

COOPERATION AGREEMENT BETWEEN THE SPANISH STATE AND THE ISLAMIC COMMISSION OF SPAIN

Law 26/1992, November 10th, B.O.E. n. 272, November 12th

(Translation prepared by the Spanish Ministry of Justice)

Stated purpose

The Spanish Constitution of 1978, in providing for a democratic and pluralistic State, entailed a profound change in the State's traditional attitude towards religious matters, whereby the rights to equality and freedom of religion are confirmed and the practise thereof guaranteed under the broadest possible terms, subject only to the imperatives of public order under the Law and to due respect for the fundamental rights of others.

Such freedom of worship, conceived originally to pertain individually to each citizen is, likewise and by extension, applicable to the faiths or communities that groups of individuals may establish to comply collectively with their religious aims, subject to no prior authorisation or enrollment in any public Registry.

From the standpoint of the deepest respect for such principles, the State is obliged by constitutional mandate, to the extent that religious beliefs prevailing in Spanish society demand, to maintain co-operative relations with the various religious faiths, which may involve different avenues for each of the faiths enrolled in the Registry of Religious Entities.

The General Act of the Freedom of Worship provides that the State may co-operate with religious faiths under more specific terms through Co-operation Agreements or Conventions when such faiths, duly enrolled in the Registry of Religious Entities, have gained obvious or notorious influence in Spanish society due to the number of their followers and the impact of their beliefs. This is the case of the Muslim religion, which has a centuries-old tradition in our country and primary relevance in the make-up of Spanish identity, consisting of various communities of that faith registered in the Registry of Religious Entities and members of one of the two Federations, likewise registered, known respectively as the Spanish Federation of Islamic Religious Entities and the Union of Islamic Communities of Spain which have, in turn, constituted a religious entity enrolled in said Registry under the name Islamic Commission of Spain, which is their representative to the State for negotiating, adopting and subsequently implementing the Agreements adopted.

The present Co-operation Agreement was concluded in response to the request formulated by the two Federations, as an expression of the will of Spanish Muslims, and after the corresponding negotiation; it addresses matters of great importance to citizens professing the Muslim faith: the status of Islamic Religious Leaders and Imams, determining the specific rights deriving from the practise of their religious office, their personal status in areas of such importance as Social Security and ways of complying with their military duties, legal protection for their mosques, civil validity of marriage ceremonies held pursuant to Muslim rites, religious services in public centres or establishments, Muslim religious education in schools, the tax benefits applicable to certain property pertaining to the Federations that constitute the Islamic Commission of Spain, commemoration of Muslim religious holidays and finally, co-operation between the State and such Commission for the conservation and furthering of Islamic Historic and Artistic Heritage.

The religious delegates' negotiating positions have always been scrupulously respected, such as in the clear expression of particularly Muslim doctrinary content and the specific matters of conscience deriving therefrom, to make real and effective practise of the right of

freedom of worship possible for members of the Muslim faith.

Article 1

1. The rights and obligations deriving from the Act adopting the present Agreement shall be applicable to the Islamic Communities which, having enrolled in the Registry of Religious Entities, are or subsequently become members of the Islamic Commission of Spain or of one of the Islamic Federations registered as belonging to such Commission, for as long as their membership therein is on record in such Registry.

2. Islamic Community and Federation membership in the Islamic Commission of Spain, for the intents and purposes of entry thereof in said Registry, shall be substantiated by a certificate issued by the corresponding legal representatives under the endorsement of the Commission. Caveats on their withdrawal or exclusion shall be entered at the request of the community in question or the Islamic Commission of Spain.

3. The certification of religious purpose required pursuant to R.D. 142/1981 of 9 January for enrollment of associative religious entities constituted as such in accordance with the regulations governing Islamic Communities, may be issued by the Federation to which they belong, as endorsed by the Islamic Commission of Spain or issued by the latter if they are not members of either Federation.

Article 2

1. The buildings or premises permanently and exclusively dedicated to Islamic prayer, training or spiritual support shall, for all legal intents and purposes, be considered to be mosques and places of worship of the Islamic Communities members of the Islamic Commission of Spain, when such use is certified by the community in question and endorsed by such Commission.

2. The places of worship of Islamic Commission of Spain member Communities shall enjoy immunity under the terms laid down by Law. In the event of expropriation, the Islamic Commission of Spain must first be heard and they may not be demolished unless first divested of their sacred nature, except where otherwise provided by law in the event of emergency or hazard. They shall also be excepted from temporary occupation and the imposition of easements in the terms provided in article 119 of the Act on Expropriation.

3. The State respects and protects the inviolability of the files and other documents pertaining to the Islamic Commission of Spain as well as of its member communities.

4. Places of worship may be included in the Registry of Religious Entities.

5. Muslim cemeteries shall be entitled to the legal benefits laid down in paragraph 2 of this article for places of worship. Islamic Communities that are members of the Islamic Commission of Spain are entitled to assign the plots reserved for Muslim burials in municipal cemeteries, as well as to own private Muslim cemeteries. All due measures shall be adopted to observe traditional Islamic rules regarding internments, graves and funeral rites, which shall be conducted by the local Islamic Community. The right to transfer the remains of the Muslim deceased to cemeteries belonging to the Islamic Communities, both from tombs in municipal cemeteries and from towns in which there is no Muslim cemetery is hereby acknowledged, subject to the provisions of legislation on local government and health ordinances.

Article 3

1. Natural persons devoted on a regular basis to guiding the communities referred in article 1 of the present Agreement, leading prayer, training and Islamic spiritual support, who substantiate compliance with such requirements under a certificate issued by the respective community to which they pertain, endorsed by the Islamic Commission of Spain, shall, for all legal intents and purposes, be considered to be Islamic religious leaders and Imams of the Islamic Communities.

2. The persons mentioned in the preceding paragraph shall not under any circumstances whatsoever be compelled to declare about events revealed to them in their liturgical practice or when officiating at religious services or tendering spiritual support, under the legally established provisions on professional secrecy.

Article 4

1. The imams and Islamic religious leaders shall be subject to the general provisions on Military Service. Should they so request, they shall be assigned to missions compatible with their religious functions.

2. Enrollment in courses on religious training for the persons referred in article 3 in Islamic institutions recognised by the Ministry of Education and Science shall entitle students to second class deferral of their enlistment under the terms provided in the legislation on Military Service in force.

Application for such deferral must include substantiation of enrollment in the form of a certificate issued by the corresponding Islamic institution.

Article 5

In accordance with the provisions of article 1 of R.D. 2398/77 of 27 August, the persons meeting the requirements set forth in article 3 of the present Agreement shall be included in the Ordinary Social Security Scheme, under employee status. The respective Islamic Communities shall assume the employer rights and obligations laid down under such Ordinary Social Security Scheme.

Article 6

For all legal intents and purposes, practices conducted in accordance with Islamic law and tradition, issuing from the Qu'ran or the Sunna and protected under the General Act on Freedom of Worship, shall be considered to be Islamic religious services or training or spiritual support.

Article 7

1. Civil validity of marriage administered in accordance with the religious ceremony established under Islamic Law is acknowledged from the time the wedding is held if the parties thereto meet the legal capacity requirements established by the Civil Code.

The bride and groom shall lend their consent in the presence of one of the persons mentioned in article 3, paragraph 1 above and at least two witnesses, who must be of age.

Full recognition of such validity shall call for registration of such marriages in the Civil Registry.

2. Persons who wish to register their marriage held in the manner provided in the preceding paragraph must furnish prior witness of their ability to marry, consisting of a certificate issued by the corresponding Civil Registry. The marriage may not be registered if more than six months elapse after the issue date of such certificate.

3. After marrying the couple, the representative of the Islamic Community in which they were married shall send a certificate attesting thereto to the Civil Registry for registration, which certificate must include the particulars required by legislation relating to the Civil Registry.

4. Without prejudice to the responsibilities that may be incurred and rights acquired in good faith by third parties, registration may be undertaken at any time by presenting the certificate, duly processed, referred in the preceding paragraph.

5. The rules of this article relating to the procedures for effective exercise of the rights stipulated herein shall be adopted to accommodate any future amendments which may be made to the legislation regarding the Civil Registry, after hearing the recommendations made by the Islamic Commission of Spain.

Article 8

1. The right of all Muslim military personnel, be they career staff or otherwise, and all other persons of such faith rendering services in the Armed Forces, to receive Islamic spiritual support and participate in Islamic religious services and rites is hereby acknowledged, subject to authorisation from their superiors, who shall endeavour to make such assistance compatible with duty, facilitating the premises and means required to make this possible.

2. Muslim servicemen unable to comply with their religious obligations, in particular collective prayer on Friday because there is no mosque or, as appropriate, oratory in the place they are stationed, may be authorised to comply therewith in the closest mosque in the vicinity, service permitting.

3. Islamic religious services shall be rendered by ministers designated by the imams or persons designated on a regular basis by the Islamic Communities belonging to the Islamic Commission of Spain and authorised by Army commanders, who shall lend such aid as needed so they can perform their duties on the same footing as the clergy of other Churches, faiths or communities that have signed Co-operation Agreements with the State.

4. The corresponding authorities shall notify the families of the decease of Muslim servicemen occurring while they are in the service of the military.

Article 9

1. The right to spiritual support is hereby guaranteed for all persons committed to penitentiaries, hospitals, social service or other analogous public institutions, provided by imams or persons designated by the communities, subject to authorisation by the corresponding administrative bodies. Public centre and establishment management shall be bound to forward the request for spiritual support received from interns or their families to the corresponding Islamic Community if the parties concerned are unable to do so personally.

The spiritual support provided for in this article shall include that administered to the

dying, as well as Islamic funeral rites.

2. In any case, the spiritual support referred to in the preceding paragraph shall be provided with due respect for the principle of freedom of religion and observing the organisational regulations and rules of procedure of the centres in question, freely and with no restrictions with respect to timetable. As far as penitentiaries are concerned, religious services shall be conducted in accordance with the provisions of the corresponding legislation.

3. The expenses incurred to provide the above religious services shall be defrayed in the manner covenanted by the representatives of the Islamic Commission of Spain and the public centre and establishment management authorities referred to in paragraph 1 of this article, without prejudice to the use of the premises set aside for such purposes in the corresponding centres.

Article 10

1. In order to make the provisions of article 27.3 of the Constitution, and of General Act 8/75 of 3 July on Regulation of the Right to Education and Act 1/90 of 3 October on the General Regulation of the Education System effective, Muslim pupils, their parents and any school governing bodies who so request, are guaranteed the right of the first mentioned to receive Islamic religious teaching in public and private subsidised schools at the infant, primary and secondary education levels, providing, in the case of private institutions, that the exercise of such right does not conflict with the nature of the school itself.

2. Islamic religious teaching shall be delivered by teachers designated by the communities belonging to the Islamic Commission of Spain, with the endorsement of the respective Federation.

3. The content of Islamic religious teaching as well as the textbooks relating thereto shall be provided by the respective communities, as endorsed by the Islamic Commission of Spain.

4. The public and publicly subsidised schools referred to in paragraph 1 of this article must provide suitable premises for the exercise of the right whose exercise is regulated in this article, but this may not be to the detriment of other academic activities.

5. The Islamic Commission of Spain and its member communities may organise courses on religious teaching in public universities, making use of these institutions' premises and resources for such purposes under agreements reached in this regard with academic authorities.

6. The Islamic Commission of Spain and its member communities may establish and run schools on the educational levels mentioned in paragraph 1 of this article, as well as Islamic Universities and Training Centres, subject to the ordinary legislation in force on the matter.

Article 11

1. The Islamic Commission of Spain and its member communities may freely request services of their followers, organise public donation campaigns and receive offerings and other contributions.

2. The following operations shall be subject to no taxation whatsoever:

a) The provision, free of charge, of publications, instructions and internal Islamic

religious bulletins directly to the faithful by communities belonging to the Islamic Commission of Spain.

b) Islamic religious teaching in centres belonging to the Islamic Commission of Spain or its member communities, devoted to training imams and Islamic religious leaders.

3. The Islamic Commission of Spain, as well as its member communities, shall be exempt:

A) From real estate tax and any excise taxes, as appropriate, on the following real property owned thereby:

a) Mosques or places of worship and outbuildings or ancillary premises devoted to religious services or spiritual support or used as abode by imams and Islamic religious leaders.

b) Premises used for Islamic Commission of Spain member community offices.

c) Institutions devoted solely to training imams and Islamic religious leaders.

B) From the Corporation Tax under the terms of Act 61/78 of 27 December, article 5, paragraphs 2 and 3, regulating such tax.

From the Corporation Tax levied on increases in wealth obtained gratuitously, providing such property and rights so acquired are devoted to worship or social services.

C) From the Transfer Tax and Stamp Duty, providing the respective property or rights acquired are devoted to religious services or spiritual support under the terms provided in the Consolidated Text of such Tax, enacted by Royal Legislative Decree 3050/1980 of 30 December and the Regulations, enacted by Royal Decree 3494/1981 of 29 December, with regard to the requirements and procedures to be met to qualify for such exemption.

4. Without prejudice to the provisions of the preceding paragraphs, the Islamic Commission of Spain and its member communities as well as the associations and entities created and managed thereby devoted to religious, charitable-educational, medical and hospital or social service activities, shall be entitled to all other tax benefits that Spanish State ordinary legislation on taxes applies at any given time to non-profit organisations and in any case, those granted to private charitable organisations.

5. The Personal Income Tax regulations shall govern the treatment given to donations to the Islamic Commission of Spain member communities, including any applicable deductions.

Article 12

1. The members of the Islamic Communities belonging to the Islamic Commission of Spain who wish to do so may request that their work cease every Friday, the Muslim day of compulsory collective prayer, from one thirty p.m. to four thirty p.m., and, during the month of fasting (Ramadan), one hour before sundown.

In both cases, prior agreement must be reached between the parties concerned. The hours not worked must be made up, with no compensation therefor whatsoever.

2. The holy days listed below which, according to Islamic law, are religious holidays, may, subject to agreement between the parties concerned, replace those established in article 37.2 of the Workers' By-laws as a general rule, under the same terms of paid, holidays with no time pay-back, at the request of persons of the Muslim faith belonging to the Islamic Communities that are members of the Islamic Commission of Spain.

- AL HIYRA, corresponding to the 1 st day of Muharram, first day of the Islamic New

Year.

- ACHURA, tenth day of Muharram.
- IDU AL-MAULID, corresponding to 12 Rabiul Awwal, nativity of the prophet.
- AL ISRA WA AL-MI'RAY, corresponding to 27 Rayab, date of the Night of Determining and the prophet's Ascension.
- IDU AL-FITR, corresponding to the 1st, 2nd and 3rd days of Shawwal, which celebrates the culmination of the Ramadan fast.
- IDU AL-ADHA, corresponding to the 10, 11 and 12 Du Al-Hyyah to celebrate the sacrifice made by the prophet Abraham.

3. Muslim pupils enrolled in public or publicly subsidised schools shall be excused from attending class on Friday during the time referred to in paragraph 1 of this article and on the religious holidays and commemorations listed above, at their own request or at the request of their parents or guardians.

4. Exams, State competitive examinations or selective tests convened for enrollment in the Public Administration which are to be held on the days referred in the preceding paragraph shall be indicated for an alternative date for the Muslims so requesting, unless otherwise warranted by just cause.

Article 13

The State and the Islamic Commission of Spain shall co-operate to conserve and further Islamic historic, artistic and cultural heritage in Spain, which shall remain at the service of society, for contemplation and study.

Such co-operation shall include drawing up a catalogue and inventory of such heritage and embrace the creation of Trusts, Foundations or other institutions of a cultural nature, whose membership shall include representatives of the Islamic Commission of Spain.

Article 14

1. In accordance with the spiritual dimension and specific peculiarities of Islamic Law, the denomination "HALAL" serves to distinguish food products prepared in accordance therewith.

2. In order to protect the proper use of such denominations, the Islamic Commission of Spain must apply for and obtain registration of the corresponding trademarks from the Patent and Trade Mark Office, pursuant to the legal standards in force.

Once the above requirements are met, products bearing the Islamic Commission of Spain mark on the package shall be guaranteed, for the intents and purposes of marketing, import and export, to have been prepared in accordance with Islamic Law.

3. The slaughtering of animals in accordance with Islamic laws must abide by health standards in force.

4. Where requested, attempts shall be made to adapt the food provided interns in public centres or establishments and military premises, as well as to Muslim pupils in public and publicly subsidised private educational institutions to Islamic religious precepts and to mealtimes during the Ramadan fast.

First additional provision

The Government shall notify the Islamic Commission of Spain of all legislative initiatives that affect the contents of these presents, in order for it to express its opinion thereon.

Second additional provision

The present Agreement may be denounced by either of the parties hereto, who must notify the other six months in advance. It may also be subject to full or partial revision at the initiative of either party, without prejudice to subsequent parliamentary procedure.

Third additional provision

A Mixed Committee shall be constituted, on which the Central Government and the Islamic Commission of Spain shall be equally represented, for the implementation and follow-through of the present Agreement.