

ALUFFI BECK PECCOZ R., ZINCONE G.
The Legal Treatment of Islamic Minorities in Europe

THE LEGAL TREATMENT OF ISLAMIC MINORITY
IN EUROPE
Synoptic table¹

a cura di
Laura De Gregorio

¹ The synoptic table is only based on the texts of the papers presented.

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| RELATIONS BETWEEN STATE AND RELIGIOUS DENOMINATIONS | Churches and religious communities can be legally recognised according to art. 15 of the Basic Law. The agreement reached with the Holy See in 1933 is still in force. Specific provisions concerning some religious denominations exist. | The Constitution does not recognise any religion as the official State religion. Church and State are separate and independent. However, the State grants its financial support to various religions. | The legal system governing the relations between State and religions falls into the general framework laid down by the Separation of Churches and State Act (1905). These rules do not apply to Alsazia and Mosella regions where Napoleonic Agreements of 1801 are still in force. | According to the 1949 Constitution, religious denominations can acquire the status of public-law corporation if certain requirements are met (the only denominations which have so far acquired this status are Christian churches and the Jewish community). If these conditions are not met, religious denominations can organise in the form of associations or foundations under private law. | The Greek Orthodox Church is defined as the prevalent religion by the Constitution. Any Act of Parliament which conflicts with the Sacred Canons is deemed to be unconstitutional. The freedom of the "known" religions is acknowledged, but proselytising is prohibited. | The 1948 Constitution recognises and guarantees the right to freedom of religion at both individual and collective levels. Relations between the State and the Roman Catholic Church are governed by the 1929 Lateran Pacts, as amended in 1984. Relations with denominations other than the Roman Catholic Church are governed by agreements pursuant to article 8 of the Constitution (if any), or by Statute no. 1159 of 24 June 1929 (the Admissible Religions Act). The replacement of this Act with a general statute relating to freedom of religion is under discussion. |
| THE LEGAL STATUS OF ISLAM | In 1979 the government recognised the Islamic Religious Community in Austria as a corporation under public law on the basis of the 1912 Act. | The Muslim religion was recognised in 1974 by a Federal Act. A reform of the Belgian Constitution in 2001 transferred the power to approve local religious communities to Regional Councils (Wallonia, Flanders and Brussels). | France is a secular republic which does not recognise any religion, as stated in section 2 of the Act of 9 December 1905. As a result, no religion enjoys a special legal status in France. Muslims often form associations under the 1901 Act, which recognises that freedom of association is a fundamental public freedom. At present, there are nearly 1500 Islamic associations of this type. Islamic religious associations created under the 1905 Act are quite few. | Islam, unlike the Christian churches and the Jewish community, does not enjoy the status of a public-law corporation. Muslims can therefore choose to organise in the form of an association or foundation under private law. | There are two categories of Islam in Greece: traditional Islam, whose members are Greek citizens, and new Islam, which represents Muslim immigrants mainly originating from Asia and Africa. Traditional Islam is legally governed by international treaties entered into with Greece since 1830, and it is considered a historical minority. The Islamic community of Thrace has special status. There are no legal provisions relating to the new Islam, which in practice is ignored by the Greek legal system. | The legal status of Islam is governed by the Admissible Religions Act (no. 1159/1929): no agreement has been entered into pursuant to art. 8 of the Constitution to date. Islamic communities are usually organised in the form of unrecognised associations. One exception is the Italian Islamic Cultural Centre (CICI), which is incorporated as a religious charity (Presidential Decree no. 712 of 21 December 1974). |

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| RELATIONS BETWEEN STATE AND RELIGIOUS DENOMINATIONS | <p>The system laid down by the Constitution is typically separatist. Churches, religions and religious communities can set up associations and foundations, or obtain legal personality under private law and enjoy a special status. In any event they have organisational independence, and receive no public funding.</p> | <p>The Constitution, which recognises freedom of religion and conscience as inviolable and prohibits all discrimination in this respect, provides for a system of equality and separation between the State and religious denominations. However, the Roman Catholic Church enjoys privileges not granted to other religious groups. The 1940 Concordat is still in force. A new Religious Freedom Act was passed in June 2001, but has not yet been implemented.</p> | <p>Centralisation and control by the executive power characterise relations between the State and religious denominations. The 1991 Constitution recognises the right to freedom of religion. Although the legislation in force during the Communist regime must be deemed to have been repealed, the Religions Act of 1948 is still often invoked by the government to justify controls in the religious sphere.</p> | <p>Article 16 of the 1978 Constitution proclaims the secularity of the State and freedom of religion. The Organic Law on Freedom of Religion (1980) states that Churches, religions and religious communities can acquire legal personality by registering in the Register of Religious Bodies (RRB). Article 7 of the 1980 Organic Law also states that the government may enter into Cooperation Agreements with Churches, religions and religious communities which are registered in the RRB and are notoriously well-established in Spain in terms of their size and number of worshippers.</p> | <p>The Lutheran Evangelical Church was the State religion until 2002. The reform of 1 January 2000 introduced a separatist system designed to strengthen the religious and cultural pluralism of the country which had already been proclaimed by the government in 1975. The introduction of the separatist system has required, and will continue to require changes in the rules governing relations between the State and religious denominations, in order to ensure equality of treatment between the various denominational groups and communities.</p> | <p>There is no strict separation between Church and State and no way for the State to recognise religious communities. The Church of England is the dominant religion. The special relationship between the Crown and the Church of England is symbolised in the Queen who is both the Head of State and the Supreme Governor of the Church of England. The laws of the Church of England are part of the English legal system as are its courts. A set of rules results in eliminating, as much as possible, the inequality existing between the State Church and other religious confessions.</p> |
| THE LEGAL STATUS OF ISLAM | | <p>Islam, being a religious denomination separate from the State, enjoys organisational independence. The legal form most frequently used is that of an association under private law (this is the case of the Lisbon and Coimbra Islamic Communities). In order to benefit from tax exemptions, Islamic communities can also set up foundations pursuant to Order of the Executive no. 27 of 30 March 1996 (the Muslim Community Shi'a Ismail'is has done so). Some important innovations in this respect are contained in the Religious Freedom Act 2001.</p> | <p>Islam has been present for centuries in Romania, where it enjoys State recognition, like 14 other religions. The groups traditionally present, namely Tatars and Turks, are recognised as national minorities; they have representation in Parliament and linguistic rights. Muslim immigrants and refugees form a large but not visible group, which is not taken into consideration in the decision-making process.</p> | <p>The historical presence of Islam in Spain has enabled it to be declared a notoriously well-established religion (1989), the pre-requisite for obtaining a Cooperation Agreement. The Agreement was signed by State and the Spanish Islamic Commission (CIE) on 28 April 1992 and approved by Parliament on 10 November in the form of Statute 26/1992. The Agreement does not add many innovations to the ordinary law on freedom of religion.</p> | <p>Islam has no specific status.</p> | <p>Islam, such as others religious communities (but not the Church of England) is a voluntary association ruled by the private law.</p> |

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| FORMS OF REPRESENTATION | A Mufti was recently hired to lead the Islamic Religious Community in Austria. | The representative body of Islam in Belgium is the Religious Leadership (Organe Chef du Culte), called the Executive. Its 17 members (namely 7 Moroccans, 4 Turks, 3 Belgian nationals and 3 of "other nationalities") are appointed by the Assembly, whose members are chosen in part by election and in part by co-optation. Only the Executive is recognised, while the Assembly is not. | A French Council for the Muslim Religion (CFCM) was set up in May 2003 to represent Islam in France. Its structures, at a national level, are a General Assembly, a Board of Directors and a Bureau. Moreover, in each of the 25 regions, a Regional Council for the Muslim Religion (CRCM) exists. | | There is no body that represents Greek Islam as a whole. In the case of traditional Islam, the figure of the Mufti, deriving from the Ottoman Qadi, is important. The Mufti is the spiritual guide of Muslims in each district. He is responsible for administration of mosques, and has jurisdiction over marriages and "ministers of religion" (muezzins and Imams). Currently, only the Muftis of Thrace hold the specific status of judge. According to a 1990 Act, the Mufti is no longer elected, but appointed by the government. In practice, appointed and elected Muftis coexist. | Various Islamic communities (the Italian Islamic Cultural Centre - CICI; the Italian Muslim Association - AMI; the Union of Islamic Communities and Organisations in Italy - UCOI; and the Association for Information about Islam in Italy - Coreis) have offered to represent Italian Islam in order to enter into agreements with the government pursuant to art. 8 of the Constitution. However, all attempts to coordinate the Islamic organisations in Italy so as to set up a single representative body have failed. |
| PUBLIC FUNDING | The State pays the salaries of Islamic religious education teachers in State schools (according to sections 4.1 and 6.1 of the Religious Education Act of 13th July 1949) as well as the salaries of teachers of Islamic Religious Teacher Training Academy founded in Vienna in 1998 by the Islamic Religious Community. | The Federal State has jurisdiction over the approval and remuneration of Imams nominated by the Executive as well as over the approval and remuneration of prison chaplains and hospital chaplains. Provinces fund the construction and maintenance of mosques. | No recognition and no financing from public funds, these are the two basic principles advocated by supporters of the 1905 Act. There is no direct funding of Islam from the public budget. Nevertheless, local authorities are not prohibited from granting subsidies to cultural or social institutions of a religious nature. Religions can also benefit from major forms of indirect aid in the form of tax deductions, in the context of private denominational schools, or by other means. Associations formed under the 1901 Act can be classed as "public utility" associations and obtain tax benefits. | The government pays the wages of religious education teachers and pays for the teaching aids required for that subject. | | Islam receives no direct public funding. However, the lack of an agreement with the State under art. 8 of the Constitution has not prevented the issue of grants by Municipal and Regional Councils for the construction of mosques. |

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| FORMS OF REPRESENTATION | Islam has no institutional representative at present. The revision of the 1983 Constitution should offer new organisational opportunities to the Dutch Islamic Community. | | The Romanian Islamic Community as a whole is represented by a Mufti based in Constanta who is appointed by a collegial body, the Synod, which is responsible for dealing with administrative and disciplinary problems relating to the life of the Community. There are around 50 Islamic communities in Romania, each of which comprises Muslims living in the same town. Each community is led by a committee elected for a four-year period. | The Spanish Islamic Commission (CIE) is an Islamic body, with its own legal personality, which was founded in 1992 for the purpose of negotiation, signature and monitoring of the Cooperation Agreement with the State. It is therefore a body representing the Islamic faith which has an instrumental, almost administrative purpose, although its charter recognises that it also aims to encourage and promote the practice of Islam in Spain in accordance with the precepts of the Koran and the Sunna. | Over half of the local Islamic communities in Sweden are represented on the IS (Islamic Corporation Council), which was instituted in 1988. Its main function is to collaborate with the government, and in particular with the Commission for State Grants to Religious Communities (SST). | A network of voluntary community bodies, often with local and central government support, has been established in order to provide these communities with some autonomy. By the mid-1990s, there were more than 950 Muslim organizations. The Muslim Council of Britain, which was founded in 1997, is regularly called upon to represent Muslim concerns and interests. There is also an Islamic Shari'a Council (ISC) founded in 1982 by a group of London Imams to solve conflicts of UK and Shari'a laws. While the ISC is yet to receive official recognition, it is already viewed as a relevant institution. |
| PUBLIC FUNDING | The situation differs between municipalities. | | Islam, being a recognised religious denomination, receives direct government funding, in proportion to the number of its members, for the construction of mosques, the production of religious radio and television programmes, and its "ministers of religion" (payment of stipends and training grants). In view of its recognition, the Romanian Islamic Community also benefits from tax exemptions. Statute no. 1 of 2000 also grants Islam the right to request the allocation of land nationalised by the Communist regime. | During negotiations for the Agreement, the Muslim delegation claimed not only a tax allocation but also a budget, on the ground of the need for equality with the recognised situation of the Roman Catholic Church. Neither request was accepted by the State. However, tax exemptions and benefits are practically identical. In addition, the Personal Income Tax Act governs tax deductions for donations, stating that 10% of the sums donated to the Roman Catholic Church and non-Catholic religions which have signed agreements with the State can be deducted from the net amount. | The Commission for State Grants to Religious Communities (SST) grants subsidies to the three organisations that cooperate on the Islamic Corporation Council (IS): the United Islamic Communities in Sweden (FIFS), the United Muslim Communities of Sweden (SmuF), and the Union of Islamic Centres of Cultures (IKUS). These subsidies are generally used to cover administrative and management costs. The pastoral care service organised by the Muslim Council of Sweden (SMR) is also subsidised by the State. | |

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| TEACHING OF THE ISLAMIC RELIGION IN STATE SCHOOLS | The State does not merely allow Islamic religious teaching in State schools, but also pays the salaries of Islamic religious education teachers. | Islamic religious teachers have been appointed since 1975 in State schools. Up to 1999, teachers of Islamic religion did not benefit from the same status as their colleagues from other religions. The reason was that in the absence of a recognised "leadership", it was impossible to appoint inspectors authorized to check the quality of the teachers or to approve the Muslim religion syllabus. Since 1999, the Executive has conducted negotiations with the Communities' Education Ministries to establish the terms of the theoretical and practical training courses required for a permanent appointment. | The principle of secularism in French State education influences the way in which Islam is taken into account in school timetables and syllabuses. The teaching of Islam only occupies a very small place in school syllabuses. In French State schools, there is no "religious education lesson", no catechism lessons are organised by school or public authorities. Absences can be authorised on certain dates corresponding to well-established religious festivals. | Religious education in State schools is guaranteed by the Constitution. So far, attempts to arrange teaching of the Islamic religion have only succeeded for Turkish pupils, as a result of cooperation between the German and Turkish governments. The greatest difficulty is to find suitable teachers. | | Only the Roman Catholic religion is taught in Italian State schools, as provided by the 1984 Concordat. However, attending religious education lessons is not compulsory, so Muslim pupils can opt out of these lessons. |
| MUSLIM SCHOOLS AND UNIVERSITIES, TRAINING OF IMAMS | The Islamic Religious Community set up an Islamic secondary school in Vienna a few years ago. Teachers and preachers are trained at the Islamic Religious Teacher Training Academy founded in Vienna in 1998. | | At present, private Muslim schools are practically non-existent. There is only one Islamic private school operating at Saint-Louis de la Réunion. In 2001, a private Muslim junior high school opened in a Paris suburb. A private Muslim senior high school is to open in Lille in October 2003. The issue of Imams training and recruitment has concerned both governments and Muslim organisations for several years. Projects have been drafted and attempts made in a very ephemeral way, so far without success. | | In Thrace, the Mufti is usually considered the founder and director of the medreses (Islamic religious schools). There are currently two medreses operating in Thrace, one in Komotini and the other in Ehinios | There are no Islamic schools or universities in Italy set up pursuant to art. 33 of the Constitution |

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| TEACHING OF THE ISLAMIC RELIGION IN STATE SCHOOLS | Various projects have been undertaken by some municipal councils to offer Islamic religious education to Muslim primary school pupils. However, only a few of these projects have been put into practice. | Teaching of the Islamic religion in State schools is allowed. Provision of Islamic religion courses is conditional on the attendance of a minimum number of pupils (ten according to current legislation). | As the Islamic religion is recognised, it can be taught in State schools. However, the Constitution and school regulations state that attendance at religious education lessons is not compulsory | The Agreement with the CIE states that the exercise of religious education activity must not interfere with normal school activities, which is why Islamic religious education courses have to be organized outside ordinary school hours. On 12 March 1996 the Justice and Education ministers and CIE representatives signed an Agreement relating to the appointment and remuneration of Islamic religious education teachers. This Agreement only related to State primary and secondary schools. | State school pupils attend Islamic religion lessons in mosques outside school hours. Some of these lessons receive public funding through the SST. | |
| MUSLIM SCHOOLS AND UNIVERSITIES, TRAINING OF IMAMS | The first Islamic primary school was inaugurated in 1980. There are now over thirty. An Islamic education boarding school and institute have also been opened. No training courses for Imams exist in the State school system. | The new Religious Freedom Act (no. 16/2001) governs the figure of the Imam in detail, equating Imams with Roman Catholic priests in terms of legal status, and providing for the possibility of setting up specific training institutions. | In 1995, on the basis of an agreement between the Romanian and Turkish governments, the Islamic seminary in Medgidia (opened in 1901, but closed between 1967 and 1992) became the Kemal Ataturk Islamic Theological College, sponsored and funded by the Turkish government. | The Agreement states that the CIE and its member Communities can organize religious education courses in State university centres and may use their premises and resources with the agreement of the academic authorities concerned. Finally, it is stipulated that the CIE or its Communities may set up and operate teaching establishments of any level, together with Islamic universities and training centres, subject to the general legislation on the subject. Neither the CIE nor any Community has yet made use of this entitlement. | The first Islamic private school was opened in Malmö in 1993. There are now 20. This increase was supported by the school reform of 1992, which improved the financial situation of private schools. However, no Islamic universities exist to date. The Swedish Islamic Academy recently inaugurated a training course for Imams in liaison with the Ersta Sköndal University College of Stockholm. | Religious communities, which establish their own independent schools, must register the schools at the Registry of Independent Schools and they must meet minimum standards. Since 1997, the Labour Government has extended this funding to other religious minority schools, including Muslim schools. |

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| MOSQUES | <p>Austria has roughly 400 mosques, or rather Muslim places of worship, most of which are hardly visible to the public. The great mosque of Vienna, built in the 1980s, has a dome and a minaret. The law of town planning, land development and building differs from Land to Land. Very few cases have come before the courts, and none before the Supreme Court.</p> | <p>Most mosques are still discreet converted buildings such as former workshops or storage sheds. However, some new buildings have been constructed. Provinces have jurisdiction over the funding of construction and maintenance of mosques.</p> | <p>A recent "Directory of French Mosques" lists 1554 mosques and prayer rooms of various sizes, distributed unevenly over the country. There are eight mosques in the architectural sense of the term, i.e. with a minaret. In accordance with the principle of secularism, Section 2 of the 1905 Act prohibits all public subsidies for the construction of religious buildings. The Interior Minister has encouraged local authorities to let municipal premises to Muslim associations on the advantageous terms provided for the letting of premises to political parties, trade unions and associations.</p> | <p>There are over two thousand mosques in Germany, some of them in industrial buildings, but others purpose-built as places of worship. Their existence is guaranteed by the Constitution, which recognises the right to freedom of religion. There have been few legal disputes on the subject.</p> | <p>The construction of mosques outside "traditionally Muslim" regions is problematic. A typical case is the city of Athens, where no mosques officially exist; in practice, around 30 are in operation (in ordinary buildings), but the authorities turn a blind eye. The Synod of the Greek Orthodox Church opposes the construction of a mosque in Athens city centre. A project for the construction of a mosque in the Attica region has been approved pursuant to order no. 2833/2000.</p> | <p>In accordance with regional and State legislation, town plans must reserve specific areas for the construction of places of worship, according to the religious needs of the population. This provision also covers mosques. Their construction is funded by municipal and regional funds, regardless of the fact that Islam has not entered into agreements with the State pursuant to art. 8 of the Constitution (the Constitutional Court recently passed a judgment in these terms). Numerous prayer rooms are set up in private flats and industrial warehouses.</p> |
| MUSLIM CEMETERIES | <p>At present, the only Muslim cemetery is in Vienna, where there is an area reserved in the central municipal cemetery. The Islamic Religious Community, in liaison with the Vienna City council, is also constructing a cemetery in another part of Vienna. The cemetery is due to open in 2003.</p> | <p>Municipal Councils may (although it is not an obligation) set aside an area destined for Muslims in municipal cemeteries. An increasing number of Municipal Councils throughout the country have introduced or are about to introduce the regulations required to set up areas destined for Muslims.</p> | <p>In France, nearly all cemeteries belong to municipal councils. The neutrality of cemeteries implies that no religious sign may be affixed, except to individual monuments. However, a practice has developed which allows the public, neutral character of the cemetery to be reconciled with the aspirations of members of the same religious community to have their graves grouped together, under "denominational plots".</p> | | <p>Islamic cemeteries only exist in the Thrace region.. As a result, "new Muslims" (who are concentrated mainly in the city of Athens) are also buried there, despite the difficulty and inconvenience of transporting the body.</p> | <p>Special sectors in municipal cemeteries are reserved for the burial of Muslims. The only existing Islamic cemetery is the one in Trieste, which originates from 1849, when the city still belonged to the Austro-Hungarian Empire.</p> |

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| MOSQUES | <p>There are around 400 mosques in the Netherlands. The need for their own places of worship was one of the first reasons for contact between the Islamic Community and the Dutch government. To date, no agreements have been entered into between the two parties relating to funding of the construction and management of mosques.</p> | <p>There are over 20 mosques and prayer rooms in the country. The Islamic Community of Lisbon has its own mosque, open to all Muslims; however, its charter requires the Chairman to be a Sunnite. The site on which it stands is owned by the Lisbon City Council, unlike the Odivelas mosque, which is owned by Portuguese Muslims.</p> | <p>The construction of mosques is conditional on the grant of authorisation by a specific commission instituted by the Ministry of Culture and Religions in 2001. The Commission has 11 members, none of whom are Muslims. Of the fifteen recognised religions, only the Orthodox religion has its own representatives on the Commission. This composition obviously influences procedures and the speed of issue of planning permission.</p> | <p>The only true operational mosques in Spain are located in Madrid, Valencia, Cordoba, Seville, Granada, Ceuta, Melilla, Fuengirola and Marbella (Malaga). Most mosques are really oratories installed temporarily in business premises, garages or even private flats. The Agreement of 1992 defines mosques as those places regularly used for worship, prayer, pastoral care or religious training.</p> | <p>Legal jurisdiction over the building of places of worship is held by individual town councils. Plans for the construction of mosques are evaluated by the City Planning Office, which rules on whether they conform to local town plans and are feasible in practice. There are six mosques in Sweden, and over 150 Muslim prayer rooms and oratories.</p> | <p>As far as local government is concerned, mosques can be established in two ways. Buildings can be classified as places of worship under the 1852 and 1855 Places of Worship Registration Acts. Mosques can also be granted planning permission to function as a place of worship or education (or both) under the Town and County Planning Act 1971. While registration is not a legal requirement, planning permission is. Despite the undoubted increase in the number of mosques that numbered over 800 by 2000, in recent years there have been reports of councils refusing planning permission for new mosques.</p> |
| MUSLIM CEMETERIES | | <p>No Islamic cemeteries exist. Specific areas may be reserved in municipal cemeteries for the burial of Muslims resident in the municipality or from other parts of Portugal (this applies to the Lisbon City Council).</p> | <p>The Islamic Community owns over a hundred cemeteries. If burial of the deceased in a cemetery of his own denomination is impossible, the local authority must reserve specific areas for the interment of Muslims in municipal cemeteries.</p> | <p>The Agreement equates cemeteries with places of worship. By way of exception to the ordinary law on the subject, the Islamic Communities belonging to the CIE are granted the right to obtain plots in municipal cemeteries for the burial of their members in accordance with traditional Islamic rites, which must be performed with the official involvement of the local Islamic Community. The Agreement also allows for the possibility that these Communities may own their own cemeteries.</p> | <p>Cemeteries are run by Church of Sweden parish councils or, in some cases, by the City Council. These authorities are obliged to grant specific areas or individual tombs for the burial of non-Christian persons. In any event, established religious denominations can apply to build their own cemeteries. There are now ten Islamic cemeteries, the largest being in Stockholm.</p> | <p>The Local Authorities Cemeteries Order of 1977 empowers burial authorities to set aside for the use of a particular denomination or religious body any part of a cemetery that has not been consecrated. Some burial grounds have ensured that there are specific sections for Muslims to be buried and that the grounds are appropriately laid out.</p> |

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| RITUAL BURIALS | Islamic burials must comply with legal provisions and local customs. The corpse is buried in a coffin due to the dampness of the soil. A member of the family of the deceased washes the body (the Islamic Religious Community has the necessary permission dating from 2001). The family and the community must bury the body as soon as possible. | Some Islamic rules about burial methods are incompatible with the public health and hygiene regulations in force for all citizens of the country. Burial of the corpse directly in the ground without a coffin cannot be tolerated. The need for contact between the body of the deceased and the earth can be met symbolically by placing a clod of soil in the coffin. | In addition to the neutrality of cemeteries, the Act of 9 December 1905 states that funerals must be neutral. The principle of secularism prevents mayors from establishing distinctions or particular rules on religious grounds at burials. | No legislation on the subject exists. According to judgments issued by some German courts, the costs incurred for washing the body (a characteristic feature of the Islamic funeral rite) can be covered by public funds in the event of special hardship. Similarly, public funds can be used to cover the costs of the funeral (including transport of the body) in the deceased's country of origin if no Muslim cemeteries are available in Germany. | | Interment of the body according to Muslim tradition is not allowed. An exception is made for the Islamic cemetery in Trieste. |
| RELIGIOUS ASSISTANCE IN HOSPITALS, PRISONS AND ARMY | | Muslim prisoners receive religious counselling from a Muslim counsellor on request. The counsellors have access to the cells. The status of Muslim counsellors still remains to be negotiated between the Executive and the Justice Minister. Muslim chaplains may minister to hospitalised patients under request. | In theory, chaplaincy services of various major religions, including Islam, operate in hospitals and prisons. In practice, these services remain totally insufficient because of the difficulty of recruiting Muslim "chaplains", not because of opposition by the prison or hospital administration. The training of Imams should help to fill this gap. It is up to religions to nominate their representatives, who must then be approved by the authorities. | | | |

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| RITUAL BURIALS | | | | <p>Muslim burial practice, which seems to be recognised in the Agreement, constitutes a notorious exception which in principle contravenes the Mortuary Police regulations requiring the dead to be buried in biers or coffins for public health and hygienic reasons. The Organic Law on Freedom of Religion states that the exercise of freedom of religion may be limited by the need to safeguard public health, the policy of Muslim burials should thus be reconsidered. In fact, in some existing Islamic cemeteries, the dead are buried in simple biers.</p> | | <p>Many local authorities have responded to the expressed needs and wishes of Muslims to be able to carry out burials soon after death. Accommodation has sometimes been made to comply with Muslim requirements to bury the body without a coffin.</p> |
| RELIGIOUS ASSISTANCE IN HOSPITALS, PRISONS AND ARMY | | <p>The new Religious Freedom Act (no. 16/2001) governs pastoral care in public residential communities, and grants the Islamic and other communities the right to guarantee the exercise of freedom of religion for their members in special situations (military service, admission to public hospitals, and imprisonment).</p> | <p>As it is a recognised religion, Islam is entitled to organise a pastoral care service for its members in public residential communities. In practice, however, only the Romanian Orthodox Church, the majority religion, has its own military chaplains and pastoral care assistants in hospitals and prisons (the Roman Catholic and Evangelical churches only have assistants in the armed forces).</p> | <p>The Agreement grants all Muslim soldiers and all Muslims serving in the armed forces the right to receive pastoral care and to take part in Islamic acts of worship after obtaining the relevant authorization from the military authorities. Authorization cannot be automatic, because it is limited by service priorities, which always constitutes an objective restriction. The Agreement also governs pastoral care for Muslims in public hospitals and prisons. Pastoral counsellors are appointed by the various Islamic Communities and duly authorized by the management of the centres.</p> | <p>A pastoral care service is guaranteed to Muslims in public residential communities (prisons, public hospitals and the armed forces). The service, organised by the Muslim Council of Sweden (SMR) in liaison with the relevant authorities, is subsidised by the State.</p> | <p>Hospital and health care religious provision likewise has historically been principally Christian, serving the needs of the majority community. The British Army Chaplaincy is Christian-based. In 1999 the post of Muslim Advisor to HM Prison Service was established. Currently, there are 130 Imams employed to serve the country's 138 jails. The Muslim Prisoners' Commission selects and vets Imams before passing the candidates on to the Prison Service who carry out their own vetting procedure.</p> |

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| RELIGIOUS FESTIVALS | State holidays correspond approximately to the major Roman Catholic festivals. Muslims employees consequently need to reach an agreement with their employers, which is what usually happens. | | The traditional French calendar takes account of Christian festivals. However, Ministry circulars, mainly aimed at the civil service, have been issued for years, requesting heads of department to take account of the religious calendars of their personnel, insofar as compatible with the smooth operation of the department. | There is no general recognition of Islamic festivals. The subject governed solely by agreements between individual workers and their employers. | | No Islamic religious festivals are recognised by Italian legislation. The question is often regulated by the agreements between workers and employers. |
| RITUAL SLAUGHTER AND HALAL FOOD | Ritual slaughter is protected under the heading of freedom of religion by international law and EU law and cannot be prohibited by any Act of Parliament. The law can only stipulate limitations which are justified with regard to the training of the slaughterers, restrictions on locations, and other similar technical aspects. Nevertheless, some Länder statutes unduly restricting Islamic slaughter still exist. The Federal parliament is drafting a bill involving a change of jurisdiction over animal protection from the Länder to the Bund. | The slaughter of animals is governed by a Framework Act passed in 1986 and revised in 1995, which states that animals must be stunned before they are slaughtered. However, precise exceptions contained in some Royal Decrees allow compliance with ritual prescriptions for religious reasons. Ritual, like non-ritual slaughter, can only take place in recognised slaughter houses. The slaughterers are approved by the Executive. Disputes have arisen about the sale of halal meat. | The Decree of 18 May 1981 governs ritual slaughter. The organisation of ritual slaughter that meets the needs of Muslims in the context of French law is a delicate issue. Firstly, the slaughterers must be authorised by a religious body approved by the Agriculture Minister on the nomination of the Interior Minister. This approved religious organisation is very difficult to identify in the case of Islam. A few years ago, three religious bodies (the Paris, Lyon and Évry mosques) obtained Ministerial approval and could appoint authorised slaughterers. Secondly, the obligation to use municipal slaughterhouses can rise problems, especially for Aïd-el-Kebir. In public establishments or by the Army special meals are offered to Muslims as far as possible. | Slaughter without prior stunning, which is characteristic of the Islamic rite, is prohibited by the animal protection legislation; however, that legislation entitles religious communities to apply for a licence to slaughter according to the imperatives of their religion. In view of this provision, in a judgment of 15/1/2002 the Federal Constitutional Court ruled that Islam has the status of a "religious community", and established at the same time that in order to obtain a slaughtering licence, it was sufficient for the religious rules requiring it to have a reasonable foundation, without necessarily being imperative rules within the religious community in question. | Ritual slaughter according to Islamic tradition does not give rise to any particular problems, because it is very similar to that performed by the Greek Orthodox Church. | Ritual slaughter according to Islamic tradition is permitted. However, sheep and goats must be stunned first (unless otherwise agreed with the local authorities) if the animal is slaughtered by the family for home consumption. Compliance with this regulation can be difficult during the Aïd-El-Kebir festival. |

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| RELIGIOUS FESTIVALS | | There is no general recognition of Islamic festivals. The Justice Ministry has jurisdiction to issue permits for absence from work or school during some religious festivals on request. The new Religious Freedom Act (no. 16/2001) contains specific provisions on the subject. | The national religious festivals are those of the Romanian Orthodox Church. Muslims, like members of the other recognised religious denominations, are entitled to two days' leave during their festivals. Observance of daily and Friday prayers is not covered by any specific regulations. | The Agreement states that Muslim workers and pupils attending public school may request the absence from work and school on Friday, during the month of Ramadan and other Islamic festivals. Employees need to reach a prior agreement with the employers, while pupils (or their parents, or guardians) only need to make an express request. | There is no institutional recognition of Islamic festivals. Muslims are entitled not to take exams on these days. Muslim workers normally use holidays or unpaid leave days to celebrate their festivals. Prayer areas are often set up with the employer's agreement. Participation in Friday prayers is often difficult. | While it's illegal to discriminate against individuals in any matter regarding employment because of their religion, the observance of Friday prayers, Eid, and fasting by Muslims has been problematic. However, according to the UK Cabinet Office, the new Regulations will make it unlawful for employers to discriminate when dealing with issues such as requests for leave for religious observance and changing break times in order to accommodate fasting. |
| RITUAL SLAUGHTER AND HALAL FOOD | Islamic butchers exist. | Ritual slaughter according to Islamic tradition is permitted. | No State legislation prohibits or governs slaughter according to the Islamic ritual. However, Islamic butchers exist. | The Agreement states that ritual slaughter of animals in slaughterhouses shall be performed in accordance with the current health legislation, including European regulations. Even if the registration of the halal trademark is regulated by the Agreement, the CIE has not yet registered it in the Industrial Property Register. The Agreement states that food provided to inmates and school pupils shall be adapted to the precepts of Islam. | Slaughter performed according to the Islamic ritual is prohibited unless the animal is stunned first. The first Islamic abattoir operating in compliance with Swedish law was opened in 2001. Swedish Muslims seem to accept this solution. The import of halal meat slaughtered without prior stunning is allowed, however. The right of Muslim patients in public hospitals to receive a specific diet for religious reasons is recognised. | Muslims were exempted from provisions in the Slaughter of Poultry Act 1967 and Slaughterhouses Act 1974 that confirmed the earlier requirement of animals to be stunned before killing. While halal meat has become more widely available in Britain, the response to this Muslim need by institutions is still by no means consistent. For example, there is evidence that Muslim patients are frequently offered only a vegetarian option. Frequent are the protests from animal welfare groups. |

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| THE ISLAMIC VEIL | Female pupils wear their headscarves in class, as do female teachers, according to the regulations of each school. Austria does not seem to be a country where a huge case law on headscarves has developed. | Wearing the veil (hijab) at school has aroused great controversy and many disputes which have been brought before the Courts. No clear line regarding local practice has emerged to date (some State schools and private schools tolerate the veil, whereas other schools in the two networks prohibit it). The French Council of State's ruling about hijab constitutes a precedent for Belgium. | The question of wearing the "Islamic headscarf" by girls in State schools has caused considerable controversy in France. The Council of State has often been called on to rule on disputes. Its judgments follow constant principles: the wearing of distinctive signs of membership of a religion is not in itself contrary to the principle of secularism of State education. However, if it represents a provocation or there is a risk of proselytism, the principal is authorised to request pupils not to wear the headscarf, and to suspend them in case of refusal. | The religious freedom recognised by the Constitution implies freedom for Muslim women to wear the traditional veil, except while teaching in State schools. This prohibition is explained by the principle of neutrality of the State, and therefore of the education it guarantees. There are some conflictual situations between female workers and employers relating to the Islamic veil, especially when the women perform activities involving direct contact with the public. | There is no legal dispute in Greece relating to the Islamic veil. | Wearing the hijab at school or in the workplace causes no particular problems for Muslim women. There is no legal dispute in this respect (a single episode of objection to the Islamic veil was recorded in 1999). The Consolidated Public Security Act 1940 (TULPS) provides that the head must not be covered in the photographs used in identity documents; however, an Interior Ministry circular of 1995 excludes headgear worn for religious reasons from this prohibition, provided that the facial features are visible, as they are when the hijab is worn. Different considerations apply to other forms of Islamic headgear such as the niqab. |
| MEDICAL TREATMENTS | | | | Male circumcision, though legally classified as a form of personal injury, is considered not to be punishable if it is performed to comply with a religious obligation. However, female circumcision is always punished, as it is considered a form of genital mutilation. Female circumcision is often secretly performed among Muslim immigrants from East Africa. | | |

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| THE ISLAMIC VEIL | | Wearing the Islamic veil at school or in the workplace does not give rise to any special problems or reactions. No legal dispute relating to the hijab exists in Portugal. | There is no specific prohibition relating to the Islamic veil. | | There is no problem with the Islamic veil in State schools. The situation is different in the workplace, where cases of discrimination against Muslim women have occurred. However, compromises are increasingly reached between employers and Muslim women wishing to wear the traditional veil in the workplace. | While a number of institutions have already taken steps to reach an acceptable compromise on dress, specifically on the wearing of the hijab (several employers, including the Army and the Navy, have made changes to their uniforms to ensure that Muslims, and Muslim women in particular, are welcomed and catered for), there is still discrimination against women who wish to wear the traditional head-covering. Some schools have adapted their uniforms and relaxed some of their uniform rules. In recent years, cases have been reported of young men in schools who were refused admission because of their wish to have beards, in accordance with the religious wishes of their families. |
| MEDICAL TREATMENTS | There has been no difficulty in obtaining recognition for circumcision, partly because of the corresponding Jewish practice. | Female genital mutilation, which is prohibited by criminal legislation, is strongly criticised by all leaders of the Portuguese Islamic community. This practice is not considered to conform to the Koran. Increasing attention is being given to the needs of Islamic patients in public institutes. | In public health facilities, religion is not taken into account for the purpose of giving specific, differentiated medical treatment. | | Female genital mutilation has been prohibited in Sweden since 1982. No lawsuits have been initiated on the subject. However, young Muslim women are apparently liable to be subjected to the practice during visits to their country of origin. Circumcision is allowed, but its cost is no longer covered by the State. A debate recently initiated as to whether it was appropriate to ban it. There is some sensitivity towards the specific needs of Muslim patients. | Patient Advice and Liaison Services (PALS) are central to the new system of patient and public involvement. Patient advice and liaison services are instrumental in representing the wishes and concerns of patient groups. However, they depend on the participation of members of minority groups, and Muslims must make their views known through such systems. |

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| FAMILY LAW | | | <p>Under French law a religious marriage has no civil effects. Polygamy, which is authorised by Muslim law, is an impediment to obtain French nationality. However, if a polygamous marriage is celebrated abroad, French law recognises some of its effects in France. The effects under French law of a repudiation, which is sometimes allowed by Muslim law, are not always clear. If the repudiation is pronounced in France, it has no value because it conflicts with the equality of the spouses. If it is pronounced abroad, it is sometimes admitted that it produces certain effects, which are limited by public policy grounds and the concern that there should be no manifest breach of the rights of the repudiated spouse, especially maintenance payments.</p> | <p>The German legal system distinguishes between the public and private aspects of marriage. A polygamous marriage contracted in accordance with the law of the place of marriage is valid. However, under public law, recognition of its effects may be limited (if the pension is divided between the various wives, only one of them can obtain a residence permit for family reasons). Some institutes of Islamic inspiration, such as unilateral repudiation, paternal authority and matrimonial protection, do not always conform to public policy rules (in particular those relating to equality and freedom of religion).</p> | <p>The Muftis of Thrace celebrate marriages and have jurisdiction, in relation to family and succession matters, over Muslims resident in the region, who do not refer the same matters to the State courts, although they are entitled to do so. Foreign Muslims to whom Islamic law could be applied under national law by the Greek State courts also apply to the Muftis of Thrace. The State courts have control over the Muftis' decisions, but not on the merits, except insofar as they may constitute a breach of the Constitution.</p> | <p>Italian Muslims are subject to Italian family law. By virtue of the rules of international private law, foreign Muslims resident in Italy are often subject to their national Sharia law. However, public policy may constitute an obstacle to application of foreign legislation and the recognition of acts performed thereunder. Religious marriages celebrated in a mosque have no legal validity. The terms of Statute no. 1159/1929 apply to this subject. Only Italian law is applicable in the case of divorce (repudiation has no legal validity). Polygamy, which is allowed by Islamic law, is considered an impediment to marriage by Italian legislation.</p> |

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| FAMILY LAW | Islamic law is recognised as the national law of foreigners provided that it does not conflict with Dutch law. | The country's Muslims are mainly Portuguese citizens who accept Portuguese law on the subject. | In family law, which is based on the equality of husband and wife, there are no specific provisions that take account of Muslim traditions. Only marriages celebrated before the civil authorities are valid. Polygamy is expressly prohibited, and subject to criminal sanctions. Divorce is entirely governed by civil law. The religious authorities cannot interfere in the process in any way. | The only aspect of Islamic family law which is to some extent recognised by the Spanish legal system is marriage. The Agreement recognises the civil effects of a marriage celebrated in accordance with the religious form established by Islamic law, from the time of its celebration, if it is celebrated in the presence of an Imam or Muslim religious leader and two witnesses, who must have reached their majority, and the spouses meet the conditions laid down in the Civil Code. To ensure full recognition of its effects, the marriage must be registered in the Register of Births, Marriages and Deaths. | Religious marriages celebrated by authorised Imams are valid, provided that they are formally registered in the State registers. Polygamy is illegal. However, the effects of polygamic marriages are recognised if such marriages were celebrated abroad. The preference accorded to the mother in the event of divorce raised some problems. | The performance of a Muslim marriage is not enough on its own: such marriages, to be valid in the UK, must comply with the Marriage Act. Some mosques are now registered under the Marriage Act 1949 as registered buildings for the purposes of the solemnisation of marriages. Polygamy, which is permitted by Islamic law, is unlawful according to UK law. Polygamous marriages can be valid if, on the date of the marriage, the domicile of both parties allowed a polygamous marriage. However, there are implications relating to social security and immigration law. The 2001 Nuffield Foundation report exposed some of the problems faced by Muslim women in Britain when seeking divorce. |