Max Planck Institute
for Social Anthropology
Department 'Law & Anthropology'

The Subject of Islamic Religious Education in Public Schools in La Rioja

Question(s) at stake:

Whether it was lawful for the administration to refuse to provide Islamic religious education to the appellant's children in a public school.

Outcome of the ruling:

The Court upheld the appellant's request for recognition of her right to have her children receive Islamic religious education in a public school. The Court concluded that the fundamental right of the appellant had been unlawfully denied.

Topic(s):

- Education

Keywords:

- Right of parents to ensure the religious and moral education of their children
- Publicly funded education in a minority religion
- Freedom of thought, conscience and religion
- State-funded schools
- Religious and life stance education

Tag(s):

- Islamic religious education
- Indoctrination in a particular religion

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Country:

Spain

Official citation:

High Court of Justice La Rioja, Judgment of 2 November 2017, no. 322/2017 (Tribunal Superior de Justicia La Rioja, Sentencia de 2 de noviembre de 2017, Sentencia número 322/2017)

Link to the decision:

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ECLI:

ECLI:ES:TSJLR:2017:476

Date:

02 November 2017

Jurisdiction / Court / Chamber:

High Court of Justice of La Rioja, Administrative Disputes Division

Remedy / Procedural stage:

Fundamental Rights Procedure

Previous stages:

No information found

Subsequent stages:

No information found

Branches / Areas of law:

Constitutional law, administrative law

Facts:

The appellant, Ms Camino, brought a contentious administrative appeal under the procedure for the protection of fundamental rights of individuals against the decision of 6 April 2017 of the Consejería de Educación, Formación y Empleo del Gobierno de La Rioja (Department of Education, Training, and Employment of the Government of La Rioja) rejecting the request for recognition of the right of the appellant's children to receive Islamic religious education in their school. The appeal was based on the right to non-discrimination on religious grounds (Article 14), freedom of religion (Article 16), and the right of parents to ensure the religious education of their children in accordance with their own convictions (Article 27.3). Moreover, the Court also mentions the Organic Law 8/1985 of 10 July 1985 regulating the right to education, Organic Law 1/1990 of 3 October 1990 on the general organization of the education system, and Article 10 of Law 26/1992 of 10 November 1992 approving the Cooperation Agreement between the State and the Comisión Islámica de España (Islamic Commission of Spain, CIE).

The documents submitted in the proceedings show that the CIE complied with the obligation laid down in Article 10.2 of Law 26/1992 of 10 November 1992 by providing a list of the designated teachers of the Islamic religion in La Rioja. There were meetings and communications between the President of the CIE and the Head of the Education Department. The list of teachers of the Islamic religion and the request forms for Islamic religion were provided. In addition, there were more than 10 applications for Islamic religious education. Therefore, the High Court of Justice concluded that the right of the appellant to have her children receive religious education in accordance with her beliefs in the public schools they attended for the 2017–2018 academic year had been unlawfully denied.

Ruling:

The question at stake is whether the fundamental right of the appellant's children to receive Islamic religious education in the public schools they attended was unduly denied in accordance with Article 10 of Law 26/1992 of 10 November

1992, which approves the Cooperation Agreement between the State and the CIE.

Article 10 of that law guarantees Muslim pupils, their parents, and the school authorities who so request the exercise of the right to Islamic religious education in public and subsidized private schools, provided that the exercise of this right does not conflict with the specific nature of the school and that the requirement of a minimum of 10 students per school is met. The Court referred to Articles 14, 16, and 27 of the Spanish Constitution in order to determine whether the fundamental rights had been infringed. These articles include the principle of non-discrimination on grounds of birth, race, sex, religion, or opinion (14.1), freedom of thought and religion (16.1), the principle of state cooperation with different religious groups (16.3), and the right of parents to ensure that their children receive religious and moral instruction in accordance with their own convictions (27.3).

The Court also referred to Organic Law 7/1980 of 5 July 1980 on Religious Freedom, Article 7.1 of which states that the state shall, where appropriate, conclude cooperation agreements or conventions with the churches, denominations, and religious communities that have well established roots in Spain. In the field of education, Organic Law 2/2006 of 3 May 2006 on Education (amended by Organic Law 3/2020 of 29 December 2020) states in its second additional provision that the teaching of other religions shall be in accordance with the provisions of the cooperation agreements concluded by the Spanish state with the Federation of Evangelical Religious Entities of Spain, the Federation of Israelite Communities, the Islamic Commission of Spain, and, if appropriate, those that may be signed in the future with other religious denominations.

According to Article 10.2 of the Cooperation Agreement with the CIE, Islamic religious education is to be given by teachers designated by the communities belonging to the Islamic Commission of Spain, with the agreement of the federation to which they belong. Furthermore, as stated in the second additional provision of Organic Law 2/2006 of 3 May 2006 on Education (amended by Organic Law 3/2020, of 29 December 2020), it is the responsibility of the respective religious authorities to design the curriculum and the assessable

learning standards that make it possible to verify the achievement of the objectives and the acquisition of the competences corresponding to the subject of religion.

The Court concluded from the above provisions that the recognition of the fundamental right invoked must, in order to be exercised, comply with the organizational requirements laid down by law. Since the organizational requirements were met and the number of applicants in the schools attended by the appellant's children exceeded the number required for the provision of Islamic religious education, the right of the appellant's children was unlawfully denied.

Main quotations on cultural or religious diversity:

"Las normas fundamentales invocadas por la recurrente (artículos 14 y 27.3 de la Constitución española de 1978), como ya expresara esta Sala en su sentencia nº 176/2008, de 11 de julio de 2008, admiten, naturalmente, la posibilidad de que las personas tengan distintas creencias y, precisamente por ello, se garantiza a los padres el derecho de que sus hijos reciban la formación religiosa y moral que esté de acuerdo con sus propias convicciones y, en este caso, el derecho invocado por la actora es precisamente el derecho que tiene a que sus hijos reciban la formación religiosa y moral que esté de acuerdo con sus propias convicciones."

"The fundamental rights relied on by the appellant (Articles 14 and 27.3 of the Spanish Constitution of 1978), as this Court has already stated in its judgment no. 176/2008 of 11 July 2008, naturally admit the possibility that people may have different beliefs, and precisely for this reason, parents are guaranteed the right for their children to receive the religious and moral training that is in accordance with their own convictions; and in this case, the right invoked by the appellant is precisely her right to have her children receive the religious and moral training that is in accordance with her own convictions." (legal reasoning 1, para. 8)

"Al cumplir un deber natural hacia sus hijos, de quienes les corresponde prioritariamente «asegurar la educación y la enseñanza», los padres pueden exigir del Estado el respeto a sus convicciones religiosas y filosóficas. Por lo tanto,

el derecho fundamental de los padres consignado en el artículo 27.3 de la Constitución , a que sus hijos reciban la formación religiosa y moral que esté de acuerdo con sus propias convicciones, veda la intervención estatal para imponer criterios morales como el adoctrinamiento ideológico, pero "no se niega la facultad del Estado de planificar y organizar la enseñanza y por ende de incorporar al currículo educativo unas u otras enseñanzas" (Por todas STC/2014, de 24 de febrero de 2014).”

“In fulfilling a natural duty towards their children, whose education and teaching they are primarily responsible for, parents can demand that the state respect their religious and philosophical convictions. Therefore, the fundamental right of parents enshrined in Article 27.3 of the Constitution for their children to receive the religious and moral training that is in accordance with their own convictions prohibits state intervention to impose moral criteria such as ideological indoctrination, but ‘the power of the state to plan and organize education and therefore to incorporate some or other teachings into the educational curriculum is not denied’ (for all STC/2014, 24 February 2014).” (Legal reasoning 1, para. 9)

Main legal texts quoted in the decision:

Domestic law:

- Articles 14, 16, 27, 53 Spanish Constitution
- Article 7 Organic Law 7/1980 of 5 July 1980 on Religious Freedom
- Article 10 Law 26/1992 of 10 November 1992 approving the State Cooperation Agreement with the Islamic Commission of Spain
- Article 10 Law 29/1998 of 13 July 1998 regulating the Contentious Administrative Jurisdiction
- Articles 2, 5, 8 Organic Law 2/2006 of 3 May 2006 on Education
- Articles 4, 6, 12 Organic Law 3/2020 of 29 December 2020 amending Organic Law 2/2006 of 3 May 2006 on Education

Cases cited in the decision:

None

Commentary

The Subject of Islamic Religious Education in Public Schools in La Rioja

In this case, an administrative dispute was brought against the administration's refusal to provide Islamic religious education in a school. The High Court of Justice La Rioja considers the following main issues: 1) whether the principles of freedom of religion and the right of parents to ensure that their children receive religious and moral education in accordance with their beliefs have been violated by the refusal to provide Islamic religious education; 2) whether the justification given by the regional administration is lawful; and 3) whether the administrative failure to act can be regarded as lawful under ordinary or constitutional law.

Following the principle of cooperation with the different denominations in Spain, enshrined in Article 16.3 of the Spanish Constitution, the state must act jointly, in this case with the CIE, to facilitate the right included in the 1992 agreements on the implementation of the Islamic religious instruction in schools. According to Article 10.2 of the Cooperation Agreement with the CIE, Islamic religious education is given by teachers designated by the communities that are members of the CIE, with the agreement of the federation to which they belong.

Furthermore, para. 4 of the same article states that the public and private schools referred to in para. 1 shall provide suitable premises for the exercise of the right regulated in this article, without prejudice to the development of educational activities. In addition, Organic Law 2/2006 of 3 May 2006 on Education (amended by Organic Law 3/2020 of 29 December 2020), in its second additional provision, states that the teaching of other religions shall be in accordance with the provisions of the cooperation agreements that the Spanish state has concluded with the Federation of Evangelical Religious Entities of Spain, the Federation of Israelite Communities, the Islamic Commission of Spain, and, where appropriate, those that may be signed in the future with other religious denominations.

Relevance of the case in the context of the Autonomous Community of La Rioja

Some might argue that the implementation of Article 10 of the Cooperation Agreement with the CIE has, over the years, generated a high level of litigation

compared to other claims of religious minorities. Aspects such as the unavailability of teachers and administrative obstacles can be seen in the case law as the main reasons for litigation (Katz 2025a; Katz 2025b; Katz 2025c). The Autonomous Communities, which are competent in this area, must take responsibility in coordination with the head of the Education Department, as it is their responsibility to ensure that this right is fulfilled (Contreras Mazarío 2012: 163–164). In La Rioja, families have been requesting that their children receive Islamic religious education at school since at least 2009, but the number of schools that complied with the request were insufficient considering the demand of Muslim pupils for the subject. In 2014, a group of Muslim families in Logroño decided to create a civil platform called Comunidad Musulmana de la Rioja (Muslim Community of La Rioja). This grassroots organization was created to demand religious and civil rights for Muslim communities in the region. This grassroots organization was established in response to the reluctance of schools to implement Islamic religious education and the lack of leadership of the CIE, both of which led to mistrust among families. (Lems and Planet Contreras 2023: 11–12).

In 2017, the High Court of Justice of La Rioja issued two rulings, one in the present case and the other in TSJ 133/2017. Both rulings show that there are organizational requirements for the implementation of this right and that without the cooperation of the different actors involved (schools, CIE, regional administration), the implementation would not be possible. Contrary to the other case, in which the administration presumably followed the necessary procedures and the CIE did not inform the administration (see Katz 2025c), in this case it was the administration's inaction that led to the violation of a fundamental right:

"This conclusion is not tainted by the content of the judgment of this Chamber No. 63/2017 of 23 February 2017, invoked by the Education Administration, since contrary to what the latter maintains, the factual circumstances therein were different to those that have now occurred. Suffice it to recall that, among other differential points, it states: 'There is no record in the case file that, as the Regional Ministry contends, it has been informed of the designation of teachers to

teach Islamic religion’” (legal reasoning 3, para. 4).

In the present case, the Court concluded that the CIE fulfilled the organizational requirements for providing Islamic religious education in a public school by maintaining contact with the regional administration and designation of teachers. Therefore, the administration followed all the necessary procedures to provide Islamic religious education in the school where the pupils were enrolled.

For a system of cooperation to function, all parties involved in the implementation of the cooperation agreements must comply with them. While the state can prevent the appellant from providing her children with a religious education in line with her beliefs, doing so would conflict with Article 9.2, which states that public authorities must promote freedom and equality. The state acts as guarantor, the schools as providers, the religious organizations as representatives, and the individuals as those who should enjoy their rights. If any one of these actors fails in its duty, the religious rights recognized by individuals are not guaranteed. This delicate balance of cooperation requires effective communication and willingness on the part of all parties, the effectiveness of which is called into question by the number of cases currently available (High Court of Justice La Rioja, Judgment of 23 February 2017, no. 133/2017; High Court of Justice of La Rioja, Judgment of 2 November 2017, no. 476/2017; High Court of Justice La Rioja, Judgment of 15 February 2018, no. 80/2018; High Court of Justice La Rioja, Judgment of 30 April 2018, no. 291/2018 High Court of Justice La Rioja, Judgment of 3 May 2018, no. 290/2018; High Court of Justice La Rioja, Judgment of 17 May 2018, no. 292/2018; High Court of Justice La Rioja, Judgment of 21 May 2018, no. 330/2018; High Court of Justice La Rioja, Judgment of 25 May 2018, no. 333/2018; High Court of Justice La Rioja, Judgment of 20 April 2019, no. 607/2019; High Court of Justice La Rioja, Judgment of 20 April 2020, no. 131/2020; High Court of Justice Murcia, Judgment of 8 February 2022, no. 50/2022; High Court of Justice Granada, Judgment of 21 October 2022, no. 12266/2022; High Court of Justice Granada, Judgment of 21 October 2022, no. 12271/2022; High Court of Justice Valencia, Judgment of 24 January 2023, no. 700/2023).

By introducing Islamic religious education in La Rioja's public schools, the regional government is responding to the demands of the region's Muslim communities. However, to provide this right to as many students as possible, the administration needs resources, facilities, and cooperation. The fact is that this subject is taught in only a small percentage of schools compared to the number of parents demanding it – a number which continues to grow. Therefore, if the administration cannot keep up with the growing demand, the solution it has offered these families will only be temporary and will not satisfy the public. Rather than introducing Islamic religious education as a corrective measure in response to demand, it should be implemented as a preventive measure to prepare for the increasing demand.

The system of cooperation with religious denominations should promote religious plurality in education. However, this requires an adequate number of teachers per number of pupils and close links between regional administrations and grassroots organizations. Some might therefore argue that, with the current administrative obstacles, this system only works toward segregation, creating educational ghettos. Under the principles of proportionality and pluralism, the state's approach to providing Islamic religious education is to group these pupils in a small number of schools that can provide such education. Therefore, even if this asymmetric model can reasonably provide Islamic religious education, and the small number of students it serves can be justified by the lack of teachers and resources, it comes at the cost of segregating students (Díez de Velasco 2016: 286).

Literature related to the main issue(s) at stake:

Specific legal publications/comments addressing the case:

- Andújar Chevrollier, Ndeye. 2006. "La enseñanza religiosa islámica en la escuela". *Bordón* 58 (4–5): 641–646.
- Antena 3/EP. 2017. "Una sentencia avala que se imparta religión islámica en los centros riojanos". *Antena3.com*, available at

<https://www.antena3.com/noticias/sociedad/sentencia-avala-que-imparta-religion-islamica-centros-riojanos_201711065a005bee0cf2018c1950caad.html> accessed 13 November 2025.

- Cantabria Liberal. 2017. “La Rioja dará religión musulmana mientras en los países musulmanes nunca darán religión católica”. *Cantabria Liberal*, available at <https://cantabrialiberal.com/nacional/la-rioja-dara-religion-musulmana-mientras-en-los-paises-musulmanes-nunca-daran-religion-catolica,411891.html> accessed 13 November 2025.
- Katz Rotnitzky, David. 2025a. “Indoctrination in a Particular Religion: Article 27.3 of the Spanish Constitution Concerning Islamic Religious Instruction”. *Cultural and Religious Diversity under State Law across Europe*, DOI: 10.48509/CUREDI100ES001.
- Katz Rotnitzky, David. 2025b. “The Obstacles of Implementing Islamic Religious Education in Public Schools”. *Cultural and Religious Diversity under State Law across Europe*, DOI: 10.48509/CUREDI100ES003.
- Katz Rotnitzky, David. 2025c. “Cooperation and Fragmentation of Muslim Governance in Education: Implementing Islamic Religious Education”. *Cultural and Religious Diversity under State Law across Europe*, DOI: 10.48509/CUREDI100ES004.

General legal literature on the topic that may not be directly connected with the case:

- Contreras Mazarío, José M. 2012. “El islam en España: proceso de institucionalización y estatuto jurídico”. *Laicidad y libertades. Escritos jurídicos* 12 (1): 143–222.
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- Díez de Velasco, Francisco. 2016. “La enseñanza de las religiones en la escuela en España: avatares del modelo de aula segregada”. *Historia y Memoria de la Educación* 4: 277–306.
- Ferreiro Galguera, Juan. 2018. “Teaching Religion in Public Schools in Spain. The Constitutional Principle of Cooperation Makes the Difference”. In Ednan Aslan and Margaret Rausch (eds), *Religious Education: Between Radicalism and Tolerance*, 93–113. Wiesbaden: Springer.
- Kallioniemi, Arto. 2018. “Muslim Religious Education and Muslim Teacher Education”. In Ednan Aslan and Margaret Rausch (eds), *Religious Education: Between Radicalism and Tolerance*, 83–92. Wiesbaden: Springer.
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- Lems, Johanna M. and Ana I. Planet Contreras. 2023. “Struggling with and against the Governance of Islam in Spain”. *Religions* 14 (3): 306.
- Planet Contreras, Ana I. 2013. “La organización del islam en España”. In Olivia Orozco de la Torre and Gabriel Alonso García (eds), *El islam y los musulmanes hoy. Dimensión internacional y relaciones con España*, 265–281*.* Madrid: Escuela Diplomática.
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- Rossell Granados, Jaime. 2022. “La Comisión Islámica de España: 30 años de interlocución y desarrollo del Acuerdo de Cooperación de 1992”. *Anuario de derecho eclesiástico del Estado* 38: 219–252.
- Urrutia Asua, Gorka. 2018. “Entrelazados. Minorías religiosas en Asturias, Cantabria y La Rioja”. Barcelona: Icaria.

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