



*Annotated Legal Documents on Islam in Europe:
Czech Republic*

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This collection of legal sources is the twenty-second volume of a series that aims to present the legislation of individual European countries on Islam. A total of 32 volumes of the series are to be published. In addition to the Member States of the European Union, the other volumes deal or will deal with the situation in Norway, Switzerland, the United Kingdom and, finally, the other two volumes aim to present the legislation of the European Union itself and the case-law of the European Court of Human Rights.

In the preface, the editors justify the need to publish such a series of documents of individual countries in Europe. They acknowledge that Islam is often not seen as one religion among many, but rather as a potential source of risk and threat to traditional societies in European countries. Nevertheless, European democratic countries, as states governed by the rule of law, must take upon themselves to consider the *de facto* presence of Muslims and the Islamic religion in legislative terms. It is clear that the problem is more pressing and urgent in those countries where the presence of Muslims is more numerous, especially due to the colonial past (France, Great Britain) or due to the benevolent approach to the phenomenon of migration and immigration within the ideology of multiculturalism (Germany, Sweden). The Czech Republic, on the other hand, is one of those European countries that tends to avoid migration from Islamic countries and the number of followers of Islam therein is rather marginal.

In the general introduction, a paradoxical experience from the Czech Republic is presented: on the one hand, increased social aversion towards Islam, especially in the context of the “refugee crisis” of 2015, on the other hand, a strong orientalist academic tradition and the gradual rediscovery of the Islamic religion. The number of Muslims in the Czech Republic, the total population of which amounts to over ten million inhabitants, is now estimated at around twenty thousand. There is also no special law in the Czech Republic that deals only with followers of the Islamic religion, such as the Austrian *Islamgesetz*. Although this law was in force in the territory of the present-day Czech Republic between 1912 and 1949, it has remained obsolete: no permanent Islamic religious community has been established here, the very existence of which is a prerequisite for the application of this law.

The volume is divided into sixteen chapters, which are uniformly structured throughout the edition in order to cover the widest possible area of legal relations and to allow for comparisons of the standards and specifics of the legal status of Muslims and the Islamic religion in individual countries. As the book is a collection of original sources, these are presented in the original Czech language, but with internet links to their English versions. The introductions and commentaries to the sources are all in English.

The first two chapters deal with the constitutional and legal guarantees of the activities of religious societies in general and Islam in particular. The peculiarity of the Czech Charter of Fundamental Rights and Freedoms is that it regulates not only individual religious freedom, but also the foundations of the legal status of churches and religious societies. The authors have not omitted the relevant provisions of the Anti-Discrimination Act. The status of a state-recognised religious society in the Czech Republic is obtained by registration with the Ministry of Culture.

In the context of the presentation of the method of registration under Act No. 3/2002 Coll. on Churches and Religious Societies, the authors point not only to the registration of the Centre of Islamic Religious Communities in 2004, but also to the unsuccessful attempt of this centre to obtain an exemption to achieve so-called special rights, which would significantly strengthen the presence of Islam in the public sphere. It is true that Islam, unlike the Christian churches, is not uniformly organised and therefore it can often be difficult for the state to know which authority to turn to in order to organise legal relations with Muslims. In this context, it is convenient that the Centre of Muslim Religious Communities itself has been established, although there are other separate Islam communities which are also mentioned in the book.

The fact that the Centre did not obtain the status of a religious society enjoying special rights also meant that its direct funding by the State did

not take place, which would have been interrupted anyway, since the State stopped such funding with the entry into force of the Act on Property Settlement with Churches and Religious Societies with effect from 1 January 2013. However, the Centre and its affiliated institutions may receive tax benefits enjoyed by similar legal entities in the non-profit sector. The absence of special rights enforcer status also prevents the activities of official Muslim military or prison chaplains. Nevertheless, the authors do not neglect to mention the solution of providing spiritual care to Islamic prisoners outside the framework of the official chaplaincy service.

The fourth chapter provides the basics of the internal legal structure of the Centre, in which the institution is headed by the so-called Council of Founders. Since most of the followers of Islam are not of Czech nationality, the authors also pay particular attention to the international legal aspects of refugee and foreigners' protection, asylum law, permanent residence of foreigners, acquisition of citizenship, and the state strategy of integration of foreigners in general.

The following chapters are not so long because the regulation in the Czech legal system is scarce in the areas described and, with a few exceptions, does not relate directly to Islam and its implications for practical life.

Those interested in any of the European countries where Islam is already strongly present will be surprised by the small number of stable sacred places of Muslims in the Czech Republic, namely mosques and prayer houses. Stable prayer houses are mainly associated with spa towns and with a significant stay of Islamic patients in the spa. Transitional prayer rooms are almost exclusively associated with the residence of Islamic students in university dormitories, where one small room is usually reserved as a prayer room at the request of the students, but usually in a substandard basement space.

Also, the legal regulation of the school system is not modified by special provisions in favour of the presence of the Islamic religion, it only provides for the presence and activities of religious societies, their clerics and believers in general. Islamic religious education thus remains the domain of private encounters: after community prayers in mosques, in family education or in informal groups initiated mainly by women.

The Labour Code, in accordance with Christian tradition, provides for Sunday as a day of work rest, although it does not preclude the establishment of an agreement between the employees and the employer on another such day. Exceptions are the few Islamic-oriented institutions, such as embassies of Islamic states and small enterprises led by Islamic businessmen.

The legal regime in the Czech Republic can be described as sufficiently flexible on the issues of halal food and ritual slaughter of animals. There

is an exception for the ritual slaughter of animals and the purchase of ritually clean food, which is characteristic of followers of the Jewish religion (of which there are fewer in the Czech Republic than Muslims) and followers of the Islamic religion. This exception involves many restrictions and does not cover the full range of halal dishes, which, however, are largely imported from foreign countries.

The situation regarding the burial of the dead is interesting because in the Czech Republic the legal regulations are not favourable to Islamic customs and there are no official Islamic cemeteries in the country. Solutions acceptable to Muslims are applied on the basis of the good will of the cemetery managers and often at the very edge of the legal provisions.

In the area of family law, Czech legislation is based on the tradition of Christianity and is therefore not open to the specifics of Islamic law. Efforts to apply them in the area of *praeter ius* (through the Islamic Commission for the Family in Prague) have met with resistance, and therefore Muslims either adapt to Czech legislation (especially in the area of the monogamy requirement) or take the path outside marriage, which is widely tolerated in Czech society.

Czech criminal law, on the one hand, strongly protects freedom of conscience and religion from coercion to a particular religion or to the lack thereof (which could have an impact on Muslims strongly rooted in their demands regarding the religious affiliation of children and youth or women); on the other hand, it touches on the custom of circumcision of Muslim boys, which in the Czech Republic must be performed by doctors (while female circumcision is totally impermissible and punishable).

The authors also highlight some of the cases that have aroused public interest, such as the controversy over the wearing of the hijab at a secondary medical school as well as the care given to the provision of halal food to asylum seekers and prisoners. It is this combination of legal norms with their practical life and knowledge of the realities that makes a publication of this kind necessary. It turns out that it is not enough to learn about the legislation (*questio iuris*) by simply searching the Internet to understand the real state of affairs. It is only *questio facti*, acquaintance with the real life of society, that makes it possible to grasp the full breadth and complexity of such a difficult issue as the legal status of Islam in a European country, such as the Czech Republic.

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