

Title

Constraints on Islamic Banking Within European and Czech Legal Framework

Author

Hynek Mádl

Keywords

Islamic banking, credit, Shari'ah board, Murabaha, Musharakah

Summary

Islamic banking is a sector of financial market which was formed in the 1970s and since then, it has spread outside Muslim countries too. The difference between Islamic banking and conventional banking is in the fact that all activities of Islamic banks shall be consistent with the principles of Islamic law. The submitted thesis aims to find and analyse obstacles of implementing Islamic banking, resulting from its singularities, in the European and Czech legal framework.

In the introduction, the author shortly describes theoretical principles of Islamic banking and ways in which contemporary practices of Islamic banks have deviated from these principles.

The next part of the thesis lays out individual characteristics of Islamic banking. Using the examples of specific finance models (especially Murabaha and Musharaka financing), these features are assessed from the viewpoint of their compliance with legal regulation of banks and their activities. The process in which a bank provides financing to its clients by acquiring and disposing assets, which such financing applies to, is considered to be the most disputable element of Islamic banking since this activity is prohibited to banks within the Czech legal framework. From the institutional aspect – the liability, which is set out by Czech law, of members of the *Shari'ah Board*, is not common when an Islamic bank is established and could be considered problematical.

Furthermore, the author points out possible negative tax consequences of Islamic banking transactions resulting in particular from multiple asset transfers which the bank finances the purchase of and from the inclusion of an interest equivalent into other payments between the client and the bank. It has been found out that unlike most legal obstacles, these negative tax consequences cannot be overcome by alternative procedure of a bank which would remain compliant with the Islamic law.

In the conclusion, it is stated that in spite of multiple ascertained limitations to the development of Islamic banking, it is not necessary to take measures for their removal in the territory of the Czech Republic at present.