

Request for information following Human Rights Council Resolution 24/23
“Strengthening efforts to prevent and eliminate child, early and forced marriage:
challenges, achievements, best practices and implementation gaps”

Contribution by Austria

Information concerning criminal law:

Until 2006, anyone who coerced a person to marry him/her by means of violence or assault was liable to prosecution for forced marriage; however, the marriage had first to be annulled under civil law by reason of violence or threat; moreover, the victim had to bring in a private criminal action within six weeks of the decree of nullity having become final.

The 2004 Act Amending the Criminal Code abolished all differences between rape and sexual coercion inside or outside of marriage or domestic partnership. Rape or sexual coercion is not only committed by a husband forcing his wife to have sex with him by means of violence or assault but also by an individual who coerces the victim to have or endure sex with a third person. Therefore, e.g. the father who forces his daughter by means of violence or assault to endure sex with her husband is a direct perpetrator of the rape or sexual coercion.

The 2006 Act Amending the Criminal Code brought a further improvement of the protection of victims: the previous regulation – forced marriage as an offence that required private criminal action to be brought by affected persons themselves – subjected them to great emotional pressure. To facilitate the fight against forced marriage, the 2006 Act Amending the Criminal Code made marriage coercion a criminal offence rendering the accused liable to public prosecution (“*ex officio*”). This also enables third persons to take legal action against forced marriage, even without the consent of the affected persons, thus helping relieve the pressure on them.

The 2011 Act Amending the Criminal Code extended the extraterritorial jurisdiction for forced marriage. Now forced marriage is a criminal offence to which the provisions of Austrian law, regardless of the provisions of the law in the territory in which the offence has been committed, apply, provided that

1. either the perpetrator or the victim is an Austrian national or has his/her habitual residence in Austria, or
2. the offence impairs other Austrian interests or
3. the perpetrator was an alien at the time the offence was committed, is staying in Austria and cannot be extradited.

Information relating to civil law:

Section 1 of the Austrian Marriage Act ("*Ehegesetz*") stipulates that a person may contract marriage if he or she has reached the age of 18. Upon request, courts of law may authorise a person, who has completed his or her sixteenth year to marry if the future spouse is already of age and the younger person seems mature enough to contract marriage (Section 1 para. 2 of the Austrian Marriage Act).

By requiring that at least one of the spouses is of age, child marriages should be avoided. In the course of the determination of the court, whether the underage fiancé/e seems mature enough to contract marriage (in intellectual, mental and moral terms), any indication of a possible coercion to marry of a future spouse must be taken into account.

Victim support:

Orient Express ([Orient Express](#)), a publicly funded NGO, offers counselling and support for girls and young women (16-24), who are threatened or affected by forced marriage. It also offers (since August 2013) emergency accommodation in cases of imminent danger. Also (anonymous) online-counselling is being offered. The agency is situated in Vienna and offers support to victims throughout Austria.

The services offered include:

- Counselling for affected girls and their parents
- Crisis intervention in cases of imminent forced marriage
- Support to solve conflicts (with parents, ...)
- Contact to the Youth Welfare Office in charge
- Support in moving out of the parent's apartment
- Temporary emergency accommodation with native-language care and counselling
- Help, if legal steps are necessary in the country of origin (to look for a lawyer specialised on divorce and marriage annulment)