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The development of the Islamic Financial Services Industry in Europe: UK, Germany and France

2nd Islamic Financial Services Forum: The European Challenge

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Islamic Finance in Europe – a question of uneven development

- Developed market in the UK: investment banking **and** retail banking, establishment of several Islamic Banks over the last years (Islamic Bank of Britain, European Islamic Bank)
- Germany and France: financial institutions which are active in global Islamic investment banking (e.g. Deutsche Bank, WestLB, BNP Paribas), **no** Islamic retail banking
- Why are Germany and France, both with a substantial Muslim population, lagging behind? What can be done to overcome this?

Why Care about it? (1)

- contra: “we do not need Islamic finance”
 - There is no need for ethnic or religious pluralism in financial services
 - Policy of integration: such pluralism can even be wrong
 - Re-interpretation of the prohibition of *ribâ* in the non-Islamic world: financial services for Muslims are not necessary

Why Care about it? (2)

- pro: “we have to do something about it!”
 - **Financial inclusion:** everyone must have access to financial services; this requires the provision of tailored solutions, also for religious or ethnic minorities
 - **Diversity banking:** pluralism in financial services is desirable
 - Trend towards **ethical finance**/there is no need to tell Muslims how to interpret the Sharia.

Structuring Islamic Retail Products for the Continental European Markets – the Challenge

- **Sharia compliance**: this is what makes the difference!
- must observe **local** consumer protection **laws**, regulatory and tax rules: there are no (France, Germany) or only very few (UK) exemptions applicable to Islamic finance
- must be **economically feasible**: there are limits to paying for your faith.

Products

- current accounts
- saving products
- consumer finance/home finance
- takaful
- investment funds.

Sharia Certification – the Diversity Management of Diversity

- **no one-size-fits-all approach** in Islamic retail finance (South East Asia vs. the Gulf States, UK vs. Continental Europe)
- lack of local Sharia knowledge in financial matters
- **task:** enhance local Sharia scholarship and Muslim think tanks, also in France and most notably in Germany.

The Legal and Regulatory Framework (1)

- different approaches to regulating Islamic financial services
 - Separate regulatory framework (Malaysia, IFSB)
 - Ad hoc exemptions (UK)
 - Unified system
- Lines of conflict under German/French law:
 - **Tax** (double real estate transfer tax, VAT in murabaha transactions, taxation of profits subject to “purification”)
 - **Consumer Protection Laws** (liability of bank for defects under *murâbaha* Agreement)
 - **Accounting and regulatory capital** (treatment of murabaha as financing transactions for accounting and regulatory purposes).

The Legal and Regulatory Framework (2)

- suggestion: **working group**, to comprise bankers, representatives of the Muslim community, Sharia experts, representatives of the regulator, accountants and lawyers to discuss these issues, similar to FSA working group.

The Way Forward

- It is recommendable to enhance the development of Islamic retails finance in Continental Europe
- This requires an effort from both the Muslim communities and the establishment
 - Establishment of local Sharia knowledge
 - Review and, to the extent necessary, adoption of legal, regulatory and tax framework to specificities of Islamic financing transactions.

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Member of the International Bar Association, the Association for Arab and Islamic Law, the board of the German Orient Foundation, the Association for African Law, the Middle East Studies Association of North America (MESA) and the German Working Group on the Near East (DAVO).

Areas of Concentration

M&A, company and capital market law, financial services.

Languages

German, English, Arabic, French.

Publications

Transnational Legal Relations in Civil and Commercial Matters, 2005 (co-author); International Encyclopedia of Comparative Law (co-author); Handbook on Projects and Project Finance, 2001 (co-author); Insurance Law in the Arab States, 1997; numerous articles in academic and professional journals.

Thank you for your attention!

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