under the present Code, to be allowed to enter and reside in Greece.

lc) Family members of a third country citizen:

⁶⁰⁷ Law 4251/2014 (OJ A' 80/01.04.2014) 'Immigration and Social Integration Code and other provisions' as last amended by Law 4332/2015 (OJ A' 76/09.07.2015) (Greek legislation in a consolidated version is not publicly available online)

a. The other spouse, if he/she has completed 18 years of age, as well as their under the age of 18 unmarried common children, including those who have been legally adopted in Greece by a court judgment or by a foreign court judgment that is automatically enforceable or has been declared enforceable or its res judicata has been recognised in Greece.

b. [...]

ld) Independent right of residence: the right of residence of the family members of a third country citizen who have been accepted in the Greek territory for family reunification reasons, which is maintained exclusively on a personal basis.

le) Family member of a Greek [citizen]:

a. his/her spouse irrespective of nationality,

b. [...]

c. [...]

lf) Personal right of residence: The right of residence of the family members of a Greek [citizen], which is maintained exclusively on a personal basis.

Article 2A

[...]

2. The provisions of the present [Code] do not apply to:

[...]

b) the family members of Union citizens who have exercised, or are exercising the right to free movement within [the Union], according to the provisions of PD 106/2007.

[...]

Article 4 Refusal of entry

1. The decisions rejecting entry visa requests received from diplomatic and consular authorities require reasoning. The cases relating to the following categories of third country citizens require special reasoning and without prejudice to any public order and security reasons:

a. Third country citizens, family members of a Greek [citizen], as defined in the case (le) paragraph 1 of Article 1.

b. Third country citizens, family members of a citizen of another member state of the European Union.

2. The Greek control authorities can reasonably prohibit the entry into Greece to a third-country citizen, if they find out that at least one of the following cases occurs as regards the person:

(...)

c) [he/she] does not justify the purpose and conditions of the intended stay, does not have sufficient means of subsistence, both for the envisaged period of stay and for the return to the country of origin or the transit to a third country in which his/her entry is guaranteed, or cannot legally secure these means.

Article 7 Categories of residence permits

[...]

2. The categories⁶⁰⁸ of residence permits, and the types of licences that are included in them are the following:

⁶⁰⁸ There might be different requirements (mainly procedural) for the family members of the sponsor who enters Greece, depending on the individual category of residence permit he/she is applying for.

[...]

F) Residence permit for family reunification

F1. Family members of third country citizens

F2. Family members of a Greek [citizen] or of a national of Greek descent⁶⁰⁹

F3. Independent residence permit for a family member of a third-country citizens or of a national of Greek descent

F4. Personal right of residence of family members of a Greek [citizen]

[...]

5. The validity of the initial residence permit, subject to any special regulations of the present Code, is two years and each renewal [is valid for] three years.

Article 20 Other reasons for granting a residence permit

To the third country citizen, who has been granted an entry visa for any of the reasons of the present article, a corresponding residence permit is granted.

A. Financially independent people

(...)

3. The above third-country citizens may be accompanied by their family members, who are granted, at their request, a personal residence permit which expires simultaneously with the residence permit of the sponsor. The requirement for sufficient living resources must exist either for each family member or cumulatively for all members thereof.

[...]

B. Investor permanent residence permit

(...)

4. The above third country citizen may be accompanied by his/her family members, who are granted, at their request, a personal residence permit which expires simultaneously with the residence permit of the sponsor.

As family members are perceived:

(a) his/her spouse

(b) [...]

(c) [...]

Article 70 Conditions for family reunification

1. The third-country national residing legally in Greece for two years is entitled to ask, upon application, the entry and residence in the country of his/her family members. The application shall be submitted and examined when these members reside outside the Greek territory. Any stay of such members in the Greek territory before submitting the application for family reunification shall not constitute a reason which may prevent the submission of the application.

2. For exercising the right of the previous paragraph, the sponsor should prove the family relation with the members of his family for whom he requests the reunification in Greece and that he fulfils cumulatively the following conditions:

a. [He/she] has accommodation sufficient to cover the needs of him/herself and of the members of his/her family for which he/she applies for reunification as this [the accommodation] is defined by decision of the Minister of Health [issued] under the delegation of Article 43 of Law. 4025/2011⁶¹⁰ (A 228), as applicable.

⁶⁰⁹ Albanian nationals of Greek descent and nationals of the former USSR of Greek descent fall under a distinct category in the Greek legal order (*ομογενείς*).

⁶¹⁰ Law 4025/2011 (OJ A' 228/2011) 'Reform of Centres of Social Solidarity, Rehabilitation Centres, Restructuring of NHS and other provisions'

b. has a stable and regular personal income, sufficient for the needs of him/herself and his/her family, which does not come from the social assistance system of the country. This income cannot be less than the annual earnings of a salaried with the minimum wage, in accordance with national legislation, increased by 20% for the spouse and by 15% for each child. Such increase of 15% for each child is not required in the case where both spouses are legally residing in Greece.

c. [He/she] is covered by full sickness insurance in respect of the totality of risks covered for the corresponding categories of workers of Greek nationality, which can also cover the members of his/her family.

3. [...]

Article 76 Independent residence permit for family members

1. Persons that have been accepted for family reunification reasons are entitled, by submitting an application, accompanied by the required documentation, to obtain an independent residence permit in Greece in the following cases:

a. five years interval from the granting of the initial family reunification residence permit, if a residence permit for one of the other grounds of this Code has not been granted

b. adulthood

2. An independent residence permit may be granted to persons who have been admitted under family reunification in the following cases:

[...]

b. in the event of divorce or annulment of marriage or proven interruption of the marital life, provided that:

i. the marriage lasted until the beginning of the proceedings for a divorce or the annulment of marriage or in case of proven interruption of the marital cohabitation for at least three years of which one year was spent in the country.

ii. there are particularly difficult circumstances, like if the family member was a victim of domestic violence during the marriage.

[...]

3. The duration of the independent residence permit may not exceed one year. Subsequent renewal is allowed for reasons other than family reunification, according to the provisions of this Code.

[...]

Article 80 Family reunification provisions when the family is established in Greece

1. In the case of marriage between citizens of third countries who reside in the country under a residence permit, to one of the spouses and to members of their family already legally residing in the country, a family reunification residence permit may be granted.

[...]

Article 81 Provisions for family members of a national of Greek descent⁶¹¹

[...]

2. The spouses of a national of Greek descent⁶¹² who are third country citizens are entitled to an independent residence permit in case of:

[...]

⁶¹¹ Albanian nationals of Greek descent and nationals of the former USSR of Greek descent fall under a distinct category in the Greek legal order (*ομογενείς*).

⁶¹² Albanian nationals of Greek descent and nationals of the former USSR of Greek descent fall under a distinct category in the Greek legal order (*ομογενείς*).

- ii. delivery of a final judgment on divorce or annulment of marriage and if the marriage lasted until the date the divorce or annulment action was filed before the court, for at least three years of which a year was spent in Greece,
- ii. there are particularly difficult circumstances, like if the family member was a victim of domestic violence during the marriage.

3.2. Consequences of bad faith marriages on the status of third country national

Immigration and Social Integration Code

Article 24 Denial – Revocation of residence permit

1. The residence permit is not issued or is revoked or not renewed if:
 - a. the requirements of this Code are not met or are no longer met.
 - b. It is proven by an official document of a competent Greek authority that false or misleading information, false or falsified documents or that fraud has been committed in any way or that other illegal means were used to issue the permit.

[...]

2. Where the granted residence permit is revoked or the application to grant or renew is rejected, the competent each time authorities issue a return decision in accordance with the provisions of Articles 16-41 of Law 3907/2011⁶¹³

Article 74 Rejection of application, revocation or non-renewal of residence permits

1. The residence permit for family reunification is not granted, is revoked or not renewed, in the following cases:
 - a. There is a risk to public order and security. The examination of reasons relating to public order and security of the country is a prerequisite element during the approval of the family reunification and the initial granting of the residence permit to the family members.

(...)
 - g. It is found that the family relation, especially the marriage, adoption or recognition of children has been concluded in order to circumvent the provisions of the present [Code], in order to achieve entry or residence in the country or residence in the country or if the residence of the sponsor is terminated and the family member has no independent right of residence.

(...)

Article 86 Non-recognition of entitlement - Loss of right of residence

1. The Residence Card shall be refused, revoked or not renewed, aside from the cases referred to in Article 24, also in cases where:
 - a. It is proven by an official document of a Greek Authority or a final court judgment or an irrevocable decree of the competent judicial council that false or misleading information, false or falsified documents were used, or that fraud was committed in any way or that other illegal means were used and generally that an abuse of rights or fraud occurs, like in the case of fake marriage.

(...)
 - c. it is found that the family relation, especially the marriage, adoption or recognition of children has been concluded in order to circumvent the provisions of the present [Code], in order to obtain the Residence or Permanent Residence Card.

The family relationship is deemed to have been concluded for this purpose, particularly when there is no cohabitation of family members or there is no possibility of communication

⁶¹³ Law 3907/2011 (OJ A' 7/26.01.2011) 'Establishment of an Asylum Service and First Reception Service, adaptation of Greek legislation to the provisions of Directive 2008/115/EC "on common standards and procedures in Member States for returning illegally staying third-country nationals " and other provisions

[of family members] or when the one spouse ignores the identity information of the other spouse.

2. Where the application to grant or renew is rejected or the granted residence permit is revoked, the competent each time authorities issue a return decision in accordance with the provisions of Articles 16-41 of Law 3907/2011⁶¹⁴ (...).

⁶¹⁴ Law 3907/2011 (OJ A' 7/26.01.2011) 'Establishment of an Asylum Service and First Reception Service, adaptation of Greek legislation to the provisions of Directive 2008/115/EC "on common standards and procedures in Member States for returning illegally staying third-country nationals " and other provisions

HUNGARY

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

None identified.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

Act C of 2012 of the Criminal Code⁶¹⁵

None identified.

Other provisions such as coercion/duress could apply.

Article 195 – Duress

Any person who compels another person by force or by threat of force to do, or to refrain from doing some act, and thereby causes a considerable injury of interest, is guilty of a felony punishable by imprisonment not exceeding three years, insofar as the act did not result in a more serious criminal offence.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

Act V of 2013 of the Civil Code⁶¹⁶

Article 4:5 Contracting marriage

(1) Marriage shall be considered contracted if a man and a woman together appear before the registrar in person and declare their intention to marry. Such declaration cannot be made subject to a condition or time limit.

(2) After the exchange of wedding vows, the registrar shall declare the parties united in marriage, and shall record the fact of marriage in the marriage registry.

Article 4:9 Legal age for marriage

(1) The marriage of a minor⁶¹⁷ shall be considered void if entered into without the prior consent of the guardian authority.

(2) In cases provided for by law, the guardian authority may authorise the marriage of a minor of limited legal capacity over the age of 16 years.

(3) [...]

(4) A marriage entered into without the guardian authority's permission or before the age of sixteen years shall become valid after six months following the date of the spouse reaching legal age with retroactive effect to the date of marriage, if the spouse affected does not challenge the existing marriage within such preclusive period, or if the court

⁶¹⁵ [Act C of 2012 on the Criminal Code](#). The latest relevant amendment of the [Criminal Code](#) dates back to 2013, when an amendment to the offence provision of domestic violence (*kapcsolati erőszak*) as set out in Article 212/A of the [Criminal Code](#) was introduced. This latest amendment was introduced by Article 19(5) of [Act LXXVIII of 2013 on the amendment of certain laws setting out criminal provisions](#)

⁶¹⁶ [Act V of 2013](#) of the Civil Code of Hungary, as amended by [Act CCLII of 2013](#) ⁶¹⁶

⁶¹⁷ The term 'limited legal capacity' in connection with minors, which is referred to in Article 4:9, is defined under Article 2:11 of the Civil Code [minors of limited legal capacity] as follows:

A minor shall be of limited capacity if he or she has reached the age of 14 years and is not incompetent. The term 'incompetent' in connection with minors, is defined under Article 2:13 of the Civil Code [Incompetent minors] : *Minors under the age of 14 years are legally incompetent.*

dismisses - at his request - any action previously brought on the same grounds by another person.

Article 4:10 Marriage of an incompetent person⁶¹⁸ placed under guardianship

(1) The marriage of any person under guardianship invoking fully limited legal capacity at the time of marriage shall be invalid.

(2) The marriage of a person under guardianship shall become valid after six months following the date of termination of guardianship with retroactive effect to the date of marriage, if the spouse who is the reason for invalidity does not challenge the existing marriage within such preclusive period, or if the court dismisses - at his request - any action previously brought on the same grounds by another person.

Article 4:11 Marriage of an incompetent person⁶¹⁹

(1) The marriage of any person who was legally incompetent at the time of marriage shall be invalid.

(2) The marriage shall become valid after six months following the date of the spouse regaining legal competency with retroactive effect to the date of marriage, if the spouse who is the reason for invalidity does not challenge the existing marriage inside such preclusive period.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Act V of 2013 of the Civil Code

Article 4:5 Contracting marriage

(3) Marriage shall not be contracted in the absence of the conditions set out in Subsection (1). A non-existent marriage shall be treated as if it has never been contracted.⁶²⁰

3. Immigration rules

3.1. Conditions for family reunification of spouses

Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals⁶²¹

Special rules applicable to stays for a period of longer than 180 days

Article 19(1)

A residence permit may be issued on the grounds of family reunification to a third-country national who is a family member⁶²² of a third-country national who is in possession of a

⁶¹⁸ Such situation in accordance with Article 2:21(2) of the Civil Code [full limitation of legal capacity] occurs when a person of adult age completely and permanently lacks the necessary discretionary ability – owing to his/her mental disorder - to conduct his/her affairs alone

⁶¹⁹ Article 4:11 regulates the situation where a person is in incompetent state. Such situation in accordance with Article 2:9 of the Civil Code [incompetent state] occurs when a person lacks sound mind and therefore is unable to make decisions for him/herself at the moment when a legal statement is made.

⁶²⁰ A non-existent marriage is not the same as an invalid one. The main differences between the two are twofold: a) in case of non-existent marriages a wider range of people can initiate the relevant proceedings including the spouse whose consent was lacking; b) the proceedings are, as a general rule, administrative in nature as opposed to judicial ones, which apply in cases where the validity/invalidity of a marriage is at stake. In cases where the administrative proceedings do not lead to the expected results (i.e. declaration of existence/non-existence), the following persons have the right to initiate judicial proceedings: the parties to the marriage, prosecutor and any interested party.

⁶²¹ [Act II of 2007](#) on the admission and right of residence of third-country nationals as amended by [Act CXXXV of 2010 on the amendment of migration related laws with the aim of legal harmonisation](#), in force since 24 December 2010. This Act amended the provision set out under Article 18(1)(d) of [Act II of 2007](#).

⁶²² The term 'family member' referred to under Article 19(1) is defined by Article 2(da) of [Act II of 2007](#) as

residence permit, immigration permit, permanent residence permit, interim permanent residence permit, a national or EC permanent residence permit, or - under specific other legislation - of a person in a possession of a residence card or permanent residence card (for the purposes of this Section hereinafter referred to as "sponsor").

National Permanent Residence Permit

Article 35(1)(c)

National permanent residence permits may be issued - with the exception set out in Paragraph (4) - to third-country nationals holding a residence permit or an interim permanent residence permit for establishing residence in the territory of the Republic of Hungary, if:

a)-b) [...] c) **the spouse of a third-country national with immigrant or permanent resident status or who has been granted asylum, provided that the marriage was contracted at least two years before the application was submitted;** d)-g) [...]

3.3. Consequences of bad faith marriages on the status of third country national

Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals

Provisions governing the right of residence for a period of longer than three months

Article 18(1)(d)⁶²³

Unless otherwise prescribed in this Act, new residence permits or the extension of existing ones shall be refused, or if already issued shall be withdrawn from third-country nationals:

a)-b) [...] d) **who established the family relationship solely for the purpose of obtaining a residence permit on the grounds of family reunification.**

National Permanent Residence Permit

Article 37(2)(a)⁶²⁴

The immigration authority shall withdraw the permit if: a) the third-country national in question has disclosed false information or untrue facts to the competent authority in the interest of obtaining the permit. b)-e) [...]

follows: d) 'family member' shall mean the third-country national's: da) spouse [...].

⁶²³ The provision set out under Article 18(1)(d) of [Act II of 2007](#) was amended by [Act CXXXV of 2010 on the amendment of migration related laws with the aim of legal harmonisation \(2010. évi CXXXV. törvény egyes migrációs tárgyú törvények jogharmonizációs célú módosításáról\)](#), in force since 24 December 2010.

⁶²⁴ The provision set out under Article 37(2)(a) has not been subject to amendments since the entry into force of [Act II of 2007](#).

IRELAND

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

None identified

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

None identified.

Other provisions such as coercion and human trafficking could apply.

Non-Fatal Offences Against the Person Act 1997⁶²⁵

Article 9 Coercion:

(1) A person who, with a view to compelling another to abstain from doing or to do any act which that other has a lawful right to do or to abstain from doing, wrongfully and without lawful authority—

(a) uses violence to or intimidates that other person or a member of the family of the other [...]

shall be guilty of an offence.

(2) [...]

(3) A person guilty of an offence under this section shall be liable—

(a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, or

(b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 5 years or to both.

Criminal Law (Human Trafficking) Act 2008⁶²⁶

Trafficking, etc., of children.

2.—(1) A person who trafficks a child for the purposes of the exploitation of the child shall be guilty of an offence. (2) A person who— (a) sells a child, offers or exposes a child for sale or invites the making of an offer to purchase a child, or (b) purchases or makes an offer to purchase a child, shall be guilty of an offence. (3) A person who causes an offence under subsection (1) or (2) to be committed shall be guilty of an offence. (4) A person who attempts to commit an offence under subsection (1), (2) or (3) shall be guilty of an offence. (5) A person guilty of an offence under this section shall be liable upon conviction on indictment— (a) to imprisonment for life or a lesser term, and (b) at the discretion of the court, to a fine. (6) In this section “exploitation” does not include sexual exploitation.

Trafficking of persons other than children.

4.—(1) A person (in this section referred to as the “trafficker”) who trafficks another person (in this section referred to as the “trafficked person”), other than a child or a person to whom subsection (3) applies, for the purposes of the exploitation of the trafficked person shall be guilty of an offence if, in or for the purpose of trafficking the trafficked person, the trafficker— (a) coerced, threatened, abducted or otherwise used force against the trafficked person, (b) deceived or committed a fraud against the trafficked person, (c) abused his or her authority or took advantage of the vulnerability of the trafficked person to such extent

⁶²⁵ [Non-Fatal Offences Against the Person Act 1997](#)

⁶²⁶ [Criminal Law \(Human Trafficking\) Act 2008](#)

as to cause the trafficked person to have had no real and acceptable alternative but to submit to being trafficked, (d) coerced, threatened or otherwise used force against any person in whose care or charge, or under whose control, the trafficked person was for the time being, in order to compel that person to permit the trafficker to traffick the trafficked person, or (e) made any payment to, or conferred any right, interest or other benefit on, any person in whose care or charge, or under whose control, the trafficked person was for the time being, in exchange for that person permitting the trafficker to traffick the trafficked person. (2) In proceedings for an offence under this section it shall not be a defence for the defendant to show that the person in respect of whom the offence was committed consented to the commission of any of the acts of which the offence consists. (3) A person who trafficks a person who is mentally impaired for the purposes of the exploitation of the person shall be guilty of an offence. (4) A person who— (a) sells another person, offers or exposes another person for sale or invites the making of an offer to purchase another person, or (b) purchases or makes an offer to purchase another person, shall be guilty of an offence. (5) A person who causes an offence under subsection (1), (3) or (4) to be committed shall be guilty of an offence. (6) A person who attempts to commit an offence under subsection (1), (3), (4) or (5) shall be guilty of an offence. (7) A person guilty of an offence under this section shall be liable upon conviction on indictment— (a) to imprisonment for life or a lesser term, and (b) at the discretion of the court, to a fine. (8) **In this section “mentally impaired” has the same meaning as it has in the Criminal Law (Sexual Offences) Act 1993.**

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

***Family Law Act*⁶²⁷**

Section 31 Age of Marriage

(1)(a)(i) A marriage solemnized [...] between persons either of whom is under the age of 18 years shall not be valid in law.

[...]

(2) Any person to whom application is made in relation to the solemnisation of an intended marriage may, if he or she so thinks fit, request the production of evidence of age with respect to either or both of the parties concerned.

(3) Where a request is made under subsection (2)—

(a) refusal or failure to comply with the request shall be a proper reason for refusal of the application concerned, and

(b) if the request is complied with and the evidence shows that either or both of the parties is or are under the age of 18 years, the application shall be refused.

(4) Where a person knowingly—

(a) solemnises or permits the solemnisation of a marriage which, consequent on the provisions of this section, is not valid in law, or

(b) is a party to such a marriage,

the person shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500.

⁶²⁷ [The Family Law Act, 1995/26](#)

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Family Law Act

Section 32 Notification of intention to marry

(1) (a) A marriage solemnised, after the commencement of this section, in the State between persons of any age shall not be valid in law unless—

(i) the persons concerned notify the Registrar in writing of their intention to so marry not less than 3 months prior to the date on which the marriage is to be solemnised, or

(ii) exemption from this section was granted before the marriage under section 33 .

(b) The requirement specified in paragraph (a) is hereby declared to be a substantive requirement for marriage.

(2) The Registrar shall notify each of the persons concerned in writing of the receipt by him or her of a notification under subsection (1).

(3) A notification under subsection (2) shall not be construed as indicating the approval of the Registrar concerned of the proposed marriage concerned.

[...]

Section 33 Exemption of certain marriages from sections 31(1) and 32(1)

The court may, on application to it in that behalf by both of the parties to an intended marriage, by order exempt the marriage from the application of section 31(1)(a) or 32(1)(a) of both of those provisions.

The following provisions apply in relation to an application under subsection (1):

it may be made informally,

it may be heard and determined otherwise than in public,

a court fee shall not be charged in respect of it, and

it shall not be granted unless the applicant shows that its grant is justified by serious reasons and is in the interests of the parties to the intended marriage.

3. Immigration rules

3.1. Conditions for family reunification of spouses

European Communities (Free Movement of Persons) Regulations 2006⁶²⁸

Article 4 Permission for Union citizens and qualifying family members to enter the State:

(2) A qualifying family member of a Union citizen who is not a national of a Member State and who is in possession of a valid passport as evidence of his or her nationality and identity may not be refused permission to enter the State unless-

(a) he or she is suffering from a disease specified in Schedule 1, or

(b) his or her personal conduct has been such that it would be contrary to public policy or would endanger public security to grant him or her permission to enter the State

(3)(a) A qualifying family member, who is a member of a class of non-nationals not specified in

an order made under section 17 of the Immigration Act 2004 (No. 1 of 2004) as not requiring an Irish visa, shall be in possession of a valid Irish visa as a condition to being granted permission to enter the State.

(b) The Minister shall, on the basis of an accelerated process, consider an application for an Irish visa from a qualifying family member referred to in subparagraph (a) as soon as

⁶²⁸ [European Communities \(Free Movement of Persons\) Regulations 2006](#) (S.I. No. 226 of 2006).

possible and, if the Minister decides to issue an Irish visa, the relevant Irish visa shall be issued free of charge.

(4) [...]

(5) [...]

Article 6 Residence in the State:

6.(1) Subject to Regulation 20, a person to whom these Regulations apply may reside in the State

for up to three months on condition that he or she—

(a) (i) where the person is a Union citizen, holds a valid national identity card or passport,

(ii) where the person is not a national of a Member State, holds a valid passport, and

(b) does not become an unreasonable burden on the social welfare system of the State.

(2)(a) Subject to Regulation 20, a Union citizen may reside in the State for a period longer than 3

months if he or she—

(i) is in employment or is self-employed in the State,

(ii) has sufficient resources to support himself or herself, his or her spouse and any accompanying dependants, and has comprehensive sickness insurance in respect of himself or herself, his or her spouse and any accompanying dependants, or

(iii) is enrolled in an educational establishment in the State for the principal purpose of following a course of study there, including a vocational training course, and has comprehensive sickness insurance in respect of himself or herself, his or her spouse and any accompanying dependants, or

(iv) subject to paragraph (3), is a family member accompanying or joining a Union citizen who satisfies one or more of the conditions referred to in clause (i), (ii) or (iii)

(b) Subject to paragraph (3), a family member of a Union citizen who is not a national of a Member State shall be entitled to reside in the State for more than three months where the Minister is satisfied that the Union citizen concerned satisfies one or more of the conditions referred to in subparagraph (a)(i), (ii) or (iii).

Article 11 Rights of residence:

[...] (3) Without prejudice to Regulations 6(2), 9 and 10, a family member of a Union citizen shall cease to have any entitlements under these Regulations if the Union citizen on whom he or she is dependent—

(a) is refused leave to land, or

(b) is required to leave the State.

(4) [...]

Article 14 Acquisition of the right of permanent residence by certain family members who are not nationals of a Member State:

Without prejudice to Regulation 13, a family member of a Union citizen to whom Regulation 9(2) or 10(2) applies and who satisfies the conditions referred to in Regulation 9(2) or 10(2) shall acquire the right of permanent residence after lawfully residing in the State for a period of five consecutive years.

Refugee Act 1996⁶²⁹

Section 18 Member of family of refugee :

(1) Subject to section 17 (2), a refugee in relation to whom a declaration is in force may apply to the Minister for permission to be granted to a member of his or her family to enter and to reside in the State and the Minister shall cause such an application to be referred to the Commissioner and a notification thereof to be given to the High Commissioner.

[.]

⁶²⁹ [Refugee Act 1996](#).

(3) (a) Subject to subsection (5), if, after consideration of a report of the Commissioner submitted to the Minister under subsection (2), the Minister is satisfied that the subject of the application is a member of the family of the refugee, the Minister shall grant permission in writing to the person to enter and reside in the State and the person shall be entitled to the rights and privileges specified in section 3 for such period as the refugee is entitled to remain in the State.

(b) In paragraph (a), "member of the family", in relation to a refugee, means—

(i) in case the refugee is married, his or her spouse (provided that the marriage is subsisting on the date of the refugee's application pursuant to subsection

[...]

***European Union (Subsidiary Protection) Regulations 2013 (SI 2013/426)*⁶³⁰**

Regulation 25: Permission to enter and reside for member of family of qualified person:

(1) A qualified person⁶³¹ (in this Regulation referred to as the "sponsor") may apply to the Minister for permission to be granted to a member of his or her family to enter and reside in the State.

[...]

(6) In this Regulation and Regulation 26—

[...]

"member of the family", in relation to a sponsor, means—

(a) where the sponsor is married, his or her spouse provided that the marriage is subsisting on the date of the application under paragraph (1) [...]

Regulation 26: Permission to reside for member of family of qualified person:

(1) A qualified person (in this Regulation referred to as the "sponsor") may make an application to the Minister for permission to reside in the State to be granted to a member of his or her family who, on the date of the application, is in the State (whether lawfully or unlawfully) and who does not himself or herself qualify for protection in the State.

[...]

3.2. Consequences of bad faith marriages on the status of third country national

***European Communities (Free Movement of Persons) Regulations 2006*⁶³²**

Article 24 Cessation of entitlements:

(1) Where it is established that a person to whom these Regulations apply has acquired any rights or entitlements under these Regulations by fraudulent means then that person shall immediately cease to enjoy such rights or entitlements.

(2) In these Regulations, "fraudulent means" includes marriages of convenience.

⁶³⁰ [European Union \(Subsidiary Protection\) Regulations 2013 \(SI 2013/426\)](#).

⁶³¹ "A person eligible for subsidiary protection" means a person: (a) who is not a national of a Member State, (b) who does not qualify as a refugee, (c) in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, would face a real risk of suffering serious harm and who is unable or, owing to such risk, unwilling to avail himself or herself of the protection of that country, and (d) who is not excluded from being eligible for subsidiary protection under Regulation 17 [European Union \(Subsidiary Protection\) Regulations 2013](#)

⁶³² [European Communities \(Free Movement of Persons\) Regulations 2006](#) (S.I. No. 226 of 2006).

ITALY

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

None identified

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

Other provisions such as coercion/violence could apply.

Criminal Code⁶³³

Article 558

In concluding a marriage having civil effects, anyone who conceals to the other spouse the existence of an impediment by fraudulent means, other than that resulting from a previous marriage, shall be punished, if the marriage is annulled because of the impediment concealed, with imprisonment up to one year or a fine of EUR 206 to EUR 1,032.

Law 2013 n.77⁶³⁴

Article 610

Whoever by violence or threat, forces others to do, tolerate or omit anything shall be punished with imprisonment up to four years.

[...]

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

Civil Code⁶³⁵

Article 84 Age

Minors cannot marry.

The court, on application by the person, after having ascertained his/her psychological and physical maturity and the soundness of the reasons given, after hearing the prosecutor, the parents or the guardian, may allow the marriage of a person who has reached 16 years of age for serious reasons by means of a decree issued in camera.

The decree is communicated to the prosecutor, the spouses, the parents or the guardian.

A complaint may be filed against the decree, by means of an appeal to the court of appeal, within a period of ten days from the communication of the decree.

[...]

The decree takes effect when the period prescribed in the fourth paragraph elapses without any complaint.

Article 85 Interdiction for mental infirmity.

The person who has been interdicted for mental infirmity cannot marry.

⁶³³ [The Criminal Code of Italy](#) Law 19 October 1931, amended by Law No.68 of May 22, 2015

⁶³⁴ There is no legislation targeting forced marriage in Italy. However, [Law 27 June 2013 n.77](#) on ratification and implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence, has introduced Article 37 which reads as follows: '1 Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of forcing an adult or a child to enter into a marriage is criminalised. 2 Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of luring an adult or a child to the territory of a Party or State other than the one she or he resides in with the purpose of forcing this adult or child to enter into a marriage is criminalised.'

⁶³⁵ [The Civil Code of Italy](#) R.D. 16 marzo 1942, n. 262, as amended by Law 27 May 2015.

If the request for interdiction has been only filed, the prosecutor may request that the celebration of the marriage is suspended; the celebration cannot take place until the ruling on such request has become final.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Civil Code

Article 107 Form of celebration

On the day indicated by the parties to the registrar, in the presence of two witnesses although relatives, the registrar reads out to the spouses Articles 143, 144 and 147; receives by each party personally, one after the other, the statement that they want to take each other respectively as husband and wife, and later states that they are united in marriage.

The marriage certificate must be completed immediately after the celebration.

Article 117 Marriage contracted in violation of Articles 84 , 86 , 87 and 88 .

1 [...]

2 [...] The marriage contracted in violation of Article 84 may be challenged by the spouses, by each of the parents and the public prosecutor. The action for annulment may be brought personally by the minor not later than one year from the age of majority. The request submitted by the parent or by the prosecutor shall be rejected where, even pending the trial, the child has reached the age of majority or there was conception or procreation and in any case the will of the child to keep alive the marriage bond is ascertained.

Article 122 Violence and error

The marriage may be challenged by the spouse whose consent was extorted by force or fear caused by exceptionally serious causes external to the spouse.

3. Immigration rules

3.1. Conditions for family reunification of spouses

Legislative Decree 1998 n.286⁶³⁶

Article 28 Right to family unity

1. The right to maintain or regain the family unit with foreigner family members is recognised under the conditions provided for in this text, to foreigners holding a residence card or a residence permit for periods not less than one year, issued for employment or self-employment or for asylum, study or religious reasons.

2. Except for the most favorable provisions of this Act or the implementing regulation, the provisions of Presidential Decree Republic December 30, 1965, n. 1656 shall continue to apply to foreigners who are family members of Italian citizens or of citizens of a Member State of the European Union.

3 [...]

Article 29 Family reunification

1. Foreign nationals may apply for reunification for the following family members:

a) spouse not legally separated;

[...]

2. [...]

⁶³⁶ [Legislative Decree 1998 n.286](#) as amended by [Law No. 189 of 30th July 2002](#)

3. Unless a refugee, the alien applying for reunification shall demonstrate the availability of:

a. an accommodation that meets the minimum requirements required by the regional law **on public housing [...]**

b. an annual income from legitimate sources not lower than the amount of the annual social allowance if the reunification is for only one family member, not less than the double **of the annual social allowance if the reunification is for two or three family members [...]**

For the purposes of determining the income, the total annual income of the family members living with the applicant is taken into account.

[...]

4. The entry of family members, with whom it is possible to implement the reunification, along with the alien holding a residence card or an entry visa for employment under a contract lasting no less than one year, or for continual self-employment or for study or religious reasons, is allowed provided that the requirements for the availability of accommodation and income referred to in paragraph 3 are met.

5. In addition to the provisions of Article 28, paragraph 2, the entry of the family members along with an Italian or EU citizen, with whom it is possible to implement the reunification, is allowed.

Article 30 Residence permit for family reasons

1. Except for cases of issuing or renewing of the residence card, the residence permit for family reasons is issued to:

a. an alien who has entered Italy with an entry visa for family reunification, or with an entry permit along with the family member in the cases provided for in Article 29, or with a visa for reunification to a minor child;

b. foreigners legally residing for another reason for at least a year who have married in the State with an Italian citizen or a citizen of a Member State of the European Union, or with foreigners legally residing;

c. family members regularly residing, in possession of the requirements for reunification with an Italian citizen or a citizen of an EU member State residing in Italy, or alien regularly resident in Italy. In this case the permission is converted into residence permit for family reasons. [...]

d. [...]

2. [...]

3. The residence permit for family reasons has the same duration of the permit under Article 29, and is renewable together with the latter.

4. A residence card is issued to an alien who reunites with an Italian citizen or a citizen of an EU Member State, or an alien holder of the residence card of Article 9.

[..]

3.2. Consequences of bad faith marriages on the status of third country national

Legislative Decree 1998 n.286

Article 4 Entry into the territory of the State

The presentation of false or counterfeited documentation or false attestations to back a visa application automatically entails, in addition to the relative penal liabilities, the unacceptability of the application.

Article 30 Residence permit for family reasons

1-bis. The residence permit in the cases indicated in paragraph 1, letter b), is immediately revoked if it is ascertained that the marriage has not been followed by effective cohabitation unless offspring have been born from the said marriage.

LATVIA

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

None identified

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

None identified.

Other provisions such as human trafficking could apply.

Criminal Law⁶³⁷

Section 154 Human Trafficking

(1) For a person who commits human trafficking, the applicable punishment is deprivation of liberty for a term up to eight years, with or without confiscation of property.

(2) For a person who commits human trafficking if it has been committed against a minor, or if it has been committed by a group of persons pursuant to prior agreement, the applicable punishment is deprivation of liberty for a term of three years and up to twelve years, with or without confiscation of property and with or without police supervision for a term up to three years.

(3) For a person who commits human trafficking if it has endangered the life of a victim or serious consequences have been caused thereby, or it has been committed involving particular cruelty or against an underaged person, or it has been committed by an organised group, the applicable punishment is deprivation of liberty for a term of five years and up to fifteen years, with or without confiscation of property and with or without police supervision for a term up to three years.

Section 154 Meaning of Human Trafficking

(1) Human trafficking is the recruitment, transportation, transfer, concealment, accommodation or reception of persons for the purpose of exploitation, committed by using violence or threats or by means of deceit, or by taking advantage of the dependence of the person on the offender or of his or her state of vulnerability or helplessness, or by the giving or obtaining of material benefits or benefits of another nature in order to procure the consent of such person, upon which the victim is dependent.

(2) The recruitment, transportation, transfer, concealment, accommodation or reception of a minor for the purpose of exploitation shall be recognised as human trafficking also in such cases, if it is not connected with the utilisation of any of the means referred to in the Paragraph one of this Section.

(3) Within the meaning of this Section, exploitation is the involvement of a person in prostitution or in other kinds of sexual exploitation, the compulsion of a person to perform labour, to provide services or to commit criminal offences, the holding of a person in slavery or other similar forms thereof (debt slavery, serfdom or compulsory transfer of a person into dependence upon another person), and the holding a person in servitude or **also the illegal removal of a person's tissues or organs.**

(4) Within the meaning of this Section state of vulnerability means using the circumstances when a person does not have another actual or acceptable choice, only to submit to exploitation.

⁶³⁷ [Criminal Law](#), as last amended by LV, 34 (5352) 18.02.2015.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

Civil Law⁶³⁸

32. Marriage prior to the attaining of eighteen years of age is prohibited except in the case provided for in Section 33.

33. By way of exception, a person who has attained sixteen years of age may marry with the consent of his or her parents or guardians if he or she marries a person of legal age. If the parents or guardians, without good cause, refuse to give permission, then permission may be given by an orphan's court for the place where the parents or appointed guardians reside.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Civil Law

60. [...] A marriage that has been entered into fictitiously, i.e., without the intent to create a family, shall be declared null.

62. A marriage shall be declared null if, at the time of its being entered into, one of the spouses was in such condition that such spouse was not able to understand the meaning of his or her actions or able to control them.

67. A spouse may contest a marriage if the spouse has married under the influence of criminal threats. Such an action shall be submitted within six months of the termination of the influence of the threats.

3. Immigration rules

3.1. Conditions for family reunification of spouses

Immigration Law⁶³⁹

Article 23

(1) A foreigner has the right to request a temporary residence permit in accordance with the procedures laid down in this Law:

1) once in a calendar year for a period of time which does not exceed six months, if he or she is a relative of a Latvian citizen or of a non-citizen of Latvia or of a foreigner who has received a permanent residence permit, up to the third degree in direct line or third degree in a collateral line, or also affinity to the third degree

[...]

Article 24

(1) The right to request a permanent residence permit, in accordance with the procedures laid down in this Law, shall be granted:

[...]

⁶³⁸ [Civil Law](#) (VV, 41, 20.02.1937), amended by Law LV, 56 (5374), 19.03.2015.

⁶³⁹ [The Immigration Law](#) LV, 169 (2744), 20.11.2002, amended by the Immigration Law LV, 108 (5168), 04.06.2014.

2) to the spouse of a Latvian citizen or non-citizen of Latvia, or of a foreigner who has received a permanent residence permit in accordance with Sections 25 and 26 of this Law, as well as the child of the spouse in accordance with Section 29 of this Law;

[...]

Article 26

(1) A foreigner who is the spouse of a foreigner holding a permanent residence permit shall be entitled to request:

1) when submitting documents for the first time – a temporary residence permit for one year;

2) when submitting documents for the second time – a temporary residence permit for four years;

3) when submitting documents for the third time – a permanent residence permit.

(2) If the marriage has ended in divorce, before the spouse of the foreigner who has received a permanent residence permit receives a permanent residence permit, the temporary residence permit shall be annulled.

(3) In the cases referred to in Section 25, Paragraph one, Section 26, Paragraph one, Section 30, Paragraph one and Section 31, Paragraph two of this Law, a residence permit shall be issued on the condition that the marriage is monogamous, spouses will live together and they have a common household

3.2. Consequences of bad faith marriages on the status of third country national

Immigration Law

Article 35

(1) A temporary residence permit shall be annulled if:

1) a foreigner or his or her inviter has provided false information or the documents submitted have been obtained unlawfully or have been forged;

[...]

6) there is a reason to believe, that a foreigner has entered into a marriage of convenience in order to receive a residence permit in the Republic of Latvia;

[...]

20) the spouses do not conform to the conditions of Section 26, Paragraph three of this Law or there is a basis for considering that the marriage does not in fact exist;

[...]

27) there are grounds for considering that the real reason of a foreigner for applying for a residence permit does not conform to what has been indicated in the submitted documents;

[...]

(2) If a temporary residence permit of a foreigner has been annulled, the temporary residence permits of his or her spouse, minor children and persons under guardianship or trusteeship whose residence in the Republic of Latvia is associated with the residence in the Republic of Latvia of the abovementioned foreigner, shall also be annulled.

[...]

Article 36

(1) A permanent residence permit shall be annulled if:

1) a foreigner has provided false information;

[...]

LITHUANIA

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

None identified.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

None identified.

Other provisions such as human trafficking could apply.

Criminal Code⁶⁴⁰

Article 147 Human Trafficking.

(1). Any person, who sold, or in any other way transferred or acquired or recruited another person, or held in captivity by using a physical violence or threats, or in any other way **depriving the opportunity to resist, or using victim's dependency and vulnerability**, or using deception, or paying the money or providing other material benefits for an individual who controls victim, if the perpetrator knew or intended that the victim, regardless his/her consent, would be involved into prostitution or benefits would be received from the latter **person's prostitution or he/she would be exploited for the pornography or engaged in other** forms of sexual and/or labour exploitation, including engaged in begging, committing crimes or any other exploitation activities of any kind, shall be punished by imprisonment for a term from two to ten years <...>.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

Civil Code⁶⁴¹

Article 3.13. Voluntary Marriage

(1) Marriage shall be concluded upon the voluntary will of man and woman.

Article 3.14 Marital Age

(1) Marriage can be concluded only by persons who at the date of conclusion thereof are 18 years old; (2) Upon request of a person willing to conclude marriage but not being 18 years old, such age can be lowered by court decision through summary trial procedure but not by more than two years;

(3) In case of pregnancy, the court has a right to allow the person to enter into marriage even if younger than 16 years old.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Civil Code

Article 3.13. Voluntary Marriage

⁶⁴⁰ [The Criminal Code of Lithuania](#) Official Gazette, No. 89-2741/2000.

⁶⁴¹ [The Civil Code of the Republic of Lithuania](#), Official Gazette No. 74-2262/2000.

(2) Coercion, threat, deception of any kind or other elements with regard to lack of free will whatsoever shall be a basis for marriage annulment.

Article 3.3.9. Annulment of the fictitious marriage

Marriages that have been concluded only in documents, without any purpose to create family legal relations, might be recognised as void upon request of one of the spouses or **under the prosecutor's claim.**

Article 3.40. Recognition of marriage to be void due to lack of expression of an actual will
Marriage can be recognised as void upon request of a spouse if he or she proves that at the moment of concluding the marriage he or she could not understand the meaning of his or her own actions and to control them.

Any spouse is authorised to request that the marriage be recognized as void if he or she has concluded such marriage on the basis of threats, coercion or deception.

3. Immigration rules

3.1. Conditions for family reunification of spouses

***Law on the Legal Status of Aliens of the Republic of Lithuania*⁶⁴²**

Article 43 Issue of a Temporary Residence Permit to an Alien in the Event of Family Reunification

1. A temporary residence permit may be issued to an alien in the event of family reunification if:

- 1) [...]
- 2) [...]
- 3) [...]
- 4) [...]

5) the alien's spouse or the person with whom a registered partnership has been contracted and who is a citizen of the Republic of Lithuania or an alien in possession of a residence permit resides in the Republic of Lithuania;

[...].

Article 53 Grounds for the Issue and Replacement of a Permanent Residence Permit

1. An alien may be issued a permanent residence permit if:

[...]

3) the alien has entered the Republic of Lithuania for residence together with a citizen of the Republic of Lithuania as his family member;

[...]

3.2. Consequences of bad faith marriages on the status of third country national

Law on the Legal Status of Aliens of the Republic of Lithuania

Article 50 Grounds for Withdrawal of a Temporary Residence Permit

1. A temporary residence permit of an alien shall be withdrawn if:

1) the permit has been obtained by fraud;

[...]

3) there are serious grounds to believe that a marriage of convenience, registered partnership of convenience or fake adoption have been concluded;

4) a marriage has been dissolved;

[...]

⁶⁴² [Law on the Legal Status of Aliens of the Republic of Lithuania](#) Official Gazette No 73-2539/2004

Order No 1V-329 of the Minister of the Interior of the Republic of Lithuania of 12 October 2005⁶⁴³

IV. Assessment Of Fictitious Marriages

32. If the residence permit of an alien is being issued pursuant to Article 43 part 1 Clause 3, the authorised office of Migration department must assess and determine, if there are any serious grounds to believe that this marriage is fictitious. All marriages concluded within a term of five years before the date of application for a temporary residence permit and causing any reasonable suspicion must be reviewed.

39. Following assessment of collected data and having reasonable grounds to believe that the respective marriage is fictitious, the application of such alien to issue or amend his or her temporary residence permit shall be refused as well as his/her possessed temporary residence permit shall be cancelled.

Order No 1V-445 of the Minister of the Interior of the Republic of Lithuania of 21 December 2005⁶⁴⁴

IV. Assessment Of Fictitious Marriages

27. If the residence permit of an alien is being issued pursuant to Article 53 part 1 Clause 3 (7) and when the family member of an alien is his or her spouse, the authorised office of Migration department must assess and determine, if there are any serious grounds to believe that this marriage is fictitious. All marriages concluded within a term of five years before the date of application for a permanent residence permit and causing any reasonable suspicion must be reviewed.

34. Following assessment of collected data and having reasonable grounds to believe that the respective marriage is fictitious, the application of such alien to issue or amend his or her permanent residence permit shall be refused or his/her possessed permanent residence permit shall be cancelled.

⁶⁴³ [Order No 1V-329](#) of the Minister of the Interior of the Republic of Lithuania of 12 October 2005, Official Gazette, No 126-4509/2005, amended by No 2015-06790/2015.

⁶⁴⁴ [Order No 1V-445](#) of the Minister of the Interior of the Republic of Lithuania of 21 December 2005, Official Gazette, No 5-157/2006, amended by No 2013, Nr. 56-2810/2013.

LUXEMBOURG

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

Criminal Code⁶⁴⁵

Article 389 Whosoever, by violence or threats, forces someone into a marriage or partnership, shall be punished by imprisonment of one to four years and a fine of 20,000 euros to 40,000 euros, or one of these penalties. The attempt of this offence is punishable by imprisonment for one year to two years and a fine of 10,000 euros to 20,000 euros, or one of these penalties.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

None identified.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

Civil Code⁶⁴⁶

Article 144. Nobody can contract a marriage before the age of eighteen years. Nobody can marry by proxy.

Article 145. The guardianship judge may, for serious reasons, lift the prohibition as provided for in the first paragraph of Article 144. The request is made either by the parents, or by one of them, or by the guardian, or by the minor. The case is referred to the guardianship judge in accordance with the provisions of Articles 1047 and following of the new Civil Procedural Code.

Article 146. There is no marriage when there is no consent.

Article 148. A minor cannot contract a marriage without the consent of her/his parents. These consents shall be testified before the guardianship judge during the hearing on the application of the exemption of the age requirement. If the parents refuse to consent, the judge may authorise the marriage if she/he deems the refusal unfounded. If the parents are deceased, if they are unable to express their will due to their disability or their absence, the judge may authorise the marriage. If a parent refuses to consent, the court may authorise the marriage if she/he considers the refusal unfounded. The parent who fails to appear is deemed to have not consented to the marriage. If one parent is dead, the parent or mother is unable to express her/his wishes because of her/his inability or absence and the other parent refuses to consent, the judge may authorise the marriage if she/he considers the refusal unfounded.

⁶⁴⁵ [The Criminal Code of Luxembourg](#), adopted by Law 16 June 1879, as amended by the Law of 4 July 2014.

⁶⁴⁶ [Civil Code](#) as amended by the Law of 4 July 2014.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Civil Code

Article 146-2. There is no marriage either when it is contracted without the free consent of both spouses and when the consent of at least one spouse was given under violence or threat.

Article 180. Marriage contracted without the free consent of both spouses, or one of them, can only be contested by the spouses, or by one of the two whose consent was not free, or by the State Prosecutor. [...] Any marriage contracted in contravention to the provisions of Articles 144, 146, 146-1, 146-2, 147, 161, 162, 163 and 165 can be challenged either by the spouses themselves, or by those who have an interest, or by the public prosecutor.

3. Immigration rules

3.1. Conditions for family reunification of spouses

Act of 29 August 2008 related to the free movement of persons and migration⁶⁴⁷

Article 68

(1) Beneficiaries of temporary protection may apply for family reunification in favour of one or more family members if the family was living together in the state of origin and it has been separated due to circumstances surrounding the mass influx.

(2) Shall be considered as a member of the family within the meaning of this Article: a) the sponsor's spouse [...]

Article 69

(1) The third country national who holds a residence permit with a validity of at least one year and who has reasonable prospects of obtaining the right of a long-term residence and who has been staying for at least twelve months on Luxembourg territory, may apply for family reunification if he/she meets the following conditions:

1. he/she adduce evidence that he/she has stable, regular and sufficient resources to meet her/his own needs and those of his/her family members who are dependants, without having recourse to the welfare system.
2. he/she has suitable housing for receiving the member or his/her family members;
3. he/she has a health insurance for himself and for his/her family members.

(2) Beneficiaries of an international protection may also apply for family reunification in favour of her/his family members.

3.2. Consequences of bad faith marriages on the status of third country national

Act of 29 August 2008 related to the free movement of persons and migration

Article 75

Entry into and residency within Luxembourg territory may be refused and the residence permit may be withdrawn or refused to be renewed when:

[...]

4. marriage, partnership or adoption was contracted for the sole purpose of enabling the person concerned to enter or reside in Luxembourg.

⁶⁴⁷ [Act of 29 August 2008](#) related to the free movement of persons and migration.

Criminal Code

Article 387 Whosoever contracts a marriage or a partnership for the sole purpose of obtaining or procuring a benefit in respect of the residence authorisation shall be punished with imprisonment from six months to two years and a fine of 10,000 euros to 20,000 euros, or one of these penalties. The attempt to commit this offence is punishable by imprisonment of six months to one year and a fine of EUR 5,000 to EUR 10,000, or one of these penalties.

Civil Code

Article 146-1 There is no marriage when, although the formal consents have been given, it appears from a combination of circumstances that the intention of at least one of the spouses is obviously not creating a sustainable living community, but only to obtain a benefit in respect of the residence, related to spousal status.

MALTA

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

*Criminal Code*⁶⁴⁸

Article 251G: Forced marriage

Any person who by force, bribery, deceit, deprivation of liberty, improper pressure or any other unlawful conduct or by threats of such conduct, forces anyone to enter into a marriage shall be guilty of causing a forced marriage and shall, unless the fact constitutes a more serious offence under any other provision of this Code, be liable on conviction to imprisonment for a term from three to five years:

Provided that any act so made in contravention of this provision shall be null and without effect at law.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

Criminal Code

Article 251H: Increase in punishment

The punishment for the offences referred to in articles 251 to 251G, both inclusive, shall be increased by one to two degrees in each of the following cases:

(a) the offence was committed against a former or current spouse or partner, by a member of the family, a person cohabiting with the victim or a person having abused her or his authority;

Provided that, in this paragraph spouse includes a person whose marriage with the accused has been dissolved or declared null.

(b) the offence, or related offences, were committed repeatedly;

(c) the offence was committed against a vulnerable person within the meaning of article 208AC(2);

(d) the offence was committed against or in the presence of a minor;

(e) the offence was committed by two or more people acting together;

(f) the offence was preceded or accompanied by violence;

(g) the offence was committed with the use or threat of a weapon;

(h) the offence resulted in severe physical or psychological harm for the victim;

(i) the offender has been previously convicted of offences of a similar nature.

Article 199: Abduction

(1) Whosoever shall, by violence, abduct any person, with intent to abuse or marry such person, shall, on conviction, be liable, in the first case, to imprisonment for a term from eighteen months to three years, with or without solitary confinement, and, in the second case, to imprisonment for a term from nine to eighteen months.

(2) The punishments laid down in subarticle (1) shall apply to any person who shall, by fraud or seduction, abduct any person under the age of eighteen years, who is under the authority of a parent or tutor, or under the care of another person, or in an educational establishment.

⁶⁴⁸ [Chapter 9 of the Laws of Malta](#), amended by Acts I, II, III, IV, V, IX, XXIV, XXXI and XXXIV of 2014; Legal Notice 37 of 2015; and Acts II, III and VIII of 2015.

Article 200: Where offender restores person abducted and where offender marries person abducted

(1) If the offender under the last preceding article shall within twenty-four hours voluntarily release the person abducted without having abused such person, and shall restore such person to the family, or to his or her place of custody, or shall convey such person to any other place of safety, the punishment shall be imprisonment for a term from one to three months.

(2) In such case, if the offender, after abducting a person, shall marry such person, he shall not be liable to prosecution, except on the complaint of the party whose consent, according to the civil laws, would be required for the marriage; and if the marriage takes place after the conviction, the penal consequences thereof shall cease and the party convicted shall, upon his application, be forthwith released by order of the court.

Article 202: Aggravating circumstances

The punishment prescribed for any of the crimes referred to in the preceding articles of this sub-title, shall be increased by one to two degrees in each of the following cases:

(a) when the offender has availed himself of his capacity of public officer, or when the offender is a servant of the injured party, with salary or other remuneration;

(b) when the crime is committed by any ascendant, tutor, or institutor on any person under eighteen years of age;

(c) when the crime is committed on any prisoner by the person charged with the custody or conveyance of such prisoner;

(d) when the offender has, in the commission of the crime, been aided by one or more persons;

(e) when the offender has, in the commission of the crime, made use of any arms proper;

(f) when the person on whom the crime is committed, or any other person who has come to the assistance of that person, has sustained any bodily harm;

(g) when the person carnally known is a minor;

(h) when the crime is committed on the person of:

(i) the spouse; or

(ii) the brother or sister; or

(iii) a natural ascendant or descendant; or

(iv) another person having or having had a child in common with the offender; or

(v) another person living in the same household as the offender or who had lived with the offender

within a period of one year preceding the offence; or

(vi) another person who is or had been formally or informally engaged with a view to get married; or

(vii) other persons who are related to each other by consanguinity or affinity up to the third degree inclusively:

Provided that in this paragraph "spouse" includes the person whose marriage with the offender has been dissolved or declared null;

(i) when the crime is committed in the presence of, or within hearing distance of a minor;

(j) the offence, or related offences, were committed repeatedly;

(k) the offence was committed against a vulnerable person within the meaning of article 208AC(2);

(l) the offence was committed with the threat of a weapon;

(m) the offence resulted in severe physical or psychological harm for the victim;

(n) the offender has been previously convicted of offences of a similar nature.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

Marriage Act⁶⁴⁹

Article 3: Age for marriage

(1) A marriage contracted between persons either of whom is under the age of sixteen shall be void.

(2) Without prejudice to the provisions of sub-article (1), a person who is subject to paternal authority or to tutorship may not validly contract marriage without the consent of the person exercising such authority, or of the tutor, as the case may be.

(3) Notwithstanding the provisions of sub-article (2) the court of voluntary jurisdiction within whose jurisdiction the minor habitually resides, may upon good cause being shown, authorise the celebration of a marriage referred to in that sub-article, where the consent of the person exercising paternal authority or of the tutor, as the case may be, is not forthcoming; and for the purposes of proceedings in connection with this sub-article, article 781(a) of the Code of Organization and Civil Procedure shall not apply.

Article 4: Infirmity of mind

A marriage contracted between persons either of whom is incapable of contracting by reason of infirmity of mind, whether interdicted or not, shall be void.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Marriage Act

Article 18: Conflict of laws

A marriage, whether celebrated in Malta or abroad, shall be valid for all purposes of law in Malta if -

(a) as regards the formalities thereof, the formalities required for its validity by the law of the country where the marriage is celebrated are observed; and

(b) as regards the capacity of the parties, each of the persons to be married is, by the law of the country of his or her respective domicile, capable of contracting marriage.

Article 19: Nullity of marriage

(1) In addition to the cases in which a marriage is void in accordance with any other provision of this Act, a marriage shall be void:

(a) if the consent of either of the parties is extorted by violence, whether physical or moral, or fear;

(b) if the consent of either of the parties is excluded by error on the identity of the other party;

(c) if the consent of either of the parties is extorted by fraud about some quality of the other party which could of its nature seriously disrupt matrimonial life;

(d) if the consent of either of the parties is vitiated by a serious defect of discretion of judgment on the matrimonial life, or on its essential rights and duties, or by a serious psychological anomaly which makes it impossible for that party to fulfil the essential obligations of marriage;

(e) if either of the parties is impotent, whether such impotence is absolute or relative, but only if such impotence is antecedent to the marriage;

⁶⁴⁹ [Chapter 255 of the Laws of Malta](#), Act XXXVII of 1975, as amended by Acts XXXIV of 1981, III of 1983, I and XXIV of 1995, IX of 2000, XXXI of 2002 and IX of 2004, I of 2005, III of 2008, XV of 2009 and XXI of 2014.

- (f) if the consent of either of the parties is vitiated by the positive exclusion of marriage itself, or of any one or more of the essential elements of matrimonial life, or of the right to the conjugal act;
- (g) if either of the parties subjects his or her consent to a condition referring to the future;
- (h) if either of the parties, although not interdicted or infirm of mind, did not have at the time of contracting marriage, even on account of a transient cause, sufficient powers of intellect or volition to elicit matrimonial consent.

3. Immigration rules

3.1. Conditions for family reunification of spouses

Subsidiary Legislation 217.06 Family Reunification Regulations⁶⁵⁰

Regulation 3: Conditions applicable to family reunification

(1) The sponsor shall be entitled to apply for family reunification subject to the following conditions:

- (a) if the members of his family are third country nationals; and
- (b) he holds a residence permit valid for a minimum period of one year; and
- (c) he has reasonable prospects of obtaining the right of permanent residence.

(2) The sponsor shall not be entitled to apply for family reunification if he -

- (a) has applied for recognition of refugee status and his application has not yet been decided;
- (b) is authorised to reside in Malta on the basis of temporary protection or awaiting a decision thereon;
- (c) is authorised to reside in Malta on the basis of a subsidiary form of protection or awaiting a decision thereon.

Regulation 4: Family members for the purpose of family reunification.

(1) Subject to the provisions of Part V and of regulations 18, 19 and 20, the Director shall authorise the entry and residence of the following family members:

- (a) **the sponsor's spouse who shall be twenty-one years of age or over;** provided that in the event of a polygamous marriage, where the sponsor already has a spouse living with him in Malta, the Director shall not authorise the family reunification of a further spouse;
- (b) the unmarried minor children of the sponsor and of his spouse, including children adopted in a manner recognised by Maltese law;
- (c) the unmarried minor children, including adopted children, of the sponsor or of the spouse, as the case may be, where the sponsor or the spouse has custody and the children are dependent on him.

(2) in the case of children whose custody is shared between the sponsor and his spouse, the Director may authorise their reunification, provided that the other party sharing custody has given his or her agreement.

Regulation 5

(2) The sponsor may not submit an application for family reunification before he has resided legally in Malta for a minimum period of twelve months.

⁶⁵⁰ [Subsidiary legislation 217.06 Family Reunification Regulations](#) 5 June, 2007.

3.2. Consequences of bad faith marriages on the status of third country national

Subsidiary Legislation 217.06 Family Reunification Regulations

Regulation 18: Rejection, withdrawal or refusal to renew a family residence permit
The Director may reject an application for entry and residence for the purpose of family reunification, or withdraw or refuse to renew a family member's residence permit, in the following circumstances:

[...]

(d) where it is shown that the family reunification permit was based on false or misleading information, false or falsified documents, or otherwise fraudulently obtained; and

(e) where it is shown that the marriage or adoption which are the subject of the application for family reunification was contracted solely for the purpose of enabling the person concerned to enter or reside in Malta.

Regulation 20: Specific checks and inspections may be carried out

The Director may conduct specific checks and inspections where there is reason to suspect that there is fraud or a marriage or adoption of convenience as defined by regulation 18(d) and (e). Specific checks may also be undertaken on the occasion of the renewal of residence permits of family members.

Marriage Act⁶⁵¹

Article 38: Marriages of convenience

(1) Any person who contracts a marriage with the sole purpose of obtaining -

(a) Maltese citizenship; or

(b) freedom of movement in Malta; or

(c) a work or residence permit in Malta; or

(d) the right to enter Malta; or

(e) the right to obtain medical care in Malta, shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding two years.

(2) Any right or benefit obtained by a person convicted of an offence under subarticle (1) on the basis of the marriage referred to in that subarticle (1) may be rescinded or annulled by the public authority from which it was obtained.

(3) Any person who contracts a marriage with another person knowing that the sole purpose of such other person in contracting the marriage is one or more of the purposes referred to in subarticle (1) shall be guilty of an offence and shall on conviction be liable for the same punishment laid down in subarticle (1).

⁶⁵¹ [Chapter 255 of the Laws of Malta](#), Act XXXVII of 1975, as amended by Acts XXXIV of 1981, III of 1983, I and XXIV of 1995, IX of 2000, XXXI of 2002 and IX of 2004, I of 2005, III of 2008, XV of 2009 and XXI of 2014.

THE NETHERLANDS

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

None identified.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

None identified.

Other provisions such as coercion could apply.

Criminal Code⁶⁵²

Article 284(1)

With imprisonment not exceeding two years or a fine of the fourth category will be punished:

1. whoever illegally forces another, by the use of violence or any other act, or by threat of violence or any other act, whether directed against the other or against third parties, to do, not to, or tolerate something;
2. whoever through threat of defamation or libel compels another to do, not to do or tolerate something.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

Civil Code⁶⁵³

Article 1:31 (1) BW In order to enter into a marriage a man and a woman must have reached the age of eighteen years.

Article 1:32 BW: A marriage cannot be concluded if the mental state of a party is disturbed so that it is unable to determine whether it is able to understand the meaning of her statement.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Civil Code

Article 10:28 (b) BW

A marriage is concluded if:

[...]

- b. each of the future spouses meets the requirements to enter into a marriage of a State of which he is a national.

Article 10:29 (1) BW

⁶⁵² [The Criminal Code of Netherlands](#), entered into force on 30 January 1886 (Stb. 1886, 6), amended on 1 August 2015.

⁶⁵³ [Civil Code](#), entered into force on 1 January 1970 Stb. 1969, 259, amended 1 September 2015, Stb. 2015, 373.

Regardless of the rules provided in Article 28 of this book a marriage cannot be concluded if it might not be accepted under Article 6 of this book and in any case if:

a. the intending spouses have not attained the age of fifteen years;

[...]

Article 1:71 (1) BW A spouse may request the annulment of his marriage, when it is concluded under the influence of a wrongful serious threat.

3. Immigration rules

3.1. Conditions for family reunification of spouses

Alien Act⁶⁵⁴

Article 29(2) Vw A residence permit for a fixed period, as referred to in Article 28, may also be granted to the hereafter mentioned family members if they, at the time of entry of the alien referred to in the first paragraph, were part of his family and entered the Netherlands at the same moment as that alien, or have entered the Netherlands within three months after which the alien referred to in Article 28 was granted a residence permit for a fixed period :

a. the spouse or minor child of the alien referred to in the first paragraph;

[...]

3.2. Consequences of bad faith marriages on the status of third country national

Civil Code⁶⁵⁵

Article 1:50 Bw Marriage shall be annulled when parties do not fulfil the requirements to enter into marriage, or if the intent of the spouses, or one of them, is not aimed at the fulfilment of the duties of marriage, as established by law, but on gaining admission to the Netherlands.

Alien Act

Article Vw 32(1) The residence permit for a fixed period as referred to in Article 28 may be revoked or application for extension of its validity may be refused if:
[...]

e. a permit is issued to a family member as defined in Article 29, second paragraph, and that family member does no longer maintain an effective marital or family life with the alien referred to in Article 29, first paragraph

⁶⁵⁴ [Alien Act](#) of 23 November 2000, amended on 20 July 2015, Stb. 2015, 293.

⁶⁵⁵ [Civil Code](#) entered into force on 1 January 1970 Stb. 1969, 259, amended 1 September 2015, Stb. 2015, 373.

NORWAY

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

Criminal Code⁶⁵⁶

§ 253

Any person who by force, deprivation of liberty, other criminal or unlawful conduct or improper pressure forces anyone to enter into a marriage shall be liable to imprisonment for a term not exceeding six years.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

Criminal Code

§ 220

Any person who enters into, or who aids and abets another person to enter into a marriage or registered partnership with anyone who is under 16 years of age, shall be liable to imprisonment for a term not exceeding four years. Criminal liability shall not be excluded by any mistake made as regards age unless there has been no negligence in this respect. Any penalty may be remitted in the case of spouses or registered partners who are about equal in age and development.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

The Marriage Act⁶⁵⁷

Section 1 a Age for marriage

No person under 18 years of age may contract a marriage without the consent of the persons or person having parental responsibility, and the permission of the county governor. The county governor may not grant permission if the applicant is under 16 years of age.

If one of the persons having parental responsibility lacks the capacity to act legally, or if consent cannot be obtained within a reasonable time, the consent of the other person is sufficient. If both persons are in this position, and a guardian has been appointed, the consent of the guardian is required.

The county governor may only give permission when there are strong reasons for contracting a marriage. If the persons or person having parental responsibility or the guardian refuses to consent, the county governor may nevertheless give permission if there is no reasonable ground for such refusal.

Section 1 b Voluntariness

Women and men have the same right to choose a spouse freely. They shall contract the marriage of their own free will and by their own consent.

⁶⁵⁶ [The Criminal Code of Norway](#) of 20 May 2005 No. 28, amended by Act 19 September 2015 No. 65

⁶⁵⁷ [The Marriage Act](#) 1991-07-04 No. 47 as amended by Act 19 June 2015 No. 65

Section 2 Right of persons who have been declared to be without legal capacity or for whom a provisional guardian has been appointed to contract a marriage

Any person who has been declared to be without legal capacity must obtain the consent of his/her guardian to contract a marriage. The same applies to any person for whom a provisional guardian has been appointed pursuant to sections 90 a et seq. of the Guardianship Act, if it is part of the duties of the provisional guardian to give such consent. If consent is refused by the guardian or provisional guardian, the county governor may nevertheless give permission if there is no reasonable ground for such refusal.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

The Marriage Act

Section 16 (3) Invalidity

Each of the spouses may institute legal proceedings to have the marriage declared null and void if he or she has been forced by unlawful conduct to contract the marriage. This applies regardless of who has exercised such force.

Section 23 Divorce on grounds of abuse and forced marriage

[...]

A spouse may also demand divorce if he or she has been forced by unlawful conduct to contract the marriage. This applies regardless of who has exercised such force. Section 16, fourth paragraph, shall apply correspondingly.

3. Immigration rules

3.1. Conditions for family reunification of spouses

***Immigration Act*⁶⁵⁸**

Section 39 Sponsor

In this Act "sponsor" means the person with whom the applicant wishes to be reunited or to establish family life.

Section 40 Residence permit for spouses

An applicant who is the spouse of a sponsor, see section 39, shall be entitled to a residence permit where the sponsor is:

- (a) a Norwegian or Nordic national who is resident or intends to establish residence in the realm;
- (b) a foreign national with a permanent residence permit;
- (c) a foreign national who has or will be granted lawful residence in the realm with a residence permit that can provide the basis for a permanent residence permit; , or
- (d) a foreign national who holds a residence permit under the provision of section 34 without the system of collective protection having ended.

It is a condition for being granted a residence permit under the first paragraph that both parties are aged 18 or over. It is further a condition that a sponsor who falls within the scope of section 40a fulfils the conditions set in that section.

Unless particular circumstances indicate otherwise, it is a condition that the spouses shall live together.

[...]

⁶⁵⁸ [Immigration Act](#) of 15 May 2008 On the Entry of Foreign Nationals into The Kingdom Of Norway and Their Stay in the Realm, amended by Law 19 June 2015 No. 65.

Section 40a Requirement for the sponsor to have worked or studied in Norway for four years

It is a condition for a residence permit under section 40 that the sponsor has worked or studied

in Norway for four years, when the sponsor has:

- (a) asylum, see section 28;
- (b) a residence permit following permission to enter as a resettlement refugee, see section 35, third paragraph;
- (c) collective protection in a mass flight situation, see section 34;
- (d) a residence permit on the grounds of strong humanitarian considerations or a particular connection with the realm, see section 38;
- (e) a residence permit as a family member, see sections 40 to 53; or
- (f) a permanent residence permit on the basis of the permits mentioned in (a)–(e), see section 62.

The condition in the first paragraph does not apply when:

- (a) the marriage had been entered into or the parties had conceived children before the **time of the sponsor's entry into the realm, or**
- (b) the parties have entered into marriage or conceived children in Norway while both parties had Norwegian residence permits.

Exceptions may be made from the condition if special grounds, including the interests of the unity of the family, indicate that this should be done. The King may by regulations make further provisions.

Section 58 Requirement as to means of subsistence and accommodation

A requirement as to means of subsistence and accommodation must be met in order for a residence permit to be granted under this Act or regulations pursuant thereto.

The requirement as to means of subsistence and accommodation shall not apply to any person who is entitled to a residence permit under section 28, second paragraph, or who satisfies the conditions for protection against refoulement under section 73.

The King may by regulations make further provisions.

3.2. Consequences of bad faith marriages on the status of third country national

Immigration Act

Section 40 Residence permit for spouses

[...] A residence permit may be refused if it appears most likely that the main purpose of contracting the marriage has been to establish a basis for residence in the realm for the applicant. [...]

POLAND

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

None identified.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

None identified.

Other provisions such as coercion could apply.

Criminal Code⁶⁵⁹

Article 191§ 2. Whoever uses violence against a person or an illegal threat to compel another person to a specific action, omission or acceptance, shall be punished with imprisonment for a period not exceeding three years.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

The Family and Guardianship Code⁶⁶⁰

Article 1 § 1. A marriage shall be concluded when a man and a woman, simultaneously present, declare, before the Civil Registrar, that they enter a marriage relationship.

Article 10 § 1. A person who has not reached eighteen years of age shall not enter into a marriage relationship. However, for significant reasons, a guardianship court may allow a woman who reached sixteen years of age to conclude a marriage, and if from the circumstances it results that the conclusion of the marriage will be in the best interests of the founded family.

Article 11 § 1. A person who is totally incapacitated shall not enter a marriage relationship.

Article 12 § 1. A person who is affected by mental illness or mental retardation shall not enter a marriage relationship. However, if the state of health or mind of such person does not endanger the marriage or the health of future children and if that person has not been totally incapacitated, the court may allow for conclusion of the marriage.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

The Family and Guardianship Code

Article 151 § 1. A marriage may be annulled if a declaration about entering a marriage relationship or the declaration referred to in Article 1 § 2 has been made:

- 1) by a person who, for whatever reasons, was in a state excluding conscious expression of the _____ will;
- 2) due to an error as to the identity of the other party;

⁶⁵⁹ [The Criminal Code of Poland](#), OJ 1997 No 88 item 553, amended by Law of 20 of March 2015

⁶⁶⁰ [The Family and Guardianship Code](#), OJ 1964 No 9 item 59, amended by Law of 25 of June 2015

3) due to an unlawful threat by the other party or a third party, where the circumstances show that a person making that declaration might have feared that he himself or another person might be under a serious personal danger.

§ 2. An annulment of a marriage due to the circumstances referred to in § 1 may be requested by the spouse who made an erroneous declaration.

§ 3. An annulment of a marriage may not be requested after six months have elapsed since the cessation of the state excluding conscious expression of the will, since the detection of the error or since the cessation of the fear caused by the threat.

3. Immigration rules

3.1. Conditions for family reunification of spouses

Act on the entry to, stay on and departure from the Polish territory of EU citizens and members of their families⁶⁶¹

Article 2 The terms used in this Act mean:

4) member of the family – a foreigner who is or is not an EU citizen:

a) spouse of an EU citizen.

Article 9.2. A member of the family who is not an EU citizen may enter the territory of the Republic of Poland on the basis of a valid travel document and a visa, unless the provisions of the Act state otherwise.

Article 10.1. A Schengen visa or a national visa shall be issued for a member of the family who is not an EU citizen for the purposes of joining an EU citizen or staying with him. [...]

Article 11. 2. The entry on the territory of the Republic of Poland may be refused for a member of the family who is not an EU citizen if:

- 1) he enters [the territory of the Republic of Poland] in the period of validity of the list;
- 2) his stay on the territory of the Republic of Poland could pose a threat to national defence or national security or to the protection of security and public order or public health;
- 3) does not have a document, referred to in Art 9 para 1 or 2, unless he proves otherwise, in an unambiguous manner, that he is entitled to exercise the freedom of movement of persons.

Short Stay Requirements

Article 15. 1. The following persons may stay on the territory of the Republic of Poland without the need to conform with the short stay requirements set out in this chapter:

1) an EU citizen and a member of the family who is not an EU citizen – for a period not exceeding three months; [...]

2. In the period referred to in para 1:

[...]

2) a member of the family who is not an EU citizen shall be required to have a valid travel document.

Article 16.1. An EU citizen shall have the right to stay for a period longer than three months, if one of the following conditions are met:

(...)

2) he has the sufficient financial means for sustaining himself and members of his family on the territory of the Republic of Poland so as not to be a burden for the social services.

3) studies or undertakes a vocational training in the Republic of Poland and:

a) has the sufficient financial means for sustaining himself and members of his family on the territory of the Republic of Poland so as not to be a burden for the social services.

4) is a spouse of a Polish citizen.

⁶⁶¹ [The Act of 14 of July 2006](#) on the entry to, stay on and departure from the Polish territory of EU citizens and members of their families (OJ 2006 No 144 item 1043).

Article 18. The right conferred upon an EU citizen referred to in Article 16:

- 1) points 1 and 2 and in Art 17 shall be extended to a member of the family joining him or staying with him on the territory of the Republic of Poland;
- 2) in point 3, shall be extended to the spouse and a child dependent on him or dependent of the spouse, joining him or staying with him on the territory of the Republic of Poland.

Article 20.1. If the stay on the territory of the Republic of Poland is longer than three months, the EU citizen shall be required to register his stay and a member of the family who is not an EU citizen shall be required to obtain a residence card of a member of a family of an EU citizen.

Article 30.2. A residence card of a member of a family of an EU citizen shall be valid for five years, and in case the intended duration of stay of the EU citizen whom the member of the family is joining or whom is staying with, is shorter than five years – this document is valid for the intended duration of stay of the EU citizen.

Permanent Residence Requirements

Article 43. A member of a family of an EU citizen shall acquire the right to permanent residence after five years of continuous residence on the territory of the Republic of Poland with an EU citizen.

Article 46.1. The right to permanent residence which has been acquired by an employee or a self-employed person on the basis of Article 45 shall be also acquired by the member of the family staying with him on the territory of the Republic of Poland, regardless of [the family member's] citizenship.

Law of 12 of December 2013 on foreigners⁶⁶²

Article 159.1. A temporary residence permit shall be issued for a foreigner for the purposes of family reunification, if he fulfils the following conditions:

1) stays on the territory of the Republic of Poland or stays on this territory for the purposes of family reunification and is a member of a family of a foreigner who lives on the territory of the Republic of Poland:

- a) on the basis of a permanent residence permit,
- b) on the basis of a residence permit for a long-term EU resident,
- c) in connection with granting him a refugee status,
- d) in connection with awarding him subsidiary protection,

(...)

h) on the basis of a temporary residence permit in order to perform a job requiring high qualifications,

i) in connection with granting a permission to stay for humanitarian reasons;

2) has:

- a) a health insurance in the meaning of law of 27 of August 2004 on healthcare services financed from public funds or has a confirmation of a coverage by the insurer of the healthcare costs incurred on the Polish territory,
- b) a stable and regular source of income sufficient to cover the cost of maintaining himself and dependent family members;
- 3) has a place of residence in the territory of the Republic of Poland.

3. The member of the family referred to in para. 1 point 1 is:

1) a person who stays with a foreigner in a marriage relationship recognised by the law of the Republic of Poland.

⁶⁶² [Law of 12 of December 2013 on foreigners](#) OJ 2013 item 1650, as amended by Law 25 of June 2015.

3.2. Consequences of bad faith marriages on the status of third country national

Act on the entry to, stay on and departure from the Polish territory of EU citizens and members of their families

Article 25 If, during the proceedings for the issuance of a residence card of a member of a family of an EU citizen, the circumstances of the case show that:

- 1) one of the spouses has agreed to receive financial benefits in exchange for agreeing to the marriage, unless it results from a well-established custom in the country or social group;
 - 2) the spouses do not fulfil the legal requirements stemming from the conclusion of the marriage;
 - 3) the spouses do not live together;
 - 4) the spouses never met before the marriage;
 - 5) the spouses do not speak the language understood by both of them;
 - 6) the spouses do not agree as to their personal data and other significant circumstances which affect them;
 - 7) one of the spouses or both spouses had already concluded a marriage of convenience in the past
- the public authority conducting the proceedings shall determine whether the marriage with the EU citizen has not been concluded for convenience.

Article 31.2 A residence card of a family member of an EU citizen shall be also refused to a family member who is not a citizen of the EU if his marriage has been concluded for convenience.

Law of 12 of December 2013 on foreigners

Article 165. Besides the cases referred to in Art. 100 para. 1 points 1-5, a foreigner shall be refused a temporary residence permit:

(...)

- 2) for the purposes of family reunification – in the case of a foreigner married to a foreigner referred to in Art. 159 para 1 point 1
- if marriage was concluded in breach of this law.

Article 169

1. In the procedure for the issuance of a temporary residence permit for a foreigner referred to in Art 158 para 1 point 1 or Art. 159 para. 3 point 1, the public authority carrying out the procedure shall determine whether marriage has been concluded in order to breach this law.

2. In the procedure referred to in para. 1, in specific it shall be determined whether the circumstances of the case prove that:

- 1) one of the spouses has agreed to receive financial benefits in exchange for agreeing to the marriage, unless it results from a well-established custom in the country or social group;
- 2) the spouses do not fulfil the legal requirements stemming from the conclusion of the marriage;
- 3) the spouses do not live together;
- 4) the spouses never met before the marriage;
- 5) the spouses do not speak the language understood by both of them;
- 6) the spouses do not agree as to their personal data and other significant circumstances which affect them;
- 7) one of the spouses or both spouses had already concluded a marriage of convenience in the past.

PORTUGAL

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

*Criminal Code*⁶⁶³

Article 154-B – Forced Marriage

Whoever constrains another person to contract marriage or other equivalent union shall be sentenced to imprisonment for up to five years.

Article 154-C – Crime Preparations

The preparatory acts for the crime foreseen in the previous article, including luring the victims to a territory different from their home with the intent to constrain her/him to contract marriage or marriage-equivalent union, shall be punished with imprisonment for up to one year or a fine up to one hundred and twenty days.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

Criminal Code

Article 155 – Aggravation

1 - When the facts foreseen in articles 153 to 154-C are committed:

- a) through the threat of committing a crime punishable with more than three years of imprisonment; or
- b) against particularly defenseless person, due to age, disability, sickness or pregnancy;
- c) [...];
- d) [...];
- e) due to racial, religious or political hate, or because of the nationality or ethnic origin, sexual orientation or gender identity of the victim;

the perpetrator shall be punished with up to two years of imprisonment, in the case foreseen in article 154-C, or with imprisonment from one to eight years, in the case foreseen in article 154-B.

2 - The same punishments apply if, in result of the [...] forced marriage, the victim commits or tries to commit suicide.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

*Civil Code*⁶⁶⁴

Article 1612 Parents or Guardian Consent

1 - Parents exercising parental authority or the guardians must consent for the marriage of a minor between sixteen and eighteen years of age.

⁶⁶³ [The Criminal Code of Portugal](#) adopted by the Decree-Law 48/95, amended by the [Law n.º 83/2015](#) of the 5 August 2015 .

⁶⁶⁴ [The Civil Code of Portugal](#) adopted by the Decree-Law 47344/66, as amended by Law 150/2015.

2 – If the parents or guardians refuse to give consent, permission may be given by the civil Registrar, if serious reasons so justify and the minor is deemed to have enough physical and psychological maturity.

Chapter IV – Celebration of Civil Marriage

Article 1619 Personal Consent

The consent of the spouses is strictly personal.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Civil Code

Article 1601 Absolute Diriment Impediment

The cases of absolute diriment hindrances, which void the marriage of any person, are:

- a) being under sixteen years of age;
- b) notorious dementia, even during lucid periods, and interdiction due to mental disorder
- c) [...]

Article 1604 Prohibitive Impediment

The cases of prohibitive impediments are, amongst others foreseen in special laws:

- a) the absence of parent's or guardian's consent to the marriage of a minor, except when permitted by the civil Registrar;
- b) [...]
- c) [...]
- d) [...]
- e) [...]
- f) [...]

Section II (Civil Marriage)

Article 1628 Marriage non-existence

It is legally non-existent:

- a) [...]
- b) [...]
- c) The marriage celebrated without the declaration of intent from one or both the spouses,;
- d) [...]

Article 1630 Non-existence regime

1 – A legally non-existent marriage has absolutely no legal effect and cannot even be accepted as putative.

2 – Non-existence can be claimed by any person, anytime, regardless of judicial declaration.

Subsection III (Marriage Annulment)

Division I General rules

Article 1631 Causes of annulment

The marriage is voidable when:

a) [...]

b) celebrated without the will of one or both the betrothed , or when the will was determined by error or duress;

c) [...]

Article 1635 Annulment caused by vices of consent

The marriage is voidable on the grounds of vices of consent:

a) when one or both spouses, in the moment of celebration of marriage, had no conscience of the act due to occasional incapacity or other cause;

b) when one of the spouses celebrates marriage by misrepresentation of the other spouse's physical identity;

c) when consent was obtained under physical duress;

d) if marriage was simulated.

Article 1638 Moral Duress

1- The marriage contracted under moral duress is voidable, as long as the unlawful threat is serious and the fear of its materialisation is justified.

2 – The same applies when someone, knowingly and unlawfully, extorts the declaration of consent from the spouse through a promise of freeing her/him from accidental damage or damage caused by others.

3. Immigration rules

3.1. Conditions for family reunification of spouses

***Aliens Act*⁶⁶⁵**

Article 98 Right to Family Reunification

1. A citizen with a valid residence permit has the right to family reunification with the family members that are abroad, with whom he/she has lived in another country, or that are dependent on him/her or lived in cohabitation, whether the family relationship arose before or after the citizen's entry into Portugal.

2. In the circumstances referred to in the preceding paragraph, the right to family reunification is also recognised to the family members who have legally entered national territory and that depend on or live in cohabitation with the holder of a valid residence permit.

3. Refugees, recognised under the asylum law, have the right to family reunification with family members who are in national territory or abroad, without prejudice to the legal provisions that grant the refugee status to the respective family members

Article 99 Family Members

1. For the purposes of the provisions of the preceding Article, the following are considered family members of the resident:

a) The spouse;

[...]

Article 101 Requirements for exercising the right to family reunification

1. In order to exercise the right to family reunification, the applicant shall have:

a) Accommodation ensured;

b) Means of subsistence, such as defined in the regulatory order mentioned in paragraph 1 (d) of

Article 52.

2. The provisions of the preceding paragraph are not applicable to family reunification of refugees.

⁶⁶⁵ [The Aliens Act 23/2007 of July 4](#), amended by Act 29/2012 of August 9 and by Act 63/2015.

Article 107 Residence of family members

1. A family member [...] who is in national territory after having obtained granting to an application of family reunification, is entitled to a residence permit of the same duration as that held by the resident.
2. A family member of the holder of a permanent residence permit is entitled to a renewable residence permit with a validity of two years.
3. [...]
4. [...]
5. The first residence permit granted to a spouse under the legal framework of family reunification will be autonomous, provided that he/she has been married to the resident for more than five years.

3.2. Consequences of bad faith marriages on the status of third country national***Aliens Act*****Article 108 Residence permit cancellation**

1. [...] the residence permit issued under the right to family reunification is cancelled when the marriage [...] had as its only purpose to allow the entry of the interested party into the country.
2. Inquiries and specific checks may be performed where there are founded reasons to suspect of fraud, or of a marriage [...] of convenience, as laid down by the preceding paragraph.
3. Before the decision on cancellation of the residence permit under family reunification is rendered, the nature and solidity of the person's family relationships, his/her stay in Portugal and the existence of family, cultural and social ties with the country of origin are taken into account.
4. The decision on cancellation of the permit is issued following a hearing of the foreign citizen, which represents, for all purposes and effects, a hearing of the interested party.
5. [...]
6. [...]
7. The decision on cancellation of the permit to the family member based on the provisions of paragraph 1 may be subject to appeal, with suspensory effect, before the administrative courts.

Article 186 Marriage or partnership of convenience

1. Whoever marries or is linked by registered partnership with the sole purpose of offering the possibility of obtaining, or for actually obtaining a visa, a residence permit or an «EU Blue Card», or for defrauding the legislation in force as regards acquisition of citizenship, shall be punished by a term of one to five years imprisonment.
2. Whoever, on a regular basis fosters or creates conditions for the practice of the actions provided for in the preceding paragraph shall be punished by a term of two to six years imprisonment.
3. Attempt to commit the provided offences is also punishable.

ROMANIA

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

None identified.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

None identified.

Other provisions such as coercion could apply.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

*Civil Code*⁶⁶⁶

Article 258(1): Family

The family is based on free consenting marriage between spouses [...]

Article 259: Marriage

1. Marriage is the freely consented union between one man and one woman made according to the law
2. [...]
3. [...]
4. The conditions to enter or nullify the marriage are established through this code [...]

Article 271: Consent

Marriage is performed between the man and the woman through their personal and free consent.

Article 272: Age

1. Marriage can be performed if the future spouses reached the age of 18 years.
2. On solid grounds, the minor of 16 years of age can get married based on a medical certificate, with the consent of his/her parents, or, as the case may be, of the tutor with the authorisation of the judicial body of residence of the minor.
3. In case one parent is dead or is unable to manifest his will, the acceptance of one parent is enough.
4. In the conditions from Article 398, the acceptance of the parent who is entitled with parental authority is enough.
5. If there are no parents or tutor, the acceptance of the person or authority who was entrusted with parental rights is required.

Article 276: Alienation and Mental Debility

Marriage is interdicted for people with mental disorder or alienation.

⁶⁶⁶ [The Civil Code of Romania](#), Law no. 287/2009 published in the Official Journal of Romania, no. 511 of 24 July 2009, amended by Law no. 505/2011.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Civil Code

Article 293: Cases of absolute annulment

1. [...]
2. [...]
3. [...]

4. Marriage between the person who is mentally ill, regardless of whether that person is placed under judicial interdiction, as this is a biological and social impediment, even if the conclusion of marriage occurred in a rare moment of lucidity (corroborated with article 276 of the Civil Code)

5. Marriage without consent from the spouses or without the presence of at least two witnesses, at the City Hall, in front of the general registry office (corroborated with article 287(1) of the Civil Code)

Article 294(1): Lack of age for marriage

The marriage of a minor who is under the age of 16 is under absolute annulment.

Article 295(1): Fictive marriage

The marriage performed with any other purpose than to start a family is under absolute annulment.

Article 296: People who can raise absolute annulment

Any person who is interested can file a complaint for the absolute annulment of marriage. Given all these, the prosecutor cannot file this complaint after the marriage is terminated except for the case in which he would act for the protection of the rights of minor children or people placed under interdiction.

Section 2 – Relative Annulment

Article 298 (1)Vitiated Consent

The marriage can be annulled at the request of the spouse which gave his consent but was vitiated by error, bad faith or violence.

Article 299 The Lack of Discernment

The marriage of the person who temporarily lacks discernment is annulable.

3. Immigration rules

3.1. Conditions for family reunification of spouses

Law No 122/2006⁶⁶⁷

Article 71 Family reunification

(1) The person who has been recognised a form of protection under the conditions of article 23 and article 26 can submit an asylum application for the members of his/her family stipulated in article 2 letter j), if they are not on Romanian soil.

(2) These applications are submitted with the structure specialised in asylum of the Romanian Immigration Office.

(3) In the case in which the official stipulated in article 48(2) considers that proof of the family connection has been made by the beneficiary of the form of protection or, by case, a marriage made before entry into Romania, he/she will request the Romanian diplomatic

⁶⁶⁷[Law No 122/2006](#) regarding Asylum in Romania as amended by Law No 280/2010.

missions or consulates the granting of a visa for the family members stipulated in paragraph (1) that already have valid travel documents.

(3¹) For the family members referred to in paragraph (1) who do not have valid travel documents, are in the impossibility of obtaining such documents and are outside their country of origin, upon request from the officials referred to in Article 48(2), the diplomatic missions or consulates will issue travel titles (the type referred to in Article 20(9) and will grant the short stay visa in order to allow entry into Romania. The validity of the travel title is 30 days and legally expires when the holder enters the country.

(4) After the family members enter onto Romanian soil, in the case in which their approval regarding the asylum application exists, the resolution of the application will be done according to the provisions of the present law.

***Governmental Emergency Order No 194/2002 regarding rules applying to foreigners in Romania*⁶⁶⁸**

Article 46: Long-stay visa for family reunification

(1) The sponsor holding a temporary residence permit valid for one year, a Blue Card or the European Union, a long-stay residence permit or who has been granted the refugee status or subsidiary protection, may request family reunification for the following persons:

a) spouse;

[...]

(9) The application shall be approved if the following conditions are met:

a) there is no bigamy or polygamy situation;

b) the applicant owns a dwelling considered normal for a similar family in Romania;

c) the applicant has sufficient means of support, in addition to those required for their own maintenance law, the amount corresponding to a net minimum wage per economy for each family member

(16) The following categories of persons may also request a visa for family reunification:

a) aliens married to Romanian citizens;

[...]

3.2. Consequences of bad faith marriages on the status of third country national

Governmental Emergency Order No 194/2002 regarding rules applying to foreigners in Romania

Article 46 Long stay visa for family reunion

(19) Granting a long-term visa for family reunification may be refused when the request shall be based on a marriage of convenience which has been previously ascertained, in accordance with this emergency ordinance, or when a situation of bigamy or polygamy is found.

Article 63 Marriage of convenience

(1) The Romanian Immigration Office shall refuse the extension of the right to residence obtained on the basis of marriage if, as a result of verifications carried out, it results that the marriage is one of convenience.

(2) Elements on the basis of which a marriage of convenience may be ascertained may be the following:

a) matrimonial cohabitation does not exist;

b) spouses have not known each other before the marriage has been concluded;

c) lack of effective contribution to fulfilling the obligations incurred by marriage;

d) spouses do not speak a common language;

⁶⁶⁸ [Governmental Emergency Order No 194/2002](#) rules applying to foreigners in Romania, amended by Amended by Governmental Emergency Order No 12/2010.

e) there is information that previously one of the spouses has concluded another marriage of convenience;

f) spouses are inconsistent in declaring data with personal character, regarding the circumstances they have met or any other relevant information;

g) conclusion of the marriage has been conditioned by payment of an amount of money between spouses, except the amounts received as dowry.

(3) Ascertaining the elements provided for in paragraph (2) shall be performed by the interview officer. Such elements may result from:

a) data obtained as a result of the interview;

b) documents;

c) statements of persons under reference or of third persons;

d) visits to the matrimonial residence or other additional verifications.

SERBIA

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

None identified.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

None identified.

Other provisions such as coercion could apply.

Criminal Code⁶⁶⁹

[Article 135](#)

1. Whoever by using force or a threat coerces another to do, refrain from doing, or endure something, shall be punished with imprisonment of up to three years.
2. Whoever commits the offence referred to in paragraph 1 of this Article in a cruel manner or by threat of murder or grievous bodily harm or abduction, shall be punished with imprisonment of six months to five years.

[Article 190](#)

1. An adult cohabiting with a minor shall be punished with imprisonment of up to three years.
2. The penalty referred to in paragraph 1 of this Article shall be imposed also on a parent, adoptive parent or guardian who makes it possible or induces a minor to cohabit with another person.
3. If the offence referred to in paragraph 2 of this Article is committed for gain, the offender shall be punished with imprisonment of from six months to five years.
4. If a marriage is entered into, prosecution shall not be undertaken, and if undertaken, it shall be discontinued.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

The Constitution of Republic of Serbia⁶⁷⁰; The Family Act⁶⁷¹

[Article 3\(2\)](#)

Marriage may be concluded only on the grounds of free consent of future spouses.

[Article 18](#)

Marriage may not be concluded by a person incapable of reasoning.

[Article 23\(1\)](#)

Marriage may not be concluded by a person who has not reached 18 years of age.

[Article 23\(2\)](#)

Court may, for justified reasons, allow for the concluding of marriage to a minor who has reached 16 years of age, and who has reached physical and mental maturity necessary for performing rights and duties in marriage.

⁶⁶⁹ [The Criminal Code of Serbia](#) "O.G.", No. 85/2005, amended by 108/2014.

⁶⁷⁰ [The Constitution of the Republic of Serbia](#) ("O.G.", No. 98/2006).

⁶⁷¹ [The Family Act](#) "O.G." No 18/2005, amended by 6/2015.

Article 24

Marriage may not be concluded by a person who is not of free will.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

The Constitution of Republic of Serbia; The Family Act

Article 31

Marriage shall be null if (...) the spouses' statements of will were not affirmative (...).

Article 34

1 Marriage shall be null if concluded by a person incapable of reasoning.

2 If a person referred to in paragraph 1 of this article becomes capable of reasoning, the marriage shall be voidable.

Article 37

1 Marriage shall be voidable if concluded by a minor without court permission.

2 Marriage of minor need not be adjudged void if conditions referred to in article 23, paragraph 2 of this act are met.

Article 38

1 Marriage shall be voidable if spouse had consented to its conclusion under coercion.

2 Coercion shall exist when the other spouse or a third person caused, by force or threat, justified fear in the spouse, causing him/her to consent to concluding the marriage.

Article 38(3)

Fear shall be considered justified when it can be seen from the circumstances, that life, body or other important good of one or other spouse or third person is endangered.

3. Immigration rules

3.1. Conditions for family reunification of spouses

Act on Foreigners⁶⁷²

Article 26

1 A temporary residence can be granted to a foreigner intending to stay in the Republic of Serbia for longer of 90 days for the purpose of:

[...]

3) family reunion;

[...]

Article 28

1 A foreigner can be approved a temporary residence permit if he encloses to the application the following evidence:

1) that he possesses enough resources for supporting himself;

2) of health insurance;

(...)

Article 37

1 Permanent residence can be granted to a foreigner who:

[...]

2 has been married to a citizen of the Republic of Serbia or to a foreigner with permanent residence for at least three years;

[...]

⁶⁷² [Act on Foreigners](#) ("O.G.", No. 97/2008).

5 Marriage in line with the para 1 point 2) of this Article, is marital community at the territory of the Republic of Serbia.

Article 39

1 Permanent residence shall be denied to a foreigner:

(...)

3) who does not have resources for support;

4) who does not have health insurance;

5) who does not have domicile;

(...)

3.2. Consequences of bad faith marriages on the status of third country national

None identified.

SLOVAKIA

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

None identified.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

Criminal Code⁶⁷³

Section 179

Trafficking in Human Beings

(1) Any person who, by using fraudulent practices, a trick, restriction of personal freedom, violence, threatened violence, threat of grievous bodily harm or other forms of coercion, by accepting or offering monetary payment or other benefits in order to get approval of a person on whom another person depends, or by misusing his powers, or abusing of defencelessness or other vulnerable position, entices, transports, harbours, hands over or takes over another person, even upon his consent, for the purposes of his prostitution or another form of sexual exploitation, including pornography, forced labour or domestic slavery including begging, slavery or practices similar to slavery, bondage, forced marriage, abuse to commit criminal activity, taking of organs, tissues or cells or other forms of exploitation, shall be liable to a term of imprisonment of four to ten years.

(2) The same sentence as referred to in paragraph 1 shall be imposed on any person who entices, transports, harbours, hands over or takes over a child, even upon his consent, for the purposes of child prostitution or other form of sexual exploitation, including child pornography, forced labour or domestic slavery including begging, slavery or practices similar to slavery, bondage, forced marriage, abuse to commit criminal activity, unlawful adoption, for taking of organs, tissues or cells or other forms of exploitation

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

Law on Family⁶⁷⁴

§ 1 (1) Marriage is a union of man and woman, which originates on the basis of their voluntary and free decision to enter marriage after fulfilling conditions prescribed by this law.

§ 11 (1) Marriage cannot be entered into by minors. The court can in conformity with the purpose of marriage exceptionally permit minors older than 16 years to enter marriage. Without the court's permission the marriage is void. In such a case the court even without motion decides, that the marriage is void.

§ 12

(1) Marriage cannot be entered into by a person deprived of capacity to make legal acts.

⁶⁷³ [The Criminal Code of Slovakia](#) Act No. 300/2005, amended by Act No. 204/2013.

⁶⁷⁴ [Law on Family](#)

(2) Persons with limited capacity to make legal acts can enter marriage only with the permission of the court.

(3) Marriage cannot be entered into by a person with mental disorder, which would have as its consequence limitation of capacity to make legal acts. The court can allow entering marriage of such a person, if his/her health state is compatible with the purpose of marriage.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Law on Family

§ 12 (4) If the marriage is entered into by a person deprived of capacity to make legal acts or a person suffering mental disorder, which would have as its consequence deprivation of capacity to make legal acts, the court shall decide that the marriage is invalid even without motion.

(5) If the marriage is entered into by a person whose capacity to make legal acts is limited, or a person with mental disorder, which would have as its consequence limitation to make legal acts without court's permission, the court shall decide on invalidity of this marriage after motion of any of the spouses. The court shall not decide on the invalidity of marriage and the marriage will become valid, if the health state of the spouse became compatible with the purpose of the marriage.

§ 14 (1) Marriage is void, if the statement about entering marriage was not performed freely, seriously, certainly and understandably.

§ 17 Marriage does not arise if the statement about entering marriage (a) was forced by violence, (b) was expressed by a minor younger than 16 years of age.

3. Immigration rules

3.1. Conditions for family reunification of spouses

***Act No. 404/2011 on Residence of Aliens*⁶⁷⁵**

Article 27 Temporary Residence for the Purpose of Family Reunification

(1) Temporary residence for the purpose of family reunification shall be granted by a police department, if there are no reasons for the refusal of the application in accordance with Art. 33 par. 4, for a third country national who is a

a) family member if the third country national with temporary residence or with permanent residence;

[...]

(2) The following is considered as a family member of a third country national according to paragraph 1(a)

a) a spouse, if the married couple is at least 18 years old;

[...]

(5) Temporary residence for the purpose of family reunification shall be granted until the end of the validity of residence of a third country national for which the third country national as stated in paragraph 1 applies the right for family reunification, however, maximum for five years.

[..]

Article 53 Application for Granting of Long Term Residence

⁶⁷⁵ [Act No. 404/2011 on Residence of Aliens](#), amended by Act No. 75/2013 Coll.

(1) An application for the granting of long term residence shall be filed by a third country national in person at a police department. A family member can file an application for the granting of long term residence instead of the third country national who cannot file an application in person due to helplessness.

[...]

(4) Stable and regular income can be demonstrated by a third country national especially by means of an employment contract, confirmation of an employer about paid salary, balance statement of a bank account registered to the name of the third country national, a certificate of receiving a pension.

(5) A third country national who has been granted a temporary residence permit for the purpose of family reunification prior to filing an application for granting a long-term residence or a family member as per Article 27 para. 2 of an asylum seeker or an alien who has been granted subsidiary protection may prove stable and regular income by a statutory **declaration of a spouse, parent or person into who's care he/she was entrusted in order to confirm that he/she would provide financial and material means of subsistence to the third country national during his/her residence in the Slovak Republic, together with a document as per section 4.**

3.2. Consequences of bad faith marriages on the status of third country national

Act No. 404/2011 on Residence of Aliens

Article 33 Deciding about Application for Granting of Temporary Residence

...

(4) A police department shall refuse an application for the granting of temporary residence, if

...

(d) a third country national has closed the marriage of convenience;

SLOVENIA

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

Criminal Code⁶⁷⁶

Article 132.a⁶⁷⁷ Forced solemnisation of marriage or establishment of a similar union

(1) Whoever, with the use of force or the threat to use force or abusing a subordinate or dependent position, forces another person to enter into a marriage or to form a similar union, which is equivalent to marriage in accordance with the law, shall be sentenced to imprisonment for up to three years.

(2) Whoever commits the act from the first paragraph of this Article against a minor or a defenceless person, shall be sentenced to imprisonment for up to five years.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

None identified.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

Marriage and Family Relations Act⁶⁷⁸

Article 13 Marriage shall be founded on the free decision to conclude a marital bond, on a feeling of attachment on both sides, mutual respect, understanding, trust and mutual assistance.

Article 16 In order to conclude a marriage, it is necessary for two persons of different sex to state before a competent body, in a manner determined by law, their agreement to conclude the marriage.

Article 18 Marriage may not be concluded by persons below the age of eighteen.

Article 19 Marriage may not be concluded by persons who are seriously mentally impaired or of unsound mind.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Marriage and Family Relations Act

Article 17 A marriage shall not be valid without the free consent of the future spouses; there is no free consent if the consent has been forced or given in error. Consent is forced if the spouse consented to conclude marriage out of fear caused by real threat.

⁶⁷⁶ [The Criminal Code of Slovenia](#), published in the Official Gazette No. 55/08, amended by [Act Amending the Criminal Code KZ-1C](#), official Gazette No. 54/15, entered into force on 18 October 2015.

⁶⁷⁷ New provision introduced by [Act Amending the Criminal Code KZ-1C](#), official Gazette No. 54/15, entered into force on 18 October 2015.

⁶⁷⁸ [The Marriage and Family Relations Act](#), Official Gazette No. 69/04, last modified by Act Amending the Marriage and Family Relations Act ZZZDR-C, Official Gazette No. 16/04.

[...]

Article 36 The right to appeal for the annulment of a marriage concluded in conflict with the provisions of articles 16, 19, 20, 21, 34 and 35 of this Act shall appertain to the marital couple and anyone who has a direct legal interest in the annulment of the marriage.

In cases in which a marriage has been concluded in conflict with the provisions of articles 16, 19, 20 and 21 of this Act, the public prosecutor may also file an appeal for the annulment of the marriage.

On the ending of severe mental disability or incompetence, an appeal for the annulment of a marriage concluded during the duration of the severe mental disability or incompetence of either of the couple, may only be lodged by one or other of the partners.

An appeal for the annulment of a marriage for the reasons mentioned in the first paragraph of this article may also be lodged after the termination of the marriage.

The right to appeal for annulment of a marriage in cases under the first, second and third paragraphs of this article shall not be restricted by time.

Article 39

(1) The annulment of a marriage which was forced or concluded in error may be demanded only by the partner who was forced or who consented to the marriage in error.

(2) The annulment of a marriage may not be demanded if a year has passed since the day on which the force or the error was recognised, and the couple have lived together for this time.

3. Immigration rules

3.1. Conditions for family reunification of spouses

***Aliens Act 2011*⁶⁷⁹**

Article 47 Family reunification and the right to family integrity

(1) An alien who resides in the Republic of Slovenia on the basis of a permanent residence permit or has resided in Slovenia for the past year on the basis of temporary residence permit and has temporary residence permit issued with the validity of at least one year, shall be granted, under the conditions of and in accordance with this Act, the right to the reunification, preservation and reintegration of the family with family members who are aliens. To an alien who resides in Slovenia on the basis of a temporary residence permit for seasonal work purposes, or as a daily work migrant, this right shall not be granted. Without limitations pertaining to the duration of his/her residence in Slovenia, this right shall be granted to an alien who holds an EU Blue Card, an alien with a residence permit on the basis of his/her work in the field of research, higher education, or has a temporary residence permit due to existence of national interest of the Republic of Slovenia, issued on the basis of an opinion of a competent ministry or other state body

In accordance with this Act, the alien's family members shall be as follows: – **a spouse [...]**

A residence permit for family reunification shall be issued and extended at the request of the alien specified in the first paragraph of this Article, who must submit evidence that he possesses sufficient funds to support those family members who intend to reside in the country.

A temporary residence permit for the purposes of family reunification shall be granted to a family member of an alien holding a temporary residence permit for a period of time equal to that granted to the alien, but for not longer than one year, and may be extended for a period of time equal to that granted to the alien's temporary residence permit, but for not

⁶⁷⁹ [The Aliens Act](#), published in the Official Gazette No. 50/11, amended by Aliens Act – 2C Official Gazette No. 19/15.

longer than two years. A temporary residence permit shall be issued and extended to the holder of an EU Blue Card for its period of validity. The temporary residence permit of an alien who has acquired a permanent residence permit by virtue of being a holder of an EU Blue Card shall be granted and extended for a period of three years. A temporary residence permit for a family member of an alien holding a permanent residence permit in the Republic of Slovenia shall be granted for the period of one year and extended for a period of up to two years. [...]

The alien's family members shall be granted autonomous residence permits provided that they fulfil the conditions prescribed [...]

3.2. Consequences of bad faith marriages on the status of third country national

Aliens Act 2011

Article 55 Refusal to issue a residence permit

An alien shall not be granted a residence permit in the Republic of Slovenia in the following circumstances:

[...]

if it is clear that a marriage was entered into exclusively or chiefly for the purpose of obtaining a residence permit or if it is determined during the procedure of extending the temporary residence permit or issuing a permanent residence permit that an immediate family member does not actually live in a family union with the alien who is recognised as having the right to family reunification on the basis of this Act;

[...}

SPAIN

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

Criminal Code⁶⁸⁰

Article 172 bis⁶⁸¹

1. Whoever with serious intimidation or violence coerces another person to marry will be punished with six months to three years and six months imprisonment or with a fine of 12 to 24 months, having regard to the gravity of the coercion and the means used.
2. The same punishment shall be applied to whomever, for the purposes of carrying out the acts mentioned in the previous paragraph, uses violence, serious intimidation or deception to force another to abandon the Spanish territory or not to return to it.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

Criminal Code

Article 172 bis

3. The punishment will be imposed in its superior half when the victim is a minor.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

Civil Code- Title IV on Marriage⁶⁸²

Article 45 There is no marriage without marital consent. If this consent is subject to condition, mode or term, it shall be considered that these are non-existent.

Article 46 The following persons cannot enter marriage:

- 1 Non-emancipated minors.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Civil Code- Title IV on Marriage

Article 73 The following situations of marriage are void, independently of the form of celebration:

- 1 The marriage celebrated without consent.
- 2 The marriage celebrated between the persons referred to in Articles 46 and 47, except the cases of judicial exemption foreseen in Article 48.
- 3 The marriage celebrated without the intervention of a judge, mayor or civil servant before whom marriage shall be celebrated, or without the intervention of witnesses.

⁶⁸⁰ [The Criminal Code of Spain](#), Organic Law 10/1995, 23 November, amended by [Organic Law 1/2015](#)

⁶⁸¹ Introduced by [Law 1/2015](#), 30 March, amending Law 10/1995 adopting the Spanish Criminal Code.

⁶⁸² [The Civil Code of Spain- Title IV](#)

4 The marriage celebrated under error in the identity of the other contracting party or error in the personal qualities which, for their importance, have determined the other party to give his or her consent.

5 The marriage celebrated under serious fear or duress.

3. Immigration rules

3.1. Conditions for family reunification of spouses

Law 4/2000⁶⁸³ on the rights and freedoms of aliens in Spain and their social integration

Article 16. 2 Aliens living in Spain will have the right of family reunification with the members specified in Article 17.

Article 16. 3 The spouse who has acquired the right of settlement for family reasons or for the purpose of family reunification will maintain this right even if the marital status is to finish. The law will specify the minimum time of cohabitation in order to maintain the right of settlement.

Article 17 Family Members included in the right to reunification

1. The foreigner resident in Spain has the right to reunification with:

a) The spouse provided he/she is not legally or de facto separated and provided the marriage was contracted in fraud of the law. In no case more than one spouse can be reunified even if the national law of the foreigner admits this marital modality. The foreigner resident in Spain who is remarried once or further times for the dissolution of the previous marriages may only have the right of reunification with the new spouse as long as there is proof that the dissolution occurred after a judicial proceeding which ensures the housing situation of the previous spouse and the children they might have, a compensatory pension to the spouse and the children. The decision on the dissolution of the marriage shall fix the economic rights of the spouse and the children.

Royal Decree 557/2011⁶⁸⁴

Article 53

The foreigner may request the right of reunification with the following family members:

a) His/her spouse, so far as they are not separated and that the marriage has not been celebrated in fraud of the law.

Under no circumstances may more than one spouse be reunited even if the national law of the country of origin allows for this marital modality,

The foreigner resident in Spain who is remarried once or further times for the dissolution of the previous marriages may only have the right of reunification with the new spouse as long as there is proof that the dissolution occurred after a judicial proceeding which ensures the housing situation of the previous spouse and the children they might have, a compensatory pension to the spouse and the children. The decision on the dissolution of the marriage shall fix the economic rights of the spouse and the children.

[...]

Article 54(2) The permits will not be granted if the perspective of maintaining the economic means in the year after the request for reunification does not exist beyond doubt. This will be proven taking into account the evolution of the economic means of the person entitled to reunification in the six months prior to the **submission of the request [...]**

⁶⁸³ [Law 4/2000](#) Organic Law on the rights and freedoms of aliens in Spain and their social integration, amended by OL 8/2000, OL 11/2003 and OL 14/2003.

⁶⁸⁴ [Royal Decree 557/2011](#) adopting the Regulation of Organic Law 4/2000 on the rights and freedoms of aliens in Spain and their social integration.

Artículo 56 Proceeding to grant the residence permit for the reunification of the family

1. The request of family reunification can be submitted when the foreigner asking for reunification has a permit to regularly stay in Spain for at least a year and has requested to stay for at least another year with the following exceptions:

a) The requesting party will have to hold a long-term residence permit granted in Spain for the reunification of his/her ascendants and the ascendants of his/her spouse or legal partner. The request may be submitted when the long-term residence permit has been requested in Spain or in the EU.

b) Foreigners resident in Spain who have been long-term residents in Spain or in another EU Member State, holding a Blue Card or benefitting from the special researchers programme may submit the request in favour of their family members without being subject to the requirement of having regularly stayed in Spain for a year previously.

The reunification will not take place in any case until the permit entitling the person to request the reunification has been effectively renewed or has been granted a long-term residence permit in Spain or in the EU or has been granted a first residence permit in Spain.

2. [...] The reunification with family members of a long-term resident in another EU Member State may be submitted by the family members accompanied by a proof of residence as a family member.

[...]

3.2. Consequences of bad faith marriages on the status of third country national

Law 4/2000⁶⁸⁵ on the rights and freedoms of aliens in Spain and their social integration

Article 57 Visa proceeding in the family reunification proceeding

[...]

3. The diplomatic mission or consulate shall deny the visa in the following cases:

a) When the fulfilment of the requirements foreseen for its acquisition has not been proven **after evaluating the documentation submitted for such purposes (...)**

b) When false documents have been submitted or inexact allegations have been made in order to found the request or when there has been bad faith.

c) When one of the causes foreseen for denying the processing of the request concurs and **it had not been observed at the time of receiving the request; (...)**

⁶⁸⁵ [Law 4/2000](#) Organic Law on the rights and freedoms of aliens in Spain and their social integration, amended by OL 8/2000, OL 11/2003 and OL 14/2003.

SWEDEN

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

Criminal Code⁶⁸⁶

§ 4c. A person who by unlawful coercion or exploitation of another person's vulnerable situation induces a person to enter into marriage which is valid in the state where it is entered into, in the state according to which legal provisions it is entered, or in a state in which at least one of the spouses is a citizen or is domiciled, shall be sentenced for forced marriage to imprisonment for at most four years.

The same applies to a person who, under circumstances defined in paragraph 1, induces a person to enter a marriage-like relationship, if it is entered into in accordance with rules that apply within a group and:

1. involves the parties being considered as spouses and as having rights and obligations in relation to each other, and
2. includes the issue of dissolution of the relationship.

§ 4d. A person who by deception induces another person to travel to a state other than the one in which they reside with the purpose of causing the person, by unlawful coercion or exploitation of their vulnerable situation, to enter into such a marriage or a marriage-like relationship as mentioned under Section 4c, shall be sentenced for deception to travel to enter into a forced marriage to imprisonment for at most two years.

§ 10. Sentences concerning liability for attempt, preparation or conspiracy to commit kidnapping, human trafficking or unlawful deprivation of liberty or failure to reveal such a crime, shall be imposed in accordance with the provisions of chapter 23.

The same applies to attempt or preparation to unlawful coercion which is serious, forced marriage, [...]

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

Criminal Code

§ 2. In assessing penal value, the following aggravating circumstances shall be given special consideration in addition to what is applicable to each and every type of crime:

1. [...]
2. whether the accused manifested especial ruthlessness,
3. whether the accused exploited some other person's vulnerable position or that person's special difficulties in protecting himself,
4. whether the accused grossly exploited his position or otherwise abused a special confidence or trust,
5. whether the accused induced another person to take part in the crime by coercion, deceit or misuse of that person's youthfulness, lack of understanding or dependent status,
6. [...]
7. [...]
8. whether the crime was intended to harm the trust of a child in its relation to a person close.

⁶⁸⁶ [The Criminal Code of Sweden](#) (1962:700) adopted on 21 December 1962, amended on 17 March 2015.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

***The Marriage Code*⁶⁸⁷; *Act concerning certain International Legal Relationships relating to Marriage and Guardianship*⁶⁸⁸**

§ 1. A person under 18 years of age may not marry.⁶⁸⁹

§ 8a. A marriage that has been entered into in accordance with foreign law is not recognised in Sweden:

1. [...]
2. If it is likely that it was entered into under coercion, or
3. If the parties were not present at the same time when the marriage was entered into and at least one of them was a Swedish citizen at that time or was domiciled in Sweden.

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

***The Marriage Code*⁶⁹⁰; *Act concerning certain International Legal Relationships relating to Marriage and Guardianship*⁶⁹¹**

§ 2. At the wedding ceremony, those who marry shall be present simultaneously. They shall, for themselves, to the question from the wedding official, make it known that they consent to the marriage. Wedding official shall then explain that they are spouses. If it has not taken place as stated in the first paragraph, or where the wedding official did not authorize to perform marriage ceremonies, the ordinance is void as a marriage ceremony.

An ordinance which under the second paragraph is null and void as a marriage ceremony may be approved by the government if there are exceptional reasons. The matter may be taken up only at the request of one of those who intended to marry or if one of them has died, the heirs of the deceased.

§ 5. A spouse is entitled to divorce without any prior reconsideration period if it is likely that the spouse has been forced to marry or if the spouse entered into the marriage before 18 years of age. [...]⁶⁹²

3. Immigration rules

3.1. Conditions for family reunification of spouses

***Aliens Act (2005:716)*⁶⁹³**

§1b. A residence permit may be refused if the asylum seeker [...]

3. can be sent to a country where he or she
 - is not at risk of persecution,

⁶⁸⁷ [The Swedish Marriage Code](#) (1987 :230)

⁶⁸⁸ [The Act concerning certain International Legal Relationships relating to Marriage and Guardianship](#) amended by Act 2014:913

⁶⁸⁹ The Marriage Code, ch.2 s.1, amended by Law 2014 :376

⁶⁹⁰ [The Swedish Marriage Code](#) (1987 :230)

⁶⁹¹ [The Act concerning certain International Legal Relationships relating to Marriage and Guardianship](#) amended by Act 2014:913

⁶⁹² The Marriage Code, ch.5 s.5, amended by Act 2014 :376

⁶⁹³ [The Aliens Act](#) as amended by Act 2015:91.

- is not at risk of death penalty, corporal punishment, torture, or other inhuman or degrading treatment or punishment,
- is protected against being sent to another country where he or she does not have corresponding protection,
- has the opportunity to apply for protection as a refugee, and
- has such special ties to that country that it is reasonable for him or her to go there.

In the cases referred to in section 1, paragraph 3, an application for asylum may not be refused if

1. The asylum seeker has a spouse, a child, or a parent who is resident in Sweden and the asylum seeker does not have an equally close family connection to the country where the execution of a deportation or **removal order can be made** [...]

§ 2a. If a refugee or someone otherwise in need of protection who has re-entered in accordance with chapter 4 §5d has been given residence permit, residence permits for the same period shall also be given to his or her family members who have re-entered under the same provision. A residence permit may be refused a family member who is a threat to public order and safety.

§3. Unless otherwise provided in §§17-17b, a residence permit shall be given to:

1. an alien who is a spouse or cohabiting partner of someone who is resident in or has been granted a residence permit to settle in Sweden,

[...]

Residence permit under this Section shall be valid for at least one year.

[...]

§3a. Unless otherwise provided in Section 17, second paragraph, a residence permit may be given to

1. An alien who intends to marry or enter into a cohabitee relationship with a person who is resident in or who has been granted a residence permit to settle in Sweden, if the relationship appears to be serious and there are no special grounds not to give a permit

[...]

§3b. Residence permits on the basis of family ties as provided in Sections 3a and 3b may only be granted if the person that the alien revokes relation to can support himself or herself and has a dwelling of adequate size and standard for himself and the alien.

§16. An alien who, pursuant to Section 8, has been granted a temporary residence permit on grounds of family ties may only be granted a new temporary or permanent residence permit on these grounds if the relationship continues.

An alien who has family ties under Section 3, first paragraph, point 1 or 2b or Section 3a, first paragraph, point 1 or second paragraph and who has held a temporary residence permit for two years may be given a permanent residence permit. If there are special grounds, a permanent residence permit may be given before the end of the two-year period.

If a relationship has ended, a residence permit may still be granted if

1 the alien has special ties to Sweden;

2 the relationship has ended primarily because in the relationship the alien or the alien's child has been subjected to violence or some other serious violation of their liberty or peace; or

3 there are other strong grounds for prolonging the alien's residence permit.

3.2. Consequences of bad faith marriages on the status of third country national

Aliens Act (2005:716)

§ 4. [...] Right to residence in accordance with sections 1 and 2 does not apply if a marriage has been entered into, a cohabitation relationship has begun or an alien has been adopted exclusively in order to give the alien a right to a residence permit.

TURKEY

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

None identified.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

None identified.

Other provisions such as coercion could apply.

Criminal Code⁶⁹⁴

Article 230

[...]

5) The couples who marry by arranging religious ceremony without executing official marriage transactions are sentenced to imprisonment from two months to six months. Both the public action and the punishment imposed therefor, areas abated with all their consequences when the civil marriage ceremony is accomplished.

(6) Any person who conducts a religious marriage ceremony without seeing the certificate of marriage is punished with imprisonment from two months to six months.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

Civil Code⁶⁹⁵

Article 11:

According to the Law, the age of majority is eighteen.

Minors who marry attain majority through marriage.

Article 124

Men and women cannot marry unless completing the age of seventeen.

Article 124/2: Under extraordinary circumstances and for compelling reasons, a special consent to marriage can be given by the competent judge, if the parties have at least completed the age of sixteen. Where possible, the judge hears the opinions of parents and guardians before making a decision.

Article 125: Persons who do not have the ability to discern⁶⁹⁶ cannot marry.

Article 126: Minors cannot get married without the permission of the guardian.

⁶⁹⁴ [The Criminal Code of Turkey](#) adopted on 26.09.2004, Law No 25611, as amended by Law No 6545/2014.

⁶⁹⁵ [Civil Code Law](#) 08.12.2001/ No 24607, amended by Law 24607/2001.

⁶⁹⁶ **In Article 14 of the Marriage Regulations, having the ability to discern is defined as: "Not being deprived of the ability to act rationally and to distinguish right from wrong as a result of youth, mental disease, mental infirmity, intoxication, etc."**

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

Civil Code

Article 151:

The spouse, who has been pressured to marry by being frightened for self's or family's life, health or an imminent and severe threat to decency and dignity, can sue for an annulment of the marriage.

3. Immigration rules

3.1. Conditions for family reunification of spouses

Law of Foreigners and International Protection⁶⁹⁷

Article 34: Family residence permit

(1) A family residence permit for a maximum duration of two years at a time may be granted to the:

a) foreign spouse;

[...]

of Turkish citizens, persons within the scope of Article 28 of Law № 5901 or, foreigners holding one of the residence permits as well as refugees and subsidiary protection beneficiaries. However, the duration of the family residence permit cannot exceed the duration of the sponsor's residence permit under any circumstances whatsoever.

(2) In cases of a polygamous marriage pursuant to the regulation in the [foreigner's] country of citizenship, only one of the spouses shall be issued a family residence permit.

[..]

(4) [...]

(5) [...]

(6) In the event of divorce, a short-term residence permit may be issued to a foreign spouse of a Turkish citizen, provided that [he or she] resided on a family residence permit for at least three years. However, in cases where it is established by the relevant court that the foreign spouse has been a victim for reasons of domestic violence, the condition for three years residence shall not be sought.

Article 35: Conditions for family residence permits

(1) With regard to family residence permit applications, the following conditions shall apply to the sponsor, to:

a) have a monthly income in any case not less than the minimum wage in total corresponding with not less than one third of the minimum wage per each family member;

b) live in accommodation conditions appropriate to general health and safety standards corresponding to the number of family members and to have medical insurance covering all family members;

c) submit proof of not having been convicted of any crime against the family during the five years preceding the application with a criminal record certificate;

ç) have been residing in Turkey for at least one year on a residence permit;

d) have been registered with the address based registration system.

[...]

(3) The following conditions shall apply to foreigners applying for a family residence permit to stay with a sponsor in Turkey:

⁶⁹⁷ [Law of Foreigners and International Protection](#) Law 04.04.2013/No 6458.

- a) to submit information and documents that they are within the scope of paragraph one of Article 34;
 - b) to assert that they live, or intend to live, together with those persons listed in paragraph one of Article 34;
 - c) not to have entered into the marriage for the purpose of obtaining a family residence permit;
 - ç) to be over 18 years of age for each spouse;
 - d) not to fall within the scope of Article 7.
- (4) The conditions set forth in the first paragraph of this Article may not be sought for refugees and subsidiary protection beneficiaries who are in Turkey.

3.2. Consequences of bad faith marriages on the status of third country national

Law of Foreigners and International Protection

Article 36: Refusal, cancellation or non-renewal of family residence permits

(1) Under the following cases a family residence permit shall not be granted, shall be cancelled if has been issued, and shall not be renewed when:

a) conditions set out in paragraphs one and three of Article 35 are not met or no longer apply;

[...]

ç) it is determined that the family residence permit is used for purposes other than of those it is issued for;

[...]

Article 37: Applications for family residence permit through marriage of convenience

(1) Where there is reasonable doubt prior to granting or renewing a family residence permit the governorates shall investigate whether the marriage has been entered into solely for the purpose of obtaining a family residence permit.

When it is so determined upon investigation, a family residence permit shall not be granted or, cancelled if it has been issued.

(2) Following the issuance of a family residence permit the governorates may carry out inspections in order to establish whether the marriage is of convenience.

(3) Residence permits obtained through a fraudulent marriage and cancelled later, shall not count towards the summing of residence durations stipulated in this Law.

THE UNITED KINGDOM

1. Criminal law provisions

1.1. Criminal provisions specifically addressing forced marriage

Anti-social Behaviour, Crime and Policing Act 2014⁶⁹⁸

121 Offence of forced marriage: England and Wales

(1) A person commits an offence under the law of England and Wales if he or she—

(a) uses violence, threats or any other form of coercion for the purpose of causing another person to enter into a marriage, and

(b) believes, or ought reasonably to believe, that the conduct may cause the other person to enter into the marriage without free and full consent.

(2) In relation to a victim who lacks capacity to consent to marriage, the offence under subsection (1) is capable of being committed by any conduct carried out for the purpose of causing the victim to enter into a marriage (whether or not the conduct amounts to violence, threats or any other form coercion).

(3) A person commits an offence under the law of England and Wales if he or she—

(a) practises any form of deception with the intention of causing another person to leave the United Kingdom, and

(b) intends the other person to be subjected to conduct outside the United Kingdom that is an offence under subsection (1) or would be an offence under that subsection if the victim were in England or Wales.

[...]

(9) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 7 years.

122 Offence of forced marriage: Scotland

(1) A person commits an offence under the law of Scotland if he or she—

(a) uses violence, threats or any other form of coercion for the purpose of causing another person to enter into a marriage, and

(b) believes, or ought reasonably to believe, that the conduct may cause the other person to enter into the marriage without free and full consent.

(2) In relation to a victim who is incapable of consenting to marriage by reason of mental disorder, the offence under subsection (1) is capable of being committed by any conduct carried out for the purpose of causing the victim to enter into a marriage (whether or not the conduct amounts to violence, threats or any other form coercion).

(3) A person commits an offence under the law of Scotland if he or she—

(a) practises any form of deception with the intention of causing another person to leave the United Kingdom, and

(b) intends the other person to be subjected to conduct outside the United Kingdom that is an offence under subsection (1) or would be an offence under that subsection if the victim were in Scotland.

[...]

(9) A person guilty of an offence under this section is liable—

⁶⁹⁸ [Anti-social Behaviour, Crime and Policing Act 2014.](#)

- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 7 years or to a fine or both.

Part 4A, S63A [Offence of breaching order](#)

(1) A person who without reasonable excuse does anything that the person is prohibited from doing by a forced marriage protection order is guilty of an offence.

(5) A person guilty of an offence under this section is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding five years, or a fine, or both;
- (b) on summary conviction, to imprisonment for a term not exceeding 12 months, or a fine, or both.

Forced Marriage etc. (Protection and Jurisdiction)(Scotland) Act 2011⁶⁹⁹

[Section 9 Offence of breaching order](#)

(1) Any person who, knowingly and without reasonable excuse, breaches a forced marriage protection order commits an offence.

(2) A constable may arrest without warrant any person the constable reasonably believes is committing or has committed an offence under subsection (1).

(3) Subsection (2) is without prejudice to any power of arrest conferred by law apart from that subsection.

(4) A person guilty of an offence under subsection (1) is liable—

- (a) on summary conviction, to imprisonment for a period not exceeding 12 months, to a fine not exceeding the statutory maximum, or to both,
- (b) on conviction on indictment, to imprisonment for a period not exceeding 2 years, to a fine, or to both.

(5) Where a person is convicted of an offence under subsection (1) in respect of any conduct, that conduct is not punishable as a contempt of court.

1.2. Aggravating circumstances of forced marriage/Alternative provisions specifically related to forced marriage and relevant aggravating circumstances

None identified.

2. Civil law provisions on marriage

2.1. Conditions (consent limited to: age, mental infirmity)

Marriage Act 1949⁷⁰⁰

[Article 3 Marriages of persons under twenty-one](#)

(1) Where the marriage of a child, not being a widower or widow, is intended to be solemnized on the authority of a certificate issued by a superintendent registrar under Part III of this Act, the consent of the person or persons specified in subsection (1A) of this section shall be required :

Provided that—

3 (a) if the superintendent registrar is satisfied that the consent of any person whose consent is so required cannot be obtained by reason of absence or inaccessibility or by reason of his being under any disability, the necessity for the consent of that person shall be dispensed with, if there is any other person whose consent is also required; and if the

⁶⁹⁹ [Forced Marriage etc. \(Protection and Jurisdiction\)\(Scotland\) Act 2011](#)

⁷⁰⁰ [Marriage Act 1949](#) as last amended by the marriage (same sex couples) Act 2013 (Consequential and contrary provisions and Scotland) and marriage and civil partnership (Scotland) Act 2014 (consequential provisions) Order 2014.

consent of no other person is required, the Registrar General may dispense with the necessity of obtaining any consent, or the court may, on application being made, consent to the marriage, and the consent of the court so given shall have the same effect as if it had been given by the person whose consent cannot be so obtained;

(b) if any person whose consent is required refuses his consent, the court may, on application being made, consent to the marriage, and the consent of the court so given shall have the same effect as if it had been given by the person whose consent is refused.

(1A)The consents are—

(a) subject to paragraphs (b) to (d) of this subsection, the consent of—

(i) each parent (if any) of the child who has parental responsibility for him; and

(ii) each guardian (if any) of the child;

(b) where a residence order is in force with respect to the child, the consent of the person or persons with whom he lives, or is to live, as a result of the order (in substitution for the consents mentioned in paragraph (a) of this subsection);

(c) where a care order is in force with respect to the child, the consent of the local authority designated in the order (in addition to the consents mentioned in paragraph (a) of this subsection);

(d) where neither paragraph (b) nor (c) of this subsection applies but a residence order was in force with respect to the child immediately before he reached the age of sixteen, the consent of the person or persons with whom he lived, or was to live, as a result of the order (in substitution for the consents mentioned in paragraph (a) of this subsection).

***Mental Capacity Act 2005*⁷⁰¹**

Article 27 Family relationships etc.

(1) Nothing in this Act permits a decision on any of the following matters to be made on behalf of a person—

(a) consenting to marriage or a civil partnership,

(...)

***Family Law Act 1996*⁷⁰²**

Article 63A Forced marriage protection orders

(1) The court may make an order for the purposes of protecting—

(a) a person from being forced into a marriage or from any attempt to be forced into a marriage; or

(b) a person who has been forced into a marriage.

(2) In deciding whether to exercise its powers under this section and, if so, in what manner, the court must have regard to all the circumstances including the need to secure the health, safety and well-being of the person to be protected.

(3) In ascertaining that person's well-being, the court must, in particular, have such regard to the person's wishes and feelings (so far as they are reasonably ascertainable) as the court considers appropriate in the light of the person's age and understanding.

(4) For the purposes of this Part a person ("A") is forced into a marriage if another person ("B") forces A to enter into a marriage (whether with B or another person) without A's free and full consent.

(5) For the purposes of subsection (4) it does not matter whether the conduct of B which forces A to enter into a marriage is directed against A, B or another person.

(6) In this Part—

"force" includes coerce by threats or other psychological means (and related expressions are to be read accordingly);

⁷⁰¹ [Mental Capacity Act 2005](#) as last amended by the care Act 2014 and children and families Act 2014 (consequential amendments) Order 2015.

⁷⁰² [Family Law Act 1996](#) as amended by Anti-social Behaviour, Crime and Policing Act 2014.

[...]

2.2. Grounds for annulment (only grounds related to a defect in giving consent and general provision concerning the formal requirements of marriage – if any)

***Marriage Act 1949*⁷⁰³**

Article 2 Marriages of persons under sixteen

A marriage solemnized between persons either of whom is under the age of sixteen shall be void.

***Matrimonial Causes Act 1973*⁷⁰⁴**

Article 11 Grounds on which a marriage is void

A marriage celebrated after 31st July 1971 other than a marriage to which section 12A applies shall be void on the following grounds only, that is to say—

(a) that it is not a valid marriage under the provisions of the Marriage Acts 1949 to 1986 (that is to say where—

(i) the parties are within the prohibited degrees of relationship;

(ii) either party is under the age of sixteen; or

(iii) the parties have intermarried in disregard of certain requirements as to the formation of marriage;

(b) that at the time of the marriage either party was already lawfully married or a civil partner;

[...]

Article 12 Grounds on which a marriage is voidable

(1) A marriage celebrated after 31st July 1971 other than a marriage to which section 12A applies shall be voidable on the following grounds only, that is to say—

[...]

(c) that either party to the marriage did not validly consent to it, whether in consequence of duress, mistake, unsoundness of mind or otherwise;

(d) that at the time of the marriage either party, though capable of giving a valid consent, was suffering (whether continuously or intermittently) from mental disorder within the meaning of the Mental Health Act 1983 of such a kind or to such an extent as to be unfitted for marriage;

[...]

Article 13 Bars to relief where marriage is voidable

(1) The court shall not, in proceedings instituted after 31st July 1971, grant a decree of nullity on the ground that a marriage is voidable if the respondent satisfies the court—

(a) that the petitioner, with knowledge that it was open to him to have the marriage avoided, so conducted himself in relation to the respondent as to lead the respondent reasonably to believe that he would not seek to do so; and

(b) that it would be unjust to the respondent to grant the decree.

[...]

⁷⁰³ [Marriage Act 1949](#) as last amended by the marriage (same sex couples) Act 2013 (Consequential and contrary provisions and Scotland) and marriage and civil partnership (Scotland) Act 2014 (consequential provisions) Order 2014.

⁷⁰⁴ [Matrimonial Causes Act 1973](#) as last amended by the marriage (same sex couples) Act 2013 (Consequential and contrary provisions and Scotland) and marriage and civil partnership (Scotland) Act 2014 (consequential provisions) Order 2014.

3. Immigration rules

3.1. Conditions for family reunification of spouses

Immigration Rules⁷⁰⁵

281 Requirements for leave to enter the United Kingdom with a view to settlement as the spouse or civil partner of a person present and settled in the United Kingdom or being admitted on the same occasion for settlement

The requirements to be met by a person seeking leave to enter the United Kingdom with a view to settlement as the spouse or civil partner of a person present and settled in the United Kingdom or who is on the same occasion being admitted for settlement are that:

- (i) (a)(i) the applicant is married to, or the civil partner of, a person present and settled in the United Kingdom or who is on the same occasion being admitted for settlement; and
- ___ ___(ii) the applicant provides an original English language test certificate in speaking and listening from an English language test provider approved by the Secretary of State for **these purposes, which clearly shows the applicant's name and the qualification** obtained (which must meet or exceed level A1 of the Common European Framework of Reference) unless:
 - (a) the applicant is aged 65 or over at the time he makes his application; or
 - (b) the applicant has a physical or mental condition that would prevent him from meeting the requirement; or
 - (c) there are exceptional compassionate circumstances that would prevent the applicant from meeting the requirement; or
 - ___ ___(iii) the applicant is a national of one of the following countries: Antigua and Barbuda; Australia; the Bahamas; Barbados; Belize; Canada; Dominica; Grenada; Guyana; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and the Grenadines; Trinidad and Tobago; United States of America; or
 - ___ ___(iv) the applicant has obtained an academic qualification (not a professional or vocational qualification), which is deemed by UK NARIC to meet the recognised standard of **a Bachelor's or Master's degree or PhD in the UK, from an educational establishment in one** of the following countries: Antigua and Barbuda; Australia; The Bahamas; Barbados; Belize; Dominica; Grenada; Guyana; Ireland; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and The Grenadines; Trinidad and Tobago; the UK; the USA; and provides the specified documents; or
 - ___ ___(v) the applicant has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet the recognised standard of **a Bachelor's or Master's degree or PhD in the UK, and**
 - (1) provides the specified evidence to show he has the qualification, and
 - (2) UK NARIC has confirmed that the qualification was taught or researched in English, or
 - ___ ___(vi) has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet the recognised standard of a **Bachelor's or Master's degree or PhD in the UK, and provides the specified evidence to** show:
 - (1) he has the qualification, and
 - (2) that the qualification was taught or researched in English.

Or

⁷⁰⁵ [Immigration Rules](#) last amended on 16 November 2015.

___(b)(i) the applicant is married to, or the civil partner of, a person who has a right of abode in the United Kingdom or indefinite leave to enter or remain in the United Kingdom and is on the same occasion seeking admission to the United Kingdom for the purposes of settlement and the parties were married or formed a civil partnership at least four years ago, since which time they have been living together outside the United Kingdom; and
 ___(b)(ii) the applicant has demonstrated sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, in accordance with Appendix KoLL; and
 ___(b)(iii) DELETED

(ii) the parties to the marriage or civil partnership have met; and
 (iii) each of the parties intends to live permanently with the other as his or her spouse or civil partner and the marriage or civil partnership is subsisting; and
 (iv) there will be adequate accommodation for the parties and any dependants without recourse to public funds in accommodation which they own or occupy exclusively; and
 (v) the parties will be able to maintain themselves and any dependants adequately without recourse to public funds; and
 (vi) the applicant holds a valid United Kingdom entry clearance for entry in this capacity; and
 (vii) the applicant does not fall for refusal under the general grounds for refusal.

For the purposes of this paragraph and paragraphs 282-289 a member of HM Forces serving overseas, or a permanent member of HM Diplomatic Service or a comparable UK-based staff member of the British Council on a tour of duty abroad, or a staff member of the Department for International Development who is a British Citizen or is settled in the United Kingdom, is to be regarded as present and settled in the United Kingdom.

3.2. Consequences of bad faith marriages on the status of third country national

***Immigration Rules*⁷⁰⁶**

283 Refusal of leave to enter as the spouse or civil partner of a person present and settled in the United Kingdom or being admitted on the same occasion for settlement

Leave to enter the United Kingdom as the spouse or civil partner of a person present and settled in the United Kingdom or who is on the same occasion being admitted for settlement is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 281 is met.

***Immigration and Asylum Act 1999*⁷⁰⁷**

Section 24 Duty to report suspicious marriages

(1) Subsection (3) applies if—

(a) a superintendent registrar to whom a notice of marriage has been given under section 27 of the Marriage Act 1949,

(b) any other person who, under section 28(2) of that Act, has attested a declaration accompanying such a notice,

(c) a district registrar to whom a marriage notice or an approved certificate has been submitted under section 3 of the Marriage (Scotland) Act 1977, or

⁷⁰⁶ [Immigration Rules](#) last amended on 16 November 2015.

⁷⁰⁷ [Immigration and Asylum Act 1999](#).

(d) a registrar or deputy registrar to whom notice has been given under section 13 of the Marriages (Ireland) Act 1844 or section 4 of the Marriage Law (Ireland) Amendment Act 1863, has reasonable grounds for suspecting that the marriage will be a sham marriage. .

(2) Subsection (3) also applies if—

a marriage is solemnised in the presence of a registrar of marriages or, in relation to Scotland, an authorised registrar (within the meaning of the Act of 1977); and

before, during or immediately after solemnisation of the marriage, the registrar has reasonable grounds for suspecting that the marriage will be, or is, a sham marriage.

(3) The person concerned must report his suspicion to the Secretary of State without delay and in such form and manner as may be prescribed by regulations.

[...]

(5) **“Sham marriage”** means a marriage (whether or not void)—

(a) entered into between a person (“A”) who is neither a British citizen nor a national of an EEA State other than the United Kingdom and another person (whether or not such a citizen or such a national); and

(b) entered into by A for the purpose of avoiding the effect of one or more provisions of United Kingdom immigration law or the immigration rules.

ANNEX II INFORMATION ON FORCED MARRIAGE CASE-LAW IN EU MEMBER STATES

Member States	Case reference number & key facts	Court decision	Sentence applied	Additional information on the case and/or interpretation issues
BE	<p><i>Criminal Court Charleroi 2011; Criminal Court Mons 2011</i></p> <p>Sadia Sheikh, a young Pakistani girl living in Charleroi was killed by her brother in 2007 because she would have "dishonoured" her family by refusing a forced marriage in Pakistan. The execution of the victim was ordered by her entire family.</p>	<p>The father and the brother of the victim were convicted for murder with the aggravating circumstance that it took place as an 'honour killing' and 'attempt of forced marriage'. The sister and the mother of the victim were also convicted for murder with the aggravating circumstance of 'honour killing', but they were acquitted for the 'attempt of forced marriage'.</p>	<p>In first instance, the father of the victim was condemned to 25 years of imprisonment, the brother to 15 years, the mother to 20 years and the sister to 5 years.</p> <p>On appeal, the father's sentence was upheld and the mother's imprisonment reduced to 15 years.</p>	n.a.
	<p><i>Criminal Court Verviers, 30 January 2014, 11th⁷⁰⁸</i></p> <p>A 13-year-old Roma girl was sold to another Roma community and forced to marry a minor boy. The family-in-law exploited the girl as a house-servant and forced her to have sexual intercourse with the minor husband.</p>	<p>The parents of both minors were convicted for trafficking in human beings (for sexual exploitation).</p>	<p>The parents of both minors were condemned to five years imprisonment with partial suspension.</p>	<p>During the proceedings the perpetrators justified themselves stating that they acted according to the traditions of their culture.</p>
BG	<p><i>Case N.O.H.D. 292/2012 of Regional Court Asenovgrad⁷⁰⁹</i></p> <p>A Roma man raped and kidnapped a 14-year-old Roma girl with the aim to marry her.</p>	<p>The defendant was found guilty of committing the crime under Article 177(2) of the Criminal Code(kidnapping a woman with the aim to force her to marriage).</p>	n.a.	n.a.
	<p><i>Case N.O.H.D. 113/2013 of Regional Court Popovo⁷¹⁰</i></p>	<p>The defendant was found guilty of committing the crime</p>	<p>The perpetrator was condemned to one year imprisonment.</p>	n.a.

Member States	Case reference number & key facts	Court decision	Sentence applied	Additional information on the case and/or interpretation issues
	A man kidnapped and raped a woman with the aim to force her to marry him.	under Article 177(2) of the Criminal Code (kidnapping a woman with the aim to force her to marriage).		
	Case N.O.H.D. 2/2012 of Regional Court Purvomay ⁷¹¹ A man (with the help of a female friend) kidnapped an under-age girl with the aim to force her into a marriage. All persons involved were Roma.	The defendants were found guilty of committing the crime under Article 177(2) of the Criminal Code (kidnapping a woman with the aim to force her into marriage).	The perpetrator was condemned to three months imprisonment.	n.a.
DE	Case 26 Ns11/15 of the Local Court of Potsdam ⁷¹² A man forced his daughter to marriage.	The defendant was found guilty of forced marriage in first instance.	The perpetrator was condemned to one year of imprisonment (sentence suspended).	n.a.
	Case 51 Kls 12Js 210/09-39/09 2011 of the Provincial Court of Essen ⁷¹³ A man was charged with the rape of a 23-year-old woman and forcing her into marrying him.	Case withdrawn.	n.a.	n.a.
	Case 6035 Js 15308/12 4. Kls of the Provincial Court of Kaiserslautern ⁷¹⁴ A man was charged with raping an 18-year-old woman and forcing her to marry him.	Case withdrawn.	n.a.	n.a.
UK	Merthyr Tydfil Crown Court, 10 June 2015 ⁷¹⁵ . A 34-year old man pleaded guilty to rape, forced marriage, bigamy and voyeurism.	The Merthyr Tydfil Crown Court convicted the defendant for voyeurism, bigamy and forced marriage under s. 121 of the Anti-social Behaviour, Crime and Policing Act.	16 years of imprisonment.	The Judge reasoned that 'when you first raped her, she was still a virgin – something which you would use to ensure her silence. After you had raped her you

Member States	Case reference number & key facts	Court decision	Sentence applied	Additional information on the case and/or interpretation issues
				<p>produced a laptop which had a video of her showering you had installed a hidden camera in a towel rail. You threatened that if she disclosed the rape to anyone you would make the video public ... You made her feel that she was no longer marriage material in the hope that she would turn to you..'</p>

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

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