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Austro-Hungarian Confessional Politics in Bosnia Herzegovina: International Law, Muslim Autonomy Movements and the Islam Act of 1912[*]

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Introductory Notes on Confessional Politics in Austria–Hungary

Many scholars have noted that in Bosnia, and partly Herzegovina, a different understanding of Islam developed under Austria–Hungary. However, this understanding was based on, and inspired by, the practices and teachings of the traditional Hanafi school of thought.[1] In the course of the occupation of Bosnia by Austria–Hungary and its annexation afterwards, (autochthonous) Muslims of a European territory found themselves in and were confronted with a so-called Western state, which promised them religious freedom. According to Richard Potz, in this context a 'churchization' policy introduced by the Habsburgs, which altered the hierarchical organisation of the Islamic religious community in Bosnia, and led to a certain 'Europeanization and modernization' of Bosnian Islam.[2] Although the impact of the Habsburg policy is hard to deny, several factors in complex interaction may have been responsible for that 'modernization'. Bosnia had been a multi-religious society for a long time before Austro-Hungarian rule, composed of diverse religious communities. Moreover, heterodox forms of Islam, such as Sufi orders and brotherhoods, had obtained a relatively strong influence there, in a tradition quite independent from the

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[1] Balić 1995: 27–8.

[2] Potz 2010: 389.

Sublime Porte (the Ottoman government) in Istanbul.[3] The multi-religious Ottoman empire had already enabled a certain internal autonomy for religious communities through its *millet* system. Centuries later, a similar structure may have developed in Habsburg territories.[4]

The aim of this chapter is to focus on the role of confessional politics in Bosnia Herzegovina under the Austro-Hungarian administration. Needless to say, religious politics under Austro-Hungarian rule cannot be separated from the dynamics of the international state system before the First World War. However, the debate on nationalism in the Balkans and the Austro-Hungarian empire, as well as the dissolution of that empire, will be secondary here. While a section is dedicated to the consequences for Austria–Hungary of the annexation of Bosnia Herzegovina, the focus is on the legal regulation of the Islamic religious community in the Austro-Hungarian empire. I will argue that from the outset, Austro-Hungarian confessional politics in relation to Muslims in Bosnia Herzegovina was shaped by the often contradictory dynamics stemming from international law on the one hand and Muslim autonomy movements on the other. These two factors were relevant during the whole period from the initial occupation of Bosnia Herzegovina to the regulation of the Islamic religious community in the Austrian and Hungarian parts of the empire.

Confessional politics under the Austro-Hungarian administration of Bosnia Herzegovina was considered either in terms of institution-building and modernising reform, or in relation to confrontation with oppositional groups.[5] Austro-Hungarian policies concerning religion have been characterised as both abetting the unequal treatment of different religious groups and encouraging integration.[6] Ferdinand Schmid, former head of the statistical office of the provincial government in Bosnia Herzegovina during the 1890s, later university professor in Leipzig, for example, concluded in 1914 that Muslim conservatism could be an impediment to Muslims adopting 'abendländischen Kulturverhältnissen' (Occidental culture) and progress, which possibly could cause a decline of that minority.[7] According to Potz, the challenge for Austro-Hungarian governance of religion and for religious communities was to establish a religiously neutral system in a land that had been dominated by Islam for centuries, without giving the impression of discrimination.[8] He argues that Austria–Hungary tried to do this as carefully as possible, and in an 'Islam-friendly' way. This chapter

[3] Klieber 2010: 157–8.
[4] Adanır 2003.
[5] Hauptmann 1985; Čupić-Amrein 1987.
[6] Aleksov 2007; Klieber 2010: 160.
[7] Schmid 1914: 659–4.
[8] Potz 2010: 389–90.

investigates the dynamics that shaped the Habsburg Islam policy in Bosnia Herzegovina, and reveals its complexities.

The Occupation of Bosnia and Herzegovina under Hindering International Law

At the height of imperialism from the 1880s to the First World War, the Great Powers rapidly divided large parts of the world into spheres of influence. After the loss of vast, economically important territories in Upper Italy, the military defeat by Prussia in 1866 (which diminished the Habsburgs' influence in Germany) and the failure of the 'Greater German Solution', the political leadership of Austria–Hungary sought influence in southeastern Europe. The economic crisis of the Ottoman empire caused an uprising in 1875 by Christian *Kmeten* (peasants and serfs) in Herzegovina and parts of Bosnia following a poor harvest. According to the Austro-Hungarian authorities, more than 100,000 refugees from Herzegovina and Bosnia entered Croat territories then under the sovereign jurisdiction of Austria–Hungary. Austria–Hungary stepped into the power vacuum left by this crisis. In accord with the Russian and German empires, it demanded of the British and French empires and the Italian Kingdom, in a diplomatic note of 30 December 1875, that the Sublime Porte should carry out the promised reforms in Bosnia and proposed a programme for religious equality and agricultural relief.[9]

Austro-Hungarian claims to Bosnia Herzegovina took shape in the Treaty of San Stefano in March 1878,[10] after the Serbian-Montenegrin-Ottoman and Russian-Ottoman wars, and in secret treaties between the Great Powers in the run-up to the Congress of Berlin (13 June–13 July 1878).[11] The Congress, chaired by the German imperial chancellor Otto von Bismarck, can be seen as linking the Congress of Vienna (1814–15), following the French Revolution and its aftermath, to the Paris Peace Conference (1919), held after the First World War and the revolutions in the large European empires.[12] The Congress of

[9] Harris 1932.

[10] For the occupation of Bosnia Herzegovina, the delegations of the Austrian Reichsrat and the Hungarian Reichstag had to approve the 'Occupation-credit'. This extraordinary credit of 60 million guilds for unforeseen expenses was still strongly disputed in the sessions of the delegation to the Reichsrat on 20 and 21 March 1878. Protokoll der Delegation des Reichsrathes, 6. Sitzung der 10. Session, 20 March 1878, 77–114; Protokoll der Delegation des Reichsrathes, 7. Sitzung der 10. Session, 21 March 1878, 115–78.

[11] Preliminary Treaty of Peace, signed in San Stefano 3 March 1878, extract in Geiss 1978: 15–21; Rösler 2002: 10; Potz 2010: 387.

[12] Geiss 1978: ix–xxxv. Otto von Bismarck asserted in his memoirs that it was not the Berlin Congress (1878) that laid the foundation for the Austrian possession of Bosnia Herzegovina as well as Austro-Hungarian neutrality during the war between Russia and the Ottoman empire (which shifted the Russian focus from Eastern Galicia to the Balkans). It was instead secret understandings made during the Convention of Reichstadt, which took place at the imperial retreat in Bohemia between Emperor

Berlin and the so-called Orient Crisis (1875–8; also known as the Great Eastern Crisis) arose out of conflict between a declining Ottoman empire and emerging national movements in the Balkans on the one side, and clashing interests of the Great Powers on the other. Out of this situation, a constellation of alliances (the Dual Alliance of 1879 and Triple Alliance of 1882, and the Triple Entente of 1894) had emerged by the beginning of the First World War. Owing to the occupation and later annexation of Bosnia Herzegovina by the Habsburgs, the activities of south Slavic national movements were directed predominantly against the Danube monarchy and contributed to the First World War.[13]

On 13 July 1878, the signatory powers of the Treaty of Berlin gave Austria–Hungary the mandate to occupy and administer the provinces of Bosnia and Herzegovina, using as a basis Article XXV of the new treaty.[14] Still, during the Berlin Congress and after the announcement of the planned occupation, Muslim resistance in Bosnia (and Herzegovina), openly supported by the Ottomans, forced Emperor Franz Joseph I to publish his Proclamation of 28 July, in which he promised religious tolerance in Bosnia Herzegovina.[15] Austria–Hungary took advantage of the opportunity offered by the Treaty of Berlin, and occupied Bosnia Herzegovina, a circumstance that was resisted by the local people. The fighting with Muslim insurgents lasted from July to October 1878. The Great Powers had not agreed to a war, and diplomatic pressure by the Ottoman Empire increased. Article XXV of the Treaty of Berlin did not stipulate any details regarding the occupation and Habsburg administration of Bosnia; it stated only that the Austro-Hungarian government would enter negotiations with the Ottoman government about Bosnia Herzegovina.[16]

The subsequent Convention between Austria–Hungary and the Ottoman Empire, signed on 21 April 1879, stated, first, that the administration of Bosnia Herzegovina should be based on the international agreement reached at the Berlin Conference, but that in general the Habsburg occupation should not affect the sovereign rights of the Ottoman sultan over these provinces. Second, and in more detail, it stipulated that the Ottoman functionaries in Bosnia Herzegovina be taken into the new administration. In particular, the Convention regulated the relations between the future Austro-Hungarian administration and Muslims regarding religious freedom. This implied that all religious groups, but particularly Muslims, should not only be granted complete freedom but also enjoy the special care of the government. Finally, on a symbolic level the continuity of

Franz Joseph and his guest Tsar Alexander II on 8 July 1876. These understandings were reinforced several months later by the two monarchs with the Budapest Convention of 15 January 1877. See Bismarck 1922: 245–6.

13 Geiss 1978: ix–xxxv.

14 Facsimile of German Reichsgesetzblatt no. 31, in Geiss 1978: 369–407; Medlicott 1938: 71–86.

15 'Proclamation' 1878.

16 Facsimile of German Reichsgesetzblatt no. 31, in Geiss 1978: 388.

the sultanate's sovereignty remained, since the Convention stated that the name of the sultan should be mentioned in Friday prayers at the mosques, and that Ottoman flags should still be raised over mosques, as they had been previously.[17] The Treaty of Berlin had concluded that the crisis in the Balkans was 'solved', enabling the Austro-Hungarian Empire to occupy Bosnia Herzegovina. But it and the Convention of 1879 complicated the subsequent incorporation of the new provinces into the Austro-Hungarian administration system and the creation of new administrative elements, since Bosnia Herzegovina remained formally under the sovereignty of the Ottoman sultan.[18]

Habsburg Imperial Administration, the Muslim Autonomy Movement and the Governance of Religion in Bosnia

The Ottoman empire negotiated in the Convention of 1879 that the Austro-Hungarian occupation of Bosnia Herzegovina should be provisional. The imperial and royal dual government in Vienna and Budapest, however, thought this obstacle to Habsburg rule in Bosnia would be solved in time. The Austro-Hungarian Compromise (*Ausgleich*) of 1867 had complicated Bosnia Herzegovina's status in the constitutional system of the double monarchy. Bosnia Herzegovina was not a Crown land in its own right. Thus, shortly after the occupation, it came under control of the joint Council of Ministers. This was followed by the establishment of the 'Bosnian Commission' within the Foreign Ministry. From 1879 the Joint Finance Minister of the Austrian-Hungarian monarchy[19] (first Benjamin Kállay, then Stephan Burián von Rajecz) had to oversee the administration of the occupied territories. The chief of the Bosnian-Herzegovinian provincial government (which did not have its own legislature), at the same time the commander of the imperial 15th army corps, had by his side a civilian head to look after the administration of the province. From 1880 onwards, Administration Acts for Bosnia and Herzegovina solidified joint proceedings of both imperial parts of Cis- and Transleithania.[20] The Imperial Proclamation of 28 July 1878 included the provision that the old Ottoman laws should be effective until any new ones were enacted.[21] During the transition period from Ottoman to Habsburg administration, Ottoman legal institutions remained in place in the lower levels of the administration (such as the District-*Medžlisse*), and therefore a mixed legal system existed until new

[17] *Bericht 1906*: 18 ff; Medlicott 1938: 262–89; Rösler 2002: 13–16.
[18] Medlicott 1938.
[19] Finance minister for the whole Dual Monarchy, as distinct from the two separate finance ministers for the Austrian and Hungarian parts of the empire.
[20] *Bericht 1906*: 19–24.
[21] 'Proclamation' 1878.

Habsburg institutions could replace the Ottoman ones.[22] For the first time, a large Muslim population became part of Austria–Hungary: about half a million people, according to the census of 1900.[23]

After the imperial administration had signed the Convention with the Ecumenical Patriarchate in 1880 and the Concordat with Rome in 1881, it created separate Islamic institutions in Bosnia Herzegovina.[24] This was a matter of concern for some Bosnian Muslims. In 1881, twenty-seven notables of Sarajevo submitted a petition requesting the appointment of a confessional head for the Muslim community. Later they proposed that this figure be called Reis-ul-Ulema, and that by his side there should be a Medžlis-Ulema (council of ulema).[25] By a highest ordinance of 17 October 1882, the imperial administration ordered (with the consent of the sheikh ül-Islam, the supreme mufti of the Ottoman empire) the mufti of Sarajevo to be the spiritual leader of Muslims in Bosnia Herzegovina, giving him the title Reis-ul-Ulema and providing him with the Medžlis-Ulema, consisting of four theologians.[26] In this way the Austro-Hungarian government was able to loosen the connection between Bosnian Muslims and the sheikh ül-Islam. This was the beginning of the creation of a church-like hierarchy of Islamic officials in Bosnia Herzegovina.[27]

The petition also requested that a Muslim be entrusted with the control of the administration of *waqf* (religious endowments) in Bosnia Herzegovina. In 1883, the Austro-Hungarian administration reorganised the fragmented system of religious endowments and subordinated them to a provisional Waqf Commission, presided over by a reputable Muslim. In 1884, the administration provisionally created countrywide district-level Waqf Commissions. These finally evolved into the construction of a Provincial Waqf Commission, with a Provincial Waqf-Directorate as the executive authority, and a Provincial Waqf Fund. The educational (*Mearif*) fund was incorporated into the Waqf Fund in 1895. This Provincial Waqf Fund met hostile opposition, especially where it concerned education, since it was regarded as not substantiated by religious laws.[28] Muslims had asked the emperor, in a petition in 1886, for autonomy over the *waqf* administration.[29] Most disputed were the reforms in religious education, such as

[22] *Bericht 1906*: 37–41.
[23] Ibid., 6–10.
[24] See ibid., 125–30.
[25] In contemporary Austrian media, this council was referred to as *Medžlis-Ulema*. In today's Bosnia, the term *Ulema-Medžlis* is also widely used.
[26] *Bericht 1906*: 125. Unfortunately, the imperial resolution by Franz Joseph of 17 October 1882 is not currently available. It is mentioned in Schmid 1914: 675. A short report in the *Neue Freie Presse* (*Abendblatt*), 19 December 1882, p. 1, gives an impression of the appointment of the spiritual head in Sarajevo (Mustafa Hilmi-ef. Omerović) and names the new members of this council.
[27] Hauptmann 1985: 685–7.
[28] *Bericht 1906*: 125–30; Schmid 1914, 674–94.
[29] Djurdjev 1998.

those establishing juridical education for Sharia judges (1887) or education for teachers in religious elementary schools (1892).[30]

The emerging Muslim autonomy movement was especially against educational reform, which it saw as interfering with their internal affairs.[31] By 1896, the oppositional autonomy movement had spread from Herzegovina to Bosnia. On 27 December 1895, a mixed Bosnian and Herzegovinian but predominantly Serbian Orthodox delegation gave the Habsburg emperor a memorandum that referred to obligations regarding international law in the Berlin Treaty of 1878 and the Convention of 1879.[32] The memorandum listed about forty breaches of contract, especially accusations of unequal treatment in religious matters.[33]

The city of Mostar had been at the centre of the first wave of the Muslim opposition movement, in which *hodjas* (Bosnian imams or teachers) played an important role and reading halls (*kiraethana*) served as local epicentres. In August 1899, representatives of Mostar reading halls demanded a statute for religious endowment and school autonomy and prepared a proposal for it. The draft statute for the Islamic religious community presented to Minister Kállay accentuated the sovereignty of the Ottoman sultan over Bosnia Herzegovina, a fact that Austria–Hungary did not accept.[34] The first round of negotiations between the imperial administration and opposition groups in 1901 over this draft failed largely on three points: the distribution of state subsidies for religious matters; the appointment of Reis-ul-Ulema and Ulema Medžlis; and the conferral of *Menšura*, the authorisation granted by the sheikh ül-Islam to the Reis-ul-Ulema for exercising religious functions.

The movement subsequently stagnated, but it regained momentum shortly after the granting of the Serbian Orthodox autonomy statute in 1905, when large Muslim landowners who had been loyal to the provincial government started to support the Muslim autonomy movement against it.[35] *Begs* and *agas*, the Bosnian aristocracy and landowners, increasingly replaced the influence of *hodjas* in the autonomy movement. Economic demands became important. From 1906 onwards the movement took 'a more organized and definitive shape' in the form of an executive committee of Muslim people's organisations, presided over by Ali Bey Firdus.[36] A memorandum to the Austrio-Hungarian delegation in December 1906 referred explicitly to the Berlin Treaty. The memorandum

[30] Čupić-Amrein 1987.
[31] For a precise historical account of the Muslim autonomy movement, see Čupić-Amrein 1987: 88–112; Neumayer 1995.
[32] On the Serbian Orthodox autonomy movement and its cooperation with the Muslim autonomy movement, see Čupić-Amrein 1987: 60–87.
[33] Ibid., 66–73; Rösler 2002: 31–2.
[34] Djurdjev 1998.
[35] The Kállay regime had relied heavily on large Muslim estates.
[36] Djurdjev 1998.

contained mainly economic claims and demanded that in this respect in the future the Berlin Treaty should be followed.[37] The preparation of the Serbian Orthodox church and school autonomy statute led the emerging movement of Muslims to aim at a similar self-administration, which resulted in consultations with the imperial government in June 1907 but ended without agreement on the conferral of *Menšura*.[38] After many unsuccessful memoranda, mixed opposition groups of different religious denominations submitted another memorandum in 1907, this time to the International Peace Conference in The Hague. This document accused Austria–Hungary of breaching international law regarding the mandate over Bosnia Herzegovina. It contained, besides accusations of economic neglect and other offences, complaints about unequal treatment in religious matters. With this memorandum Bosnia Herzegovina moved again to the centre of the politics of Europe's Great Powers.[39]

Conflicted Formal Annexation of Bosnia and Herzegovina

In 1908, the Austro-Hungarian leadership feared that, with the outbreak of the Young Turk Revolution that restored constitutional rule in the Ottoman empire, the Ottomans would attempt to repeal Article XXV of the Berlin Treaty, which enabled Austria–Hungary to occupy and administer Bosnia and Herzegovina. Austria–Hungary therefore notified the signatory powers of the annexation of Bosnia Herzegovina on 5 October.[40] This formal annexation triggered a months-long crisis in Europe, a crucial step in the lead-up to the First World War. International tension culminated in the threat of war between Austria–Hungary and Serbia. By February 1909, Austria–Hungary had managed to achieve the international isolation of Serbia and formal recognition of the annexation of Bosnia Herzegovina by the Sublime Porte. During the whole period of occupation since the Treaty of Berlin and the Convention of 1879, Austria–Hungary had been exercising administrative authority in Bosnia Herzegovina, even if the provinces remained formally under the sovereignty of the Ottoman sultan. With the Imperial Proclamation of October 1908, that status under international law was brought under imperial and 'constitutional' law.[41]

In 1909, the Muslim autonomy movement in Bosnia Herzegovina finally achieved the promulgation of the statute of autonomous administration of Islamic religion, endowments and schools. In January 1908, reopened negotiations between the Habsburg government and Muslims in Bosnia had concluded

[37] Čupić-Amrein 1987: 88–112.
[38] *Bericht 1907*: 43–4.
[39] Čupić-Amrein 1987: 85–7; Rösler 2002: 32–3.
[40] Rösler 2002: 17.
[41] Ibid.; Čupić-Amrein 1987: 47; Schmid 1914: 25 ff.

with agreement on the three main disputed questions. A religious electoral curia (*geistliche Wahlkurie*) was granted decisive influence on the appointments of Reis-ul-Ulemas and the Ulema Medžlis, and state subsidies for Muslim concerns were placed at the disposal of the Provincial Vakf Commission. In September 1908, mutual consent was reached concerning the question of the *Menšura*: after the appointment of the Reis-ul-Ulema, the electoral curia had to make a diplomatic effort to attain the autonomy of the *Menšura* from the Ottoman sheikh ül-Islam.[42] The verdict of the sheikh ül-Islam was accepted by the Habsburg government and was also added to the Entente Protocol of 26 February 1909 between the imperial Ottoman and Austro-Hungarian governments, an agreement that, for the two provinces of Bosnia and Herzegovina, replaced the Convention of 21 April 1879.[43] Article 4 stated that the 'freedom and outward observance of the Mussulman religion will be assured, as in the past, to persons inhabiting or sojourning in Bosnia and Herzegovina', and that they should 'continue to enjoy the same civil and political rights as all the inhabitants of Bosnia and Herzegovina belonging to other religions'.[44]

Furthermore, regarding the conferral of *Menšura*, the Protocol stipulated that no obstacle should be placed in the way of relations between Muslims and their spiritual leaders, who 'shall be subject, as always, to the Chéik-ul-Islamat at Constantinople, which latter will give investiture to the Reïs-ul-Uléma'.[45] This had been the main impediment to the Islamic autonomy statute of 1909. The Statute of the Autonomous Administration of the Islamic Religion, Endowments and Schools primarily set out the form of the Vakf-Mearif administration, the task of which was the founding and maintenance of mosques and other Islamic religious, cultural and humanitarian institutes, and the education of religious servants, teachers and the Islamic youth in questions of faith.[46] The statute determined the organs and electoral bodies, such as assemblies, at all levels from local (*Džemat*) to countrywide. It also established the administration of the *Vakuf-Mearif* funds, with the Ulema Medžlis heading the administration and composition of the Islamic religious institutions.[47]

After the international question of annexation had been formally resolved, internal problems concerning constitutional relations between the Austrian and Hungarian governments as well as within the double province of Bosnia

[42] *Bericht 1908*: 39–40; Čupić-Amrein 1987: 88–112.
[43] *Bericht 1909*: 45–6.
[44] 'Protocol' 1909: 287.
[45] Ibid.
[46] 'Allerhöchste Entschließung vom 15. April 1909 betreffend das Statut über die autonome Verwaltung der islamitischen Religions-, Stiftungs- und Schulangelegenheiten in Bosnien und der Hercegovina', in *Gesetz- und Verordnungsblatt für Bosnien und die Hercegovina*, Part X, 1 May 1909, pp. 419–54.
[47] 'Statut vom 1. Mai 1909 über die autonome Verwaltung der islamitischen Religions-, Stiftungs- und Schulangelegenheiten in Bosnien und der Hercegovina', in ibid.

Herzegovina became even more pressing. The Austrian ('in the Imperial Council-represented Kingdoms and Countries') and Hungarian ('the lands of the holy Hungarian Crown') sides of the monarchy quarrelled about which part should incorporate the acquired territories. The 'Bosnian-Herzegovinian Constitution' (provincial statute) of 17 February 1910 could not completely clarify the constitutional relation of Bosnia Herzegovina to the monarchy.[48] As well as basic legal elements, the constitution was comprised of the provincial statute, which in Article 8 granted freedom of faith, conscience and creed, and explicitly named (contrary to Austro-Hungarian constitutional law dating from 1867) all recognised religious societies in Bosnia Herzegovina, including the 'Islamites'. Article 10 of the provincial statute guaranteed the application of Sharia law in matters of family, matrimony and inheritance between Muslims. The second part of the provincial statute contained norms concerning a Bosnian and Herzegovinian state parliament (*Landtag*).[49] Bojan Aleksov described the consequences: 'Emperor Franz Joseph I furnished the Bosnian *Landtag* with very limited rights to self-government and structured it along strictly confessional lines … The voting in confessional clusters further radicalized the national parties and deepened the mistrust towards the government among the population.'[50]

Contemporary critics argued that the establishment of a religious electoral curia was designed to create dissent among the main denominational groups.[51] Article 42 of the provincial statute granted the Bosnian and Herzegovinian state parliament the power to make laws in matters of inter-denominational relations and of relations between the denominations and the state authority, provided that it did not intervene in equality, internal organisation or the practices of recognised congregations.[52] This can be considered exceptional. The officially named 'Kingdoms and Countries Represented in the Imperial Council', the Austrian territories of the Dual Monarchy, were granted universal suffrage for men in 1907, but without any denominational partitioning, while the 'Lands of the Holy Crown of St Stephen', the Hungarian territories, did not obtain it until the end of the monarchy. For example, the *Landtag* of Bukovina had denominational 'virilists' (ex-officio members; seats delegated owing to their clerical offices), but no religious electoral curia. It seems that the Bosnian and Herzegovinian religious electoral curia was exceptional in Austria–Hungary.

[48] 'Allerhöchste Entschließung vom 17. Februar 1910 betreffend die Einführung von verfassungsmäßigen Einrichtungen', in *Gesetz- und Verordnungsblatt für Bosnien und die Hercegovina*, Part II, pp. 21–73.
[49] Rösler 2002: 33–40; Čupić-Amrein 1987: 47–52.
[50] Aleksov 2007: 214.
[51] Rösler 2002: 46–7.
[52] Ibid., 42.

Consequences for Austria–Hungary of the Annexation of Bosnia Herzegovina

One of the most important consequences of the annexation was the adoption of the *Islamgesetz*, the Islam Act of 15 July 1912. Since the relevant provisions of the 1909 Statute and the 1910 Constitution were for Bosnia Herzegovina only, the Islam Act gave the recognition of followers of Islam according to Hanafi *madhhab* only in the Austrian territories of the Dual Monarchy.[53] The Act originated in Muslims' demands for the formal recognition of their religion in the empire. A few weeks after the formal annexation, Muslims living in Vienna inquired at the Ministry for Religious Affairs and Education (k.k. Ministerium für Kultus und Unterricht) about the possible recognition in Austria–Hungary of Islam as a religious society.

The demand for recognition can be traced back to the application by the Committee of Action of the Austrian Orient Association in January 1909 to establish a mosque in Vienna. The Association justified its application by referring to the plans of the city's mayor, Karl Lueger, to build a mosque for Muslims living there, and argued that foreign policy rationales would favour the legal recognition of an Islamic religious society, as well as the building of a mosque. More than 600,000 Muslims had been living in the monarchy since the annexation of Bosnia Herzegovina, and hundreds were in military service in Vienna. The ministry denied the application, maintaining that the association had no legitimacy. This triggered a long and intensive period of negotiation and preparation in Austria's executive and legislative branches. By the end of February 1909, an inter-ministerial working group had been formed to discuss the recognition of Islam in principle and to draft an Act to that effect.[54] In June 1909, before the 'Bosnian Constitution' was enacted, this draft was brought before the House of Lords.[55]

Together with the Act on the Legal Recognition of Religious Societies (1874), the Basic Law on the Fundamental Rights of Citizens (1867) granting freedom of faith, conscience and creed had established the legal basis for the recognition of Islam in 1912 via the Islam Act. The Basic Law was a turning point in the history of the Catholic-dominated empire, since it brought about the constitutional equality of legally recognised churches and religious societies, although they were still under the supervision of the state. The Act of 1874

[53] 'Gesetz vom 15. Juli 1912, betreffend die Anerkennung der Anhänger des Islams nach hanefitischem Ritus als Religionsgesellschaft', in *Reichsgesetzblatt für die im Reichsrate vertretenen Königreiche und Länder*, Part LXVI, 9 August 1912, pp. 875–6.
[54] Rösler 2002; Potz 2010: 391 ff.
[55] Schmid 1914: 33.

standardised the preconditions for the recognition of religious societies.[56] It did not mention the Islamic Community explicitly,[57] however, and its proponents in the ministerial preparation commission argued that it did not contain any rules about Muslim matrimony.[58] Therefore, a special law was needed in the shape of the Islam Act. Since the legal recognition of Islam referred directly to the Hanafi school of Islamic law, its orientation towards Muslims in Bosnia Herzegovina was explicit. This was also out of consideration for external affairs with the Ottoman empire. Essentially, the Act granted Muslims the same rights as members of the Roman Catholic Church and other religious societies recognised by law in the Austrian territories. They now enjoyed the right to establish confessional institutions (such as pious foundations) and hospitals, to practise their religion freely (spiritual guidance was now allowed in the military and religious education in schools, for example) and to handle internal affairs by themselves. One limitation was that Islamic law (for instance, with regards to polygamy) should not contradict the Austrian Basic Law.[59]

The turning point for the ambivalent integration policies of the monarchy regarding Bosnia Herzegovina was Bosnian Muslims entering the imperial army. With the Temporary Defence Act of 1881 for Bosnia Herzegovina, the army conscripted Muslims for the first time. That Act was abrogated by the new Military Act for Bosnia Herzegovina of 11 August 1913, which granted that the conscripted Bosnian and Herzegovinian *Landesangehörige* ('provincial affiliates', rather than citizens) should be treated as equal to the conscripts of Austria–Hungary.[60] After the introduction of the 1881 Act, the last major uprising against the Austro-Hungarian occupying forces took place.

The authors of the defence bill (1881) considered the special needs of Muslim conscripts carefully, and additional regulations governed their treatment in the army. Fridays and certain Islamic holidays, such as Ramadan and Eid al-Fitr, were considered rest days. Muslim soldiers were allowed to supply themselves with food separately, to attend medical examinations individually and – when off duty – to visit the mosque. Bosnian infantry members wore breeches and fezes. From 1909 to 1914, four military imams were employed in the Bosnian and Herzegovinian units. In 1913, Emperor Franz Joseph approved the creation of the military position of mufti.[61] These additional rights resulted from the increasing presence and contribution of Bosnian Muslim soldiers in the army. On 17 September 1911, for example, the social revolts that occurred in the

[56] Potz 2010: 388–9.
[57] Kalb, Potz and Schinkele 1998: 77–8.
[58] Rösler 2002: 198–211; Potz 2010: 392–3.
[59] Neumayer 1995: 122–5.
[60] *Bericht 1913*: 109–10.
[61] Neumayer 1995.

Viennese workers' district of Ottakring were brutally crushed by, above all, Bosnian and Herzegovinian infantry regiments.[62] The exceptional legal dispositions, as reserved in the 'Bosnian-Herzegovinian Constitution' of 1910, were brought about because of the various martial developments, first in early May 1913 and then in July 1914 for Bosnia Herzegovina too.[63] Finally, the participation of Bosnian Muslims in the imperial army in the First World War sealed the importance of their integration and recognition. During the conflict, the number of Muslim chaplains increased sharply. During the war ninety-two military imams were in the reserves, while at the beginning of 1918 a military mufti and two imams were in military service and five military imams were in the reserves.[64]

The Ungarisch-bosnische wirtschaftliche Zentralstelle (Hungarian-Bosnian Economic Central Office) took the initiative for the legal regulation of an Islamic religious community in Hungary at a much later stage than in Austria. On the one hand it was argued that Turkish Muslims had been living alongside Hungarians for centuries. On the other, old Christian resentments and perceptions about the 'incoherence' of the Qur'an were used to make a case against the adoption of an organisational statute for Muslims in Hungary.[65] It was only in 1916 that legal recognition was granted to Muslims there.[66]

It should be emphasised that the purpose of the Islam Act of 1912 was not just the improved integration of Muslim soldiers from Bosnia Herzegovina into the Austro-Hungarian army. The process of recognising Islam in fact affected the empire much more widely. It played a significant role in opening up medical studies to women at Austrian universities, for example. It was Joint Finance Minister Benjamin Kállay – responsible for the administration of the provinces of Bosnia and Herzegovina – who first posted two job advertisements in Switzerland for female public-health officers in Bosnia in 1891. At the time, women were not allowed to study medicine in Austrian universities, so women from Austria went to Zurich to do so. The Austro-Hungarian authorities argued for the need for female physicians in Bosnia for religious and cultural reasons, since treatment by male doctors was not an option for Muslim girls and women.[67] In their demands to the authorities and universities in Vienna, those advocating for women's admission to Austrian universities invoked this need for female public-health officers in Bosnia. In 1902–3, five female public-health officers (Anna Bayerová, Bohuslava Kecková, Teodora Krajewska, Gisela Kuhn and

[62] Maderthaner 2005: 34 ff.
[63] Hautmann 2017: 78.
[64] Neumayer 1995.
[65] Balkanyí 1913: 3.
[66] Rösler 2002: 196–222.
[67] *Bericht 1906*: 90.

Jadwiga Olszewska) practised in Bosnia Herzegovina.[68] Gabriele Possanner von Ehrenthal – the first woman to graduate in medicine from an Austro-Hungarian university, in 1897 – applied for a post at a physician's office in Bosnia, since at the time no opportunities to work as a female doctor were available in Austria–Hungary.

The Islam Act of 1912 was meant to become the legal foundation for the integration of the Muslim population as a minority, and to intensify the integration of the province of Bosnia Herzegovina into the multi-confessional federation of Austria–Hungary. It seems, however, that only a few Bosnian Muslims migrated to the Cisleithanian part during the last years of the monarchy, and just 889 Muslims were living in Vienna in 1909.[69] Emigrants from Bosnia, especially Muslims, went mainly to Turkey and America during this period.[70] It can be argued that the Islam Act was far more influential in the Austrian Second Republic (from 1945 onwards) than at the time of its creation. Nevertheless, it marked a turning point in the Austro-Hungarian confessional policy and would have an impact beyond Austria, in post-Habsburg countries.

Concluding Remarks

The inner rule of the Dual Monarchy for the forging of confessional politics in Bosnia Herzegovina can be discussed beyond the two significant factors highlighted in this chapter: the international framework and the Muslim autonomy movements. In a series of interesting remarks in December 1913, the Austrian sociologist Otto Neurath (1882–1945), who made many study trips to the Balkans supported by the Carnegie Endowment for International Peace, pointed to the disputed, long-standing 'protectorate rights' of Austria–Hungary over Bosnia Herzegovina.[71] Neurath had already stressed the notion of religious denominational politics of Austria–Hungary regarding Bosnia, and described the inner affairs of the monarchy with a focus on the Orthodox South Slavs. At that time, the Orthodox South Slavs were regarded almost as a menace to the monarchy. The religious policies of Austria and of Hungary did not follow the same principles, Neurath noted, nor were their ethnicity policies in line with each other. Austria–Hungary's confessional policy in Bosnia was even more complicated, since it diverged from those of both Austria and Hungary. Policies to be applied in Bosnia required the consent of both parts of the empire. As

[68] Abid 2006: 166; Bolognese-Leuchtenmüller 2000: 21; Fuchs 2011: 76–85; Heindl 1993: 17–26; Stipsits 2000: 27–44.
[69] Potz 2010: 390.
[70] See statistical parts of the reports of the joint Finance Ministry 1906–16.
[71] Neurath 1914: 123.

a result, the Orthodox South Slavs were treated quite differently in Austria, Hungary and Bosnia, a fact that stirred up great conflict.[72]

According to Neurath, more in-depth analyses of Austro-Hungarian confessional policies in Bosnia Herzegovina regarding the Muslim population should take into consideration the interplay of the two imperial parts. This could be done, so far as they concerned religion, via the Administration Acts for Bosnia and Herzegovina beginning in 1880, which facilitated joint proceedings. Such analyses would also require the examination of the parliamentary proceedings of the Austrian Reichsrat and the Hungarian Reichstag, as well as the Austro-Hungarian delegation (a kind of coordinating representative institute in existence since the Austro-Hungarian Compromise of 1867), in addition to the joint ministries for foreign affairs, finances and war. Only expanded research taking into consideration the interplay between the constituent parts of the Dual Monarchy can help us address such questions as why the Hungarian Islam Act came in 1916, four years later than the Islam Act of 1912.

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[72] Ibid., 127.

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