

Notice: This translation has been done with great care. In case of discrepancies or contradictions between the German original text and the translated version, only the German version is considered authentic and legally binding.

Commentary

General Part

Major points of the proposal:

The federal law on the outer legal relations of the Islamic Religious Society hails from 1912 and reflects in both the content it rules on and the way it rules in the spirit of its time. Some provisions are, based on legal or factual reasons, completely out of date, others no longer fulfil the requirements of a modern rule of law state, especially the fixation of the outside organisation by means of an encompassing and in the law itself not more closely defined regulation authorisation.

After more than 100 years have passed now, the creation of a modern law is called for. It is to use termini adapted to today's teachings and jurisprudence, include the modern understanding of legal provisions concerning religious matters and at the same time concern itself with the specifics of the Religious Societies.

The law was conceived as an open regulation in the year 1912. This is why for the ruling on details, in the then complex situation, an open and flexible way of ruling was chosen, the regulation authorisation.

Against this backdrop the so called "Dialogue Forum Islam" - an institutionalised dialogue between the federal government, called upon experts and the Islamic Community in Austria – with seven working groups was set up in 2012, which reiterated the importance of a new Islam law. In the following, this endeavour of amending the more than 100 years old law was fixed within the working programme of the Austrian Federal Government for the years 2013 to 2018.

In the light of the yearlong preparation work it almost seems ridiculous, that the current threats to security though Islamic terrorist groups allegedly be the impetus for the amendment. The Islamic Religious Societies in Austria clearly condemn the abuse of Islam by terrorists. Therefore the proposed law in no way includes a general suspicion against Muslims in Austria; moreover the planned law increases the legal security with respect to the practice of religion for Muslims in Austria. The law underlines that Muslims have a place as equal citizens in the middle of our society.

Financial implications:

None.

Basis of legal competence:

A federal law of this proposal has its basis of legal competence on Art. 10 Abs. 1 Z 13 B-VG, Matters of religious cult.

Special part

On §§ 1 and 2:

The matter is existing law. The freedom in faith and teachings is not unlimited hereby. Already when handling the Islam law in the Imperial Council in 1910, the field of friction was identified and discussed, which ensues, if a religious teaching with a comprehensive inter-confessional legal system, which to a great extent takes effect on the everyday life of its followers, is recognised.

From today's legal understanding the borders of religious practice are based on those of religious freedom, e.g. on statutory rules on the protection of public order, security or health or the protection of the rights and freedoms of others, or in particular on provisions from this federal law, e.g. on the interdiction of religious events. Certain themes, discussed in 1912, are incompatible with the public legal order based on teachings on constitutional law matters and human rights, e.g. on the state's monopoly on the use of force or the non-discrimination rule, especially with concern to Article 9 ECHR.

Para. 2 assumes the rule of former § 6 Islam Law 1912 and is meant to draw a clear separating line between public law, applicable and binding to all, and inner-confessional legal system. Following the principle of division of state and religion, which especially serves the protection of religion from state influence, the inner-confessional system cannot unfold legal consequences to the outside. It is to be recorded, that for the case of a collision, nobody can call upon their religious freedom, if a general state rule is applicable, which concerns a greater group of persons. For instance nobody is allowed to refuse the payment of taxes and tolls or the payment of interest on the grounds that such action would not be religiously permissible.

The two Islamic Religious Societies currently existing in Austria have included a clear commitment to the Austrian constitutional state in their respective constitutions. Thus § 4 para. 4 of the constitution of the Islamic Alevi Community in Austria reads:

"The ALEVI respects democracy, the rule of law as well as the Austrian constitution and conducts its tasks and actions within the framework of the Austrian laws."

and the constitution of the Islamic Community in Austria opens with the preamble:

“The members of the Islamic Community in Austria (...) are unified in respecting the Federal Constitution of the Republic of Austria and the Austrian laws (...) and give themselves (...) the following constitution:”

This provision especially applies in connection with the educational system and religious education to be handled by the Religious Societies. This is not only considered a right, but also an obligation. This results out of Article 14 para. 5a B-VG, which among others allots the school system with the task to provide children and youths with the skill of orientation along religious values. Since the teachings and their impartation fall into the internal purview of religions, protected by Article 15 StGG, this task can only be fulfilled by legally recognised churches and Religious Societies. The content is not to be in contradiction to the goals of civic education.

The goals of civic education are derived from the Federal Constitutions fundamental laws (Baugesetze), provisions on the aims of the state, the basic rights and rights of freedom of the imperial constitution (Staatsgrundgesetz) of 1867, the European Convention on Human Rights (ECHR), Article 14 para. 5a B-VG as well as from the duties of the Austrian school in § 2 SchOG. Therefore they are democratic, republican, federal, separation of powers, liberal and rule of law principle, equality before the law in general (Article 7 para. 1), non-discrimination of physically or mentally challenged persons (Article 7 para. 1), equality of man and woman (Article 7 para. 2 and 3), state language (Article 8 para. 1), protection and promotion of autochthone ethnic groups (Article 8 para. 2), all-embracing national defence (Article 9a B-VG) and equilibrium of the economy as a whole (Article 13 para. 2 B-VG).

Goals of the state in the respective constitutional laws are especially the ban on national-socialist reconfirmation (BVG BGBl. Nr. 152/1955), the continuing neutrality (BVG, BGBl. Nr. 211/1955), the sustainability, animal welfare, comprehensive environmental protection, the security of the water and food supply and research (BVG, BGBl I Nr. 111/2013).

Fundamental values of the Austrian school in accordance with Article 14 para. 5a B-VG, are democracy, humane acting, solidarity, peace, justice, openness, tolerance and cooperation in partnership of pupils, teachers and parents.

Goals of education according to Article 14 para. 5a B-VG are:

Best possible, mental and physical development

Health

Self-confidence

Happiness
Commitment to performance
Acquittal
Artistic-creative education
Love of peace and freedom
Ability to navigate along social, religious and moral values
Sense of responsibility for oneself, fellow human beings, environment and following generations
Pupils' ability to judge situations of own accord and have social understanding
Open-mindedness towards political, worldview and religious thought of others
Participation in the Austrian cultural and economic life
Participation in the European cultural and economic life
Participation in the world's general cultural and economic life
Involvement in the tasks common to humanity
Tasks of the school and goals of education in accordance with § 2 SchOG (insofar as not covered by Article 14 para. 5a):

Development of the youth in accordance with the values of the true, good and beautiful

Education into members of society and the state of Austria and to industriousness

The wording takes into account the peculiarities of Islam. From this derives a formulation deviating from § 1 para. 2 Article II "Federal law of 6 July 1961 on the outer legal relations of the protestant church" ("Bundesgesetz vom 6. Juli 1961 über äußere Rechtsverhältnisse der evangelischen Kirche"), BGBl. Nr. 182/1961 (ProtestantenG). Annunciation and pastoral care are for instance not terms used by Islam and thus have not been adopted. A difference in the legal position is not to arise from this.

On §§ 3 to 5:

The finding of the Constitutional Court (VfGH) B 1214/09 notes, that in Austria there can be more than one Islamic Community. This is analogue to the judicature of the ECHR on questions of the organisation of Religious Societies and religious freedom. Therefore the possibility, that multiple Islamic Religious Societies can be created on the foundation of the Islam Law, thereby amending the up to now feasible way of legal personality in accordance with the federal law on legal personality of confessional communities and a following application for recognition in accordance with the recognition law 1874, by a comparable procedure in the law on Islam, shall be created. This regulation orients itself on the legal recognition in the federal law on legal personality of state-registered religious denominational communities. The

directive has especially to reflect, which regulations of the 3rd and 4th part of this federal law shall be applied. While the other parts are to be applied to all Religious Societies according to this federal law, the parts 3 respectively 4 include special rules, entertaining the specifics of the already existing Religious Societies. In the case of a further recognition of a Religious Society according to this federal law it is to be noted, which of these special rules, entertaining factual differences, are to be individually applied. Whilst some regulations will doubtlessly be applicable, e.g. § 10 or § 21, other will not be or only partially be applicable, e.g. § 13. When determining which regulations are to be applied, the provided teaching will form an important basis.

The special treatment of the legally recognised churches and Religious Societies (e.g. fiscal legislation, subvention of private schools, financing of religious education in schools) can only be covered, with the prerequisites outlined in § 4 para. 2 in place.

“Positive basic attitude towards society and state” is understood as the acceptance of a pluralist constitutional state and the affirmation of basic state order, whereby the goals of the community as a whole are to be considered. It is not sufficient to selectively refuse single national regulations for reasons of conscience.

The positive basic attitude towards society and state is, for the two Islamic Religious Societies active in Austria, currently reflected in their constitutions and by the provision of religious education in unison with the goals of civic education.

§ 3 para. 4 aims at avoiding the existence of two legal personalities for one and the same state-registered religious denominational community. So-called “assisting-associations”, which only serve to support the goals of a state-registered religious denominational community (e.g. associations to build mosques or associations, providing personnel to the state-registered religious denominational community), are not affected by para. 4. Such assisting-associations may on occasion of granting of legal personality to the respective state-registered religious denominational communities dissolve themselves on their own accord.

On § 6:

In para. 1 the provision is to regulate the requirements, which a constitution of a Religious Society has to meet. The official language in accordance with Article 8 B-VG is the German language.

No. 1 provides, in accordance with the principle, that the self-understanding of religious fellows is an essential scale for all regulations, for the Religious Society to determine its name and its abbreviation by itself. The limitations are necessary, in order to avoid mix-ups with other communities, whereby also mix-ups with other

legal forms, e.g. such from economic law, are to be avoided. A general appellation as "Islamic Religious Society" or "Islamic community" or similar will not prove sufficient, as it is an umbrella term. Since the findings of the Federal Constitutional Court VfGH B 1214/09 there is no more comprehensive entitlement to representation for all followers of Islam.

The No. 2 to 4 and 8 to 11 provide preconditions, which are necessary and useful for the practical life of a legal person, no matter the legal form and range of duties.

No. 5: The teachings are a core element of every religion and in connection with the compulsory subject religion constitutes one of the essential points of contact with the state. The rights of the different traditions also should be considered here, e.g. in form of a modular curriculum. Furthermore the teaching is required to assert in the face of new applications, whether the teaching is already existent, just as in the derivation of the teachings name. This encompasses upon the nature of the source of faith, the Quran being of Arabic language, also a transfer into the German language. This transfer or transfers provide an important source for future cases, in determining whether a teaching is presented, which differs from an existing one. As part of the constitution all and any changes in the teachings are subject to the constitution's regulations on the drawing up of and changing of the constitution, which are to be made by the Religious Society in accordance with § 6 para. 1 No.12.

No. 6 is to require the provision of an "internal organisation". The manner is generally left to the Religious Society, for the sake of legal continuity, the local community, provided as archetype in the law on recognition from 1874, which may be identical with already existing parts of Religious Societies, but does not necessarily have to be, is to be provided.

No. 7 provides for the provision of regulations concerning all existing traditions, whether they be in a position of majority or minority, which make it possible for minorities to unfold a religious life according to their own religious needs within the collective general. This may include all traditions, also called directions or schools, which exist in Islam, no matter if in Austria or another country, in so far, as there is not a Religious Society of their own or there are reasons for interdiction. In doubt this question will have to be decided on the basis of an expert opinion.

When deciding on suitability it is to be taken into consideration, that on the one hand minorities require a higher degree of protection for their existence and on the other hand no materially unjustifiable privileges burdening the majority are established. Regulations, providing special rights for minorities, must therefore be necessary for the continued existence and free exercise of religion of the minority.

Para. 2 goes into detail on the principle of self-sustainability of a Religious Society, as per § 4. This principle has been part of the Austrian religious legal matter since 1874 and can be seen among others in the regulation of § 5 law of recognition or § 2 Orthodox Law. The term of continued existence has also entered the federal law on the legal personality of state-registered religious denominational communities and is meant to increase the clarity of the law by way of this provision. Financial support originating in other countries is thereby not generally precluded, as long as it is not constituted in ongoing financing, independent of the support being brought in currency or in kind (including living subventions). A one-time donation for instance would be compatible with the wording. Should continued income be derived from such, e.g. to cover staff costs, the creation of a domestic foundation, either following the law on private foundations or possibly of a religious foundation on the basis of the constitution of the Religious Society in accordance with § 6 in connection with § 23 para. 4 would be possible. Of quintessence for the question, whether it is permissible domestic financing or not, are the seat of the foundation and the place of residence of the foundations organs. The employment of civil servants, irrespective of in whose service they may stand, as employees, clerics, pastoral servants, functionaries or other would in any case be impermissible.

On the question of the extent of internal affairs the jurisdiction has noted, that these naturally could not be listed exhaustively and only may be comprehended, when considering the nature of the Religious Society according to its own self-understanding (VfSlg. 11.574/1987; VfSlg. 16.395/2001). Pursuant to the literature indicates, that an exhaustive listing of all internal affairs is not feasible and thereby mentions the "administration of assets" as well as "church tax and levies", but not the issue of funding. On the basis of differing circumstances in single religions, which already in a general manner limit comparability, a certain degree of legal freedom arises. This freedom is to be used to take into account the possibilities and peculiar aspects of different religions. Therefore the funding of normal activities, is, like with all other churches and Religious Societies, to the end of guaranteeing autonomy and independence from foreign institutions, exclusively to be procured using inland funds. The preservation of the autonomy of churches and Religious Societies is not only a legitimate goal, but also more than that warrants the state's task of preserving the independence of the religions, e.g. from state influence. The necessity of such action derives on the one hand from Article 15 StGG and on the other hand, that churches and Religious Societies implement state goals by implementing religious education in accordance to Article 14 para. 5a B-VG.

On § 7:

This is meant to norm the tasks of a Religious Society and thus clarifies, what tasks in the representation to the outside are at least to be covered by the Religious Society.

Clarity on the power of representation to the outside is to be created in these issues. Para. 3 corresponds with the similar regulation of § 4 para. 1 in the "Federal law from 6 July 1961 on the outer legal situation of the Protestant Church" (ProtestantenG).

On § 8:

Para. 1 and 2 corresponds with the legal situation for other churches and Religious Societies. It lifts the installation of local communities for the representation towards the outside, until then delegated to the Religious Societies constitution, to a level corresponding to that of other communities. An open formulation was chosen, as questions of religious needs in detail are internal affairs. The use of facilities of another local community was provided as possibility of an austere conduct, just like the possibility to declare an already existing facility as proper towards fulfilment of religious needs. This is notwithstanding possible questions arising from civil law. The purpose is to facilitate the legal task of the local communities.

Para. 3 defines self-sustainability and the continued existence as prerequisites for the founding of a local community, whereby also here § 6 para. 2 is valid, as a local community is a part of a Religious Society.

Para. 4 defines the requirements for statutory documents. In the framework of funding (No. 7) especially possible membership fees and their procurement are to be regulated.

Para. 6 is to regulate the estate administration in case of dissolution.

On § 9:

As the name and the terms in connection with the religion are an essential part of a religion, their use, in the interest of upholding the peace of religion, requires special protection by the legal system. The past regrettably has shown, that persons through the use of religious terms or self-labelling have arrogated religious authority and have given rise to suggesting they had power of representation to the outside, which they had not. To secure a fast and efficient protection for the Religious Society, a shortened time limit for decisions and means to enforce it are provided.

Terms and nomenclature in accordance to para. 3 must specifically be in connection to the institutions mentioned there. General terms like "Islamic", "Muslim", "Quran", "halal" or others are just like "Christian", "Buddhist", "Orthodox" or "Protestant" not included. More specific terms like "Islamic foundation", "Sunni association", "Muslim radio" and so on, which are suitable to create the impression with average informed citizens, that there is a connection to group of persons connected to a recognised Islamic Religious Society, are included and may only be used with permission of the respective Religious Society or local community.

Simultaneously to the end of protection of the religion it shall be provided, that the authorities may only become involved in accordance to this federal law on application of a corporate body.

On § 10:

The right of assessment derives from the foundation of this right for the Catholic Church in the treaty between the Holy See and the Republic of Austria and the principle of parity. Parity as general rule of objectivity requires equal treatment of equal facts and a differentiated proceeding on the basis of objective criteria for facts differing from each other. As there generally is no difference between Religious Societies and churches concerning the effect of state regulation, this regulation is to be provided mandatorily.

On § 11:

The "ministering to religious needs" or also "religious services" corresponds with the term pastoral care, to which e.g. the AuslBG and a number of other laws refer. The term thus includes only those persons, who correspond in their professional and personal qualification with the circumlocution, developed by the Administrative Court, for the term minister, "a person, who is teacher of a religion and advisor in religious matters, who supervises religious service and ritual institutions, to whom falls the position of preacher, the conducting of religious service and the decision in questions of ritual". This only exists, if the respective education as well as sufficient experience and language skills is present. The statement, whether an education equal to § 15 is present, is concluded according to the applicable rules in the tertiary sector of education. The attest of qualification for the Religious Society can only be provided by the competent bodies of the Islamic Religious Societies. The regulation provided in para. 2 is meant to clarify, that confessional questions are explicitly internal issues of the Religious Society. The subjugation to the management of the institution refers to all directions, which are given within the framework of the institution by the management, whereby the special religious needs are to be taken into consideration, for instance in the admission rules. Together with para. 2 and 3 it must follow, that for persons, for whom expenses are carried by the Republic of Austria, while the subject-specific supervision lies with the Religious Society, the administrative supervision falls to the Republic. The Republic may in this context choose how to fulfil this obligation, especially in the staff area she is not obliged to use civil servants, but can also commission institutions of Religious Societies or local communities. In the matter of national defence, the neutrality of Austria, especially in connection with foreign deployment is to be taken into special consideration.

Para.4 can only become effective insofar, as it is not in conflict with state regulations. The term "traditional" thereby clarifies, that it must be a part of a religious tradition in

the sense of this law, also referred to as direction, vein or school, and thus has to be founded in a religious teaching. A mere practice over many years would not be sufficient. It also encompasses male circumcision.

Female Genital Mutilation, which is wrongly named circumcision by some, is in contradiction to human rights, especially to the Council of Europe's "Convention on preventing and combating violence against women and domestic violence" (Istanbul Convention), BGBl. III Nr. 164/2014, which entered into force on 1 August 2014.

On § 12:

This provision rules, on the level of a simple law, as implementation of the guarantees on freedom of religion (Article 9 EHRC), that in Austria foods may be produced in accordance with the internal codes of Religious Societies. The regulation is to constitute an empowerment of the Religious Society. It is not meant as a suppression of general national legal norms, for instance in the fields of law on trade, facility sites, animal welfare or taxes. These are to be applied without restriction to the production of foods in accordance to internal confessional codes, in so far, as these state norms do not make the production completely impossible and so would indirectly work discriminating. Administration and legislation are to consider this in their respective actions. This is already the case in valid law (e.g. "kosher butchering" in § 32 TSchG).

Dietary rules are, according to the respective possibilities, also to be taken into consideration for the meals in daytime care institutions, also if the freedom of disposition of the persons in these institutions is not as limited as in schools with compulsory attendance. The goal thereby being to invalidate the worries of parents, that their children could receive meals with food religiously prohibited, and so to remove a possible hindrance for the educational- and integration- political aim of early attendance of daytime care institutions.

The term "take into consideration" is to be interpreted as, according to the possibilities in the execution, to provide alternatives to meals, which, according to religious codes are not to be consumed. Thereby no obligation can be derived, that the provided or available meals have to correspond to religious dietary rules. An acceptable alternative would e.g. be that meals may be brought along or delivered.

On § 13:

This regulation aims at legally protecting Islamic holidays and the time of Friday Prayer and to determine the calculation of a day, which on grounds of the religious teachings differs and is not calculated from midnight to midnight but lasts from sunset to sunset. For clarification purposes para. 2 includes an exhaustive enumeration including interconfessional terms. Para. 3 summarises the provision of

Article 13 of the “law of 25 Mai 1868, whereby the interconfessional situations of citizens in the included relations are noted”, RGBI Nr. 49/1868 (InterkonfessionellenG) according to the requirements of an Islamic Religious Society. This does not touch norms of labour legislation, especially § 7 ArbeitsruheG.

The protection does not prevent the realisation of events, but attention is to be paid, that no disturbance of the religious celebration arises. Therefore events may take place simultaneously, if this is ensured. On the basis of the respective local circumstances, individual solutions adequate of the matter will be found.

On § 14:

This corresponds with the current legal situation, the formulations are to be modernised and to be adapted with respect to the terms, changed in 1912. They are to be oriented on the loss of active voting right in accordance with the National Assemblies’ Electoral Order on the one hand and on the regulation of Article 9 (2) EHRC on the other hand. The decisions on these therefore also would be a suitable foundation for interpretation of this provision.

On § 15:

This provision is to meet the concerns of special belief in the area of burial and interment. In order to preserve the Muslim character, it is necessary, that the local community decide on matters of burial, as on grounds of different traditions (directions, schools or similar), different beliefs on the affiliation of a confession to religion may exist. This does not affect property rights.

The administration will have to take into consideration the border between regulation according to religious law and constitutional distribution of competences in the implementation in accordance with Article 10 para. 1 No. 12 B-VG, whereby in constitutional interpretation in the case of doubt Article 10 para. 1 No. 12 B-VG would be the higher-ranking legal norm.

On § 16:

As the name und the terms in connection with the religion are an essential part of a religion, their use, in the interest of upholding the peace of religion, requires special protection by the legal system. The past regrettably has shown, that persons have through the use of religious terms or self-labelling have arrogated religious authority and have given rise to suggesting they had power of representation to the outside, which they had not. To secure a fast and efficient protection for the Religious Society, a shortened time limit for decisions and means to enforce it are provided.

Terms and nomenclature in accordance to para. 3 must specifically be in connection to the institutions mentioned there. General terms like "Islamic", "Muslim", "Quran", "halal" or others are just like "Christian", "Buddhist", "Orthodox" or "Protestant" not included. More specific terms like "Islamic-Alevi Club", "Cem-Community", "Haci Bektas-Community", "Islamic-Aleci Foundation", "Islamic-Alevi Radio" and so on, which are suitable to create the impression with average informed citizens, that there is a connection to group of persons connected to a recognised Religious Society, are included and may only be used with permission of the respective Religious Society or local community.

Simultaneously to the end of protection of the religion it shall be provided, that the authorities may only become involved in accordance to this federal law on application of a corporate body.

On § 17:

The right of assessment derives from the foundation of this right for the Catholic Church in the treaty between the Holy See and the Republic of Austria and the principle of parity.

On § 18:

The existing factual and legal situation is reflected. The "ministering to religious needs" or also "religious services" corresponds with the term pastoral care, to which e.g. the AuslBG and a number of other laws refer. The term thus includes only those persons, who correspond in their professional and personal qualification with the circumlocution, developed by the Supreme Administrative Court, for the term minister, "a person, who is teacher of a religion and advisor in religious matters, who supervises religious service and ritual institutions, to whom falls the position of preacher, the conducting of religious service and the decision in questions of ritual". This only exists, if the respective education as well as sufficient experience and language skills is present. The statement, whether an education equal to § 23 is present, is concluded according to the applicable rules in the tertiary sector of education, the internal religious education system and the special Alevi rules on the transfer of religious knowledge. The reference to Dedes and Anas is to express, that these are to be used primarily. The attest of qualification for the Religious Society can only be provided by the competent bodies of the Religious Society. The regulation provided in para. 2 is meant to clarify, that confessional questions are explicitly internal issues of the Religious Society. The subjugation to the management of the institution refers to all directions, which are given within the framework of the institution by the management, whereby the special religious needs are to be taken into consideration, for instance in the admission rules. Together with para. 2 and 3 it must follow, that for persons, for whom expenses are carried by the Republic, while the subject-specific supervision lies with the Religious Society, the administrative

supervision falls to the Republic. The Republic may in this context choose how to fulfil this obligation, especially in the staff area she is not obliged to use civil servants, but can also commission institutions of Religious Societies or local communities. In the matter of national defence, the neutrality of Austria, especially in connection with foreign deployment is to be taken into special consideration.

Para.4 can only become effective insofar, as it is not in conflict with state regulations. The term "traditional" thereby clarifies, that it must be a part of a religious tradition in the sense of this law, also referred to as direction, vein or school, and thus has to be founded in a religious teaching. A mere practice over many years would not be sufficient. It also encompasses male circumcision.

Female Genital Mutilation, which is wrongly named circumcision by some, is in contradiction to human rights, especially to the Council of Europe's "Convention on preventing and combating violence against women and domestic violence" (Istanbul Convention), BGBl. III Nr. 164/2014, which entered into force on 1 August 2014.

On § 19:

This provision rules, on the level of a law, as implementation of the guarantees on freedom of religion (Article 9 EHRC), that in Austria foods may be produced in accordance with the internal codes of Religious Societies. The regulation is to constitute an empowerment of the Religious Society. It is not meant as a suppression of general national legal norms, for instance in the fields of law on trade, facility sites, animal welfare or taxes. These are to be applied without restriction to the production of foods in accordance to internal confessional codes, in so far, as these state norms do not make the production completely impossible and so would indirectly work discriminating. Administration and legislation are to consider this in their respective actions. This is already the case in valid law (e.g. "kosher butchering" in § 32 TSchG).

Dietary rules are, according to the respective possibilities, also to be taken into consideration for the meals in daytime care institutions, also if the freedom of disposition of the persons in these institutions is not as limited as in schools with compulsory attendance. The goal thereby being to invalidate the worries of parents, that their children could receive meals with food religiously prohibited, and so to remove a possible hindrance for the educational- and integration- political aim of early attendance of daytime care institutions.

The term "take into consideration" is to be interpreted as, according to the possibilities in the execution, to provide alternatives to meals, which, according to religious codes are not to be consumed. Thereby no obligation can be derived, that

the provided or available meals have to correspond to religious dietary rules. An acceptable alternative would e.g. be that meals may be brought along or delivered.

On § 20:

This regulation aims at legally protecting Alevi holidays and the conduct of religious service and to determine the calculation of a day, which on grounds of the religious teachings differs and is not calculated from midnight to midnight but lasts from sunset to sunset. Religious service is generally conducted on Thursday and on holidays in the Alevi faith. Next to this there are religious acts, respectively religious ceremonies on particular, event-driven days, so-called Lokma-Days. These for instance are the passage of the soul (commemoration day on the 40th day after death), marriage, day of the proclamation of the circumcision godparent (Kivra) or the day of proclamation of the religious companion (Müşahip).

For clarification purposes para. 2 includes an exhaustive enumeration including interconfessional terms. Para. 3 summarises the provision of Article 13 of the "law of 25 Mai 1868, whereby the interconfessional situations of citizens in the included relations are noted", RGBI Nr. 49/1868 (InterkonfessionellenG) according to the requirements of an Islamic Alevi Religious Society. This does not touch Norms of labour legislation, especially § 7 ArbeitsruheG.

The protection does not prevent the realisation of events, but attention is to be paid, that no disturbance of the religious celebration arises. Therefore events may take place simultaneously, if this is ensured. On the basis of the respective local circumstances, individual solutions adequate of the matter will be found.

On § 21:

This corresponds with the current legal situation, the formulations are to be modernised and to be adapted with respect to the terms, changed in 1912. They are to be oriented on the loss of active voting right in accordance with the National Assemblies' Electoral Order on the one hand and on the regulation of Article 9 (2) EHRC on the other hand. The decisions on these therefore also would be a suitable foundation for interpretation of this provision.

On § 22:

This provision is to meet the special concerns of belief in the area of burial and interment. This does not affect property rights.

The administration will have to take into consideration the border between regulation according to religious law and constitutional distribution of competences in the

implementation in accordance with Article 10 para. 1 No. 12 B-VG, whereby in constitutional interpretation in the case of doubt Article 10 para. 1 No. 12 B-VG would be the higher-ranking legal norm.

On § 23:

These provisions correspond with the current legal situation. The obligation of announcement via the administration in modern, especially electronic form is meant to take into account the changes since 1912. This could be simply implemented by making licences, confirmations of polling messages or others available in publicly accessible areas.

The legal personality of institutions, which enjoy legal personality according to internal law of the Religious Society, corresponds with the regulations for other communities, e.g. § 4 Protestanteng. For the practice this means, alongside when concerned with the rearrangement in connection with the task of ministering to religious needs and similar as association purpose, the possibility to provide communities with individual legal personality also for the sphere of the state in Religious Societial constitutions. These then are entitled to legally act for themselves. The associations can further operate institutions, e.g. mosques through the association purpose e.g. "construction and maintenance of mosques", if these are recognised by the local community as an institution of the local community. Also the allocation of personnel in the framework of the purpose of the operation of a mosque would be in unison with this federal law, if the local community recognises the mosque as an institution of the local community.

On § 24:

The scientific training of theological young academics is guaranteed for the Catholic Church in Austria as well as for the Protestant Church (see § 15 Protestanteng) by law. The legal fixation of the training of young clerical academics is thus an implementation of parity. Furthermore the Dialogue Forum Islam came to the conclusion that such an education in Austria is in the common interest of state and the Islamic communities, as the practice of foreign educated persons often leads to a divergence of the reality of life of the followers and the theologians. This divergence can best be overcome through an education in Austria.

Para. 1 is, on the basis of a number of followers comparable to the Protestant Church, to determine the maximum of teaching personnel, whereby following the changes in university law, the concept of "Lehrkanzel" (i.e. "chair") is to be replaced. Para. 4 corresponds with § 15 para. 4 Protestanteng. In the implementation it is to be guaranteed, that the purpose of this regulation, theological training of young academics of Islamic Religious Societies, is to be achieved through the acceptance of

the Religious Societies. Therefore when making contact it is to be considered, that university professors in the theological core area are followers of an Islamic confession.

The studies at a university should provide a scientific-theological basic education, which is equally accessible to women and men and qualifies the graduates as religious scholars, who can become active in different fields of employment (e.g. as Imams or as women's representatives respectively Dede, Baba or Ana in a Mosque respectively a Cem-Community, as religious ministers in a state owned facility, as scholars in science and research). The access to the studies is to be open to anyone interested. A pedagogical additional qualification should also be made available, to make it possible for graduates to teach at schools. The study branches are to convey knowledge, which are also components of the training in recognised Islamic institutions (Arab language, Quran and if required Hadith-science, biography of the Prophet, ethics, internal laws of the Religious Society, Islamic history and philosophy), to the end that the education be accepted both in the Islamic world and in the communities. Apart from that when shaping the studies a focus should be laid on also conveying pedagogical, interreligious and intercultural, social and administrative skills, which are of special importance for professional activity in Austria. The compatibility with further studies in a European and international context is to be taken into account. To cover the special Islam-scientific fields a number of professorships with sufficient equipment are necessary in order to guarantee the quality in research and teaching. Next to this the studies should distinguish themselves through intensive interdisciplinary cooperation. While scientific-theological basic training should take place at university, the practical part for a preparation for the occupational field and the introduction into the concrete occupations should happen in the respective context. The preparation for the practical experience in the different occupational fields should be conceived by the Religious Societies and be executed in the respective context.

The legal fixations refer to the steps, necessary to create a proper quality foundation in research and teaching for the continued existence of an Islamic-theological education at the University of Vienna and do not exclude further developments at other Austrian public universities. On the contrary: In consideration of existing preliminary work also at other university locations as well as possibilities of cooperation there lies an important momentum for the sustainable development of the Austrian higher education and research.

On the basis of experiences made in the field of Islamic religious pedagogy so far, synergy effects of about 70 per cent of the study offer are expected.

On § 27:

This provision serves as defence against dangers, which may arise from the event itself. Thinkable cases would for instance include danger of infection in the course of the emergence of a fast spreading disease or calls to violence within the frame, hence from organisers or participants, of the event. The possibility of disruptions from the outside (e.g. through demonstrations against the event) arising is not to be understood hereunder. The freedom of religion as group right on the one hand and the right to publicly practise religion on the other hand even demand from the state to protect the conducting as to enforce the legal order, especially the positive freedom of religion, against threats from the outside.

On § 28:

In the interest of legal security of all affected, the religious fellows, partners in legal transactions, who are not part of the community and the state, unclarified issues on the power of representation towards the outside are to be prevented as best possible. With confessions, setting up their bodies via elections, it is to be ensured that, the internal confessional ongoing is verifiable in so far, as it is necessary for the judgement on power of representation to the outside. As administrative proceedings and complaints at supreme courts have shown in the past, the elections have time and again been causes of complaint. The regulation of para. 1 therefore aims at the electoral rules of procedure being made in a fashion, that a possibility for later examination is given. Only in this manner can precautions be taken, that in the case of claims of insufficient power of representation there is the possibility of examination of such claims. Rules of procedure for instance calling for the immediate destruction of ballots or which lack provisions on transcripts would be impermissible.

The possibility of an election appeal to the public administration is meant to serve to bring the possibilities, which currently exist in the way of complaints to the courts, to an administrative proceeding in order to bring clarification to the facts by way of this proceeding, which is to be concluded by official notification. The general law on administrative proceedings (Allgemeines Verwaltungsverfahrensgesetz (AVG)) is to be applied to such a proceeding.

Since para. 3 provides for a 14 day time limit for the confirmation on the notification of the elections results, it follows, that a complaint issued thereafter would be refutable on grounds of exceeding the time limit. Thereby the examination competence of the authorities shall be limited, the proceedings accelerated and legal certainty shall be established as fast as possible.

The confirmation on the notification of the elections results constitutes information on the persons with power of representation to the outside, the officials of the bodies of the corporation of public law, whom the authorities have been notified about. The authorities only have the competence of examination of such information, if there is

reasonable suspicion, that these do not represent the facts or there is an election appeal.

On § 29:

The point of this provision is the securing of the Religious Society's and local community's capacity to act. In case of a lacking capacity to act or the transgression of periods of function stepwise proceeding is provided. At first, the Religious Society is called upon to reintroduce the capacity to act or to initiate election procedures. The authorities have no measure of discretion on the prompt; only in the area of time limits there is some leeway. The factual feasibility will be the main factor here.

Para. 2 provides, for the case, that the authorities' prompt does not lead to the desired outcome, meaning the holding of elections and notification of bodies with the power of representation or the restoration of the capacity to act in other cases, e.g. by-elections or subsequent nomination in the case of withdrawal of an official, that a trustee be requested. On the question of the trustee in general, the decision in connection with the regulation in the Orthodox Law and scientific writings, may be called to mind. To uphold the autonomy it is to be provided, that the appointment of the trustee is made by a court and can at first be applied for by the local communities or the Religious Society themselves. This is to give local communities or Religious Societies the possibility to launch an application and so create suitable preparations, for the case, that a lack of capacity to act is foreseeable, e.g. if it can be seen that nobody is willing to take up offices. Only if this does not come to bear, the authorities are to initiate such, in order to guarantee the capacity to act. The authorities have no measure of discretion, but are to launch an application if the factual situation demands this, should this not be the case, such an application would be impermissible.

On § 30:

In order to enforce decisions made by the authorities, a legal basis is required. This provision is to grant this basis. In case of conflict with the law of decisions at first this federal law is to be taken into consideration, such conflicts can also arise against other federal or provincial laws. Unconstitutionality means with respect to the constitution of the Religious Society. Should the Religious Society therefore make decisions, in contradiction to its constitution, these are to be revoked by the authorities. Decisions without consequences are not included herein. A decision, that a doorman should be authorised to sign in financial matters of the society, would therefore have to be revoked, but not a decision on e.g. the permissibility of the consumption of food and drink during sessions, which were to be taken by a non-quorate collegial body. Fines and other legally provided means are necessary, especially for the implementation of notifications in accordance to §§ 9 para. 4 respectively 16 para. 4.

On § 31:

It is to ensure, that the effort for the adaptation to the new legal situation is held as little as possible.

Para. 1 serves the legal security and clarity. For this a way similar to the statement of recognition of the Armenian-Apostolic Church is chosen.

Para. 3 takes into consideration that change in structures can be linked to considerable expense for both the religious communities and the authorities. It therefore is to be secured, that there is enough time for the adaptations.

Para. 4 provides for a transitional ruling on religious functionaries practicing in Austria, who simultaneously are in employment with another state. This transitional ruling is functional in order to guarantee continuity and an orderly transition in ministering to religious needs. Furthermore the transitional ruling is indicated to alleviate the personal dispositions of affected persons.

On § 32:

By entry in to effect with the passing of the day of publication it is to be made possible, that already before the time limit stated in § 24, legally binding decisions and rulings for Islamic-theological studies can be made and any kind of required adaptations in bylaws, statutory documents or constitutions of Islamic Religious Societies can be decided on in time and before respective internal elections.

On § 33:

The competence of Federal Ministers especially exists in the field of category pastoral care and Islamic-theological studies.