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The Austrian Islam Law between Religion and Security

Introduction

In European secular and liberal societies, the assumption prevails that religiously motivated violence is one of the major threats to public security. It seems that old anti-religious sentiments which, since Enlightenment thinkers called for the abolishment of religion, have always been present in European thinking are growing in the light of recent Islamist threats and attacks. While original criticism of religion was mainly based upon its alleged irrationality and incompatibility with scientific knowledge, the current securitisation of religion may create new lines of conflict and division.

Practice shows that the relationship between religion and security is somehow ambivalent as, on the one hand, religious fanaticism and extremism may lead individuals to commit violent and dangerous acts, while, on the other hand, religious convictions may inspire the search for peaceful and non-violent solutions. It is certainly not easy to deal with this complex relationship in terms of legislation and adjudication.

In the following article, we will look at the Austrian Islam Law of 2015 which has attracted significant attention of politicians and academics¹ and analyse how this law aimed at regulating the exercise of religion deals with the problem of public security. For this purpose, we will, first, briefly present the genesis of the new Austrian Islam Law in a broader historical context. In the second part of our study, we will point at relevant security issues contained in the Islam Law. Thereafter, we will analyse a draft amendment of the Islam Law which has been presented by the Austrian government in December 2020, a few weeks after an Islamist terror attack in the centre of Vienna.

The genesis of the Austrian Islam Law 2015

In 1912, i.e. in the final phase of the Habsburg monarchy, the first Austrian Islam Law (“Islamgesetz”) was adopted.² However, as in the first half of the 20th century there were only very few Muslim in Austria, no independent Islamic religious community was established. It was only since the late 1960s that stronger migration of foreign workers from Turkey and Yugoslavia (Bosnia) caused the need for a political and legal solution of the relationship between Muslim communities and the state. Whereas in the 1950s the number of Muslims in Austria had been estimated at a few thousand, of which only

¹ See e.g. DAUTOVIĆ, Rijad; HAFEZ, Farid. Institutionalizing Islam in Contemporary Austria: A Comparative Analysis of the Austrian Islam Act of 2015 and Austrian Religion Laws with Special Emphasis on the Israelite Act of 2012. *Oxford Journal of Law*. 2019, 8(1), 28-50; SCHEU, Harald Christian. Nový rakouský zákon o islámu jako vzor pro úpravu vztahů evropské sekulární společnosti a muslimských komunit? *Jurisprudence*. 2016, 25 (5), 22-33.

² The full German title of the Law is Gesetz vom 15. Juli 1912, betreffend die Anerkennung der Anhänger des Islams als Religionsgesellschaft (RGBl. Nr. 159/1912).

500 were permanently resident in Austria, by the early 1970s the number of Muslims in Austria had risen to more than 20,000.³

The organization “Muslim Social Service”, which in 1962 had been established by an initiative of Bosnian intellectuals in Vienna, ran several prayer rooms and took care of socially deprived Muslims. In 1979, the first mosque was established close to the United Nations headquarters. But since this institution was closely affiliated with Saudi Arabia, it was practically not visited by Turkish and Bosnian workers and their families. In the same year, on the initiative of the “Muslim Social Service”, the “Islamic Religious Community in Austria” (“Islamische Glaubensgemeinschaft in Österreich”) was officially recognized by the Austria authorities. Since then, it enjoys the status of a public corporation under Austrian law.⁴

For the first time, the number of Muslims in Austria was officially established as part of the 1981 census when a total of nearly 77,000 people declared themselves to be Muslims, including 53,000 Turks and 11,000 people from Yugoslavia. 10 years later the number of Muslims in Austria had risen to 159,000. In this period, no other religion or ethnicity had a similar growth rate.⁵

After 1989, the relationship between Muslims and the majority population in Austria became an important topic of the political debate. However, probably due to the religious dimension of this problem, the issue was almost ignored by social scientists. In the academic discussion of that period, the term religion was widely associated with Catholic religion and was perceived, mainly in a rather distorted manner, as the source of historical injustice and oppression. The presence and the growth of an Islamic element in Austria did not fit into the matrix of such ideology.⁶

Since the 1980s, the correct interpretation and application of the Islam Law 1912 has repeatedly been the subject of court decisions.⁷ In a judgment of 1987,⁸ the Austrian Constitutional Court took the opportunity to state that the Islam Law 1912 was still a valid part of the Austrian legal order. The Constitutional Court further dealt with the problem that the Islam Law 1912 granted the benefits of official recognition only to members of the Hanefite rite. The Court found that this restriction was no longer in line with the Austrian constitution because the issue of membership clearly represents an internal matter of a religious community and cannot be decided by the state authorities.

After the Constitutional Court had thus extended the personal scope of the Islam Law 1912, at least in theory, to all followers of Islam, the problem arose as to who shall be recognized as a Muslim under the Law. From the perspective of the “Islamic

³ STROBL, Anna. *Islam in Österreich: eine religionssoziologische Untersuchung*. Frankfurt am Main, 1997, 25–28.

⁴ For more details, see SEZGIN, Zeynep. Islam and Muslim Minorities in Austria: Historical Context and Current Challenges of Integration. *Journal of International Migration and Integration*. 2019, 20(3), 869-886.

⁵ STROBL, Anna., op. cit., 32-33.

⁶ SCHEU, Harald Christian. Die Stellung der Minderheiten in Wien nach dem Fall des Eisernen Vorhangs. In: *Mýtus – „realita“ - identita : národní metropole v čase „návratu do Evropy“*. Praha, 2015, 139-162.

⁷ POTZ, Richard. Das Islamgesetz 1912 – eine österreichische Besonderheit. *Zeitschrift für Polizeiwissenschaft und polizeiliche Praxis*. 1/2013, 45-54.

⁸ VfSLG. 11574/1987.

Religious Community in Austria” the inclusion of the Malikit, Hanbalite and Shiite schools did not cause problems, as all these schools are being considered Muslim by the Sunni majority in Turkey. However, when in March 2009 the Alevit community applied for recognition as a Muslim religious society within the meaning of Article 1 of the Islam Law 1912 the “Islamic Religious Community in Austria” did not support the application. According to the “Islamic Religious Community in Austria”, the teachings of the Alevis were not in line with the religious practice of Sunnis and Shiites. Therefore, the Ministry of Culture subsequently rejected the Alevis application for recognition. In its judgment of 1 December 2010,⁹ the Constitutional Court, with a view to Article 9 of the European Convention on Human Rights, declared the decision of the Ministry of Culture unconstitutional. According to the Constitutional Court, the Ministry had violated the principle of neutrality when assessing material differences between religious communities. Following this judgment, the Alevit community was recognized as a Muslim religious society in 2013 under the name “Islamic Alevi Faith Community in Austria” (“Islamische Alevitische Glaubensgemeinschaft in Österreich”).¹⁰

Despite those clarifications provided by the Austrian Constitutional Court, the Islam Law 1912 did no longer appear as a sufficiently suitable basis for the current practice of Muslim faith in Austria. Indeed, the Law of 1912 did not regulate a number of relevant areas, such as the provision of spiritual services in social facilities and the military or the organization of Muslim religious education at the university level.¹¹ The drafting process of a new legal regulation was launched at the level of the competent ministries in 2012. The government proposal was adopted in December 2014. It was decided that, instead of amending the Islam Law 1912, a new legal act was to be introduced. In February and March 2015, the Islam Law 2015 passed both chambers of the Austrian parliament. On March 31, 2015, when the new Islam Law entered into force, the Islam Law 1912 expired.

The structure and the content of the Austrian Islam Law 2015

The Islam Law 2015 is divided into six parts.¹² Part 1 defines the legal status of Islamic religious societies which are recognized as public corporations under Austrian Law.¹³ As far as the prerequisites for the acquisition of such status are concerned, § 4 of the Islam Law provides that an Islamic religious society has to prove lasting existence and economic self-sustainability. Income and estate may exclusively be

⁹ VfSlg. 19240/2010.

¹⁰ Regulation of the Federal Minister for Education, Art and Culture regarding the recognition of followers of the Islamic Alevi Faith Community as a religious society (BGBl. II Nr. 133/2013).

¹¹ For a detailed comparison see Nalborczyk, Agata. A Century of the Official Legal Status of Islam in Austria: Between the Law on Islam of 1912 and the Law on Islam of 2015. In: MASON, Robert. Muslim Minority-State Relations: Violence, Integration, and Policy. New York, 2016, 61-82.

¹² The full English translation of the Islam Law 2015 is available at the website of the Austrian government:
https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=Erv&Dokumentnummer=ERV_2015_1_39. <https://www.bundeskanzleramt.gv.at/agenda/integration/islamgesetz.html>.

¹³ In this context, academic literature uses the term public corporations *sui generis*. See. KALB, Herbert; POTZ, Richard; SCHINKELE, Brigitte. Religionsrecht, Wien, 2013, 71-72.

used for religious purposes, also including acts of kindness and charity founded in the religious purpose. From a security perspective it is important to note that under § 4 of the Law that the applicant has to show a positive attitude towards society and state.

According to § 5 of the Islam Law, the Federal Chancellor, as the competent body, shall deny the acquisition of legal personality if such decision is deemed necessary 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. § 5 para. 1 of the Law states that legal personality shall not be granted if the applicant incited illegal actions. In such a case, the recognition of a religious society may also be revoked *ex post* under § 5 para. 2 of the Law.

Part 2 of the Law regulates the structure and tasks of Islamic religious societies. According to § 6 of the Law, the constitution of an Islamic religious society has to include, among other things, a presentation of teachings, including a text of the major sources of faith (Quran) in German language. The constitution of the specific society has to be distinguishable from existing legally recognised religious societies. § 6 para. 2 of the Law further stipulates that the procurement of funds serving to satisfy the usual religious needs of its members has to be undertaken inland by the religious society, the local communities respectively their members. § 8 of the Law defines the status of so-called local communities, which form parts of an Islamic religious society, and of autonomous statutory bodies. Such entities are to ensure the fulfilment of the religious needs of their members, and, for this purpose, to provide for the necessary establishments.

In Part 3 of the Islam Law, the rights and obligations of the “Islamic Religious Community in Austria” are regulated, like e.g. the right to the name and protection of religious nomenclature (§ 9 of the Law), the right of assessment (§ 10), the right to religious services in special institutions and youth education (§ 11), dietary rules (§ 12), holidays (§ 13) and graveyards (§ 15). According to § 11 para. 2 of the Islam Law, religious services to Muslims in the armed forces, in judicial or administrative confinement, medical institutions, patient-centred care, nursing homes or similar institutions may be provided only by persons who, based on their education and their primary residence in Austria, are both professionally and personally qualified for such an assignment. At least three years of relevant professional experience and a working knowledge of the German language on secondary school leaving examination level are required. § 14 of the Law stipulates that the religious society and its local communities are to discharge their functionaries from their functions, if they have been convicted by a domestic court to a custodial sentence of more than one year. Further, functionaries shall be discharged if their actions effectively jeopardise public security, order, health and morale or the rights and freedoms of others.

Part 4 of the Islam Law 2015 provides for the identical scope of rights and obligations in favour of the “Islamic Alevi Community in Austria” (§§ 16-22).

Part 5 of the Law deals with the relationship between religious societies and the state. According to § 23 of the Law, the validity of certain acts of the religious societies such as their constitution or their electoral regulations require approval by the Federal Chancellor. The state authorities shall maintain theological education at the University of Vienna to the ends of theological research and education and for the scientific formation of young clerics of Islamic religious societies (§ 24). A specific branch of

study for each of the religious societies, i.e. for the “Islamic Community in Austria” and the “Islamic Alevi Community in Austria”, shall be provided. Before deciding on the positions for teaching personnel (a total of up to six) the state authorities shall “contact”¹⁴ the religious societies on the respective candidate. Hereby the state authorities shall consider whether the candidate is a follower of the doctrinal theology (school of law) affiliated to the respective religious society.

§ 25 of the Law regulates a mutual obligation of the state and the religious societies to inform each other on events relating to matters of the Islam Law. Under § 27 of the Law, the state 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. The state authorities may use notifications to nullify decisions which are contrary to the law. They may also impose a suitable fine and utilise any other measure provided by the law, in order to enforce decisions adopted on the basis of the Islam Law (§ 30).

The final provisions of Part 6 regulate e.g. the continuity of decisions under the Islam Law 1912 (§ 31) and the coming into effect of the new Law (§ 32).

The Austrian Islam Law and Security-Related Issues

Understandably, already the old Islam Law 1912 contained some provisions concerning public security interests.¹⁵ Under § 3 of the Islam Law 1912 a religious service which, according to the public authorities, was contradictory to the public interests could be prohibited. According to § 4 of the Islam Law 1912, the state authorities could remove from office a religious servant who had been found guilty of a criminal offence or punishable act, committed for pecuniary benefits, in violation of morality, or constituting a public nuisance, or whose contact threatened to endanger the public order. The doctrines of Islam, its institutions and customs enjoyed the same protection, unless they were in contradiction to state law (§ 6 of the Islam Law 1912).

However, from the brief overview provided above, we can see that the new Islam Law 2015 is much more explicit on security-related aspects than the old regulation. Indeed, it is very unusual for a religious law to regulate e.g. a ban on foreign funding, the explicit requirement of a positive basic attitude towards society and state and the subordination of Muslim theological education to the state authorities. Not only some Muslim organizations in Austria¹⁶ and representatives of Turkey,¹⁷ but also academics have criticised that the Islam Law 2015 is a combination of a religious law and a security law.

¹⁴ The German version of the provisions uses the term „Fühlungnahme“. On the interpretation of this term, see WIESHAIDER Wolfgang, *Die Fühlungnahme*, Österreichisches Archiv für Recht & Religion (2015), 49-69.

¹⁵ For the English version of the Islam Law 1912 see <http://licodu.cois.it/?p=3962>

¹⁶ See the statement of ATIB (Türkische Islamische Union) at the website of the Austrian Press Agency APA:
https://www.ots.at/presseaussendung/OTS_20150225_OT0010/presseerklaerung-zum-islamgesetz-2015.

¹⁷ Erdoğan: Islamgesetz unterdrückt Muslime. *Die Presse*. 1. 3. 2015.

For the purpose of this article, we want to focus on two security-related issues governed by the Islam Law 2015, namely the ban of foreign funding and the closure of Muslim institutions.

According to the Explanatory Report to the Islam Law 2015, the provision of § 6 para. 2 of the Islam Law 2015 prohibiting foreign funding in relation to “the usual activity to satisfy religious needs of its members” serves a legitimate purpose. The Explanatory Report recalls that, under Austrian law, financial support originating in other countries is thereby not generally precluded, as long as it is not constituted in ongoing financing. Therefore, e.g. a one-time donation is compatible with § 6 para. 2 of the Islam Law. However, it is not permissible to fund the employment of clerics, pastoral servants and functionaries of a religious society on such financial sources. The major goal of the provision is the preservation of the autonomy of churches and religious societies and of their independence from state influence. With regard to the complaint of some Muslim organizations alleging that different religious communities are treated differently, the Explanatory Report states that the peculiar aspects of different religions haven been taken into due account.

Given the fact that, based on the new regulation, the first imam was expelled from the country in 2016,¹⁸ it is certainly no surprise that the constitutionality of § 6 para. 2 of the Islam was very soon questioned before the Constitutional Court.¹⁹ A constitutional complaint was lodged by a Turkish imam, his wife and their minor daughter in 2018. The main complainant was a Turkish civil servant working in Austria as an imam for the association “ATIB Union”. He was provided with free accommodation and a monthly salary of € 2,105.00. The salary was taxed in Turkey and paid by the Turkish Consulate General in Austria. After the main complainant had filed an application for the extension of his residence permit in September 2017, the competent authorities terminated his stay and, in June 2018, a return decision was issued to the main complainant and the members of his family.

Deliberating on the constitutionality of § 6 para. 2 of the Islam Law, the Constitutional Court in 2019 found that preserving the autonomy and independence of legally recognized churches and religious societies from the state, and especially from other states and their institutions, is an objective in the public interest. From this perspective, § 6 para. 2 of the Islam Law is to protect the independent management of the internal affairs of religious societies. Although fund raising and the use of financial resources by legally recognized religious societies is, in principle, part of their internal affairs within the meaning of Art. 15 of the Austrian Basic Law of 1867 (Staatsgrundgesetz – StGG), the prohibition on raising funds from abroad ensures the autonomy of the Islamic religious societies in relation to other states and their institutions, in particular in relation to the Presidency for Religious Affairs of the Republic of Turkey. The Constitutional Court further concluded that the provision is proportionate in the light of Article 9 para. 2 of the ECHR and is not discriminatory with a view to Article 14 of the ECHR.

As for the closure of Muslim institutions like e.g. mosques, the Austrian government, in a press conference of 8 June 2018, informed that the authorities

¹⁸ See the report of the Austrian public television ORF on 18 February 2016 (<https://religion.orf.at/v3/stories/2758417>).

¹⁹ VfSlg 20321.

prohibited the operation of seven mosques and dissolved the organization “Arab Religious Community”.²⁰ On the same day, the Turkish Foreign Ministry expressed its regret over the Austrian measures and contended that the closure of the mosques was carried out on void pretenses. Turkey criticized on what it called “a consequence of the anti-Islamic, racist and discriminatory wave in Austria”.²¹

Subsequently one of the organizations concerned, the Arab Religious Community (AKÖ) filed a complaint against the Ministry of Culture to the Administrative Court in Vienna.²² The complainant organization had been granted legal personality as a part of the Islamic Religious Community in Austria in May 2016. However, in August 2017, the Islamic Religious Community in Austria informed the competent state authorities that during a review of mosque facilities of various religious communities it was found that the AKÖ did not comply with a number of requirements and, therefore, in line with § 5 para. 2 of the Islam Law, the Islamic Religious Community in Austria called upon the state authorities to revoke the recognition of the AKÖ as a local community. The Islamic Religious Community in Austria asserted that, among other things, the AKÖ did not submit the accounts for the 2016 calendar year so that a review of compliance with § 6 para. 2 and § 4 para. 2 of the Islam Law was impossible.

During the proceedings, the competent authority found that AKÖ took positions which were considered incompatible with the national legal system. In the publicly accessible documents, filmed lectures and speeches, AKÖ representatives referred to people and content associated with Islamism, Salafism and thus political Islam. The authority stated that the documents showed an interpretation of religion, oriented towards the early days of Islam, which is generally referred to as “Salafist”. Such interpretation contradicted the constitutionally guaranteed rights of third parties, in particular women, the right to equal treatment and represented a threat to public safety and order. In an overall perspective, the authority concluded that the AKÖ violated the positive basic attitude towards the state and society.

In February 2019, the Administrative Court in Vienna overturned the decision of the Ministry stating that § 5 para. 2 of the Islam Law may be invoked only after the authority has requested the religious community to restore the legal order (within a reasonable period to be determined by the authority). So, the absence of such a request rendered the cancellation of legal personality unlawful. As such deadline had not been set, the AKÖ regained its legal personality and was allowed to reopen its mosques.

Of course, from a practical perspective, the question remains whether it can be reasonably expected from an organization based upon the ideology of political Islam that, within whatever long or short deadline, it will fundamentally change its political orientation and its very interpretation of religion.

²⁰ See the document at the website of the Office of the Austrian Chancellor: <https://www.bundeskanzleramt.gv.at/bundeskanzleramt/nachrichten-der-bundesregierung/2017-2018/bundesregierung-trifft-erste-entscheidungen-im-kampf-gegen-politischen-islam-.html>.

²¹ The document is available at the website of the Turkish Consulate General: <http://berlin.cg.mfa.gov.tr/Mission/ShowAnnouncement/346066>.

²² VGW-101/V/014/11867/2018-5.

Current legal drafts

Following an Islamist terrorist attack in Vienna of November 2020, the Austrian government found that the current legal regulations do not sufficiently fulfill its purpose and it has proposed a number of security-related amendments to the Islam Law.

The draft amendment of the Islam Law, presented in December 2020, contains a new provision aimed at the effective control of foreign financing. The government explained that there had been difficulties related to the practical implementation of § 6 para. 2 of the Islam Law. Therefore, according to draft § 7 para. 4 of the Islam Law, the religious society shall be responsible for the submission of accounting records, in particular the accounts and other related financial documents. According to the Explanatory Report, in some areas of the Islam Law, the previous legal standard could not always be enforced effectively. The proposed change of § 7 para. 4 of the Law aims at creating a new legal basis to ensure the correct application of § 6 para. 2 of the Law in practice.

The “Islamic Religious Community in Austria” has expressed its opposition to the draft in its entirety.²³ It criticised that the draft had been elaborated under enormous political pressure on the Austrian government after the November terrorist attack. According to the Islamic Religious Community, it is absolutely inappropriate to link the amendment of a religious law to the fight against terrorism. It further contended that the accounting records, which shall be submitted, usually contain information not only about fund raising but also about the usage of these funds. Such issue, however, has to be considered an internal matter of the religious community. From a practical perspective, the “Islamic Religious Community in Austria” added that fund raising data are no reliable evidence of foreign funding.

Prof. Ednan Aslan from the Institut for Islamic Theological Studies of the University of Vienna, a well-known opponent of the Islamic Religious Community in Austria, claimed that the organization is not really committed to the interests of Austrian Muslims as it is being manipulated by associations which are mostly controlled from abroad.²⁴ According to Aslan, the Islamic Religious Community in Austria, when filling the positions of religion teachers, did not take into due account the qualification of candidates but rather decided with a view to their membership in specific associations. Further, the Islamic Religious Community, according to Aslan, raised Koran schools, which were not even recognized in Turkey or in Arab countries, to the rank of universities in Austria. Some candidates who, due to lack of qualifications, had been denied the position of an imam in their home countries were admitted as imams in Austria. Therefore, Ednan Aslan, on behalf of the representatives of the Institute for Islamic Theological Studies, explicitly welcomed that that draft intended to strengthen the control options of the state over the financial and personnel structures of religious communities.

²³ The statement of the Islamic Religious Community in Austria is available at the website of the Austrian Parliament:
https://www.parlament.gv.at/PAKT/VHG/XXVII/SNME/SNME_36529/index.shtml.

²⁴ The statement of the Institute for Islamic Theological Studies of the University of Vienna is available at the website of the Austrian Parliament:
https://www.parlament.gv.at/PAKT/VHG/XXVII/SNME/SNME_36544/index.shtml.

These statements show that with regard to the proposed changes there are quite big divergences inside the Muslim community in Austria. In any case, the extension of the powers of state authorities in relation to a religious community is problematic from a legal perspective. The Austrian Bar Association correctly pointed at the fact that it is necessary to distinguish between the requirement of domestic funding on the one hand and the inspection of a religious society's internal affairs on the other.²⁵ According to the Bar Association, the Law should allow for such inspections only in cases of particular suspicions and not on a general level.

Further, the draft amendment to the Islam Law introduces a new sentence to the provision of § 5 para. 2 saying that the Federal Chancellor shall, after involvement of the Religious Society, revoke the legal personality of a religious community if the religious community does not, immediately and without further delay, correct an unlawful situation. The aim of this new formulation is to enable the authorities to revoke the legal personality of a religious community in specific cases immediately, omitting the otherwise necessary request to restore the legal order within a reasonable period. The Explanatory Report admits that the immediate cancellation of the legal status is an issue particularly sensitive from a fundamental rights perspective. Therefore, such measure shall be adopted only with due regard to the urgency of the situation.

It might also be problematic that the revocation of the legal personality of a religious community, as defined by § 8 para. 2 of the Islam Law, depends on the behavior of its institutions. We may ask why the religious community as a whole shall be punished if only one of its institutions violates the standards of the Islam Law and its other institutions act in compliance. Why shall the authorities revoke the legal status of a religious community even if it intends to take measures against its problematic institutions? Moreover, when specific institutions are being shared by different religious communities it is not clear why the authorities shall revoke the legal status of all these communities.

Conclusions

Austrian legislation takes into account the complex relationship between religion and security. The Austrian Islam Law contains some legal tools which may be used by state authorities against religious communities which pose a threat to public security and public order. With a view to the theoretical concept of the Islam Law and its practical implementation we have pointed at various security-related issues.

In this contribution, special attention has been paid to the ban on foreign funding and the closure of Muslim institutions. Practice shows that the enforcement of these standards is difficult. Therefore, a draft amendment presented in December 2020 proposes specific measures strengthening the powers of state authorities in the interest of public security. At the time of the submission of this article, the draft has not yet been adopted.

In any case, we may conclude that the inclusion of security-related provisions into a religious law raises some significant human rights concerns. Therefore, it is no

²⁵ The statement of the Austrian Bar Association is available at the website of the Austrian Parliament:
https://www.parlament.gv.at/PAKT/VHG/XXVII/SNME/SNME_36542/index.shtml.

surprise that some state measures under the Islam Law have been challenged before Austrian courts. The competent courts had to clarify whether state action in favour of security was carried out in line with the principle of proportionality.

In the future, we may expect the Austrian Constitutional Court to provide further clarification concerning the problem of alleged discrimination against the Muslim community. Why shall security-related provisions be included only into the Islam Law and not into laws applying for other churches and religious communities? Whereas the Constitutional Court found that the specific regulation of Muslim fund raising is in line with the prohibition of discrimination, a long-awaited general statement on the equality question has yet to be given.

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SUMMARY

The article deals with the relation between religion and security from the perspective of the Austrian Islam Law of 2015. The author shows how this law aimed at regulating the exercise of religion deals with the problem of public security. First, the genesis of the new Austrian Islam Law is briefly present in a broader historical context. Then the author points at relevant security issues contained in the Islam Law. In the last part of the study, he analyses a draft amendment of the Islam Law which has been presented by the Austrian government in December 2020.

Key words: Religion, law, political Islam, security, Austria, foreign funding, discrimination.

RESUMÉ

SCHEU, Harald Christian: RAKOUSKÝ ISLÁMSKÝ ZÁKON MEZI NÁBOŽENSTVÍM A BEZPEČNOSTÍ

Článek se zabývá vztahem mezi náboženstvím a bezpečností z pohledu rakouského zákona o islámu z roku 2015. Autor ukazuje, jak tento zákon zaměřený na otázky výkonu náboženství řeší problém veřejné bezpečnosti. Nejprve je stručně představena geneze rakouského zákona o islámu v širších historických souvislostech. Poté autor poukazuje na relevantní bezpečnostní otázky obsažené v zákoně. V poslední části studie autor analyzuje aktuální návrh novely zákona o islámu, který byl rakouskou vládou předložen v prosinci 2020.

Klíčová slova: Náboženství, právo, politický islám, bezpečnost, Rakousko, financování ze zahraničí, diskriminace.

