

17 Imam training in the legal context of Islam in Spain

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Abstract

In this chapter, imam training in Spain is treated following three questions and lines of argumentation: How does the university system in Spain look like? What kind of religions are present in the country and how are imams getting trained?¹

Keywords: Islam in Spain, Church State relations, Catholic Church, constitution, religious freedom

1 The university system in Spain

The Spanish university system consists of both public and private universities. There are 51 public universities, of which one (Universidad Nacional de Educación a Distancia, or UNED; the National University of Distance Learning) is an open university, and seventeen private universities. There are also two summer universities: Menendez Pelayo University and the International University in Andalucía. Of the seventeen private universities, one (the University Oberta de Catalonia) is an open university and seven belong to the Catholic Church. The Agreement of 3 January 1979 between the Spanish State and the Holy See concerning education and cultural affairs stipulates the following: 'State universities, with prior agreement from the

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competent church authority, may establish centres of higher learning for the study of Catholic theology' (Article XII).

The Catholic Church thus has the right to establish faculties of theology within public universities, but has chosen not to do so. Instead, the church created faculties of theology within its own universities. There are three other groups – Jews, Protestants, and Muslims – that signed a Cooperation Agreement with the state in 1992. According to these Cooperation Agreements and the Organic Law 6/2001 of 21 December 2001, these groups are also allowed to establish university centres for theological studies, where their religious ministers can be trained and can receive a state-recognized certification after completion of the training. However, as of the moment of this book's publication, none of these groups have acted upon this opportunity. Protestants and Muslims have established their own theological centres, but without official recognition.

2 Religions in Spain

Article 16 of the Spanish Constitution recognizes the fundamental right of religious freedom for not only individuals, but also groups and communities.² The only limits to manifestations of religious freedom, both for individuals and for groups, are those necessary for the maintenance of public order: 'Freedom of ideology, religion and worship of individuals and communities is guaranteed, with no other restriction on their expression than may be necessary to maintain public order as protected by law.' Law 7/1980 of 5 July 1980 (the Religious Freedom Act) implements the concept of public order as mentioned in the Constitution. This act enshrines two kinds of limits on religious freedom:

- Respect for the fundamental rights of others (like physical integrity, equality, and freedom of expression). All manifestations of religious freedom should respect, and thus not undermine, the fundamental rights of others.
- Public order, which is presented as a kind of triangular concept with the following sides: public health, public morality, and public security.

Thus, everybody can express his or her religion as long as he or she respects the area of this 'triangle'.

2 For information on the constitution, laws, decrees, and legal issues in Spain in several languages, see: <http://www.mjusticia.gob.es/cs/Satellite/Portal/es/areas-tematicas/libertad-religiosa/normativa-materia-libertad>.

2.1 Register of religious entities

In Spain there is a 'Register of Religious Entities' (referred to hereafter as RER, its abbreviated form in Spanish), as stipulated by Royal Decree 594/2015 of July 3th 2015. This register falls under the authority of the Ministry of Justice. To qualify for protection under the religious freedom laws, groups do not need to adopt any special legal form, but they do have the option to enrol in the Register. Registration is not compulsory, and registered denominations have only a limited number of legal advantages over non-registered ones. The main advantage is that after registration they are guaranteed legal representation as religious entities.

There are diverse requirements for enrolment in the Register of Religious Entities. The first step in the registration process is for the religious entity to submit a written request. This written application must be accompanied by a document containing data such as:

- Notice of the foundation or establishment of the organization in Spain.
- Entity name. The chosen name should be appropriate. This means that the entity's name cannot already be in use by another group, which could lead to misunderstandings. The religious entity should also present the address of its main location, or at least an address to receive notifications from the Ministry of Justice.
- Declaration of religious purposes. The expressed religious goals obviously must be considered in line with Spanish law. Therefore, they cannot go beyond the limits established in the Religious Freedom Act: respect for the fundamental rights of others and for public order.
- Representative bodies of the religious entity. The document should contain the procedures established according to the relevant internal norms, including the powers of the representative bodies and the requisites for a valid designation thereof.

According to the same Royal Decree (594/2015), there are, among others, these kinds of groups eligible to enrol in the Register:

- Churches, denominations, and religious communities
- Their respective federations.
- Religious congregations and their institutes.
- Religious associations that have been constituted as such under the ordinance of the churches they are linked to.
- Worship training centres.

However, there is a norm that allows only foundations associated with the Catholic Church to be enrolled in the Register of Religious Entities. As

most of the religious foundations existing in the past were linked to the Catholic Church, Royal Decree 589/1984 of 8 July was passed. To counter this problem, other royal decrees can be passed that would allow the enrolment of foundations related to other denominations in the Register of Religious Entities. However, until now there have been no new royal decrees allowing the registration of Jewish, Protestant, or Islamic foundations.

2.2 Relations between political powers and denominations

All relations between religious groups and public powers such as the central government, autonomous regions, or municipalities are expected to respect the tenets enshrined in Article 16 of the Constitution of Spain. It should be taken into account that the Religious Freedom Law (7/1980) does not only refer to those with religious creeds, but also to those who do not have them, i.e., to non-believers. Religious freedom is not only the right to believe, but also the right to not hold any religious creed. The law protects those two options in the same way, with the same strength. The second paragraph of Article 16, also referring to individuals, bans forced professions of personal beliefs: 'No one can be forced to declare his/her ideology, religion or beliefs.' This article specifies that neither the public powers nor any individual can force someone to make declarations about his or her beliefs. But it should also be taken into consideration that the consequences of keeping silent can sometimes be negative or harmful. For example, Spanish legislation permits individuals to get an identity card (DNI) with a passport photo in which they are wearing a headscarf, as long as the face is visible and the person in question can be easily identified. There have been some cases, however, of women presenting a photo of themselves wearing a headscarf to the police station when applying for an identity card and the police not only inquiring whether or not they are Muslim, but also requiring the presence of a document from the official representative of Spanish Muslims, i.e. the Islamic Commission of Spain, as testimony to the fact that they are, in fact, Muslim. If the woman refuses to answer or does not present the certificate, she will not get her identity card. In other words, she is being punished for her silence regarding her creeds – a practice that is clearly banned by the Spanish Constitution.

The third paragraph of Article 16 proclaims the following: 'No religion shall have a state character. The public authorities shall take into account the religious beliefs of Spanish society and shall consequently maintain appropriate cooperation relations with the Catholic Church and other confessions.' This paragraph deals with the constitutional model of the relationship between the state and religious denominations at three levels: municipalities,

autonomous regions, and the central government. These relationships should be developed within the framework of two constitutional tenets: the principle of the non-confessional state, also called 'Secularism of the State', and the principle of cooperation between the state and religious groups.

2.2.1 *Principle of the non-confessional state*

During the dictatorship of General Franco (1939-1975), the fundamental laws proclaimed Catholicism to be the official religion of the state. After the death of the dictator, Spain went through a transition from a confessional to a non-confessional state, which was ultimately established in the constitutional principles. The principle of the non-confessional state is based on two pillars: the separation between church and state, and the neutrality of the state vis-à-vis religious affairs. This tenet is contained in the first sentence of the Constitution's third paragraph: 'No religion shall have a state character.' The formula established in the draft constitution was even stricter: 'The state is to be non-confessional.' However, that expression was not retained in the final version, perhaps because it was too close to the formula that had been coined in Article 3 of the Constitution of 1932 (The Second Republic): 'The State has no official religion' (Ferreiro Galguera, 2005, p. 62).

The formula adopted by the Constitution of 1978 to dictate the non-confessional nature of the state could be considered 'shy' or modest for two reasons. First, because that paragraph was not included in the Preliminary Title. The Preliminary Title is the part of the Constitution where the State presents itself – in other words, where the State shows its ontological features, including its relationship with the sacred. Second, the expression 'No religion shall have a state character' is considered 'shy' or modest because it avoids focusing on the word 'state', which should be the subject of the sentence. Perhaps this 'modesty' is the result of the Constituent Assembly's attempt to find a middle ground between the Members of Parliament who wanted to maintain Catholicism as the religion of the state, as in the previous regime, and the ones who fought for a strict secularism and the removal of any mention of the Catholic Church from the text of the constitution. Taking into account that some principles are difficult to reconcile, it was decided to adapt the core of secularism to the needs of cooperation in the attempt to avoid traumatic changes and preserve the social peace. The memory of the unfortunate Spanish Second Republic, which ended in a civil war (1936-1939), seemed to enhance this.

In spite of its modesty, the constitutional expression 'No religion shall have a state character' perfectly reflects the secularism of the non-confessional state. The basic idea encapsulated in this principle is that

religious denominations and public powers (represented by the central government, autonomous regions, and municipalities) are independent and autonomous from each other. There is a consequence to this: the principle of non-interference in both directions. The state must not interfere in the realm of faith, and religious denominations must not meddle in the sphere of the state. In other words, the public powers cannot interfere in the internal realm of churches, which are entitled to organize themselves freely, and vice versa. As the Spanish Constitutional Court has reiterated in its decisions, the public powers must avoid any kind of confusion between state and religious functions.³ However, by virtue of the principle of cooperation, it is common for state powers to offer legal advice to denominations – but only if such legal advice is requested. On the other hand, no official posts may be reserved for religious ministers. However, they do have the same rights to participate in public affairs as any other citizen, for example by being a Member of Parliament or an official. Rabbis, priests, or imams may become civil servants if they pass the ordinary public examinations, which are inspired by and based on the constitutional principles of equality, merit, and capacity.

In some European countries, there are still remnants of a less clear-cut relationship between church and state. In Denmark, for example, the laws that regulate the Lutheran Church are based on parliamentary acts. Moreover, the House of Lords in Great Britain still reserves seats for Anglican bishops. In Spain, seats are no longer reserved in Parliament for the high representatives of Catholic bishops (as was the case during Franco's regime), for doing so would go against the spirit of the separation between church and state and thus undermine the principle of the non-confessional state.

Neutrality is the other column on which the non-confessional principle rests. But what does neutrality mean? The Spanish Constitutional Court has described it as follows: 'The state is not competent in religious affairs.'⁴ Thus, (not) believing in a religious creed is only a choice (a right) for individuals and communities. As the Constitutional Court has established through its verdicts, individuals and groups are the real holders of the right to religious freedom, and consequently the only ones who can assess or evaluate whether religion is true – not the state.⁵

3 Among others, STC 24/1982 F.J.I. <http://tc.vlex.es/vid/1-2-15034884>.

4 STC 46/2001. <http://mbarral.webs.ull.es/stc46-2001.html>.

5 'The articulation of a Register [...] does not empower the State to undertake an activity of control to determine the legitimacy of religious beliefs [...] but only to verify, deriving to that end a mere act of stating and not rating, that the applicant group is not one of those entities excluded by Article 3.2 of the LOLR, and that the activities and behaviours developed for its

For this reason, the term 'sect' – which has negative connotations – is not considered a legal term but rather a sociological one (Martí Sánchez, 2014, p. 13; Motilla, 1999, p. 112). The state cannot distinguish between the heterodoxy and orthodoxy of a specific religious group. So the state should accept that religious communities are groups if they consider themselves to be so. They can enrol in the Register of Religious Entities that falls under the Ministry of Justice once it is verified that they comply with the formal requisites imposed by the current legislation. Of course the state does control whether any group (religious or not) is acting within the limits of the law or is breaching a law or undermining public order or the human rights of others.

Officials must examine whether groups applying for inclusion in the RER fulfil the legal requirements described above. They are required to proclaim that they follow religious purposes, but the state cannot assess whether that statement is true. As long as it cannot be proven that the declared religious goals are illegal, officials belonging to the RER have to register them. The Scientology Church, for example, was registered in 2007 after having been rejected three times – after the National Court (*Audiencia Nacional*), which is lower in hierarchy than the Constitutional Court, ruled that it should be included in the RER.⁶ As Article 22.2 of the Spanish Constitution proclaims, associations (of any nature, including religious ones) pursuing goals or using means that can be considered criminal will be deemed illegal, and will therefore not only be prevented from registering, but may also be prosecuted.⁷ So, should the RER, in the absence of evidence, detect indications that suggest the applicant group is undertaking activities against the public order, it would be legitimate for the person in charge of the RER to suspend the application and send the dossier to the Public Prosecutor. Basic Law 1/2002, which regulates the Right to Association fixes this for associations (Articles 30.3 and 4; Pelayo Olmedo, 2007, p. 313).

practice do not threaten the rights of others in the exercise of their fundamental freedoms and rights, nor do they threaten the security, health and morality of the public, as elements that enshrine the public order protected by the law in a democratic society, which are referred to in Article 16.1 CE.' (STC 46/2001 FJ 8°). <http://mbarral.webs.ull.es/stc46-2001.html>.

6 Sentencia Audiencia Nacional of 11 October 2007. <http://audiencia-nacional.vlex.es/vid/inscripcion-registro-entidades-religiosas-34438671>.

7 As the Constitutional Court decrees (STC 46/2001): 'Only when the existence of a certain danger against the public security, health and morality, as they should be recognized in a democratic society, has been accredited before the court, it is pertinent to invoke public order as a boundary to the exercise of the right to religious freedom and freedom of worship' (FJ11).

A lot of religious entities are registered in the RER: 13,101 of them belong to the Catholic Church, and 2,462 to non-Catholic religious groups.⁸ As already indicated, the Register is like a cupboard where the entities that consider themselves religions and comply with the legal requirements are registered. The main civil advantage that religious organizations obtain from being registered is the acquisition of a legal personality as religious entities, and thus the possibility of organizing themselves in an autonomous way.⁹

Neutrality has certain consequences for the state. First, from an institutional point of view, public authorities are, as citizens, free to (not) follow any faith. Second, the state is neither confessional nor atheist; only citizens and groups can adopt these ideological positions. Lastly, the state should not maintain a radically secularist attitude towards its citizens. In this sense, it is important not to confuse the terms *laico* ('neutral') and *laicista* ('radically secularist'). For example, the state has a *laicista* attitude when it shows prejudices against religious groups in the state's administrative performance, laws, or courts. A *laicista* attitude would, for example, be at play when the state treats religious groups unequally, i.e., worse than it treats sports, cultural, or culinary associations. The principle of equality allows public authorities to establish differences between people or groups, but the differences should be proportional and reasonable. If these differences are not reasonable or are based on reasons related to birth, gender, race, or religion, they turn into discriminatory differences. Another example of a radically secularist attitude would be the confinement of religious manifestations to the private sphere, understood as the intimacy of the home, by forbidding religious manifestations in the public sphere, i.e., in the street. The state would in that case not be neutral because religious groups can obviously express themselves in the public sphere as long as they do it within the legal limits of the fundamental right of demonstration. Relegating religious expressions to the private realm would then be a kind of prejudice, because it denies the group the fundamental right of demonstration.

8 Recurso 352/2005.

9 Article 6 of Law 7/1980: 'Registered Churches, Faiths and religious communities shall be fully independent and may lay down their own organizational rules, internal and staff by laws. Such rules, as well as those governing the institutions they create to accomplish their purposes, may include clauses on the safeguard of their religion identity and own personality, as well as the due respect for their beliefs, without prejudice to the rights and freedoms recognized by the Constitution and in particular those of freedom, equality and non-discrimination.'

2.2.2 *The principle of cooperation between State and denominations*

The second area of relations between church and state is cooperation. This principle is implicitly reflected in Article 9.2 of the Spanish Constitution,¹⁰ but it is enshrined in a more convincing way in the second sentence of Article 16.3. After the establishment of the non-confessional state – i.e., ‘no religion will have a state character’ – the Constitution gives two very clear orders to the public authorities:

- To take into account the religious beliefs of the Spanish population.
- To maintain relations of cooperation with the Catholic Church and other denominations.

The Constitution does not declare how cooperation with denominations should be developed. But from this double mandate, it is possible to extract the following consequences:

- Cooperation refers to religious faiths. It is referred to as the ‘faith option’. Although the state can obviously cooperate with non-religious ideological groups as well, Article 16.2 specifically refers to the cooperation of the state with the Catholic Church.
- Relations of cooperation imply the existence of two different subjects, public authorities and religious groups, both of which are independent and autonomous. In other words, the principle of cooperation further strengthens the principle of separation.
- The order to cooperate implies a positive appreciation of religions on the part of the Constitution. The Constitution recognizes that denominations are at least potentially positive; otherwise, it would not have made it imperative to cooperate.
- In line with the principle of freedom, cooperation of the state with denominations should only take place at the request of the denomination; some denominations, by virtue of their autonomy, may not want to cooperate with the state.

The direct mention of the Catholic Church in this article of the Spanish Constitution has not been a peaceful issue. Some people considered it an implicit declaration that Spain was a confessional state. Those in the Constituent Assembly who had declared themselves against such an idea

¹⁰ Article 9.2 of the Constitution: ‘It is the responsibility of the authorities to promote the conditions for the freedom and equality of individuals and the groups they conform to be real and effective; to remove the obstacles which impede and complicate their plenitude; and facilitate the participation of all citizens in the political, economic, cultural and social life.’

argued that it was contradictory to the already-proclaimed principal of the non-confessional state. In the end, it was decided that the mention of the Catholic Church would remain. Some of the supporters argued that even though the mention was problematic from a legal point of view, from a political point of view it was reasonable because the intention at that moment was for the transition from a denominational state, i.e., the previous regime, to a non-denominational or secular state to be accomplished in a way that would not lead to future traumas.

In this sense, the attitude of Santiago Carrillo, the Communist Party's representative in the Constituent Assembly, can be considered wise. He supported the specific mention of the Catholic Church mainly, he declared, to avoid the possibility that those who had sided with Franco at the end of the Second Republic would support the reactionary forces that were opposed to democracy.¹¹

In the end, the tenet of cooperation that was initially meant to temper secularism turned out to be a very effective tool in the integration of immigrants into Spanish society. Evidently, when the Constitution was approved in 1978 nobody foresaw the high numbers of immigrants that would come to Spain after 2000. The Constitution stipulates that the state must cooperate with denominations in terms of future action (i.e., 'the authorities will take into account ...'), but does not suggest any specific way to cooperate. The Parliament has 'answered' this open question on two different occasions.

Five days after the Constitution entered into force, on 3 January 1979, the Holy See signed four Cooperation Agreements with the Spanish State concerning legal affairs, educational and cultural affairs, economic affairs, and chaplaincy in the Armed Forces and the military service of clergymen and members of religious orders. Of course, these agreements were not prepared in five days; negotiations were held during the formation of the Constitution. Because the Holy See is a state, the Cooperation Agreements have the legal status of international treaties, so they enjoy a higher status than ordinary national agreements. They cannot therefore be abrogated or modified by an ordinary law.

The second step to implementing the constitutional mandate of cooperation was the enactment of the Religious Freedom Act of 1980, one year after the ratification of the Cooperation Agreements. According to Article 7.1 of the Religious Freedom Act, the state may establish Cooperation Agreements with registered religious entities that, given their scope or number

11 Diary of the Members of Parliament's Congress Sessions. Year 1978, N° 106. Plenary Session, p. 3994.

of followers, obtain the classification of a *notorio arraigo* ('deeply rooted') denomination. Such Cooperation Agreements have to pass as laws in the Parliament. To sign a Cooperation Agreement with the state, a religious group must fulfil two requirements:

- To be registered in the RER located in the Ministry of Justice (Department of Relations with Denominations).
- To obtain the recognition of a *notorio arraigo* ('deeply rooted') denomination in Spain.

This 'deeply rooted condition' was a new legal concept, for the definition of which the Religious Freedom Act only offers two hints: the scope or extent and number of believers. This vagueness gave the Ministry of Justice the opportunity to develop the concept of 'deeply rooted' through the implementation of a regulatory norm, but in the end it failed to do so. The convenience of defining the objective requirements for a 'deeply rooted' denomination through an administrative norm was discussed in the Advisory Commission of Religious Freedom on 23 June 1982, but the outcomes of the discussion were rejected. Some believed that this should instead be done through a law of Parliament. Others thought that with the approval of such a regulation the government, specifically the Advice Commission of Religious Freedom provided by Article 7 of the Religious Freedom Act,¹² would lose the small amount of discretionary power it enjoyed. The Advisory Commission of Religious Freedom is a consultative body appointed by the Ministry of Justice, whose task and mission is to undertake studies, reports, and proposals for all issues applicable to the Religious Freedom Act, particularly the preparation of mandatory reports about future Agreements of Cooperation.¹³ The Advisory Commission proposed that, given the ambiguity of the term, it should be applied to each case separately – but it did offer some interpretive criteria for the legal terms 'context' and 'number of believers' (Fernandez Coronado, 1995, pp. 45-47). For example, the 'context' was not only used to refer to a number of followers sufficiently and significantly extended throughout the Spanish territory, but also to aspects such as the historical

¹² This commission was created by royal decree 159/2001 on 26 October 2001: <http://mbarral.webs.ull.es/calr.html>.

¹³ Article 8.2: 'Created within the Ministry of Justice, this Advisory Commission of Religious Freedom is composed of pair numbers and with a stable character by representatives of the State's administration, churches, denominations, religious communities or federations, within which will certainly be those with a well-established following in Spain, and by people recognised as competent in the field whose advice is considered to be of interest and relevance to the material related to the present law.' Royal Decree 932/2013 currently implements this article.

presence of the denomination in the country, the importance of its social, charitable, and cultural activities, the number of places of worship, and the number of religious ministers in proportion to its members.

Even though there was no specific legal prescription, the *de facto* government body that granted 'deeply rooted' denomination status turned out to be that same Advisory Commission for Religious Freedom. It therefore played an important role in the cooperation between the state and religious denominations. This ambiguity ended in 2015 when the Government issued the Royal Decree 593/2015 of July 3th that regulates future declarations of deeply rooted character by the Ministry of Justice.

The Catholic Church did not need to obtain the classification of a 'deeply rooted' denomination because it was obvious, and was already specifically mentioned in Article 16 of the Constitution. In 1984, the Advisory Council of Religious Freedom granted the Jewish community and Protestant churches the classification of 'deeply rooted' denominations. Muslims received the classification of a 'deeply rooted' denomination in 1989. In 1992, three agreements came into effect that were signed by the Spanish State and the Jewish Community, the Protestant churches, and the Muslim Community of Spain, respectively. As set out in the Religious Freedom Act, these agreements were approved by Parliament as Laws 24, 25, and 26/1992 on 10 November 1992.

The negotiations preceding these agreements were held with the following entities, each representing their respective denomination: the Federation of Jewish Communities in Spain (*Federación de Comunidades Judías de España*, FCJE); the Federation of Evangelical Religious Entities of Spain (*Federación de Entidades Religiosas Evangélicas de España*, FEREDE); and the Islamic Commission of Spain (*Comisión Islámica de España*, CIE). When the agreement was signed, two other Muslim federations integrated into the CIE: the Union of Islamic Communities in Spain (*Unión de Comunidades Islámicas de España*, UCIDE) and the Spanish Federation of Religious Islamic Entities (*Federación Española de Entidades Religiosas Islámicas*, FEERI). The three organizations were compelled to unify into one commission to sign the agreement with the state. Otherwise, the agreement would not have been signed.

2.3 Classification of religions in Spain from a legal perspective

Four types of religions can be distinguished in Spanish law. First there are non-registered religious entities. Instead of registering, religious entities may choose to become an association under the Law of Association.¹⁴ To do

14 Organic Law 1/2002, 22 March 2002, on the Right of Association.

so, they must submit an agreement between at least three individuals and a plan for internal regulation (in a public or private document) approving the organization of the association. If they choose to become an association, they can enrol either in the National Registry of Associations of the Ministry of Internal Affairs, if their sphere of activity refers to the whole country, or, if their sphere of activity is located in one of the seventeen autonomous regions of Spain. Intervention or approval by a public authority is not necessary for the group to be entitled to the fundamental right of religious freedom; the Constitution guarantees the right of religious freedom for all religious communities, whatever legal form they adopt, on the condition that they respect public order and the fundamental rights of others. Article 2 of the Religious Freedom Act refers to several manifestations of the religious freedom of individuals and communities, including the right of religious groups to hold worship celebrations, commemorate feast days, celebrate marriage rites, impart religious teachings, establish places of worship, appoint and train ministers, spread the group's creed, maintain relations with their own organizations and with other religious denominations, and provide religious assistance in public institutions such as the army, prisons, and hospitals.

Second are the religious entities enrolled in the Register of Religious Entities (RER). The most controversial aspect of the requirements for registration in the RER is the so-called 'declaration of religious purposes'. According to the Spanish Constitutional Court, the administration does not have the right or ability to assess religious purposes. Thus, registration can be refused only if the applying religious group does not meet the requirements, or if it can be legally proven (for example by a legal sentence) that the applicant group seeks to carry out illegal activities or goals.

Third type are the registered religious groups that also have the status of 'deeply or firmly rooted' denominations. Based on the already mentioned Royal Decree 593/2015 of July 3th, the Ministry of Justice can grant a 'deeply rooted' status to a registered religious group. These denominations will subsequently benefit from two main further legal advantages: the right to have a representative member in the Advisory Commission of Religious Freedom; and the possibility of reaching a Cooperation Agreement with the state. So far, four denominations – Mormons, Jehovah's Witnesses, Buddhists, and Christian Orthodox churches – have obtained a *notorio arraigo* ('deeply rooted') status, under the umbrella of the previous regulation, but have not yet signed a Cooperation Agreement with the state.

Fourth type are the religious groups that have been registered in the RER, received 'deeply rooted' status, and signed a Cooperation Agreement with

the state. At this point, we can distinguish between the agreements signed by the Catholic Church and the three Cooperation Agreements signed by the official bodies of Jews, Protestants, and Muslims.

2.4 Cooperation agreements

The four Cooperation Agreements between the Holy See and the Spanish State have the legal status of international treaties, and so contain more privileges than those reached with Jews, Protestants, and Muslims in 1992. In the agreement concerning economic affairs, for example, the Spanish state promises to collaborate with the Catholic Church to obtain 'its adequate economic support'. This agreement foresees a system that has been implemented by further norms, and which is now formulated as the ability of all taxpayers to allocate a percentage of their income tax – currently 0.7 per cent – to the Catholic Church and/or to NGOs (including Catholic ones). Other important benefits of the agreements include religious education in public schools. The Agreement on Educational and Cultural Affairs foresees an educational system in which all public and private schools – the last ones called *concertados* – that receive funding from the state must offer classes on Catholicism although taking such courses is voluntary for the pupils. Other benefits refer to chaplaincy: according to the system established in the Cooperation Agreements and implemented by several norms, Catholic religious assistance in public establishments is regulated and paid by the state.

Once the respective federations representing Jews, Protestants, and Muslims received 'deeply rooted' status from the Advising Council for Religious Freedom, the three denominations negotiated three different but basically similar Cooperation Agreements that were immediately passed as laws in the Parliament (Laws 24, 25, and 26 on 10 November 1992). Some of the special rights enshrined in the three Cooperation Agreements are the following:

- Legal definition (juridical status) of places of worship and religious ministries.
- Civil effects of weddings celebrated according to the respective religious ceremonies.
- Spiritual guidance in public establishments.
- The right of parents to demand religious education for their children in public schools.
- Tax exemptions: more or less the same as those granted to the Catholic Church – except for the possibility of taxpayers to donate 0.7 per cent of their income taxes, which has so far only been prescribed for the Catholic Church.

- Celebration of religious festivities and protecting respective cultural and historical heritages.

The benefits of the agreements only affect those religious communities that belong to the federations or commissions that signed the agreement with the state.

3 Islam in Spain

This section describes the diverse characteristics of the Muslim community in Spain. Islam was present in Spain from 711, when the Muslim leader Tariq Ibn Ziyad landed at Gibraltar, until 1502, when Muslims were told to choose between exile and conversion to Catholicism. At the beginning of the twentieth century Islam made a comeback in Spain through the process of migration.

Numbers. There are no official data about the number of Muslims in the country, as the Spanish census does not record the religion of the citizens. The figures offered here are merely estimates inferred from the immigration figures. Spain has a population of 47 million people,¹⁵ of which approximately 1.4 million are Muslim: 2.5 per cent of the population. 30 per cent of the Muslims are Spanish citizens and 70 per cent are immigrants from different national origins: largely Morocco (717,992), but also Algeria, Pakistan, and Senegal. They mainly live in Catalonia, Andalusia, and Madrid. There are also about 5,000 converts.

Organizations. In 1989, Muslims associations organized under two big umbrella organizations: the Islamic Communities Union of Spain (UCIDE) and the Spanish Federation of Religious Islamic Entities (FEERI). In 1991, the Government forced these two associations to join the Islamic Commission of Spain (CIE) to sign the Cooperation Agreement (Law 16/1992 10 November 1992). In 2011 another fifteen Muslim religious federations were integrated into the Islamic Commission of Spain so that their members could enjoy the benefits of the Cooperation Agreement. In 2016 there were about 1,316 Muslim religious communities (associations) in the country, but only 900 of them were listed in the Register of Religious Entities of the Ministry of Justice.

Mosques. According to Article 2 of the Cooperation Agreement, mosques are buildings that are used exclusively and regularly for prayer, religious education and training, and spiritual guidance. Mosques are certified as such by the Muslim community in question, with the endorsement of the

15 46.771. Official data according to Royal Decree 1007/2014 of 5 December 2014.

Islamic Commission of Spain. There are twelve mosques with minarets in Spain: two in Madrid, one in Valencia, three in Andalucía, four in Ceuta, and two in Melilla. According to the *Observatorio del Pluralismo Religioso en España*, there were 1,313 mosques or Islamic prayer halls in Spain as of January 2015.¹⁶ The registration of mosques in the Register of Religious Entities (RER) is voluntary. In July 2009, 176 mosques were registered: 113 from communities under CIE's umbrella and 57 from other communities that were not entitled to the benefits of the Cooperation Agreement.

Cemeteries. According to the Cooperation Agreements, Muslims have the right to their own cemeteries. They are also entitled to a reserved space for Muslim burials in municipal cemeteries. Currently there are five private Muslim cemeteries in Spain: in Cádiz (Islamic cemetery of Jerez), Málaga (Islamic cemetery Suhail in mezquita de Fuengirola), Madrid (cemetery of Griñón, built by General Franco after the Spanish Civil War of 1936-1939 as a reward for the Moroccan soldiers that fought on his side), and two in the autonomous cities of Ceuta (cemetery Sidi Embarek), and Melilla (Islamic cemetery of Melilla). There are spaces reserved for Muslim tombs in municipal cemeteries in Bilbao, Barcelona, Manresa, Tarrasa, Burgos, Zaragoza, Alicante, Valencia (2), Cádiz, Málaga (2), Sevilla, Córdoba, Granada (2), Palma de Mallorca, Las Palmas de Gran Canarias, and Logroño.

Imams. According to Article 3 of the Cooperation Agreement, Muslim religious leaders and imams who lead prayers, oversee religious education and training, and provide spiritual guidance must be in possession of a certificate stating that they can fulfil these duties. The Muslim community to which they belong must issue this certificate with the endorsement of the Islamic Commission of Spain. Imams are covered by the social security system with a status akin to that of employees. Their respective Muslim communities assume the rights and obligations of employers under the social security system, as stipulated in Article 5 of the Cooperation Agreement. Imams and Muslim religious leaders are entitled to the right to secrecy as stipulated in Article 3.2: under no circumstances may religious leaders and imams 'be forced to reveal information disclosed to them in the exercise of their duties as prayer leaders, preachers and spiritual counsellors, by virtue of the privilege of confidentiality conferred on them by law.' Royal Decree 176/2006 of 10 February 2006 sets out the terms and conditions for the inclusion in the social security system of religious leaders and imams from communities that are members of the Islamic Commission of Spain. As of December 2009, there were 109 imams that had been registered for Social Security.

16 [http://www.observatorioreligion.es/.](http://www.observatorioreligion.es/)

Prisoners and chaplaincy. Muslim inmates are entitled to receive spiritual guidance from imams or persons duly appointed by Muslim communities, subject to the authorization of the Islamic Community of Spain (Article 9). These spiritual authorities must be approved by the prison authorities and must meet certain requirements, such as not having a criminal record. While the 140 currently employed Catholic chaplains are paid by the state, the two Jewish chaplains and 250 Protestant chaplains do not receive any state salary because their respective Cooperation Agreements established that their respective churches and synagogues would cover the chaplaincy expenses.¹⁷ This is not the case for the Cooperation Agreement with Islam, where it is stipulated that the expenses of spiritual guidance would be covered in a way agreed upon by both the representatives of the CIE and the prison establishments (Article 9.3). While implementing this article, an agreement was reached on 12 July 2007 stating that Muslim chaplains can be paid by the Ministry of Internal Affairs provided they gather a group of ten or more prisoners.¹⁸ In 2016 there were seven imams offering religious counselling at prisons who were covered by this agreement. There were originally nine of them, but the Ministry of Internal Affairs suspended two for security reasons.

Education. In the Spanish educational system there are three types of schools: public schools, private schools without state funding, and *concertados* ('private schools with partial funding from the state'). So far, there is no private or *concertado* Islamic school within the Spanish educational system. However, Muslim pupils are entitled, upon request, to receive Islamic religious instruction in public schools, at the pre-school, primary, and secondary levels. Teachers of Islam in public schools are paid by the state as long as they have at least ten students.

For the school year 2013-2014, there were 45 Muslim teachers in primary-level public schools in the following autonomous provinces: Andalucía (18), Aragon (3), Canary Islands (1), Basque Country (1), Ceuta (10), and Melilla (12). These five autonomous provinces are the only ones (out of seventeen) in which the payment of religious teachers in public schools has not yet been decentralized in compliance with the new norms of the educational system in Spain. Thus, the employer of these Islamic teachers is still the Ministry of Education of the central government.

17 Royal Decree 710/2006 of 9 June 2006 implements the right of inmates of prisons to receive spiritual guidance as established in the Cooperation Agreements with Jews, Protestants, and Muslims. Article 11 of this Royal Decree rules that the funding of this spiritual guidance shall follow the regulations established in the respective Cooperation Agreement.

18 Cooperation Agreement between the Spanish State and the Islamic Commission of Spain (CIE) in order to fund religious assistance in State prisons (12 July 2007).

4 Imam training centres in Spain

This section briefly describes the situation of imam-training centres in Spain as they developed in the near past (4.1) and as they are now (4.2).

4.1 The situation in the near past

There used to be programmes of Islamic studies offered by two universities: the public National University of Distance Learning (UNED), and the private Camilo José Cela University. The latter organized a course on 'Islamic religion and culture'. Further, there were two courses offered by two Islamic organizations, the Islamic Council of Catalonia and the Islamic Federation of Murcia. None of these courses exist anymore, and none had official recognition.

The National University of Distance Learning (UNED) and the Pluralism and Living Together Foundation (a public foundation under the Ministry of Justice) organized a course called 'Islam and Democratic Principles' that was taught in the 2009-2010 term, after which it was suspended. It was not a course about theological studies or sharia, but about Islamic culture. The diplomas obtained by students of both university centres were not official, but were private documents recognized only by the two participating universities.

The Islamic Council of Catalonia¹⁹ ran an imam-training course starting in 2005. Some of the teachers were from Spain, such as the imam of Mataró (Barcelona), but there were also teachers from abroad, i.e., from Ibn Zohr University in Agadir, the University of al-Qarawiyyin in Fez, and Qatar University. The diplomas received did not have official recognition, and the course is no longer in process.

The Islamic Federation of Murcia is the second umbrella organization that provided imam-training courses. It did not originally belong to the CIE, but in 2015 it joined the Islamic Commission of Spain, so its community members are now entitled to all of the rights proclaimed in the Cooperation Agreement. Initially, the objective of the courses from the Murcia Federation was not only to provide theological training, but also to provide a basic education about Islam. The teachers who first participated in these courses came mainly from Belgium, France, Spain, Morocco, and Egypt. They offered the following subjects: the prophet's teachings, interpreting the Quran in the Western context, Spanish, computer science and Internet skills, and oratory.

19 It did not belong then to the Islamic Commission of Spain (CIE), but it is one of the fifteen federations that entered the Commission later.

4.2 Existing imam training centres

In November 2013, the Spanish Federation of Religious Islamic Entities (FEERI, which is one of the umbrella organizations under the Islamic Commission of Spain) started a two-year course (i.e., running until December 2015). The classes were held mainly in weekends in the Assalam mosque in the city of Valencia. This two-year course is organized in cooperation with the Muslim Federation of the Valencia Community (FEMCOVA), the Spanish League of Imams, the European Institute of Islamic Sciences, and the Islamic University of Rotterdam. During the first year, a student can get a diploma in the following specialties: Quran and its Science, Islamic jurisprudence, Arabic Language and hadith, *sīra* ('biography of the prophet'), and history.²⁰ Successful students receive a diploma in Islamic Sciences that is recognized by the European Institute of Islamic Sciences and the Islamic University of Rotterdam – which so far do not have full official recognition in the university system of the Netherlands (Ferreiro Galguera, 2011, p. 298). This diploma allows them to attend another year of superior level studies. So far, the diplomas received by the students of these courses are not officially recognized by the Spanish State.

5 Recommendations

Islam is part of the history and culture of Spain. It is taught at public schools; there is Islamic chaplaincy in prisons and hospitals. And yet Spain still lacks deep and serious Islamic theological studies. As a result of my experience in the Ministry of Justice, where I was the deputy director of relations between the State and religious denominations, and at the request of the Commission of the European Union, I had the opportunity to research imams in the European Union. I wanted to formulate answers to questions such as how many imams there are in the European Union, where they come from, and where they had been trained. In my book *Islam and State in the European Union*, I tried to map the imam training centres in the European Union (Ferreiro Galguera, 2011). In that book, I pointed out that even when we finally have a clear idea about the real face of 'academic Islam' in our countries, we would still have two very important challenges ahead of us.

20 To obtain the diploma in hadith, *sīra*, and history, the student has to attend and pass the following weekend courses: terminological science of hadith, content of hadith, *sīra*, history of the Caliphate, and history of Al-Andalus. <http://feeri.es/>.

The easiest and most feasible recommendation would be to draw up general guidelines related to aspects like advice for obtaining legal recognition of Islamic study programmes. A more ambitious objective would be to start a debate about the possibility of establishing a European Institute or University of Islamic Studies. This would be a university or institute similar to Al-Azhar University in Cairo, but in Europe. This initiative could possibly be developed within the framework of a cooperative project between European Islamic faith leaders and the institutions of the European Union. Such an institution would be of interest not only for imams, but also for any other European citizen looking for a solid Islamic theological training. Such a university might also work in close collaboration with other prestigious Islamic universities all over the world. The closer these collaborations, the better it would be for conveying knowledge and a sense of transparency about Islam. This could also be a platform for the convergence of all imam training centres and Islamic curricula in one common European context as an example of tolerance and intercultural dialogue.

If this project is to be established according to the principle of cooperation between political and religious authorities for the sake of promoting religious freedom, it would, naturally, require the agreement of both European public authorities and Muslim religious leaders. We should take into account that a project of this nature cannot be achieved if European Muslim representatives do not request it themselves. Everybody is aware of the difficulties involved in creating a representative Muslim voice in Europe; the network of leaders in European imam-training centres would be a useful tool for forming one. Once initiated by a representative Muslim academic authority, the project would also need the consensus of the pertinent political representatives in the European Union to participate in this endeavour for the promotion of religious freedom. I have in this chapter already identified some of the difficulties and challenges of the steps that follow. In any case, the next stage should be approached in a spirit of dialogue, cooperation, and unity. This is epitomized in the old but wise saying: 'If you want to walk fast, you walk alone. If you want to walk far, you walk together.'

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