

II. Türk Hukuk Tarihi Kongresi Bildirileri
Cilt: II

Editör

Prof. Dr. Fethi GEDİKLİ

YAYIN NO: 681

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ISBN 978-605-152-470-2

1. BASKI - İSTANBUL, ARALIK 2016

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Sertifika No: 20179

Uluslararası Türk Hukuk Tarihi Kongresi
13-14 Mayıs 2016 - İstanbul

II. TÜRK HUKUK TARİHİ KONGRESİ BİLDİRİLERİ

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“WE ARE NOT TALKING ABOUT COEXISTENCE, WE LIVE LIFE”¹ OR HOW ISLAM WAS LEGALLY RECOGNIZED IN CROATIA IN 1916

*Mirela KREŠIĆ**

In 2002 the Government of the Republic of Croatia and the Islamic Community of Croatia signed the *Treaty on the Points of Common Interest*. The Treaty stipulates the position of the Islamic religious community considering “the historical and the present roles of the Islamic Community in Croatia”² According to the latest census (2011) 62 977 Croatian citizens declared their religious affiliation as Muslim. Broken down by ethnicity the majority of believers are Bosniaks (27 959), followed by Croats (9 647), Albanians (9 594) and Roma (5 039), while 6 704 identified themselves as ethnic Muslims.³ Namely, in the former Yugoslav Federation the Muslims from Bosnia and Herzegovina were granted, under the Constitutional Amendments of 1971, the status of a nation and the term “Muslim” was used to denote the name of the ethnic group. Since the breakup of Yugoslavia and the formation of the independent

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¹ From the speech of the president of the Meshihat of the Islamic Community in Croatia Mufti Aziz Hasanović on the occasion of the marking the centennial anniversary of the institutionalised Islam in Croatia (April 2016).

² From the Preamble of the Treaty on the Points of Common Interest, **Narodne Novine**, 196/2003, 86/2014, 46/2016. The highest religious and administrative body of the Islamic Community in Croatia is Meshihat, while other important institutions are the Islamic High School in Zagreb and the Halal Centre, an institution that certifies products prepared in accordance with religious principles.

³ http://www.dzs.hr/Hrv_Eng/publication/2012/SI-1469.pdf (accessed June, 10 2016) According to unofficial estimations 100 to 150 thousands of Muslims are permanently living in Croatia, mainly in urban areas. Tarik Kulenović, “Croatian Muslims – Immigrant Community of Indigenous Europeans”, **Collegium antropologicum** 36, 2012, 1, p. 267.

state of Bosnia and Herzegovina the ethnicity of the Muslims is denoted as Bosniak.⁴ Today, speaking of Muslims in the Croatia, mostly refers to citizens of Bosnia and Herzegovina origin, since, historically speaking, Croatian Muslims were primarily an ethnic community. Although Croatian Muslims make up only 1, 5 % of the country's population, they are considered as an example of the most successful integration of the Muslim minority in Europe.⁵ Reason for that can be traced back to the late 19th century.

1. Croatian encounters with the Islam

Since the end of the 19th century and the beginning of the 20th century the Muslims has been continuously present on the territory of today's Croatia. The number of Muslims lived in the area historically known as Kingdom of Croatia and Slavonia within the Austro-Hungarian Monarchy until 1918. However, Croatian ties with the Islamic world go further back in the past and can be followed through three periods: the pre-Ottoman period, the Ottoman period which left a significant mark in the national, religious, cultural and political history and played a significant part in the creation of the modern-day Croatia. The last period began with the Austro-Hungarian occupation of Bosna and Herzegovina. Starting with that period, the presence of the Muslims on the territory of Croatia has been unbroken.

⁴ During the Austro-Hungarian administration over Bosnia and Herzegovina, there was an attempt to create a Bosniak nation whose identity was derived not from ethnic or religious affiliation, but being domiciled in Bosnia and Herzegovina. Although some Muslims adopt the Bosniak identity, it was never accepted by Croats and Serbs from Bosnia and Herzegovina who had well-developed national identities, so this idea was finally abandoned. For more see, Dalibor Čepulo, "Continuities and Discontinuities: the Constitutional and Political Development of Bosnia and Herzegovina to 1990", *Časopis za suvremenu povijest*, 2004, 36, 1, p. 379.

⁵ <http://balkans.aljazeera.net/vijesti/hasanovic-hrvatski-model-za-integraciju-muslimana-u-evropi>; <http://balkans.aljazeera.net/vijesti/islam-u-hrvatskoj-model-za-cijelu-evropu> (accessed June, 10 2016). This Croatian model is also considered as a model in seeking solutions for Muslim communities in European countries as well as a model in solving the status of Christian minorities in the Islamic world.

1.1. The pre-Ottoman period

The first recorded contacts of the Croats with the Islamic world were in the 9th century, when the Arabs, during their reign over the Mediterranean basin, conquered or besieged some of the Croatian coastal cities, Dubrovnik for example, as we can read in Constantin Porphyrogenetos *De thematibus*. During the reign of kalif 'Abd al-Rahmān III, many Croats were brought as slaves to Andalusia where they made their mark, particularly regarding the military service.⁶ Abū 'Abdullāh Muhammad al-Idrīsī, a geographer and a cartographer (12th century), was one of the more significant of a plethora of Arab chroniclers, traders, sailors and travel writers travelling the eastern coast of the Adriatic. His book *The Book of King Rutger (Al-Kitāb al-Rūḡarī)* contains an exhaustive description of Croatia, particularly of the coastal parts. Al-Idrīsī map is the first known medieval map which explicitly mentions Croatia – *Bilad Garuasia*.

On the continental Croatia, i.e. today's eastern Slavonia and Srijem, the existence of a larger group of Muslims was recorded in the 12th century called the Ismaelites and Calisims. According to the historical records, they arrived from Persia and Sicily. There is no more mention of this group after the 15th century, so presumably they either converted to Christianity or emigrated.⁷

1.2. The Ottoman period

The next contact with Islam and the Muslims came during the Ottoman conquest of the Croatian lands. During the 16th century the Ottoman forces occupied a vast part of the Croatian interior.⁸ Conquests

⁶ The Slavs from the Adriatic coast and around the middle flow of the Volga were brought to Spain. According to the Arab historical data, the number of Slavs was as high as 13 750. Ševko Omerbašić, **Islam i muslimani u Hrvatskoj**, Mešihat Islamske zajednice u Zagrebu, Zagreb, 1999, p. 28; Miroslav Brandt, **Srednjovjekovno doba povijesnog razvitka**, Sveučilišna naklada Liber, Zagreb, 1980, p. 596

⁷ Omerbašić, **Islam i muslimani u Hrvatskoj**, pp. 38-44.

⁸ At the same time the Croatian part of the Adriatic coast was occupied by Venice, while the "remains of the remains of the once great and glorious Croatian Kingdom" (*reliquiae reliquiarum olim magni et inclyti regni Croatiae*) were acceded to the Habsburg Monarchy

and subsequent looting led to the break up of the Croatian territory, the shifting of the ethnic and political centre of Croatia from the Adriatic hinterland to the north and the exodus of the population. Newly conquered Croatian areas of Slavonia, Srijem, Lika, Krbava and the Dalmatian hinterland, along with Bosnia and Herzegovina, Ottoman authorities acceded into the Bosnian Pashaluk, a military and administrative unit founded in 1580.⁹ New ethnic, as well as religious elements emerged on the conquered Croatian territories, the Orthodox Christians and the Muslims. The Muslims were settled as part of the government's policy to move the Muslims from the areas previously brought under the Islamic rule to the newly occupied territories. Thus, in Slavonia, at the end of the 16th century, a figure of 110,000 Muslims was recorded, for the most part those coming from Bosnia and Herzegovina. According to the 17th century data, there were 30,000 Muslims on the territory of Lika.¹⁰ Apart from the newly settled Muslims, there was also a number of domestic population which had converted to Islam. Conversions were mostly voluntary, some to embrace the faith itself, and others for the privileges granted by the Ottoman conquerors to the population of the occupied areas. Islam was embraced by the prisoners of war upon liberation, also persons taken away at minor age as part of *devşirme*, i.e. tribute in blood, as well as the peasants converting to the new faith when moving to the city, trying to fit in with the new environment and pursue business success.¹¹

A number of the Croatian Catholic population choosing not to leave their homes continued to live under the Ottoman rule. The attitude of the Ottoman Empire towards the Catholics of Bosnia and Herzegovina and

in 1527, after Austrian Archduke Ferdinand I was elected by Croatian Parliament as a Croatian king. At the same time, Military Border (Vojna krajina) was set up as a line of defence against further Ottoman advances to the west, towards Italy and Central Europe.

⁹ Nenad Moačanin, **Turska Hrvatska**, Matica Hrvatska, Zagreb, 1999, pp. 28-29; Hazim Šabanović, **Bosanski pašaluk**, Oslobođenje, Sarajevo, 1959, p. 78

¹⁰ Omerbašić, **Islam i muslimani u Hrvatskoj**, pp. 115, 144.

¹¹ Similar process took place on the Iberian Peninsula where the Arab conquerors did not use armed force to convert the indigenous population to Islam. Those who refused to convert were required to pay *haraç* and *jizya*. Brandt, **Srednjovjekovno doba povijesnog razvitka**, p. 584; Ivo, Banac, Ivo, **Nacionalno pitanje u Jugoslaviji**, Globus, Zagreb, 1988, pp. 29-30; Moačanin, **Turska Hrvatska**, pp. 103, 105-113.

Croatia was based on *Ahdnama*, given to a priest, father Angel Zvizdović by the sultan Mehmed II the Conqueror in 1463, after the occupation of Bosnia. *Ahdnama* bound the Sultan to protect and safeguard Catholic churches, monasteries and property and provide security for the Franciscan order allowed to resettle the scattered population back to the land.¹² Apart from *Ahdnama*, the Croatian Catholics were also given various *fermanas* pertaining to the freedom of religion and worship. Thus, in the 16th century, the Catholics of Požega, the most important city of the Ottoman Slavonia, were granted the autonomy in the succession and matrimonial law, while the Franciscans were granted the permission to open a grammar school in 1637. The Catholics in the village of Nijemci were also granted *ferman* in 1657 guaranteeing freedom of religion and freedom of worship.¹³

1.2.1. Liberation of the Croatian territory

The largest part of the Croatian territory under the Ottoman rule was liberated after the Great Turkish War (or War of liberation, 1683-1699), and the *Treaty of Carlowitz* (1699) was negotiated according to *uti possidetis, ita possideatis* principle.¹⁴ A smaller part of the liberated Croatian territory was brought back under the rule of the Croatian Parliament and the Croatian governor (Ban). The largest part of the territory was under the authority of the Court Chamber of Vienna or acceded to the Military Border, while part of the territory was under the control of

¹² Similar *ahdnam* was granted to the Patriarch of Constantinople in 1453, which served to regulate the status of the Greeks in the Empire. The Patriarch later assumed the jurisdiction over all Orthodox Christians. The same privileges were granted to the Armenian Church, as well as the Jewish communities. Vladimir Đuro Degan, "Međunarodno uređenje položaja Muslimana s osvrtom na uređenje položaja drugih vjerskih i narodnosnih skupina na području Jugoslavije", **Prilozi za istoriju radničkog pokreta**, Sarajevo, 1972, No. 8, p. 58.

¹³ Omerbašić, **Islam i muslimani u Hrvatskoj**, pp. 138, 176-177.

¹⁴ The Treaty of Carlowitz guaranteed freedom of confession to the Catholics in the Ottoman Empire, and the Habsburg Monarchy won the right to intervene in the interest of Catholics, which was confirmed again by further treaties, of Passarowitz (1718), Belgrade (1739) and Sistova (1791). Degan, **Prilozi za istoriju radničkog pokreta**, p. 59.

the Venetian Republic. The border established between the Monarchy and the Empire has been preserved, with minimum changes, until today, as the border between the Republic of Croatia and the Republic of Bosnia and Herzegovina.

The Muslim population from the Croatian territories withdrew prior to the liberation by the military force. It is estimated that around 150,000 Muslims left Lika and Slavonija and relocated to Bosnia and Herzegovina.¹⁵ Relocation of the population was conducted peacefully, but with great material losses as all fixed assets had to be left behind. Almost all traces of Islamic presence were eliminated in Croatia, and the remaining population converted to Catholicism.

At the end of the 18th century changes were starting to emerge in the Habsburg-Ottoman relations. Many trading bans were lifted and customs privileges were introduced. For the first time the merchants of all religions from Bosnia and Herzegovina were coming to Zagreb, although their stay was temporary and subject to many limitations. Accession of Bosnia and Herzegovina to the Austro-Hungarian Monarchy prompted a shift in Croatian citizens' anti-Ottoman and anti-islamic sentiment, previously fuelled by the many centuries of the Ottoman occupation, and their acceptance of the Muslims from Bosnia and Herzegovina.¹⁶

1.3. Austro-Hungarian period

The third period of the Croatian-Muslim relations started with the arrival of Muslims to the Croatian territories, after the Austro-Hungarian occupation of Bosnia and Herzegovina in 1878. The occupation was welcomed by Croatian Parliament who sees it as a "liberation" of Bosnia

¹⁵ It is peculiar that many villages in different parts of the present day Bosnia and Herzegovina bear names identical to those of the places in Croatia. Omerbašić, **Islam i muslimani u Hrvatskoj**, p. 229.

¹⁶ Zlatko Hasanbegović, **Muslimani u Zagrebu 1878.-1945.: Doba utemeljenja**, Medžlis Islamske zajednice u Zagrebu – Institut društvenih znanosti Ivo Pilar, Zagreb, 2007, pp. 25-27.

and Herzegovina and asked for its future uniting with Croatia.¹⁷ This period of the formation of the Muslim socio-cultural region in Croatia is considered the period of psychological adjustment¹⁸ to the life in a country where the supreme authority was not Muslim and in which Islam was not a state religion. The majority of immigrants were men seeking employment, pursuing studies¹⁹ or military service and moving to the cities.²⁰ The majority of men stayed in Croatia temporarily, due to their individual purposes of stay, as well as due to the inability to obtain the right of residency in Croatia, i.e. Hungarian-Croatian citizenship.

The first application of a Muslim for residency in Zagreb was lodged in 1896 with the city authorities, who then then requested the opinion of the Provincial Government of Croatia and Slavonia. The Department of Justice and the Department of Internal Affairs of the Government took the position whereby there were no legal impediments preventing the Muslims from being granted the right of residency (or citizenship), subject to compliance with all the regulations in force at the time regarding the performance of religious ceremonies. However, the position of the Department of Religion and Education was that each citizen had to be affiliated with the religion recognized by the law. Apart from other reasons,

¹⁷ The occupation, proved more difficult than anticipated because of the resistance of the local Muslim population, started in July and was completed in October 1878. It was led by Croatian nobleman, General Josip Filipović von Philippsberg. About Croatian position during the occupation see, Čepulo, Časopis za suvremenu povijest, p. 376; Mirjana Gross, Agneza Szabo, **Prema hrvatskome građanskom društvu**, Globus, Zagreb, 1992, pp. 460-464.

¹⁸ Ružica Čičak-Chand, "Islam i Muslimani u Hrvatskoj: skica stvaranja muslimanskog-bošnjačkog sociokulturnog prostora", **Migracijske teme** 15, 1999, 4, pp. 454-455.

¹⁹ Since 1893 students of the Sarajevo Sharia School for judges were permitted to enrol in Law School in Zagreb. First student-muslim at University of Zagreb was Osman Nuri-Hadžić (1869-1937) writer and jurist.

²⁰ The change in attitude towards Muslims authorities of city of Zagreb have shown allowing burial in the cemetery Mirogoj, although in that time there wasn't a special area for Muslims. First funeral took place in 1883 (seven years after cemetery was officially opened in 1876), and that tomb has become the core of the future Muslim area of the city cemetery. The oldest preserved Muslim tombstone erected in 1893 belongs to the family Ferhatović. Hasanbegović, **Muslimani u Zagrebu 1878.-1945.: Doba utemeljenja**, p. 31.

due to the confessional significance of all registries (of births, deaths and marriages) and the matrimonial law, as well as the compulsory religious education in schools. Islam was not legally recognized and the consequence of this position was the refusal of the first application.²¹

2. Muslims in the Austro-Hungarian Monarchy

The idea of Pan-Slavism feared the Monarchy, especially after 1860s when this ideology started to be manipulated by Russia to which many Slavs looked for leadership as well as for protection from Austro-Hungarian and Ottoman rule. Russian influence over Slavic Orthodox states, Bulgaria, Serbia and Montenegro represented a serious threat to Monarchy's interest in the Balkans. One of the possible solutions for Monarchy, not without risk, was gaining control over Bosnia and Herzegovina. So, the occupation was necessary (as well as a peacebuilding mission), but also meant the consolidation of circumstances in the Balkans and an obstacle to the territorial expansion of Serbia, i.e. to the creation of a southern Slav state.²² The possibility of taking Bosnia and Herzegovina from the "sick man of the Bosphorus" became reality after signing the *Treaty of Berlin* in 1878.²³

²¹ Application was lodged by Osman Krupa, employee of Croatian Post. Hasanbegović, **Muslimani u Zagrebu 1878.-1945.: Doba utemeljenja**, pp. 31-32.

²² Imre Rész, „Versuch einer Nationsbildung um die Jahrhundertwende - Benjamin Kállay's Konzeption über die bosnische Nation“ <http://www.pointernet.pds.hu/kissendre/konzep-europa/20060621020933525000000260.html> (accessed June, 20 2016)

²³ Treaty of Berlin replaced the Treaty of San Stefano which had been signed by Russian and Ottoman Empire at the conclusion of the Russo-Ottoman war (1877-1878). By Berlin treaty European forces confirmed the independence and territorial expansion of Romania, Serbia and Montenegro. Some territories, by San Stefano Treaty given to the Bulgaria (most notably Macedonia), had been returned to the Ottoman Empire and Bulgaria was established as an independent principality inside the Empire. Also, to satisfy its interest, control over Cyprus was granted to Great Britain. For more see: Treaty for the settlement of the affairs of the east between Great Britain, Austria-Hungary, France, Germany, Italy, Russia and Turkey, Snežana Trifunovska (ed.), **Yugoslavia Through Documents: From its creation to its dissolution**, Martinus Nijhoff Publishers, Dordrecht, Boston, London, 1994, no. 32, pp. 89-96.

Article XXV of the Treaty stipulated that the Monarchy was entitled to occupy and administer Bosnia and Herzegovina, although the sovereignty of the Turkish sultan was still recognized.²⁴ The Monarchy did not assume any other obligations by this Treaty, particularly those concerning almost half a million Muslims within the Monarchy's borders. In 1879 *Convention of Constantinople* was signed by which Monarchy, in direct agreement with the Ottoman Empire, accepted the commitments which led to the majority of Bosnian and Herzegovinian population being granted certain rights. The Muslims were granted freedom of communication with their spiritual leaders and uttering the name of sultan in prayers, as well as observing the custom of displaying the Ottoman standard on the minarets. The commitment was accepted to prevent the honour, customs, freedom of confession, and personal safety and protection of property from being tarnished. Furthermore, all attacks on the Muslims, their property and religion were severely penalized (§ 2).²⁵

Although Muslim elite continued as the dominant social and political group, after the occupation the position of the Muslims as religious group changed significantly, therefore, the accepted commitments were very significant. The Muslims were, in fact, left without their supreme religious leader, with no religious organisation and Islam had lost the position previously held in the Ottoman Empire. The legal status of the Islam within the Monarchy was first dealt with in 1882, when *Reis-ul-ulema* were appointed and a four-member Ulema medgilis as the supreme religious administrative body, while the question of Islamic religious and educational self-government was resolved in 1909 by passing of the

²⁴ Jurisdiction over Bosnia and Herzegovina was shared by Austria and Hungary and it was exercised through the Joint Ministry of Finances which set up a Bosnian Bureau. The constitutional position of Bosnia and Herzegovina has been described as an Austro-Hungarian "*condominium*", because Bosnia and Herzegovina was neither an independent political unit nor part of Austrian or Hungarian part of the Monarchy. Čepulo, *Časopis za suvremenu povijest*, pp. 377-378.

²⁵ Convention between Austria-Hungary and Turkey respecting the occupation and administration by Austria-Hungary of the provinces of Bosnia and Herzegovina with annex (Constantinople Convention), Trifunovska, **Yugoslavia Through Documents: From its creation to its dissolution**, no. 36, pp. 101-103.

*Statute for the autonomous administration of the Islamic religious and waqf - education affairs.*²⁶

After the annexation of 1908 the *Protocol on Bosnia and Herzegovina and the former Novi Pazar sandjak* between the Monarchy and the Empire was signed in 1909.²⁷ With the Protocol the Monarchy renounced all the rights regarding the former *sandjak* of Novi Pazar, a move rewarded by permission from Empire to abolish the Constantinople Convention as well as Empire's recognition of the annexation. The population of Bosnia and Herzegovina acquired the option of settling in the Empire where Ottoman citizenship was granted immediately with full entitlement to property rights in Bosnia and Herzegovina.²⁸ The right to practice all religious rites and utter the name of his majesty the Sultan in public prayers was confirmed, however, not as the sovereign but as the religious leader (*caliph*). The guarantee of equality with other religions was still in force, however, guarantees regarding the protection of honour, customs and the person of a Muslim were abolished. Also, all rights were granted regarding *waqf*, as well as the relations with *Sheikh-ul-Islam*, who was specifically given the right to appoint the *Reis-ul-ulema*. And finally, Monarchy agreed to pay the Empire, as a substitution, sum of 2, 5 millions of Turkish pounds in gold.

2.1. Legal Recognition of Islam

Since 1878 and the occupation of Bosnia and Herzegovina, Austro-Hungarian authorities were making efforts to establish the rule of law and ensure equality of all religious groups (Muslims, Catholics, Ortho-

²⁶ More on the subject see Nusret Šehić, **Autonomni pokret Muslimana za vrijeme austrougarske uprave u Bosni i Hercegovini**, Svjetlost, Sarajevo, 1980.

²⁷ Protocol between Austria-Hungary and Turkey (renouncing all the rights conferred upon Austria-Hungary by the Treaty of Berlin, 1878, and the Constantinople Convention, 1879), Trifunovska, **Yugoslavia Through Documents: From its creation to its dissolution**, no. 42, pp. 110-113.

²⁸ It is estimated that in the period between 1878 -1918 between 50,000 and 300,000 Muslims from Bosnia and Herzegovina moved to Ottoman Empire. Degan, **Prilozi za istoriju radničkog pokreta**, pp. 74-75.

dox Christians and Jews), while at the same time supporting the religious divide and stifling nationalist movements. Nevertheless, this government managed to ensure conditions conducive to the survival of the Muslim population and more than other states managed to put into practice the regulations on the equality of religions stipulated by the Berlin Treaty and the accompanying agreements. The recognition of Islam had particular significance in this process.

The procedure for the legal recognition of Islam in the Austrian part of the Monarchy was initiated in 1909, and the Austrian *Act on the Recognition of Islam According to the Hanefi Ritual as a Religious Society* was finally adopted by the Imperial Council (*Reichsrat*) in 1912.²⁹ This Act was in force in the Austrian part of the Monarchy, including Istria and Dalmatia, the Croatian territories annexed to the Austrian part of the Monarchy by the Austro-Hungarian Compromise (1867). The 1912 Act guaranteed Muslims the possibility of a common, public practice of Islam, founding religious institutions, self-administration for inner matters and the right to equal treatment as the member of other recognized religious.

Later then Imperial Council, the Hungarian parliament passed the *Act on the Recognition of the Islamic Religion* in 1916 (Act 1916: XVII). According to the Act Islam was proclaimed an officially admitted religion, and practice of the Islam and its religious principles, teachings and other institutions were under the same legal protection as other religions. Furthermore, the Hungarian organization of Muslims could have been connected to the organization of Muslims in Bosnia and Herzegovina, but with the approval of the Minister of Religion and Education. Unlike Austrian Act of 1912 who recognized exclusively Islam according to the Hanafi Ritual (Sunni Islam), Hungarian Act spoke about Islam in general without differentiating Sunni or Shi'a Islam.³⁰

²⁹ Gesetz, betreffend die Anerkennung der Anhänger des Islams nach hanefitischem Ritus als Religionsgesellschaft, <http://alex.onb.ac.at/cgi-content/alex?aid=rgb&datum=19120004&seite=00000875> (accessed June, 11 2016)

³⁰ Zoltan Bolek, **The History of Islam in Hungary**, <http://magyariszlam.hu/angol/kep2.html> (accessed June, 13 2016).

3. Legal recognition of Islam in the Kingdom of Croatia and Slavonia

The Islamic communities in modern Europe are of recent date, whereas Croatian Muslims have been continuously present on the territory of Croatia for more than a century.³¹ Croatian Islamic community are made of immigrants and their descendants from the time of Austro-Hungarian occupation/annexation of Bosnia and Herzegovina. Since after 1878 Croatia and Bosnia and Herzegovina were part of the same state, previous restrictions, especially in trade have been removed, communication of men and goods was much easier. The similar language also helped Muslims from Bosnia and Herzegovina to adjust to the life in Croatia. First statistical data regarding the presence of Muslims, as well as their immigration can be traced from 1910, when during the census, 204 Muslims were registered as resident in Zagreb, Karlovac, Osijek and Dubrovnik respectively.³²

Because of the beginning of First World War and the number of Muslim soldiers in the Austro-Hungarian army, in 1915 the Imperial and the Royal Islam Military Caritative Care (K. u K. *Islamische-Militärseelsorge*) was founded as part of the Zagreb Military Command.³³ It was the first institution founded specifically for the Muslims on the territory of Croatia. Until 1918 and the end of the war the Imperial and the Royal Army Imam carried out, all religious duties, including the administration of the register of deaths of Muslim soldiers, as well as ordinary citizens. Following the authorization from the Sarajevo Reis-ul-ulema, and with the permission issued by the Government in Zagreb, in 1916 the Imam

³¹ More about „old“ and „new“ Islamic communities see Kulenović, **Collegium antropologicum**, p. 266.

³² Čičak-Chand, **Migracijske teme**, p. 454

³³ Recruitment of inhabitants of Bosnia and Herzegovina, including Muslims, for the Austro-Hungarian Army started in 1882 according to the Conscription Act. The Act obliged all male citizens not only to protect borders of Bosnia and Herzegovina but also to defend the territory of the whole Monarchy. For more see Dževada Šuško, „Bosniaks and Loyalty: Responses to the Conscription Law in Bosnia and Herzegovina 1881/82“, **Hungarian Historical Review** 3, 2014, no. 3, pp. 529-559.

started teaching lessons in Islamic religious education for the students in Zagreb's schools.³⁴

3.1. Act on the Recognition of Islam in the Kingdom of Croatia and Slavonia

According to the Croatian-Hungarian Compromise of 1868 which regulated the position of Croatia within the Austro-Hungarian Monarchy, Croatia had the autonomy in religious matters.³⁵ Accordingly, the Croatian Parliament passed acts regulating the position of religious communities and their members: Jews (1873), Orthodox Christians (1887) and evangelical Augsburg and Helvetian confession (1898) respectively, while the relations between various religions were regulated by the *Act on the Inter-Religious Relations*, (1906).³⁶

After the recognition of Islam in Austria and Hungary, the legal position of Islam was finally regulated in Croatia by the *Act on the Recognition of Islam in the Kingdom of Croatia and Slavonia*, which came into force upon the King's sanction, on 27th April 1916.³⁷ The Act was concise and only contained nine articles. Islam was incorporated into the group of legally recognized religions and the members of the Islamic religion, i.e. the Muslims, were granted, subject to the compliance with the law, the right of public worship, as well as the independence in the religious, educational and association matters (§1). The Muslim religious community had the same legal protection as those of the other legally recognized con-

³⁴ Hasanbegović, **Muslimani u Zagrebu 1878.-1945.: Doba utemeljenja**, pp. 55-56.

³⁵ More about position of Kingdom of Croatia and Slavonia according to Croatian-Hungarian Compromise see Dalibor Čepulo, "Building of the modern legal system in Croatia 1848-1918 in the centre-periphery perspective", **Modernisierung durch Transfer im 19. und frühen 20. Jahrhundert**, Thomas Giaro (ed.), Vittorio Klostermann, Frankfurt am Main, 2006, pp. 64-67.

³⁶ Dalibor Čepulo, **Prava građana i moderne institucije. Europska i hrvatska pravna tradicija**. Pravni fakultet Sveučilišta u Zagrebu, Zagreb, 2003, p. 170.

³⁷ Zakon od 27. travnja 1916. o priznanju islamske vjeroispovjesti u kraljevinama Hrvatskoj i Slavoniji, **Sbornik zakona i naredaba valjanih za kraljevine Hrvatsku i Slavoniju**, Year 1916, Vol. X, no. 45, pp. 149-151.

fessions. Legal protection was granted to the religious officials, as well as the Islamic teachings, acts and customs, unless contrary to the legal regulations in force (§2). Furthermore, the foundation of a religious council and the regulation of the religious community was planned, based on the religious structure of Bosnia and Herzegovina, as well as bringing Islamic religious officials, subject to the approval of Croatian government, and their activity even prior to the establishment of the Religious Council (§§ 3,4,5). For each breach of authority or illegal activity the Islamic religious community, the council or their bodies, the authorities were at liberty to impose various sanctions (§6). The Muslim matrimonial law was subject to the chapter II of the General Civil Code (i.e. ABGB) until separate act was passed.³⁸ Furthermore, authorities granted to the religious bodies by the General Civil Code and the civilian trial procedure for the Muslims were transferred to the first instance administrative bodies, subject to the place of residence. Legality was under the relevant authority of the magistrates' courts with the stipulation that this order should not infringe on the religious duties of Muslims during marriage (§7). The task of administering the registry of births, marriages and deaths of the Muslims was designated to the first instance administrative bodies, and the official records and certificates were considered valid public documents (§8). The implementation of the Act was entrusted to the Governor (Ban) of the Kingdom of Croatia, Slavonia and Dalmatia (§9). Ban also passed *The Decree of Implementation of the Act dated 27 April 1916 on the Recognition of Islam in the Kingdom of Croatia and Slavonia*, on the 3rd May of the same year which complemented the provisions on marriage from the General Civil Code (according to §7) and provisions on administering registries (according to §8).³⁹

³⁸ Since no separate act was passed during Croatia's period within Monarchy Muslims were only allowed to conclude civil marriages. For ABGB provisions about marriage valid for Croatian Muslim see Mirela Krešić, "The Matrimonial Law of the Muslims of Croatia, 1916-1941", **Crossing Legal Cultures**, Laura Beck Varela, Pablo Gutiérrez Vega, Alberto Spinosa (ed.), Martin Meidenbauer Verlagsbuchhandlung, München, 2009, pp. 368-371.

³⁹ Naredba bana kraljevina Hrvatske, Slavonije i Dalmacije od 3. svibnja 1916. broj 8799 o provedbi zakona od 27. travnja 1916 o priznanju islamske vjeroispovjesti u kraljevinama Hrvatskoj i Slavoniji, **Sbornik zakona i naredaba valjanih za kraljevine Hrvatsku i**

Recognition of Islam meant that Muslims were entitled to the same rights as other Croatian citizens. This was a legal base for their inclusion in Croatian society and becoming its full member since there was no more obstacle that prevented Muslims from settling permanently and gaining citizenship.

After the end of the WWI and break up of the big European empires one of the new emerged state was the Kingdom of the Kingdom of Serbs, Croats and Slovenes (later Kingdom of Yugoslavia). When the *Constitution of the Kingdom of Serbs, Croats and Slovenes* was adopted in 1921, the Act of the Croatian Parliament on the recognition of Islam was abandoned. Position of Islam and Muslim population within new Kingdom was regulated according to the international laws, such as for example *Minorities Protection Treaty* (1919), as well as to the numerous internal acts, starting with the previously mentioned Constitution.⁴⁰

Interwar period was a period of intensive settlement of the Muslims from Bosnia and Herzegovina, particularly in Zagreb, an important industrial, trading and business centre in the Kingdom. Only now the settlers were not only men but also women or entire families. The figure of 2537 Muslims on the territory of Croatia and Slavonia in 1921 grew to 3823 in 1931, which called for the organized religious activity. For the territories of Croatia and Slavonia Imam's Head Office was established in Zagreb in 1919. After years of campaign by the Croatian Muslims the Ministry of Religion of the Government of the Kingdom granted the promotion in 1922 of the Zagreb Imam's office to the mufti level, headed by the mufti Ismet ef. Muftić. As early as the end of 1924 the Ministry withdrew the previously granted status of the mufti due to insufficient number of Muslims. The highest religious representative of the Muslims in Croatia did, however, retain the status of a mufti. The Croatian Islamic community became part of the Islamic religious community of Yugoslavia in 1930, after the unification of the Islamic religious authority and all the Muslims in the Kingdom became part of an independent religious community headed by *Reis-ul-ulema*. The first Islamic religious council was founded in

Slavoniju, Year 1916, Vol. X, no. 46, pp. 152-156.

⁴⁰ For more see Krešić, *Crossing Legal Cultures*, pp. 371-373.

Zagreb in 1934, while the first *Shari'a court* was established in 1935 as a separate department of the Zagreb District Court I. The District *Shari'a court* ceased with activity in May, 1945 although the ultimate ban on the activity of all state *Shari'a courts* was imposed in 1946.⁴¹

4. Final notes

Numerous factors influenced the present position of the Muslims in Croatia distinguishing them from the Muslim communities of the western European countries: continuous presence since the end of the 19th century, legal recognition of Islam (1916) and the setting up of the religious and other institutions. Although the Act of the Croatian Parliament on the recognition of Islam was abandoned in 1921 due to the new constitutional and legal framework of Croatia within the Kingdom of Yugoslavia, it represented a fundament for further development of the Muslim community and its identity as European Muslims. This practice has continued until today as the Muslims are integrated into the all levels of Croatian society. On the occasion of the signing of the Treaty between the Islamic community of Croatia and the Government of the Republic of Croatia in 2002, the representative of the Islamic community also said that the Muslims of Croatia would promote Islamic values with the European orientation.

According to the signed Treaty relations are specified in the area of child rearing, education, culture, pastoral care for believers in jails, prisons, reform schools, hospitals, health institutions, and institutions for social welfare, as well as for believers who are members of the armed forces and police, with the intention of creating and maintaining better conditions for religious activity. Also, Islamic community have the right to independently and freely set their internal organisation, management, hierarchy and representation, and enjoy financial support for religious and teaching personnel. One of the articles of the Treaty refers to the

⁴¹ For further details about *Shari'a Court* in Zagreb see Krešić, **Crossing Legal Cultures**, pp. 375-376.; Comp. Fikret Karčić, *Šerijatski sudovi u Jugoslaviji 1918-1941*, Sarajevo: Vrhovno starješinstvo Islamske zajednice u SFRJ, Sarajevo, 1986.

institution of Shari'a marriage to whom is granted the status of a civil marriage.

In its everyday activities, the Islamic community of Croatia, which marked the 100th anniversary of the recognition of Islam in 2016, fosters inter-religious and intrasocial dialogue demonstrating responsibility towards its own believers as well as towards the Croatian present and future to which they also belong. In today's turbulent world when Islam and Muslims have been under public spotlight, Croatian Islamic community, as well as their members, enjoy good relations with the Croatian authorities and (non-Muslim) citizens who regarded them as "our own".

