

## THE HALAL INDUSTRY'S IMPACT ON INTERNATIONAL TRADE LAW. CHALLENGES BEFORE KAZAKHSTAN

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**Abstract.** This article examines the growing significance of Halal standards in international trade law, which is becoming increasingly relevant as the global Muslim population grows and the demand for Halal products rises. As more Muslim countries enforce strict rules around Halal labeling and certification, these requirements impact trade with non-Muslim countries, particularly within the frameworks set by the World Trade Organization (WTO). The article focuses on the regulation of Halal food products, which are much more established than Halal standards in other sectors like banking, medical services, and tourism. By looking at Kazakhstan's experience, where the Halal industry is rapidly expanding, the article highlights both the opportunities and challenges this growth presents for local regulation and international trade. It discusses the need for a clear, unified international legal framework that aligns Halal standards with WTO rules to help ease trade tensions and promote fair practices. The article also emphasizes that while Halal food regulations are relatively advanced, there's still much work needed to ensure consistent Halal standards across all sectors, thereby supporting the rights of Muslim consumers and fostering more inclusive global trade.

**Keywords:** international trade law; halal industry; halal standards; international law; WTO.

## ВЛИЯНИЕ ХАЛАЛ ИНДУСТРИИ НА МЕЖДУНАРОДНОЕ ТОРГОВОЕ ПРАВО. ВЫЗОВЫ, СТОЯЩИЕ ПЕРЕД КАЗАХСТАНОМ

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**Аннотация.** В данной статье рассматривается растущее значение стандартов Халяль в международном торговом праве, которое становится все более актуальным по мере увеличения численности мусульманского населения в мире и роста спроса на халяльные продукты. По мере того как всё больше мусульманских стран вводят строгие правила по маркировке и сертификации Халяль, эти требования влияют на торговлю с немусульманскими странами, особенно в рамках, установленных Всемирной торговой организацией (ВТО). Статья сосредоточена на регулировании халяльных пищевых продуктов, которые гораздо более развиты по сравнению со стандартами Халяль в других секторах, таких как банковское дело, медицинские услуги и туризм. Рассматривая опыт Казахстана, где индустрия Халяль стремительно развивается, статья подчеркивает, как возможности, так и вызовы, которые этот рост представляет для местного регулирования и международной торговли. В статье обсуждается необходимость создания четкой и унифицированной международной правовой структуры, которая согласует стандарты Халяль с правилами ВТО, чтобы помочь смягчить торговые трения и способствовать справедливой практикам. В статье также подчеркивается, что, несмотря на то, что регулирование халяльных продуктов питания достаточно развито, необходимо еще многое сделать для обеспечения согласованных стандартов Халяль во всех секторах, тем самым поддерживая права мусульманских потребителей и способствуя более инклюзивной глобальной торговле.

**Ключевые слова:** международное торговое право; халяль индустрия; стандарты халяль; международное право; ВТО.

# ХАЛАЛ ИНДУСТРИЯСЫНЫҢ ХАЛЫҚАРАЛЫҚ САУДА ҚҰҚЫҒЫНА ӘСЕРІ. ҚАЗАҚСТАН АЛДЫНДА ТҮРҒАН СЫН-ҚАТЕРЛЕР

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**Аннотация.** Бұл мақалада халықаралық сауда құқығындағы халал стандарттарының өсіп келе жатқан маңызы қарастырылады, ол әлемдегі мұсылман халқының саны артып, халал өнімдеріне сұраныс артқан сайын өзекті бола түсуде. Көптеген мұсылман елдері халалды таңбалау мен сертификаттаудың қатаң ережелерін енгізген сайын, бұл талаптар мұсылман емес елдермен, әсіресе Дүниежүзілік сауда ұйымы (ДСҰ) белгілеген сауда-саттыққа әсер етеді. Мақала банк ісі, медициналық қызметтер және туризм сияқты басқа салалардағы Халал стандарттарымен салыстырғанда әлдеқайда дамыған халал тағамдарын реттеуге бағытталған. Халал индустриясы қарқынды дамып келе жатқан Қазақстанның тәжірибесін қарастыра отырып, мақала бұл өсім жергілікті реттеу мен халықаралық сауда үшін ұсынатын мүмкіндіктерді де, сын-тегеуріндерді де атап көрсетеді. Мақалада халал стандарттарын ДСҰ ережелерімен үйлестіретін, сауда үйкелістерін жеңілдетуге және әділ тәжірибеге ықпал ететін нақты және біртұтас халықаралық құқықтық құрылымды құру қажеттілігі талқыланады. Сондай-ақ, мақалада халал азық-түлікті реттеу жеткілікті дамыған болса да, барлық секторларда халал стандарттарының келісілген стандарттарын қамтамасыз ету, осылайша мұсылман тұтынушыларының құқықтарын қолдау және инклюзивті жаһандық сауданы ілгерілету үшін әлі де көп нәрсе істеу керек екендігі баса айтылған.

**Түйінді сөздер:** халықаралық сауда құқығы; халал индустриясы; халал стандарттары; халықаралық құқық; ДСҰ.

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## Introduction

Halal standards are gaining importance in both Muslim<sup>1</sup> and non-Muslim countries<sup>2</sup> due to the global increase in the Muslim population and the corresponding rise in demand for halal products<sup>3</sup>.

This has led Muslim countries to enforce strict labeling and compliance verification for halal goods, impacting international trade with non-Muslim countries that seek fair trade practices under WTO regulations. As a result,

some nations are heightening their domestic and import requirements for halal compliance, while others voice their concerns at WTO forums<sup>4</sup>. In Kazakhstan, where the halal sector shows stable growth, the rising trend of "halalization" poses challenges both domestically and internationally<sup>5</sup>. Nearby countries are also implementing halal-only import regulations<sup>6</sup>. Establishing an effective international legal framework that aligns halal standards with WTO law and harmonizes these standards among members will help ease

<sup>1</sup> In this article Muslim countries are the eight Islamic states have adopted Islam as the ideological foundation of state and constitution (Afghanistan, Brunei, Iran, Mauritania, Oman, Pakistan, Saudi Arabia and Yemen) and nineteen Muslim-majority states have endorsed Islam as their state religion, and though they may guarantee freedom of religion for citizens, do not declare a separation of state and religion (Algeria, Bahrain, Bangladesh, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Libya, Malaysia, Maldives, Morocco, Palestine, Qatar, Somalia, Syria, Tunisia, UAE). All other countries will be indicated as non-Muslim countries.

<sup>2</sup> 4 Reasons the Halal Food Industry is Booming. Widya Herminingsih | Senior Regulatory Manager, // Kerry Digest Group. [Electronic resource] - Access mode: <https://www.kerry.com/insights/kerrydigest/2021/halal-food-industry.html>, (date of reference: 28.03.2024).

<sup>3</sup> Ibid.

<sup>4</sup> For example, specific trade concerns of European Union, United States, Brazil raised serious concerns with regard to the Indonesian Halal Product Guarantee Law, No 33, available on – [Electronic resource] - Access mode: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/G/TBT/M75.pdf&Open=True> (date of reference: 28.03.2024).

<sup>5</sup> Ольга Тонконог. Зачем Минторговли Казахстана вводятся новые стандарты халал // Газета Курсив. – 2022. №46 – [Электронный ресурс]. - Режим доступа: <https://kz.kursiv.media/2022-11-24/zachem-mintorgovli-kazahstana-vvodit-novye-standarty-halal/> (дата обращения: 24.03.2024).

<sup>6</sup> Таджикистан запретил ввоз «нехалальной» мясной продукции // Радио Азаттық. – 2018. [Электронный ресурс]. - Режим доступа: <https://rus.azattyq.org/a/29002646.html>. (дата обращения: 20.03.2024).

tensions and support Kazakhstan's economic collaborations with Muslim nations.

In this article, the focus is specifically on the concept of halal within the realm of international trade law, particularly as it applies to food products. The halal food sector is far more regulated and standardized compared to other sectors such as banking, medical services, tourism, and hospitality, finance and digital services which remain less developed and require more comprehensive legal frameworks. While these areas hold significant potential and are worthy of in-depth exploration, they are beyond the scope of this study and are not covered in this discussion. At the same time, this article indicates that the service sector potentially has great prospects in terms of their compliance with Halal standards.

### Methodology and materials

The materials for the study are domestic legislation in the field of certification and labeling, international agreements in the field of international trade law, the works of experts and scientists on the subject under study, analytical materials of international organizations in the trade sphere. The dialectical method of cognition, comparative, heuristic and other methods of scientific research are used as research methods.

### Results and discussion

#### Concept of Halal

Halal is a word of Arabic origin. This religious concept means "permitted". This is all that is allowed and permissible in Islam (the opposite of Haram). This concept is most often used to refer to properly prepared and permitted food for Muslims, but Halal standards are also applicable to chemical goods and even services. The main source of this term is the Holy Quran and Hadith.

Muslim scholars have used various expressions to define halal. According to some

of them, it is all that which one is not punished for in its use, and that which the Sharia has allowed [1, p.66]. According to others, it is that which the Quran and the Sunna have permitted on account of a permissible cause [2, p.225].

The opposite of the term halal is the term haram. The source of the forbidden in Islam is also the Holy Quran and the Sunnah of the Prophet. Thus, one of the examples of prohibitions in the Holy Qur'an related to the topic of the study is the prohibition on the consumption of pork<sup>7</sup>, alcohol, and gambling<sup>8</sup>. As for the Prophet Muhammad, for example, he forbade eating animals with fangs<sup>9</sup>, as well as donkeys<sup>10</sup>.

In the last 2 centuries, with the development of the food industry, the advent of food processing processes, food additives, the process of determining the permissibility of a particular product has become more complex.

According to the World Health Organization there are several thousand nutritional supplements, each designed to perform a specific function<sup>11</sup>. Not all dietary supplements comply with Islamic law. Additives based on alcohol, pork, other prohibited animals, or those that are carcinogenic are not allowed. For instance, gelatin derived from pork<sup>12</sup> and certain natural dyes like carmine, extracted from cochineal insects and commonly used in red-colored sodas and desserts, are considered haram (forbidden) in Hanafi, Shafi'i, and Hanbali schools of thought, but permissible in the Maliki school<sup>13</sup>.

Thus, today Muslims all over the world need institutions for certification and labeling of permitted products. Since it is difficult and time-consuming to understand the permissibility of each dietary supplement. This has led to the explosive growth of the halal industry.

The total market size of the halal industry is anticipated to expand to \$7.7 trillion by 2025, up from \$5.7 trillion in 2021<sup>14</sup>.

International Trade Center's Executive

<sup>7</sup> Таджикистан запретил ввоз «нехаляльной» мясной продукции // Радио Азаттык. – 2018. [Электронный ресурс]. - Режим доступа: <https://rus.azattyq.org/a/29002646.html>. (дата обращения: 20.03.2024).

<sup>8</sup> Holy Quran 5:90. O believers! Intoxicants, gambling, idols, and drawing lots for decisions are all evil of Satan's handiwork. So shun them so you may be successful.

<sup>9</sup> Sahih Muslim 1933b - [Electronic resource] - Access mode: <https://sunnah.com/muslim:1933b>. (date of reference 18.03.2024).

<sup>10</sup> Sahih al-Bukhari 4219 - [Electronic resource] - Access mode: <https://sunnah.com/bukhari:4219> (date of reference: 19.03.2024).

<sup>11</sup> Nutritional Supplements. [Electronic resource] - Access mode: <https://www.who.int/ru/news-room/fact-sheets/detail/food-additives> (date of reference: 19.03.2024).

<sup>12</sup> Is Gelatin Permissible? - [Electronic resource] - Access mode: <https://fiqh.islamonline.net/en/is-gelatin-permissible/> (date of reference: 14.03.2024)

<sup>13</sup> Is Carmine Halal? - [Electronic resource] - Access mode: <https://chewwies.com/blogs/blog/is-carmine-halal> (date of reference: 01.04.2024).

<sup>14</sup> Market size of global halal industry to reach \$7.7 trillion by 2025. - [Electronic resource] - Access mode: <https://www.>

Director Arancha González mentioned that halal sector “is increasingly attracting the attention of policymakers and the private sector as a sector with increasing growth potential” [3, p.1]. At the same time, she also noted the challenges facing the industry “varying interpretations of religious rulings, different standards and constantly evolving regulatory frameworks can easily become obstacles for newcomers to this market”<sup>15</sup>.

Thus, the halal industry, with a growing Muslim population and a growing market, will occupy an important place not only among Muslim countries, but also around the world, in this regard, the legal integration of Halal standards into international law and international trade law in particular comes to the fore.

Contemporary issues and effect of halal industry on international trade law

International law provides robust protections for the rights of Muslims, particularly concerning their ability to practice their religion freely, which includes adherence to Halal standards. The Universal Declaration of Human Rights (UDHR) (1948), in Article 18, affirms the right to freedom of thought, conscience, and religion, including the freedom to manifest religion in practice, worship, and observance. This explicitly encompasses dietary practices integral to religious observance, such as the consumption of Halal food. Similarly, the International Covenant on Civil and Political Rights (ICCPR) (1966), also in Article 18, reinforces the right to freedom of religion, explicitly including the freedom to manifest one’s religion in practice and observance. This provision extends to the consumption of Halal food and the use of Halal-compliant services, recognizing them as essential elements of religious practice for Muslims. Furthermore, the International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966), in Article 11, acknowledges the right to an adequate standard of living, which includes

adequate food—interpreted to mean food that meets religious requirements, such as Halal. Article 12 of the ICESCR ensures the right to the highest attainable standard of health, which can include access to culturally appropriate and religiously compliant food and health services. Together, these international instruments provide a strong foundation for protecting the religious rights of Muslims, including their right to Halal-compliant goods and services.

International trade law in turn provides the legal framework for trade between nations, involving a variety of rules, agreements, and institutions designed to facilitate, regulate, and ensure fair global commerce. Central to this framework is the World Trade Organization (WTO), which aims to promote free trade and resolve disputes among its members. The WTO’s primary goals are to reduce administrative and customs barriers, settle disputes, and promote the liberalization and freedom of trade. Most disputes adjudicated by the WTO relate to trade barriers that restrict free trade, affecting national or foreign companies. In this context, halal standards and their mandatory compliance to access certain markets may raise concerns about potential violations of international trade law and WTO regulations.

Experts point out that Halal, as a religious principle guiding the Muslim community, is not universally applicable nor clearly confined to specific territories. This poses challenges to secular trade laws and national institutions<sup>16</sup>. Additionally, interpretations of Halal vary and are fragmented even among Muslims themselves.<sup>17</sup>

Halal harmonization among different Muslim countries thus equally remains a challenge<sup>18</sup>.

At the same time, it adds complexity to the situation with low-quality Halal certification<sup>19</sup>.

At the international level, Halal Guidelines for the use of the term ‘Halal’ were adopted by the Codex Alimentarius Commission in 1997, an intergovernmental food standard-setting body set up jointly by the Food and Agriculture

*consultancy.asia/news/5341/market-size-of-global-halal-industry-to-reach-77-trillion-by-2025 (date of reference: 25.03.2024).*

<sup>15</sup> Ibid.

<sup>16</sup> Laura Kurth and Pieter Glasbergen, ‘Serving a Heterogeneous Muslim Identity? Private Governance Arrangements of Halal Food in the Netherlands’, 34 (1) *Agriculture and Human Values* 103–18 (2017), p. 115 <https://doi.org/10.1007/s10460-016-9698-z>.

<sup>17</sup> Ibid.

<sup>18</sup> Eva Johan, ‘New Challenges in ASEAN Regional Market: International Trade Framework on Halal Standard’, 18 (1) *Jurnal Dinamika Hukum* 93 (2018), <https://doi.org/10.20884/1.jdh.2018.18.1.809>, p.100

<sup>19</sup> There are a lot of examples when the pork DNA was found in halal certified products. Just a few links here: Ариз Салехов. Рос-сельхознадзор: в халяльной колбасе из Свердловской области найдена свинина. // *Вечерняя Москва*. - [Electronic resource] - Access mode: <https://vm.ru/news/1083668-rosselkhozndzor-nashel-svininu-v-halyalnoj-kolbase-iz-sverdlovskoj-oblasti> (date of reference: 24.03.2024). В халяльной колбасе обнаружена свинина. // *Радио Азаттык*. - [Электронный ресурс]. - Режим доступа: <https://rus.azattyq-ruhy.kz/world/55513-v-khalialnoi-kolbase-obnaruzhena-svinina> (дата обращения: 24.03.2024).



Organization (FAO)/World Health Organization (WHO) with quasi global membership<sup>20</sup>.

The Halal Guidelines, along with various standards set by Codex and the OIE, address some elements relevant to national Halal regulations but do not comprehensively cover all facets of Halal oversight. This gap in establishing a comprehensive and uniform global standard for Halal practices is a primary reason for the ambiguity regarding the compatibility of domestic Halal regulations with World Trade Organization (WTO) rules.<sup>21</sup>

So, the Codex does not take into account the nuances of permitted animals among Shiites and Sunnis<sup>22</sup>.

Also, the Codex does not take into account the differences between the 4 madhhabs. Fox meat is Halal from the point of view of Malik and Shafi'i representatives, while Shiites, Hanafis and Hanbalis consider it forbidden. There are a lot of contradictions and disagreements among representatives of the religious and legal schools of Islam regarding the prohibition or permission to eat meat of various animals<sup>23</sup>.

That is, today in practice and potentially we have a situation where disputes can arise not only between Muslim and non-Muslim states, but also between 2 Muslim ones<sup>24</sup>.

Disputes over halal certification, compliance with standards, and contractual agreements may arise between parties involved in international trade. Resolving these disputes can be complex due to differences in legal systems, cultural norms, and interpretations of Islamic principles.

For instance, from 1995 to 2008, only one specific trade concern (STC) related to Halal

measures was recorded, whereas there was a significant increase to twelve STCs from 2009 to 2020, indicating that Halal measures have become more prominent at the World Trade Organization (WTO) level. Among these concerns, eleven were associated with the Technical Barriers to Trade (TBT) Agreement, and two were addressed under the Sanitary and Phytosanitary (SPS) Agreement<sup>25</sup>.

Moreover, one of these controversial situations led to the WTO proceedings between Brazil and Indonesia.

Indonesia has mandated halal certification for products, including food, by implementing the Halal Product Guarantee Law, Law Number 33 of 2014<sup>26</sup>.

The Halal Act enables the government to guarantee and safeguard the ability of Muslims to follow their faith, especially in terms of eating halal food.<sup>27</sup> Article 4 of the Halal Act mandates that all products distributed or sold in Indonesia are required to obtain halal certification and article 47 (1) specifies this requirement to imported products. Through these provisions, the Indonesian government has transitioned the halal certification system from being optional to compulsory<sup>28</sup>.

After that Brazil sought discussions with Indonesia about the policy, despite the fact that the act had not yet been implemented. Unable to reach a consensus, Brazil then proceeded to ask for the formation of a panel. Brazil argued that Indonesia is breaching Article III:4 of the General Agreement on Tariffs and Trade (GATT), which pertains to the principle of national treatment<sup>29</sup>.

<sup>20</sup> Codex Alimentarius. [Electronic resource] - Access mode: <https://www.fao.org/3/y2770e/y2770e08.htm> (date of reference: 21.03.2024)

<sup>21</sup> Eva Johan and Hanna Schebesta. Religious regulation meets international trade law: halal measures, a trade obstacle? evidence from the sps and tbt committees. // *Journal of International Economic Law*, Volume 25, Issue 1, March 2022, p. 68. - [Electronic resource] - Access mode: <https://academic.oup.com/jiel/article/25/1/61/6529219> (date of reference: 21.03.2024).

<sup>22</sup> Можно ли употреблять кроличье мясо? - [Электронный ресурс]. - Режим доступа: <https://islam.kz/ru/questions/veroubejdenie/mojno-li-upotrebyat-kroliche-myaso-197/#gsc.tab=0> (дата обращения: 28.03.2024).

<sup>23</sup> [Electronic resource] - Access mode: <https://makarem.ir/main.aspx?reader=1&lid=0&mid=73572&catid=6563&pid=72572> (date of reference: 29.03.2024).

<sup>24</sup> "Majelis Ulama Indonesia (MUI) views that JAKIM does not conduct complete tests on products with sensory profile. Because of this, Malaysian exporters with JAKIM certification are not allowed to enter the Indonesian domestic market". *Matrix of actual cases on NTMs/trade barriers in ASEAN*. - [Electronic resource] - Access mode: <https://asean.org/wp-content/uploads/Matrix-of-Actual-Cases-as-of-26-April-21.pdf> (date of reference: 17.03.2024)

<sup>25</sup> *Supra* note 21.

<sup>26</sup> Ruhaeni, N., & Aqimuddin, E. an. (2023). Halal food certification as an exception clause under the rule of the WTO-GATT: An Indonesia experience. *Cogent Social Sciences*, 9(2). <https://doi.org/10.1080/23311886.2023.2260160>. p.9.

<sup>27</sup> *Ibid*.

<sup>28</sup> Limenta, M., Edis, B. M., & Fernando, O. (2018). Disabling labelling in Indonesia: Invoking WTO laws in the wake of halal policy objectives. *World Trade Review*, 17(3), <https://doi.org/10.1017/S1474745617000167>. p. 452.

<sup>29</sup> Indonesia — Measures Concerning the Importation of Chicken Meat and Chicken Products. [Electronic resource] - Access mode: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds484\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds484_e.htm) (date of reference: 21.03.2024).

The WTO panel recognized Indonesia's rationale for enacting the Halal Act to protect the religious practices of its mainly Muslim population. Additionally, the panel rejected Brazil's claim that Indonesia violated national treatment principles, citing Brazil's failure to demonstrate how Indonesia's policies directly harmed the competitiveness of imported products relative to domestic ones<sup>30</sup>.

Indonesia defended its halal food regulations by citing Article XX(d) of the GATT, which permits measures necessary to comply with national laws, instead of using Article XX(a) related to public morals. Although the WTO panel ruled that Indonesia did not violate the national treatment principle of GATT 1994's Article III:4, it still scrutinized the Halal Act for potential discriminatory elements. This makes the case concerning Indonesia's chicken imports crucial for evaluating whether the Halal Act's certification and labeling requirements might conflict with GATT standards<sup>31</sup>.

The situation with the provision of services in accordance with the GATS agreement is even more complicated and confusing. Similarly, with the GATT agreement GATS agreement was established to promote and liberalize trade in services worldwide.

In practice, there are cases when Muslim states have banned the screening of films or banned certain video games for showing footage that is not allowed in Islam or offends Muslims. All this could potentially lead to WTO proceedings and Muslim states should have a firm, reasoned position on why their ban does not violate international trade law<sup>32</sup>.

To address the challenges in halal goods trade, establishing universally accepted international halal standards is crucial, especially since current standards do not exist and need to incorporate differences among Shiite and Sunni practices, including the four Sunni legal schools. As well as standards that establish requirements for Halal certification bodies. With about 80%

of certification agencies based in non-Muslim countries and total numbers ranging from 500 to 3000 worldwide, uniform standards are essential.<sup>33</sup>

Among the most famous international certification agencies: The National Standards of the ESMA Office for Standardization and Metrology (UAE), the Standards of the Gulf Organization GSO, the Standards of the Institute of Standardization and Metrology of Islamic Countries, the National Standard of Malaysia and others<sup>34</sup>.

Previous studies have revealed that international halal standards, although they have a lot in common, have certain differences. The authors of the study conclude that the lack of uniform harmonized standards hinder and limit the growth of the halal industry<sup>35</sup>. In addition, this situation can create artificial barriers to trade.

Additionally, robust certification and accreditation systems are necessary to ensure products and services meet halal requirements. This involves accrediting certifying bodies to guarantee their ability to impartially verify halal compliance.

In the area of services, comprehensive theoretical training on what is permissible is needed to prevent individual prohibitive measures by Muslim countries on certain services, which could lead to international tension and negatively impact the perception of Islam.

#### Challenges before Kazakhstan

The halal industry in Kazakhstan is developing at the same rapid pace as in the world. The market is now estimated at between 1.5 and 2.2 billion US dollars, with an optimistic growth potential of up to 4.1 billion in 2028, adding up to 10-15% annually. Currently, Kazakhstanis spend about 17% of their consumer basket on halal food. And by 2025, according to expert estimates, they will reach at least 20%. According to experts, today in Kazakhstan more than 70% of meat processing

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> For example, *Fortnite faces ban in Indonesia after minister brands it blasphemous to Muslims*. Access mode: URL: <https://www.scmp.com/week-asia/politics/article/3140205/fortnite-faces-ban-indonesia-after-minister-brands-it>. (date of reference: 24.03.2024). *Morocco says Exodus film 'represents God' and is forbidden in Islam*. - [Electronic resource] - Access mode: <https://www.theguardian.com/world/2014/dec/27/morocco-exodus-ban-islam-represents-god>. (date of reference: 22.03.2024).

<sup>33</sup> Salama. WHS: Harmonising Halal Standards Within The ASEAN Region, // *Halal Focus*, April 6th, 2015. - [Electronic resource] - Access mode: <http://halalfocus.net/whs-harmonising-halalstandards-within-the-asean-region/> (date of reference: 15.03.2024).

<sup>34</sup> Что нужно знать о Халяль. [Электронный ресурс]. - Режим доступа: <https://foodsafety.ru/halal>. (дата обращения: 20.08.2024).

<sup>35</sup> Lutfika E., Kusnandar F., Hunaefi D. Comparative Analysis and Harmonization of Global Halal Standards. *International Journal of Halal Research*. ISSN 2721-7868 Vol. 4, No. 1, June 2022, pp. 29-39.

and 50-60% of the main market positions itself as halal<sup>36</sup>.

At the same time, legislative regulation, as well as the harmonization of the requirements for halal certification, has not yet kept pace with reality.

To date, Kazakhstan has adopted 18 standards related to the halal industry. The first Halal standard adopted is ST RK 1353-2005 "Boiled sausages "Halal"<sup>37</sup>. General Technical Conditions" effective January 1, 2006. These standards can be conditionally divided into the following categories: management system standards - 4, standards for food products - 4, standards for certification bodies - 3, standards for cosmetics - 2, standards in tourism - 2, standards for the halal sign - 1, standards for catering facilities - 1, general standards - 1.

As noted earlier, the protection of the rights of believers, including Muslims, in the practice of their religion is protected by international law, namely, a number of conventions to which Kazakhstan is a party, which also obliges our government to protect and respect the rights of Muslims in Kazakhstan.

At the same time, unfortunately, there are facts of violations of the rights of Muslim believers in this direction.

In Kazakhstan, it was found that about a third of products labeled "halal" contained pork. Official data from the Ministry of Health showed that out of 1,406 samples taken from 2015 to 2022, pork components were found in 506 samples<sup>38</sup>.

The Code of Administrative Offences of the Republic of Kazakhstan (here and after – Code) provides for the responsibility of misleading about consumer properties or the quality of goods (work, services) or other deception of consumers by individual entrepreneurs or organizations engaged in trading activities and the provision of services due to unfair advertising<sup>39</sup>.

At the same time, in the case of Article 190 of the Code, the object, that is, the victim of an

offense, is the consumer.

According to Part 1 of Article 745 of the Code, the victim is a natural or legal person who has suffered physical, property or moral harm by an administrative offense.

The case of an administrative offense is considered with the participation of the victim. In his absence, the case may be considered only in cases where there is evidence of proper notification of the place and time of consideration of the case and if there has been no request from him to postpone consideration of the case.

Accordingly, the presence and participation of the consumer as a victim in the case of an administrative offense under the commented article is mandatory.

At the same time, it remains unclear how the consumer can determine whether meat or sausage was produced according to all halal standards and whether, for example, it does not have pork DNA.

Moreover, the sanction of the article provides for a minor fine, for example, for small businesses – in the amount of twenty MCI (73840 tenge).

All this creates a situation convenient for unscrupulous entrepreneurs, due to the extreme difficulty in bringing them to justice and small fines.

In practice, the certifying agency itself has to go to court to hold unscrupulous manufacturers accountable for the unjustified use of halal labeling, at least to date, there is 1 court case on this issue<sup>40</sup>.

At the same time, the question arises about the certification agencies' responsibility. Their responsibility is provided for in Article 415-1 of the Code, in particular for violations of the rules for conducting procedures for confirmation and (or) conformity assessment, verification of measuring instruments, unreliability of test results during confirmation and (or) conformity assessment, verification of measuring instruments, as well as the issuance

<sup>36</sup> *Supra* note 5.

<sup>37</sup> The information is taken from the online store of the Kazakhstan Institute of Standardization and Metrology. - [Electronic resource] - Access mode: <https://new-shop.ksm.kz/> (date of reference: 21.08.2024).

<sup>38</sup> Makarov A., 30% of halal products in Kazakhstan contain pork, the Ministry of Health reports. [Electronic resource] - Access mode: <https://bizmedia.kz/2023-08-31-30-produkczii-halal-v-kazahstane-soderzhit-svininu-soobshhaet-minzdrav/> (date of reference: 21.08.2024).

<sup>39</sup> Кодекс Республики Казахстан Об административных правонарушениях от 5 июля 2014 года. - [Электронный ресурс]. - Режим доступа: <https://adilet.zan.kz/rus/docs/K1400000235#z1838> (дата обращения: 05.03.2024).

<sup>40</sup> Оштрафовано предприятие, незаконно использовавшее знак «QMDB Halal». [Электронный ресурс]. - Режим доступа: <https://halaldamu.kz/ru/p/oshtrafovano-predpriyatie-nezakonno-ispolzovavshee-znak-qmdb-halal> (дата обращения: 16.03.2024).

of documents confirming compliance, and the issuance of a certificate of verification of measuring instruments without mandatory procedures<sup>41</sup>.

At the same time, despite the numerous facts of violations identified, the responsibility lies with entrepreneurs, there are no facts of holding certification agencies accountable. In this regard, this issue remains open.

In this regard, there is a need to adopt a new article of the code bringing to responsibility for false labeling, where the object of the offense will be not only the consumer, but also the rights and interests of the state, which will allow authorized bodies to conduct random checks of products for their compliance with Halal standards.

Transparency in certification processes is a significant concern in Kazakhstan, where there are no uniform halal standards. Each certifying body<sup>42</sup> develops its own standards, and obtaining a certificate is voluntary, allowing manufacturers to choose their certifier. The certifying authority also sets the fee for certification, but there is no public information available about the cost of the procedure<sup>43</sup>.

It sees the important role of the Ministry of Trade and Integration of the Republic of Kazakhstan in the unification of halal standards used in Kazakhstan. This will bring standards to a common denominator as the number of unscrupulous entrepreneurs grows.

It is also seen as an important role of this Ministry in the unification of halal standards within the framework of the EAEU, the creation of which was announced back in 2019<sup>44</sup>, but to date its fate is unknown. Despite the voluntary nature of the certification itself, such a step would increase the trade turnover of goods between countries and increase the level of trust of citizens in halal goods of neighbors and would protect their rights from unscrupulous

entrepreneurs.

Moreover, there is no single directory of permitted and prohibited food additives for the mass consumer. With the general growing consumption of Halal products, it would be advisable to develop and publish such a list in Russian and Kazakh languages in the public domain.

In conclusion, it is necessary to touch upon an issue that is still in its infancy and will be relevant in future years. The issue of compliance of modern mass media (books, films, TV series, games, anime, comics, manga) and digital services (mobile applications and social networks) with Halal standards.

The Spiritual Administration of Muslims of Kazakhstan has deemed the use of the TikTok app inappropriate, though such views may be overlooked given the secular nature of the state<sup>45</sup>. In contrast, in 2022, the Ministry of Culture and Sports withdrew a cartoon's rental certificate due to a scene depicting a same-sex kiss, leading to a public outcry and an effective ban on its showing in theaters. The ministry justified its action by citing "citizen requests," despite lacking legal grounds for the recall<sup>46</sup>.

This particular ban could be deemed unlawful under the General Agreement on Trade in Services. According to this agreement, member states must offer immediate and unconditional treatment to services and service providers from other member countries that is as favorable as the treatment given to similar services and providers from any other country (Article II)<sup>47</sup>. Article 6 states that in sectors where specific commitments have been made, each member must ensure that all general measures impacting trade in services are administered reasonably, objectively, and impartially<sup>48</sup>.

In turn, the concept of a measure in accordance with this agreement is means any measure by a member, whether in the form of

<sup>41</sup> *Supra* note 39.

<sup>42</sup> In Kazakhstan, the following organizations are engaged in issuing Halal certificates: the republican enterprise KazStandart, the Association of the Halal Industry of Kazakhstan (AHIK), Halal Damu LLP of the Spiritual Administration of Muslims of Kazakhstan, HALAL Quality Center LLP and others.

<sup>43</sup> *Supra* note 5.

<sup>44</sup> В странах ЕАЭС введут единый стандарт халяля. - [Электронный ресурс]. - Режим доступа: <https://www.interfax.ru/business/679143> (дата обращения: 22.08.2024).

<sup>45</sup> TikTok признали харамом: религиозные казахстанцы вынуждены отказаться от популярной соцсети. - [Electronic resource]. - Access mode: <https://www.caravan.kz/news/tiktok-priznali-kharamom-religioznye-kazakhstancy-vynuzhdeny-otkazatsya-ot-populyarnojj-socseti-706321> (date of reference: 14.03.2024).

<sup>46</sup> Не запрещали, но прокатное удостоверение отозвали. Сколько потеряли кинотеатры из-за отмены «Базза Лайтера». - [Электронный ресурс]. - Режим доступа: <https://esquire.kz/ne-zapreshhali-no-prokatnoe-udostoverenie-otozvali-skolko-poterjali-kinoteatry-iz-za-otmeny-bazza-lajtera/> (дата обращения: 14.03.2024).

<sup>47</sup> General Agreement On Trade in Services. - [Electronic resource]. - Access mode: [https://www.wto.org/english/docs\\_e/legal\\_e/26-gats.pdf](https://www.wto.org/english/docs_e/legal_e/26-gats.pdf) (date of reference: 20.03.2024).

<sup>48</sup> *Ibid*.



a law, regulation, rule, procedure, decision, administrative action, or any other form.

In this case, the revocation of the rental certificate can be regarded as a decision or administrative action.

At the same time, the same agreement provides that the State may apply measures restricting free trade of services are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries in order to protect public morals or to maintain public order.

Under international trade law, states determine their own standards of public morality. Consequently, Kazakhstan can limit the showing of films that promote values contrary to those of its population, but it should formalize such decisions through regulations or directives to prevent accusations of arbitrary discrimination. Similarly, as religious awareness and the demand for halal products increase in Kazakhstan, there is a growing focus on the Islamic permissibility of services, media, and digital content. In the case of the development of international halal standards in the field of art, it seems necessary for Kazakhstan to introduce similar standards to protect public morality and the rights of Muslims in Kazakhstan, since halal standards apply not only to what we consume and use, but also to what we see and hear. This highlights the need for more detailed work on harmonizing Halal standards and developing criteria for digital services and films to align with Islamic norms.

### Conclusion

The global expansion of the Halal industry highlights the growing importance of harmonizing Halal standards within the framework of international trade law. As has been demonstrated, Halal standards are not

only vital to ensure that Muslims' religious obligations are respected, but also have significant implications for international trade, especially as non-Muslim countries seek to enter markets where the majority of the population is Muslim. The need for universal standards and reliable certification processes is crucial to eliminate trade barriers and ensure fair trade practices within the WTO. Moreover, as the Halal industry spreads not only to food, but also to services and other sectors, it is becoming increasingly important to develop a comprehensive legal framework that takes these changes into account and respects religious freedoms and cultural identity, as enshrined in international human rights instruments.

The experience of Kazakhstan shows the complexity and challenges associated with regulating the halal market, which reflects broader global trends. Despite significant growth potential, the lack of standardized Halal certification and fraudulent practices highlight the need for increased regulatory oversight and international cooperation. In order to protect the rights of Muslim consumers and increase confidence in halal products on the global market, countries must adopt common standards and ensure transparency and accountability in halal certification processes. In addition, since the concept of Halal extends to areas such as digital services and media, the development of detailed criteria that comply with Islamic norms will be crucial both for the observance of religious rights and the principles of international trade. Addressing these challenges will require joint efforts by Governments, international organizations and stakeholders in the halal industry to create a more inclusive and fair global trading system.

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