



ISLAMIC FINANCIAL LAW THROUGH THE VIEW OF CONVENTIO- NAL AND ISLAMIC AUTHORS

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Introduction

The need for the emergence of Islamic financial law is dictated by the dynamics of the development of Islamic finance. It requires lawyers for the legal structuring of Islamic transactions. They participate in the development and implementation of structures that avoid the payment of interest and usury, excessive uncertainty in contracts and other activities prohibited by Islam. According to that, the Islamic financial and legal model is based on the sharing of risk between participants, protection of the rights and obligations of individuals, property rights and the inviolability of contracts. For this reason, the author is directed to study the legal aspects of Islamic financial law through the prism of scientific aristocrats - conventional and Islamic authors. In this context, *research objectives* are composed in the following order:

- To examine, evaluate and analyze the most important contributions of current publications on Islamic financial law;
- To conduct an in-depth critical review of the state of the problem in the Bulgarian academic and specialized literature; and
- To examine the types of Islamic legal agreements, focusing on their specific legal structures such as profit-and-loss sharing partnerships, joint ventures, financing the acquisition of assets, raising capital and mutual financial support.

In this aspect, the most significant

publications on Islamic financial law are analyzed. Priority is given to academic production and specialized publications for the period 2020-2024.

In parallel with the above, some significant differences with conventional financial investment instruments are outlined. In this context, the author draws attention to the sources of Islamic law, concluding procedures and methods of interpretation. The reputation of Islamic legal norms and the reform of the Islamic legal heritage are also the subject of attention.

The author advocates the *scientific thesis* that the legal and ethical preventions that are typical for the Islamic system play a significant preventive role on the prohibited activities in the Islamic financial industry. This reflects on the specifics of the construction and the mechanism of functioning of Islamic legal agreements. Islamic financial law is a guarantor of their growth both in the countries professing Islam and among conventional finance in Europe. The presented scientific material continues the series of the author's publications related to the state, problems and prospects of Islamic finance.

Research Methodology

Research methodology is a very important part of successfully presenting and realizing the goals set above. It is a toolkit that shows the author's precise guidelines when formulating the main problems, questions and answers.

Research methodology represents how a researcher systematically designs his scientific study to ensure reliable results. To achieve this, they must answer the following several questions: (Forschungsmethodik, 2024).

- What data can they collect and what to ignore?
- Who collects, processes and analyzes the necessary data or structures a “sampling plan”.
- What data collection methods do they use?
- How is the data analyzed or what analysis methods are consumed?
- What real or hypothetical results do they obtain to draw their conclusions?

If we refer to C. George Thomas, we could distinguish the following procedures of the methodology used: (Thomas, C. G. 2021).

- Research design, plan or structure of the scientific study;
- Formation of a database based on used

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literary sources and references;

- Data processing, using appropriate methods and procedures;

- Data analysis, using database analysis methods;

- Obtaining valid and sustainable scientific results. (Forschungsmethodik, 2024).

The author refers to the following more versatile methods for the study, namely:

- a. Systematic reviews and meta-analyses;

- b. Critically assessed topics;

- c. Critically assessed individual articles;

- d. Randomized controlled trials;

- e. Cohort studies;

- f. Controlled cases/case series/reports;

- g. Background information/expert opinion.

It is also possible to add: quantitative research methods; empirical research methods, statistical analysis, qualitative research methods, comparative analysis, database synthesis, concepts and legal norms.

Literature Review of Islamic Thinkers

One of the first Islamic authors is Abu Hamid Muhammad ibn Muhammad al-Ghazali, known as Al-Ghazali. He made significant contributions to the development of Islamic thought, which influenced the development of Islamic financial law. His contributions can be summarized in the following key aspects:

- *Ethical foundations*: Al-Ghazali emphasized the importance of ethics in all aspects of life, including economic activities. Honesty, fairness, and social justice are at the heart of his publications. (al-Ghazālī, 2024).

- *Criticism of materialism*: Al-Ghazali criticized excessive materialism and the pursuit of wealth. He advocated a balanced approach to wealth, in which economic activities should serve the community. They should adhere to moral and ethical standards.

- *Integration of Sufism and Sharia*: In his most famous work (Opus magnum, from Latin “great work”) “Ihya' Ulum al-Din” (Revival of the Religious Sciences), Al-Ghazali attempted to integrate Sufi spirituality with Islamic jurisprudence. Financial transactions must meet legal requirements and be consistent with spiritual and ethical values.

- *Concept of risk sharing*: Al-Ghazali's ideas

of mutual cooperation and risk sharing are consistent with modern Islamic financial principles. For example, profit and loss sharing in partnerships - Mudarabah and Musharakah. (Al-Ghazali, 2024).

- *Educational reforms*: As a prominent teacher, Al-Ghazali reformed Islamic education. He emphasized the importance of external knowledge (Fiqh) and internal knowledge (Islamic mysticism or Sufism). This balanced approach reflects the development of a comprehensive and integral understanding of financial law (ethical and spiritual dimensions). (Dimov, S. 2018).

Consequently, we could point to the following two fundamental points:

- *First of all*, as the original teacher, Al-Ghazali laid the foundations of principles that are important for the development of modern Islamic finance, such as the prohibition of interest, ethical investments and the importance of social justice.

- *Second*, Al-Ghazali's holistic approach to integrating spirituality, ethics and law has had a lasting impact on various aspects of the Islamic development model.

Frank E. Vogel & Samuel L. Hayes' (1998) book “Islamic Law and Finance: Religion, Risk, and Return: 16 (Arab and Islamic Laws Series)” deserves special attention for the development of Islamic financial law. It is a valuable source for understanding the unique aspects of Islamic jurisprudence and its role in the global economy. The fundamental aspects are concentrated in the following several areas:

- *Fundamentals of Islamic Finance*: The book begins with an explanation of the basic principles of Islamic finance, which are derived from the Qur'an and Sunna. They emphasize the prohibition of interest (Riba) and excessive uncertainty (Gharar). These prohibitions are central legal norms for the development of Islamic financial ethics.

- *Islamic Contract Law*: Frank Vogel and Samuel Hayes delve into the specifics of Islamic contract law. They advocate for the protection of permissible contracts such as profit sharing and joint venture partnerships. The authors emphasize that these contracts should avoid prohibited elements of Islamic law.

- *Financial Instruments and Institutions*: The authors analyze the structure and function of Islamic financial institutions and instruments. They explain that the institutions operate within the constraints of Shariah, offering alternatives to



conventional banking products.

– *Risk and Return*: The book examines the concepts of risk and return in Islamic finance, explaining how they differ from conventional Western finance. The authors highlight ethical considerations, the balance between profit and social responsibility.

– *Comparative Analysis*: The authors provide a comparative analysis of Islamic and Western financial systems. They highlight the role of the new challenges of integrating Islamic finance into global financial markets.

– *Case Studies and Practical Applications*: The book includes case studies and practical examples of Islamic finance in action. They illustrate the application of theoretical principles to real-life scenarios. (Vogel, F. & S. Hayes. 1998).

Muhammad Fahim Khan advocates the delegation of standards in the application of Sharia in Islamic financial law. He draws attention to the diversity of Islamic jurisprudence and its compatibility with modern markets. The author expresses the opinion that the analyses of the Islamic financial model are comparable to the neoclassical science of economics. (Khan, M. Fahim. 2007).

Hossein Askari, Zamir Iqbal and Abbas Mirakhor (2008) focus their attention on the integration of Islamic finance with global financial markets, the application of Islamic financial law, bridging the gap between traditional Islamic principles and modern financial practices. This is accompanied by an analysis of the main challenges facing Islamic legal institutions. (Askari, H., Z. Iqbal & A. Mirakhor. 2008).

An opinion on this matter is found in Mahmoud A. El-Gamal. In his book “Islamic Finance: Law, Economics and Practice” (2009). The author expresses the opinion that “Islamic finance exists as a form of legal arbitrage for rent seeking. It aims to reproduce in Islamic forms the essential functions of modern financial instruments.” (El-Gamal, M. 2009). It is proposed to redirect Islamic financial law towards content, rather than its form. In this context, promising areas of development are community banking, microfinance and socially responsible investment. El-Gamal provides an analysis that focuses on the historical roots and contemporary applications of Islamic financial law.

Jonathan G. Ercanbrack establishes the standardization of Islamic legal norms as a key

moment in the integration of Islamic financial law. He emphasizes the role of legal systems and market forces in shaping modern Islamic finance. In this aspect, Islamic capital creates numerous sites for legal contestation and negotiation - financial centers, international law firms and transnational financial institutions. They can interact with institutions in international financial markets. (Ercanbrack, J. 2015).

Conventional authors Rainer Grote and Tilmann Röder address the question of the origin of “Islamic constitutionalism”. It is a product of political and constitutional cataclysms observed in many parts of North Africa, the Middle East and Asia. The book “Constitutionalism in Islamic Countries: Between Upheaval and Continuity”, (2015) offers an integrated analysis of the constitutional experience of Islamic countries with the methods of conventional constitutional law. The starting point for this is the legal practices of the United States and Western Europe. (Grote, R. & T. Röder. 2015).

For his part, Jamal Abbas Zaidi gives significant priority to the processes related to the strengthening of Islamic legal institutions. The most important contributions in the author's work can be concentrated on:

– *Development of Islamic rating systems*: Creation of unique rating methodologies that reflect the nature and operations of Islamic financial institutions.

– *Training and Development*: Providing competent training to enhance understanding of the role of Islamic financial law.

– *International Representation*: Participating in international seminars to present the methodologies of the Islamic International Rating Agency.

– *Commitment to Education, Health and Welfare*: Through the activities of the JAZ Foundation. The Foundation has a mission to create a future in which health, food, water, shelter, education and technology are easily accessible. (Zaidi, J.A. 2024); (IN LOVING memory of JAMALABBAS ZAIDI. 2024).

Craig R. Nethercott and David M. Eisenberg provide a scientific study of the various legal and regulatory norms of Islamic finance. The monograph “Islamic Finance: Law and Practice” (2020) is a professional guide to Islamic financial transactions for legal entities. The first part informs



about sources of Islamic law – The Quran, Sunnah, Ijma (Consensus of Opinion) and Qiyas (Analogical Deduction). It examines the leading role of Sharia supervisory boards, Islamic financial institutions and accounting authorities. The second part focuses on the individual concepts, techniques and requirements when negotiating Islamic finance.

The main focus is on the legal norms of Islamic contracts – Mudaraba (trustee financing), Musharaka (partnership or joint venture), Murabaha (sale of goods), Sukuk (participation securities: coupons, etc.), Takaful (cooperative system of reimbursement or compensation for loss) and the structure of Islamic investment funds. (Nethercott, C. & D. Eisenberg. 2020).

Interesting views on Islamic law and jurisprudence are advanced by Nabil El Maghrebi, Abbas Mirakhor, Tarık Akın and Zamir Iqbal (2023). Their joint monograph “Revisiting Islamic Economics: The Organizing Principles of a New Paradigm” focuses on the legal norms of the new Islamic paradigm “Iqtisād”. It expresses the following major points:

– *Basis in the principles of the Quran*: The new paradigm Iqtisād is deeply rooted in the basic paradigms of the Quran. It aims to create a prosperous system that is in line with Islamic laws.

– *Ethical and just economic system*: The authors advocate for a functioning Islamic system that prioritizes ethics and justice. It focuses on eradicating poverty, reducing income disparities and addressing economic injustices.

– *Criticism of conventional economics*: According to the cited authors, conventional Western economics is fundamentally incompatible with Islamic principles because it is based on interest and usury.

– *Risk sharing*: An important aspect of the new paradigm is the emphasis on financial risk sharing. This contrasts with the risk transfer mechanisms found in conventional finance. The principle of sharing is consistent with Islamic values.

– *Impossibility of hybrid systems*: The authors argue that it is impossible to create a hybrid system that combines Islamic and conventional economics, due to the fundamentally different legal systems.

– *Failures of traditional Islamic economics*: The authors criticize the sources of policy failures that lead to financial instability and income disparities. The logical coherence of the basic

Islamic model should lead to risk sharing. This is believed to be the basis of the new financial and social stability.

Ultimately, the authors propose a new Islamic paradigm Iqtisād for reforms in the Islamic legal system. It is associated with the acceptable position – “being moderate between extravagance (Israf) and stinginess (Bukhl)”. Iqtisād is one of the important values of modern Muslim society, which is built on the concept of consensus of Sharia thought and action. (Maghrebi, Nabil El, Abbas Mirakhor, Tarık Akın & Zamir Iqbal. 2023).

Islamic Financial Law in the Period 2020-2024

In the period 2020-2024, contemporary publications on the problems of Islamic financial law are offered by M. Kabir Hassan, Ashraf Khan & Andrea Paltrinieri. (2021). The motive of the research study is the synergy between the Sustainable Development Goals (SDGs) and the principles of the Sharia of Maqasid Al-Shariah. This leads to the pursuit of global prosperity. The Environmental, Social and Governance concept refers to three main factors for measuring the sustainability of investments - environmental, social and corporately responsible. (Dimov, S. 2023).

The legal norms of the Sharia “Maqasid Al-Shariah” are a mandatory pursuit of:

- hifz ad-din (protection of religion);
- hifz an-nafs (protection of the soul);
- hifz al-aql (protection of the mind);
- hifz an-nasl (protection of offspring); and
- hifz al-mal (protection of property).

The Sustainable Development Goals are a collection of 17 interrelated goals that humanity faces. Their sustainability cuts across the more important ones, such as social inequalities (SDGs 10), climate change (SDGs 13), peace and justice (SDGs 16), and global cooperation (SDGs 17). The authors' ambition is to restructure Islamic financial law in light of the SDGs. An Islamic perspective on ESG is related to environmental quality, interest-free financial instruments, and the modernization of Islamic financial institutions. Therefore, there is common ground between the Western SDG goals and the principles of Maqasid Sharia. (Hassan, M. K., A, Khan & A. Paltrinieri. 2021).

Murniati Mukhlisin, Nurizal Ismail and Reza



Jamilah Fikri used a meta-analysis methodology proposed by Barbara L. Paterson (2001) with the software “NVivo 12”. The object of selection is data from 474 articles on Islamic accounting and finance, Islamic economics and Islamic business management, meeting the criteria for²:

- accountability, (H_ isbah);
- goals of Islamic law, (Maqas_id al-Shari‘ah); and
- unilateral promise, (Wa‘d). (Kamali, M. H. 2019).

The authors aim to expose the tendency of perception among contemporary Islamic researchers. The results of the study clearly show that 90% of them tend to acquire modern economic, management, legal and psychological knowledge instead of using classical Islamic theories. (Mukhlisin, M., N. Ismail & R. J. Fikri. 2022). They emphasize the legal norms of Islamic banking law, which shares risk and equity financing. Debt financing and the use of financial leverage are prohibited. Expectations are related to the stimulation of Islamic legal instruments to overcome poverty and injustice such as “Zakat”, “Sadaqah”, “Waqf”, and “Qard al-hasan”. Priority is given to institutional structures and Islamic legal mechanisms for redistributing finances to the weaker sections of the community. It is noted that it is necessary to build a financial company model for Takaful, microtakaful, and the foundations of inclusion. Three areas of legal action are advocated, namely:

- raising the role of Islamic legal norms as a means of social and financial inclusion;
- updating challenges such as gender, income and wealth inequality with access to finance;
- using Islamic microfinance to improve financial inclusion. (Wissal Msellek. 2020); Abdelrahman Elzahi Saaid Ali, Khalifa Mohamed Ali & Muhammad Khaleequzzaman (ed.) 2020, Volume I); (Abdelrahman Elzahi Saaid Ali, Khalifa Mohamed Ali & Mohamed Hassan Azrag (ed), 2020, Volume II).

Nadia Mansour and Lorenzo Bujosa (2024) discuss new trends in Islamic finance legislation.

The authors treat it as a special component of the global financial system, different from conventional finance. They express the categorical opinion that the Islamic legal system cannot be isolated from financial globalization. The subject of particular attention is the effects of global financial transactions, their legislation and state regulation. In this context of thought, Islamic legal norms are present in every major Muslim community and in some developed Western countries. The opinion is expressed that financial globalization affects the development of the Islamic model, and the norms of Islamic financial law adapt more quickly to new realities. Islamic financial systems flow into global financial flows with trillions of dollars of liquidity and high rates of the order of 10-15% per year. (Mansour, N. & L. Bujosa. 2024).

There are six fundamental requirements for any contract to be valid, i.e. to comply with the principles of Sharia: (Adam, F. 2024).

- consensus;
- capacity;
- performance by both parties must be possible;
- performance and purpose of the contract must be lawful;
- presence of constitutional elements; and
- performance must be established or reasonably ascertainable.

A comprehensive understanding of Islamic financial regulation is offered by Hakimah Yaacob, Razali Mat Zin and Qaisar Ali. (2024). The authors pay attention to the laws and regulations established in different countries regarding the governance of the Islamic financial industry. An analysis is made of the criteria for the governance of Islamic financial institutions. The focus is placed on examining the different legal norms and their impact on the development of globalized Islamic systems.

The major legal aspects of Islamic investment finance focus on:

1. *Regulatory frameworks, which include:*
 - A detailed analysis of the regulatory environment for Islamic finance in different countries;
 - Comparative studies of the application of different jurisdictions to the regulation of Islamic financial institutions.
2. *Governance structures:*
 - A study of the governance models of Islamic financial institutions;

² NVivo 12 (Windows) is available in two editions: Pro and Plus. It is a qualitative data analysis software that helps organize, analyze, and visualize qualitative and mixed methods data. It is known for its powerful features and innovations that support research and provide opportunities for working with artificial intelligence. (Paterson, B., S. Thorne, C. Canam, & C. Jillings. 2001); (Peterson, R. 2001).



– A discussion of the responsibilities of Sharia boards.

3. *Risk management:*

– Risk-sharing strategies that are unique to Islamic financial products;

– Case studies of risk management in Islamic banking institutions.

4. *Sharia compliance:*

– Mechanisms to ensure that financial products comply with Islamic law.

– Analysis of Sharia sharing frameworks in different markets.

5. *Global perspectives*

– A look at global trends affecting Islamic legal norms;

– Exploring the challenges facing the Islamic financial landscape.

6. *Case Studies and Practical Examples*

– Real-life examples illustrating the application of Islamic financial principles.

– Case studies highlighting successful implementation of Islamic legal norms. (Yaacob, H., R. Mat Zin & Q. Ali. 2024).

The Islamic Legal Concept through the Lens of German Authors

Hatem Elliesie, Beate Anam and Thoralf Hanstein examine the application of the Islamic legal paradigm in science and practice. They emphasize classical and modern Islamic law, Islamic normativity and Islamic finance. Interesting topics are discussed in the section “Islamic normativity in change”, namely:

– Changing Islamic legal norms in the context of the secular constitutional state. (Mathias Rohe);

– Reforming the normative Islamic heritage. (Birgit Krawietz);

– The principle of “duty to protect” as part of the Islamic sense of self-preservation. (Stephan Kokew).

In the context of the above, Kilian Bälz draws attention to the issue related to the transnational law of Islamic finance, namely: How do global financial markets change Islamic contract law? For his part, Martin Heckel poses the rhetorical question: How Islamic is Islamic finance? The author's focus is on trust as the backbone of Islamic Sukuk certificates. (Elliesie, H., B. Anam & T. Hanstein, 2018).

Current issues related to the state of Islamic law are also commented on by Mouez Khalfaoui

and Bülent Ucar. They outline important questions related to future projections, namely:

– Does Islamic law still play a role in the lives and thoughts of contemporary Muslims?

– What else can be applied from Sharia?

– How does Sharia relate to secular law?

– Are Maqasid still applicable?³

The authors' contribution is related to the view on the internal Islamic debate on Islamic law and its role in the lives of contemporary Muslims. (Khalfaoui, M., & B. Ucar, 2016).

The issue with the bad reputation of Islamic law in the West is analyzed by Mathias Rohe. The author's arguments are related to the "grandiose death sentences and draconian corporal punishments". In this aspect, the question of gender equality in Islam is raised. The subject of attention is the Islamic legal sources, legal methods and regulatory areas of classical Islamic law - marriage and family law, inheritance law, contract and commercial law, corporate law, property law, criminal law, constitutional and administrative law, foreign and international law. The fundamental differences between Sunnis, Shiites and other Islamic groups are discussed. In the context of globalization, special attention is paid to the provisions for Muslims in non-Islamic environments, especially in Germany. (Rohe, M., 2022).

Special attention should be paid to Serdar Kurnaz as a lecturer at the Berlin Institute for Islamic Theology. He is the author of the “Handbuch zum Islamischen Recht” in 6 volumes, which reveals innovations in legal concepts on:

– The origin and development of Islamic law, legally relevant genres, legal schools and participants in Islamic law (judges, lawyers, muftis), legal institutions, formats and places of study.

– Legal norms in Islamic jurisprudence - mandatory and conditional norms, types of norms (e.g. of obligation, recommendation and prohibition), legal claims, specific norms in the field of worship (Ablution, prayer, fasting, pilgrimage), interpersonal relationships (marital and family law, inheritance law, contract law) and parts of Islamic criminal law.

³ Maqasid or Maqasid al-Shari'a is an Islamic legal doctrine that seeks to define the fundamental objectives of Islamic law. It is related to the concept of Maslaḥa (public interest), which emphasizes the importance of justice and well-being in the community.



– The sources that can be considered legitimate “evidence” (adilla, Sg. dalīl). The doctrine around adilla includes the question of the sources of Islamic law, concluding procedures and methods of interpretation.

– The methods and principles of interpretation of legal norms derived from the sources of Islamic law, the Quran and the Sunnah.

– Contemporary developments and changes in new concepts - institutional, legal and epistemological assumptions. Particular emphasis is placed on the development of the tradition of Islamic law in Germany and Islamic theology as a subject in German-speaking universities.

– The main terms of Islamic jurisprudence and biographies of Islamic scholars. (Kurnaz, S., 2023).

Bulgarian Authors on Islamic Financial Law and Finance

Against the backdrop of the diversity among Islamic authors, the Bulgarian specialized literature contains a relatively smaller number of scientific publications. Despite the aforementioned findings, university publications and specialized research on the problems of Islamic financial models are not lacking. For instance, one of the first university professors in Bulgaria - Yordan Yordanov from the University of Economics, Varna “lifts the curtain” with the article “Specificity of the Islamic Banking” (2002). It was published in the periodical “Banks, investments, money”, issue 3. The author examines the issues related to the differences between the Western and Islamic types of banking, dictated by the prohibition of paying interest. Emphasis is placed on the factors determining the institutional structure in the Western and Islamic banking systems. (Yordanov, Y. 2002, 2007).

In Bulgarian legal and literary studies, there are occasional studies on Islamic financial law. The first beginnings were made by Menent Shukrieva and Sibel Fedal from Shumen University “Episkop Konstantin Preslavski” in the publication “Turkish legal terminology” (2014). It should be noted that the publication is an attempt to empirically illustrate the terminological issues in legal texts. The authors pay attention to the use of Islamic legal terminology. A short dictionary of Turkish legal terms with a Bulgarian translation is proposed. (Shukrieva, M. & S. Fedal. 2014).

In turn, Gergana D. Yordanova (2018) puts forward the thesis that Islamic finance is an asymmetric threat to the financial and economic security of Europe. It is related to the growth of Islamic banking in Turkey, the opening of Islamic bank branches in Europe, the growth of sukuk issuance, the latent Islamization of Europe through Islamic banking products and services.

Nonetheless, the author examines some key features of Islamic legal instruments such as:

– deposit products (current/demand deposit account, deposit/saving account, investment deposit account);

– credit products (profit sharing contract/capital trust, joint venture/participation financing & mark up on sale, leasing schemes);

– social investment products (benevolent loans, overdraft, investment transfers/bill of exchange). (Yordanova, G. 2018).

Iskra Yankova conducts a study of the types of Islamic social financing. She examines the legal aspects of Islamic products for refugees. The author defends the hypothesis that established and low-risk instruments for Islamic social financing will facilitate access to financial services. This will stimulate entrepreneurial initiatives. The opinion is supported for the introduction of Islamic social financing for refugees in Bulgaria. (Yankova, I. 2024).

Islamic finance and Islamic banking are a little-known subject among Bulgarian scientific opinion. This prompted Sava Dimov to analyze the emergence of the Islamic financial system, its main structural components, the types of prohibitions on interest and usury. The main principles of Islamic finance and banking are examined. There are some promising forecasts after 2020 related to the development of Islamic finance. In that aspect, the Islamic finance industry is defined as a very rapidly developing sector of the world economy. (Dimov, S. 2018).

A significant contribution to the issues of Islamic finance and legal norms in Bulgaria is made by Miroslav Kamdzhlov. He is the only Bulgarian author who responds to 3D Models; published an independent monograph “Islamic Economics and Finance” (2023); successfully defended a dissertation on the topic “Attitudes towards adopting the principles of Islamic finance” (2021); and proves hypothetical research in the most authoritative journal in Europe on Islamic finance



“European Journal of Islamic Finance.” (2020, 2022).

The author examines the approach of the UK to adapt existing legislation to the specifics of Islamic finance. This is associated with the increasing demand for Islamic sukuk bonds on a global scale and the issuance of Islamic financial certificates on the British stock markets. The author's attention is drawn to the “Financial Services and Markets Act 2000”, the amendments to the “Financial Act 2005” and the “Financial Act 2007”. (Kamdzhhalov, M. 2019).

When considering the main contracts in Islamic banking, Kamdzhhalov emphasizes risk-sharing mechanisms such as - “Mudarabah” (profit and loss sharing, similar to venture capital) and “Musharaka” (establishment of a partnership in which all parties participate in profit sharing). Emphasis is also placed on the “Zakat” mechanism as an Islamic obligatory charity, one of the five pillars of Islamic finance. In this context, the author's attention is focused on the components of financial contracts used in commercial transactions. The structure of Islamic financial instruments includes retail financial products, Islamic corporate products and Islamic bonds. (Kamdzhhalov, M. 2023).

It is also necessary to note that Miroslav Kamdzhhalov perceives Islamic finance as a promising economic paradigm. It is associated with new information capabilities, socially responsible financing and “blockchain” technology. All of the above provide a modern basis for the development of financial technologies (FinTech). The author analyzes the processes of the harmful effects of financialization and Islamic finance. (Kamdzhhalov, M. 2020).

An assessment of the possibility of applying some key features of Islamic finance to the Bulgarian financial market is considered in “Evaluation of some key features of Islamic finance in non-Islamic economies: Bulgarian perspective” (2022). For this purpose, the methods are adapted: “Fuzzy AHP method”⁴, deductive and inductive procedures. The conclusion specifies the conclusion

⁴ The Fuzzy Analytic Hierarchy Process is an extension of the traditional Analytic Hierarchy Process (AHP) method, introduced by Thomas Saaty (1980). The method is a multi-criteria decision-making tool. It uses the concept of fuzzy logic to prioritize and evaluate alternatives. The “Fuzzy AHP” method transforms the AHP scale into a fuzzy triangular scale to access the appropriate priority.

- “the results show that the understanding of the principles of Islamic banking in Bulgaria has characteristics of social banking”. (Kamdzhhalov, M. 2022).

Miroslav Kamdzhhalov's dissertation research tests the attitudes towards the adoption of the principles of Islamic banking in Bulgaria. The sustainability of Islamic banking deepens its presence in a number of Western European countries such as the United Kingdom, France, Germany, Italy, Luxembourg, Ireland, Bosnia and Herzegovina. The author uses data from two standardized interviews and the opinion of three experts from the banking sector to prove his hypotheses. The summary results of the application of “Fuzzy AHP” show that Islamic banking has a certain potential for development in other countries as well. (Kamdzhhalov, M. 2021); (Emrouznejad, A. & W. Ho. 2018).

In the context of the above, we could add the monograph of Kairat Koishibekov “Stress testing of financial systems in the Republic of Kazakhstan” (2023). As a doctoral student in the Republic of Bulgaria, he demonstrated the sustainability and pragmatism in the development of the Islamic financial industry. The author emphasizes the fact that the financial systems in Kazakhstan have a hybrid nature, because they combine the functions of conventional and Islamic legal norms. A certain methodology of national indicators, adaptable to Basel III: international regulatory framework for banks, is used for:

- the banking sector;
 - the microfinance sector;
 - the insurance sector;
 - investment portfolio management sector;
- and
- pension and insurance sector. (Koishibekov, K. 2023).

Based on the proof of hypotheses, Sava Dimov and Kairat Koishibekov attempt to forecast the development of Islamic banking in the long term until 2050 as a “new configuration of the status quo.” The authors' studies are based on predictable results that cover:

- the global demographic structure in the future;
 - the demand for Islamic financial products;
 - the new challenges facing Islamic banking;
- and
- the Islamic finance index.



In this context, some future forecasts for the development of Europe in the context of the spread of Islamic finance are indicated. The prospects for their development will be determined by both the reproduction and imitation of the product range of traditional liberal banking, and by the creation of innovative banking products. Globally, Islamic finance is around or slightly above 2% of conventional finance. Therefore, the likelihood of future mutual substitution is unlikely. (Dimov, S. & K. Koishibekov. 2019).

The publications in “Godishnik na Visshiya islyamski institut” - Sofia. (2008-2012)⁵ have contributed to the constructive and critical study of the foundations of Islamic financial law. It provokes a reconsideration of the contemporary dimensions of social development and universal values.

Ahmed Isa and Osman Ali have made an achievement in understanding Islamic culture. They argue that Muslims had a significant influence on the Renaissance by transferring their fundamental discoveries in science (e.g. algebra, astronomy, and medicine), the arts, and literature to Europe. (Isa, A. & O. Ali. 2020).

Islamic Financial Law and Jurisprudence

According to the Bulgarian researcher of Islamic worship and Islamic law Angel N. Angelov, Al-Fiqih is Islamic law with two meanings: an Islamic doctrine of behavioral rules for Muslims, which is interpreted as Islamic Jurisprudence (Usul Al-Fiqih); and a complex of social norms perceived by Islamic law in a broad sense.

Sharia is perceived as “the correct path”, referring to divine advice that Muslims follow in order to live a moral life. Sharia derives from the Quran, which is considered the direct word of God, and the Hadiths - sayings and practices attributed to the Prophet Muhammad. Together, they form the Sunnah. The first works on “Al-Fiqih” are collections of thematically selected hadiths. Their systematization forms Islamic jurisprudence (from Latin “iurisprudentia”) or knowledge of legal principles and rules in Islam.

The main types of categories of legal norms are defined as:

– Determining, which include the relationship of Muslims with Allah, the rules of worship and the fulfillment of religious obligations, i.e. acts of worship - prayer, fasting, almsgiving and repentance (Al-ibadat);

– Regulating the relationship between people, the state with its subjects, with other religions and states (Al-Mu'amalat), i.e. “understanding, knowledge” - family, criminal and public law. (Angelov, A. 2023)

Therefore, in the first understanding, the principle “everything that is not permitted is prohibited” operates, and in the second – “everything that is not prohibited is permitted”. (Dimov, S. 2018)

The application of modern Fiqih is based on the following factors:

– interaction between Muslims and other people from different countries with diverse cultures;

– the presence of Islamic finance in many Western countries with conventional banking;

– inconsistency of many legal decisions with the current problems of modern life.

So, Muslim doctrine is a code of conduct, understood as a complex of public, social and legal norms.

According to Jonathan Ercanbrack, Islamic financial law is interpreted as Islamic finance that complies with Sharia. It refers to financial activities that adhere to the principles of Sharia. The most important of them focus on the construction of Islamic jurisprudence “Fiqh al-Muamalat”, namely:

– prohibition of interest (Riba), the charging or payment of interest is considered exploitation and is strictly prohibited;

– risk sharing, financial transactions must involve sharing of risk and profit/loss between the parties (Profit-loss sharing system); (Sekreter, A. 2011).

– prohibition of uncertainty (Gharar), contracts with excessive uncertainty or speculation are not allowed;

– ethical investments (Halal), they must be in activities that comply with Islamic ethics, avoiding industries such as alcohol, gambling, drugs and pork; and

– financing secured by real assets, transactions must be secured by tangible assets or services.

For example, using “Murabaha” the bank

⁵ Godishnik na Visshiya islyamski institut. (2008-2012). Available from: <https://islamicinstitute-bg.org/> Print: Dedrax LTD, ISSN 1313-8839. [Accessed November 28, 2024].



buys an asset and then sells it to the buyer with deferred payment. Next comes “Sukuk Al-Ijara”, which involves the transfer of ownership or use of physical assets (for example real estate) by the initiator of a special fund. It is assumed that the above promotes honesty, transparency and ethical behavior in Islamic financial law – the use of legal norms from the Sharia to carry out financial transactions. (classical financial law “Al-Fiqih”).

It is imperative to note that a market-based interpretation of Islamic financial law requires the law to take into account the complexity of modern financial markets. It is noted that legal practitioners can adapt the law to new realities. For example, in addition to “Fiqh”, they use legal tools such as:

- consideration of public interest, “Maslaha”;
- legal preference, “Istihsan”;
- construction of rules from different legal norms “Madhahib” is perceived as a “school of thought in Islamic jurisprudence”, a shared interpretative methodology for different renditions and applications of Islamic law. (“Talfiq”);
- legal concept of necessity, “Darura”.

The book “Islamic Reform: The Political and Legal Theories of Muhammad Abduh and Rashid Rida” by Malcolm H. Kerr explores the reformist ideas of the two Islamic thinkers. The author notes their reformist contributions to the field of political and legal concepts in the Islamic world. (Kerr, M. 1966).

Differences in the interpretation of financial and legal norms are noticeable in relation to permissible transactions. For example, according to the criterion of “permissible application” the legal practices are:

- Malaysian jurisprudence applies the standards defined by the central bank, which are more liberal;
- In the judicial practices of the Persian Gulf countries, the standards of the Accounting and Auditing Organization for Islamic Financial Institutions prevail.

Consequently, there are discrepancies in the application of the various standards of Islamic financial law at different levels. As Jonathan Ercanbrack emphasizes “that the processes that determine the composition of Islamic financial law emphasize the sharply reduced role of jurists in developing law in accordance with the traditional methodology Usul al-fiqh.” (Ercanbrack, J. 2020).

In this regard, it is not difficult to notice the

following trends:

- a growing number of Islamic financial institutions in different jurisdictions;
- the improvement of Islamic financial instruments;
- different interpretation and application of legal standards;
- development of private Islamic legal standards covering Sharia products;
- an Islamic legal architecture that is more difficult to adapt to the processes of the global economy;
- interaction between Islamic financial law and the law of the municipal legal systems of the United Arab Emirates, England, Wales and Malaysia;
- Singapore and Malaysia are the most standardized markets in the Islamic financial community, which is why they are considered some of the most innovative destinations;
- local Islamic standards that cover Islamic financial products, Islamic accounting and auditing. (Aysan, A., M. Disli, A. Belatik & U. Oseni. 2022).

It is no coincidence that Fitch Ratings notes that “standardization in Islamic finance has been slow to progress, as the lack of uniform rules is a significant constraint on the growth of the industry.” (Fitch Ratings Inc., 2024).

The article “The Muezzin's Call and the Dow Jones Bell: On the Necessity of Realism in the Study of Islamic Law” by Haider Ala Hamoudi, published in the 56th volume of the American Journal of Comparative Law, discusses the need for realism in the study of Islamic law. (Hamoudi, Haider Ala. 2008).

Ultimately, the challenges facing Islamic financial law require standardization, or at least harmonization, of Islamic financial contracts. The goal is to achieve a more effective presence of Islamic products in international financial markets.

Islamic Partnership and Financial Investment Products

Islamic financial law is based on certain principles that do not exist in conventional banking. This has implications for the construction of specific types of legal financing agreements. According to a team from the Corporate Finance Institute (CFI), they correspond to the following



more important postulates:

- profit-and-loss sharing partnership (Mudarabah);
- profit-and-loss sharing joint venture (Musharakah);
- leasing (Ijarah). (CFI, 2024).

The main investment instruments in Islamic financial law are divided into:

- shares, such as investing in company shares or private equity investments;
- fixed-income instruments, such as Sukuk bonds. In Islamic law, they are treated as private ownership of a real asset, not a debt obligation.

In that regard, the main types of agreements in Islamic financial law are exposed as follows:

1. Profit-loss sharing partnership, Mudarabah (profit-loss sharing business)

A profit-loss sharing partnership is perceived as a unique form of cooperation. In it, one party provides capital, treated as Rabb-ul-Maal, and the other party provides expertise and management, perceived as Mudarib. The main aspects of this distribution include the axioms:

- Distribution of profits and losses. Profits are divided between the two parties according to a previously agreed upon agreement. However, any financial loss is borne solely by the first party, unless it is due to negligence or breach of contract, treated as Mudarib;

- No fixed return. The investor is not guaranteed a fixed return. It depends on the actual profit generated by the joint business activity;

- Transparency and trust. Trust is the basis of partnership, as it has been elevated to a cult. All terms and conditions must be legally interpreted by both parties;

- Sharia compliance. Joint activities must be in accordance with Islamic law. They must not involve prohibited elements such as Haram (a term for something forbidden), uncertainty associated with risk and fraud (Gharar), speculation or gambling (Maysir). The arguments for this are that they create wealth by chance, rather than by productive activity.

Partnership applications for profit and loss sharing are used in:

- Islamic banking to structure deposit accounts;
- Islamic investment funds, where several

investors pool their capital.

Example

The educational portal “WallStreetMojo” cites an example of Mudarabah, which we can paraphrase as follows:

Partner X (a person named Azad) and Partner Y (Aban) Kabir enter into an agreement modeled on the principles of profit and loss sharing. Azad has his own capital, and Aban has solid experience in managing real estate. The two decide to start a joint business through a real estate agency. It is related to the trading of real estate assets, having previously formed an agreement for sharing results. Therefore, Azad plays the role of “Rabb-ul-Maal”, which is related to the management of capital, profits and losses, and Aban plays the role of “Mudarib”, taking care of all activities leading to profits. In profitable property purchases and sales, Azad takes his share of the profit, and Aban receives a share of the profit in the form of fees. (WallStreetMojo, 2024).

2. Joint Venture in Islamic Financial Law Musharakah

Musharakah is a joint venture or partnership structure according to Islamic financial law. In it, the partners share the profits and losses. This concept allows for the division of profits based on a pre-agreed agreement, for example, on the basis of equity. Losses are calculated in proportion to the investment of each participating partner.

The main characteristics of a joint venture of the Musharakah type include:

- Sharing of profits and losses: In the Western financing model, lenders earn interest. In Islamic financial law, Musharakah partners share results. This ensures that all parties are equally invested in the success of the business project.

- The subject of the partnership structure can be: joint purchase of property or inheritance, a mutual agreement to share real estate assets, liabilities or labor, and the realization of profits, i.e. partnerships in capital, labor and credit).

The applications of the above partnership structure are most often:

- real estate, where partners can jointly purchase property and distribute profits based on the invested capital;

- business ventures, to pool capital resources while sharing profits and losses according to the



respective contribution. (Sabanova, V. 2024).

Example

Investment in real estate

In a profit scenario: Dara and Jem decide to invest together in a real estate project (a bread bakery) as a “Musharakah” partnership with the following financial parameters:

– Capital participation of the parties.

Dara participates in the business project with €120,000, and Jem with €70,000. The total capital is equal to €190,000.

– Sharing of profits and losses.

The individuals agree to share profits and losses based on their capital contributions as follows: Dara will receive 60% of the profits or bear 40% of the losses, and Jem will receive 40% of the profits or bear 60% of the losses.

– Project implementation.

With the cash capital of €190,000, they purchase equipment for the property, rent it out to receive cash income.

– Revenues and expenses received.

The rental property generates €48,000 in revenue in the first year. Annual maintenance, taxes, and other expenses amount to €11,300. The net profit is €36,700 (48,000 - 11,300).

– Profit distribution.

According to the partnership agreement, the final result is distributed as follows: Dara receives 3/5 or 60% of €36700 = €22020, and €14680 is transferred to Jem (2/5 or 40% of €36700).

In a loss scenario: If the property incurs a loss of €7500. It will be shared based on the capital contributions as follows: Dara will bear €4500, and Jem will suffer €3000.

The Islamic Musharakah arrangement is therefore defined as a flexible and equitable method of financing that expresses the interest of individuals for shared responsibility and mutual benefit.

3. Cost-Plus Financing “Murabaha”

Cost-Plus Financing is a leading concept in Islamic financial law. It is interpreted as a cost-plus financing technique. It is widely used in the Islamic banking industry. It comes from the Arabic word “Ribh”, which is initiated as profit⁶. According to it,

⁶ Ribh refers to two main concepts: Ribh Finance, a hybrid payment collection solution that allows businesses to collect payments in local currency; and Ribh, a cryptocurrency that integrates with educational apps, offering financial rewards for academic achievement.

the seller reveals the costs and profit margin to the buyer. (FASTER CAPITAL, 2024).

From another perspective, Murabaha is a type of sale in which the seller reveals the price of the equipment sold by adding a certain profit margin. It should be noted that the margin is negotiated with the parties to the agreement, most often an industrial enterprise (buyer) and a bank (merchant).

The interaction mechanism is composed of the following several steps:

– Purchase order: the buyer makes a claim to the bank to purchase production equipment.

– Bank purchase: The bank buys the equipment from the seller (production enterprise or intermediary).

– Sale to the buyer: The bank sells the acquired real asset to the buyer at the original price plus a previously agreed margin (bank profit).

– Repayment: The industrial enterprise pays the bank, most often in installments and less often in one go, depending on the agreement reached with the banking institution.

All participants in Murabaha are satisfied with the transactions made: the buyer, who does not have the necessary financial resources, but acquires real property with which he can do business; the bank - profits from participating in the agreement; the seller is satisfied that he is selling his production.

The following qualities are subject to sale, which are compatible with Sharia:

– Transparency, because the costs and profit margin are bank-agreed and known between the parties;

– No usury, because the profit margin replaces interest, which makes it compatible with Sharia;

– Legal possession, the buyer does not take on the role of owner until full payment is made.

– Flexibility, repayment terms can be tailored to the financial situation of the seller and the buyer.

The most common applications of the Islamic financial product “Murabaha” express the trade of assets such as:

– consumer goods, for the purchase of household items, cars and others;

– real estate, for the purchase of real assets;

– trade financing, for companies that need to purchase production equipment.

Example



Purchase of production equipment.

When using Murabaha, the following step-by-step procedures are followed:

– *Identification of the need.*

In the role of an entrepreneur, an individual or company X – for example, a small business owner. He needs to purchase machinery for production activities, for which he turns to an Islamic bank for project financing;

– *Request for a quote.*

The entrepreneur selects the equipment and requests a quote from the relevant supplier. The quote states that the machine costs €120,000;

– *Purchase from a bank.*

The Islamic bank reviews the offer and agrees to purchase the machinery on behalf of the entrepreneur. For example, it purchases the machinery from the supplier for €120,000;

– *Sale to the entrepreneur.*

The bank sells the machinery at cost plus profit. For example, the bank adds a 10% (1/10) profit margin, making the total price $120,000 + 12,000 = €132,000$;

– *Payment terms.*

The entrepreneur agrees to repay €132,000 in equal monthly installments over a period of 5 years. The payment plan is structured to ensure transparency in accordance with Islamic principles by avoiding interest;

– *Delivery and ownership.*

The bank takes possession of the machinery and then transfers ownership to the entrepreneur. He can use the machinery for his production operations.

– *Repayment.*

The future owner of the equipment makes monthly payments to the bank according to the agreed repayment plan (schedule). In a five-year summary, they include the cost of the machines + the bank's profit margin.

In case of non-payment, things develop differently. For example, in Saudi Arabia, the client will be blacklisted by the banking institution. His name will be distributed to all other banks operating in its territory. If the client settles the settlement payment at a later date, his name will not be removed from the blacklists, i.e. he will be treated as a “suspicious client” and will not enjoy community trust.

4. Financing the acquisition of assets through “Ijara” (Leasing)

The concept of “Ijara” is a form of Islamic financing, in which one party (a bank, a bank-like or credit institution) provides a certain asset for use. Most often, the subject of “Ijara” is a house, a vehicle, a shop, equipment or other real estate. After the lease agreement expires, the user can acquire the assets. This makes it an alternative to conventional lending. So, Ijara refers to a contract in which the lessor (owner) leases an asset to the lessee (user) for a certain period and rental payment.

Example

Arab Islamic Bank often uses the practice of “Ijara” for choosing a home. The bank has a client financing program that is tailored to the precise selection of the desired property, commensurate with the respective income. The bank purchases the real estate for the client, leases it in installments payable by the client. After paying the last installment, the home is transferred to the client's name. In this case, the bank purchases the property and provides it for use by its client. When financing through the “Ijara Financing” program, the following important parameters must be observed:

– repayment period: up to 25 years;

– financing: up to \$300,000, provided that the deduction from family income does not exceed 50%;

– free life and property insurance;

– financing: up to 85% of the property value;

– the possibility of applying Online, through a relevant platform, through the bank's website: <https://aib.ps/en/content/individual-services/31.html>.

The differences from conventional leasing in Western banking are expressed in two directions:

– Risk assumption: In the “Ijara” contract, the lessor bears the risk of loss or damage to an asset, unless it is caused by the negligence of the lessee; and

– Termination: These contracts are binding and cannot be unilaterally terminated without mutual consent. (Ustaoğlu, M. & C. Çakmak. 2024); (Billah, M. 2019).

CAC Islamic Bank uses 2 types of Ijara, namely:

– Ijara al-Amal (hire/employment): Hiring a person or service for a salary;



– Ijara al-Ayn (asset leasing): leasing an asset in exchange for rent.

Example

A car lease, where an individual (the lessor) leases to another individual (the lessee) under a contract. Ijara Al-Ayn follows:

– Contractual agreement: the lessor and the lessee agree on the terms of the lease, including the payment amount, the lease term, and the terms of use;

– Transfer rights: the lessee receives the right to use the car for the agreed period while the lessor owns it;

– Lease payments: the lessee makes agreed payments to the lessor according to the terms of the contract;

– Maintenance and Insurance: The lessor is responsible for the maintenance and insurance of the vehicle;

– End of Lease: At the end of the lease period, the lessee returns the vehicle to the lessor, unless there is an option to renew or purchase.

Consequently, the Ijara Al-Ayn contract provides a Sharia-compliant way of leasing tangible assets, ensuring that the rights and responsibilities of both parties are legally protected.

5. Raising capital through Sukuk (Islamic Bond) instruments

Sukuk financial instruments are understood as Islamic financial certificates, similar to bonds in Western finance, which are in line with Islamic religious law. They are believed to provide ethical and interest-free investment opportunities for larger structural projects.

The Accounting and Auditing Organizations for Islamic Financial Institutions (AAOIFI) is based in Bahrain. It defines Sukuk as “certificates of equal value representing undivided shares in ownership of tangible assets, usufruct and services or (in the ownership of) the assets of particular projects or special investment activity.” (Al Hilal Bank, 2024).

In this commented aspect, we are prone to claim that Sukuk represents an Islamic investment trust certificate. In the last decade, the Sukuk market has become more popular as the demand for Islamic financial products and services has increased globally. For example, the London Stock

Exchange is a key global venue for listing Sukuk. To date, more than \$50 billion has been raised through 68 Sukuk issues on the London Stock Exchange. (London Stock Exchange, 2024). The interpretation of Sukuk focuses on the following key aspects:

– certificates that represent a share in the ownership of an asset, project or business activity;

– provides investors with ownership shares in certain underlying assets;

– generates returns through profit or revenue sharing;

– is linked to tangible assets or specific projects, i.e. the investment expresses real economic activity;

– involves the securitization of assets or cash flows, providing investors with a share of the profits;

– are issued by a Special Purpose Vehicle (SPV) that holds the underlying assets and distributes the profits;

– provides new opportunities for diversification and attracting investors.

Consequently, Sukuk certifies the ownership rights of investors over a certain underlying asset, enterprise or project, which gives them the opportunity to receive a share of the income generated. Conventional bonds certify a debt that the issuer has to their holders.

Example

– Financing government programs.

According to the “WallStreetMojo” platform, Indonesia allocated \$ 2.7 million to the Maluku Conservation Center under the “Green Sukuk” fund, to preserve biodiversity in the region. Islamic instruments are used to finance infrastructure projects, such as railways, ports, airports and others. (Pathak, S. 2024)

Governments of Islamic countries use Sukuk to finance the construction of solar power plants and other infrastructure projects.

– The London Stock Exchange is a leading platform and a key global center for listing Sukuk. As of July 2024, over \$ 50 billion has been raised through 68 Islamic issues. The exchange-traded fund (ETF) is a dynamic market for exchange-traded funds (ETFs), available through six multi-currency lines based on the Islamic indices FTSE Shariah Global Equity Index Series and Russell-Ideal Ratings Islamic Index.

According to ISLAMIC FINANCE



FOUNDATION (Islamic Finance.com/Sukuk.com), the remarkable growth of the Global Sukuk Market is due to two new trends, namely:

– Cross Border Sukuk Market fails to materialize in the issuance of “Sukuk”. This will bring a decline in issuances in the coming years. This trend is probabilistic in nature, due to high electricity prices and the weak need for issuers to invest;

– The enduring complexity in structuring this type of Islamic instruments is the reason for the failure to enter the globalized cross-border market.

The maturity of the issued Sukuk instruments and their yields are as follows:

“*Perusahaan Penerbit SBSN Indonesia III*”

– Market Price:

– Profit Rate: 4.15%;

– Issue date: 03/29/2017;

– Maturity: 03/29/2029;

– Issue Size: \$2 billion;

– Rating: Moody's: Baa3 Fitch: BBB-

“*Sharjah Sukuk Programe Limited*”

– Market Price:

– Profit Rate: 4.226%;

– Issue date: 03/08/2018;

– Maturity: 03/08/2028;

– Issue Size: \$1 billion;

– Rating: Moody's: A3.

“*Hong Kong Sukuk Limited*”

– Market Price:

– Profit Rate: 3.132%;

– Issue date: 02/28/2017;

– Maturity: 02/28/2027;

– Issue Size: \$1 billion;

– Rating: AAA (Standard & Poor's Ratings),

AA+ (Fitch).

“*Al Waseelah (NQ Minerals PLC) 2026*”

Market Price:

– Profit Rate: 10%

– Issue date: 09/30/2019

– Maturity: 09/30/2026

– Issue Size: \$50 million

– Rating: Moody's: Baa3 Fitch: BBB-

6. Takaful (Islamic Insurance) Funding

The concept of “Takaful” is derived from the Arabic word “kafala”, which means “guaranteeing each other”. It functions as a cooperative system in which participants create a pool to provide mutual

financial support in cases of need, protection, loss or damage. (Salman, S. 2022).

The concept of an Islamic cooperative is associated with the name of Umar ibn al-Khattab. He created a fund to help the poor, compensate victims of damage and finance part of the affairs of the state.

The Syrian jurist Ibn Abidin presented the first legal foundations of an Islamic insurance contract in 1836. They originate from the concept of “Al-Ta’awun”, which is understood as mutual assistance, i.e. to provide participants with financial security based on mutual responsibility and solidarity.

It is worth noting that the Takaful Fund is defined as “the heart of the system and forms the cornerstone of the security of the Islamic community.” It is built on the principles of cooperation, solidarity and risk sharing. (Billah, M., E. Ghlamallah & C. Alexakis. 2019).

The basic scheme of the Takaful Fund mechanism is based on the following steps:

a. Participants in the Takaful Fund (“Takaful members”) regularly make cash contributions (premiums) based on the type of coverage and their personal circumstances. These are used as a collective financial pool to cover proven risks (the so-called community of donations “Tabarru”);

b. The pool is managed by a Takaful operator, who oversees the fund and ensures compliance with the principles of Sharia. The operator charges an agreed fee to cover administrative costs (Takaful operator management);

c. In the event of a negative event or losses incurred by a member of the pool, all claims made by the participants are paid from the formed cash fund (mutual guarantee “Ta’awun” and risk sharing);

d. After taking into account future claims and reserves, any remaining surplus is distributed among the participants as cash dividends, reduction of future contributions or charity (sharing of results - profits and losses, “Mudharabah”);

e. “Takaful” investments implement the Islamic principles and traditions of social responsibility, sustainability and avoidance of interest (ethics and investments). (Takaful - Innovation und Solidarität für eine nachhaltige Zukunft, 2024).

The main practiced models for the



management of Takaful can be specified as:

– **Mudarabah Model:** In this model, the Takaful fund is managed by an operator who acts as a Mudarib (entrepreneur). The surplus generated by the fund is distributed among the participants and the operator, based on a pre-agreed profit sharing agreement. In case of deficit - participants bear the loss until the Takaful operator participates in covering the deficit.

– **Wakalah Model:** In this model, participants' contributions are used to create a Takaful fund, which is managed by an operator and acts as an agent (Wakeel). The operator charges a fee for managing the fund and processing legal claims. Any surplus generated is returned to the participants. The Takaful operator bears the risk in case of deficit.

– **Hybrid model,** combining the good elements of both models. (Takaful - Innovation und Solidarität für eine nachhaltige Zukunft. 2024); Takaful Islamische Versicherung für eine gerechte Gesellschaft. 2024)

The newer options for using Takaful are applicable to the following product range:

– **Motor Takaful**

If a participant's vehicle is involved in a car accident that damages another driver's vehicle, the repair costs can be claimed from the Takaful fund. This ensures that participants help each other.

– **Home Takaful**

If a fire breaks out and damages a participant's home, the Takaful fund will cover the repair costs, sharing the burden among all policyholders.

– **Family Takaful**

A participant contributes to a Takaful fund, which pays a lump sum to beneficiaries upon their death. This can be used to cover living expenses, education or any debts.

– **Medical Takaful**

If a participant needs surgery, they can file a claim with the Takaful provider to cover the associated medical expenses, sharing the financial burden with the Takaful community.

– **Investment Linked Takaful**

A participant pays regular contributions that go into a Takaful fund, while a portion of it is invested. They receive a death benefit or a maturity value, depending on the product structure.

– **Corporate Takaful**

A manufacturing company can take out a

corporate Takaful policy to cover equipment damage. This provides compensation for employees if they are injured at work.

– **Agricultural Takaful**

A farmer participating in agricultural Takaful can receive compensation if floods destroy his crop. It will be used for reconstruction and for subsistence. (Salman, S. 2021); (Salman, S., R. Hassan & M. Tahniyath. 2019).

Example of Family Takaful

Person X wants to provide financial security to his family in case of premature death. He decides to participate in the family Takaful plan offered by a Takaful company in Malaysia, following the details of the scenario. (Billah, M., E. Ghulamallah & C. Alexakis. 2019):

Contribution (Tabarru)

– The person contributes €400 per month to the Takaful fund. This contribution is considered a donation to help other participants in the pool.

Management by Takaful operator

– The Takaful operator, Takaful Co., manages the fund, ensuring that all investments are in accordance with Sharia. The operator charges a fee of 10% of the contributions for administrative costs. So, out of the €400 monthly contribution, €40 will go to administrative costs and €360 to the Takaful fund.

Risk Sharing

– If the person dies during the coverage period, his family will receive a financial assistance of €50,000 from the Takaful fund. This benefit helps cover expenses and provides financial stability.

Surplus Distribution

– At the end of the year, if there are no claims or fewer claims than expected, the surplus in the Takaful Fund is distributed among the participants. For example, if there is a surplus of €15,000 and there are 150 participants, each participant can receive €100 as a cash dividend or a reduction in future contributions.

Example breakdown

Monthly contribution per person: €400

– Administration fee (10%): €40

– Contribution to Takaful Fund: €360

Amount of coverage: €50,000

Annual surplus distribution:

– Total surplus: €15,000

– Number of participants: 150

– Surplus per participant: €100. (Salman, S.



2022).

Consequently, Takaful is a form of Islamic insurance based on the principles of mutual aid and cooperation. Taking part in it, participants join together to protect themselves against financial losses or risks, each contributing to a common fund. In the event of an adverse event, such as loss of monetary capital, the fund is used to cover the costs. This system is usually organized as a group cooperative.

Conclusion

Based on the research methodology used, the processed databases of the authors and legal concepts examined, we reach the following important conclusions, namely:

First, professional interest in Islamic financial law and finance is significantly high. This is noticeable both in the traditionally represented Western democracies, where Islamic financial products find good application, and in more developed Islamic countries such as Indonesia, Pakistan, Turkey, Malaysia, Saudi Arabia and others. In our opinion, this is dictated by the sustainable demand for Islamic banking and insurance products, the growth of the Islamic population and the long-term projections in the development of Islamic financial systems.

Second, among the various researchers of Islamic financial law, a differentiated approach to the interpretation of legal norms, instruments and mechanisms is noticeable. In conventional authors, a more moderate and reformed approach to the sources of legal norms in Islamic financial law is found. This approach is characteristic of academic research in our country as well. Predominantly, Islamist authors abide by strict adherence to the established legal, moral, ethical and religious norms in Sharia as established standards.

Third, in more recent academic research after 2000 and especially in the period 2020-2024, opinions about the openness of Islamic financial law to the modern legal values of global financial markets, about new and shared forms of cooperation, about mutual penetration and joint use of Islamic financial agreements are increasingly common. In this context, the topic of which trends will dominate is intriguing. In the conditions of globalization of international financial markets, the scope of demand for Islamic financial products will

increase.

Fourth, the weaker interest in Islamic financial law and banking in the Republic of Bulgaria is comprehensible. Despite the above, the possibilities of Islamic partnership and financing arrangements remain a good basis for new research. There is a growing interest in profit-and-loss sharing partnerships, joint ventures, raising capital through Sukuk instruments and financing through Takaful. The new probabilities relate to partnerships in the Islamic microfinance sector, the Islamic high-tech industry, Islamic technology start-ups and Islamic crowdfunding funds.

Ultimately, we can summarize that Islamic financial law or Sharia-compliant finance is interpreted and applied in different ways by academic circles and institutions. They can be conditionally grouped, as follows: The first group of authors focuses on the standardization of Islamic financial law to meet modern financial markets. (Ercanbrack, J. 2020). The second group is of the opinion that Islamic financial law originates from the Quran and Sunnah, which contain, on the one hand, definitive legal decisions, but on the other hand, are open to interpretation. (Alwazna, R.Y., 2016). For a third party, Islamic finance aims to offer ethical financial products that primarily avoid interest, excessive uncertainty and activities prohibited by law. In that regard, they are integrated into the global financial system and are alternatives to conventional financial products. (The Essentials of Islamic Finance, 2024). According to a fourth instance, there is legal integration, since in some jurisdictions Islamic financial principles are interpreted within the framework of local laws. This applies to English courts, which adopt mechanisms to respect Islamic financial principles without them contradicting English law. (El Daouk, M. 2022).

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