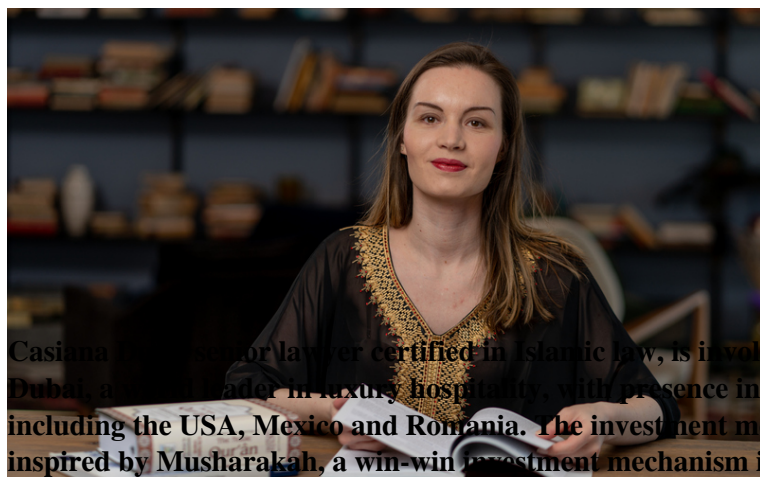


How could a Halal Islamic investment be accessed in Romania and what criteria must be met by a local project to be 'Shariah Compliant'. About 'Mudarabah' and 'Musharakah', as investment mechanisms and concrete projects in which she was involved, in a discussion with Casiana Duşa, senior lawyer specialized in business consulting in Romania and the Middle East



Casiana Duşa, senior lawyer certified in Islamic law, is involved in the expansion of the US group HOLT to Dubai, a group leader in luxury hospitality, with presence in important locations around the world, including the USA, Mexico and Romania. The investment model proposed by the consultant is Halal, inspired by Musharakah, a win-win investment mechanism in which one of the parties undertakes to provide the capital and the other to provide the work, with the profit being shared in the agreed proportion.

"Through the market strategy that we have drawn up, we aim to launch a unique project that will attract important investors both through the high quality of services and through the Shariah compliant components that we implement in the business plan. For confidentiality reasons, I will limit myself to stating that the investment model we propose is Halal, inspired by Musharakah, and the business partners we target are professional investors with a good reputation in the real estate business environment. In this project, in addition to a certain financial contribution, HOLT will bring the workforce, the international know-how to the highest standards, as well as the supervision / management of the properties as vacation home rental, the operational model having already been successfully tested in other countries for over 8 years", states **Casiana Duşa** in the article published in the *Islamic Law* section of **BizLawyer**.

Casiana Duşa founded the *Romanian Arab Investments House* and promotes the specific principles of Islamic investments to Romania, subject to their compatibility with the Romanian law, by which the business environment can attract important financing to key local projects and access business opportunities for expansion to the Middle East.

In the article published today, **Casiana Duşa** explains the mechanisms of Islamic investment (Halal) and details the criteria that an investment must meet in order to be considered Halal. She also analyzes the Mudarabah and Musharakah investment mechanisms and describes the projects in which she engaged in this practice.

"In the coming period, I intend to support local businesses either by attracting investments from the Middle East or by promoting Romanian entrepreneurs in the Arab world, with the primary goal of economic development and innovation of the Romanian business environment by implementing the benefits brought by Halal investments. I also have a particular interest in sustainable projects that create a positive impact for society, as they are in perfect sync with Islamic principles", said the lawyer.

About promoting Halal entrepreneurship, facilitating access to the Arab market and attracting Islamic investments to Romanian projects compatible with Shariah Law, in the analysis published below under the signature of Casiana Duşa .

About the meaning of Halal investment and what are the advantages

Islamic (Halal) investment is the permissible investment from a Muslim religion point of view, as opposed to Haram, which refers to any act or object expressly prohibited by the Qur'an and the Prophet Mohammed's Prophecies. From an economic point of view, the term has been used to assimilate the Islamic economy with Halal industry and further, with Halal entrepreneurship, in which business activities are compatible with the principles of Islam, aiming to boost the wellbeing and the prosperity of society.

Moreover, Islamic investment has a number of major advantages, including: reducing the impact of harmful products and services on society; the application of financial justice and fairness (the Western financial system derives profit from interest vs. the Islamic system paves the way for the sharing of profit/loss and the risk involved in a proportionate manner); encouraging investment stability by reducing risk; accelerating economic development.

Romania is quite familiar with the Halal concept, which crystallized notably in recent years through producers of Halal meat, considered the cleanest in the world, due to the method of processing by completely removing the blood from the carcass. Moreover, certain specialized entities in our country are accredited to issue Halal certification for food, pharmaceutical and cosmetic products, certifying that they do not contain elements prohibited by Islamic law. The main benefit of this certification is that it meets the high demand for Halal products at both local and international level, while guaranteeing Muslim consumers respect for their religion and facilitating the access of Romanian producers to Islamic markets.

The criteria which an investment shall meet to be considered Halal

The defining purpose of "Shariah Compliant" investments is to obtain pecuniary benefits by placing funds in companies that comply with Islamic principles and Halal standards. This compliance is subject to a complex screening procedure, from which I will highlight the key aspects.

Interest (*referred to in Arabic as "riba"*) is prohibited in loan operations carried out in Islamic Banking. This prohibition is closely related to the principle of avoiding speculation (*Gharar*), uncertainty and lack of control over the outcome of the transaction. Moreover, as regards the sharing of gains and losses, there must be proportionality with the risk, the arbitrary factor being excluded.

From the point of view of financing, it is important to note that it must have a material character, i.e. it must target actual assets (the immaterial factor being excluded). Also, the income considered impure, more specifically "*non-Shariah compliant*" falls, as a rule, within the limit of 5% of the total, and the ratio between debt and capital cannot exceed 33%, more precisely the operations can be financed with up to 1/3 of the associates' funds.

In terms of tradable goods, Shariah prohibits engaging in immoral business or trading in prohibited products (according to Shariah, alcohol, tobacco, pork, adult entertainment industry, gambling, weapons are prohibited).

The relationship between the financier and the entrepreneur must be based on partnership, rather than creditor-debtor where the pressure would be on the party in debt.

"The primary purpose underlying the Romanian Arab Investments House is to connect Romanian and Arab entrepreneurs from a legal and business point of view by creating a common multi-cultural and multi-jurisdictional language for identifying common interests, generating development opportunities in Romania and the Middle East, as well as the consolidation of a sustainable Romanian-Muslim environment. Although Romanian-Arab business relations can also take place on a conventional mechanism, it is obvious that the application of the principles specific to Islamic investments, compatible with Romanian law, can make a difference and raise the business environment in Romania to the next level by attracting important financing to key local projects and accelerating business opportunities for expansion in the Middle East. All this would not be possible without the strengthening of the Islamic component."

About Mudarabah as an investment mechanism

This type of contract involves a win-win mechanism in which one party undertakes to provide the capital and the other to perform the work, with the profit being shared in the agreed proportion. The financial loss is borne only by the investor, while the contractor (who performed the work) will not receive any remuneration in exchange for the work, the loss consisting of his time. Mudarabah, as a financing technique adopted by Islamic banks, is the contract where the capital is provided by the bank while the business is managed by the other party (the borrower).

The investment based on this mechanism is suitable for scenarios where an entrepreneur runs a safe project, based on solid know-how and workforce, requiring financial resources, but not his intervention in management. Basically, the capital provider benefits from the entrepreneur's expertise and skills, and the latter obtain benefits from the invested capital.

Mudarabah can be a successful model to promote promising Romanian projects, built on the basis of solid know-how, with important management and labor resources, but which need financial support in exchange for which they will share part of the profit.

Musharakah as an investment mechanism

This type of contract is similar to the joint-venture mechanism, reflecting the idea of partnership based on the labor and capital put together by the parties, while the profit and losses are shared according to the contribution. Unlike Mudarabah, all parties contribute financially and can participate in management. In Islam, the principle that you cannot lose what you do not own (or rather, what you did not contribute to) is much more emphasized than in other cultures and jurisdictions, hence the proportionality between loss and capital contribution.

Thus, although we may find in the conventional business world from the Middle East the famous agreements between shareholders providing for other proportions of profit and loss sharing, different from capital participation, it is important to remember that these provisions are not compatible (at least in principle) with Shariah.

There are two variations of Musharakah, respectively *Permanent Musharakah* and *Diminishing Musharakah*. In Islamic banking, Permanent Musharakah is that mechanism used in long-term projects, where the bank/financier participates in the capital of a project and receives a pro-rata share of the profit. Diminishing Musharakah, on the other hand, allows equity participation and pro-rata profit sharing, but also facilitates a scheme whereby the bank/financier's participation is reduced proportionately over time until full transfer to the entrepreneur. For

example, Diminishing Musharakah works very well in real estate for transactions such as purchases of houses and land, real estate renovations and construction, where ownership gradually reverts to the party receiving the financing. Also, the mechanism can be found in other areas, the essence being that the financier's involvement in the project is directly proportional to the level of debit / amount placed and inversely proportional to the return on the investment (the higher the return, the faster the investment is recovered and control decreases).

From a Romanian law perspective, such a mechanism can have a variety of applications depending on the field and the project. For example, in the real estate field, shared ownership can be a solution, each share being subject of a promise to sell that will be executed on certain data under the suspensive condition of recovering a certain percentage of the investment. In the event of a contribution to the share capital of a company, an exit plan can be designed depending on the achievement of certain profit thresholds and the return on the investment thus placed.

Concrete projects

About 6 years ago, while I was working in DIFC - Dubai International Financial Center, I had the opportunity to be contacted by an investor who had launched a project of about 23 M Euro, with the object of developing a Halal farm in Romania. Based on full respect for the Islamic religion and the Ummah (Muslim community) and considering the agricultural potential of Romania and its surroundings, the project targeted the entire commercial chain, practically covering the purchase of animals, processing and marketing of Halal meat (beef, sheep, poultry) . The investment also targeted two subsidiaries, namely the actual farm (where to keep the animals) and an industrial park (with slaughterhouse, processing lines, packaging, cold storage and maritime transport facilitation). The financial part of this far-reaching project was coordinated by a reputable name in the field, namely the financial specialist Eugen Razvan Popa, with whom I still collaborate today.

Another project that I am running this year regards the expansion of the US group HOLT to Dubai, a world leader in luxury hospitality, with a presence in important locations around the world, including the USA, Mexico and Romania. Through the market strategy that we have drawn up, we aim to launch a unique project that will attract important investors both through the high quality of services and through the Shariah compliant components that we implement in the business plan. For confidentiality reasons, I will limit myself to stating that the investment model we propose is Halal, inspired by Musharakah, and the business partners we target are professional investors with a good reputation in the real estate business environment. In this project, in addition to a certain financial contribution, HOLT will bring the workforce, the international know-how to the highest standards, as well as the supervision / management of the properties as vacation home rental, the operational model having already been successfully tested in other countries for over 8 years.

About the steps I will take in the next period

In the next period, I intend to support local businesses either by attracting investments from the Middle East or by promoting Romanian entrepreneurs in the Arab world, with the primary goal of economic development and innovation of the Romanian business environment by implementing the benefits brought by Halal investments. I also have a particular interest in sustainable projects that create a positive impact for society, as they are in perfect sync with Islamic principles.

Opening a new market and developing a business in a foreign jurisdiction, with a strong religious and cultural specificity, requires adequate know-how to transform the business plan into a successful business. Precisely for this reason, it is imperative to interpenetrate the Western mentality with the Middle Eastern one, in order to finally generate a common language that can boost the import-export between Romania and the United Arab Emirates, as

well as the development of successful businesses between entrepreneurs from these countries.