



ICMPD

International Centre for
Migration Policy Development



*Adviescommissie voor
Vreemdelingenzaken*

Comparative Study on the Admission of Clergy

Study on the Admission of Third Country
Nationals for the Purpose of Carrying out
Religious Work

Comparative Study on the Admission of Clergy

**Study on the Admission of Third Country Nationals for the Purpose of Carrying
out Religious Work in 8 European Countries and Canada**

**Prepared by the
International Centre for Migration Policy Development, Vienna**

**Commissioned and funded by the
Advisory Committee on Aliens Affairs (ACVZ),
The Netherlands**

January 2005

International Centre for Migration Policy Development • 2005

Acknowledgements

This study relies heavily on the information gathered from our contact points in the national administrations of each of the countries included in this report. We are very grateful for their support in answering our comprehensive and detailed questionnaire and also for their patience with our follow-up inquiries. A list of collaborators is at the end of this report. Without their valuable contributions, this project could not have been implemented. The responsibility for any remaining inaccuracies and omissions rests solely with the authors.

International Centre for Migration Policy Development (ICMPD)
Gonzagagasse 1
A-1010 Vienna
Austria
www.icmpd.org

© International Centre for Migration Policy Development and Advisory Committee on Aliens Affairs,
The Netherlands, 2005

All rights reserved. No part of this publication may be reproduced, copied or transmitted in any form or by any means, electronic or mechanical, including photocopy, recording, or any information storage and retrieval system, without permission of the copyright owners.

Printed and bound in the Czech Republic by OstWest Media

ISBN: 3-900411-02-6

Table of Contents

Foreword	5
Executive Summary	7
Introduction	9
1 Subject, scope and methodology of the study	9
2 Limitations of the study	10
3 Existing research	12
Overview and Comparative Analysis	14
1 A comparison of the legal status of faith communities	14
2 Admission and residence	17
3 General policy issues	21
4 Conclusions and recommendations for further research	25
Austria	28
1 Status of religious groups in the country	28
2 Admission	30
3 Residence	33
4 General policy issues	35
Belgium	38
1 Status of religious groups in the country	38
2 Admission	39
3 Residence	41
4 General Policy Issues	44
Canada	47
1 Status of religious groups in the country	47
2 Admission	47
3 Residence	51
4 General policy issues	53
Czech Republic	56
1 Status of religious groups in the country	56
2 Admission	56
3 Residence	59
4 General policy issues	63
Denmark	66
1 Status of religious groups in the country	66
2 Admission	66
3 Residence	72
4 General policy issues	75
France	77
1 Status of religious groups in the country	77
2 Admission	78
3 Residence	80
4 General Policy Issues	82
Germany	85
1 Status of religious groups in the country	85
2 Admission	86
3 Residence	89
4 General policy issues	93
Switzerland	97
1 Status of religious groups in the country	97
2 Admission	99
3 Residence	102
4 General policy issues	104
United Kingdom	107
1 Status of religious groups in the country	107
2 Admission	107
3 Residence	110
4 General policy issues	113
Annex A: List of Contributors	116
Annex B: Additional References and Sources	118

Foreword

In September 2004 the International Centre for Migration Policy Development (ICMPD) in Vienna has been contracted by the Dutch Advisory Committee on Aliens Affairs (ACVZ, an official independent committee embedded in the Aliens Act 2000) to carry out a comparative study on the **Admission of Third Country Nationals for the Purpose of Carrying out Religious Work in European Countries and Canada**. The timing of this study reflects the growing relevance of this issue for many European countries, several of whom are in the process of revising their admission and residence regulations for this specific category of immigrants. The final report in front of you has been finalized and published in January 2005.

The focus of this study are the rules for admission, residence, work, family reunification and integration provisions specific to the category of „clergy“, which is meant to include various religious orders (Catholic, Protestant, Muslim, Buddhist, and others) and duties (priests, nuns, monks, imams, and others). The study covers the following nine countries: Austria, Belgium, Canada, Czech Republic, Denmark, France, Germany, Switzerland and the United Kingdom. The information provided in this report refers to, as much as possible, the regulations as they are being implemented at the time of writing (i.e. the rules and regulations as they are being interpreted in practice through ordinances, by the courts, and by implementing agencies). Moreover, wherever available, information on planned policy changes and forthcoming legislation in the area has been added.

In order to be able to carry out this study within the short period of time available, a competent project team was assembled at ICMPD that worked intensively on the study over a period of five months. The project team consisted of Elisabeth Strasser (Project Manager), Michael Jandl (Project Coordinator), Albert Kraler (Senior Researcher), Veronika Bilger, Sara Eriksson, Sven Jörg, and Dietlind Scharzenberger.

While the topic of this comparative study is of current relevance in policy discussions in several European States, information on the rules and regulations specific to the admission and residence of members of the clergy are difficult to obtain. In most countries, this kind of information can only be made available by the relevant ministries dealing with this subject. Therefore, beside the limited information retrievable through desk-research, the study relies largely on the information gathered from our contact points in the respective national administrations. For this purpose, a comprehensive and detailed questionnaire was designed to gather comparable information. We are very grateful for the support of all the respondents, who invested a lot of time in assisting us, and also for their patience with our follow-up inquiries. A list of respondents to our questionnaire is at the end of this report. Without their valuable contributions, this project could not have been implemented. We hope that they will find the insights of this comparative report also useful for their own work.

Gottfried Zürcher
Director General, ICMPD

Executive Summary

The subject of this study are the immigration rules for third country nationals seeking entry for the purpose of carrying out religious work in 8 European countries and Canada. The objective of the study was to identify and analyze special rules and practices applying to foreign ministers of religion and other religious professionals that should both serve the legitimate religious needs of faith communities and states' intrinsic interest in managed migration.

In many countries, but not in all, the way states deal with admission of foreign ministers of religion is related to the relationship between state and faith communities in general. Sometimes, formal modes of public recognition exist that give faith communities so recognized special rights and privileges, including, at times, in terms of admission of foreign religious workers. Irrespective of the status of religion, faith communities are often involved in administrative admission procedures, formally as well as informally, mainly in regard to proving the applicant's qualification as a minister of religion, but also in other respects (e.g. guarantees of accommodation or sufficient income, defining the needs of local communities for immigrant clergy).

In all but one country covered by this study, special rules for the admission and residence of foreign ministers of religion exist. In all countries that apply special provisions for religious workers the main content of these provisions is that religious work is defined as a special form of employment or, in the case of France, is formally not considered as employment at all. In six out of the eight countries with special rules, ministers of religion, and sometimes also other categories of religious workers, are exempt from work permit requirements. As a consequence of the definition of religious work as a special sort of employment not subject to the restrictions applying to most other categories of employment, religious workers also enjoy privileged access to the territory. In the two countries where ministers of religion and other religious workers are not automatically exempted from work permit requirements (Denmark and Switzerland), the fact that a special "clergy" category exists in terms of work permit regulations similarly improves the chances of third country nationals to gain access to the territory, since the permission to work is not dependent on the general labour market situation and only depends on the relative demand for (immigrant) clergy.

In the majority of countries, special rules are not directly entrenched in immigration legislation proper but follow from other, mainly employment-related, laws or follow from administrative regulations specifying immigration rules.

The predominant form of admission granted to foreign religious workers is temporary admission, reflecting established practices of several faith communities of temporary assignments of their clergy to positions abroad, for example, among the Muslim community. Nevertheless, access to permanent residence status, or citizenship, is in principle possible in all countries studied, although not always by entitlement.

Conditions for entry are in principle the same as for all other immigrants. However, some specific conditions often apply, for example making eligibility for admission

under special rules dependent on formal recognition as a recognized faith community (or at least a minimum size of the faith community concerned), or requiring certain minimum standards as to how formal qualification as a minister of religion is to be proven.

There are at least two important recent developments regarding admission policies towards clergy that should be mentioned here. The first concerns the approach towards integration of foreign clergy in their host country. Two countries (the UK and Switzerland) have recently changed their policies vis-à-vis third country nationals seeking entry for the purpose of religious work, by introducing certain integration requirements to be met by applicants before or soon after entry. Other states are considering comparable special requirements for clergy or simply include them in recently introduced general integration requirements for long term foreign residents.

Second, and more generally, the concerns over Islamic fundamentalism in the wake of the events since September 11th 2001 have led to a reconsideration of state policies vis-à-vis Muslim communities in several countries, including a review of admission policies. States have become increasingly worried about radical Muslim clerics and the fact that a majority of Muslim ministers of religion come from third countries and often have only insufficient knowledge about their country of residence (not least due to the temporary nature of many assignments). In response, several states, including Belgium, France, Germany and Switzerland have recently adopted measures promoting the in-country training and recruitment of imams as well as more far-reaching measures to promote the institutionalization of Islam. By contrast, immigration authorities usually do not regard admission policy towards other faith communities as involving any particular problems or challenges, nor is policy towards other faith communities subject to comparable public debates. However, as far as governments are concerned, the perception that there are no particular problems may partly be due to the fact that admission policy towards other faith communities usually involves more practical problems related to the implementation of admission provisions only (e.g. eligibility for the special provisions, definition of religious work, etc.), which are dealt with at lower administrative levels and are not considered as political problems *per se*.

In general it is difficult to assess whether existing legal frameworks meet their underlying objectives, namely to facilitate the entry of ministers of religion and other religious workers while upholding the legitimate rights of states to manage migration, since little information on *de-facto* administrative practices is available. Information on the actual needs of faith communities and on the extent these needs are addressed by current legislation and administrative practice, however, would be needed to evaluate the efficacy of existing admission rules.

Going far beyond the remit of this comparative report on admission policies, what current policy debates on foreign, particularly Muslim, clergy in the states under study clearly show is that, to be effective, policies aimed at reducing the dependency on foreign ministers of religion cannot be limited to a reform of admission rules alone but need to include a broader set of measures, including institutionalized forms of cooperation and consultation with representative Muslim organizations, facilitating the establishment of Islamic training institutions of higher learning, and considering the role and possible reforms of religious education at large.

Introduction

1 Subject, scope and methodology of the study

The subject of this study is the regulation of admission and residence of third country nationals¹ in 8 European countries and Canada for the purpose of religious work. The objective of the study is to identify and analyze special rules and practices applying to foreign ministers of religion and other religious professionals that both serve the needs of faith communities and states' intrinsic interest in managed migration. A majority of ministers of religion from third countries may apply for admission under such special rules, if they exist. However, they also may not do so and rather use other, more conventional entry channels open to them (e.g. study, employment or family reunification).

For data collection, a detailed questionnaire on legal rules, regulations and procedures concerning entry, residence, access to work, access to permanent status (e.g. settlement permit, citizenship), family reunification, the status of religious groups in the country and historical as well as likely future developments was designed and sent out to responsible ministries in eight European countries and Canada. Additional information was collected and included to complement the information gained from questionnaires and to fill certain gaps in the collected data, in particular, where the wider context of immigrants' religious practices, public debates, administrative practices and the status of religious groups is concerned. Where necessary, the study gives a brief overview of general immigration rules. However, it covers administrative practices only to a limited extent, which – in particular in federal states and in cases where legal rules leave considerable room for administrative discretion – may differ locally from formal rules on the national level. Similarly, the study does not investigate actual practices of faith communities in regard to the immigration of their ministers of religion, a subject that must be left to future research.

The study is divided in two parts. In the comparative part one, the different religious contexts are described and admission rules for third country nationals seeking entry for the purpose of religious work are summarized and compared. The concluding section of this part identifies good practices and provides recommendations for future research. Part two consists of nine country studies on the subject of the study. Both the comparative part and the individual country studies largely follow a similar structure. In section 1, the religious demography and the status of religious groups are described. Section 2 gives an overview of admission policy, while section 3 describes legal rules regarding residence for this category of persons, including provisions on family reunification and access to work. In the comparative chapter, admission and residence are discussed in the same section (section 2). The following section (section 4 in the country chapters, section 3 in the comparative chapter) looks at some more general policy issues, including integration policy, historical developments, planned policy changes and public debates on admission policy for ministers of religion from third countries. Finally, the concluding section of the comparative chapter draws

¹ For simplification, the term “third country nationals” is used throughout the text, even though the relevant distinction in Canada is between nationals and non-nationals. Also, the terms “non-national” and “foreigner” are sometimes used as synonyms for third country nationals.

some general lessons from the regulatory frameworks concerning the admission of ministers of religion found in the nine countries under study as well as pointing out some possible avenues for future research.

2 Limitations of the study

Given its specific focus, the overall objective of this study is a limited one: to describe and analyze admission rules and wider immigration policies towards third country nationals wishing to carry out religious work, be it as priests, imams, members of a religious order or in a similar religious profession. At the same time, however, the issues at stake have potentially much wider ramifications, which reflect the increasing salience of the multiple linkages between migration and religion. The emergence of large, settled immigrant communities from a variety of countries of origins and with diverse religious backgrounds, went – largely unnoticed – hand in hand with the emergence of distinct immigrant religious practices and patterns of religious self-organization catering for the religious needs of incoming and settled immigrant communities. Early instances of immigrant religious self-organization concerned organizing places of worship and organizing worship in particular languages and for particular immigrant communities. After that, other concerns, such as organizing religious education, dealing with practical issues related to certain practices (e.g. *halal* slaughtering), dealing with practical issues with regard to burials and other rites associated with important events during a migrant’s lifetime, emerged as equally important concerns. Meanwhile, the specific religious needs of migrant communities have been increasingly acknowledged as legitimate concerns of migrants to which receiving societies should respond. The adoption of specific rules for the admission of immigrants for the purpose of carrying out religious work is but one, though important, instance of this often tacit, acknowledgement of migrants’ specific religious needs.

As migrants adhere to a variety of different religious faiths, the mandate of this study was not limited to particular religious communities, but rather to examine policies and practices towards ministers of religion in general. Nevertheless, a certain focus on particular faith groups, notably the Muslim community, can be discerned. Partly, this is the case because the information provided by immigration authorities in response to our questionnaire puts Muslim communities at the centre of attention, which in turn reflects the heightened concerns over the integration of Muslim migrant communities into European societies post September 11th 2001. To some extent however, this is so because “traditional” autochthonous religious communities are less in need of specific immigration arrangements for their leaders and make use of such rules less frequently.² Obviously, admission rules for ministers of religion are particularly relevant for those faith communities, which are unable to produce sufficient numbers of ministers of religion amongst themselves or, e.g. due to a lack of religious educational institutions, are entirely unable to do so. In the majority of cases, such faith communities are of immigrant origin. On the other hand, even traditional religious communities, such as the Catholic Church, often employ nationals of third

² Moreover, in the case of the Catholic Church and Protestant Churches, other channels, in particular admission for the purpose of study may be more important, as large numbers of foreign ministers of religion are trained in European theological universities and other religious training institutions, while at the same time participating in the provision of religious services to faith communities in their country of residence.

countries due to a lack of indigenous clergy. Finally, established faith communities may also seek to employ ministers of religion from immigrant communities' countries of origin to allow worship in particular languages and to cater for specific migrant communities.

Having said this, it has to be pointed out that the study has certain limitations. First of all, the study was seriously limited in time, which means that it is essentially a pilot study and a first exploration of the issues involved, rather than a comprehensive examination of immigration policies of European countries towards ministers of religion and related professions.

Second, and closely related to the time constraint, the study is limited in methodology. The main sources of information used for this study were the national immigration authorities. For this purpose, a ten-page questionnaire was developed and sent out to those departments in the ministries who regularly deal with the admission of ministers of religion. In general, the responses from ministries were extremely rich in information and authoritative in content. In addition, information from a variety of publicly available sources (legislation, public reports, research literature, media) was used as a source on the general nature of the immigration regime and on the status of religious groups in the countries under study. While the level of inquiry (national level, ministries) allowed us to fully describe the formal rules relevant for the admission of clergy, it provided information on administrative practices and possible weaknesses of the admission regime for ministers of religion only to a limited extent. This can particularly be seen as a problem where immigration legislation allows for considerable discretion and where decisions are taken on an ad hoc basis at lower levels of the administrations.³

Third, the study is limited in scope: We have studied admission rules in more detail for ministers of religion and thus cover priests, imams, preachers, members of religious orders, missionaries, and other similar religious professions. The defining characteristic of the category of persons under study is that persons in this category are all involved – to a greater or lesser degree – in religious worship as a profession, be it as leaders of worship on behalf of faith communities (e.g. priests or imams), or in worship as a profession in its own right (in the case of members of a religious order).

During the work on this study, however, it became clear that a close link exists between the admission of ministers of religion and religious education in a broader sense, a link that could be explored in more detail. In some countries, notably Austria and Belgium, where religious education is part of school curricula and ministers of religion are regularly engaged in religious education within the public school system, this link and related state policies could be dealt with explicitly. In others, notably in countries where religious education is not part of school curricula or where only autochthonous religions have a right to provide religious education, this link is more tenuous. At the same time, religious education in a specific sense – notably the

³ In addition, research on the perspectives of individuals seeking entry in the capacity of a minister of religion or on the perspectives of faith communities involved would have provided valuable insights into administrative practices and shortcomings of existing admission regimes and could have provided important indications how things could be improved. However, given the limited time available for conducting this study, this was not a feasible option.

training of ministers of religion and imams - has recently been intensely debated in Belgium, Germany, France and Switzerland. A more thorough examination to what extent existing rules for the admission of ministers of religion address the needs of faith communities for religious education (for children, lay-people as well as religious professionals), while at the same time addressing the legitimate concerns of states in terms of sovereignty, security, religious freedom and social cohesion seems certainly warranted and could be the subject of further investigation.

Finally, religious work in a broad sense may often be difficult to distinguish from other kinds of charitable work within a religious context. For example, members of religious orders are regularly involved in nursing, care of the elderly and other types of social work, with or without remuneration, and usually see these “worldly” activities as part of their mandate as a member of a religious order.

3 Existing research

With the exception of a single study commissioned by the Dutch Ministry of Justice and available only in Dutch language⁴ there are virtually no other studies that would analyze admission policy vis-à-vis third country nationals for the purpose of religious work in more detail.⁵ Similarly, albeit religious practices, religious associational life of immigrants and other issues related to religious practices of migrant communities have increasingly drawn the attention of researchers and the public, there is only a handful of studies that analyze the political accommodation of immigrant religious demands, including admission of religious leaders. Thus, in general, research on the issues involved is in its infancy. Recently, however, several more general studies have been published that reflect both the growing interest of academics into the issues involved, as well as the emerging policy needs to know more about the diverse interlinkages between migration, religion, and migration policy and, last but not least, the renewed general interest into the politics of religion after September 11th 2001.⁶

⁴ Tessel de Lange & Ineke Hendrickx (2004): Toelating van vreemdelingen voor verblijf bij religieuze organisaties. Beleid en praktijk in Nederland voor en na de Vreemdelingenwet 2000, Nijmegen: Wolf Legal Publishers. An English summary of the study can be found on pp.129ff of the study.

⁵ A study commissioned by the European Commission in 1999 gives a brief overview of rules and regulations concerning the admission of clergy in the then-EU15 but does not go into much detail. See: Study on the Admission of third country nationals to an EU Member State for the purpose of study or vocational training and admission of persons not gainfully employed, prepared by ICMPD for the European Commission, Directorate General for Justice and Home Affairs, Luxembourg: Office for Official Publications of the European Communities, September 2000, 216 p.

⁶ See for example: Joel S. Fetzer, J. Christopher Soper (2005): Muslims and the State in Britain, France, and Germany. Cambridge: Cambridge University; Mohamed El Battioui, Firouzeh Nahavandi; Meryem Kanmaz (2004): Mosquées, imams et professeurs de religion isalmique en Belgique. Bruxelles: Fondation Roi Baudoin. Available online at <http://www.kbs-frb.be/files/db/fr/PUB%5F1448%5FMosquees%5Fimams%5Fprof%5Fislam.pdf> (17.01.2005); Sandro Cattacin; Cla Reto Famos, Michael Duttwiler, Hans Mahnig (2003): Staat und Religion in der Schweiz. Anerkennungskämpfe, Anerkennungsformen. Eine Studie des Schweizerischen Forums für Migrations- und Bevölkerungsstudien (SFM) im Auftrag der Eidgenössischen Kommission gegen Rassismus. Bern: Eidgenössische Kommission gegen Rassismus. Available at: http://www.edi.admin.ch/ekr/dokumentation/shop/00019/00070/staat_religion_gesamt_def-d.pdf?lang=de; Beauftragte der Bundesregierung für Migration, Flüchtlinge und Integration (2004): Religion – Migration – Integration in Wissenschaft, Politik und Gesellschaft. Fachtagung 22 April 2004. Dokumentation. Berlin: Beauftragte der Bundesregierung für Migration, Flüchtlinge und Integration. Available at: <http://www.integrationsbeauftragte.de/download/ReligionMigrationIntegration.pdf> (17.01.2005)

Existing research points at some of the challenges involved for faith communities that recruit their religious leaders predominantly abroad, for example, dependence on home country institutions and sometimes being subject to political control exerted from the home country (e.g. in case of Turkish communities), immigration regulations that often present an obstacle to the recruitment of foreign clergy, lack of knowledge about the country as well as specific problems and challenges faced by migrant communities in practicing their religion on the side of immigrating ministers of religion, to name but a few.

The present study thus adds to the emerging research on migration, religion and the state by looking at the regulatory framework in place for the admission of third country nationals for the purpose of religious work. To fully understand the challenges and opportunities for public policy, however, more research is certainly warranted.

Overview and Comparative Analysis

1 A comparison of the legal status of faith communities

The religious demography of Europe as a whole is undergoing rapid and radical changes. However, beyond the figures presented in Table 1, it is difficult to give a more precise picture of the religious reality in the countries under study. Often, statistics on religion are not collected by government bodies at all (as in France and Germany), or are only available by broad categories of religion (as in the UK). Also, there might also be large numbers of migrants from third countries adhering to one of the established religions (for example Catholic Croats in Germany and Austria), who nevertheless organize their religious life very much on an ethnic basis and thus may be in need of foreign clergy. Finally the degree of active religious practice may differ significantly from formal membership in established faith communities.

Table 1: Religious Demography

	Austria	Belgium §	Canada	Czech Republic	Denmark	France	Germany	Switzer- land	UK
Catholics	74%	47%	43%	39,2%		62%	33,4%	35,3%	10%
Protestants (incl. Anglicans)	4,7%	0,01%	29%	4,6%	84,3%	2%	33%	35,3%	43%
Orthodox	2,2%	*	*	3%			1,5%	1,8%	*
Muslims	4,2%	3,4%	2,2%	*	3%	6%	3,9%	4,3%	1,6%
Jews	*	*	1,1%	*	*	1%	0,1%	*	0,5%
Hindus	*	*	1%	*	*	*	*	*	1%
Sikhs	*	*	1%	*	*	*	*	*	0,6%

Sources: Austria: Census 2001; Belgium, Denmark, UK: International Religious Freedom Report ; France: International Religious Freedom Report, Migration Information Source ; Germany: International Religious Freedom Report, REMID; Switzerland: Census 2000

§ Note that other sources give a far higher proportion of Catholics (roughly 3/4 of the population).

* An asterisk denotes either the non-availability of data or the relative insignificance of faith communities in quantitative terms

While traditional faith communities are increasingly losing their membership and while a growing proportion of Europeans reject any formal allegiance to a particular religion, a number of non-autochthonous faith communities have emerged that, in contrast to “autochthonous” Christian communities, are continuously growing. The largest of these “new” faith communities is Islam, followed by Orthodox Christians and Asian religions such as Hinduism, Buddhism and the Sikh religion (See Table 1). All new faith communities that were the result of post-WW II and more recent waves of immigration have – to varying degrees – become institutionalized to meet the various religious and practical needs associated with practicing their religion (e.g. organizing religious worship, establishing prayer rooms or building mosques and churches, organizing marriages and other ceremonies according to religious traditions). While in the early stages religious worship was often privately organized and laymen (and to a much lesser extent, lay women) served as ministers of religion, more stable leadership patterns have emerged since, with an increasing proportion of professional clergy catering for the religious needs of immigrants.

However, the large established Christian denominations, too, receive considerable numbers of ministers of religion and members of religious orders from third countries, not only to accommodate the religious needs of immigrant minorities, but equally important, because the countries studied are often also centres of religious learning, or in the case of the Anglican Church in the UK, the “centre” of a globally active church as such. Increasingly, established religious communities also recruit ministers of religion simply for want of indigenous clergy. It should be added, that many of the Christian denominations, above all the Anglican and Catholic Churches are inherently transnational in character which involves, albeit to varying degrees, the circulation of members of their clergy and other religious workers almost by default.

The majority of countries under study do in one way or another distinguish between faith communities for various administrative purposes. Sometimes, states have an established close relationship with a particular denomination for historical reasons (e.g. the Anglican Church in the UK or the Protestant Church in Denmark). Often, states accord official recognition, involving a variety of rights and duties, to a number of faith communities, mostly on the basis of formal criteria. Table 2 gives an overview of the regulation of the legal status of faith communities and the relevance of official recognition for immigration purposes in the 9 countries under study.

Official recognition is above all important in symbolic terms. But it may also involve various practical advantages (tax exemptions, eligibility for public subsidies) as well as other rights (e.g. the right to offer religious education). In some countries (e.g. Austria, Belgium and Denmark) formal recognition of the applicant’s faith community is a precondition to be eligible for special immigration rules for religious workers. In others, eligibility criteria for special immigration rules vary internally or are entirely unrelated to official recognition (e.g. in Switzerland), while even those states without formal modes of recognition base special immigration rules on certain formal criteria that may be seen as tantamount to an official recognition of faith communities, if only for immigration purposes (e.g. the UK).

The existing literature shows that public recognition of faith communities in whatever form is regarded as extremely important by minority faith communities themselves, but is particularly seen so by faith communities whose presence in a given country is the result of immigration. For many of them it is not only a symbolical gesture, but has very practical consequences as well, including for the admission of immigrant clergy and other religious workers.

Recognizing faith communities’ internal autonomy is traditionally seen as one of the key elements of modern forms of religious freedom. Immigration regulations and in particular, restrictions on the admission of ministers of religion, may be seen to conflict with the principle of freedom of religion and faith communities’ full autonomy in respect to their internal organisation and regarding whom they appoint as ministers of religion. Specific forms of recognition of religious needs, as represented by formal recognition of faith communities or the recognition of special rights in terms of admission rules, however, show that states are aware of the delicate balance they should strike between the legitimate needs of faith communities and their own interests to control and manage migration.

Table 2: Forms, content and relevance of recognition of faith communities for immigration purposes

	Austria	Belgium	Canada	Czech Republic	Denmark	France	Germany	Switzerland	United Kingdom
Existence and form(s) of official recognition	Two forms of recognition: (1) Recognized Religious Societies and Churches; and (2) Registered Religious Confessions	Recognition of "bodies charged with the organization of religious worship"	No formal recognition	Two tier recognition.	(1) State church defined by the constitution. (2) Recognition of faith communities by royal decree; (3) indirect recognition through Marriage Act	No	Recognition of faith communities as corporations under public law	Different forms of recognition in individual Cantons; ranges from constitutional recognition of certain faith groups, other forms of recognition under public law; to recognition under private law	Established state churches. No recognition of other faith communities.
General relevance of recognition	(1) Special legal standing (corporations under public law); exemptions from certain taxes; the right to organize tuition in religion in the public school system; right to tax members; (2) prerequisite for obtaining full recognition under (1)	Public subsidies, incl. salaries for leaders paid by the state; entitlement to religious education; tax exemption (may also be granted to other non-profit organizations)	Not applicable	(1) first tier recognition: certain tax benefits; (2) tax benefits, public subsidies, entitlement to perform marriage ceremonies & delegate clergy for service in the military and prisons	Tax exempt status; Permission to perform marriage ceremonies on behalf of the state	Not applicable	Entitlement to tax members through state authorities; Entitlement to offer religious education in public school system; Subsidies (discretionary) Tax exemptions (also granted to other non-profit organizations)	Varies between cantons, may involve right to tax members and exemption from certain tax obligations	Established state churches have a formal role in politics (ex officio members of House of Lords).
Recognition relevant for immigration purposes and in what sense	Ministers of religion of (1) are exempted from quota and work permit requirements	Ministers of religion of recognized faith communities are exempt from work permit requirements	Not applicable	No	Yes (Special permits for third country nationals carrying out religious work)	Not applicable	No	Recognition or non-recognition on cantonal level is not relevant for immigration purposes	Not applicable
If no recognition: special rules for ministers of religion - Eligibility criteria	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Religious work not considered employment; ministers of religion considered visitors in terms of immigration legislation. No formal eligibility criteria (administrative discretion based on conditions to be met for permit)	Formal eligibility criteria for exemption from the obligation to receive a permission to work: ministers of religion, member of a religious order whose work is of a strictly religious or voluntary nature (includes nursing and other charitable activities)	General set of criteria: religious communities must show respect for Swiss legal norms, institutional and organizational presence in more than one Canton (exemptions granted for religious minorities)	List of faith communities eligible for special immigration rules for ministers of religion maintained by the Home Office's Immigration and Nationality Directorate, based on definition of minister of religions/ missionaries

2 Admission and residence

2.1 General practice

As Table 3 shows, 8 out of the 9 countries studied apply - in some way or another - special rules for the admission of third country nationals for the purpose of religious work, except the Czech Republic. In respect to the latter, two factors help to explain the absence of special provisions for the admission of ministers of religion. First, as a result of the former communist rule, the share of the population which is formally member of a faith community is rather low and religious issues overall are not considered particularly relevant in political terms. Secondly, the Czech Republic is a country of immigration only since fairly recently and thus, the issue of migrant religious practices has simply not been on the agenda to the same extent as in the other countries studied.

In the countries where special provisions exist, they may not necessarily be formally part of immigration legislation proper, but may rather follow from provisions in other (most importantly: employment) laws. Nevertheless, even where a “clergy” category does not exist in terms of immigration legislation, religious workers are clearly treated differently from other categories of foreigners in terms of admission, since employment regulations on immigrant labour are a key element of the overall migration regime.

In three out of nine countries (Austria, Belgium and Denmark) official recognition of faith communities is a precondition for eligibility of ministers of religion for special immigration rules. In the remaining countries, eligibility criteria are more formal, but often similar to rules applied in other countries in regard to the recognition of churches and faith communities (e.g. minimum size of faith community, more than local importance, minimum duration of existence, etc.).

In most cases where special rules exist (except in the case of Denmark and Switzerland) the main consequence of special provisions is that third country nationals so admitted are exempt from work permit requirements (or comparable employment permission procedures in countries where a unified admission system exists). In the two countries (Denmark and Switzerland) where this is not the case, special categories exist for third country nationals carrying out religious work. Ministers of religions and other religious workers (in the case of Denmark) are thus subject to special employment permission procedures that make the permission to work in this category (and hence to enter the country) dependent only on the labour market situation for ministers of religion, the size of the faith community in question as well as the overall number of clergy employed by the faith community.

The definition of activities that may qualify as “religious work”, however, varies greatly and often is only broadly defined. Similarly, which occupational categories may qualify as “religious work” or “clergy” can either be closely defined (e.g. as in Austria, where occupations qualifying for ministers of religion in the meaning of the law are exhaustively listed for Catholic, Protestant and Muslim ministers of religion) or, conversely, can be defined only by a general description of activities that the ministry of religion normally involves (see Table 3).

Table 3: Specific Provisions for Clergy and Members of a Religious Order

	Austria	Belgium	Canada	Czech Republic	Denmark	France	Germany	Switzerland	United Kingdom
Specific legal (administrative) provisions (yes/no) and legal basis	Yes, Aliens Law 1997 as amended, Employment of Foreign Workers Act 1975 as amended	Yes, Royal Decree of 20 July 1967 on the occupation of foreign workers and the Law of 30 April 1999 on the employment of foreign workers, Royal Decree of 9 June 1999, implementing the law of 30 April 1999	Yes, Immigration and Refugee Act (2002) regulation 186 (1) (for temporary residents only)	No	Yes, Aliens Act 2004, section 9f (1), Order no 808	Yes, Article 12 of the Ordinance of 2 November 1945	Yes, §9 BeschV (Employment Directive)	Yes, but only administrative rules: Directives and Instructions Concerning Entry, Residence and Labour Market (ANAG Regulations) Annex 4/8a	Yes, Immigration Rules HC 395, §170-171
Definition	Third country nationals of recognized faith communities predominantly engaged in the ministry of religion	Third country nationals of recognized faith communities predominantly engaged in the ministry of religion	Non-nationals whose employment mainly consists of preaching of doctrine, presiding at liturgical functions or providing spiritual counseling	Not applicable	Third country nationals acting as a religious preacher, a missionary, or a member of a religious order of a recognized religious community	Ministers of religion supported by religious associations (associations culturelles)	Ministers of religion and members of a religious order predominantly carrying out work that is religious or charitable in nature	Persons predominantly preaching religious doctrines, catering for the spiritual welfare of members of faith communities and organizing religious worships	Usual duties of ministers of religion include: leading worship, running supplementary schools, religious instruction, religious education, mother tongue teaching, social welfare work, counselling services, administration etc. ⁷
Main consequence of special provisions	Exemption from work permit requirement, not subject to immigration quotas	Exemption from work permit requirements	Exemption from work permit requirements	Not applicable	Eligibility for special religious worker category	Exemption from work permit requirements	Exemption from permission to Work	Eligibility for special (labour market) quota for ministers of religion	Admission under the clergy category; exemption from work permit requirements
Categories covered by the provisions	Ministers of Religion: parish priests, deacons, chaplains, bishops, members of a religious order; imams, muftis, vaez (preachers)	Qualified ministers of religion	Laypersons, ordained ministers, members of a religious order	Not applicable	All qualified ministers of religion of a recognized faith community	Ministers of religion supported by a religious association (association culturelle)/ Categories not specified	All categories of religious workers provided they predominantly carry out religious or charitable work	All categories of religious workers meeting the substantial definition of activities characterizing a religious worker as defined above	Ministers of religion, missionaries and members of a religious order meeting the substantial definition of activities listed above

⁷ A more comprehensive list is attached as Annex S to Immigration Directorate's Instruction, available online at http://www.ind.homeoffice.gov.uk/ind/en/home/laws_policy/policy_instructions/table_of_contents/chapter_5/annexes.Maincontent.0023.file.tmp/Sec6AnnexS.pdf (17.01.2005)

2.2 Type of permits

Table 4 gives an overview of the type of residence permits issued to third country nationals seeking entry for the purpose of religious work. While the purpose “religious work” is formally entrenched in immigration law only in a few countries, third country nationals carrying out religious work are nevertheless accepted for specific purposes ranging from “work permit exempted employment” to “visitor”, that indirectly establish the purpose of religious work, since third country nationals so admitted are eligible for these purposes in their capacity of carrying out religious work or belonging to certain religious occupations. One practical consequence of whether a specific “clergy” category is or is not entrenched as such in immigration law, however, is that only in a few countries statistical data exist on the numbers of foreign clergy and other religious workers admitted (See country chapters for more detail).

In general, the types of permits issued to religious workers are the same as for other categories of immigrants. Similarly, eligibility criteria for family reunification, renewal of permits and access to permanent status, including citizenship, usually do not differ substantially from those applying to other foreigners.

However, the country studies suggest that in terms of length of validity, the dominant forms of permits issued are short term and medium term permits. During the research for the report it became clear that with the exceptions of Canada, Germany and the UK (in the Czech Republic, the question does not arise, because no special regulations for religious workers exist), immigration authorities generally assume that the majority of religious workers accepted under special regulations do in fact stay only temporarily in their respective country.

Whether the assumption is empirically true for all faith communities, however, must remain an open question. Suffice is to say, that the assumption is based on existing practices among some faith communities (e.g. foreign clergy acting as “substitutes” for the incumbent priest during holidays, short term assignments abroad of imams by certain sending states, notably Turkey), and may in fact apply to the majority of foreign ministers of religion (particularly in respect to Muslim communities) admitted to the respective countries under special admission rules. The temporary nature of immigrant clergy’s stay may also be true for those that come for a particular training (however, in these cases they may come, or in some case (e.g. in Canada) are obliged to enter the respective country on study permits). As a consequence, provisions for family reunification and access to permanent status are often considered irrelevant by authorities (e.g. in Switzerland).

As already mentioned above, the main characteristic of special regulations applying to religious workers is that they are normally work permit exempted. In two countries where this is not the case (namely Denmark and Switzerland), a permission to work is required, but only a single permit will be issued. In the Czech Republic, work permits and residence permits are required separately.

Countries that exempt ministers of religion from work permit requirements normally restrict employment strictly to religious activities, but these are not always precisely

defined (for example in Germany where the relevant regulation simply refers to “predominantly religious or charitable work”). In all countries that apply special provisions on religious workers, typical religious activities (leading worship, providing spiritual counselling, leading ceremonies such as marriages or funerals) would usually be covered. “Atypical” religious work, such as religious education or social work, is often a grey area. The study on the Netherlands commissioned by the Dutch Ministry of Justice, for example found, that a particular group of religious sisters, whom the authors had interviewed, have had a variety of different permits with various employment restrictions at different stages of their “immigration career”, although the whole group was essentially carrying out the same kind of activity after entering the Netherlands.⁸ However, in the UK, the relevant administrative instructions do explicitly refer to social work as well as religious education, while in Austria, the number of school lessons that a persons admitted as a minister of religion may teach, while still being eligible for the special provisions for ministers of religion, is strictly defined.

All countries where permanent residence permits exist (except the Czech Republic, where a comparable permit does not yet exist) usually grant such permits for all purposes and with unlimited validity.

In most countries, changing the purpose of a permit, and sometimes, also the type of a permit (e.g. in Austria in regard to a change from a short to a long term permit), is seen as a new application that normally requires the applicant to apply from abroad, with France being a notable exception. However, switching to a permit that could have theoretically been granted when the applicant first applied (e.g. from a permit for ministers of religion to a student permit or vice versa) is frequently possible, for example in Austria or the United Kingdom.

2.3 Conditions for admission, residence and removal

Table 5 gives an overview of conditions that third country nationals who seek admission for the purpose of religious work have to meet. In general, conditions for entry and residence are the same for religious workers as for all other categories of third country nationals. Among the usual requirements are valid travel documents, proof that there is no criminal record and proof of sufficient financial means (or, alternatively, an employment contract).

As is the case for other categories of foreigners, non-compliance with the conditions and major criminal offences are usually grounds for cancellation of the permit and removal from the territory. In France and Germany, inciting racial and religious hatred may equally constitute a sufficient ground for expelling a foreign minister of religion.

However, there are also specific conditions to qualify as a religious worker. For example, in Austria, Belgium and Denmark, only members of recognized faith communities qualify for this special category (see Table 2 above). In others, such as Switzerland and the UK, the local faith community employing the religious worker must have a minimum size, while the ratio between clergy and members of the community is also taken into account.

⁸ de Lange & Hendrickx (2004) op.cit.

A second type of specific condition that is often tied to admission as a minister of religion is proof of professional qualification. Also in this respect, the practice of states varies widely. In Austria, for example, recognized faith communities confirm the qualification of the applicant through competent bodies (e.g. for imams, the Muslim community in Austria, for Catholic priests, the respective diocese). In Switzerland, on the other hand, formal qualification is required in respect to certain faith groups, usually in the form of a university degree in theology, while the qualification of the applicant has also to be confirmed by both the employing faith community in Switzerland and religious authorities in the country of origin. Finally, the UK requires prior professional experience as a minister of religion, among other conditions to be eligible for admission.

3 General policy issues

Across Europe, there have been recurrent cases of expulsions of radical Muslim clergy, that were often accompanied by fierce public debates on immigration, migrants' rights and the integration of Muslim communities in general, but also, and more specifically, on alternatives to employing foreign Muslim clergy in countries of immigration. Probably one of the most widely discussed recent cases involved the radical Muslim cleric Metin Kaplan who was "expelled" from Germany to Turkey (formally, he was extradited).

Partly as a consequence of these debates, concrete steps have been taken in Belgium, France, Germany, and Switzerland to establish training institutions for Muslim clerics within these countries with the ultimate aim to decrease the dependency on foreign Muslim clergy. To what extent these attempts will be successful remains to be seen, since a large proportion of Muslim clerics seem to be employed on a voluntary and unremunerated basis (except those sent by the Turkish state). The practice of temporary and not always remunerated "employment" of foreign clergy among Muslim communities, on the other hand, is directly related to some sending states' cultural and religious policies, notably in the case of Turkey, but equally important also to the question of funding. Many mosques are simply not financially able to employ foreign clergy on their own accord and only too readily accept volunteers or foreign-funded clergy as imams. In those countries that offer religious education in the public school system (Austria and Belgium), a similar debate is led in respect to the training of teachers of Islamic religion. In Austria, the concerns over the employment of foreign teachers in religious education, for example, have led to the establishment of an Islamic teacher training college in 1998/1999 which is seen as a role model not only for similar institutions elsewhere, but also as a possible role model for the training of imams.

In a similar vein, in several countries attempts have been made to promote the establishment of centralized Muslim representative bodies, for example in France and Belgium (but also in Germany, albeit on the level of federal states). In all these cases, the primary aim was to gain an official interlocutor for public policy-making regarding all issues concerning Muslim minorities, such as religious education, training of imams, the building of mosques and other issues. Indirectly, such centralized bodies allow a higher degree of state control on the admission of foreign ministers of religion, but they may also allow a wider involvement of religious

authorities in respect to the admission of foreign clergy. In Austria, for example, where the origins of a centralized representative body for Austria's Muslim minority can be traced back to the time of the Austrian-Hungarian monarchy, admission policy for Muslim clergy regularly involves both the Minister of the Interior and the representative of the Islamic community in Austria.

In all countries (perhaps less so in Canada and the Czech Republic) the issue of integration of migrants is one of the key issues debated in respect to migration policy, often with tacit or explicit reference to Muslim communities. Most states under study have recently adopted or reinforced their public integration policies, often tying language requirements and requirements to attend "civic education" classes (on the history, norms and values of the host country) to admission or permission to continuing residence in the country. Two countries – the UK and Switzerland – have recently changed their policies vis-à-vis foreign ministers of religion. In the UK, foreign ministers of religion now must prove a relatively advanced level of English language proficiency and thus now must meet the same requirements as other immigrants. In Switzerland, recently introduced language requirements and a possible obligation to attend language and civic education courses are specifically aimed at ministers of religion and teachers involved in extra-school tuition of language and culture of the country of origin, reflecting the importance the government accords to these professions for immigrant integration. Only in Austria, integration requirements for foreign ministers of religion are actually more lenient than for "regular" immigrants, reflecting the working assumption of authorities that ministers of religion in practice will stay for only a limited period of time (they do not have to prove German language proficiency, if initially intending to stay no longer than three years).

Tellingly, only few immigration authorities contacted by the research team could provide information on the historical evolution of the current admission policy that would have allowed a closer analysis of the rationale behind current practices. Only in the UK, the origin of current policy can unequivocally be traced back to the commitment of the then ruling UK government to address the religious needs of migrant minorities (the category for ministers of religions, missionaries and members of religious orders was introduced in immigration legislation in 1983). In most other cases, the reasons for current admission policies as well as the historical target groups that gave rise to these policies are much less clear. Similarly, there is also a clear lack of knowledge about the practical implications of current admission policies for faith communities. Partly, this is so because there is little information on the day-to-day administration of immigration and residence in regard to ministers of religion on the level of government ministries, and only a few high profile cases are dealt with at this level. To what extent faith communities are served by current admission policies (as should arguably be the case wherever special provisions exist) or, conversely, are disadvantaged by them must be left to further research.⁹

⁹ There is some evidence on Muslim communities in Belgium, for instance, suggesting that admission rules are often to the disadvantage of faith communities. See El Battiui, Nahavandi & Kanmaz (2004) op.cit.

Table 4: Types of Residence Permits issued to Ministers of Religion

		Austria	Belgium	Canada	Czech Republic	Denmark	France	Germany	Switzerland	United Kingdom
Residence Visa	Name	Residence Visa	National Visa	See below	Short term visa	Not applicable	Tourist Visa	Not applicable	Short term permits	Visitors Visa
	Validity	6 months, not renewable	3 months, not renewable	See below	90 days	Not applicable	90 days	Not applicable	Less than 4 months	6 months, not renewable
	Restrictions	No employment, not renewable	No employment	See below	Granted for a specific purpose, not renewable	Not applicable	No gainful economic activity	Not applicable	Granted for specific employment, not renewable, no quota	Granted to visiting preachers, no gainful activity
Short term permit	Name	Residence Permit	Temporary Residence Permit (Autorisation de Sejour)	Temporary Residence Visa	Residence visa	Residence permit	Short term residence permit (Visa de long sejour/ carte temporaire)	Temporary Residence Title	Short term permits	Not applicable
	Validity	6 months, renewable	1 year, renewable	Normally 6 months, renewable to up to 5 years	Up to 12 months, not renewable	12 months, renewable up to 3 years	1 year, renewable	Depending on the purpose	4 to 12 months,	Not applicable
	Restrictions/ Renewability	Granted for a specific purpose (for persons exempt from Employment of Foreign Workers Act), renewable	Granted for specific purposes	Granted for specific purpose (for persons exempt from work permits, see definition in Table 3)	Granted for a specific purpose	Granted for a specific purpose (preacher, missionary, or member of a religious order)	Granted for a specific purpose (visitor)	Granted for a specific charitable/ religious work	Granted for specific employment, renewable to up to 24 months, subject to quota	Not applicable
Long term permit	Name	Settlement Permit	Unlimited residence permit (sejour don't la durée est illimitée)	See above	Residence permit	Not applicable	Not applicable	Not applicable	Long term stay	Leave to enter/ leave to remain
	Validity	12-24 months, renewable	Unlimited	See above	1 year, renewable	Not applicable	Not applicable	Not applicable	12 months, renewable	12 months, renewable
	Restrictions	Granted for a specific purpose (for persons exempt from Employment of Foreign Workers Act)	Granted for specific purposes	See above	Granted for a specific purpose	Not applicable	Not applicable	Not applicable	Granted for specific employment	Granted for specific purpose (minister of religion, missionary, member of a religious order)
Permanent Residence Permit	Name	Residence Certificate (entitlement after 5 years of continuous residence)	Permanent residency, after 5 years	Permanent Resident Visa	Not applicable	Permanent residence permit	Permanent Residence permit, after 3 (optional) and 5 years (entitlement)	Settlement Permit, after five years and subject to conditions	Settlement permit (after 10 years, by discretion)	Indefinite leave to remain (after 4 years)
	Validity	Unlimited	Unlimited	Unlimited	Not applicable	Unlimited	10 years	Unlimited	Unlimited	Unlimited
	Restrictions	No restrictions	No restrictions	No restrictions	Not applicable	Unrestricted	Unrestricted	Unrestricted	Unrestricted	Unrestricted
Work Permits Required?		No	No	No	Yes (separate)	Yes (included)	No	No	Yes (included)	No

Table 5: Conditions for entry as a religious worker

	Austria	Belgium	Canada	Czech Republic	Denmark	France	Germany	Switzerland	UK
Health certificate	Yes (proof that applicant does not suffer from severe diseases)	Yes (proof that applicant does not suffer from severe diseases)	Designated countries, (mandatory medical examination if staying more than 6 months)	Yes (proof that applicant does not suffer from severe diseases)	No	Yes	Only in case the applicant is infected with a contagious disease	No	No
Certificate of good conduct/character	Yes (No criminal record)	No	Permanent residents only	Yes	Declaration	No	No	Yes	No
Health insurance	Yes (formal statement of intention of employment sufficient)	No (if employed, health insurance will be automatic)	No	Yes	No (automatic upon employment)	No	Yes	Yes	No
Proof of accommodation?	Yes (usually supplied by faith community)	No	Yes (e.g. proof of invitation, personal link to a resident)	Yes	Yes (by declaration)	No	Yes	Yes	No
Sufficient means of subsistence	Proof of sufficient funds (or proof of employment)	Proof of sufficient funds and/or confirmation of remuneration as minister of religion	Proof of sufficient funds/ proof that applicant will be maintained by host institutions. Permanent resident applicants: proof of funding either from own sources or from their host institution.	Proof of sufficient means (Short term stay, long term stay for private purposes), Proof of employment (entry for the purpose of work)	Proof that applicant will be maintained by host institution/ has sufficient own funds and will not receive any welfare benefits.	No	Sufficient funds, e.g. confirmation of employment	Proof of sufficient funds or proof of sufficient income	Proof that applicant can maintain him/herself without recourse to public funds
Proof of language proficiency	For permanent residents, and only if intending to stay more than 3 years (A1 level)	No	Permanent residents only	No		No	No	Proof of proficiency in the language of the prospective canton of residence	Yes (IELTS 4 Level)
Formal qualification as a minister of religion in the meaning of the law	Confirmation of the applicant's qualification as a minister of religion provided by faith communities; in addition: proof of formal qualification	Confirmation of the applicant's qualification as a minister of religion provided by faith communities; in addition: proof of formal qualification	Proof of employment in the country of origin/ prior employment	No	Proof of relevant occupation or education as a member of the clergy, as a missionary or within a religious order.	No	No if employment qualifies as "religious or charitable" activity (normally applicable to religious work)	Proof of qualification as a minister of religion as prescribed by recognized faith communities	Minimum period of 1 year of employment as minister of religion prior to entry; if applicable: ordination or training as a missionary (at least 1 year training)
Invitation Required?	Not mandatory. However, proof of employment is needed.	Formal invitation by the religious community concerned.	No (but proof of employment by host institution)	Not required	Not required, but proof of ties with hosting institution have to be submitted, for example, by providing an invitation	Proof of "employment" by a religious association	Written statement that employment will be of a religious/charitable nature normally required	Formal appointment in a post	No
Restricted to recognized faith communities?	Yes	Yes (formally stated)	No	Not applicable	Yes	No	No	No, but formal eligibility criteria.	No, but formal eligibility criteria

4 Conclusions and recommendations for further research

4.1 The rationale for special admission rules and good practices

It is difficult to draw any general conclusions solely on the basis of an analysis of the diverse rules governing the admission of third country nationals for the purpose of religious work. Nevertheless, some observations can be offered. Overall, the rationale of specific provisions for religious workers is to facilitate the admission of third country nationals for the purpose of religious work, not to control or to restrict it. Thus, where special rules exist, they largely follow the idea that religious work should be regarded as different from other types of employment, and hence, that third country nationals seeking entry as religious workers, should not be subject to the same restrictions governing the admission of other third country nationals seeking entry on other grounds. However, religious workers are not necessarily treated differently in terms of admission rules *per se*. By and large, ministers of religion are subject to the same entry conditions as other immigrants, including language and other integration requirements that may be applied.

From a normative perspective, there are good reasons to treat ministers of religion and other religious workers differently from other migrants and to grant them favourable access to the territory. One reason is that migrant communities have a legitimate claim that their religious needs are addressed. Often, immigrant faith communities are dependent on foreign ministers of religion and could not organize worship and other religious practices without their help. But as the study shows, employment of foreign clergy and other religious workers is by no means restricted to migrant faith communities and often is an expression of the inherently transnational nature of faith communities, in particular the larger churches, which involves frequent exchange of personnel between communities in different countries.

While issues related to the political accommodation of religious minorities are often discussed in terms of modes of public recognition of faith communities, the study shows that admission rules are not necessarily tied to such official recognition, and arguably, for good reasons so. If eligibility for admission as religious workers is based on public recognition, there is the danger of a bias against smaller and less well established faith communities, since public recognition is usually based on various criteria relating to the wider importance, membership, and sometimes, internal structure of faith communities. While there are also good reasons that public recognition (which often involves giving faith communities so recognized certain entitlements to public funds) should be limited to faith communities that are socially important and meet stringently applied criteria, the same does not hold in regard to the admission of third country nationals for the purpose of religious work. Thus, formal eligibility criteria, as for example applied by the UK or Germany, should be sufficient in screening applicants in respect to whether or not they are eligible for special admission rules or not.

Should formal criteria be applied, precise definitions and guidelines as to who should qualify as religious worker certainly help to avoid undue levels of administrative discretion and insecurity on the side of the applicant or the faith community behind him or her. Both the UK and Canada offer good examples how such conditions can be

formulated. In addition, the criteria applied in these countries focus on the type of activity rather than predefined occupations such as “priest”, “imam” or member of a religious order.

In general, little information on problems occurring at the lowest level of the competent immigration authorities exists, thus making it difficult to assess the practical problems that may occur. Nevertheless, the way admission rules are phrased suggest that most problems would occur in regard to eligibility for preferential treatment as a member of the clergy, a missionary or a member of a religious order. For example, membership in religious orders frequently involves social work, nursing, education or other activities not strictly falling under a narrow definition of religious work as concerning activities directly related to religious practices, such as worship, preaching, or assisting at religious ceremonies. Both the UK and Germany are good examples how such difficulties of definition can be avoided. In both countries, the activities mentioned (and often carried out by religious workers) are covered by the existing regulations. In Germany, the relevant regulation explicitly refers to “religious and charitable work”. In the UK, the instructions on the implementation of immigration rules include an extensive list of activities that may be involved in religious work which are partly the result of a consultation process, which the UK government has carried out with faith communities.

Public recognition of faith communities certainly enhances their position vis-à-vis the state and there are again good reasons that public recognition should be accorded in particular to less well-established but numerically significant faith communities that are the result of past immigration such as Islam, Hinduism or other religions. Some form of recognition as well as some form of institutionalization of faith communities may also be a useful way to address some of the issues indirectly related to the subject of the study, most importantly how to organize training and recruitment of religious workers as well as how religious education is organized when part of the standard school curriculum.

Much of the current debate relating to the subject of the study focuses on Muslim communities, with foreign Muslim clerics seen as particularly problematic. The case of Muslim communities, however, also shows that changing admission policies alone can not address some of the structural conditions giving rise to the large demand for foreign ministers of religion; for example, certain Muslim states’ practices of temporarily assigning state-paid imams abroad; mosque’s financial difficulties in employing qualified clerics; the lack of educational institutions in countries of immigration that would offer training to aspiring ministers of religion from within Muslim immigrant communities, etc. In addition to strictly religious and community functions, foreign clergy also act as teachers for religious education (where it exists). The establishment of a teacher training college for Islamic teachers in Austria on the initiative of the Islamic Community in Austria, and other steps recently taken by countries such as Belgium, France, Germany and Switzerland to establish university courses for training of imams or teachers of religion show possible ways forward.

The establishment of central representative bodies for Muslim communities currently under way in a number of countries is often seen as a corollary or a prerequisite of the reform of training of ministers of religion and teachers in religion. However, the steps taken so far have not always achieved the desired results. It remains to be seen, for

example, whether the Muslim Councils established by Belgium and France, respectively, will muster sufficiently widespread support from within the communities they are supposed to represent. The case most often cited as a model in this regard, Austria, is perhaps a less useful example for other countries, as the existence of a central Muslim body there is actually the result of a very specific institutional framework dating back to the late Austrian-Hungarian monarchy.

4.2 Recommendations for research

The study clearly shows that there are numerous research gaps and that much of the information needed to evaluate the existing legal frameworks governing the admission of third country nationals for the purpose of religious work does simply not exist. Most importantly, little is known about the actual admission practice as seen from the perspective of faith communities wishing to employ foreign ministers of religion as well as about the actual practice at the level of implementing immigration authorities.

Thus, an empirical study of admission practice from the view of faith communities, immigrating religious workers and local immigration officials along the lines of the study on the changed admission practice in the Netherlands after the adoption of the Aliens Act 2000, cited above, is certainly warranted. Immigration rules may look beneficial to faith communities, while in practice they often are not.

Similarly, the range of possible professional activities that count as religious activities from the perspective of faith communities is equally worthy of further study. In particular, such research could also show alternative ways of dealing with activities such as social work or other charitable/ voluntary work in a religious context.

Activities of religious workers may not only be “atypical” in the sense of admission rules for ministers of religion, missionaries and members of religious orders, but also in terms of employment, a problem that seems to be particularly common among Muslim ministers of religion. The latter are often not formally employed and if not otherwise gainfully employed, depend on contributions from their local communities for a living. A precarious social situation in terms of access to welfare and social security may often follow from that. However, little is known about this issue and further study is needed.

In countries where religious education is offered in the public school system, as in Austria and Belgium, teachers of religion are often admitted in the capacity as ministers of religion. To what extent Muslim teachers of religion are in fact recruited amongst foreign clergy, or, vice versa, to what extent teachers of religion trained in these countries become involved as ministers of religion would be an interesting issue for research that would also contribute much to the current debate on the training of imams.

Finally, little is known about the extent and the nature of employment of immigrant ministers of religion. The obvious assumption is that immigrant ministers of religion are particularly relevant for immigrant minorities and admission rules thus should be framed accordingly. However, as explained above, this assumption does not always hold, but little knowledge exists how relevant immigrant religious workers are for particular faith communities and in what context such employment occurs.

Austria

1 Status of religious groups in the country

Austria has a population of just over 8 million. According to the 2001 census, 74% of the population or approximately 5.9 million were Catholics, 4,7% or 376,150 Protestants, and a further 339,000 or 4.2% Muslims. The fourth largest faith groups are Orthodox Churches, with some 179,500 adherents (2.2%).¹⁰

The status of religious organizations is governed by the 1874 Law on Recognition of Religious Societies and by the 1998 Law on the Status of Religious Confessional Communities. In contrast to *registered confessional communities (staatlich eingetragene Bekenntnisgemeinschaften)*, *recognized religious societies* enjoy a special legal standing as a corporation under public law (*Körperschaft öffentlichen Rechts*). The status of *registered confessional communities* gives the faith communities so recognized a form of symbolical recognition, while being a prerequisite for attaining recognition as a *recognized religions society*.

Several faith communities are recognized as *religious societies/churches*¹¹ (*Anerkannte Religionsgesellschaften*) under separate laws (e.g. 1912 Law on Islam¹², 1912 Law on Israelites)¹³ or, in the case of the Catholic Church, in the framework of the 1934 concordat between the state and the Vatican. In Austria, 13 faith communities are officially recognized as *religious societies* (churches) in the meaning of the 1874 law (in alphabetical order):

Armenian-Apostolic Church in Austria

Austrian Buddhist Religious Society (*Österreichische Buddhistische Religionsgesellschaft*)

Catholic Church

- Roman Catholic Church
- Greek Catholic Church
- Armenian Catholic Church

Coptic Orthodox Church (recognized in 2003)

Church of Jesus Christ of the Latter Day Saints (Mormons) in Austria

¹⁰ Statistik Austria (2002): Volkszählung. Hauptergebnisse I. Österreich. Vienna: Statistics Austria. <http://www.statistik.at/neuerscheinungen/vzaustria.shtml> (17.1.2005)

¹¹ English terms in italics are technical terms used in the respective laws.

¹² Historically, the Law on Islam was a consequence of Austria-Hungary's annexation of Bosnia and only pertained to the Hanefitic rite as practised in Bosnia, and, for that reasons was irrelevant after the break-up of the monarchy and remained so until the 1960s. The reconstitution of Islam that would accommodate the various Islamic groupings as well as the establishment of a community structure as a corporation under public law was first suggested by Islamic immigrant associations in the early 1970s. Official recognition under the 1912 Islamic Law was finally gained in 1979. Source: Harald Waldrauch, Karin Sohler (2004): , Migrantenorganisationen in der Großstadt. Entstehung, Strukturen und Aktivitäten am Beispiel Wien. Volume 14 of the European Centre Vienna's Series "Wohlfahrtspolitik und Sozialforschung". Frankfurt, New York: Campus Verlag, p. 110.

¹³ Because the structure of the Islamic community and the Jewish community did allow recognition after the 1874 law, their recognition was dealt with in separate laws. The nature of the recognition, however, is the same.

Eastern Orthodox Churches (*Griechisch-Orientalische Kirche*, Russian, Greek, Serbian, Bulgarian and Romanian Orthodox Churches)
Evangelical Church A.B. (Augsburg Confession, i.e. “Lutherans”) and H.B. (Helvetican Confession, i.e. “Calvinists”)
Jewish Community (*Israelitische Kultusgemeinde*)
Islamic Community in Austria
Methodist Church in Austria
New Apostolic Church
Old Catholic Church
Syrian Orthodox Church

The basic law of 1867 (*Staatsgrundgesetz*)¹⁴ guarantees certain constitutional rights of recognized *religious societies*, in particular, their internal autonomy. Furthermore, *recognized religious societies* and churches enjoy certain educational, fiscal and other privileges (e.g. the right to organize religious tuition for children adhering to the respective societies with financial support from the state¹⁵; right to the ministry (*Seelsorge*) of community members in an institutionalized context, e.g. hospitals, prisons and the army, and, depending on the size of the faith community, state support for the ministry in prisons and the army). Ministers of religion of a *recognized religious society* from third countries are exempt from the regulations of the Foreign Workers Employment Act 1975 (as amended, see also Section 2.2. below).

In 1998, a new law on religious confessions entered into force, establishing the status of Registered Religious Confessions (*staatlich eingetragene Bekenntnisgemeinschaften*). Registered confessional communities have juridical standing¹⁶ but do not enjoy the educational, fiscal and other privileges accorded to *recognized churches and religious societies*. Thus, the new law introduced a two tier system, requiring religious groups seeking recognition under the 1874 law to have first registered as Religious Confessions, before being allowed to seek official recognition as Religious Societies after 10 years, provided they have a minimum membership of two one-thousandth of the Austrian population.¹⁷ Currently, 10 faith communities are recognized as Religious Confessions, namely the Jehovah's Witnesses, the Baha'i Faith, the Baptists, the Evangelical Alliance, the Movement for Religious Renewal, the Free Christian Community (Pentecostals), the Pentecostal

¹⁴ The basic law is part of constitutional law, in addition to the formal constitution of 1920, specific laws with constitutional standing and constitutional provisions in simple laws.

¹⁵ The teaching of religion is part of the school curriculum in Austria. Recognized religious societies are responsible for curriculum development and the organization of religious education while salaries in public schools and private schools under public law are usually paid by the state. Tuition in religion is regulated by the 1949 Tuition in Religion Act (*Religionsunterrichtsgesetz*). Catholic tuition in religion is offered in all public schools, while both Protestantism and Islam is less frequently taught. Recently, curricula have also been developed for Coptic Orthodox, Syrian Orthodox, and Armenian Apostolic tuition in religion. Teachers in religion are appointed by the educational authorities of the respective recognized religious societies, but need a proof of qualification. A formal training as a teacher in religion is preferred, but not a requirement to be admitted for teaching religion. Both the Catholic Church and the two protestant denominations have since long run teacher training colleges for teachers in religion. Since the academic year 1998/1999, the Islamic Community in Austria runs its own teacher training college.

¹⁶ Before the adoption of the 1998 law, faith communities were usually organized as associations.

¹⁷ In the case of the Coptic Orthodox Church, recognition as a *religion society* was granted despite the community's small membership.

Community of God, the Seventh-day Adventists, the Hindu Religious Community, and the Mennonites.

2 Admission

2.1 General practice

Clergymen¹⁸ of the 13 recognized churches and faith communities wishing to enter Austria in that capacity are admitted to Austria on the basis of special regulations for persons exempt from the obligation to apply for work permits as stipulated by § 2 of the Foreign Workers Employment Act (*Ausländerbeschäftigungsgesetz* 1975). Persons predominantly or exclusively working as teachers in religion are not subject to these regulations, and therefore are not exempt from work permits. Hence the latter fall under quota regulations and are obliged to seek entry under general admission regulations. Particularly in primary education, however, it is often ministers of religion who are engaged in teaching religion in addition to the ministry of their communities. Smaller faith communities as well as the Muslim community¹⁹ predominantly seem to employ ministers of religion as part time teachers. To deal with this issue and to clarify the conditions under which immigrant clergymen can still qualify as ministers of religion in the meaning of the Foreign Workers Employment Act 1975, the Ministry of the Interior together with the Ministry of Economic Affairs, has set the maximum number of lessons, for which a minister of religion admitted in this capacity may be employed as a teacher in religion in addition to the ministry of religion, at 8 hours per week.²⁰

In general, Austria applies quota restrictions in regard to the admission of labour immigrants and their immediate family. Clergymen, as other categories of person exempt from work permits, however, are exempt from quota restrictions. No difference is made in this respect between members of the 13 different legally recognized faith communities.²¹ However, members of the 11 Registered Religious Confessions as well as of other faith communities, which are not legally recognized, may not seek entry as clergymen and need to apply for admission on the basis of general admission rules. Hence, if employed, they are also subject to quota restrictions and the minimum wage requirement introduced by the 2002 amendment to the Aliens Law.

The exemption clause of the Aliens Act specifically refers to “clergymen” (*Seelsorger*). No difference is made in the law, nor in its implementation, between different religious professions (e.g. members of an order, ministers of religion...), which are all subsumed under the clergy category. The Ministry of the Interior, however, keeps a list of religious occupations normally eligible for admission as

¹⁸ “Clergyman” (*Seelsorger*) is the term used in the relevant regulations of the Foreign Workers Employment Act.

¹⁹ According to a documentary by the Austrian Public Broadcasting Corporation (ORF), there are some 200 Islamic teachers in religion in Austria (<http://religion.orf.at/tv/ori/or90523.htm>, 7.12.2004)

²⁰ In Austria, teachers are employed on the basis of the number of (school) hours they teach. A full time teaching assignment normally consists of some 22 to 24 hours of teaching (45-50 minutes, separated by 5 minute breaks). Thus, 8 hours corresponds to about a third of a full teaching assignment. Salaries vary greatly by school type and teaching experience, but are regulated on the national level and paid by the Ministry of Education.

²¹ See above (Section 1) for a list of recognized faith communities

clergy. For example, in the Catholic Church deacons, chaplains, parish priests, bishops and members of a religious order are eligible for admission under the special regulations for religious workers; for the Islamic community, the relevant occupations are mufti, vaez (preacher), and imam. For Jewish ministers of religion, the eligibility is decided on a case-by-case basis in collaboration with the Jewish community.²²

2.2 Type of (special) permits

Austrian law distinguishes between short and long term residence permits. The former (*Aufenthaltserlaubnis*, residence permit) is usually awarded for a period up to 6 months²³, whereas the latter (*Niederlassungsbewilligung*, settlement permit) is usually issued for a period of 2 years, except if the passport of the applicant expires earlier. However, which permit is issued to the applicant depends largely on the alien and whether he or she intends to stay in Austria only for a short or for an extended period or settle there for good. In case of family reunion, acquisition of landed property etc. authorities may also “advise” the alien to change from a short term permit to a long term permit.²⁴

Clergymen (*Seelsorger*) in the meaning of the law are granted admission on the basis of §19 (2) of the Aliens Law (*Fremdengesetz 1997*). The relevant provision stipulates that quota restrictions do not apply to persons exempt from work permits as set out in §2 of the Foreign Workers Employment Act (1975). Persons working as ministers of religion for a limited period (up to 6 months) and on an unremunerated basis may also enter Austria with a simple residence visa (Visa D).

As ministers of religion, missionaries and other persons engaging in religious work of non-recognized religious groups, or groups only accorded the status of Registered Religious Confessions, are not exempt from the regulations of the Foreign Workers Employment Act 1975, the general admission rules for aliens wishing to enter Austria for gainful employment, including quota restrictions apply. Under current immigration regulations, these persons need to apply for admission as key personnel (*Schlüsselkräfte*) and are subject to a minimum wage requirement of € 2,016 (monthly gross income as of 2004). If not gainfully employed by the respective faith community, an alien may also seek to enter Austria as a “private person” for periods exceeding 6 months, for which quota restrictions apply.

2.3 Conditions, reasons for denial of permit

The requirements for persons wishing to enter Austria in the capacity of ministers of religion are in principle the same as for most other categories of immigrants: Along with their application, applicants should provide

²² Interview, Ministry of Interior official, 30.11.2004

²³ Residence permits may be issued for a 12 month period, depending on the purpose of stay. For students, for example, permits are usually issued for 12 months.

²⁴ This, however, very much depends on administrative practice and immigration authorities at the lowest level. It is not clear, for example, whether immigration authorities deny the renewal of short term permits if they feel that the alien in question has settled for good in Austria. However, in case of ministers of religion, the only difficulty when changing residence titles is the requirement of applying for long term permits (*settlement permits*) from abroad.

- a health certificate, the exact requirements for which are defined in the Aliens Law, §8 (6) and (7),
- a certificate of good conduct, issued by the national police administration of the country of origin certifying that the applicant has a clean criminal record,
- proof of sufficient funds (or proof of employment),
- a comprehensive health insurance,
- proof of qualification as a minister of religion as prescribed by recognized faith communities,
- proof of (the prospective) accommodation available to the applicant in Austria,
- proof of command of German/ proof that the applicant is willing to fulfill the terms of the integration agreement (*Integrationsvereinbarung*, see Section 4.2. below)

Proof of qualification as a minister of religion as well as proof of accommodation is usually supplied by faith communities on behalf of the applicant. In practice, a formal letter written by the respective heads of the faith communities needs to be supplied together with the application. Proof of sufficient command of German or the conclusion of the integration agreement is not mandatory, if the alien intends to stay in Austria for less than 36 months.

Persons entering Austria on a simple tourist visa (3 months) or a D visa (6 months) need to have sufficient funds for the duration of their stay as well as guarantees that return is safeguarded (e.g. return tickets). A formal invitation from private persons or institutions is not strictly required but may be helpful.

Applications can be refused if any of the above conditions is not met, particular if the prospective income of the alien is deemed too low, if the accommodation offered to him does not meet the required standards, if the alien does not have a clean criminal record or if s/he is deemed to represent a threat for public order.

2.4 Procedures and responsible institutions

While the competent authority for processing applications for residence permits (*Aufenthaltserlaubnis*) is the Aliens Police (*Fremdenpolizei*), consulate offices are empowered to decide on applications, as these must usually be made from abroad. However, applications may be made from within the country by nationals from the Czech Republic, Hungary, Slovakia, Slovenia, Japan and the US. In practice, many applicants apply for a residence visa and a residence/settlement permit simultaneously and may thus de facto await the outcome of the decision in Austria rather than abroad.²⁵ With respect to nationals who need to apply for a residence title from abroad, only unclear cases are transferred from Austrian embassies to the responsible authorities in Austria for decision. “Settlement permits” (for stays longer than six months) are processed by district magistrates (*Bezirkshauptmannschaften*), and in Vienna, by the municipal department responsible acting as the local immigration authority (MA20). The authority overall responsible is the provincial governor (*Landeshauptmann*). Applications should be submitted to Austrian consulate offices from which they are transferred to the responsible institutions in Austria. Applicants

²⁵ Telephone Interview with Ministry of the Interior Official, 30.11.2004

can also directly submit their applications to the responsible authorities in Austria by mail. Once in the country, a change of purpose of residence permits (purpose of stay) is not possible.

2.5 Quantitative developments

As ministers of religion make up only a part of the legal category of persons exempt from the regulations of the Foreign Workers Employment Act, statistical data is only available for the entire category and not for clergymen in particular. Since the authorities have no information about the approximate composition of the category of persons exempt from the regulations of the Foreign Workers Employment Act, no estimates could be provided.

3 Residence

3.1 Type of permits and related rights

In addition to residence visas as well as (renewable) residence and settlement permits described above, aliens are entitled to a residence certificate (*Niederlassungsnachweis*) after 5 years of holding a long term residence permit (settlement permit), provided they meet the general requirements for residence titles and have fulfilled the integration agreement. A residence visa is not renewable.

3.1.1 Access to work

Both residence and settlement permits are granted for specific purposes, which cannot be switched once in the country. Clergymen are not allowed to do other work than that normally involved in the ministry (*Seelsorge*) of faith communities. However, they may be employed as teachers in religion for up to 8 (academic) hours per week, provided they don't live predominantly on the income they earn as teachers. If employed as a teacher in religion, an alien has to show sufficient command of German, as German is the language of instruction. Language proficiency, however, is assessed by the competent school authorities (the school inspectors for Religious Education of the respective faith communities).

Ministers of religion must be employed by local level parishes or faith communities rather than by a national body, except if employed in a leading position (e.g. as a mufti or bishop etc.). According to an official from the Ministry of the Interior²⁶, the requirement for ministers of religion to be employed at the local level is specifically meant as a control mechanism, in order to ensure a direct link between the number of foreign ministers of religion admitted and the actual needs of local faith communities. In addition, immigration authorities are entitled to access social insurance records to control whether a minister of religion is still employed in that capacity as well as to control the extent of employment.

3.1.2 Family reunification

Persons admitted under the regulations for persons exempt from work permits and in possession of either a residence permit or a settlement permit may bring their close

²⁶ Telephone Interview 30.11.2004

family members (spouses and under-aged children) along. In general, such family members are not allowed to work until after 4 years of continuous residence. After five years they are eligible for residence certificates (see also section 3.2.2 below), granted with unlimited validity and for all purposes. Family members may receive a settlement permit entitling them to work earlier if a work permit is issued to them. However, as new entrants to the labour market, they fall under the new regulations of the Aliens Law and of the Foreign Workers Employment Act adopted in 2002. This means that family members wishing to work need to prove that they meet the requirement of a monthly minimum income of € 2,016.

3.2 Conditions, reasons for denial of permit

Most of the stated requirements must be met before entry. If any of the conditions are not met, the application for a permit may be denied. If the alien is considered a threat to public security, applications may also be refused.

In case the alien does not have sufficient command of German, wishes to stay longer than 36 months and has concluded the integration agreement (i.e. the obligation to attend German language courses within 3 years), state contributions to mandatory language courses successively decrease, if the alien has not started a language course within 18 months.

3.2.1 Renewal

The conditions for a renewal of a residence title are the same as for the original application. If the alien has been convicted for a criminal offence while in Austria, a renewal of the permit may be refused.

In case of renewals of settlement permits and in case the applicant wishes to stay longer than 36 months in Austria, has already stayed there for such a period, and did not have sufficient command of German upon entry, the applicant has to prove attendance of a German language course. If the applicant does not start a language course within the first 18 months, the state contribution towards the costs of the course successively decreases.²⁷ If the alien has not attended a language course after three years of residence, a penalty must be paid. After 4 years of residence and non-compliance, renewal of the permit may be denied and eventually, a deportation/expulsion order may be imposed.

3.2.2 Permanent residence permit

A permanent residence permit (residence certificate – *Niederlassungsnachweis*) may be granted after 5 years of continuous residence, defined as the possession of a settlement permit (*Niederlassungsbewilligung*) throughout this period and provided the applicant meets the general requirements for residence titles and has fulfilled the integration agreement. The permanent residence permit entitles to take up any employment without restrictions.

²⁷ Before or upon entry, aliens admitted to Austria are given vouchers for mandatory language courses, covering half of the total costs involved. Vouchers can only be used for the mandatory courses specifically established after the implementation of the 2002 reform of the Aliens Law.

3.2.3 Change of residence permit

In principle, it is not possible to switch permits once in the country. However, the purpose of both residence and settlement permits may be changed if an alternative permit could have been issued in theory, for example, if the applicant would have met the conditions of an alternative permit. For example, in the case of a minister of religion also studying at an Austrian institution of higher learning who would have been eligible for a student residence permit, this could be possible. Similarly, ministers of religion admitted in that capacity, who study in Austria may – after the completion of their studies – switch from a student residence permit to one for ministers of religion if all the other conditions are met. Only if the alien applies for a *settlement permit* (long term residence permit), but previously had a *residence permit*, the application must be made from abroad.

3.3 Removal

The general conditions for expulsion orders apply, including non-compliance with immigration law, e.g. if a permit was obtained on false pretenses or a visa was overstayed etc.; in case the alien has been convicted for a criminal offense, in case of lack of means, longer periods of unemployment, non-compliance with the integration agreement, lack of health insurance etc. The conditions for removals are laid down in §§34-45 of the Aliens Law 1997 (as amended). After 5 years of continuous residence (defined as possession of a settlement permit), an alien may no longer be expelled for lack of means, lack of health insurance, or in case his/her presence may incur financial costs for public authorities. After 8 years of continuous residence, an alien may only be expelled if s/he was convicted for a serious criminal offence in last instance.

3.4 Procedures and responsible institutions

The competent authority for issuing and renewing residence permits is the Aliens Police. The responsible authorities for administering settlement permits are district authorities (magistrates in the cities), on behalf of the provincial governors. Expulsion orders, residence bans and removals are executed by the Aliens Police.

3.5 Quantitative developments

No data available (See above for an explanation).

4 General policy issues

4.1 Difference of legal status to other aliens

Clergymen admitted on the basis of the exemption clause of the Foreign Workers Employment Act 1975 differ from other admissions for the purpose of employment in that a) they are not subject to quota restrictions; b) they are not subject to the minimum wage requirement; and c) the purpose of their stay is much more narrowly defined, excluding all employment other than the ministry of faith communities. In addition, clergymen of Recognized Religious Societies may – as other subcategories within the general category of aliens exempt from the regulations of the Foreign Workers Employment Act 1975 – be exempted from the obligation under the

integration agreement to acquire basic knowledge of German language, if they intend to stay in Austria only temporarily and their stay does not exceed 36 months. In terms of social and political rights, their status is equal to those of other aliens.

4.2 Integration policy

In principle, persons admitted under the special regulations described above, as most other categories of immigrants, have to conclude the so-called integration agreement before/ upon entry. The subject of the integration agreement is the obligation, on the part of the alien, to show that s/he has acquired a basic knowledge of the German language within a period of at maximum four years. The alien may either attend a language course in a certified institution or, in case s/he already has a basic knowledge of German, produce a recognized language certificate before the authorities. There are no special measures for persons wishing to engage in religious work.

4.3 Historical developments and planned policy changes

The major piece of legislation defining the relationship between state authorities and religious communities dates from 1874 (Law on the Recognition of Religious Societies). The exemption of clergymen from the regulations of the 1975 Foreign Workers Employment Act (and hence, from most restrictions on immigration) was provided for already in the original law, which entered into force in 1976. Since then, no major changes in the policy in regard to recognized religious societies were made, although the specific grounds of admission for ministers of religion were only introduced in the 1990s. In regard to non-recognized religious communities, the minimum wage requirement introduced by the amendment of the Aliens Law in 2002 arguably has brought a major change in policy, making it very difficult for smaller religious communities to bring in foreign ministers of religion.

4.4 Administrative practice and public debates

As Registered Religious Confessions (*Bekennnisgemeinschaften*), a category introduced by the law on religious communities in 1998 (see Section 1 above), are subject to quota restrictions, some religious groups, notably the Evangelical Alliance (an umbrella organization for non-recognized religious groups) have reported practical problems in getting visas for ministers of religion, according to the U.S. State Department International Religious Freedom Report 2004. For example, the report notes that “in some urban centres, particularly Vienna and some cities in Lower Austria, the number of available visas [for members of the Evangelical Alliance] is no longer sufficient to meet demand. According to the same source, the Jehova’s Witnesses reported one case in which they were unable to get a visa for a minister of religion, involving a Tagalog speaker for their Filipino community.

With the entry into force on 1st January 2003 of the minimum wage requirement for labour migrants, introduced by the recent amendments of the Aliens Law, ministers of religion of Registered Religious Confessions and other faith communities not-recognized under the 1874 law need to meet the minimum wage requirements of €

2,016/ month. Reportedly, some groups, notably the Jehova's Witnesses, find it difficult under these conditions to get residence permits for their leaders.²⁸

An issue of some concern for immigration authorities, but also for education authorities, has been the use of foreign imams in Islamic religious education. These concerns – in particular that German wouldn't be the language of instruction – have been largely addressed by the recent establishment of an Islamic Teacher Training College starting with the academic year 1998/1999. The Ministry of the Interior also attempts to control the number of (Islamic) ministers of religion, both by direct communication with the Islamic Community in Austria and by several measures adopted to control the employment of foreign ministers of religion (qualification requirements, monitoring of employment status).

²⁸ See de Lange & Hendrickx (2004), op. cit.

Belgium

1 Status of religious groups in the country

Belgium's population is approximately 10.3 million, with some 47% belonging to the Catholic Church. The Muslim population numbers about 364,000 (3.5%), and there are an estimated 380 mosques in the country. Protestants number between 125,000 and 140,000, while the Greek and Russian Orthodox Churches have approximately 70,000 adherents. The Jewish population is estimated at between 45,000 and 55,000, and the Anglican Church has about 10,800 members. The largest non-recognized religions are Jehovah's Witnesses, with approximately 27,000 baptized members, and the Church of Jesus Christ of Latter-day Saints (Mormons), with approximately 3,000 members.

The Government accords recognized status to Roman Catholicism, Protestantism (including Evangelicals and Pentecostals), Judaism, Anglicanism, Islam and Orthodox Christianity (Greek and Russian). Representative bodies for these religions receive subsidies from government revenues.

The Federal Government and Parliament are responsible for recognizing faiths and pay the wages and pensions of ministers of those faiths.²⁹ As a result of constitutional reforms enacted by Parliament in 2001, religious teaching, accounting by religious groups, and religious buildings have become the jurisdiction of the regional governments. By law each recognized religion has the right to provide teachers at government expense for religious instruction in public schools. The Government also pays the salaries, retirement, and lodging costs of ministers and subsidizes the construction and renovation of religious buildings for recognized religions. The ecclesiastical administrations of recognized religions have legal rights and obligations, and the municipality in which they are located must pay any debts that they incur. Some subsidies are the responsibility of the federal government, while the regional and municipal governments pay others.

The Government applies five criteria in deciding whether to grant recognition to a religious group: The religion must have a structure or hierarchy; the group must have a sufficient number of members; the religion must have existed in the country for a long period of time; it must offer a social value to the public; and it must abide by the laws of the State and respect public order. The five criteria are not listed in decrees or laws, and the Government does not formally define "sufficient," "long period of time," or "social value." A religious group seeking official recognition applies to the Ministry of Justice, which then conducts a thorough review before recommending approval or rejection. Final approval of recognized status is the sole responsibility of the Parliament; however, the Parliament generally accepts the decision of the Ministry of Justice.

²⁹ It should be noted, however, that imams do not receive salaries from the state. Turkish imams are paid by the Turkish state. See El Battiui, Nahavandi & Kanmaz (2004), op. cit.

The lack of recognized status does not prevent a religious group from practicing its faith freely and openly. Non-recognized groups do not qualify for government subsidies; however, they may qualify for tax-exempt status as nonprofit organizations.³⁰

2 Admission

2.1 General practice

There are no special regulations for persons wishing to be admitted for the purpose of carrying out religious work. The general admission rules in force for all third country nationals wishing to enter Belgium apply. The relevant regulations are laid down in the Foreigner's Law of 15 December 1980 on access to Belgian territory, the residence, settlement and removal of foreigners, as well as the Royal decree of 8 October 1981 on access to Belgian territory, the residence, the settlement and the removal of foreigners.

However, members of the six recognized churches and faith communities wishing to enter Belgium for the purpose of carrying out religious work are exempt from the obligation to apply for work permits. This is stipulated by the Royal Decree of 20 July 1967 on the occupation of foreign workers and the Law of 30 April 1999 on the employment of foreign workers as well as the Royal Decree of 9 June 1999, implementing the law of 30 April 1999. Article 2, 6° of the Royal Decree of 9 June 1999 on the employment of foreign workers indicates that ministers of recognized religions (*ministers de cultes reconnus*) are exempt from the obligation to obtain a work permit for activities within the framework of their missions ("*relevant de leur Ministère*").

2.2 Type of (special) permits

Like any other foreigner, third country nationals wishing to enter Belgium for the purpose of carrying out religious work need an authorization to stay (*autorisation de séjour*) (Art. 9, § 2 Aliens Law 1980) and a temporary residence visa (Visa D) to enter Belgium. They have to ask for such an authorization at the Belgian embassy or consular authorities competent for the place of their residence. When the application is accepted, a visa (Visa D) is delivered by the Ministry of the Interior (Foreigner's Office). That means, the stay has to be permitted (*autorisé*) by the Minister of the Interior or a delegate. There are no exceptions resulting from any state-to-state treaty, laws or royal decrees.

The duration of this temporary residence permit depends on the duration of the alien's mission in Belgium. In general, a temporary residence permit is issued for one year, with the possibility of renewal from one month to one year, depending on the intended duration of the mission.

The Foreigners' Office may grant ministers of religion from third countries an unlimited stay on two conditions:

³⁰ U.S. State Department, Bureau of Democracy, Human Rights and Labor (2004): International Religious Freedom Report 2004, Country Report Belgium. Available at <http://www.state.gov/g/drl/rls/irf/2004/35444.htm> (17.1.2005)

- after three years of regular stay in Belgium, and
- if the mission has an unlimited character.

2.3 Conditions, reasons for denial of permit

The requirements for persons wishing to enter Belgium for the purpose of carrying out religious work and seeking an authorization to stay in Belgium are in principle the same as for other categories of immigrants. Along with their application, applicants should provide

- a health certificate (details on diseases and disabilities conceived as endangering the public order and security are defined in the annex of the Foreigner's Law 1980),
- proof of sufficient funds for the duration of her/his stay in Belgium as well as for her/his return to the country of origin or a transit or third country were her/his stay is guaranteed (this includes a confirmation that the applicant receives remuneration by the recognized religious community, and will not draw upon public welfare maintenance for the duration of her/his stay in Belgium),
- proof of qualification as a minister of religion in the meaning of the law (this attestation has to be supplied by the legal representative of the religious community concerned).
- A formal statement indicating that the minister of religion is a member of a recognized religion as well as specifying intended length and the aims of the mission,
- a formal invitation by the religious community concerned.

All foreign nationals residing in Belgium for longer than three months must register in the commune where they live and must do so within eight working days after arrival and after they have been issued an authorization to stay (either in Belgium or in the country of origin).

Once the residence permit has expired and has not been renewed, the religious worker is ordered to leave the country.

Applications can be refused if any of the above conditions is not met, in particular if the applicant is not a member of a recognized religious community, if s/he does not dispose of sufficient means, if s/he does not have a clean criminal record or if s/he is deemed to represent a threat for public order, if s/he is not in possession of the required documents to enter the territory, after a negative advice by the state security services or if the application has been filed in Belgium after the applicant's residence permit has expired.

2.4 Procedures, incl. responsible institutions

Applications for residence authorizations (*autorisation de séjour*) in general have to be submitted to the Belgian diplomatic or consular authorities competent for the applicant's place of residence (Art. 9 § 2 Foreigner's Law 1980). Only in exceptional cases (*circonstances exceptionnelles*), the application may be filed at the mayor in the Belgian commune where the alien is staying (Art. 9 § 3 Foreigner's Law 1980), who then forwards it to the Minister of the Interior or a delegate. In this case, the

Foreigners' Office (*l'Office des Etrangers*) decides on the application on a case by case- basis.

The Foreigners Office is the sole authority competent for processing applications for residence permits.

In the special case of members of a recognized religion wishing to enter Belgium for the purpose of carrying out remunerated work, they must possess a work permit prior to the application for admission, like any other alien coming to Belgium for employment purposes.

2.5 Quantitative developments

In total, 921 persons were admitted to Belgium for the purpose of carrying out religious work from 1999-2003.

During the same time, a total of 12 applications (from Muslim, Buddhist and “unknown religions”) were turned down by the authorities.

Refusal of admission for the purpose of carrying out religious work in Belgium (1999-2003)					
1999	2000	2001	2002	2003	Total
2	1	4	4	1	12

3 Residence

3.1 Type of permits and related rights

In addition to a temporary residence visa or a (renewable) residence permit as described above, ministers of religion can be granted an unlimited residence permit (*séjour dont la durée est illimitée*). This unlimited residence permit can be granted by the Foreigners Office (*l'Office des étrangers*) after the alien has resided legally as a minister of religion in Belgium for three years, and her/his mission has an unlimited character (*caractère illimitée*), and given that s/he does not constitute a threat to public order and security.

3.1.1 Access to work

Generally, in order for an applicant to engage in a professional activity on a salary basis (employee status), the temporary residence authorization can only be issued upon the presentation of a work permit and supporting documents. The work permit must be obtained by the employer in Belgium before the prospective employee enters Belgium.

Third country nationals must comply with both the Foreigner's Law of 1980 (regulating the residency aspects and administered by the federal government) and the Law on the Employment of Alien Workers of 1999 (regulating the work permit aspects and administered by the regional governments). No alien worker can be employed unless the employer has received an authorization or the employee has obtained a work permit. Apart from exceptional cases (e.g. highly qualified personnel, management executives, researchers, trainees, etc.) work permits are only issued when there are not enough workers available on the labour market for the sector in

question, and in the case of workers who are nationals of countries linked to Belgium by international agreements or conventions on the employment of workers (EEA countries and Switzerland). There must be a valid employment contract between the employer and employee. In the event of a first employment, the employee has to furnish proof of a medical examination. Specific rules apply for *inter alia* interns and au pairs. Self-employed immigrants need a professional card, to be delivered by the Minister of Economic Affairs after an examination of the business project. Certain categories of aliens are exempt from applying for this professional card. The card will only be delivered to persons with a legal residence status or who apply simultaneously for a resident permit.³¹

The employment authorization, work permit or professional card does not automatically entitle third country nationals to enter and reside in Belgium. If they have not already been admitted to reside in Belgium, they must still apply for the required entry and (long term) residence documents. Since there is no explicit chapter on labour migration in the Foreigner's Law, the Immigration Service has discretionary powers to decide on these applications.

In the case of ministers of religion, Art.2, 6° of the Royal Decree of 9 June 1999 concerning the employment of foreign workers stipulates, that ministers of recognized religions are exempted from the obligation to obtain a work permit for activities within the framework of their missions ("*relevant de leur Ministère*"). However, if such a person wants to engage in a professional activity on a salary basis (e.g. as teacher of religion), s/he has to apply for a work permit as described above.

3.1.2 Family reunification

According to the Foreigner's Law Art. 10 and Art. 40 the following family members are authorized to join third country nationals already residing in Belgium (Art. 10):

- the spouse who comes to join and live together with an alien already admitted or entitled to a stay of more than three months or to long term residence, provided that they are both older than 18 years;
- their children who are dependent upon them and who come to live together with them prior to their 18th birthday;

In case of third country nationals joining Belgians and EU nationals (Art. 40):

- the spouse
- dependent children, including dependent children of a spouse from an earlier marriage if the child is below the age of 21;
- dependent parents of the primary permit holder or his/her spouse
- spouses of the above mentioned persons

There are no data available on residence permits issued for family reunification with persons admitted for the purpose of carrying out religious work.

³¹ See Sonia Gsir, Marco Martiniello, Johan Wets (2003): Belgium. In: Jan Niessen, Yongmi Schibel. Raphaela Magoni (eds.): EU and US approaches to the management of immigration. Brussels: Migration Policy Group. Available online at <http://www.migpolgroup.com/uploadstore/Belgium.pdf> (17.1.2005)

3.2 Conditions, reasons for denial of permit

Most of the stated requirements must be met before entry (see Section 2.3 and 2.4. above). If any of the conditions are not met, the application for a permit may be denied. If the alien is considered a threat to public order and security, applications may also be refused.

3.2.1 Renewal

To have her/his residence permit renewed, the applicant must prove that s/he still fulfils the abovementioned conditions. In addition s/he must provide a declaration from the legal representative of the religious community stating that the applicant is still following her/his religious functions in the community and indicating the content and duration of these functions.

The renewed permit will be valid for the duration of the applicant's religious mission in Belgium, or for one year if the mission has an unlimited character. After three years of legal residence in Belgium, provided that the religion is recognized and the applicant's mission is unlimited, the Foreigner's Office can grant an unlimited residence permit.

3.2.2 Permanent residence permit

In general, third country nationals with an unlimited residence permit who have resided legally in Belgium for five years are entitled to permanent residency. This can be refused only for reasons of public order or the security of the country. Once they have obtained permanent residency, third country nationals enjoy nearly the same social and labour rights as Belgian and EU-citizens.³²

3.2.3 Change of residence permit

In general, third country nationals intending to stay in Belgium for purposes other than the one already granted are generally obliged to apply for a new permit. In the case of persons admitted as ministers of religion, this can be the case if s/he for example wishes to engage in a professional activity on a salary basis in Belgium. In this case an application can only be filed if the person obtains a work permit, and still resides legally in Belgium.

The Belgian Nationality Code of 1984 stipulates the conditions under which Belgian nationality is granted, acquired, lost and regained. As naturalization is discretionary in Belgium, it can be refused and there is no right of appeal against a refusal of citizenship. This is symbolically made clear in the Belgian system in which naturalization is still "politically" decided upon by parliament. Persons who have been residing legally for 3 years and hold an unlimited residence permit can apply for naturalization. They have to fill in a form providing information on income, education, knowledge of language, etc. and the applicant's motivation for the

³² See Dirk VanheuleMarie-Claire Foblets (2004): Belgium. Report presented at the FIDE (International Federation for European Law) Congress in Dublin, 2-5 June 2004. Available at: <http://www.fide2004.org/reports/t3belgium.pdf> (17.1.2005).

application.³³ The “district attorney” then has one month time to investigate the penal record of the applicant. The application is then sent to the Chamber (one of the two bodies of parliament) that decides if Belgian nationality is granted.

3.3 Removal

The general conditions for expulsion orders apply including non-compliance with immigration law, e.g. if a permit was obtained on false pretences; in case of lack of means; in case the alien is no more a member of a recognized religious community; and in case there is reason to assume that the alien will constitute or has constituted a threat to public security or public order.

3.4 Procedures, incl. responsible institutions

The competent authority for issuing and renewing residence permits is the Foreigners Office. Applications for naturalization are decided by parliament.

3.5 Quantitative developments

No further data are available.

4 General Policy Issues

4.1 Difference of legal status to other aliens

The legal status of aliens residing in Belgium for the purpose of carrying out religious work is the same as that of other third country nationals.

Admissions for members of recognized religious groups only differ from other admissions for the purpose of employment in that they are exempt from the obligation to obtain a work permit as far as employment within the framework of their missions is concerned. For any other remunerated work they are subject to the general regulations on admission and obtainment of work permits.

In terms of social and political rights, their status is equal to those of other aliens.

1.1. Integration policy

There is no specific integration program for persons residing in Belgium for the purpose of carrying out religious work. In general, integration policy is a matter of the regions and part of their wider competence in regard to economic and labour market policy and is largely understood in terms of measures aimed at improving the socio-economic position of vulnerable immigrant communities.³⁴

³³ Dirk Jacobs, Marco Martiniello & Andrea Rea (2002): Changing patterns of political participation of immigrant origin citizens in the Brussels Capital Region: The October 2000 elections. In: *Journal of International Migration and Integration / Revue de l'intégration et de la migration internationale*, 3(2): 201-221. Available also at: <http://users.belgacom.net/jacobs/jimijacmar.pdf> (17.1.2001)

³⁴ Michael Jandl, Albert Kraler, Anna Stepien/EUMC (2003): Migrants, Minorities and Employment. Exclusion, Discrimination and Anti-Discrimination in 15 Member States of the European Union. EUMC Comparative Study. Luxembourg: Office for Official Publications of the European Union,

4.2 Historical developments and planned policy changes

There are no specific regulations pertaining to the admission and residence of aliens wishing to carry out religious work in terms of admission rules. The relevant regulations applying to all third country nationals wishing to enter Belgium are laid down in the Foreigners Law of 15 December 1980 on access to Belgian territory, the residence, the settlement and removal of foreigners, as well as the Royal decree of 8 October 1981 on access to the Belgian territory, residence, settlement and removal of foreigners.

Regarding regulations on the employment of foreign workers, the Royal Decree of 20 July 1967 on the occupation of foreign workers and the Act of 30 April 1999 on the employment of foreign workers as well as the Royal Decree of 9 June 1999, implementing the law of 30 April 1999 apply. Article 2, 6° of the Royal Decree of 9 June 1999 on the employment of foreign workers indicates that ministers of recognized religions are exempt from the obligation to obtain a work permit for activities within the framework of their missions.

The Belgian nationality code was amended by the Law of 1 March 2000.

No changes are expected in the near future.

4.3 Administrative practice and public debates

As in Belgium's neighbouring countries, the Muslim minority is at the heart of public debates concerning migration and religion, not least since Islam is also the major religion among third country immigrants.³⁵ Three issues of the debate that are directly related to the subject of this study deserve particular mention. First, one issue that after long debates now seems to be largely resolved is the institutionalization of Islam in Belgium. Although the state had recognized the "*Centre Islamique et Culturel*" as official representative of Muslim communities in Belgium by Royal Decree as early as 1974, its role remained contested among Muslim communities. In 1990, a provisional council was installed, which, among other things, was also responsible for religious education in the public school system. In 1999, elections were held for the executive (part of the executive was co-opted) and the advisory council renamed into "Executive of Muslims in Belgium" (*Exécutif des Musulmans en Belgique*). The Executive and its leader, however, remained contested and were replaced by the national assembly in 2003. In autumn 2004, elections for the Executive took place. Closely related to the difficulties of institutionalizing Islam in Belgium is the issue of Islamic religious education in public schools. With the re-launch of the Executive a body formally charged with supervising religious education is now in place that is responsible for organizing religious education together with the French and Flemish language communities, respectively. A second major issue in regard to religious education is the appointment and training of teachers in religion. Still, the overwhelming majority of teachers were sent by Turkish and Moroccan authorities,

available at:

http://www.eumc.eu.int/eumc/index.php?fuseaction=content.dsp_cat_content&catid=3fb38ad3e22bb&contentid=3fbc028279e2d, p. 11.

³⁵ The section is largely based on the study by El Battiui, Nahavandi & Kanmaz (2004), op.cit.

respectively, and often master French or Flemish only badly. The second largest group of teachers in religion are Muslims who originally came to study at universities in Belgium, while a third group consists of persons born in Belgium. In 2002, the French community in Belgium (*Communauté Française*) voted a law that requires teachers in religion to prove a certain level of written French (oral language proficiency is not considered a problem), mainly aimed at those teachers assigned to teaching posts by the Turkish and Moroccan authorities. Third, the training, remuneration and admission of imams is a major issue in the debate. There are an estimated 300 imams, of which only Turkish imams seconded by the Turkish state receive a regular salary. Turkish imams sent by the state are usually also highly qualified – the majority having received training in Turkish theological institutions. Normally, however, their mission is limited to three years and thus their ties to Belgium are normally very weak, in terms of knowledge about the country and its Turkish migrants as well as in regard to their French or Flemish language proficiency. By contrast, most Moroccan imams have a rural background and have a much lower educational attainment than their Turkish counterparts, while there is no defined length for their mission in Belgium. Also, they entirely depend on contributions from their local communities, except if they are employed otherwise (regular employment or as teachers in religion). The government has for a long time been trying to establish training for imams in Belgium to promote integration of both religious leaders and their communities. Muslim communities have also criticized the existing legal framework for the admission and residence of imams that seems to make it difficult for them to employ imams. There is also a certain demand for religious leaders more acquainted with Belgium and the specific problems of Muslim communities in a non-Muslim environment. The Executive of Muslims in Belgium has already proposed several steps to establish regular training for imams in Belgium. In addition, imams will be officially recognized as a profession and possibly also remunerated by the state.

Canada

1 Status of religious groups in the country

The Canadian population is about 31 million people. There is no state religion and no religion that is dominant, but about 74.6 % of the population belongs to Christianity, of which 43 % are Roman Catholics, which also is the largest religious group in the country. Protestants constitute about 29 % of the population with the United Church, Anglican, Presbyterian, Lutheran, Baptist and Pentecostal as the largest Protestant communities. About 1.1 % of the population is Jewish, while the Muslim population currently stands at around 2 %. Buddhism, Hinduism and Sikhs are other religious groups in the country, constituting about 1 % of the population. 16 % claimed to have no religion, which is 4 percentage points more than in the 1991 census.³⁶

Over the past century, Canada has welcomed more than 13.4 million immigrants, with the largest share arriving in the last ten to fifteen years. According to the 2001 Census, 18.4 % of the population was born outside Canada. With increasing ethnic diversity, the number of those reporting religions other than Christianity is growing. For instance, between 1991 and 2001, the number of persons identifying as Buddhist increased by 84 % and the proportion of persons reporting Hindu and Sikh each increased by 89 %. Those who identified as Muslim recorded the most significant increase, more than doubling from 253,000 in 1991 to nearly 580,000 in 2001.³⁷

Freedom of religion is provided in the Charter of Rights and Freedoms. Canadian policies and practices generally give the freedom to practice any religion. Religious groups do not have to register with the government in Canada.

Since the time of national union in 1867, the rights of denominational schools are protected in the Canadian Constitution and in the Charter of Rights and Freedoms. Some provinces have funded and still fund Catholic school education and some provinces fund Protestant school education (e.g. Quebec).³⁸ Certain Christian holy days are national holidays set by the Canadian government (Christmas day, Good Friday and Easter Monday).

2 Admission

2.1 General practice

The main structural legislative instruments in this area are the new Immigration and Refugee Act (2002) with its accompanying Regulations governing clergy. There are basically two regulations (186 (l), 205 (d)) that are both applicable to different types of religious workers. Persons entering specifically as religious workers on a

³⁶ U.S. Department of State, Bureau of Democracy, Human Rights and Labour (2004): International Religious Freedom Report 2004, Country Report Canada. Available at <http://www.state.gov/g/drl/rls/irf/2004/35529.htm> (17.1.2005)

³⁷ D. Janhevich, and H., Ibrahim (2004): Muslims in Canada: An Illustrative and Demographic Profile, in: Our diverse cities, no.1, spring 2004, pp.49-56:

³⁸ U.S Department of State (2004), op.cit.

temporary basis are commonly subject to regulation 186 (l). R 186 (l) applies to persons whose employment will consist mainly of preaching of doctrine, presiding at liturgical functions or providing spiritual counselling, either as an ordained minister, a layperson, or a member of a religious order.³⁹ These persons are exempt from obtaining a working permit. Persons that are subject to regulation 205 (d) are not the focus of this country report.⁴⁰

Religious workers (i.e. skilled workers entering as Ministers of Religion) that might want to immigrate to Canada permanently must apply for a permanent resident visa under the skilled worker category and qualify under the selection grid⁴¹ like any other occupation under the skilled workers category.

2.2 Type of (special) permits

In general, there are no differences made in the treatment of different faith groups and there are no officially recognized religious groups *per se*. But the conditions for admission differ according to the type of religious activity. Persons carrying out religious work going to Canada on a temporary resident visa (Regulation R186) are fee exempt as well as work permit exempt. As visitors with a temporary visa they may stay up to a maximum of 6 months, while persons who are work permit exempt may work as a temporary worker up to 5 years. Clergy entering to study do not require a study permit, if their stay is less than 6 months; if it is more than 6 months they require a study permit. Ministers of religion may apply for permanent resident visas in the skilled worker class of immigration and the same entry regulations apply for clergy as for all other skilled workers.

There are no numeral quotas to entries of these types of immigrants.

2.3 Conditions, reasons for denial of permit

Applicants have to fulfil the following conditions:

- Temporary resident visa applicants (visitor visa) must be 18 years or older. If the applicant is under 18 years a parental consent is required. There is no age limit for permanent resident visas.
- Temporary resident visa applicants (visitor visa) who plan to stay more than 6 months and are from a medically designated country must undergo a medical examination. Permanent resident applicants are required to complete a medical examination regardless of their country of origin.

³⁹ Regulation 186 (1) states that foreigners may work in Canada without a work permit for a congregation or group to help it to reach its spiritual goals, if the main duties are to preach doctrine, handling tasks related to gatherings of the congregational group or provide counselling in spiritual matters. See <http://www.cic.gc.ca> - Citizenship and Immigration Canada, FW1, Foreign Worker Manual, p.14

⁴⁰ R 205 (d) regulates the expansion of provision for non-spiritual workers and applies to charitable or religious workers who are carrying out duties for a Canadian religious or charitable organization.

⁴¹ Canada has developed a system of units that is used for immigration in the category of skilled workers. Units based on different categories are allocated and then the applicant is assessed on these categories (see also Section 3.1.).

- Temporary resident visa applicants (visitor visa) are not subject to a criminal check. For permanent resident visa applicants a criminal check record/ police certificate of clearance is required.
- Temporary resident visa applicants (visitor visa) have to prove sufficient financial means for their stay. Specifically, in the case of clergy, the applicant has to provide proof of funds and/or have a proof from the host institution (i.e. church) that the host has the funds to support the invited clergy. Permanent resident applicants, too, have to prove that they have sufficient financial means at their disposal. There is a list of the minimum amount of funds required depending on the number of applicants. The category of clergy has to provide proof of funding either from their own sources or from their host institution (i.e. church). Evidence of a salary from their employer (i.e. from their church) and funds to support any dependants is required.
- Temporary resident visa applicants (visitor visas) are obliged to prove employment in their home country (e.g. through a letter of their home church). In general, there is no other proof of profession required. Applicants for permanent resident visas must prove their education (school certificates, degrees, accreditation in religious organizations if applicable, etc.), as well as employment.
- In general, for temporary resident visa applicants there is no proof of language skills required. Permanent resident visa applicants however have to supply evidence of English and/or French language skills.
- Temporary resident visa applicants have to prove provisions for the return to their home country after the purpose of their stay expires.
- Temporary resident visa applicants are obliged to meet certain requirements regarding accommodation in the host country, for example through a formal invitation or personal links to residents. For permanent resident visa applicants a formal job offer certified by the federal government is sometimes provided by the applicant to indicate a formal job is awaiting them, but this is not mandatory and represents only a minority of cases. If immediate family members are already Canadian residents, additional units (points) are awarded to the permanent resident visa applicants. In that case, the relationship to the applicant must be proven.
- A special military history form (IMM5559) is required as part of the application for both temporary resident visa and permanent resident visa applicants from all former Yugoslav countries. Background checks for all types of visa applicants are done on applicants from several other countries as well. No exemptions are made for clergy on these backgrounds check requirements.

The requirements concerning guarantees for the return, accommodation and a formal invitation can be fulfilled by churches, church groups, Non-Governmental Organizations (NGOs), individual Canadian clergy affiliated with a church, charity groups with a religious affiliation and others.

There is no mandatory health insurance for temporary visitors. Persons with a temporary resident visa (visitor visa) do not have access to health care, nor any welfare benefits in Canada. They are expected to obtain health insurance from their home country to cover them while they are temporarily abroad in Canada. This choice of obtaining insurance is strictly personal and not mandatory, so it is up to the

individual applicant whether or not he or she obtains such insurance prior to her or his arrival in Canada. They may visit medical service providers in Canada, but they would have to pay a user fee upon the receipt of any appointment or treatment. Therefore, their personal insurance would assist them in defraying the high costs of these services, but the person would be solely responsible for paying the fees upfront and their insurance claim would be settled between them and their insurance provider later (as is the norm for insurance in this regard).

2.3.1 Refusal

In the last five years (1999-2003) 4,272 cases of the relevant entry category were refused temporary entry visas and 338 cases were refused permanent visas. Non-fulfilment of any of the above-mentioned requirements may constitute a ground to refuse an alien admission for the purpose of carrying out religious work. Each refusal is based on an applicant's individual case (see the tables pointing Section 2.5. for detailed statistics).

2.4 Procedures, incl. responsible institutions

Applicants must apply for a visa at the respective visa and immigration offices abroad (at selected Canadian Embassies and Consulates). Once in Canada, a visitor record is obtained at the port of entry or at the Canadian Processing Centre in Vegreville. A first application for temporary or permanent residence can only be made outside Canada. If a visa is not required, applicants can enter Canada without a visa. If an applicant is already in Canada the visitor visa can be extended beyond the original 6 months period.

Applications are processed by the Ministry of Citizenship and Immigration Canada (CIC). Other institutions involved in the application process are congregations or religious groups (e.g. when they provide a supporting letter).

Depending on the category of permit applied for, the processing of an application can take from one day (visitor visa) up to approximately 12 months (permanent resident applicant in the skilled worker category).

2.5 Quantitative developments

The total number of persons coming as persons carrying out religious work in the last five years was 9,293, which represents the number of cases where at least one person was clergy. In addition, there may have been accompanying family members, which were not included in this number.

The following tables represent the three different categories in which persons carrying out religious work are counted:

1. Permanent Residents
2. Temporary Residents (Visitors)
3. Temporary workers processed inland

These statistics do not cover the number of clergy who are from visa exempt countries and who may enter Canada without a visa for up to 6 months.

Ministers of Religion - Permanent Residents Processed Abroad					
	1999	2000	2001	2002	2003*
Cases Approved	338	315	289	234	183
Cases Refused	65	72	78	39	84
Total of Cases	403	387	367	273	267
Persons Issued Visa	922	874	872	692	505
Approval Rate	83.87%	81.40%	78.75%	85.71%	68.54%

*: 16 cases from 2003 are still in process

Produced by CIC-International Region (RIM) on 1 October 2004

Ministers of Religion -Temporary Workers Processed Abroad					
	1999	2000	2001	2002	2003
Cases Approved	1.381	1.538	1.681	1.718	1.616
Cases Refused	397	776	821	1.035	1.243
Total of Cases	1.778	2.314	2.503	2.753	2.859
Persons Issued Visa	1.453	1.633	1.763	1.812	1.708
Approval Rate	77.67%	66.46%	67.16%	62.40%	56.52%

Produced by CIC-International Region (RIM) on 1 October 2004

Ministers of Religion-Temporary Workers Processed Inland					
	1999	2000	2001	2002	2003
Cases Approved	15	30	29	28	35
Cases Refused	0	2	3	0	4
Total of Cases	15	32	32	28	39
Total of Persons	23	45	42	38	43
Approval Rate	100.00%	93.75%	90.63%	100.00%	89.74%

Produced by CIC-International Region (RIM) on 1 October 2004

3 Residence

3.1 Type of permits and related rights

There is no specific residence title granted to aliens entering Canada for the purpose of carrying out different religious professions/activities as temporary work. They receive a temporary resident visa (visitor's visa if they are from a country that requires visa). Neither is a specific residence title given to permanent residents, they get the same visa as other skilled workers do.

The applicants in the skilled workers category are evaluated on a grid system, giving awards as assessment units for certain categories of information, where the number of units determines the pass mark of the candidate. In order to be considered for immigration the skilled worker applicant should reach the level of 67 units. The categories in which units are awarded are e.g.: English language skills, French language skills, previous work in Canada, previous studies in Canada, family relations in the country, educational level, experience level, etc.

In order to be granted a permanent residence permit it is obligatory to include the following documentation in the application: birth certificate, marriage certificate,

proof of education, a proof of the language knowledge in English or French, D-20/military background information and police check, proof of adequate funds (for applicants for clergy it could also be from the inviting institution), proof of employment in the home country, proof of years worked in the profession and work references. Sometimes background checks are also required.

3.1.1 Access to work

Religious workers can only work for the specific church/organisation that invited them and they may only carry out religious tasks. When having a temporary resident visa, no work permit is needed, however the visa holder is not allowed to perform other paid work next to religious work without permission. The specific work profiles for other aliens that require work permits are not as strictly defined as the work profile for aliens entering in order to carry out different religious professions/activities.

3.1.2 Family reunification

Spouses and children are entitled to family reunification, which may be permitted for religious workers with a temporary resident visa. They may enter free of charge (fee exemption applies) and may also receive study and work permits free of charge.

The statistical tables above (see Section 2.5) point out the total number of both temporary resident visa holders and permanent resident visa holders. It supposes that the principal applicant is coming to Canada to carry out religious professions/activities and the remaining persons are family members. The total number of family members for permanent residents were 2,576 and for temporary residents 435.

3.2 Conditions, reasons for denial of permit

3.2.1 Renewal

A renewal of their permits can be granted for up to five years for applicants with temporary resident visas (visitors visa) and religious workers (who are work permit exempt). They have to prove employment and funding in Canada. During the years 1999-2003, 137 renewals (or possibly more that went unregistered) were issued.

3.2.2 Permanent residence permit

(See Section 2.3.)

3.2.3 Change of residence permit

A temporary resident (a visitor) may apply for a permanent resident visa, which has to be applied for before entering Canada. After three years in the country a permanent resident can apply for Canadian citizenship.

3.3 Removal

A withdrawal of the residence permit and/or removal from the country can occur on any of the grounds given in Division 4 of the Immigration and Refugee Protection Act (i.e. security, criminality, international human rights violations, health, etc.).

3.4 Procedures, incl. responsible institutions

The applicant is responsible for fulfilling all the requirements. In the case of clergy it is sometimes the inviting institution's responsibility to present the proof of funding or salary for the temporary resident applicant as well as the permanent resident applicant. The Federal Department of Citizenship and Immigration Canada (CIC) is the responsible institution for monitoring the fulfilments.

4 General policy issues

4.1 Difference of legal status to other aliens

Religious workers can only carry out religious duties and may only work for the specific church or organization that invited them. They can work without a work permit, if their stay is temporary. Other aliens' work is not as strictly defined and they need a work permit.

As a temporary resident in Canada, one cannot benefit from the health care plans or welfare system, and only Canadian citizens may vote in the elections.

4.2 Integration policy

There is no specific integration program for temporary residents (visitors). For permanent residents, there are some informal "settlement centres", while compulsory integration measures do not exist. No conflicts between persons admitted under this category in the exercise of their religious work and basic rights or institutional laws have been reported.

Inter-institutional cooperation is not necessary for the entry and work of clergy on temporary visas. The entry seems easier for clergy since they are both fee and permit exempt when working on temporary basis.

4.3 Historical developments and planned policy changes

The entry process of clergy is reported to be simpler when compared to other aliens entering Canada, since when applying for temporary resident visas they are fee exempt as well as work permit exempt.

The current regulations for clergy have been in place for more than 25 years. While there have been changes to these regulations in 1956, 1978 and 2002, there are no specific historical events reported by the Canadian authorities as having taken place or any significant court decisions that have contributed to the current implementation of the regulations. No changes are expected in the near future.

4.4 Administrative practice and public debates

There are no specific conditions or limitations reported as seen as a problem by the religious organizations or the aliens concerned regarding the admission or stay in Canada. Statistics show no indication of frequent complaints about conditions or limitations.

The Saskatchewan Act in the province of Saskatchewan allows prayer and bible reading in schools. Since a ruling in July 1999, when a one-person Board of Inquiry decided that it was discriminatory to require recitation of prayer in the public schools of Saskatoon, it is no longer performed.⁴²

Public funding is constitutionally protected for Roman Catholic schools in the four original provinces in Canada, but in 1999 the United Nations Human Rights Committee found that the province of Ontario had not provided for equal and effective protection against discrimination. In March 1999, 14 recommendations were submitted to the Quebec National Assembly from the Proulx task force (government appointed). The proposals included the abolishment of Catholic and Protestant status for public schools and the creation of a secular public school where religion would be studied from a cultural perspective, and students of all faiths would receive publicly funded support. The Quebec provincial assembly passed the recommendations in June 2000 when passing bill 118, which means that school commissions and schools would be based on linguistic rather than religious lines. That required schools to provide either for Catholic, Protestant or moral education classes and to reduce teaching hours for such classes from 120 to 72 hours per 2-year cycle. All public schools in Quebec are open to all and are not based on faith.⁴³

In June 1999, the Ontario legislature decided on a tax credit plan for the parents to children attending private schools in the province. This decision removed earlier limitations like those that tax credits were only provided for Roman Catholic schools.⁴⁴

In 2003 Muslims created an Islamic Court of Civil Justice in Ontario, legally under the 1991 Ontario Arbitration Act. There are plans on arbitrating cases by using the law of Shari' a.⁴⁵ The court consists of religious scholars and will rule on civil disputes between Ontario Muslims – family disagreements, inheritance disputes, business and divorce issues. The Court is only allowed to rule in civil matters, criminal cases are exclusively for state courts. The participation in the arbitration must be voluntary. The courts have the right to intervene and prevent unequal or unfair treatment of the parties. Since the tribunal is to be run pursuant to Ontario law, it needs to be fair, or else face a constitutional challenge and the possibility of collapse. Child-custody cases will not be part of the tribunal's mandate.⁴⁶ Under the Ontario Arbitration Act, both parties to the dispute are required to consent to using this form of alternative dispute resolution whereupon the decisions rendered by the tribunals will be binding on the parties. It has been suggested that the roster of arbitrators for such tribunals consist of lawyers, retired judges, religious scholars and

⁴² <http://www.humanrights-usa.net/reports/canada.html> (17.1.2005).

⁴³ See the following sources:

<http://www.terrorismcentral.com/Library/Government/US/StateDepartment/DemocracyHumanRights/2001/WesternHemisphere/Canada.html> (8.11.2004), <http://www.humanrights-usa.net/reports/canada.html> (5.11.2004), <http://www.state.gov/g/drl/rls/irf/2004/35529.htm> (9.11.2004)

⁴⁴ *ibid.*

⁴⁵ U.S. Department of State (2004), *op.cit.*

⁴⁶ <http://muslim-canada.org/globeboydaug2822004.html> (9.11.2004)

private arbitrators.⁴⁷ According to organizers and participants, the chosen arbitrators have undergone training in Shari'a and Canadian civil law.⁴⁸

⁴⁷ <http://www.caircan.ca/downloads/sst-10082004.pdf> (9.11.2004)

⁴⁸ <http://www.ccmw.com/ShariaInCanada/Canadians%20Allow%20Islamic%20Courts%20To%20Decide%20Disputes.htm>

Czech Republic

1 Status of religious groups in the country

The population of the Czech Republic is around 10.2 million. The religious tradition is Christian, but during the communist rule (1948-1989) the majority of the population did not identify with any organised religion. After the 1989 "Velvet Revolution", there was a revival of interest in religion. An opinion poll in 2001 showed that 38 % of the respondents claimed they believed in God, while 52 % identified themselves as atheists.

The Constitution of the Czech Republic provides for freedom of religion. About 5 % of the population attend Catholic services weekly, most commonly in the southern Moravian dioceses of Olomouc and Brno. There are fewer practising Protestants, about 1 % of the population. The leaders of the Muslim community estimate that about 20,000 to 30,000 inhabitants are Muslims. There is a mosque in Prague and one in Brno. The 2002 law on "Religious Freedom and the Position of Churches and Religious Associations" created a two-tier system of registration of religious organizations, giving the religious communities so recognized also a special legal standing (see also below, section 4). The first tier conveys limited tax privileges, but is mainly important in that registration under the first tier for a minimum period of 10 years is the pre-condition for registering under the second tier. Faith communities registered under the second tier receive a share of state funding and are entitled to perform officially recognized marriage ceremonies, and to assign ministers of religion to the military and to prisons.

The small Muslim community has not been registered as an officially recognised religion since the communist takeover in 1948. The Jewish community, which consists of only a few thousand people, is an officially registered religion due to its recognition by the state before 1989. Missionaries from different religious groups, such as the Church of Jesus Christ of Latter-day Saints (Mormons) and members of Jehovah's Witnesses, are also present in the country and are generally free to exercise their religious activities.⁴⁹

2 Admission

2.1 General practice

The Act No. 326/1999 Coll. on the Residence of Aliens regulates the stay of aliens in the Czech Republic. The Act regulates the stay of all aliens regardless of the purpose of their stay. This means that this Act refers to foreign nationals carrying out religious work in the country as well.

⁴⁹ *International Religious Freedom Report 2004*, Country Report Czech Republic, available at: <http://www.state.gov/g/drl/rls/irf/2004/35450.htm>

2.2 Type of (special) permits, including legal basis

As explained, there are no specific regulations concerning the admission and residence of religious workers. Thus, for members of the clergy, as for other foreigners, the following types of entry and residence permits are required:

Types of entry/residence permits required for religious workers in the Czech Republic			
Length of Stays:	Up to 90 days	Up to 6 months	More than 6 months
Type of permit	Short-term visa (for stay up to 90 days)	Visa for residence exceeding 90 days (up to 12 months)	Temporary stay on the basis of a long term stay permit (for a period longer than 1 year) Residence permit

There are no numerical quotas or ceilings to any of these permits. Special rules governing the admission and residence of nationals of the Schengen countries will be introduced after the Czech Republic has become part of that agreement.

2.3 Conditions, reasons for denial of permit

The requirements for persons wishing to enter the Czech Republic in the capacity of ministers of religion or members of the clergy are the same as for other categories of immigrants.

When applying for a visa for a stay over 90 days, or for a long term stay permit, for work purposes the foreigner must submit a work permit. He or she must also submit a document confirming that accommodation is ensured for the period of stay on the territory of the Czech Republic. During the border control or during internal stay controls the foreigner, when asked by police, must provide documents on health insurance that would cover all expenses connected with accident, sudden illness or death on the territory of the Czech Republic.

The conditions mentioned above can be fulfilled by persons competent to legal acts who can function as a guarantor of the foreigner's stay on the basis of warranty (e.g., the religious organisation can issue a document to the foreigner confirming accommodation for the period of stay in the Czech Republic).

When applying for a visa for a stay over 90 days or a long term stay the foreigner must also submit his/her criminal record. This does not apply to foreigners younger than 15 years of age.

When applying for a visa for a stay over 90 days or a long term stay the foreigner must submit a medical report stating that s/he does not suffer from any severe disease. Submission of a medical report can only be requested if there is a justified suspicion that the alien suffers from a serious disease. The police can refuse entry to persons suspected of suffering from severe diseases (a list of such diseases is mentioned in documents of the Ministry of Health (§ 182a).

When applying for a visa for a stay over 90 days, or for a long term stay, for the purpose of work foreigners do not have to prove the availability of sufficient financial resources. Also, they do not have to prove language skills or professional achievements.

Conditions to refuse the admission of aliens who are applying for a visa for a stay over 90 days or a long-term stay permit could be the following:

- if the alien, at the request of the police or an embassy, fails to appear for an interview or fails to submit, within the specified period of time, the required documents for verification of the information stated in the application for a visa; or if verification of the information is not successful in spite of the interview conducted and the examination of the documents submitted,
- the application is incorrect or incomplete,
- the alien is registered in the register of *personae non gratae*,
- other circumstances listed under Section 56 of the Act No. 326/1999.

2.4 Procedures, incl. responsible institutions

Foreigners applying for permits to stay on the territory of the Czech Republic for the purpose of carrying out religious work do not, with respect to their rights and obligations, differ from other foreigners. Thus, there are no differences between the procedure of issuing permits to foreigners carrying out religious work and other aliens.

The foreigner must personally make his/her application for visas. Only in reasonable and well-founded cases this condition can be omitted. When invited, the foreigner must personally attend the visa procedure conducted in order for the decision makers to decide about his/her application for a visa when the stay exceeds 90 days or for a long-term permit for the purpose of work.

In order to positively process the application, the applying foreigner must fulfil all conditions stated by the Act No. 326/1999 Coll. on the Residence of Aliens in the Czech Republic. Under Section 31 of Act No. 326/1999 Coll. on the Residence of Aliens in the Czech Republic, a foreigner applying for a visa for a stay of more than 90 days has to submit the following:

- (1) travel documents;
- (2) documents acknowledging the purpose of stay;
- (3) financial resources for the stay on the territory;
- (4) documents acknowledging accommodation for the time of stay;
- (5) an extract from the register of crime (only for foreigners older than 15 years of age);
- (6) a photo.

In order to positively process the application for a visa for a stay of more than 90 days with the purpose of work, the applying foreigner must submit work permit and documents under point (1) and (4) to (6).

The foreigner has the possibility to apply for an extract from the crime register at an embassy and if the foreigner agrees to the embassy sending it to the Police, the obligation of submission is met.

A foreigner applying for a visa for a stay of more than 90 days has to also submit the following, if asked:

- a) an extract similar to the register of crime, or any relevant document from the country of origin as well as from countries where the person resided during the last three years for a period exceeding six months (not valid for foreigners below the age of 15);
- b) a health report confirming that the foreigner does not suffer from any severe diseases (the health report can be required only in cases of well-grounded suspicion that the foreigner suffers from a severe disease).

Stays over 90 days for work purposes can only be applied for at a Czech embassy in the home country.

A foreigner staying in the Czech Republic on a 90 days visa can apply for a long-term stay when already in the country. The conditions to be fulfilled are that the foreigner must have plans to stay in Czech Republic for a period exceeding one year and that the purpose of the stay continues. Applications should be made with the relevant body of the Aliens and Border Police.

The responsible authority for processing applications is the Aliens and Border Police. The labour office issues work permits that the foreigner must provide when applying for a visa for a stay over 90 days or for a long-term stay for work.

The application process also involves the Ministry of Foreign Affairs (Embassies), the Ministry of Interior (the Aliens and Border Police of the Czech Republic), and the Ministry of Culture.

The application for a visa for a stay over 90 days is normally processed within 120 days after the application was lodged. The application for a residence permit is processed within 180 days.

2.5 Quantitative developments

In 2001, 2002, and 2003 there was no person admitted for the purpose of carrying out religious work. At the end of 2000 (31.12.) there were 10 foreign persons carrying out religious work, and up to 31.12.1999 there have been a total of 181 such persons registered in the Czech Republic. There are no further statistical breakdowns available.

3 Residence

3.1 Type of permits and related rights

Religious workers have the possibility to stay in the Czech Republic on the basis of a long-term visa (temporary stay) or on the basis of a long-term residence permit issued for the purpose of employment in the country.

The visa application rules for aliens are regulated in *Section 54 of the Act No. 326/1999 Coll.* In the **visa application** the alien must state his/her full name, sex, the

date and place of birth, current citizenship and citizenship at the time of his/her birth, the names of his/her parents, family status, place of permanent home abroad, telephone number, as well as type, number and information about the expiry date and the date of issue of his/her travel document, with an indication about the issuing authority. The alien also has to give information on his/her possible residence permit in another state, and information on whether s/he is entitled to return to his/her territory, including information on the number and expiry date of relevant documents, his/her occupation, his/her employer and the employer's address, including a telephone number, the destination of the trip, the required type of visa and the period of stay. The application also includes questions regarding the number of entries to the country, the purpose of the stay, the planned date of arrival and departure, the place of entry, the means of transport and the measures foreseen for ensuring payment of the costs associated with his/her stay. The alien must also give the address of his/her residence during the stay in the Czech Republic, the contact information on the inviting person or authority as well as detailed information on the purpose of the stay in the country.

The application rules for aliens applying for **residence permits** are regulated in *Section 70 (4) of the Act No. 326/1999 Coll.* The alien must state his/her full name, the date of birth, the place and country of birth, his/her citizenship, his/her nationality, his/her family status, the highest level of education achieved, his/her occupation, his/her employment prior to entry to the Czech Republic (his/her position, the name and address of the employer), the purpose of his/her stay in the country, his/her employment after entry (his/her position, the name and address of the employer), the last place of residence abroad, the address of the place of residence in the territory, previous stays in the country of more than 3 months (with the reason for the stay and the place of residence), the date of entry to the country and the number and expiry date of his/her passport. In their applications aliens are also required to provide detailed information on their spouses, parents, children and siblings.

3.1.1 Access to work

Religious workers and missionaries must obtain a long-term residence and work permit if they intend to stay longer than 90 days for work purposes. There is no special visa category for religious workers; foreign missionaries and clergy are required to meet the conditions for a standard work permit even if their work is strictly religious or of a voluntary nature.

The granting of the work permit is regulated by Act No. 435/2004 Coll., on Employment and is influenced by the current situation on the labour market. There are no special conditions or limitations with respect to religious workers. The institution responsible for granting, renewing and withdrawing of such a work permit is the Ministry of Labour and Social Affairs

3.1.2 Family reunification

Minor children or dependent children of an alien who has a residence permit in the Czech Republic may apply for residence permits if the reasons for the application are such that these aliens can live together. Special conditions apply for the right to family reunification for the spouse, parents and minor children of citizens of the Czech Republic as well as for spouses and children of persons with refugee status.

There are no statistics available on residence permits issued for family reunification with persons admitted for the purpose of carrying out religious work.

3.2 Conditions, reasons for denial of permit

If any of the stated conditions are not met, the application for a residence permit may be denied (see also Section 2.3.).

3.2.1 Renewal

A period of stay shorter than the validity period of a 90 days visa can be repeatedly extended by the police at the request of the alien, on the condition that the same purpose for which the visa has been issued still exists. The stay cannot be extended beyond the expiration time of a 90 days visa. Likewise, the period of stay on the basis of a visa for a stay longer than 90 days cannot be extended beyond the time of expiration of such a visa.

A long-term permit is granted to aliens in the form of a residence permit certificate, where the police indicate the information on the permitted purpose of the residence in the certificate. The police issue a residence permit certificate with a validity period necessary for the accomplishment of the purpose of the stay. The validity period of a residence permit certificate can be repeatedly extended, with each extension amounting to a maximum of 1 year.

Aliens applying for an extension of the period of stay on the basis of a visa for a stay longer than 90 days or a long term residence permit need to include the following documents: a travel document, a document confirming that accommodation in the territory is ensured, an extract from the criminal register as a document of the alien's criminal record, and upon request, a medical report confirming that the alien does not suffer from any serious disease (submission of a medical report can only be requested if there is a justified suspicion that the alien suffers from a serious disease).

3.2.2 Permanent residence permit

The Act No. 326/1999 Coll. on Alien Residence in the Czech Republic and Altering Some Other Acts, as amended, specifies the conditions, which the alien must fulfil when applying for a visa for a stay over 90 days or a permit for long-term residence. If these conditions are not accomplished the above-mentioned Act lays down reasons for the denial of the visa or the permit for long-term residence.

3.2.3 Change of residence permit

Aliens that intend to stay in the Czech Republic for purposes other than the one already granted are generally obliged to apply for a new permit.

An application for a visa for a stay longer than 90 days can be filed with the Police within the country, provided that:

- a) The alien has handed in such application during his/her stay in the country, permitted by a visa for a stay longer than 90 days, issued for the purpose of

common family life with a spouse, a minor child or a dependent child, and provided that the alien applies for the visa for some other purpose;

b) The alien had handed in such an application during his/her stay in the Czech Republic permitted by a visa for a stay longer than 90 days and had applied for the visa for the purpose of common family life in the scope of a spouse, a minor child or a dependent major child;

c) The visa is to be granted to a minor alien or to a dependent major alien for the purpose of living together with his/her legal guardian, who is already staying in the territory with a long-term residence permit or a residence permit or with a visa for a stay longer than 90 days or who is a citizen of the Czech Republic.

In other cases the alien must apply for the issuing of a new visa at the embassy.

3.3 Removal

In case the foreigner fails to fulfil any of the conditions on which the visa for a stay over 90 days or the long-term permit was issued, the police can cancel the validity of such a visa or permit.

The rules under Section 37 (1-2) of Act No. 326/1999 Coll. determine the conditions under which the police can cancel the validity of a visa for stays longer than 90 days or permits for long-term stays (e.g. if the alien had been validly convicted of a wilful criminal act, the alien does not fulfil the purpose for which the visa or the permit had been granted or the alien requests cancellation of the visa or the permit).

The conditions for an administrative expulsion are set out in Section 119 (1-2) and Section 120 (1-2) of the Act No. 326/1999 Coll., namely

Section 119 (1-2):

(1) The Police shall make a decision on administrative expulsion and prohibition of re-entering the territory of an alien who is staying in the Territory on a temporary basis, with a validity period

a) of up to 10 years;

1. if there is a substantiated risk that the alien might endanger the security of the state, during his/her stay in the Territory, by using violence in promoting political aims or by performing an activity endangering the foundations of a democratic state or aimed at disrupting the integrity of the Territory, and/or in some other similar manner; or
2. if there is a substantiated risk that the alien might materially violate the public order during his/her stay in the Territory; or
3. if the alien had repeatedly and intentionally breached legal regulations or had obstructed the execution of judicial or administrative decisions;

b) of up to 5 years;

1. if the alien tries to prove his/her identity during a border control or a residence check by using a document that had been forged, or by using a document of some other person as his/her own document;
2. if the alien tries to prove his/her identity during a border control or a residence check when leaving the Territory by using a document that is invalid for the reasons referred to in Section 116 (a), (b), (c) or (d);

Section 120 (1-2):

(1) The Police shall pass a decision on administrative expulsion and prohibition of re-entering the territory of an alien with a residence permit, with the validity period of such a decision being

- a) 10 years, if there is a substantiated risk that the alien, during his/her stay in the Territory, might endanger the security of the state by using violence in asserting political goals or by performing an activity endangering the foundations of a democratic state or aimed at disrupting the integrity of the Territory, and/or in some other similar manner;
- b) 10 years, if there is a substantiated risk that the alien, during his/her stay in the Territory, might materially violate the public order; or
- c) 3 years, if the alien had failed to meet the obligations defined in Section 80(3).

(2) A decision on administrative expulsion of a citizen of the European Union or his/her family member, who was granted a permanent residence permit or a residence permit, can only be passed if the alien endangers the security of the state or materially violates the public order and, with regard to the materiality of his/her actions, withdrawal of the residence permit is not sufficient.

4 General policy issues

4.1 Difference of legal status to other aliens

There is no clear difference between aliens admitted under the capacity of ministers of religion and other aliens. The work permit regulations are the same for all. Thus, aliens applying for a residence permit for the purpose of carrying out religious work have the same rights and obligations as aliens coming to the Czech Republic for other purposes.

4.2 Integration policy

The State Integration Programme pertains in accordance with Sections 68-70 of the Act No. 325/1999 on Asylum exclusively to recognized refugees, meaning to aliens who were granted asylum status. There is no programme in the Czech Republic regarding integration of aliens that were granted residence permits on the basis of Act No. 326/1999 Coll. on the Residence of Aliens in the Czech Republic. Among the aliens who were granted asylum status there was only one case where the refugee alleged in his asylum application that he was the head of a religious council.

The State Integration Programme strictly follows the measures listed in the appendix of the Government Resolution No. 89/2004 where language courses are provided by the Ministry of Labour and Social Affairs and accommodation is provided by the Department for Asylum and Migration Policies of the Ministry of the Interior.

The participation in the State Integration Programme is optional, but as long as the refugee takes part in the programme s/he is obliged to follow the conditions of the State Integration Programme. If s/he breaks the conditions of the programme the refugee can be excluded from the programme.

4.3 Historical developments and planned policy changes

The law on “Religious Freedom and the Position of Churches and Religious Associations” (2002) created a two-tier system for the registration of religious organisations. To register at the first tier groups must have at least 300 adult members permanently living in the Czech Republic. This tier gives limited tax benefits and imposes annual reporting requirements. To register at the second tier religious groups must have a membership of at least 0.1 % of the population (about 10,000 persons) and must have been registered at the first tier for at least 10 years. The second tier allows the organisation to access state funding. Officially recognised marriage ceremonies as well as chaplains in the military and in prisons may be performed only by clergy registered in second tier organisations but not by clergy registered in first tier organisations.

Religious groups registered before 1991 are not required to meet these conditions for registration. Unregistered religious groups may not legally own community property but may form civic-interest group associations for the purpose of managing their property and other means until they meet the demands for registration. The government does not interfere with or prevent this temporary solution and even unregistered religious groups are free to assemble and worship in the manner of their choice.

A law from 2000 prohibits Holocaust denial and provides for prison sentences between 6 months and 3 years for the denial, questioning, approval or attempts to justify the Nazi genocide. The same law also outlaws the incitement of hatred based on religion.⁵⁰

4.4 Administrative practice and public debates

The immigrant population of the Czech Republic is still relatively small, mostly including people from Ukraine, Russia, Poland, Bulgaria and Greece. According to the authorities, these groups have not reported any difficulties with practicing their respective religions. Likewise, the Czech authorities have not encountered any challenges related to the category of religious workers for their administrative procedures or in the necessary inter-institutional cooperation.

The Department of Churches at the Ministry of Culture is responsible for religious affairs and, under the 2002 law, has responsibility for registering religious charities and enterprises as legal entities. As mentioned, officially registered religious groups receive subsidies from the state. There are currently 25 state-recognised religious organisations although four of these have declined financial support as a matter of principle and to express their independence (Mormons, Jehovah's Witnesses, the New Apostolic Church, and Open Brethren).

Religion is not taught in public schools, but a few private religious schools exist.

⁵⁰ U.S. Department of State, Bureau of Democracy, Human Rights and Labour (2004): International Religious Freedom Report 2004, Country Report Czech Republic, available at: <http://www.state.gov/g/drl/rls/irf/2004/35450.htm> (17.1.2005).

The application for recognition of the Ukrainian Greek Catholic Church was denied in March 1999 when, after consultations with the Czech Bishops' Conference, the Ministry decided that the application was based on inadequate supporting signatures.

Several unregistered religious groups, including the Church of Scientology, have criticized the 2002 law on the registration of religious groups because they believe that it is prejudicial against smaller religious groups.⁵¹

⁵¹ *ibid.*

Denmark

1 Status of religious groups in the country

According to the Danish Constitution the Evangelical Lutheran Church is the state church of Denmark. Aside from the Evangelical Lutheran Church, the Ministry of Ecclesiastical Affairs decides whether a religious community should be officially recognized or not. To obtain official recognition as a religious community in Denmark the community should be an assembly (body) – not a movement or a philosophical society – whose primary purpose is worship (cult) on the basis of a clearly formulated doctrine and ritual.

Besides being “recognised” as a religious community by royal decree, religions can also be “approved” under the 1969 Marriage Act. As of March 2004, 12 religious organisations were recognized by royal decree, including: The Roman Catholic, Methodist, Baptist, and Russian Orthodox churches as well as Judaism. 92 were approved, including several Islamic groups, members of Jehovah's Witnesses, Mormons, Seventh-day Adventists, Sikhs, Buddhists, Christian Orthodox, Hindu, Baha'i, and Hara Krishna. By "approving" religions under the 1969 Marriage Act, the Government allows individually named priests to conduct officially recognized marriage ceremonies and thereby legally "approves" the religion. However, marriages still have to be proven as civil marriages to count as marriages under the 1969 Marriage Act. Both recognised and approved religions enjoy certain tax exemptions. (Other religious communities are entitled to practice their faith without any sort of licensing, but their marriage ceremonies are not recognized by the state and they are not granted tax-exempt status).⁵²

Spiritual groups are as a general rule allowed practising their faith in Denmark without interference from the Danish authorities. This applies to, amongst others, Scientology, which is not an officially recognised religious community.

About 84.3 % of Denmark's total population of about 5.4 million belong to the state church (Evangelical Lutheran Church). The second largest religious community in Denmark is Muslim, constituting approximately 3% of the population, followed by communities of Catholics, Jehovah's Witnesses, Jews, Baptists, Pentecostals and the Church of Jesus-Christ of Latter-day Saints (Mormons).

2 Admission

2.1 General practice

Persons who want to enter Denmark for the purpose of carrying out religious work need to apply for a temporary residence permit and a work permit. No specific entry

⁵² U.S. State Department, Bureau of Democracy Human Rights and Labour (2004): International Religious Freedom Report 2004, Country Report Denmark. Available at: <http://www.state.gov/g/drl/rls/irf/2004/35451.htm> (17.1.2005)

permit is granted. According to section 9 f (1) of the Aliens Act, cf. Order no. 808 of July 14, 2004, an alien may be issued a residence permit in Denmark for the purpose of acting as a religious preacher or as a missionary or for the purpose of acting within a religious order in Denmark.

The basic conditions for obtaining a residence permit does as a general rule not differ between the three types of religious activities. Residence permits are generally not issued to aliens for the sole purpose of teaching in subjects that are not characterized as preaching a religious message.

As a principal rule the Danish Immigration Service issues a time-limited residence permit to foreign religious workers for a period of 12 months with the possibility of extension of up to 3 years. In cases where religious workers are permitted by the Ministry of Ecclesiastical Affairs to perform wedding ceremonies, the Immigration Service issues residence permits for 12 months (with the possibility of extension of up to 2 years) and periods of 3 years. Furthermore nuns and monks within a religious community can be granted a residence and work permit for more than 3 years without having a permission to perform wedding ceremonies.

Nationals of Finland, Iceland, Norway and Sweden may – without restrictions - travel to Denmark to work and reside in the country. They are not required to obtain a visa, residence or work permit in Denmark.. Foreigners, who are EU/EEA-citizens, as well as nationals from Switzerland, may reside in Denmark according to the EU/EEA rules regarding the free movement for people and services. If a foreign visitor is both a EU/EEA-citizen and a Nordic citizen, the rules for Nordic citizens apply, unless the rules for EU/EEA-citizens suit the person more favourably.

EU/EEA-nationals may – without restrictions - reside in Denmark for up to 3 months. If the EU/EEA citizen is seeking employment or is actively employed during the stay, s/he may be permitted to remain in Denmark up to 6 months. A stay exceeding the 3 or 6 months limits requires an EU/EEA residence certificate. An EU/EEA residence certificate is - as opposed to a residence permit issued according to the rules specified in the Danish Aliens Act - a certification of the rights enjoyed by the EU/EEA national by virtue of the EU/EEA rules on free movement. If an EU/EEA citizen is actively employed or seeking work in Denmark, and wishes to remain in the country for more than 6 months, he or she must either apply for an EU/EEA residence certificate from a local county authority, or for a residence permit from the Danish Immigration Service according to the rules detailed in the Danish Aliens Act. In this case, the application must be submitted before the 6-month deadline for the individual's stay in Denmark.

Nationals from the new Member States have a right to work just like other EU nationals. But for eight of these countries – Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia, the Czech Republic, and Hungary – a transitional plan has been implemented to insure a smooth, gradual transition to free movement.

There are no specific numeral quotas referring to the admission of aliens for the purpose of carrying out religious work in Denmark. However the number of persons holding residence permit as members of the clergy, missionaries or religious workers

within a specific order or congregation must be proportional to the relative size of the denomination.⁵³ Until August 1st 2003, an agreement between the Danish Immigration Service and the Turkish Embassy from 1986 stipulated that only 25 Turkish imams could hold a residence permit for a period up to 4 years at the same time.

2.2 Type of (special) permits

The regulations for the admission of aliens for the purpose of carrying out religious work are based on Section 9 f in the Aliens Act, which came into force on July 1st 2004. Before July 1st 2004 residence permits on the basis of carrying out religious work were granted according to section 9 c (1) in the Aliens Act.⁵⁴ A work permit is issued automatically together with the residence permit. In principle all residence permits in Denmark automatically include a permission to work, with the exception of the following residence permits: Au pair - a residence permit granted to an au pair does not include permission to work as the tasks undertaken by the au pair are formally not regarded as work; and study – individuals with a student residence permit do not automatically have the right to work in Denmark, although there are certain situations where an individual may be able to apply for a work permit. A student is eligible for a permit to work 15 hours per week, as well as full-time during the months of June, July and August. A residence permit sticker will be placed in the passport.

According to section 9 f (2) of the Aliens Act it is a condition for obtaining a residence permit for the purpose of carrying out religious work to prove that the alien “has ties with the Danish national church or a recognised or approved religious community in Denmark”. There is, however no requirement to submit a letter of invitation. The conditions and limitations listed in Section 9 f of the Aliens Act apply to all groups of religious workers.

A residence permit can be obtained as a *member of the clergy*, a *missionary* or a *religious worker within a specific order or congregation*. It is only possible to work as a member of one of these if the respective community is approved or recognized as a religious community by the Ministry of Ecclesiastical Affairs (see Section 1 above).

To apply for a residence permit as a member of the clergy/religious preacher, the applicant has to enclose a contract or a confirmation that s/he is going to preach religious messages within the religious community. In this regard, the Danish Immigration Service inquires the religious community to describe the purpose of the

⁵³ In this respect the Danish Immigration Service inquires the respective religious community about the following questions: How many members of the religious community have a residence in Denmark? How many religious preachers, missionaries or people within the religious community (nuns or monks) does the religious community already have with residence in Denmark, and from these, how many foreigners do already have residence permits as religious preachers, missionaries or people within the religious community (nuns or monks)? How many religious preachers, missionaries or people within the religious community (nuns or monks) does the religious community envisage to have in total in Denmark?

⁵⁴ Section 9 c (1) Aliens Act. Upon application, a residence permit may be issued to an alien if exceptional reasons make it appropriate. Unless particular reasons make it inappropriate, it must be made a condition for a residence permit under the first sentence hereof as a result of family ties with a person living in Denmark that the conditions referred to in section 9(2) to (9) are satisfied. The provisions of section 9 (13) to (18) apply correspondingly.

foreigner's work in the community and to conform that the applicant is going to preach religious messages within the religious community.

To apply for a residence permit as a missionary, the applicant has to prove that s/he will work as a missionary, and spread a specific religion or belief affiliated with an existing denomination in Denmark. The religious community has to prove the applicant's intention to the Danish Immigration Service in this respect.

To apply for a residence permit as a worker within a specific order or congregation (nuns or monks), the applicant has to prove that s/he intends to work within a specific religious order or congregation in Denmark. In this connection, the Danish Immigration Service requires the religious community to produce documentation that the applicant is going to work within a religious order or congregation. Additionally, the Danish Evangelic Lutheran Church or other officially acknowledged or approved denominations must attest before the Danish Immigration Service that the religious order is established under, or works within, the respective denomination.

2.3 Conditions, and reasons for denial of permit

As of July 1st 2004, the applicant must be able to prove that s/he occupies a relevant position within the religious community or has been educated to work as a member of the clergy, as a missionary or within a religious order. The applicant has to document her/his relevant background; in addition s/he must also give information on her/his educational background and previous occupation in the application form. Prior to July 1st 2004 the applicant only had to describe her/his educational background and previous occupation.

As of July 1st 2004 the applicant must sign a declaration and state all criminal offences for which s/he has been sentenced. Also the applicant must in good faith sign a declaration, stating that s/he will not engage in any activity that poses a threat to the public safety, law and order, health, decency or the rights and duties of others. Additionally, the applicant or the religious community must sign a declaration and state that s/he or the religious community will provide for the maintenance (incl. accommodation) of the foreigner and any accompanying family members during their stay in Denmark. The applicant must also sign a declaration, stating that neither s/he nor any accompanying family member will draw upon public welfare maintenance for the duration of the stay in Denmark.⁵⁵

There is no requirement for the applicant to have a compulsory health insurance or accident insurance or other insurance coverage, nor must s/he submit specific proof of health status or health checks. However, when the applicant is granted a residence and work permit in Denmark, s/he will automatically receive a personal number and a health insurance card. The health insurance card covers the expenses for medical treatment in Denmark. Concerning age requirements, there are no specific limits. However, due to the requirements for proven skills (e.g. educational background, experience, etc.), the applicants are often older than 20-30 years.

Generally, there is no requirement for proven language skills for persons wishing to enter Denmark for the purpose of carrying out religious work. As noted above, the

⁵⁵ These declarations may be obtained from the website of The Danish Immigration Service.

Danish Immigration Service distinguishes between religious workers with or without permission to perform wedding ceremonies.⁵⁶ The Ministry of Ecclesiastical Affairs decides whether the applicant has satisfied the conditions for obtaining this permission. However with regard to performing wedding ceremonies since July 2003 the Ministry of Ecclesiastical Affairs has practiced a condition that applicants must sign a declaration stating that s/he masters the Danish language or – as an alternative – is willing to participate in a language course in Danish.

The Danish Immigration Service does not require guarantees or provisions for the return to the source country following the stay in Denmark. However, once the residence permit has expired, the religious worker is not entitled to stay in Denmark and must therefore return to her/his country of origin. In case a foreigner does not leave the country and continues to work in the religious community, the Danish Immigration Service will consider it to be illegal labour. Any foreigner, who works without the requisite permit in Denmark, is liable to a fine or imprisonment for up to 6 months. Also, s/he will risk to be expelled from the country, with a ban on re-entry for a specified period of time (typically one year).

If any of the above-mentioned conditions (based on section 9 f of the Aliens Act) are not fulfilled in principle, the application will not be granted by the Danish Immigration Service.

One of the main reasons for rejecting an application is that the respective religious community is not approved or recognised by the Ministry of Ecclesiastical Affairs. Other reasons might include the fact that the applicant does not intend to preach religious messages, but wishes to carry out administrative work within a religious community. Also, the application is turned down, if the applicant's sole purpose is to teach, even at religious schools. Likewise, residence permits may be refused with regard to foreigners receiving religious instruction, or to foreigners who are being trained as religious clergymen, missionaries etc.

In accordance with the legislative changes from July 1st 2004, a residence permit to a religious worker can be rejected if there is reason to assume that the alien will constitute a threat to public security, public order, health, morals or the rights and duties of others. The justification used in these cases is the practices of the Danish Immigration Service as implemented from the Danish Aliens Act Section 9 f (5) (see also Section 2.1.).

2.4 Procedures and responsible institutions

The general procedures for foreigners applying for admission to carry out religious work and those applying to carry out other kinds of work are more or less the same. The substantive conditions and requirements as stated above are, however, different.

An application for a residence and a work permit may be submitted at a Danish embassy or general consulate in the applicant's country of origin. An application form can be obtained at the Danish Immigration Service's website or by the representative

⁵⁶ A marriage still has to be proven as a civil marriage to obtain full marriage status in Denmark. See also Section 1.

office. When the applicant has completed and returned the application form, the representative office will forward it to the Danish Immigration Service. If the applicant has resided legally in another country for longer than the past three months, the application can also be submitted at a Danish representative office in that country. If there is no Danish representative office in this country, the Danish Immigration Service may determine that the application can be submitted in another country.

An application for a residence and work permit must usually be submitted before the applicant enters Denmark. In case the applicant does not submit her/his application form subsequent to her/his arrival in Denmark, the Danish Immigration Service has the right to reject the application. The applicant must then resubmit a new application from her/his country of origin.

However, in some cases, an applicant will be permitted to submit an application after having arrived in Denmark, in which case the Danish Immigration Service will make a determination on whether or not the application for a residence permit will be accepted. If the Danish Immigration service decides to examine the application, the applicant will be permitted to reside in Denmark during the examination of her/his case. If the Danish Immigration service decides not to examine the application, the applicant may appeal this decision to the Ministry of Integration, Refugee and Immigration Affairs.

In the Greater Area of Copenhagen the application form can be obtained at the Danish Immigration Service reception, where the completed form must also be returned. If an applicant lives outside of the Greater Area of Copenhagen an application form can be collected from and submitted to the applicant's local police station. A residence sticker will be inserted in the passport of the applicant.

The responsible authorities for processing and deciding the application are the Ministry of Foreign Affairs (responsible for embassies and representations in the countries of origin or other countries, where the application has to be submitted), the Ministry of Integration, Refugee and Immigration Affairs (responsible for dealing with appeal cases), the Danish Immigration Service (responsible for dealing with the application in the first instance) and the Ministry of Ecclesiastical Affairs (responsible for approving the religious communities).

If the applicant has submitted a complete application, including all necessary documents s/he can expect a decision within 2-3 months. In case information is missing, the duration of processing the application can take longer.

2.5 Quantitative developments

From 1999 until 2003, 632 persons were granted residence permits as religious workers in Denmark (no break-down by nationality is available).

Admissions for the purpose of carrying out religious work (1999-2003)					
<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>Total</i>
101	100	127	153	151	632

From 1999 until 2003, 89 persons were refused admission for the purpose of carrying out religious work.

Refusal of admission for the purpose of carrying out religious work (1999-2003)					
<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003⁵⁷</i>	<i>Total</i>
3	6	7	6	67	89

3 Residence

3.1 Type of permits and related rights

Permits issued at entry (see also Section 2.1.) are issued as residence permits.

3.1.1 Access to work

As mentioned under 2.2., aliens who have obtained a residence permit for the purpose of religious work are automatically granted a work permit.⁵⁸ However, they are not allowed to work beside their religious activities. The reason for this is the fact that the residence permit is linked with the specific religious community.⁵⁹ If a foreigner is working in another community or with a different work, it will be considered as illegal work.

The Danish Immigration Service and the Ministry of Integration, Refugee and Immigration Affairs are the institutions responsible for the granting, renewing and withdrawal of such a work permit.

3.1.2 Family reunification

A foreign member of the clergy, missionary or religious worker does not have the automatic right to bring her/his family to Denmark. If the residence permit can be given or extended for a period of 3 years or more, a spouse, cohabiting companion or any underage children residing in the home may be eligible for residency. However, the family must be financially self-supporting and must live together in Denmark. If a spouse or cohabiting companion is granted residency, s/he will have the right to work for as long as the residence permit is valid.

Family members receive health insurance when being granted a permit, but they do not have access to social welfare. Since July 2004 the Immigration Service has furthermore required that the applicant sign a declaration, stating that neither s/he nor any accompanying family members will draw upon public welfare maintenance for the duration of their stay in Denmark.

⁵⁷ In 2003, the Danish Immigration Service changed its practice in relation to foreigners applying for a residence permit in order to become students in Bible Schools. The changes were made because these foreigners did not intend to become foreign religious preachers or carry out other religious work in Denmark, but rather, to become students.

⁵⁸ Most aliens who have obtained a residence permit in Denmark are allowed to work (cf. section 14 of the Aliens Act).

⁵⁹ See section 15 of the Danish Aliens Act and section 35 of the Executive Order on Aliens.

3.2 Conditions, reasons for denial of permit

3.2.1 Renewal

To have her/his residence permit renewed, the applicant or the religious community must forward sufficient information to the Danish Immigration Service or to the Ministry of Integration, Refugee and Immigration Affairs, which proves that the applicant still fulfils the abovementioned conditions. The renewed permit will in principle be valid for 12 months (see also 2.1.).

3.2.2 Permanent residence permit

A permanent residence permit can be issued upon application if essential considerations conclusively make it appropriate (cf. the Aliens Act Section 11 (6)).

Whether an applicant may be eligible to receive an unlimited - or permanent - residence permit in Denmark depends on what type of residence permit he or she already is in possession of. If the individual has held a residence permit as a religious preacher, paid employee, etc., and if s/he has resided in Denmark without interruption for the past 7 years, s/he will normally be eligible for an unlimited residence permit in Denmark. The Danish Immigration Service decides whether or not an applicant is eligible for a permanent residence permit based on a thorough assessment of all available information. The following requirements must be met⁶⁰:

- The basis for the residence permit must have been largely the same throughout all 7 years, and the original requirements for the residence permit must still prevail.
- The applicant must have passed a special Danish language test.
- The applicant must not have been sentenced to over 2 years in prison for serious crimes, for example, drug offences, human smuggling, murder, assault or rape. If the applicant has been sentenced to a probationary sentence for a lesser crime, the time at which he or she will be eligible for a permanent residence permit will be postponed.
- The applicant must not have defaulted on any public debt.

3.2.3 Change of residence permit

A change of purpose of residence is not considered a usual practice by the authorities, and has only occurred in rare cases when the alien did not fulfil the conditions to be granted a residence permit as a religious worker but could fulfil the conditions as a student.

Danish nationality may be acquired through naturalisation granted pursuant to the Danish Constitution. Persons who satisfy the conditions of the current guidelines with respect to residence (the principal rule is nine years), age, renunciation of present nationality, general conduct, overdue debt to public authorities, skills in the Danish

⁶⁰ These rules regarding permanent residence permits apply to all individuals who have applied for a residence permit from and after 28 February 2002. Individuals who submitted applications prior to this date will be subject to the old rules for permanent residence permits.

language and knowledge of the Danish society, etc., may be listed in the Government's naturalisation bills.

3.3 Removal

The Danish Immigration Service may revoke a time-limited residence permit given to a religious worker if:

- there is reason to assume that the alien will constitute or has constituted a threat to public security, public order, health, morals or the rights and duties of others, cf. Section 9 f (5) of the Aliens Act,
- the alien or accompanying family have received public assistance for maintenance during the stay in Denmark, cf. section 9 f (4) and section 19 (1) (viii) of the Aliens Act, or
- the alien is not preaching religious messages (e.g. when the purpose is to receive religious instruction, or to be trained as a religious clergymen, missionaries, etc., cf. section 19 (1) (i) of the Aliens Act.

Reference is also made to Section 19 of the Aliens Act with regard to the general provisions of revocation of residence permits, including revocation of permanent residence permits. From 1999 until 2003, seven removals of religious workers occurred in Denmark.

Removals of religious workers (1999-2003)					
1999	2000	2001	2002	2003	Total
0	0	0	2	5	7

3.4 Procedures and responsible institutions

See Section 2.4. above.

3.5 Quantitative developments

See also Section 2.5. above.

Out of a total of 17,720 admissions in 2003, 151 persons were admitted for the purpose of carrying out religious work, with about 35 % of the applications coming from the USA. In the same year, 67 persons were refused admission for religious purposes (out of a total of 2,742 refusals).

Other positive decisions on immigration 2003					
Category	Total	Nationalities			Total
	2003	China	Poland	USA	2002
Missionaries	151	5	4	62	153
Total	17.720	1.155	1.076	519	15.102

Source: http://www.udlst.dk/english/Statistics/statistical_overview_2003.htm: Danish Immigration Service: Statistical Overview 2003, p. 29.

Other decisions on immigration in DK 2003 (non-asylum)		
Category	<i>First time application</i>	Total
		Granted Refusal
Missionaries		151 67
TOTAL		17.720 2.742

Source: http://www.udlst.dk/english/Statistics/statistical_overview_2003.htm: Danish Immigration Service: Statistical Overview 2003, p. 41.

Other decisions on immigration to Denmark 1994-2003 (non-asylum)										
Category	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Missionaries	153	134	82	83	97	101	100	127	153	151
Total	7.091	7.425	9.001	9.953	10.488	9.674	11.229	13.191	15.102	17.720

Source: http://www.udlst.dk/english/Statistics/statistical_overview_2003.htm: Danish Immigration Service: Statistical Overview 2003, p. 42.

4 General policy issues

4.1 Difference of legal status to other aliens

As mentioned under 3.1.1., aliens who have obtained a residence permit for the purpose of religious work are not allowed to work beside their religious activities. Most other aliens who have obtained a residence permit in Denmark are allowed to work (cf. section 14 of the Aliens Act).

Concerning the right to obtain services within the health system there are no differences between aliens who have obtained a residence permit in Denmark for the purpose of religious work and aliens who have obtained a residence permit for other reasons.

As mentioned under Section 2.3., it is a condition for obtaining a residence permit for the purpose of carrying out religious work that the alien does not receive any public assistance for welfare maintenance during her/his stay in Denmark (cf. section 9 f (4) of the Aliens Act). Similar rules do in principle apply for aliens who are granted a residence permit on the basis of family-unification (section 9 (1) and 9 c (1) of the Aliens Act) – since it is a condition for obtaining such a residence permit that the person living in Denmark undertakes to maintain the applicant (section 9 (2) of the Aliens Act) – and for aliens who are granted a resident permit for the purpose of labour (section 9 a of the Aliens Act). Such conditions do as a general rule not apply for aliens who are granted asylum (section 7 of the Aliens Act) and aliens who are granted a residence permit on the basis of humanitarian grounds (section 9 b (1) of the Aliens Act).

4.2 Integration policy

No special integration policy concerning aliens who have been granted a residence permit for the purpose of carrying out religious work has been prepared.

Religious workers may participate in Danish Language training as long as they have a residence permit and a personal registration number. As a point of departure Danish language training is free. However, the municipalities may demand a fee from persons who are self-supporting and not covered by the Danish Integration Act. This is typically the case for religious workers coming from abroad.

The Danish Government is currently considering further ways of strengthening the knowledge of religious workers in relation to Danish society and its basic values.

It could be added, that some religious workers have refugee or other status, which gives them entitlements and obligations under the Danish Integration Act.

4.3 Historical developments and planned policy changes

Section 9 f in the Aliens Act came into force on July 1st 2004. Before July 1st 2004 residence permits on the basis of carrying out religious work were granted according to section 9 c (1) in the Aliens Act as mentioned earlier. Before Section 9 f of the Aliens Act came into force, residence permits on the basis of carrying out religious work were granted on the basis of section 9 c (1) of the Aliens Act. The conditions for granting the permit relied very much upon practice and the Minister for Integration wished to introduce a separate provision on religious activity with the aim to send a clear signal to the religious community on conditions for granting a residence permit.

At the moment there are no specific plans for general policy changes.

4.4 Administrative practice and public debates

According to the authorities there have been no court rulings in Denmark concerning aliens who have obtained a residence permit for the purpose of acting as a religious preacher and subsequently violated Danish regulations concerning basic rights or institutional laws while exercising their religious activities.

France

1 Status of religious groups in the country

The total population of France is about 60 million. According to a recent Le Monde poll, 62% of the respondents stated that they were practicing Catholics, while 6% said that they were Muslims.⁶¹ According to another poll quoted in the International Religious Freedom Report, about 2% of the population are Protestants, while a further 1% are of Jewish religion.⁶²

France has a long history of separation between state and religion in the public realm, legally enshrined in the Law of 9th December 1905 on the separation of Church and State and endorsed most recently by a presidential commission on the role of laicism in the Republic (“Stasi-Commission”), whose report was published in December 2003.⁶³ Thus, religion is seen as an exclusively private affair. Neither does the state interfere in the internal affairs of faith communities, nor does it give religious communities privileged access to the state. Thus, with the exception of the three departments of Alsace, Moselle and Guyana, in which, for historical reasons, the Jewish community as well as the Catholic, Lutheran and Reformed (Protestant) Churches are recognized as religious groups and exempt from certain tax obligations, France does not confer public recognition to individual faith communities.

However, the Law of 9th December 1905 also provides for religious associations obtaining tax-exemption status, if their purpose is strictly religious worship. According to the U.S. State Department’s International Religious Freedom Report, citing figures of the French Ministry of the Interior, some 109 out of 138 Protestant associations, 15 of 147 Jewish associations, and approximately 30 of 1,050 Muslim associations have tax-free status. In addition, some 100 Catholic associations are tax-exempt (the total number of Catholic associations is not known).⁶⁴

Religious education is not part of the curricula for the French public school system and *laïcité* is also the guiding principle in regard to the education system at large. Nevertheless, many private schools, mostly run by the Catholic church, receive substantial subsidies from the state, while due to the terms set by the 1959 *Debré* Law for state contributions towards private schools, the few private Islamic schools are

⁶¹ Quoted in Patrick Simon (2003): French Muslims, Government Grapple with Integration Pains. *Migration Information Source*, available at <http://www.migrationinformation.org/feature/display.cfm?ID=153> (13.12.2004). Official government statistics do not record religion in France.

⁶² U.S. State Department. Bureau for Democracy, Human Rights and Labour (2004): International Religious Freedom Report 2004, Country Report France, available at <http://www.state.gov/g/drl/rls/irf/2004/35454.htm> (10.12.2004). According to another source, 78.8 % of the population were Catholic in 1999, while in 2001 there were 5 mio. Muslims, 950,000 Protestants, 650,000 Jews and 200,000 Orthodox Christians. Source: Der Fischer Weltalmanach 2005, Fischer Taschenbuch Verlag, Frankfurt am Main 2004, p.163

⁶³ Named after the head of the “Reflection Commission on the Application of the Principle of Laicism” (*Commission de Reflexion sur l’Application du Principe de Laïcité dans la République*), Bernard Stasi. The report was presented to the President of the Republic on 11 December 2003. Available at <http://lesrapports.ladocumentationfrancaise.fr/BRP/034000725/0000.pdf> (11.01.2005).

⁶⁴ U.S. State Department (2004), op.cit.

hitherto entirely self-funded or funded by foreign donors.⁶⁵ The same is largely true in regard to Jewish educational establishments. In addition to Islamic schools, there are also Islamic institutions of higher learning, notably the *Institut Européenne des Sciences Humaines*, which among other things also offers training for imams and courses in Islamic theology. Still, the majority of imams are trained in religious centres in the Arab world, notably Tunisia and Egypt.⁶⁶ Moreover, an estimated 95% of imams are foreign born⁶⁷. Of these, probably close to 100% come from third countries, notably Algeria. In these cases, the “supply” of imams is often formally organized. For example, the leading Islamic religious institution in France, the Paris Mosque that is supported by the Algerian state, has reached a formal agreement with the *Comités des Habous d’Algérie* over the employment of some 100 imams from Algeria in the Paris and associated mosques.⁶⁸ At the same time, a large number of the country’s 1,685 mosques registered at the Ministry at the Interior, do not employ professional imams, mainly because of lack of funds.⁶⁹

While freedom of religion and worship is guaranteed in the constitution, there have been recurrent controversies over the scope and the limits of religious freedom and its compatibility with the guiding principle of French public philosophy, *laïcité* (laicism). The debate very much centres on the relationship between the state and Muslim immigrant communities, but in its practical ramifications are relevant for other religious groups of immigrant origin as well, much more so than for autochthonous faith communities such as the Catholic Church. One of the most contentious issues, and one which has been hotly debated since the late 1980s, has been whether female Islamic students should be allowed wearing headscarves as prescribed by Islamic religious traditions in public schools. In February 2004, following the recommendations of the *Stasi* Commission (see above), the French National Assembly finally adopted a law prohibiting the wearing of ostentatious religious symbols in public schools, both by students and teachers.⁷⁰

2 Admission

2.1 General practice

France has no special policy in regard to the admission of third country nationals for the purpose of religious work. However, religious work is not considered as

⁶⁵ However, in the case of one private Islamic school in Saint-Denis (Paris), it is currently assessed whether the school is eligible for state funding. See Open Society Institute (2002): *The Situation of Muslims in France*. EU Accession Monitoring Programme (EUMAP) Available at http://www.eumap.org/reports/2002/eu/international/sections/france/2002_m_france.pdf (17.01.2005)

⁶⁶ See Leslie J. Limage (2000): *Education and Muslim Identity: the case of France*. *Comparative Education*, 36/1, pp. 73-94. Of the estimated 1,200 imams active in France, three quarters do not have French citizenship. See Michael Mönniger (2004): “Hilfe unerwünscht. Frankreich will mit Geld und staatlicher Fürsorge den Islam fördern, aber die Muslime wehren sich dagegen“. *Die Zeit*, Nr.52, 10 December 2004, p.13

⁶⁷ Joel S. Fetzer, J. Christopher Soper (2005): *Muslims and the State in Britain, France, and Germany*. Cambridge: Cambridge University Press, p.9

⁶⁸ Convention de 18 juillet 2001 entre le recteur de la grande mosquée de Paris et les comités des Habous d’Algérie.

⁶⁹ Michael Mönniger (2004), op.cit.

⁷⁰ The law not only prohibits the wearing of the veil, but also the wearing of kippas in the case of Jews or turbans in the case of Sikh boys/teachers, and, if considered a religious symbol rather than simply an expression of current fashion by school authorities, the wearing of large crosses.

employment in the meaning of the labour law (*Code du Travail*). Thus, ministers of religion do not need a work permit, since they are not considered economically active in the meaning of the *Code du Travail* and are considered visitors in terms of admission policy. There are no special agreements between the state and faith communities on the admission of ministers of religion, nor are there agreements with third countries to that respect. However, Algerian nationals in general enjoy certain privileges on the basis of a bilateral agreement between France and Algeria, from which also Algerian imams may benefit (*Accord franco-algérien due 27 décembre 1968*).⁷¹ Also, Turkish and Algerian authorities advise immigrating ministers of religion to state clearly the religious purpose of their stay upon application for a visa, not least to enjoy the exemption from work permit requirements. Similarly, catholic and protestant authorities (e.g. catholic and protestant dioceses, *Fédération Protestante de France*, *Fédération Évangélique de France*) advise clergy from third countries to state the religious purpose of their stay, while they also facilitate the acquisition of a visa.

2.2 Type of (special) permits

There are no special permits for third country nationals wishing to enter France in the capacity as ministers of religion. Ministers of religion are considered visitors and need to apply for a national visa (*visa de long séjour*) for admission if their intended stay exceeds 3 months in accordance with the ordinance of 2 November 1945 (as amended). Visa need to be applied for at a French consulate in the applicant's country of origin.

2.3 Conditions, reasons for denial of permit

To obtain a long term visa, the applicant must specify the purpose of his stay and must produce the necessary documents to this respect (e.g. "employment" contract with a religious association/ *association cultuelle*; nomination as a minister of clergy by the authorities of the country of origin). In addition, the applicant needs to prove sufficient means of subsistence. Finally, before issuing a visa, French authorities are obliged to examine whether the applicant constitutes a threat to public order.⁷²

2.4 Procedures, incl. responsible institutions

For admission, the competent authorities are French consulates abroad. Faith communities and authorities of the applicant's country of origin are regularly involved in the procedure by providing necessary documents (invitation, "employment" contract, nomination). Often, they also deal directly with immigration authorities on behalf of the applicant.

2.5 Quantitative developments

No data on quantitative developments are available.

⁷¹ On this agreement see: Ulrike Davy (2001): Frankreich. In: Ulrike Davy (Ed.): Die Integration von Einwanderern. Bd.1: Rechtliche Regelungen im europäischen Vergleich. Wohlfahrtspolitik und Sozialforschung 9.1. Frankfurt: Campus

⁷² Based on article 12 of the ordinance of 2 November 1945 as amended and article 7a of the Franco-Algerian Agreement of 27 December 1968.

3 Residence

3.1 Type of permits and related rights

Once in the country, third country nationals admitted for carrying out religious work, or more precisely, persons admitted as “visitors” in their capacity as ministers of religion, need to present themselves to the competent local immigration authorities, the prefectures of their place of residence, to submit an application for a residence permit (*carte temporaire*) within two months of their entry.⁷³ As religious work is not considered employment, irrespective of confession, third country nationals stating religious work as the purpose of their stay and meeting the general conditions tied to the permit (see Section 3.2. below), are granted a visitor’s permit. The temporary residence permit is valid for 1 year and may be renewed before expiry. An amendment to the French-Algerian agreements and similar French-Tunisian agreements signed in 2001 allowed citizens of Algeria and Tunisia to be included in the general regulations of the Ordinance of 2 November 1945 (as amended), in particular, to enjoy the new residence purposes introduced by the “*Chevenement*” laws (“private and family life”, “scientific/artistic and cultural professions”, “visitors”).

3.1.1 Access to work

The terms of the visitor’s permit do not allow gainful employment nor self-employment. If a third country national who is admitted in her/his capacity as a minister of religion by the issue of a temporary residence permit for visitors, wishes to take up employment, s/he needs to apply for a temporary residence permit for the purpose of employment as well as for a work permit subject to approval by the employment authorities (see also Section 3.2.3. below). As EEA nationals enjoy preferential access to the labour market (employers have to prove that no French or EEA nationals are available to fill vacancies), few employment permits are in fact granted to third country nationals. For the application for a residence permit for the purpose of employment, a formal letter by the employer stating his or her intention to hire the alien is required.⁷⁴

3.1.2 Family reunification

No special policy exists for family reunification for third country nationals carrying out religious work. A minister of religion wishing to reunify with her or his family, must meet the general conditions defined by the ordinance of 29 November 1945 (as amended) to be eligible for family reunification⁷⁵, namely, the primary permit holder must have sufficient means of subsistence and have suitable accommodation. In addition, the primary permit holder must have resided in France for at least a year and must possess a permit that is valid for at least one year.⁷⁶ Upon renewal, family members admitted under family reunification provisions are entitled to work in

⁷³ See Ulrike Davy op.cit., p. 428

⁷⁴ Reynald Blion, Catherine Wihtol de Wenden, Nedjima Meknache (2003): France. In: Jan Niessen, Yongmi Schibel, Raphaela Magoni (eds.): EU and US approaches to the management of immigration. Brussels: Migration Policy Group. Available online at <http://www.migpolgroup.com/uploadstore/France.pdf> (17.1.2005)

⁷⁵ Article 29 and 30 of the Ordinance of 2 November 1945 as amended.

⁷⁶ Ulrike Davy (2001) op.cit., p. 432

France. However, as most persons entering France as ministers of religion are thought to stay only temporarily in the country, family reunification provisions are relatively unimportant for this category of persons.

3.2 Conditions, reasons for denial of permit

The conditions for obtaining a temporary residence permit are laid down in the ordinance of 2 November 1945 (as amended), specified by the decree of 30 June 1946 (as amended). In the case of Algerians, the conditions for obtaining a residence permit are defined in the agreement between France and Algeria of 27 December 1968. The applicant is obliged to prove that s/he has sufficient means of subsistence for the intended period of stay or is taken care of by the religious organization for which s/he is employed as a minister of religion. In addition, s/he is obliged not to seek any employment subject to permission, unless a residence title that allows employment is issued to her/him upon application. Finally, applicants have to produce a health certificate showing that they do not suffer from contagious diseases.

3.2.1 Renewal

The renewal of temporary visitors' residence titles is subject to the same conditions as first applications.

3.2.2 Permanent residence permit

In general, immigration authorities may grant a permanent residence permit (*carte de résident*) after three years of residence upon application. After five years and if the applicant meets the general conditions tied to the permit (stable income/ sufficient means of subsistence or a guarantee by religious organizations that subsistence will be taken care of by them; guarantee that the alien does not pose a threat to public order), a permanent permit is automatically granted upon application. A permanent residence permit gives unrestricted access to the labour market and is valid for 10 years.

3.2.3 Change of residence permit

Third country nationals admitted as visitors in their capacity as ministers of religion who wish to change the purpose of their stay, may do so from within the country by submitting an application to the competent prefecture. If the alien wishes to engage in gainful employment, employment authorities must be asked for their approval. In this respect, the employer intending to hire the alien needs to submit an application for a work permit (*Autorisation du Travail*) to the local branch office of the Ministry of Social Affairs, Labour and Solidarity (*préfet du département*). The application may be accompanied by a letter explaining the reasons for the intention to hire the alien for whom a work permit is sought. In considering the application, the Ministry has to take into account the general employment situation, the specific situation in regard to the type of occupation and in regard to the industry in which the alien intends to work, as well as the principle of preferential access to employment for citizens of EEA member states.

3.3 Removal

Authorities can refuse to issue or renew a temporary residence permit if any of the above conditions (e.g. sufficient means of subsistence, no threat to public order) are not met. An alien may be removed from French territory (actively expelled) only if s/he is considered a threat to public order as stipulated by the Ordinance of 2 November 1945. It should be noted, however, that authorities have considerable leeway to interpret the expulsion clause of the Ordinance of 2 November 1945 (article 23) broadly. Certain categories of foreigners (e.g. persons having continuously resided in France for 15 years) enjoy a higher degree of protection from expulsion.

3.4 Procedures

The only authorities involved in issuing residence titles are the prefectures of the place of residence of the foreign national seeking a temporary or permanent residence permit for visitors. Only if the alien applies for a permit for the purpose of employment, employment authorities will also be involved.

3.5 Quantitative Developments

No information on quantitative developments is available, since third country nationals issued a temporary residence permit for visitors because of the religious nature of their work are only one category among others that may be granted a visitor's permit.⁷⁷

4 General Policy Issues

4.1 Difference of legal status to other aliens

As third country nationals seeking entry/residence in France are considered visitors under immigration legislation, the main difference to other legal statuses is the prohibition to engage in other types of gainful employment. Since social insurance is tied to employment or being a family member of a person gainfully employed, normally third country nationals admitted as visitors need to resort to private health insurances, while they are by definition excluded from unemployment and other work related benefits. However, non-salaried members of a religious association (association cultuelle) may, upon authorisation by the government, be included in the professional insurance system specifically set up for ministers of religion (Caisse d'assurance Vieillesse, Invalidité et Maladie des ministres du culte et des collectivités religieuses, CAVIMAC).

4.2 Integration policy

France has adopted integration measures only fairly recently, mostly framed in terms of anti-discrimination and equality policy. Traditionally, the acquisition of citizenship and assimilation are seen as the major pathway to integration. Thus, France differs greatly from other European countries' current integration policies that focus more on integration requirements that third country nationals wishing to immigrate have to meet. Partly, this is so because some of the concerns over integration of immigrants,

⁷⁷ See for a detailed review of access to social insurance and other welfare benefits Ulrike Davy (2001), op.cit.

in particular language proficiency, are widely perceived to be of little relevance in the French context. Similarly, there are no specific policies for the integration of third country nationals carrying out religious work. In the view of immigration authorities, ministers of religion are only temporarily resident and generally do not intend to settle permanently in France. Hence, they would in principle not be subject to integration policies aimed at long-term immigrants.

4.3 Historical developments and planned policy changes

Although French immigration policy has changed frequently in the last two decades, the policy vis-à-vis third country nationals carrying out religious work has remained remarkably stable. Likewise, no major policy changes in this area are planned in the near future.

4.4 Administrative practice and public debates

However, immigration policy in general has increasingly become to be seen as a security issue during the 1990s and particularly after the events of September 11th 2001 and the bomb attacks in Madrid on March 11th 2004. As a result, the Ministry of Interior has announced the strict implementation of existing regulations allowing the expulsion of aliens posing a threat to public order, especially in respect to radical Muslims, and in particular radical Muslim clergy. During 2004, several police raids targeting radical “islamists” were carried out, leading to the expulsion of 3 foreign imams, two of which were Turkish nationals; furthermore, two imams and two mosque managers were indicted in response to public sermons inciting racial and religious hatred while one imam from Iraq was put under house arrest. In addition, 10 foreign “islamists” were denied entry into the territory.⁷⁸

An earlier case involving the expulsion of a radical member of the Muslim clergy that received considerable media attention at the time, concerned an Algerian national who was expelled in 1994 after incitement to violence in a Mosque in Metz-Borny (“Nafa affair”). A decision of the *Council d’État (arrêt n°163690)* on the case specified that promoting fundamentalist movements and advancing discriminatory ideas vis-à-vis members of other faith communities is to be considered a “threat to public order” in the meaning of immigration legislation. More recently, in response to the annulment of an expulsion order against a radical Algerian preacher, the law was changed to facilitate the expulsion of aliens posing a threat to public order, even if protection clauses (e.g. long residence, close family ties to a French national) apply.⁷⁹ Thus, clamping down on radical Muslim preachers is one key element of current French policy vis-à-vis Muslim ministers of religion.⁸⁰

A second key element of current French policy is represented by the recent creation of the *Conseil Français du Culte Musulman (CFCM)* on the national level as well as the formation of regional councils for Muslims. Until fairly recently, the state had direct interlocutors on the affairs of different faith communities only in the case of the Catholic Church and, to a lesser extent, the small Protestant and Jewish communities,

⁷⁸ Le Figaro, “Comment les RG débusquent l’islamisme radical”, 11 January 2005

⁷⁹ The Economist, “After Van Gogh”, 11 November 2004,

⁸⁰ According to the French Ministry of the Interior, some 50 imams out of a total of 1,200 practising imams preach a radical form of Islam. See: The Economist, “After Van Gogh”, 11 November 2004

while the Muslim communities were organizationally more fragmented. Since the early 1990s, however, the French state has promoted the establishment of a national umbrella organization for Muslim communities, which eventually materialized with the creation of the *Conseil Français du Culte Musulman* (CFCM) in 2003. The CFCM represents seven Islamic federations and five major mosques, while six independent individuals have been co-opted into the Council. As a recent study notes, the rationale behind the creation of the CFCM was to establish an “official interlocutor of the public authorities [to solicit] advice on all matters relating to the Islamic religion, such as the training of imams, the building of mosques and the maintenance of cemeteries.”

⁸¹ However, contrary to official expectations, the elections for the CFCM produced a majority for conservative and less-than-moderate representatives. Hence, the creation of the CFCM was not uncontroversial among Muslim organizations, especially the more laicistic and ethnicity-based ones. What role the CFCM will come to play in the future, remains to be seen. Potentially, it has a major role to play in regard to attempts to increase the share of imams trained in France and decreasing the need for immigrant Islamic clergy.

⁸¹ William Safran (2004): Ethnoreligious Politics in France: Jews and Muslims. *West European Politics*, 27, 3, p.432

Germany

1 Status of religious groups in the country

The population of Germany is approximately 82 million people. The Federal Republic of Germany is an ideologically neutral state that is subject to a constitutional rule of tolerance that guarantees each individual the freedom to live or not to live according to her or his religious confession. A special partnership exists between the State and those religious communities that have the status of a "corporation under public law". If they fulfil certain requirements, including assurance of permanence (in general more than 30 years of existence), a minimum membership (around 1/1000 to 2/1000 of the population), sufficient funds, and if there is no indication that the activities of the organization endanger the fundamental principles of the constitution or run counter to the law, religious organizations may request to be granted the status of a "corporation under public law", which among other things entitles them to levy taxes on their members that the State collects.⁸² Organizations pay a fee to the Government for this service, but not all faith communities with a public law corporation status avail themselves of this privilege. The decision to grant public law corporation status is made at the state (*Länder*) level. Among the faith communities recognized as corporations under public law are the Lutheran and Catholic Churches, as well as the Jewish community, Mormons, Seventh-day Adventists, Mennonites, Baptists, Methodists, Christian Scientists, and the Salvation Army

However, acquiring the status of a corporation under public law presupposes a centralized institutional structure (at least at the level of the *Länder*). The institutional fragmentation of Islamic communities and the fact that many mosques are run by grass roots associations or are only loosely integrated into one of the large Muslim associations has so far prevented an official recognition of Islam, the third largest faith community in Germany as a corporation under public law. Only the Islamic Federation of Berlin has won recognition under a constitutional provision in 2000 and is in principle entitled to offer religious education in public schools.⁸³ In the past applications, by Muslim organization have been rejected because one or more of the conditions for acquiring public corporation status laid down in article 140 of the basic law have not been met.⁸⁴

Due to the absence of central representative bodies and the denial of public corporation status to Muslim organizations, it has been difficult to establish Islamic religious education as an optional subject to be taught in public schools similar to the practice of the larger Christian denominations. Nevertheless, several Muslim associations have submitted applications for religious education – the right to religious education is in principle guaranteed by the constitution – to the competent *Länder* authorities. In the framework of supplemental education for children with German as a second language, Turkish children are given limited religious education

⁸² Art. 140 GG (Basic Law) in conjunction with Art. 137 para. 5 and 6 WRV (Weimar constitution)

⁸³ Hava Engin (2001): Wenn Sechs Prozent aller Schüler Muslime sind. Islamischer Religionsunterricht an deutschen Schulen? *Bürger im Staat*, 4 (2001), available online under http://www.lpb.bwue.de/aktuell/bis/4_01/islamreli6.htm

⁸⁴ Fetzer & Soper (2005), op.cit, p.108

in several *Länder*. Most Muslim children, however, receive their religious education outside the public school system in religious classes run by local mosques, albeit little is known about the proportion of Muslim children attending private religious education. Several of the larger Muslim associations train imams (who are usually also teachers in religion) in their own training institutions. In addition, there is also a debate on the introduction of courses in Islamic theology and a course for teachers in Islamic religious education is currently being established at the University of Münster.⁸⁵

Unofficial estimates⁸⁶ and figures provided by religious organizations themselves give an approximate breakdown of the membership of the country's religious denominations. The Evangelical Church, which includes the Lutheran, Uniate, and Reformed Protestant Churches, has 27 million members, who constitute 33 % of the population. The Catholic Church has a membership of 27.2 million, or 33.4 % of the population. According to government estimates, there are approximately 3.1 to 3.5 million Muslims living in the country (about 3.4 % to 3.9 % of the population) as well as around 1.2 million Orthodox Christians (1.5 % of the population). Jewish congregations have approximately 100,000 members and make up 0.1 % of the population. According to press reports, the country's Jewish population is growing rapidly; close to 200,000 Jews from the former Soviet Union have moved to Germany since 1990, with smaller numbers arriving from other countries as well.⁸⁷ Not all new arrivals join congregations, resulting in the discrepancy between population numbers and the number of congregation members. The Government does not recognize Scientology, which has about 6,000 members, as a religion. Approximately 21.8 million persons, or 26.6 % of the population, either have no religious affiliation or belong to unrecorded religious organizations.⁸⁸

2 Admission

2.1 General practice

The requirements for persons wishing to enter Germany in the capacity of ministers of religion or members of the clergy are the same as for other categories of immigrants.

2.2 Type of (special) permits

There are no specific regulations or special permits concerning the admission and residence of religious workers. The only exceptions made in this regard concern

⁸⁵ See *Die Zeit*, 31.12.2004, Nr.1. The course will start in the summer term 2005

⁸⁶ There are no official statistics on religious affiliation. However, with the Antiterrorism Act of 2002, any alien applying for a residence title has the possibility to voluntarily declare his/her religious affiliation. It is therefore possible that such self-declaration will provide a source of statistics on religious affiliations in the future. See also: Gesetz zur Bekämpfung des Internationalen Terrorismus (*Terrorismusbekämpfungsgesetz*, Act to Fight Terrorism) vom 9. Januar 2002, available at: <http://217.160.60.235/BGBL/bgbl1f/bgbl102003s0361.pdf>

⁸⁷ According to official government statistics, around 200,000 persons have immigrated under special regulations for Jewish immigration until the end of 2004. However, this figure covers the applicants and accompanying family members independent of the actual religious affiliation of the latter. No breakdown according to the actual religious affiliation is available.

⁸⁸ U.S. Department of State, Bureau of Democracy, Human Rights and Labour (2004): International Religious Freedom Report 2004, Country Report Germany available at: <http://www.state.gov/g/drl/rls/irf/2004/35456.htm>

members of religious orders as well as ministers of religion who are exempted from the normal procedures for obtaining permission to work in case their work is primarily of a charitable or religious nature (see Section 3.1.1. below).

The new “*Act to Control and Restrict Immigration and to Regulate the Residence and Integration of EU Citizens and Foreigners*” (Immigration Act⁸⁹), which became effective on 1 January 2005, reduces the number of different residence titles to two. In place of the residence title for exceptional circumstances, the residence title for specific purposes, the limited residence permit, the unlimited residence permit and the right of unlimited residence, the Act now provides for only two residence titles: The (limited) residence permit and the (unlimited) settlement permit. In addition, the new residence legislation is based on purposes of residence (for example education, gainful employment, subsequent immigration of dependents, humanitarian grounds).

In order to enter and stay in the Federal territory, aliens require a residence title, in the absence of any provisions to the contrary in the law of the European Union or a statutory instrument and except where a right of residence exists as a result of the agreement to establish an association between the European Economic Community and Turkey of 12 September 1963 (EEC/Turkey Association Agreement).⁹⁰

The residence titles are granted in the form of a:

- visa,
- residence permit or
- settlement permit

There are no numerical quotas or ceilings to any of these permits.

A *visa* is needed for the entry into the Federal territory. It will usually be granted in the form of a Schengen visa for stays of up to three months per six-month period (short-term stay) or as a national visa or residence title for longer stays.

The *residence permit* is a temporary residence title. The residence permit is subject to a time limit which takes due account of the intended purpose of the residence (e.g. taking up highly skilled employment). Should a vital prerequisite for the issuance, extension or the duration of validity cease to apply, a subsequent reduction of the validity period is possible. The residence permit must indicate whether the pursuit of an economic activity is permitted.

The *settlement permit* is an unlimited residence title. It entitles the holder to pursue an economic activity, is in general not subject to any time limits or geographic restrictions and must not incorporate any subsidiary provisions.

⁸⁹ The new Immigration Act is an umbrella law that contains the Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory (Residence Act) and amendments to several laws relevant to the immigration and residence of aliens. Quotations therefore refer to the Immigration Act containing (changes to) these other Acts. See: Gesetz zur Steuerung und Begrenzung der Zuwanderung und zur Regelung des Aufenthalts und der Integration von Unionsbürgern und Ausländern (Zuwanderungsgesetz) vom 30. Juli 2004, available at: http://www.bmi.bund.de/cln_012/mn_121852/Internet/Content/Common/Anlagen/Gesetze/Zuwanderungsgesetz.templateId=raw_property=publicationFile.pdf/Zuwanderungsgesetz

⁹⁰ Immigration Act, § 4 (1)

For short term stays (up to three months), foreigners from a number of countries are exempted from the requirement of holding a residence title for the entry and residence in the Federal territory, according to the law of the European Union.⁹¹ In this case they will also be exempted from the requirement of a residence and work permit for up to three months if they carry out work that is primarily of a charitable or religious nature.⁹² Likewise, holders of passports of the Vatican are exempted from the requirement of a residence title for stays in Germany of up to three months.⁹³

2.3 Conditions, reasons for denial of permit

The requirements for persons wishing to enter Germany in the capacity of ministers of religion or members of the clergy are the same as for other categories of immigrants. Generally such requirements have to be fulfilled by the person applying for a residence title but some requirements may also be fulfilled by the host/inviting party.

With the new Immigration Act that became effective on 1 January 2005, third country nationals have to fulfil the following requirements for the granting of a residence title:

- Proof that the foreigner's livelihood is secure (normally a letter of guarantee of the host or inviting institution is required⁹⁴),
- Proof of health insurance (may also be supplied by a third party)
- Guarantees for the accommodation in Germany and for the return at the end of the stay
- No reasons for expulsion apply and
- The foreigner's residence does not compromise or jeopardise the interests of the Federal Republic of Germany for any other reason.

There are no general requirements for a health certificate, except in case the foreigner is infected with a contagious disease. No age limits apply and no criminal record has to be produced (however, a security check through the Schengen Information System is routinely carried out). No proof of language skills is required (except for settlement permits, see Section 3.2.2. below).

2.4 Procedures, incl. responsible institutions

Third country nationals have to submit their application for a residence permit and permission to pursue an economic activity at a German diplomatic representation abroad.

Foreigners applying for permits to stay on the territory of the Federal Republic of Germany for the purpose of performing religious work do not differ from other foreigners. There are no main differences between the procedure of issuing permits to

⁹¹ Annex II of Council Regulation (EC) 539/2001 as amended by Council Regulation (EC) 453/2003 of 6 March 2003 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

⁹² AufenthV (Residence Directive) § 17 para. 2 in conjunction with BeschV (Employment Directive) §9 and §16)

⁹³ AufenthV (Residence Directive) § 20

⁹⁴ However, there are exceptions where no invitation is required. A statement of income of the inviting party/host institution is required only, when the inviting party/host institution issues a letter of guarantee for cases, where the foreigner does not avail of sufficient means of subsistence.

foreigners performing religious work and other aliens (except for the access to work – see section 3.1.1.).

In the procedures for the granting of a residence title the aliens authorities, in coordination with the Federal Employment Agency and other public bodies are involved. Religious institutions can be involved in this process only in certain functions, for example when they provide a letter of guarantee for the invited person or as an employer when the purpose of the residence is the carrying out of religious work.

The foreigners' authority can ask other public administration bodies for the provision of relevant data (e.g. federal or provincial police, courts, criminal justice offices, tax offices, social security offices, etc.). In case of any indications of activities that could constitute a reason for a removal of a foreigner, these offices inform the foreigners' authority. The office for Social Security is further obliged to report the drawing of social welfare.

2.5 Quantitative developments

There are no general statistics on the number of residence titles accorded for the purpose of carrying out religious work available. In hospitals and nursing homes under catholic management in Germany, around 2,000 foreign members of religious orders have been employed annually over the past five years.⁹⁵ There are no statistics on foreigners carrying out other religious duties or on religious workers from other religious communities available.

3 Residence

3.1 Type of permits and related rights

Any extension of a residence permit is subject to the same regulations as apply to the issue of the same. As a general rule, the residence permit is not extendable if the competent authority has excluded an extension in the case of a stay that is of only a temporary nature in accordance with the purpose of residence or at the time of the last extension of the residence permit.

A change of the purpose of residence can be applied for in Germany, on the condition that no specific reasons for excluding this apply (as stipulated in the Immigration Act). In case the residence purpose is changed to carrying out regular employment, the normal procedures for obtaining permission to work through the Federal Employment Agency have to be followed. However, in general a foreigner is not allowed to enter the country on a tourist visa and later apply for a longer residence title that permits to engage in economic activities.

3.1.1 Access to work

Foreign missionaries and clergy are in principle required to meet the regular legal conditions for a residence permit for the purpose of taking up employment. The

⁹⁵ According to a survey of catholic religious orders.

duration of the residence title depends on the duration and purpose of the employment in each individual case.

A foreigner may be granted a residence title for the purpose of taking up employment if the Federal Employment Agency has granted approval or if a decree law or an intergovernmental agreement stipulates that such employment may be taken up without approval from the Federal Employment Agency. Any restrictions imposed by the Federal Employment Agency in granting approval have to be specified in the residence title.⁹⁶ The approval may stipulate the duration and form of occupational activity and may restrict employment to specific manufacturing plants or regions.⁹⁷

According to established practice under the previous immigration and work regulations (up until 31.12.2004), the possibilities for obtaining a residence title for the purpose of carrying out employment have been limited to exceptional cases (e.g. highly qualified employees). However, the approval of work permits could be obtained by ministers of religion (*Seelsorger*) who had obtained the necessary qualifications in a recognized training course; availed of the demonstrated qualifications for teaching in religious education and for celebrating religious services; if they have been employed in spiritual welfare (*Seelsorge*) for foreign workers and their families; and if there was a local requirement for their services.⁹⁸

According to the new Immigration Act, the main difference concerning foreigners wishing to carry out religious work in Germany to other foreigners wishing to carry out employment is that if the work is strictly religious or of voluntary nature no approval by the Federal Employment Agency is required.⁹⁹ As has been the case up until 2005, such work includes the activities of foreign clergy or members of religious orders in spiritual welfare (*Seelsorge*), activities of members of religious orders within their orders or in facilities of their orders such as hospitals or nursing homes, their engagement in non-public ecclesiastical domains as well as in training activities for members of religious orders outside of their own orders. However, when members of religious orders want to carry out qualified work outside their own religious orders on the regular labour market, approval of the Federal Employment Agency is required.¹⁰⁰

3.1.2 Family reunification

In general, family reunification with foreigners residing in Germany for the purpose of carrying out religious work is possible under the regular conditions for family reunification as specified in the Immigration Act.¹⁰¹

For the purposes of subsequent immigration of a dependent, a foreigner must:

- hold a settlement or residence -permit and
- have sufficient living space available.

⁹⁶ Immigration Act, §18

⁹⁷ Immigration Act, §39 (4)

⁹⁸ Anwerbestoppausnahmereordnung – ASAV (Directive on Exemptions to the Recruitment Stop), § 5 para. 6

⁹⁹ § 9 Verordnung über die Zulassung von neu einreisenden Ausländern zur Ausübung einer Beschäftigung (Beschäftigungsverordnung – BeschV, Employment Directive)

¹⁰⁰ Immigration Act, §39 (2)

¹⁰¹ Immigration Act, §§ 27 - 36

In general, a foreigner's spouse shall be granted a residence permit if the foreigner

- holds a settlement permit, or
- has held a residence permit for five years or
- holds a residence permit as a recognised asylum seeker or recognised refugee under the Geneva Convention
- holds a residence permit currently valid, if the marriage existed at the time of the permit being granted and if the duration of the foreigner's stay is expected to exceed one year.

A residence permit for the subsequent immigration of dependents may be refused if the person to be joined by his or her dependents is reliant on social welfare for the maintenance of other foreign dependents or other foreign members of his or her household.

3.2 Conditions, reasons for refusal of permit

A residence title for the purpose of carrying out religious work can be refused, if the foreigner does not fulfil the requirements for the granting of such title. As no special residence title for the purpose of carrying out religious work exists in Germany, an application for such a residence title cannot be refused on the grounds of the right to practice the envisaged religious activity but only with the respective reasons for refusal relating to the stated purpose of residence.

3.2.1 Renewal

If any of the stated conditions on admission are not met, renewal of a residence permit may be refused (see Section 2.3. for conditions).

In accordance with the new Immigration Act, foreigners can be obliged by the foreigners' authority to participate in an integration course. If a foreigner breaches his or her obligation to attend an integration course, this will be taken into account in the decision on extension of the residence permit. The duration of lawful stay, the foreigner's legitimate ties to the Federal territory and the consequences for dependents of the foreigner, who are lawfully resident in the Federal territory, shall be taken into account in the decision.¹⁰²

3.2.2 Permanent residence permit

The settlement permit entitles the holder to pursue an economic activity. The holder of a settlement permit is in general not subject to any time limits or geographic restrictions and the permit must not incorporate any subsidiary provisions.

A foreigner shall be granted the settlement permit provided that, among other requirements:

- he or she has held a residence permit for five years,
- his or her livelihood is secure,
- he or she has an adequate knowledge of the German language,

¹⁰² Immigration Act, §8

- he or she possesses a basic knowledge of the legal and social system and the way of life in the Federal territory and
- he or she possesses sufficient living space for himself or herself and the members of his or her family forming part of his or her household.¹⁰³

3.3 Removal

A foreigner is obliged to leave the Federal Republic of Germany if he or she does not or no longer possess a necessary residence title.

The residence title *expires* in the following cases, among others:

- upon expiry of its period of validity,
- upon the occurrence of an invalidating condition,
- upon withdrawal of the residence title,
- upon revocation of the residence title,
- upon expulsion of the foreigner,
- announcement of a deportation order¹⁰⁴

A foreigner *will* be expelled if, among other reasons:

- s/he has been sentenced (not subject to further appeal possibilities) to a prison term or a term of youth custody of at least three years for one or more intentionally committed offences¹⁰⁵

A foreigner will *generally* be expelled if, among other reasons:¹⁰⁶

- facts justifiably lead to the conclusion that a foreigner belongs to or has belonged to an organisation which supports terrorism or supports or has supported such an organisation; expulsion may only be based on membership or supportive acts in the past insofar as they form the basis for danger currently prevailing,
- he or she endangers the free democratic basic order or the security of the Federal Republic of Germany, participates in acts of violence or publicly incites to violence in pursuit of political objectives or threatens the use of violence,
- he or she, in the course of an interview with the German diplomatic mission abroad or the foreigners' authority, which serves to clarify reservations regarding entry or continued residence, fails to reveal previous stays in Germany or other states, or furnishes false or incomplete information on key points regarding links with persons or organisations who or which are suspected of supporting international terrorism; expulsion on this basis shall only be permissible if the foreigner is expressly informed prior to the interview of the security-related purpose of the interview and the legal consequences of furnishing false or incomplete information; or
- he or she belonged to the leadership of an organisation which has been legally banned because its purpose or activities violate criminal laws or he or she opposes the constitutional order or the concepts of international understanding

¹⁰³ Immigration Act, § 9

¹⁰⁴ Immigration Act, § 58a (special danger or terrorist threat)

¹⁰⁵ Immigration Act, §53

¹⁰⁶ Immigration Act, §54

Furthermore, a foreigner *may* be expelled if s/he, among other reasons:¹⁰⁷

- has furnished false or incomplete information in procedures under the terms of the Immigration Act or to obtain a standard visa in accordance with the Convention Implementing the Schengen Agreement for the purpose of obtaining a residence title or, notwithstanding a prevailing legal obligation, has failed to cooperate in measures undertaken by the authorities responsible for implementing the Immigration Act in Germany and abroad, whereby expulsion on this basis shall only be permissible if the foreigner is expressly informed prior to the interview of the legal consequences of furnishing false or incomplete information.
- Publicly, in a meeting or by disseminating literature, endorses or promotes a crime against peace, a war crime, a crime against humanity or terrorist acts of comparable importance in a manner conducive to disturbing public safety and order in public, or
- incites hate against sections of the population or calls for violence or arbitrary measures against the same in a manner conducive to disturbing public safety and order or attacks the human dignity of others by insulting, maliciously disparaging or slandering sections of the population.

While all the regulations on the removal of foreigners from the territory of the Federal Republic of Germany refer to foreigners in general, several recent cases have highlighted the particular relevance of such regulations for the expulsion of certain extremist members of the clergy (see Section 4.4. below).

4 General policy issues

4.1 Difference of legal status to other aliens

The legal residence status of foreigners living in the Federal Republic of Germany for the purpose of performing religious work is the same as for any other foreigner. A residence permit for the purpose of taking up employment permit can be granted according to relieved conditions (no approval by the Federal Employment Agency required) if the occupation is taken up for strictly religious or charitable reasons (see Section 3.1.1.).

4.2 Integration policy

With the new Immigration Act (see on the act section 4.3 below), Germany as adopted an active integration policy vis-à-vis third country nationals.

The integration of foreigners residing on a permanent basis in the Federal Republic of Germany is promoted. Integration efforts by foreigners are supported by a basic package of measures to facilitate integration (integration courses). The regular attendance of required integration courses will be taken into account in the decision on the renewal of a resident permit and the granting of a settlement permit and in the naturalization procedure. Moreover, in case of non-attendance of required courses, social service benefits may be cut.

¹⁰⁷ Immigration Act, §55

The integration courses comprise a basic and advanced language course of 300 hours of training each to provide adequate knowledge of the language; and an orientation course of 30 hours of training to impart knowledge of the legal system, culture and history in Germany. Successful attendance is to be documented by a certificate confirming that the final test has been passed, issued by the body responsible for implementing the course. The integration course is coordinated and carried out by the Federal Office for Migration and Refugees, which may enlist the services of private or public organisations to this end. Reasonable costs are to be charged for attending the integration course, according due consideration to the ability to pay. The person who is obliged to ensure the foreigner's subsistence shall also be obliged to pay such a charge.¹⁰⁸

4.3 Historical developments and planned policy changes

In addition to the new provisions of the Immigration Act (in force since 1.1.2005) discussed above, there are some changes in the new Immigration Act regarding the access to work for foreigners:

The new Immigration Act replaces the previous dual approval procedure (work/residence from the Federal Employment Agency/foreigners' authority, respectively) through an internal approval procedure: The foreigners' authority has to issue the work permit together with the residence permit in a single act, subject to internal approval by the labour administration if approval is required.¹⁰⁹

The Act also provides for highly qualified persons to be granted permanent residence from the outset; such persons may receive a settlement permit immediately.¹¹⁰ Family members who enter Germany together with such persons or subsequently are entitled to take up gainful employment.¹¹¹ Nationals of Acceding States have access to the labour market for qualified employment (according to the priority principle, that is, only insofar as no German or any other person enjoying equal rights is available); nationals of Acceding States enjoy priority over nationals of third countries.¹¹²

The new Immigration Act also introduces new security aspects, such as:

- Introduction of a deportation order, which can be issued by the supreme *Land* authorities and, in the case of a special Federal interest, by the Federation on the basis of an "evidence-based threat assessment".¹¹³ If deportation cannot be effected on account of obstacles to deportation (torture, death penalty), enhanced security is to be provided by obligations to report to the authorities on a periodic basis, restrictions on freedom of movement and bans on communication backed up by appropriate penalties.¹¹⁴
- Regular expulsion (*Ausweisung im Regelfall*) when facts justifiably lead to the conclusion that a foreigner belongs to or has belonged to an organisation

¹⁰⁸ Immigration Act, § 43 – 44. The total costs of these courses for the Federal Republic of Germany are estimated at 188 million Euros for 2005.

¹⁰⁹ Immigration Act, §39 (1)

¹¹⁰ Immigration Act, § 19

¹¹¹ Immigration Act, § 29

¹¹² Immigration Act, § 39 (6)

¹¹³ Immigration Act, § 58a

¹¹⁴ Immigration Act, § 54a

which supports terrorism or supports or has supported such an organisation; membership and supportive acts in the past are relevant insofar as they form the basis for a currently prevailing danger.¹¹⁵

- Introduction of regular expulsion for leaders of banned organisations.¹¹⁶
- Introduction of discretionary expulsion for "intellectual incendiaries" (e.g. agitators in mosques).

With the new Immigration Act, important duties are allocated to the new Federal Office for Immigration and Refugees, which supersedes the previous Federal Office for the Recognition of Foreign Refugees.¹¹⁷

Among other things the new Federal Office is now responsible for:

- Development and implementation of integration courses for foreigners and repatriates;
- Maintaining the Central Aliens Register;
- Implementation of measures to promote voluntary returns;
- Scientific research on migration issues (accompanying research);
- Coordination of information on labour migration between foreign authorities, the Federal Employment Agency and German diplomatic representations abroad.

4.4 Administrative practice and public debates

In general, the immigration of ministers of religion has received relatively little attention in public debates and if explicitly discussed, focuses on Muslim clergy. However, the debate on radical Muslim movements in Europe in general, and the alleged emergence of a "parallel society" of (Turkish) Muslims in Germany in particular, there is an intense debate over the establishment of Muslim training institutions that would lead to a decrease of imams of foreign origin. At the same time, the debate is not only about Muslim imams, but also about Muslim religious education. Thus, the objective of the planned course in Islamic religion at the University of Münster is to train teachers in religion for the public school system, rather than in training imams. Nevertheless, the long term goal is similarly to make Muslim communities less dependent on religious "assistance" from Islamic communities abroad and to foster the emergence of a truly German brand of Islam.

Two recent expulsion cases have received considerable attention in public debate. In the case of the radical Muslim preacher Metin Kaplan "expulsion" to Turkey was finally effected in October 2004 after a four year legal battle. He was extradited to Turkish authorities for the alleged involvement in an assassination attempt in Turkey and thus in legal terms, was not expelled. In Germany, he had founded the radical Muslim organization "Khalif State" based in Cologne and prohibited by German authorities in 2001.¹¹⁸ In the case of Yakup T., also Turkish national, an order to leave has been issued but is not yet effective. Yakup T. was employed as imam by one of

¹¹⁵ Immigration Act, §54(5)

¹¹⁶ Immigration Act, §54(7)

¹¹⁷ Immigration Act, § 75

¹¹⁸ Newsletter Migration und Bevölkerung, 8, November 2004, „Deutschland: Kaplan in die Türkei abgeschoben“, available online at <http://www.migration-info.de>

the largest mosques in Berlin operated by the radical Muslim federation Milli Görüs, but his contract has since been terminated. According to authorities, the order to leave was issued in response to two public meetings at which Yakup T. had incited “religious hatred”. However, critics argue that it is highly questionable whether the content of Yakup T.’s sermons can be considered as constituting incitement to religious and racial hatred, since they mostly consist of derisory descriptions of non-Muslims rather than incitement to concrete acts. Nevertheless, the case has sparked a widespread debate on the integration of Muslims in general, and policy towards Muslim ministers of religion in particular.¹¹⁹

¹¹⁹ See Newsletter Migration und Bevölkerung, 9, December 2004, „Deutschland: Neue Integrationsdebatte“. Available online at <http://www.migration-info.de>; Frankfurter Allgemeine Zeitung, „Kreuzberger Imam klagt gegen Ausweisung“, 14/01/2005

Switzerland

1 Status of religious groups in the country

Switzerland has a total population of some 7.3 million (2003). According to the 2000 census, 35.3 % of the population or 2,569,100 are Protestants and 3,047,900 or 35,3 % Catholics, with Islam being the third largest religious denominations with 310,800 adherents (or 4.3 %). Some 131,900 (1.8 %) are members of an Orthodox Church. A relatively large share of respondents (11 %) stated that they did not belong to any religious denomination.¹²⁰

While immigration and immigration policy is regulated at the federal level in Switzerland, the regulation of state-church relations is a matter of the cantons. Thus, on the federal level, no special status for religious communities exists. While church and state are strictly separated on the federal level, the relationship varies widely between the individual cantons. Some, like the francophone cantons Geneva and Neuchâtel apply a strict separation between church and state, although some religious communities are given certain forms of recognition and certain privileges. In other cantons, for example Aargau, the cantonal constitutions provide for an official “state” church. Thus, on one extreme, faith communities in the two francophone cantons do not enjoy a special legal standing under public law, while in cantons that provide for a state church, one religious community is privileged over others. In between, many cantons officially recognize one or more religious communities, which are given a special legal standing under public law. The criteria followed in the recognition of religious communities vary between cantons as well. In some, recognized churches are simply listed in the relevant law (mostly in cantonal constitutions), and no procedure at all exists to acquire official recognition, for example in Zurich, where the evangelical churches and the Catholic church enjoy recognition by the constitution.¹²¹ Similarly, the rights and obligations tied to recognition differ from case to case, for example, in some cantons official recognition involves that faith communities may formally levy taxes on their members, a privilege mostly accruing to the traditional Christian denominations and sometimes extended to Jewish communities. Also, recognized faith communities often are exempted from paying certain taxes.¹²²

¹²⁰ Federal Office of Statistics, census results, available at http://www.bfs.admin.ch/bfs/portal/de/index/themen/bevoelkerung/sprachen__religionen/blank/kennzahlen0/religionen.html

¹²¹ See Cattacin et al. (2003), op.cit

¹²² U.S. State Department, Bureau of Democracy Human Rights and Labour (2004): International Religious Freedom Report 2004, Country Report Switzerland. Available at: <http://www.state.gov/g/drl/rls/irf/2004/35487.htm>

Table: Recognition of Religious Communities in the 26 Cantons/Half-Cantons

Cantons	ZH	BE	LU	UR	SZ	OW	NW	GL	ZG	FR	SO	BS	BL
Evangelical-Reformed	X	X	X	X	X	X	X	X	X	X	X	X	X
Roman Catholic	X	X	X	X	X	X	X	X	X	X	X	X	X
Christ-Catholic (=Old Catholic)	X	X	X								X	X	X
Jewish		X								X		X	
Other possible		X				X	X	X		X	X		X
Cantons	SH	AR	AI	SG	GR	AG	TG	TI	VD	VS	NE	GE	JU
Evangelical-Reformed	X	X	X	X	X	X	X	X	X	X			X
Roman Catholic	X	X	X	X	X	X	X	X	X	X			X
Christ-Catholic (=Old Catholic)	X			X		X							
Jewish				X									
Other possible	X	X				X		X		X			X

Acronyms: ZH – Zürich; Be – Bern; LU – Luzern/Lucerne; UR – Uri; SZ: Schwyz; OW – Oberwalden; NW – Nidwalden; GL – Glarus; ZG – Zug; FR – Fribourg; SO – Solothurn/Soleure; BS – Basel-Stadt; BL – Basel Land; SH – Schaffhausen; AR – Appenzell-Ausserrhoden; AI – Appenzell-Innerrhoden ; SG – Sankt Gallen ; GR – Sankt Gallen ; AG – Aargau ; TG – Thurgau ; TI – Tessin ; VD – Vaude ; VS – Valais ; NE : Neuchâtel ; GE – Genève ; JU – Jura

Source: www.unilu.ch/dokumente/dokus_tf/Skript_StKR.pdf „Einführung in das Staatskirchenrecht der Schweiz“ Urs Brosi, Luzern 2002.

In addition to recognition under public law (possible in 16 cantons), faith communities may constitute themselves under private law in 6 cantons, while in 8 cantons official recognition would only be possibly by changing the cantonal constitution.¹²³ Non-recognition under public law is frequently cited by religious communities as a problem in respect to religious tuition and in respect to meeting certain religious obligations (e.g. burials as prescribed by religious traditions).

Official recognition as a religious community is also important with regard to immigration regulations. Due to the large number of Muslims resident in Switzerland (5% of the population, or just over 300,000), this is a particular concern for the various Muslim communities (Turkish community, Bosnian community, Kosovo/Macedonian-Albanian community). As there are no Muslim theological training institutions in Switzerland, Imams are brought into Switzerland from Turkey, Kosovo, Macedonia and Bosnia, both for the ministry of religion and for religious tuition of children.

All but two cantons (Geneva and Neuchâtel) offer religious tuition as part of the school curriculum, the nature of which mostly depends on which religious

¹²³ See Cattacin et. al. (2003), op. cit., p.27

denomination dominates in the respective canton. Islamic religious instruction takes place outside the public school system and is privately organized by the respective language-based Muslim communities (i.e. Albanian, Bosnian and Turkish communities). As religious instruction takes place outside the formal school system, Islamic teachers are normally also always ministers of religion.

2 Admission

2.1 General practice

There are no special permits for persons wishing to be admitted for the purpose of religious work. However, special regulations apply in the handling of the applications for admission, in regard to which recognized religious communities enjoy certain privileges. However, immigration regulations do not explicitly refer to the legal status of religious groups in the name of which an alien seeks to enter, but broadly define a set of criteria according to which immigration for the purpose of religious work may be permitted: To be eligible for the provisions of the law, religious communities must respect Swiss legal norms, shall oblige the Swiss constitution and federal and cantonal legislation in theory and practice, expect the same from their followers and shall condemn any serious breaches of the law committed by their members. In addition, the religious communities in question should have an institutional and organizational presence in more than one Canton, although exemptions for religious minorities may be granted. Religious communities wishing to employ an alien as minister of religion must show that they are financially able to do so. Superior religious authorities as defined in the administrative regulations must confirm the appointment of an applicant; otherwise the application for a residence permit will be refused. Normally, residence permits are only issued to replace an outgoing or deceased minister of religion.¹²⁴ “Ministry of religion” is defined as providing religious guidance to the faith community, catering for their religious needs and administering religious worship. Administrative activities may be part of this remit, but must not dominate over other activities.

Religious workers are admitted on the basis of employment-related permits, which are subject to quota restrictions. The quota determines how many residence permits for the purpose of employment may be issued each year, and, in the case of religious professionals, is set separately for different religious communities. Due to the lack of opportunities for religious training in the country the Muslim community is probably most in need of foreign ministers of religion. Recently, the quota for imams has been considerably increased, but is still relatively low. For example, in 2003, the quota for imams for the Turkish community was set at 20 per year.¹²⁵ The special regulations for religious workers only apply for recognized religious communities, and as these are determined by cantonal legislation, considerable differences may exist between the cantons.

¹²⁴ See Directives and Instructions Concerning Entry, Residence and Labour Market (ANAG Regulations)/ Weisungen und Erläuterungen über Einreise, Aufenthalt und Arbeitsmarkt (ANAG Weisungen) Annex 4/8a, available at: http://www.imes.admin.ch/rechtsgrundlagen/weisungen_gruen/anhaenge/anhang49151_d.asp#49151

¹²⁵ See Cattacin, Sandro, et. al. (2003), op. cit., p.41

2.2 Type of (special) permits

The regulations for the admission of aliens for the purpose of religious work are based on the 1931 Federal Law on Residence and Settlement of Foreigners (*Bundesgesetz über Aufenthalt und Niederlassung von Ausländern vom 26. März 1931, ANAG*) as last amended in 2004¹²⁶ and the Decree on Limits to the Number of Foreigners who are Gainfully Employed (*Bundesverordnung über die Begrenzung der Zahl der erwerbstätigen Ausländer, BVO*). A new Aliens Law is currently in preparation. In addition to integrating rules and practices hitherto only regulated by simple decrees into a comprehensive law, it defines a framework for federal integration policy.

The Federal Decree on Limits to the Number of Foreigners who are Gainfully Employed provides for three types of permits for the purpose of employment: (1) Short term permits (*Kurzaufenthalter*) for a residence period below 4 months and not subject to quota restrictions; (2) short term permits (*Kurzaufenthalter*), subject to quota restrictions and issued for a period between 5 to 12 months (renewable to a maximum of 24 months), and (3) long term permits (*Jahresaufenthalter*) issued for a period of 12 months. A short term permit for 4 months may be issued to an alien if s/he does not replace another alien (rotation). In respect to aliens carrying out religious work, the short term permit is usually issued to clergymen of Christian communities replacing the incumbent minister of religion while the latter is on leave or otherwise temporarily absent. The short term permit is also issued to foreign imams visiting Switzerland during Ramadan.¹²⁷ Permits are only valid in the canton in which they were issued.¹²⁸

The employment of aliens is governed by two main principles: (1) prioritization of nationals and resident aliens over recruitment, and (2) prioritization of EEA citizens in recruitment over Third Country Nationals.¹²⁹ The first principle is not applicable to the Catholic Church, due to the severe lack of catholic clergy. Nor is it applicable to the Muslim and the Serbian-Orthodox communities, for which special regulations exist, since there are no institutions of religious training for these communities in Switzerland. The Catholic Church is explicitly exempted from the second requirement and may therefore freely recruit from third countries as well. The second principle is also largely irrelevant for Muslim migrant communities and the Serbian-Orthodox Church, who normally recruit in their countries of origin and would not find adequate personnel in EEA Member States.

¹²⁶ Technically, the law was amended in December 2003, but was published only in 2004.

¹²⁷ See Directives and Instructions Concerning Entry, Residence and Labour Market (ANAG Regulations), op.cit.

¹²⁸ Peter Slominski (2001): Schweiz. In: Ulrike Davy (Ed.): Die Integration von Einwanderern. Rechtliche Regelungen im europäischen Vergleich. Europäisches Zentrum. Frankfurt/Main: Campus, p. 714.

¹²⁹ The Agreement on the Free Movement of Persons, signed 1999 in Luxembourg between Switzerland and the EU, entered into force in 2002. After the 12 year transition period laid down in the agreement, the rights of EU citizens in Switzerland will be almost equal to those which EU citizens enjoy now within the EU. Up to 2007, immigration of EU citizens will still be subject to a permit. EU terminology ("third country nationals") is already widely employed in immigration law.

2.3 Conditions and reasons for denial of permit

The requirements for persons wishing to enter Switzerland in the capacity as ministers of religion are in principle the same as for all other labour migrants: Along with their application, applicants should provide

- a certificate of good conduct, issued by the national police administration of the country of origin and certifying that the applicant has a clean criminal record,
- proof of sufficient funds (i.e. proof of sufficient income)
- a comprehensive health insurance
- proof of qualification as a minister of religion as prescribed by recognized faith communities¹³⁰
- proof of (the prospective) accommodation available to the applicant in Switzerland
- proof of proficiency in the language of the prospective canton of residence

Employers (i.e. the religious communities) are asked to certify the qualification of the candidate, disclose the employment conditions (sufficiently high salaries are required) and to formally appoint the candidate. In addition, the employing religious organization must be financially viable.

If any of the above conditions is not met, the application may be turned down. In addition, applications may be turned down if the religious community is too small and is not active in more than one canton.¹³¹ No absolute threshold exists, but the Federal Office for Migration (*Bundesamt für Migration, BFM*) indicated that applications from faith communities with less than 200 adherents would not be considered.

2.4 Procedures and responsible institutions

Applications are submitted to the cantonal labour market boards where a pre-decision on the employment-related aspects of the application is made. From there the application is transferred to the Federal Office for Migration (BFM). After BFM has considered the application, it is transferred back to cantonal migration authorities, who give the authorization to Swiss embassies abroad to issue the visa. According to BFM, the procedure usually takes 3 to 6 weeks.

The procedures, as the involvement of religious communities is concerned, differ from one religious community to another. Applications from catholic clergymen are channelled through the Commission for Migration (*Migratio*) within the Swiss Catholic Church, which also coordinates the application procedure. Alongside the application to be submitted to the cantonal labour market authorities, a formal statement by the Catholic Commission for Migration is required. Turkish imams are formally employed by the Turkish Central Office for Religious Affairs. Applications are submitted on behalf of Turkish associations in Switzerland by the Turkish Attaché

¹³⁰ Catholic clergymen usually must have professional experience and be qualified for the ministry of religion. Muslim clergy must have a university degree in theology or a degree of a comparable institution of higher learning.

¹³¹ See Directives and Instructions Concerning Entry, Residence and Labour Market (ANAG Regulations), op.cit.

General in Zürich. Imams from Bosnia, Kosovo and Macedonia, must be appointed by the Reis in Sarajevo, Pristina and Skopje, respectively. In addition, the application has to be submitted together with a formal statement by the respective federal umbrella organizations as well as the local organization where the imam will be employed, confirming the appointment. Finally, applications from Serbian-Orthodox clergymen are subject to approval by the Serbian Orthodox Church's Central Church Council (*Zentraler Kirchenrat*) in Sankt Gallen.

2.5 Quantitative developments

In total, around 50 residence titles were issued to ministers of religion in 2003. A limited (unspecified) number of individual applications from members of small Muslim and Christian communities were turned down by the authorities. Most catholic ministers of religion come from Poland and African and Latin American countries, while Imams mainly come from Turkey and Macedonia.

3 Residence

3.1.1 Type of permits and related rights

Permits issued at entry (see Section 2.2.. above) are issued as residence permits.

3.1.2 Access to work

As described above (Section 2.1. and 2.2.) access to employment and residence regulations are closely interwoven. An employment-related residence permit is only valid for the specific gainful activity as well as the specific employer for which the permit was granted. Thus, once an alien wishes to change his job, s/he needs to apply for a residence permit anew. In regard to ministers of religion, the ANAG Directives and Instructions explicitly exclude activities other than the ministry of faith communities, including additional part time employment.

3.1.3 Family reunification

Aliens residing only temporarily in Switzerland (as most ministers of religion are)¹³² are not eligible for family reunification. However, family members may come to Switzerland on ordinary tourist visas, issued for a maximum period of three months. Family members must stay at least one month abroad after having completed a visit before they can visit Switzerland anew. The combined duration of visits may not exceed 6 months in any single year. In principle, long term foreign residents are eligible for family reunion. In contrast to holders of permanent residence permits (*Niederlassungsbewilligungen*) and family members of Swiss citizens from third countries, however, long term residence permit holders (12 months), are not entitled to family reunification. To be eligible for family reunion, the principal applicant must have sufficient financial means as well as accommodation comparable to average Swiss households of the same size. In addition, the immigration authority shall base its decision on its assessment of whether the family will be based mainly in

¹³² Most Turkish imams, for example, are sent to Switzerland on three-month assignments by the Turkish Ministry of Religion.

Switzerland or whether it will continue to be based mainly abroad. If the latter is the case, family reunion will not be granted.

3.2 Conditions, reasons for denial of permit

3.2.1 Renewal

Apart from the general conditions that have to be met (see Section 2.3. above), continuing employment as minister of religion must be ensured. Short term permits (*Kurzaufenthalter*) are renewable up to a maximum period of 24 months. Long term residence permits (*Daueraufenthalter*) are renewable before the expiration of the permit for another year. In principle, aliens are not entitled to a renewal of a permit, except special provisions apply (e.g. for family members of a Swiss citizen).

3.2.2 Permanent residence permit

The Law on Residence and Settlement of Foreigners (ANAG) provides for a permanent residence permit (*Niederlassungsbewilligung*), the eligibility and the criteria for which depend on the exact status of the person, including his/her nationality (nationals of countries with which Switzerland has concluded bilateral agreements may have privileged access to permanent residence status). There is no entitlement to be granted a permanent residence permit. The general practice of immigration authorities is to issue permanent residence permits after 10 years of continuous residence, although foreign family members of Swiss nationals may be granted the right earlier.¹³³ A permanent residence permit entitles the holder of the permit to leave and re-enter Switzerland as s/he wishes, to permanent residence, and to unrestricted employment. However, in practice, permanent residence permits are largely irrelevant for ministers of religion, as their stay is mostly temporary.

3.2.3 Change of residence permit

The law does not provide for a change of purpose of residence. Thus, a change of purpose would necessitate applying for a residence permit anew, which in most cases would mean that the priority of EEA citizens and the prioritization of recruitment in EEA countries would apply. No cases of attempted changes of residence status were known to the authorities.

3.2.4 Removal

Residence permits may be cancelled if the alien has acquired his/her permit under false pretences; in case one or more conditions under which the permit was granted no longer holds, in particular, if the alien is no longer employed in the capacity s/he was admitted for or is physically unable to work; or if the alien's comportment gives rise to serious complaints.¹³⁴ Even if the alien is entitled to a residence permit, the permit can be cancelled if the alien has breached public order.¹³⁵

¹³³ Peter Slominski (2001), op. cit., p. 715.

¹³⁴ Federal Law on Temporary and Permanent Residence of Foreigners, art. 9 (2).

¹³⁵ Federal Law on Temporary and Permanent Residence of Foreigners, art. 17 (2).

Three types of removals (expulsion orders) exist in Switzerland. Following immigration regulations, the alien can be expelled, if s/he was convicted for a criminal offence; has shown that s/he is unwilling or incapable of respecting the law (“*die im Gastland geltende Ordnung*”), is mentally ill in a way that threatens public order; or if s/he or a person s/he is responsible for is in need of social assistance. After the Constitution, the federal government can expel an alien/ issue a residence ban if s/he is a threat to domestic or external national security. Finally, courts adjudicating foreign criminal offenders are obliged to include a formal residence ban in their sentence.¹³⁶

3.3 Procedures and responsible institutions

The Federal Office for Migration (BFM) is in charge of alien affairs at the national level. At the cantonal level, cantonal migration authorities are in overall control of administering the issuing, renewal and cancellation of residence permits as well as of administering the removal of aliens. Cantonal labour market boards decide whether employment related conditions are met.

3.4 Quantitative developments

No further data are available.

4 General policy issues

4.1 Difference of legal status to other aliens

In principle, the legal status of aliens residing in Switzerland for the purpose of religious work is the same as that of other third country nationals. The sole exception is that the prioritization of EEA citizens in employment and recruitment may be waived in respect to ministers of religion.

4.2 Integration policy

Switzerland has pursued an active integration policy since 2000.¹³⁷ The directive on integration (*Integrationsverordnung, VIntA*) specifies the objectives of integration programmes and regulates financial contributions of the federal government to integration programmes. Hitherto, integration programmes were strictly offered on a voluntary basis. The amendment of the Directive (which entered into force on 1st January 2005) incorporates integration principles in immigration law. In particular, the “degree of integration” shall be a criterion considered by immigration authorities when issuing a permanent residence permit (*Niederlassungsbewilligung*) or when issuing an expulsion order. In addition, the issuing of short and long term permits may be tied to an obligation to attend language/integration courses, if it is in the public interest to do so. The Federal Office for Migration indicates that the provision is aimed at ministers of religion and teachers involved in extra-school tuition of language and culture of the country of origin (*Heimatlicher Sprach- und Kulturunterricht*).

¹³⁶ Peter Slominski (2001), op.cit., p.728.

¹³⁷ Based on article 25 of the Federal Law on Temporary and Permanent Residence of Foreigners, in force since 1999.

4.3 Historical developments and planned policy changes

The specific regulations pertaining to the admission of aliens wishing to carry out religious work date from the early 1990s, although the wider legislative framework (immigration laws) is much older.

A draft of a new Aliens Law, replacing the 1931 Federal Law on Temporary and Permanent Residence of Foreigners is currently under discussion. The main changes of the planned law will be that (1) admission practice as currently defined by the 1931 Law and administrative directives will be defined comprehensively in the new law; that (2) integration considerations will be integrated into the law (e.g. mandatory language/integration courses) and that (3) the rights of long term resident foreigners will be expanded, in particular in respect to changes of residence and employment and in respect to family reunion.

On 1st January 2005 the new Federal Office for Migration (*Bundesamt für Migration, BFM*) resulted from the amalgamation of the Federal Office for Refugees (FOR) and the Federal Office of Immigration, Integration and Emigration (IMES). This new authority regulates the conditions under which people can enter Switzerland in order to live and work there. It also decides who will receive protection from persecution. Moreover, the Office for Migration co-ordinates Federal government, cantonal and communal efforts on behalf of integration and is the organ responsible at Federal level for naturalization matters.

4.4 Administrative practice and public debates

No information on the frequency of complaints about administrative practices is available. Usually, complaints are addressed to the administration and are not made public by either complainants or the authorities. Recently, a case where a formal complaint was filed by an Islamic organization on behalf of two aliens denied residence permits has received considerable media attention.¹³⁸ The decision was justified by the former Federal Office for Immigration, Integration and Emigration (IMES) on the ground that it was not satisfied that the applicants were prepared to integrate, notably to acquire the local language and to respect Swiss laws and norms, based on the assessment of the centre by which the aliens would have been employed. The willingness of aliens to integrate will be one of several integration criteria in the new aliens law (see above). IMES added that the maintenance of “religious peace” was another consideration informing the decision (which was not yet in force as of January 2005). IMES has begun to implement the new integration policy as of 2003 and in this framework has already assessed several Islamic clergymen. Several observers have raised concerns over details of the decision, namely that the main criterion leading to the decision was the assessment of the employing organization rather than the assessment of the candidates themselves.

In the context of the debate on radical Islamic preachers in Switzerland, the introduction of formal university courses for Islamic ministers of religion at selected

¹³⁸ See Neue Zürcher Zeitung, 10.10.2004

Swiss universities has recently been much debated.¹³⁹ The issue had actually been raised by the Coordination Office of Islamic Organisations in Switzerland (*Koordinationsstelle Islamischer Organisationen in der Schweiz*) long before the current debate. The Coordination Office had suggested the introduction of university courses in collaboration with the Azhar University in Cairo and the University of Ghom, the leading institution for Shia theology and had made concrete proposals to the universities of Basel, Luzern, Geneva and Bern. The project, however, was discarded for “organisational reasons”. Currently, the University of Basel is holding discussions with the Institute for Islamic Religious Education in Vienna, which trains Islamic teachers in religion for the Austrian public school system and cooperates with leading Islamic universities, in order to establish an education programme for Islamic preachers. The Swiss government (*Bundesrat*), however, has made it clear that it will not provide special financial support for the establishment of an Islamic training institute at a Swiss university and that universities would have to rely on their own budgets or seek private funding to finance such courses.¹⁴⁰ Partly, the specific integration requirements for ministers of religion (see Section 4.2. above) that will be part of the new Aliens Law and are already implemented in administrative practice address quite similar concerns, by demanding a certain level of language proficiency, efforts on the side of the alien to engage with Swiss society and to accept its norms and practices as well as demanding respect of democratic norms and principles.

¹³⁹ See for example NZZ 23.11.2004 “Kirchen wollen Ausbildung von Imamen in der Schweiz” and SwissInfo „Ausbildung zum Imam in der Schweiz“, 21.11.2004, available at <http://www.swissinfo.org/sde/swissinfo.html?siteSect=106&sid=5353745>

¹⁴⁰ Tagesanzeiger Online “Kein Geld für Imam-Ausbildung“, 6.12.2004, available at <http://www.tagesanzeiger.ch/dyn/news/schweiz/444181.html>

United Kingdom

1 Status of religious groups in the country

The law in the United Kingdom asserts freedom of religion. There is no system of legal recognition for religions: followers of all faiths and belief-systems are free to worship and carry out other activities as long as they remain within the law. Established churches in the UK are the Church of England (Anglican or Episcopalian church) and the Church of Scotland (Presbyterian). The Church of England is the established (i.e. state) church in England. Many of its senior Bishops sit in the upper House of Parliament. The Church of Scotland holds a quasi-official status as the national Church of Scotland. Several faiths have significant populations in the UK. The nine largest communities are Christians (Catholic, Protestant, Anglican and Orthodox), Muslims, Hindus, Sikhs, Jews, Buddhists, Jains, Baha'is and Zoroastrians (Parsees).

The total population of the United Kingdom is about 59.2 million (mid-2002). About 42 million persons, or 72 % of the population, identify themselves as Christians, of which 29 % belong to the Anglican Church, 10 % to the Roman Catholic Church and 14 % to other Christian churches. About 2 % of the population identify themselves with the Church of Jesus Christ of Latter-day Saints (Mormons), the Church of Christ, Christian Scientists, Jehovah's Witnesses, and Unitarians. About 2.7 % of the population identify themselves as Muslims. The third largest religious group in the country is Hinduism with some 1 % of the population. Thereafter are the Sikh (0.6 %) and Jewish religions (0.5 %).¹⁴¹

The 2001 census in Northern Ireland showed that 53 % were Protestants and 43.8 Catholics. Nationalism and unionism has long developed along religious lines in Northern Ireland. The government's policy encourages religious tolerance. Nevertheless, many Catholics and Protestants continue to live in segregated communities in Northern Ireland.¹⁴²

2 Admission

2.1 General practice regarding members of the clergy

The immigration rules for the United Kingdom provide a special permit for persons wishing to enter the UK with the intent to carry out religious work on a full time basis. Admission is granted on the basis of specific regulations for professional religious activities.

¹⁴¹ The 2001 census's question on religion was voluntary. Over 9 million (15.5 %) of those responding stated that they had no religion and 7.3 % chose not to respond. See: U.S. Department of State, Bureau of Democracy, Human Rights and Labour (2004): International Religious Freedom Report 2004, Country Report United Kingdom, available at: <http://www.state.gov/g/drl/rls/irf/2004/35492.htm> (17.1.2004)

¹⁴² *ibid.*

In general, no difference is made between members of different faith groups (except with regard to missionaries of the Church of Jesus Christ of Latter-Day Saints (Mormons), who may be granted admission for 2 years instead of 12 months). Not all faith groups are accepted as religions for the purpose of the immigration rules, including the Church of Scientology and the Unification Church (“Moonies”), whose members are not treated as ministers of religion or missionaries. The Home Office’s Immigration and Nationality Directorate (IND) maintains a list of faith groups accepted under the immigration rules.

The UK government does not apply quota restrictions in regard to the admission of ministers of religion, missionaries, and members of religious orders. There are no special agreements between the state and religious authorities or between the state and countries of origin on the admission of aliens for the purpose of carrying out religious work.

2.2 Type of (special) permits

The Immigration Rules of the United Kingdom provide for a special permit for persons intending to carry out religious work on a full time basis (*leave to enter* as a minister of religion, missionary or member of a religious order), to be applied for from abroad. The relevant regulations are secondary legislation laid down in the Immigration Rules (HC 395, § 170-171) to be complemented by administrative instructions. The validity of the permit may not exceed 12 months, except in the case of Mormon missionaries, who may be granted a *leave to enter* for the duration of 2 years. In the case where *leave to enter* was granted, a *leave to remain* could be granted for up to 3 years, provided that the requirements are met.

Ministers of religion, missionaries and members of religious orders (e.g. monks and nuns) are not required to register with the police.

An “Entry Clearance” is mandatory for persons seeking admission as ministers of religion, missionaries or members of a religious order. Normally, a D Visa (for entry to an EU/EEA state) for the purpose of carrying out religious work will be granted. The sole exceptions are visiting preachers (visiting ministers of religion and professional preachers) who may come for a preaching tour for up to 6 months as visitors, provided the tour involves only preaching, is consistent with temporary absence from the person’s employment abroad and does not constitute disguised employment as a minister of religion in the United Kingdom.¹⁴³ Missionaries of the Unification Church (“Moonies”) are not eligible for a *leave to enter* in this capacity as mentioned earlier and are considered to be visiting preachers, admitted as visitors for a period up to 6 months.

Ministers of religion, missionaries and members of religious orders do not need a work permit if they have obtained prior entry clearance at a British Diplomatic Post abroad.

¹⁴³ See Diplomatic Service Procedures – Entry Clearance, Vol.1, Chapter 18.

Types of permits required for clergy and ministers of religion in the United Kingdom			
Length of Stays:	Up to 90 days	Up to 6 months	More than 6 months
Type of permit required		Visiting preacher Visiting Religious Musician	Minister of Religion (12 months initially, then up to 3 years extension) Missionary (12 months initially, then up to 3 years extension) Member of Religious Order (12 months initially, then up to 3 years extension)

2.3 Conditions, reasons for denial of permit

The application has to be refused if no valid entry clearance for that capacity can be produced on arrival, or in the case of visa-nationals, the alien does not hold a valid UK visa. If the alien holds a valid entry clearance, entry can be refused in case of false representations, withholding of material facts, if a change of circumstances since the permit was issued has removed the basis of the holder's claim to admission, refusal is justified on grounds of restricted return ability, on medical grounds, on grounds of criminal record, because the person seeking leave to enter is the subject of a deportation order or because exclusion would be conducive to the public good.

2.4 Procedures, incl. responsible institutions

The agency with overall responsibility for the admission of aliens is the Home Office's Immigration and Nationality Directorate (IND). However, due to administrative changes in 2000 and because entry clearance is mandatory for visa and non-visa nationals (i.e. nationals who are otherwise visa obligation exempt), applications for a *leave to enter* are processed by British visa offices abroad. Entry Clearance Officers may defer a decision on an application if they are in doubt over the credence of the inviting organization in the UK and may ask the Home Office for advice.

Annex R of the Immigration Directorates' Instructions, provides a detailed questionnaire developed for ministers of religion cases and deals with most of the enquiries that caseworkers need to make. Before a decision is made by the caseworkers they can check with the IDP and General Registry to see what information is available about the sponsoring organisation (there are details on all sort of occasions of religious groups in the IDP index). The Immigration Service may also be asked to interview the sponsor if essential. The FCU (Faith Communities Unit) may be asked on community relations in individual cases, after a written indication from the IND.¹⁴⁴

2.5 Quantitative developments

In the United Kingdom, detailed data on immigration can be derived from the International Passenger Survey. These data refer to the number of journeys, not the number of persons – therefore an individual may be counted more than once per year.

¹⁴⁴ Annex Q –

http://www.ind.homeoffice.gov.uk/ind/en/home/laws_policy/policy_instructions/table_of_contents/c_hapter_5/annexes.Maincontent.0021.file.tmp/Sec6AnnexQ.pdf

In general, the overall category “Ministers of Religion” makes up only a small part of all entries. In 2000, for example, out of 190,830 immigrant entries, only 1,180 (0.6%) fell in this category.¹⁴⁵

The following data relate to persons admitted to the UK whose entry category was Minister of Religion, Missionary or Member of a Religious Order.

Persons admitted as Ministers of Religion to the UK (1999-2003)					
1999	2000	2001	2002	2003	
1.050	1.170	720	650	580	

Source: Home Office - Immigration and Nationality Directorate

3 Residence

3.1 Type of permits and related rights

An extension of stay may be granted for a period of maximum 3 years, provided that the secretariat is satisfied that each of the requirements of paragraph 173 is met (see section 3.2.1.).

To those who have completed 4 years in this category settlement may be granted under paragraph 176 of HC 395. Settlement (*indefinite leave to remain*) has to be specially applied for. A person that applies for a limited leave period and has been in the United Kingdom for 4 years should not be treated as an applicant for the settlement permit (see section 3.2.2).¹⁴⁶

The wish to switch from other stay permits into the missionary category should normally be refused. However, visitors and students may be given *leave to remain* as missionaries but only when a general concession has been agreed upon (e.g. for Operation Mobilisation students to remain as staff members. Those engaged full-time in the training of others in missionary work are accepted as missionaries and should normally obtain prior Entry Clearance but it has been agreed that the Entry Clearance requirement may be waived in the case of existing Operation Mobilisation students but not for voluntary workers).¹⁴⁷ Likewise, applications to switch into the category of members of a religious order should normally also be refused, but there are exceptions if the applicant entered the United Kingdom to visit or to study under the support of the order and meets the requirements of the Rules.¹⁴⁸

3.1.1 Access to work

Under the Immigration Rules a person does not need a work permit for carrying out religious work on a full time basis, if s/he qualifies as a minister of religion, missionary or member of a religious order and has obtained prior entry clearance at a British Diplomatic Post abroad.

¹⁴⁵ “Secure Borders, Safe Haven: Integration with Diversity in Modern Britain”, presented to Parliament by the Secretary of State for the Home Department by command of Her Majesty, February 2002.

¹⁴⁶ “Immigration and Nationality Directorate” – Immigration enquiries, available at: www.ind.homeoffice.gov.uk/ind/en/home/contact_us/immigration_enquiries.html

¹⁴⁷ Annex Q, op. cit.

¹⁴⁸ Annex Q, op.cit.

3.1.2 Family reunification

The applicant's spouse and dependent children may join her/him in the United Kingdom. *Leave to enter* or *leave to remain* in the United Kingdom may be sought by the applicant for family members under the rules of paragraph 281-289 of HC 395. The family members are entitled to work.

3.2 Conditions, reasons for denial of permit

3.2.1 Renewal

A refusal of extension of stay as a minister of religion, missionary or member of a religious order can occur when the Secretary of State does not find that the requirements for paragraph 173 and 174A are met.

Paragraph 174A deals with requirements to be met when seeking to switch into the minister of religion category (see point 3.2.3). Paragraph 173 deals with the requirements for extension of stay for ministers of religion, missionaries or members of a religious order. The requirements are¹⁴⁹, that the applicant:

- Is admitted to the United Kingdom or given an extension of stay, except as a minister of religion or a visitor under paragraph 40-56 of the Rules, which has resulted in her/him spending a continuous period of at least 12 months in the UK prior to the application being made;
- Is still involved in the employment for which entry was granted;
- Has been working for at least one year as a minister of religion in any of the 5 years directly prior to the date the extension is sought; or where religious faith is the only mean of enter,
- Will be appointed or has been appointed to a position as a minister of religion and is suitable for the position as certified by the leadership of the potential congregation;
- Has been intended as a minister of religion after minimum 1 year of fulltime employment or 2 years part time training for the ministry;
- Has received such work experience, or intended and received the specific period of training in the United Kingdom or abroad;
- If the applicant entered before the 23rd August 2004 as a minister of religion or as a missionary or a member of a religious order s/he has to meet the requirements of paragraph 170 (ii)-(iv) which regulates the admission (see Sections 2.1.-2.5.)
- If s/he entered in accordance with subparagraph (i) after 23rd August 2004 or was granted leave to remain in accordance with paragraph 170 (ii)-(iv a)

Thus, for a six months visitor, there is no opportunity for renewal. For Ministers of Religion, Missionaries and Members of Religious Orders renewal will be granted after one year if they fulfil the requirements of the Immigration Rules; they may be given up to 3 years of *leave to remain*.

¹⁴⁹ Annex Q, op.cit.

The following statistics refer to persons granted an extension of *leave to remain* in all three categories of Minister of Religion, Missionary and Member of a Religious Order.

Renewals of stay permits for Ministers of Religion in the UK (1999-2003)				
1999	2000	2001	2002	2003
1.490	1.040	n/a	1.310	2.130

Source: Home Office - Immigration and Nationality Directorate

3.2.2 Permanent residence permit

Indefinite leave to remain (paragraph 176 of HC 395) may be granted to a person admitted as a minister of religion, missionary or member of a religious order given that:

- The person has spent at least a continuous period of 4 years in the United Kingdom working within her/his capacity;
- The person has met the requirements of paragraph 173 or 174A throughout this period, and
- The person is still required for the employment.

If paragraph 176 is not met, the *indefinite leave to remain* application will be refused (paragraph 177).

3.2.3 Change of residence permit

Persons carrying out religious work are not entitled to switch permits when in the United Kingdom (meaning changing the grounds of their admission). Likewise, ministers of religion cannot change their job without permission, which is only given if the person is still working as a minister of religion and still satisfies the Immigration Rules. Under certain conditions, persons who have been granted *leave to enter* in a capacity other than as a minister of religion, missionary or a member of a religious order (e.g. students and temporary workers) may switch into that category as of 23rd August 2004 (rules set out in paragraph 174A of HC395).

3.3 Removal

Leave to enter or remain can be curtailed if the holder fails to observe any conditions attached to the grant of leave or if the Home Office is satisfied that deception was employed to obtain the leave. Anyone made subject to a deportation order, because of her/his criminal conduct in the United Kingdom or because the Secretary of State considers her/his presence non-conducive to the public good, will also have the leave invalidated.

A permit holder will be removed from the country if s/he becomes the subject of a deportation order or if her/his leave is curtailed for one of the reasons set out above. No specific data are available on the removal of persons granted entry or extensions of stay as Minister of Religion, Missionary or Member of a Religious Order.

3.4 Procedures, incl. responsible institutions

The responsible authority for issuing and renewing residence permits in the United Kingdom is the Home Office, which is also responsible for the administration of settlement permits.

Most of the applications filed outside of the United Kingdom at an Embassy in the home country are processed within 24 hours from the time the application was made.

4 General policy issues

4.1 Difference of legal status to other aliens

In principle, the legal status of aliens residing in the United Kingdom for the purpose of religious work is the same as that of other third country nationals. However, when admitted as a minister of religion, missionary or member of a religious order, the alien does not need a work permit for carrying out the specified religious work.

4.2 Integration policy

There is no specific integration policy at the moment, but the authorities are currently working on this matter.

4.3 Historical developments and planned policy changes

Provisions for the admission of Ministers of Religion have been part of the Immigration Rules since 1983. When forming current regulations and practices, consideration was given to meeting the needs of various religious communities and to the fact that priests would not be able to meet the normal work permit criteria. Following civil disturbances in the North of England in 2001, faith groups in the region met with the Home Secretary to signal their concern about the Immigration Rules, allowing some religious leaders to come to the UK with little appreciation of specific local circumstances, or the nuances of their particular faith in the West. In May 2004, the House of Commons selected a committee to investigate the causes of race riots in 2001. It recommended that the government refuse to license any new faith schools unless the schools show that they are committed to multiculturalism. The schools were also asked to do more to attract a diverse student body. The Government provides funding for several so-called "faith schools". In June 2004, there were approximately 7,000 state-funded schools with a religious character in England. All but 42 of these schools are Anglican, Catholic, or Methodist schools; there is also a well-established tradition of state support for Jewish schools. The Government has helped set up and fund a number of schools reflecting other religious traditions as well. These include four Muslim, two Sikh, one Greek Orthodox, and one Seventh-day Adventist school.

From 23rd August 2004, two new policy changes took effect. First, it has become possible for someone who entered the United Kingdom in a different temporary capacity to remain there as a minister of religion for 12 months in the first instance, provided that certain criteria are met (see point 3.2.1).

Second, as of 23rd August 2004 it is also necessary that the applicant can show satisfactory abilities in the English language by passing an English test (International English Language Testing System), performing at least at level 4 (limited user). The test may not be older than 2 years prior to the date on which the application is filed. Currently there are discussions on raising the requirements of the test to level 6 in spoken and written English (competent user) after a provisional period of two years.

Presently there is also a consultation process carried out to look at, first, the possibility of developing religious qualifications for Ministers of Religion, and second, to have a test at the one-year extension stage in order to see how well integrated persons admitted under this category are in the community.

4.4 Administrative practice and public debates

Other than the inclusion of some Anglican bishops in the House of Lords, membership in a given religious group does not give a political or economic advantage on individual adherents. The Anglican Archbishops of York and Canterbury; the Bishops of Durham, London, and Winchester; and 21 other bishops, in order of seniority, receive automatic membership in the House of Lords, whereas prominent clergy from other denominations or religions are not afforded this privilege. The Removal of Clergy Disqualification Act 2001 detached restrictions that prohibited all clergy ordained by an Anglican bishop, as well as ministers of the Church of Scotland, from seeking or holding membership in the House of Commons.

While not compulsory and fundamentally a legal anachronism, blasphemy against Anglican doctrine remains technically illegal. Several religious organizations, in association with the Commission for Racial Equality, are attempting to abolish the law or broaden its protection to include all faiths. In June 2003, the House of Lords Select Committee on Religious Offences published a report on possible annulations of the Law on Blasphemy (which was created in the 19th century for protection of the doctrine and beliefs of the Church of England). The report recommended that Parliament should consider arguments for leaving the Blasphemy Law as it stands, even though its use might become increasingly uncommon, but also seek ways of expressing laws on the need for protection of all faiths.

In May 2004, the results of a 2001 survey of attitudes towards religion in England and Wales was released. In response to a question about perceptions of whether there was sufficient protection against religious discrimination, the majority of the respondents thought that the Government did about the right amount to protect the rights of persons belonging to different religions. Relatively more respondents affiliated to Hindu (70 %), Sikh (62 %), and Muslim (62 %) faiths gave favourable responses than those with Christian affiliations (53 %). A sizeable minority of respondents indicated that the Government was doing too little to protect religious rights. This perception was most prevalent among Muslims (34 %) and Sikhs (34 %).

As in other Western countries, there is a growing concern over radical Islam in the UK in general, and radical clerics in particular, leading the British government as other government to adopt measures specifically aimed at radical (foreign) clerics. The most interesting case that deserves particular mention is the case of the radical Muslim cleric Abu Hamza al-Masri, whom the British Home Office wants to strip of

citizenship and eventually, to expel him to Egypt, his native country. The British Home Office had Ali Hamza's British citizenship revoked in April 2003 under a provision of the Nationality, Immigration and Asylum Act 2002 that allows people with dual nationality to be stripped of British citizenship if they act in a way that is judged 'seriously prejudicial' to Britain's 'vital interests'¹⁵⁰. Mr. Hamza, however, appealed against the Home Office's decision and the case is still pending. Ali Hamza argued that he does not possess Egyptian citizenship and thus would be rendered stateless, would British nationality be revoked. In turn, the British Home Office argued that as a person born in Egypt, Abu Hamza is entitled to Egyptian nationality and thus can be considered a dual national in the meaning of the Nationality, Immigration and Asylum Act. The case is significant in that the acquisition of citizenship is largely regarded as irreversible in practice, irrespective of whether citizenship regulations provide for ex-officio withdrawals of citizenship under certain conditions or not. Thus, the case signals a major change of attitude and a re-consideration of citizenship in view of wider security concerns, whether or not the Home Office will succeed in revoking Ali Hamza's British nationality.

¹⁵⁰ quoted in the Independent, 7 April 2003

Annex A: List of Contributors

Austria

Susanne Beck
Abteilung III/4 – Aufenthalts- und Staatsbürgerschaftswesen
Bundesministerium für Inneres

Johann Bezdeka
Abteilung III/4 – Aufenthalts- und Staatsbürgerschaftswesen
Bundesministerium für Inneres

Belgium

Michelle Alexandre
Dienst Vreemdelingenzaken
FOD – Binnenlands Zaken/ Office des Etrangers
Direction Générale – Service Public Fédéral Intérieur

Freddy Roosemont
Dienst Vreemdelingenzaken
FOD – Binnenlands Zaken

Canada

Alison Harvey
Selection Branch
Citizenship and Immigration Canada

Paul Sandhar-Cruz
Selection Branch
Citizenship and Immigration Canada

Carol Ann Weichel
Non-Immigrant Officer, Immigration Section
Canadian Embassy in Vienna

Czech Republic

Gabriela Tognerová
Odbor Azylové a Migracní Politiky
Ministerstvo vnitra CR

Denmark

Nanna Fischer
International Division
Ministry of Integration

France

Michel Marquer
Bureau des étrangers relevant du régime général et du droit communautaire
Direction des Libertés publiques et des Affaires Juridiques (DLPAJ)
Ministère de l'Intérieur, de la Sécurité et des Libertés Locales

Germany

Ulrike Bender
Projektgruppe Zuwanderung
Bundesministerium des Innern

Switzerland

Albrecht Dieffenbacher
Stabsbereich Recht
Bundesamt für Migration (BFM)

Peter Hayoz
Direktionsbereich Arbeitskräfte, Freizügigkeit & Auswanderung
Bundesamt für Migration (BFM)

Simone Gretler Heusser
Direktionsbereich Bürgerrecht & Integration
Bundesamt für Migration (BFM)

Urs Treuthardt
Direktionsbereich Arbeitskräfte, Freizügigkeit & Auswanderung
Bundesamt für Migration (BFM)

United Kingdom

Graeme Hopkins
Managed Migration Taskforce
Immigration Policy Directorate
Home Office UK

Andy Smith
Policy Adviser
IPD Business and Employment Section
Home Office UK

Gary Raw
Research, Development and Statistics Directorate
Home Office UK

Jenny Yates
Managed Migration Strategy and Review Directorate
Home Office UK

Annex B: Additional References and Sources

Blion, Reynald; Catherine Wihtol de Wenden, Nedjima Meknache (2003): France. In: Jan Niessen, Yongmi Schibel, Raphaelae Magoni (eds.): EU and US approaches to the management of immigration. Brussels: Migration Policy Group. Available online at <http://www.migpolgroup.com/uploadstore/France.pdf>

CairCan – Council on American-Islamic Relations Canada (2004): Review of Ontario's Arbitration Process and Arbitration Act. Written Submissions to Marion Boyd. 10 August 2004. Available at <http://www.caircan.ca/downloads/sst-10082004.pdf>

Cattacin, Sandro; Cla Reto Famos, Michael Duttwiler, Hans Mahnig (2003): Staat und Religion in der Schweiz. Anerkennungskämpfe, Anerkennungsformen. Eine Studie des Schweizerischen Forums für Migrations- und Bevölkerungsstudien (SFM) im Auftrag der Eidgenössischen Kommission gegen Rassismus. Bern: Eidgenössische Kommission gegen Rassismus. Available at: http://www.edi.admin.ch/ekr/dokumentation/shop/00019/00070/staat_religion_gesamt_def_d.pdf?lang=de

Commission de Reflexion sur l'Application du Principe de Laïcité dans la Republique (2003). Report presented to the President, December 2003. Available at <http://lesrapports.ladocumentationfrancaise.fr/BRP/034000725/0000.pdf>

Danish Immigration Service: Statistical Overview 2003. Available at: http://www.udlst.dk/english/Statistics/statistical_overview_2003.htm

Davy, Ulrike (2001): Frankreich. In: Ulrike Davy (Ed.): Die Integration von Einwanderern. Bd.1: Rechtliche Regelungen im europäischen Vergleich. Wohlfahrtspolitik und Sozialforschung 9.1. Frankfurt: Campus:

El Battiui, Mohamed; Firouzeh Nahavandi; Meryem Kanmaz (2004): Mosquées, imams et professeurs de religion isalmique en Belgique. Bruxelles: Fondation Roi Baudoin. Available online at <http://www.kbs-frb.be/files/db/fr/PUB%5F1448%5FMosquees%5Fimams%5Fprof%5Fislam.pdf>

European Commission/ ICMPD (eds.) (2001): Admission of third country nationals to an EU member state for the purposes of study or vocational training, and admission of persons not gainfully employed. Luxembourg: Office for Official Publications of the European Communities.

Fetzer, Joel S; J. Christopher Soper (2005): Muslims and the State in Britain, France, and Germany. Cambridge: Cambridge University Press

[Der] Fischer Weltalmanach 2005. Zahlen, Daten, Fakten. Frankfurt/Main: Fischer

Gsir, Sonia; Marco Martiniello, Johan Wets (2003): Belgium. In: Jan Niessen, Yongmi Schibel, Raphaelae Magoni (eds.): EU and US approaches to the management of immigration. Brussels: Migration Policy Group. Available online at <http://www.migpolgroup.com/uploadstore/Belgium.pdf>

Hava Engin (2001): Wenn Sechs Prozent aller Schüler Muslime sind. Islamischer Religionsunterricht an deutschen Schulen? *Bürger im Staat*, 4 (2001), available online under http://www.lpb.bwue.de/aktuell/bis/4_01/islamreli6.htm

Home Office, (2002), "Secure Borders, Safe Haven: Integration with Diversity in Modern Britain", presented to Parliament by the Secretary of State for the Home Department by command of Her Majesty, February 2002

Jacobs, Dirk, Marco Martiniello & Andrea Rea (2002): Changing patterns of political participation of immigrant origin citizens in the Brussels Capital Region: The October 2000 elections. In: *Journal of*

International Migration and Integration / Revue de l'intégration et de la migration internationale, 3(2): 201-221. Available also at: <http://users.belgacom.net/jacobs/jimijacmar.pdf>

Jandl, Michael Albert Kraler, Anna Stepien/EUMC (2003): *Migrants, Minorities and Employment. Exclusion, Discrimination and Anti-Discrimination in 15 Member States of the European Union. EUMC Comparative Study*. Luxembourg: Office for Official Publications of the European Union, ISBN: 92-95008-16-2, available at: http://www.eumc.eu.int/eumc/index.php?fuseaction=content.dsp_cat_content&catid=3fb38ad3e22bb&contentid=3fbe028279e2d

Janhevich, D. and Ibrahim, H., *Muslims in Canada (2004): An Illustrative and Demographic Profile*, in: *Our Diverse Cities*, no.1, spring 2004

Lange, Tessel de & Ineke Hendrickx (2004): *Toelating van vreemdelingen voor verblijf bij religieuze organisaties. Beleid en praktijk in Nederland voor en na de Vreemdelingenwet 2000*, Nijmegen: Wolf Legal Publishers 2004. Available at http://www.wodc.nl/images/ewb04toe_tcm11-10538.pdf

Lemmen, Thomas; Melanie Miehle (2001): *Islamisches Alltagsleben in Deutschland. (Gesprächskreis Migration und Integration)* Bonn: Friedrich Ebert Stiftung. Available online at: <http://library.fes.de/fulltext/asfo/01003toc.htm>

Limage, Leslie J. (2000): *Education and Muslim Identity: the case of France. Comparative Education*, 36/1, pp.73-94

Open Society Institute (2002): *The Situation of Muslims in France. EU Accession Monitoring Programme (EUMAP)* Available at http://www.eumap.org/reports/2002/eu/international/sections/france/2002_m_france.pdf

Safran, William (2004): *Ethnoreligious Politics in France: Jews and Muslims. West European Politics*, 27, 3, p.432

Simon, Patrick (2003): *French Muslims, Government Grapple with Integration Pains. Migration Information Source*, available at <http://www.migrationinformation.org/feature/display.cfm?ID=153>

Slominski, Peter (2001): *Schweiz*. In: Ulrike Davy (Ed.): *Die Integration von Einwanderern. Rechtliche Regelungen im europäischen Vergleich*. Europäisches Zentrum. Frankfurt/Main: Campus, pp. 709-793

Spuler-Stegemann, Ursula (2001): *Islam in Deutschland. Die Grenzen der Religionsfreiheit. Muslime in Deutschland. Organisationen und Gruppierungen. Der Bürger im Staat*, 4/2001

Statistik Austria (2002): *Volkszählung. Hauptergebnisse I. Österreich*. Vienna: Statistics Austria. Available at <http://www.statistik.at/neuerscheinungen/vzaustria.shtml>

U.S. Delegation to the Commission on Human Rights: *Country Report Canada*, <http://www.humanrights-usa.net/reports/canada.html>

U.S. State Department (2001): *Country Reports on Human Rights Practices. Country Report Canada*. Available at <http://www.terrorismcentral.com/Library/Government/US/StateDepartment/DemocracyHumanRights/2001/WesternHemisphere/Canada.html>

U.S. State Department, Bureau of Democracy, Human Rights and Labour (2004): *International Religious Freedom Report 2004, Country Report Austria*. Available at: <http://www.state.gov/g/drl/rls/irf/2004/35439.htm>

U.S. State Department, Bureau of Democracy Human Rights and Labor (2004): *International Religious Freedom Report 2004, Country Report Belgium*. Available at: <http://www.state.gov/g/drl/rls/irf/2004/35444.htm>

U.S. State Department, Bureau of Democracy Human Rights and Labour (2004): International Religious Freedom Report 2004, Country Report Canada. Available at:
<http://www.state.gov/g/drl/rls/irf/2004/35492.htm>

U.S. State Department, Bureau of Democracy Human Rights and Labour (2004): *International Religious Freedom Report 2004*, Country Report Czech Republic, available at:
<http://www.state.gov/g/drl/rls/irf/2004/35450.htm>

U.S. State Department, Bureau of Democracy Human Rights and Labour (2004): International Religious Freedom Report 2004, Country Report Denmark. Available at:
<http://www.state.gov/g/drl/rls/irf/2004/35451.htm>

U.S. State Department, Bureau of Democracy Human Rights and Labour (2004): International Religious Freedom Report 2004, Country Report France. Available at
<http://www.state.gov/g/drl/rls/irf/2004/35454.htm>

U.S. State Department, Bureau of Democracy Human Rights and Labour (2004): International Religious Freedom Report 2004, Country Report Germany. Available at:
<http://www.state.gov/g/drl/rls/irf/2004/35456.htm>

U.S. State Department, Bureau of Democracy Human Rights and Labour (2004): International Religious Freedom Report 2004, Country Report Switzerland. Available at:
<http://www.state.gov/g/drl/rls/irf/2004/35487.htm>

U.S. State Department, Bureau of Democracy Human Rights and Labour (2004): International Religious Freedom Report 2004, Country Report United Kingdom. Available at:
<http://www.state.gov/g/drl/rls/irf/2004/35492.htm>

Vanheule, Dirk; Marie-Claire Foblets (2004): Belgium. Report presented at the FIDE (International Federation for European Law) Congress in Dublin, 2-5 June 2004.
Available at: <http://www.fide2004.org/reports/t3belgium.pdf>

Waldrauch, Harald; Karin Sohler (2004): Migrantenorganisationen in der Großstadt. Entstehung, Strukturen und Aktivitäten am Beispiel Wien. Volume 14 of the European Centre Vienna's Series "Wohlfahrtspolitik und Sozialforschung". Frankfurt, New York: Campus Verlag