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Federal law, passing a federal law on the external legal relationships of Islamic Religious Societies

The National Council has enacted:

Federal law on the external legal relationships of Islamic Religious Societies –

Islam Law 2015

Part 1

Legal status

Public body

§ 1. Islamic Religious Societies in Austria are recognised Religious Societies in terms of article 15 of constitutional law on the general rights of citizens. They are public bodies.

Autonomy

§ 2. (1) Islamic Religious Societies organise and administrate their internal affairs autonomously. They are free in confession and teaching and have the right of public practice of religion.

(2) Islamic Religious Societies enjoy the same legal protection as other legally recognised Religious Societies. This protection also extends to their teachings, institutions and rites, as long as these do not conflict with statutory provisions. Religious Societies, local communities or other subdivisions as well as their members can, concerning the duty to uphold and respect general public norms, not call upon internal religious societal rules or the teachings, if the national law, applying to the specific case, does not provide for such a possibility.

Acquisition of legal personality

§ 3. (1) Islamic Religious Societies acquire legal personality in accordance with this federal law upon application through decree of the Federal Chancellor. The decree is to contain by which measures provisions from the 3rd and 4th part are to be applied to the

Religious Society. The passing of the statutory period in accordance to § 8 Law on the Procedure of the Administrative Court is impeded by the time for a possible addendum to the application and by a possible hearing of parties from the point in time of the sending of the order to remedy or the invitation to a hearing of parties up to the arrival of the addendum or the statement or the expiry of the respective statutory period.

(2) The Federal Chancellor is to make the filing of applications according to para. 1 publicly accessible in the Internet on a homepage, which is to be established for the area 'Office of Churches and Religions'.

(3) A notice on the acquisition of legal personality is to be issued including the name of the Islamic Religious Society as well as, in general nomenclature, the bodies entitled to external representation.

(4) With the acquisition of legal personality in accordance with para. 3 those associations are to be dissolved, whose purpose is the spreading of the religious teachings of the respective Religious Society.

(5) When an Islamic Religious Society in the dissolution of an association, which serves the support of the respective religious denomination, is newly constituted, it is presumed in terms of financial and tax obligations, that only a change of legal form has taken place and therefore the continuation of the same material subject to tax (legal entity) prevails.

Prerequisites for the acquisition of legal status

§ 4. (1) An Islamic Religious Society for the purpose of acquiring a legal personality requires according to this federal law a secured lasting existence and economic self-sustainability. Secured lasting existence is given, provided the applicant is a State-registered religious denominational community and has a number of members of at least 2 per thousand among the population of Austria according to the last census. The applicant has to provide the proof.

(2) Income and estate may exclusively be used for religious purposes, also including acts of kindness and charity founded in the religious purpose.

(3) There must be a positive basic attitude towards society and state.

(4) There must not be an illegal disturbance in the relationship to existing legally recognised churches and Religious Societies as well as other religious communities.

Denial and revocation of legal personality

§ 5. (1) The Federal Chancellor is to deny the acquisition of legal personality, if

1. this is necessary with perspective to the teachings or their application for the protection of the interests of public security, of public order, health and moral in a democratic society or for the protection of the rights and freedoms of others; this especially is the case, if a call to illegal penalised action is issued, if an impediment of the psychic development of adolescents takes place, if there is a breach of psychic integrity and if psychotherapeutic methods are used, especially to the end of conveyance of faith,
2. a prerequisite according to § 4 is missing,
3. the constitution fails at being in accord with § 6.

(2) The Federal Government is to revoke the recognition of a Religious Society per decree, the Federal Chancellor the legal personality of a local community per enactment, if

1. one of the prerequisites essential to the acquisition of a legal status in accordance with § 4, with the exception of the number of members, respectively § 8 no longer applies,
2. there is a reason for denial according to para. 1, provided that the reason does persist even after a cessation-request has been issued,
3. unconstitutional or byelaw contradictory behaviour persists even after a cessation-request has been issued, or
4. obligations connected to the recognition are not fulfilled notwithstanding a challenge of compliance.

(3) After the announcement of the decree, revoking the recognition of legal personality, a notice of assessment on the grounds is to be issued within three workdays, which is to include the name of the Religious Society and the latest bodies entitled to external representation and is to be served to these.

(4) The denial or revocation of legal status is to be made publicly accessible in the Internet on a homepage, which is to be installed for the area Office of Churches and Religions

Part 2

Structure and tasks

Constitutions of Islamic Religious Societies

§ 6. (1) A constitution of an Islamic Religious Society, drawn up within the framework of domestic affairs has, in order to secure effect for the state domain, to include the following specifications in the official language:

1. name and abbreviation, whereby the Religious Society has to be clearly distinguishable and confusion with other churches or Religious Societies, associations, institutions or other legal forms is excluded;
2. seat of the Religious Society;
3. acquisition and loss of membership;
4. rights and obligations of members;
5. presentation of teachings, including a text of the major sources of faith (Quran), which have to be distinguishable from existing legally recognised Religious Societies, State-registered religious denominational community or other Religious Societies;
6. internal organisation, whereby there should at least be provisions for local communities;
7. appropriate consideration of all traditions existing within the Religious Society;
8. kind of appointment, duration of term of office and dismissal of bodies;
9. kind of realisation of religious education and supervision of it;
10. procurement of funds, their administration and accounting;
11. settlement of disputes within the Religious Society;
12. drawing up and amendments of the constitution.

(2) The procurement of funds for the usual activity to satisfy religious needs of its members has to be undertaken inland by the Religious Society, the local communities respectively their members.

Tasks of a Religious Society

§ 7. Specifically, a Religious Society has to take care of

1. the representation of the interest of its members, insofar as these reach beyond the sphere of influence of a local community; it is the superior authority of the religious higher authority;

2. the submission of the Religious Societies' constitutional document and of the local communities' statute, any changes of these documents, as well as changes in the composition of their bodies to the Federal Chancellor;

3. the submission of institutions, which per internal law of the Religious Society have legal personality, to the end of also attaining legal personality on the national scale, their legal representative bodies and agents as well as any changes of such, to the Federal Chancellor.

Local communities

§ 8. (1) Local communities are parts of the Islamic Religious Society, while simultaneously being autonomous statutory bodies. They are to ensure the fulfilment of the religious needs of their members, and to provide for the necessary establishments for this purpose.

(2) The local communities may, in order to fulfil the tasks listed in para.1, found and lead institutions, or declare existing institutions as belonging to the local community. Institutions shared by a number of local communities can only be founded in general consensus and with approval of the Religious Society.

(3) Local communities can only be founded, if their continued existence and economic self-sustainability are secured and the Religious Society approves of the founding.

(4) Each local community is to provide itself with statutory documents, which to the end of securing their effect for the public area have to include

1. name and abbreviation of the local community, whereby the Religious Society has to be clearly distinguishable and confusion with other churches or Religious Societies, associations, institutions, local communities or other legal forms has to be impossible;

2. seat of the local community;

3. provisions on acquisition and loss of membership;

4. rights and obligations of members;

5. rules on the internal organisation, especially on a list of members;

6. rules on the kind of appointment, duration of term of office and dismissal of its bodies;

7. rules on the procurement of funds, their administration and accounting;

8. rules on the settlement of disputes within the local community and
9. rules on the adoption and amendment of the statutory document.

(5) In the case of dissolution of the local community the bodies last active, in agreement with the Religious Society, are to decide about the funds.

Part 3

Rights and obligations of the “Islamic Community in Austria”

Right to the name and protection of religious nomenclature

§ 9. (1) The Religious Society has the right to choose a name within the limits set forth in § 6 para. 1 N 1.

(2) The names of the Religious Society and the local communities as well as all terms derived therefrom, may only be used with consent of the Religious Society or the local community.

(3) Terms, which are suitable to convey the impression of a legal connection to single institutions of the Religious Society, a local community or similar institutions outside of Austria to third parties, may only be used with consent of the Religious Society.

(4) In case of a violation of these provisions, the Religious Society and each affected local community have the right to file a motion for legal steps on the termination of such an unlawful situation to the Federal Chancellor, provided that no provisions of criminal law be applicable. A decision on the motion is to be made within four weeks.

Right of assessment

§ 10. (1) The Religious Society is entitled to transmit to legislative and administrative bodies of all levels, surveys, opinions, reports and suggestions on matters of concern to legally recognised churches and Religious Societies.

(2) Legislative measures, affecting the external legal situation of the Religious Society are before their submission, regulations before their enactment, to be presented to the Religious Society for comment within an appropriate term.

Right to religious services in special institutions and youth education

§ 11. (1) The Religious Society has the right to minister to the religious needs of its

members, who

1. are members of the armed forces or
2. are in judicial or administrative confinement or
3. are in medical institutions, patient-centred care, nursing homes or similar institutions.

(2) The fulfilment of the matters from para. 1 may only be handled by persons who, based on their education and their primary residence in Austria, are both professionally and personally qualified for such an assignment. In all confessional matters they are subject to the Religious Society, in all other matters to the respective competent management of the institution. The professional qualification only applies, if completed academic studies according to § 24 or equivalent qualification are confirmed. The personal qualification requires at least three years of relevant professional experience and a working knowledge of the German language on secondary school leaving examination level. Additionally authorisation by the Religious Society is required.

(3) Material and personnel expenses towards the fulfilment of the matters from para. 1 N 1 are to be borne by the Republic.

(4) The Religious Society and its members are entitled to guide children and youths through all traditional rites and to educate them according to the religious commandments.

Dietary rules

§12. (1) The Religious Society has the right to organise the processing of meat products and other aliment in accordance with its Religious Societies internal rules in Austria.

(2) The internal dietary rules of the Religious Society are to be taken into consideration with concern to meals of members of the Religious Society in the armed forces, in prisons, public medical institutions, patient-centred care, nursing homes or similar institutions as well as in public schools.

Holidays

§13. (1) State protection is granted to holidays and the time of Friday Prayer. Their appointed times are based on the Islamic calendar. The days begin with sunset and last until the following days sunset. The prayer time is on Friday from 12:00 p.m. until 14:00 p.m.

(2) Holidays are

- (a) Ramadan Festival (3 days)
- (b) Pilgrim and Sacrifice Festival (4 days)
- (c) Ashura (1 day)

(3) On the days specified in para. 2 and during the Friday Prayer, all avoidable actions causing noise, which could lead to disturbance of the festivities, as well public gatherings, acts and parades in the vicinity of places of worship and other locations and buildings serving local communities for worship purposes are prohibited.

Dismissal of persons holding an official function

§ 14. The Religious Society and the local communities are to discharge their persons holding an official function, including owners of religious functions from their functions, who have been finally convicted to a custodial sentence of more than one year by a domestic court on ground of one or more intentional chargeable actions or through their doing effectively jeopardise public security, order, health and morale or the rights and freedoms of others.

Graveyards

§ 15. (1) Graveyards, respectively sections of graveyards are established permanently. Their dissolution or closure as well as exhumation of single graves are prohibited. Exceptions require the consent of the Religious Society's superior authority.

(2) Burials in graveyards or sections of graveyards may only be performed with consent of the Religious Society's superior authority.

Part 4

Rights and obligations of the "Islamic Alevi Community in Austria"

Right to the name and protection of religious nomenclature

§ 16. (1) The Religious Society has the right to choose a name within the limits set forth in § 6 para. 1 N 1.

(2) The names of the Religious Society and the local communities as well as all terms derived therefrom, may only be used with consent of the Religious Society or the local community.

(3) Terms, which are suitable to convey the impression of a legal connection to single institutions of the Religious Society, a local community or similar institutions

outside of Austria to third parties, may only be used with consent of the Religious Society.

(4) In case of a violation of these provisions, the Religious Society and each affected local community have the right to file a motion for legal steps on the termination of such an unlawful situation to the Federal Chancellor, provided that no provisions of criminal law be applicable. A decision on the motion is to be made within four weeks.

Right of assessment

§ 17. (1) The Religious Society is entitled to transmit to legislative and administrative bodies of all levels, surveys, opinions, reports and suggestions on matters of concern to legally recognised churches and Religious Societies.

(2) Legislative measures, affecting the external legal situation of the Religious Society are before their submission, regulations before their enactment, to be presented to the Religious Society for comment within an appropriate term.

Right to religious services in special institutions and youth education

§ 18. (1) The Religious Society has the right to minister to the religious needs of its members, who

1. are members of the armed forces or
2. are in judicial or administrative confinement or
3. are in medical institutions, patient-centred care, nursing homes or similar institutions.

(2) The fulfilment of the matters from para. 1 may only be handled by persons who, based on their education and their primary residence in Austria, are both professionally and personally qualified for such an assignment. In all confessional matters they are subject to the Religious Society, in all other matters to the respective competent management of the institution. The professional qualification only applies, if completed academic studies according to § 24 or equivalent qualification are confirmed. The personal qualification requires at least three years of relevant professional experience in the field and a working knowledge of the German language on secondary school leaving examination level. Additionally authorisation by the Religious Society is required.

(3) Material and personnel expenses towards the fulfilment of the matters from para. 1 N 1 are to be borne by the Republic.

(4) The Religious Society and its members are entitled to guide children and youths through all traditional rites and to educate them according to the religious commandments.

Dietary rules

§19. (1) The Religious Society has the right to organise the processing of meat products and other aliment in accordance with its Religious Societies internal rules in Austria.

(2) The internal dietary rules of the Religious Society are to be taken into consideration with concern to meals of members of the Religious Society in the armed forces, in prisons, public medical institutions, patient-centred care, nursing homes or similar institutions as well as in public schools.

Holidays

§20. (1) State protection is granted to holidays and services (Cem-service on Thursday, Lokma-days). Their appointed times are based on the Islamic calendar. The days begin with sunset and last until the following days sunset.

(2) Holidays are

- (a) Fasting- and holidays in memory of the holy Khidr (3 days)
- (b) Birth of the Holy Ali (1 day)
- (c) Naming of Ali as successor to Muhammad (1 day)
- (d) Eid al-Adha (festival of the sacrifice) (4 days)
- (e) Ashura (1 day)

(3) On the days specified in para. 2 and during services, all avoidable actions causing noise, which could lead to disturbance of the festivities, as well public gatherings, acts and parades in the vicinity of places of worship and other locations and buildings serving the local communities for worship purposes are prohibited.

Dismissal of persons holding an official function

§ 21. The Religious Society and the local communities are to discharge their persons holding an official function, including owners of religious functions from their functions, who have been finally convicted to a custodial sentence of more than one year by a domestic court on ground of one or more intentional chargeable actions or through their doing effectively jeopardise public security, order, health and morale or the rights

and freedoms of others.

Graveyards

§ 22. (1) Graveyards, respectively sections of graveyards are established permanently. Their dissolution or closure as well as exhumation of single graves are prohibited. Exceptions require the consent of the Religious Society's superior authority.

(2) Burials in graveyards or sections of graveyards may only be performed with consent of the Religious Society's superior authority.

Part 5

Interrelation between Religious Societies and state

Legality of interior decisions of the Religious Society

§ 23. (1) The constitution of a Religious Society, the statutory documents of a local community as well as the codes of procedure founded in such, especially the religious apportionment code and the electoral regulations, and changes thereof require approval by the Federal Chancellor to be valid.

(2) The bodies, which according to the constitution and the statutory documents, are entitled to external representation as well as the religious ministers are to be made known to the Federal Chancellor immediately after their election or appointment by the Religious Society (§ 7 N 2).

(3) Changes to the para. 1 regulations and appointments of bodies entitled to external representation become effective only on the day of approval by the Federal Chancellor. They are to be made public by the Federal Chancellor in the Internet on a homepage, which is to be installed for the area 'Office of Churches and Religions'.

(4) Institutions, holding legal personality in accordance with internal rules of the Religious Society, gain legal personality of public law for the public area on the day of arrival of the notification, issued by the Religious Society, with the Federal Chancellor, who is to confirm such an arrival in writing. The notification must include the area of competence of legal personality and the persons, who represent it externally.

Studies of Theology

§24. (1) As of January 1, 2016, the Republic of Austria is to maintain the existence of a theological education at the University of Vienna to the ends of theological research and education and for the scientific formation of clerical young academics of Islamic Religious Societies. For these a total of up to six positions for teaching personnel are to

be provided.

(2) According to this federal law, a specific branch of study for each of the Religious Societies is to be provided.

(3) University professors, postdocs as well as associate professors in the sense of the collective bargaining agreement for university employees in accordance with § 108 para. 3 law on universities are to be considered as teaching personnel in accordance with para. 1.

(4) Before positions according to para. 1 are filled, contact on the respective candidate is to be made with the Religious Societies, whereby in the theological core area it is to be considered, that the person be a follower of the doctrinal theology (school of law) affiliated to the respective Religious Society recognised by this federal law.

Obligation to notify and report

§ 25. The Religious Society and the Republic of Austria are under the obligation to inform each other on events relating to matters of this federal law. This especially holds true for the initiation and ending of lawsuits, as well as the pronouncement of prison sentences over persons belonging to the circle of persons mentioned in §§14 and 21, as well as for internal remedies of the Religious Society against electoral proceedings within the Religious Society or a local community.

Protection of official secrecy

§ 26. (1) Carriers of religious functions, when called upon as witnesses may, notwithstanding other valid provisions for such a case, not be heard on a matter, which was made known to them under the seal of official secrecy.

(2) Para. 1 also is valid concerning a hearing as expert witnesses or parties in civil lawsuits.

Prohibition of events

§ 27. The authorities may prohibit gatherings and events of religious purposes, which pose an immediate danger to the interests of public security, order or health or to national security or the rights and freedoms of others. Dangers, on occasion of the event, originating from third parties, do not compose a valid reason for prohibition.

Elections

§ 28. (1) In the case of bodies tasked with external representation or religious ministers

are appointed by election, the procedure of election must be sufficiently determined in either the constitution, the statutory documents or a special document on election procedure, as to make possible an examination of the election procedure.

(2) For the case that bodies tasked with external representation or religious ministers are appointed by election, each and every person actively eligible to vote or each and every person who according to para. 1 may be actively eligible to vote has the right to, after having exhausted the Religious Society's internal remedies, file an election appeal to the Federal Chancellor.

(3) Should there be no notification on an internal remedy of the Religious Society or an appeal based on para. 2 within 14 days from arrival of the notification of the election's results, the Federal Chancellor is to acknowledge the election's results and is to issue a confirmation on the election's results.

Appointment of the board of trustees

§ 29. (1) If the duration of the term of bodies of the Religious Society or a local community, tasked with external representation is exceeded by more than six months or if they are not capable of action on other grounds, the administration is to prompt the respective local community and the Religious Society to hold the necessary elections within a time-limit of at least one and at the most six months or to reinstate the capacity to act in a different manner and in accordance to the constitution or statutory documents.

(2) Should the local community or the Religious Society not comply with the prompt, and should the local community or the Religious Society not have filed an application for the appointment of a trustee with the competent court, the Federal Chancellor is to file such an motion with the competent court.

Enforcement of official decisions

§ 30. The official authorities may use notifications to nullify decisions, which are contrary to the law, the constitution or the statutory documents, they may impose a suitable fine and utilise any other measure provided by the law, in order to reinforce decisions on the basis of this federal law.

Part 6

Final provisions

Existing Religious Societies, local communities, constitutions and statutory documents

§ 31. (1) The Islamic Community in Austria, Federal Law Gazette (FLG). No. 466/1988 (BGBl. Nr. 466/1988), and the Islamic Alevi Community in Austria, FLG. No. 133/2013 (BGBl. Nr. 133/2013), as well as their parts with legal personality of their own, are not affected in their existence. They are Religious Societies according to § 9 respectively § 16 of this federal law. Within fourteen days of this federal law coming into effect, regulations according to § 3 para. 1 are to be remitted, asserting the existence as Religious Society according to this federal law with the day of this federal law's coming into effect.

(2) Constitutions and statutory documents remain valid and elected bodies remain in office. They are to be brought into unison with the provisions of this federal law by 31 December 2015. The Federal Chancellor is to decide on these changes in constitutions and statutory documents until 1 March 2016.

(3) Associations, whose purpose is the dissemination of the religious teachings of a Religious Society in accordance with this federal law and who exist up to the time of this federal law's going into effect, are to be dissolved per notification of the Federal Ministry for Internal Affairs on the 31 December 2015, should the associations purpose not have been adjusted to the requirements of this law.

(4) Carriers of religious functions, who are active at the time of this federal law's coming into effect, may as an exempt to the provisions of § 6 para. 2 continue to carry out their function for up to one year after coming into effect of this federal law.

Coming into and going out of effect

§ 32. The law comes into effect with the end of the day of its publication in the Federal Law Gazette. With coming into effect of this federal law, the law on the recognition of the followers of Islam as a Religious Society, Imperial Law Gazette 159/1912 as amended by FLG 144/1988, last modified by the law on the federal ministries 2014, FLG I No. 11/2014, ceases to be effective.

Execution clause

§ 33. The Federal Chancellor is tasked with the execution of this federal law, insofar as on the grounds of single regulations the material competence is not within the purview of a Federal Minister.