

Mandates of the Special Rapporteur on freedom of religion or belief; and the Special Rapporteur on minority issues.

REFERENCE: OL
AUT 1/2014:

31 October 2014

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on freedom of religion or belief; and Special Rapporteur on minority issues pursuant to Human Rights Council resolutions 22/20 and 25/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **draft revision of the 1912 Islam Law**.

According to the information received:

On 2 October 2014, the Austrian Government submitted its draft revision of the 1912 Islam Law to Parliament and invited national stakeholders to submit their comments by 7 November 2014. The draft seeks to regulate the acquisition and loss of legal personality status of Islamic communities in Austria as well as their rights and duties.

There are reportedly several draft provisions, which ultimately might impinge on the religious autonomy of Islamic communities and their self-understanding.

For example, § 6 (1) of the draft requires Islamic communities to present to the Austrian authorities their teachings, including a German-language version of the Koran, which need to differ from the teachings of another Islamic community officially recognized in Austria. The Government explained that the texts which describe the religious tenets in German language will constitute an important source for answering the question in future proceedings whether the teachings of a community differ from an existing one (see page 3 of www.parlament.gv.at/PAKT/VHG/XXV/ME/ME_00069/fname_367085.pdf).

In addition, § 6 (2) of the draft requires funding of the ordinary activities to come from the Islamic community or its members in Austria, which might preclude continuous foreign funding of mosques or imams. The Government explained that

foreign funding would not per se be inadmissible unless they constituted continuous financing. However, employing public officials as a cleric, minister or function holder would not be allowed. On 2 October 2014, Foreign Minister Sebastian Kurz reportedly stated that out of around 300 imams in Austria, 65 are currently employed from Turkey. They might be affected if this provision enters into force as well as clergy from other religious communities, including the Russian Orthodox Church and Pentecostal communities.

Furthermore, § 14 of the draft requires Islamic communities to remove their clerics under certain circumstances and § 15 provides for Islamic theological studies at the University of Vienna from 2016 onwards, which according to § 11 would be necessary in order to undertake specific religious activities in hospitals, prisons and the army. With reference to the Dialogue Forum Islam, the Government explained that theological studies in Austria were in the interest of both the State and the Islamic communities, because the activities of clergy who were educated abroad often leads to a divergence of their and the believers' life realities, which could be addressed by theological studies in Austria (see page 6 of www.parlament.gv.at/PAKT/VHG/XXV/ME/ME_00069/fname_367085.pdf).

According to Foreign Minister Sebastian Kurz, Muslims residing in Austria will be expected to adhere to Austrian values and to acknowledge the primacy of Austrian law over Islamic Sharia law. He reportedly said that Sharia law had “no place” in Austria and that Muslims would be prohibited from citing Islamic law as legal justification for ignoring or disobeying Austrian civil laws.

Without prejudging the accuracy of the information made available to us, we wish to express our concern that a number of the draft provisions contravene international human rights standards as set forth in the 1948 Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), which your Excellency's Government ratified on 10 September 1978, the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981 Declaration) and the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992 Declaration).

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

We would also like to reiterate the call by the Special Rapporteur on freedom of religion or belief that any “registration procedures for obtaining legal personality status should be quick, transparent, fair, inclusive and non-discriminatory” (A/HRC/19/60, para. 71). Furthermore, the Rabat Plan of Action for the prohibition of incitement to national, racial or religious hatred states that political and religious leaders should not only refrain from using messages of intolerance or expressions which may incite to violence, hostility or discrimination but also have a crucial role to play in speaking out firmly and promptly

against intolerance, discriminatory stereotyping and instances of hate speech (A/HRC/22/17/Add.4, appendix, para. 37).

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. We would particularly appreciate receiving information from your Excellency's Government on how it expects to uphold the aforementioned international norms and standards.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge your Excellency's Government to conduct a comprehensive review of the current draft revision of the 1912 Islam Law, to ensure that it is compliant with international human rights standards.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

IZSÁK Rita
Special Rapporteur on minority issues

Annex

Reference to international human rights law

Regarding teaching requirements of the Islamic communities, including a German-language version of the Koran, the 1981 Declaration in Article 6 (d) provides that the right to freedom of thought, conscience, religion or belief includes the freedom, “To write, issue and disseminate relevant publications in these areas;” and “To teach a religion or belief in places suitable for these purposes” in Article 6 (e). Commission on Human Rights resolution 2005/40 (paragraph 4 (d)) and Human Rights Council resolution 6/37 (paragraph 9 (g)) Urges States, “To ensure, in particular, [...] the right of all persons to write, issue and disseminate relevant publications in these areas”. The 1992 Declaration establishes in Article 2.1 that persons belonging to minorities have, inter alia, the right to profess and practise their own religion, in private and in public, freely and without any interference or any form of discrimination.

Regarding the prohibition of continuous foreign funding requirements, the 1981 Declaration in its Article 6 (f) provides the freedom “To solicit and receive voluntary financial and other contributions from individuals and institutions” and “To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels” in Article 6 (i).

Regarding training, hiring and removal of clerics, the 1981 Declaration also states that the right to freedom of thought, conscience, religion or belief includes the freedom, “To train, appoint, elect or designate by succession appropriate leaders [...]”. Human Rights Committee General Comment 22 paragraph 4 further emphasizes the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, such as the freedom to choose their religious leaders, priests and teachers, the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications. Recommendation number 20 of the Sixth Forum on Minority Issues on “Guaranteeing the rights of religious minorities” (2013) highlights that “States should exercise no undue influence over religious minority affairs, including with respect to the appointment of religious leaders, the functioning of places of worship, and any legitimate religion or belief-based activities”;

Furthermore, we would like to refer to the Rabat Plan of Action for the prohibition of incitement to national, racial or religious hatred, which states that political and religious leaders should not only refrain from using messages of intolerance or expressions which may incite to violence, hostility or discrimination but also have a crucial role to play in speaking out firmly and promptly against intolerance, discriminatory stereotyping and instances of hate speech.