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**The Italian Experience with Halal Certification:  
the Case of *Halal Italia* \***

**SUMMARY: 1. Introduction - 2. Brief Remarks on the Notion of Halal - 3. The Interests at Stake in Halal Certification - 4. Actors and Instruments Involved in Halal Certification - 5. The Constitutional Regulation of the Religious Factor and Its Impact on Halal Certification - 6. *Halal Italia* and the 2010 Inter-Ministerial Convention - 7. Conclusion.**

**1 - Introduction**

Halal certification guarantees that Muslims may effectively exercise their right to religious freedom, by eating food produced consistently with their religious norms. However, its relevance is not confined to the protection of a fundamental freedom. In fact, the growth of the global halal market makes the economic dimension acquire a paramount importance. This applies to both Muslim-majority and Muslim-minority countries.

In Italy, too, economic actors and public authorities have shown a growing interest in halal certification. This interest led to the signing, on 30 June 2010, of an Inter-Ministerial Convention to promote the trademark *Halal Italia*, registered by *Comunità Religiosa Islamica* (Islamic Religious Community, hereafter Co.Re.Is.), one of the main Muslim organizations in Italy. As stated in the agreement itself, the trademark has been created as a “quality certification recognized by the Italian State to export products consistent with Koranic rules”, and to provide “interested associations and companies with opportunities to enter Muslim-majority countries’ markets”<sup>1</sup>.

The purpose of this paper is to examine this peculiar Italian

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<sup>1</sup> The text of the Inter-Ministerial Convention is available at [www.halalitalia.org](http://www.halalitalia.org). The



experience with halal certification. After some brief preliminary remarks on the notion of halal, I will take into account the general context of halal certification, by focusing on the interests at stake and on the actors and instruments involved. Next, I will examine the impact of the constitutional regulation of the religious factor on halal certification. Finally, my analysis will turn to the trademark *Halal Italia* and the 2010 Inter-Ministerial Convention.

## 2 - Brief Remarks on the Notion of Halal

Muslim scholars classify acts, objects and conducts according to five normative categories: compulsory (*fard* or *wajib*<sup>2</sup>), recommended (*mandub*), neutral (*mubah* or *ja'iz*), disapproved (*makruh*), and forbidden (*haram*)<sup>3</sup>. The Koran, the *hadith* and the Islamic schools of law have nonetheless used a greater variety of terms to express these notions<sup>4</sup>. Amongst them, "halal" is possibly the most popular one both in the Muslim world and in the West. This term, which is widely known also amongst non-specialists of Islamic law, is generally translated as "permissible" and refers to "an open category that applies to all that which is not forbidden"<sup>5</sup>.

Mohammad Hashim Kamali has noted that "*halal* and its derivatives occur more frequently in the Qur'an and hadith, whereas the fiqh literature is more inclined to employ *mubah* and *ja'iz*"<sup>6</sup>.

"The reason why fiqh scholars opt for a different terminology may be due to the sensitivity that the Qur'an attaches to the pronouncement of the *halal* and *haram*. For this is the prerogative only of God [...]. A slight difference in the meaning of these terms may also be relevant to note:

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translation into English is mine.

<sup>2</sup> "Most Muslims use the terms "fard" and "wajib" as synonyms. Others, primarily the members of the Hanafi school [...] define the first term as duties established by the Quran, the Prophet's custom, and the general consensus of Muslim scholars [...]. According to this opinion, wajib represents a less stringent obligation because it is based on deductive reasoning based on these sources, including "analogical reasoning"" (F. ARMANIOS, B. ERGENE, *Halal Food: A History*, Oxford University Press, Oxford, 2018, p. 271, endnote 67).

<sup>3</sup> M.H. KAMALI, *Sharia Law. Questions and answers*, Oneworld, London, 2017, Q&A 61.

<sup>4</sup> For example, the expressions *sunnah*, *mustahab*, *nafl*, *tatawwu'*, *fadilah*, *ihsan* and *ragha'ib* may equally refer to the notion of "recommended". See M.H. KAMALI, *The Halal Industry from a Shariah Perspective*, in *Islam and Civilisational Renewal*, 2009, 1/4, pp. 603-604.

<sup>5</sup> M.H. KAMALI, *The Parameters of Halal and Haram in Shariah and the Halal Industry*, The International Institute of Islamic Thought, London, 2013, p. 3.

<sup>6</sup> M.H. KAMALI, *The Parameters of Halal*, cit., p. 2.



whereas *mubah* and *ja'iz* refer to something over which the Shari'ah is totally neutral, *halal* often implies a degree of purity in the context particularly of foodstuffs, and may as such imply preference that is not totally neutral"<sup>7</sup>.

In fact, the term *halal* is generally associated to the foodstuffs and beverages that Muslims are permitted to consume. But religion is a major factor influencing not only food choices<sup>8</sup>, but also, more broadly, consumer behaviour and attitude<sup>9</sup>. Thus, it should not be surprising that the category of halal has nowadays extended also to finance, insurance, cosmetics, medicines<sup>10</sup> and even tourism<sup>11</sup>. Just to make an example, the Rotterdam

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<sup>7</sup> **M.H. KAMALI**, *The Parameters of Halal*, cit., p. 51, endnote 1.

<sup>8</sup> As highlighted by a great number of studies, including A.G. CHIZZONITI (ed.), *Cibo, religione e diritto. Nutrimento per il corpo e per l'anima*, Libellula Edizioni, Tricase, 2015; the special issue of *Quaderni di diritto e politica ecclesiastica*, 2014; G. COLOMBO (ed.), *A tavola con Dio e con gli uomini. Il cibo tra antropologia e religione*, Vita e Pensiero, Milano, 2016; **A. FERRARI**, *Cibo, diritto, religione. Problemi di libertà religiosa in una società plurale*, in *Stato, Chiese e pluralismo confessionale. Rivista telematica (www.statoechiese.it)*, no. 15 of 2016; **D. MILANI**, *L'osservanza dei precetti alimentari nelle società multireligiose tra pratiche rituali e libertà di culto*, in *Il diritto come 'scienza di mezzo'. Studi in onore di Mario Tedeschi*, ed. by M. D'ARIENZO, Pellegrini Editore, Cosenza, 2017, Vol. III, pp. 1697-1716; **N. MARCHEI**, *Cibo e religione*, in *Cibo e acqua, sfide per il diritto contemporaneo. Verso e oltre expo 2015*, ed. by B. BISCOTTI, M. LAMARQUE, Giappichelli, Torino, 2015, pp. 105-112; **A. CESERANI**, *Cibo 'religioso' e diritto: a margine di quattro recenti pubblicazioni*, in *Quaderni di diritto e politica ecclesiastica*, 2016, 2, pp. 369-384.

<sup>9</sup> See **A. FUCCILLO**, *Il cibo degli dei. Diritto, religioni, mercati alimentari*, Giappichelli, Torino, 2015; **F. BALDASSARRE**, **R. CAMPO**, *Influences of Islamic Culture in Marketing and the Role of Halal Certification* (Conference Paper presented at the 10th International Forum on Knowledge Asset Dynamics, Bari, Italy 10-12 June 2015), in *www.researchgate.net*, 2015.

<sup>10</sup> See inter alia **A. FUCCILLO**, **F. SORVILLO**, **L. DECIMO**, *Diritto e religioni nelle scelte alimentari*, in *Stato, Chiese e pluralismo confessionale*, cit., n. 18 of 2016, pp. 21-22; **E. TOSELLI**, *Le diversità convergenti. Guida alle certificazioni kasher, halâl e di produzione biologica*, FrancoAngeli, Milano, 2015, pp. 151-161; **M. GRADOLI**, **M.D.C. DE LA ORDEN DE LA CRUZ**, **P. SÁNCHEZ GONZÁLEZ**, *Vie d'inclusione dei musulmani in Europa: marketing halal e banca islamica*, in *Stato, Chiese e pluralismo confessionale*, cit., n. 24 of 2016; **L. ARSLAN**, *Vous avez dit halal? Normativités islamiques, mondialisation, sécularisation*, in *Journal des anthropologues*, 2014, 3-4, pp. 265-271.

<sup>11</sup> **S. MANGANO**, **M. SPOTORNO**, **G.M. UGOLINI**, *Il turismo halal: una nicchia di mercato che può crescere anche in Italia*, in *Annali del turismo*, 2016, 5/1, pp. 57-76; **D. HALKIAS**, **E. PIZZURNO**, **A. DE MASSIS**, **M. FRAGOUDAKIS**, *Halal Products and Services in the Italian Tourism and Hospitality Industry: Brief Case Studies of Entrepreneurship and Innovation*, in *Journal of Developmental Entrepreneurship*, 2014, 19/2, pp. 1450012-1 - 1450012-12; **M.H. KAMALI**, *Tourism and the Halal Industry: A Global Shari'ah Perspective*, in *Islam and Civilisational Renewal*, 2012, 3/3, pp. 455-473; **J. C. HENDERSON**, *Halal food, certification and halal tourism: Insights from Malaysia and Singapore*, in *Tourism Management*



Port has been the first certificated halal port in Europe<sup>12</sup>.

### 3 - The Interests at Stake in Halal Certification

According to the European Court of Human Rights, “observing dietary rules can be considered a direct expression of beliefs in practice in the sense of Article 9”<sup>13</sup>. In this perspective, halal certification can be seen as an effective instrument of protection of Muslims’ right to religious freedom, insofar as it helps them to choose products consistent with their religiously-oriented preferences.

But halal certification nowadays concerns a realm going well beyond the respect of a human right, and strongly affecting the economic dimension, too. The increasing complexity of food production results in a situation where it is not sufficient to determine whether a forbidden ingredient is absent, but it is necessary to promote a “from-farm-to-fork” approach, thus including aspects like animal welfare on the farm, during transport and lairaging; cleaning and disinfection; materials used during production, including greases and oils; separation of halal and haram substances at all stages of the production process. Contamination of halal food by haram items should be prevented also during storage, display and sale<sup>14</sup>.

Further, as noted, halal certification has expanded well beyond the sector of foodstuffs and beverages, and this expansion has further widened

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*Perspectives*, 2016, 19, pp. 160-164.

<sup>12</sup> V. AMICARELLI, T. GALLUCCI, G. LAGIOIA, *The Influence of Halal Certified Products in Italian Food Market*, in *Towards Quality-Management Systems and Solutions*, ed. by T. SIKORA, J. DZIADKOWIEC, Polish Society of Commodity Science, Cracow, 2014, p. 9.

<sup>13</sup> *Jakóbsky v. Poland*, application no. 18429/06, judgment of 7 December 2010, para. 45. It goes without saying that this right - like any other manifestation of one’s religion or belief in worship, teaching, practice and observance - is not absolute, but it may be limited, provided that limitations: 1) are prescribed by law, 2) pursue one or more legitimate aims (public safety, protection of public order, health or morals, protection of the rights and freedoms of others), 3) are necessary in a democratic society, that is, are proportionate to the aims pursued. See A. GIANFREDA, *La libertà religiosa alimentare nella giurisprudenza della Corte europea dei diritti dell’uomo*, in *Cibo, religione e diritto*, cit., pp. 453-478.

<sup>14</sup> M. VAN DER SPIEGEL et AL., *Halal Assurance in Food Supply Chains: Verification of Halal Certificates Using Audits and Laboratory Analysis*, in *Trends in Food Science & Technology*, 2012, 27, pp. 110 and 114; G.R.T. WHITE, A. SAMUEL, *Fairtrade and Halal Food Certification and Labeling: Commercial Lessons and Religious Limitations*, in *Journal of Macromarketing*, 2016, 36/4, pp. 389-390; K. BONNE, W. VERBEKE, *Religious values informing halal meat production and the control and delivery of halal credence quality*, in *Agriculture and Human Values*, 2008, 25, pp. 39-42.



the economic potentials for halal<sup>15</sup>.

«With the contemporary expansion of Muslim consumer culture and overall insistence on “Halalisation” [...], the debate about impure substances [...] has acquired increasing symbolic value [...]. Originally intended to certify ritually slaughtered meat, halal certificates have become a visible marketing strategy to advertise all sorts of Islamically approved products to Muslim consumers, especially in diasporic contexts»<sup>16</sup>.

The global halal industry is one of the fastest growing markets in the world<sup>17</sup>, making consumer protection a major interest at stake in halal certification. At this regard, it is interesting to note that interested consumers are not only Muslims expecting to use products consistent with their religious norms, but also non-Muslims refusing to buy unknowingly those same products<sup>18</sup>. The most significant example here is meat produced from animals slaughtered without previous stunning. This method of slaughter - in Italy like in other European countries - is allowed only if it is required by a religious rite, and provided that some conditions are respected. In particular, it may only be performed in a slaughterhouse, under the responsibility of the official veterinarian, and provided that bovine animals are mechanically restrained before slaughter<sup>19</sup>.

As it is known, increasing segments of consumers oppose religious slaughter without previous stunning, believing that it causes more pain to animals than conventional slaughter. The issue arising at this regard is that part of the meat from animals slaughtered without previous stunning happens to be sold on the conventional market without being labeled as

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<sup>15</sup> **H. ELASRAG**, *Halal Industry: Key Challenges and Opportunities*. MPRA Paper No. 69631 (in <https://mpra.ub.uni-muenchen.de/69631>), February 2016, pp. 1 and 4.

<sup>16</sup> **B. KRAWIETZ**, *Sharia and Medical Ethics*, in *The Ashgate Research Companion to Islamic Law*, ed. by R. PETERS, P. BEARMAN, Routledge, London, 2014, p. 294.

<sup>17</sup> “The global halal industry is estimated to be worth around USD2.3 trillion (excluding Islamic finance). Growing at an estimated annual rate of 20%, the industry is valued at about USD560 billion a year” (**H. ELASRAG**, *Halal Industry*, cit., p. 4).

<sup>18</sup> See **G.R.T. WHITE**, **A. SAMUEL**, *Fairtrade and Halal Food Certification*, cit., p. 388.

<sup>19</sup> For more information, see **R. BOTTONI**, *La disciplina giuridica della macellazione rituale nell’Unione europea e nei paesi membri*, in *Cibo, religione e diritto*, cit., pp. 479-516; **F.S. DALBA**, *Intorno agli aspetti giuridici della macellazione compiuta secondo i precetti religiosi*, in *Il diritto ecclesiastico*, 2003, pp. 1395-1470; **A. ROCCELLA**, *Macellazione e alimentazione*, in *Musulmani in Italia*, ed. by S. FERRARI, il Mulino, Bologna, 2000, pp. 206-212. See also **F. CONTE**, **V. QUARTARONE**, **G.M. CUBEDDU**, **A. PASSANTINO**, *Ritual Slaughter: Regulatory Responses, Consumer Choice and Labelling Strategies*, in *Maso International Journal of Food Science and Technology*, 2012, 2, pp. 153-158.



halal (or kosher), and to be bought unwittingly by consumers, including those opposing this method of slaughter.

Consumers' right to transparency and access to information was taken into account during the drafting of the EU Regulation no. 1169/2011 on the provision of food information to consumers<sup>20</sup>, when there was an attempt to introduce a compulsory requirement that "meat and meat products derived from animals that have not been stunned prior to slaughter, i.e. have ritually slaughtered" should be labelled "meat from slaughter without stunning"<sup>21</sup>.

Although this attempt ultimately failed, the close link between consumer protection and animal welfare - in the balance of interests at stake in halal certification - has recently been reinforced. In the judgement of 26 February 2019, the Court of Justice of the European Communities concluded that the concerned EU legal norms "must be interpreted as not authorising the placing of the Organic logo of the EU on products derived from animals which have been slaughtered in accordance with religious rites without first being stunned"<sup>22</sup>, being important "to ensure that consumers are reassured that products bearing the Organic logo of the EU have actually been obtained in observance of the highest standards, in particular in the area of animal welfare"<sup>23</sup>.

#### 4 - Actors and Instruments Involved in Halal Certification

In the context of the growing global halal market<sup>24</sup>, halal certification has

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<sup>20</sup> Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (Text with EEA relevance), published in the *Official Journal of the European Union* L 304 of 22 November 2011.

<sup>21</sup> On this issue, see **R. BOTTONI**, *Legal Aspects of Halal Slaughter and Certification in the European Union and its Member States*, in *The Halal Food Handbook*, ed. by Y.R. AL-TEINAZ, S. SPEAR, I.H.A. ABD EL-RAHIM, Wiley-Blackwell, Hoboken, 2020, pp. 264-267.

<sup>22</sup> Para. 52 (the text is available at [www.bailii.org/eu/cases/EUUECJ/2019/C49717.html](http://www.bailii.org/eu/cases/EUUECJ/2019/C49717.html)).

<sup>23</sup> Para. 51. See also **D. POCKLINGTON, F. CRANMER**, *CJEU rules non-stun slaughter incompatible with organic labelling*, in [www.lawandreligionuk.com](http://www.lawandreligionuk.com), 1 March 2019.

<sup>24</sup> See **J. LEVER, J. FISCHER**, *Religion, Regulation and Consumption. Globalising Kosher and Halal Markets*, Manchester University Press, Manchester, 2018; **J. FISCHER**, *The Halal Frontier. Muslim Consumers in a Globalized Market*, Palgrave Macmillan, New York, 2011.



gained importance also in Muslim-minority countries, including Italy.

Italian firms, which decide to obtain a halal certification, have the strong expectation to gain a powerful means to expand into the markets of Muslim-majority countries. This relevant economic motivation is nonetheless counterbalanced by some drawbacks, like the costs of certification, development and implementation; the increase in paperwork and volume of the documentation required; the need to hire and/or retrain specialized personnel; the difficulties in interpreting halal standards<sup>25</sup>.

For an Italian firm interested in obtaining a halal certificate, the choice of one among many different halal certification bodies means the adoption not only of a specific view on what halal is, but also of specific rules and procedures implemented to verify that halal requirements are respected<sup>26</sup>. More importantly, a firm has to take into account that the marketability of its products depends also from the credibility of the halal body certifying it:

“despite the existence of a large number of [halal certification bodies] across the 28 EU member states, only a handful of these organisations can issue certificates for export to the international Halal market. This is because certificates issued by the local [halal certification body] can only be accepted in the importing destination if authorities in those countries accredit them”<sup>27</sup>.

Even when a firm obtains a halal certificate in order to export its goods, it must be aware that that products accepted as halal by some countries may be rejected by others. Thus, it may have to spend a considerable amount of money and time to repeat the certification procedure for each geographical area of interest<sup>28</sup>. In order to avoid these issues, firms are encouraged to look at the accreditation certificates that a specific halal certification body has obtained.

Muslim countries with important halal markets have entrusted State agencies with the halal certification process for products both in the domestic and the international market. This is the case of JAKIM<sup>29</sup> in

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<sup>25</sup> See **M.S. AB TALIB, A.B. ABDUL HAMID, T. AI CHIN**, *Motivations and limitations in implementing Halal food certification: a Pareto analysis*, in *British Food Journal*, 2011, 117/11, *passim*.

<sup>26</sup> On this issue, see **M. VAN DER SPIEGEL et AL.**, *Halal Assurance*, cit., p. 116.

<sup>27</sup> **A. FUSEINI, S.B. WOTTON, T.G. KNOWLES, P.J. HADLEY**, *Halal Meat Fraud and Safety Issues in the UK: A Review in the Context of the European Union*, in *Food Ethics*, 2017, 1, 132-133.

<sup>28</sup> See **E. TOSELLI**, *Le diversità convergenti*, cit., pp. 124-125 and 129.

<sup>29</sup> Jabatan Kemajuan Islam Malaysia (Department of Islamic Development of Malaysia). See **M.A. MOHAMED ADIL, N.M. AHMAD**, *The Status and Implementation of Islamic*



Malaysia or ESMA<sup>30</sup> in the United Arab Emirates, which are competent for accrediting halal certification bodies in non-Muslim countries, like Italy. Accreditation is a process through which a halal certification body is recognized as a trustworthy partner, able to guarantee the compliance with the halal standards envisaged by that specific Muslim country. Italian firms - certified by an accredited halal certification body - can put the halal logo of that body on the package of the exported products. This logo communicates to the consumers of the concerned Muslim country that those products are sharia-compliant<sup>31</sup>.

Unlike Malaysia and the United Arab Emirates, Italy has no State agency entrusted with halal certification. This function is left entirely to private actors (companies and religious authorities) and is not regulated by State law<sup>32</sup>. Public authorities do not take part in monitoring and enforcing halal standards: they may not define what halal is, as this decision ultimately belongs to Muslim religious authorities<sup>33</sup>.

Although secular authorities in Italy are not *directly* competent in defining halal, they can still *indirectly* regulate it when related aspects concern areas falling within their competence. These are the cases of the punishment for fraud and the regulation of trademarks and labels, in the pursuit of consumer protection and transparency in commercial relationships.

Cases of alleged fraud may not revolve around the issue of what is authentically halal, but rather around the use of suspect products - like meat unfit for human consumption or produced from animals slaughtered in violation of the legally binding rules on religious slaughter<sup>34</sup> - or yet around intentional mislabeling - either by falsely declaring meat species or by

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*Law in Malaysia, in Religious Rules, State Law, and Normative Pluralism - A Comparative Overview*, ed. by R. BOTTONI, R. CRISTOFORI, S. FERRARI, Springer, Berlin, 2016, pp. 263-276.

<sup>30</sup> Emirates Authority for Standards & Metrology.

<sup>31</sup> On this issue, see **M.I. KHAN, A. HALEEM**, *Understanding "Halal" and "Halal Certification & Accreditation System" - A Brief Review*, in *Saudi Journal of Business and Management Studies*, 2016, 1/1, p. 36.

<sup>32</sup> For an exhaustive treatment of religious organizations' certification power in the Italian legal system (not concerning specifically halal certification), see **A.G. CHIZZONITI**, *Le certificazioni professionali nell'ordinamento giuridico italiano*, Vita e Pensiero, Milano, 2000.

<sup>33</sup> This is the same trend characterizing other EU countries. See **F. BERGEAUD-BLACKLER**, *The Halal Certification Market in Europe and the World: A First Panorama*, in *Halal Matters. Islam, Politics and Markets in Global Perspective*, ed. by F. BERGEAUD-BLACKLER, J. FISCHER, J. LEVER, New York, Routledge, 2016, pp. 105-126.

<sup>34</sup> A typical violation is the carrying out of religious slaughter in a place other than a slaughterhouse.





omitting present meat species<sup>35</sup>. Thus, in case of fraud, Italy does not apply ad hoc rules specifically approved to regulate halal certification, but resorts to general legislation aimed at preventing and punishing commercial fraud, irrespective of the religious orientation of the concerned products or actors. The decree no. 231 of 15 December 2017 prescribing sanctions for the violation of the abovementioned EU Regulation no. 1169/2011 punishes food business operators violating the prohibition to provide information that may mislead consumers by a fine from € 50 to € 40,000. Any case concerning halal fraud would be treated according to the general rules concerning food mislabeling and fraud, including - if this is the case - those prescribed by the Penal Code<sup>36</sup>.

Trademarks are one of the instruments that halal certification bodies resort to. In Italy, halal trademarks, like any other trademarks, are regulated by the Industrial Property Code<sup>37</sup>. Unlike other European countries, the Italian legal system does not envisage an absolute prohibition to use religious symbols for commercial purposes. They may be used with some limitations, like the penal rules on the protection against contempt for religion. The term “halal” may be used freely and may not be monopolized by a single person or organization. The request to register a trademark bearing only the word “halal” (without any additional terms or signs) would be rejected because it would have no distinctive character<sup>38</sup>.

Trademarks may be individual or collective. In the former case, the owner of the trademark is the same person as the user. In the latter case, the trademark owner authorizes other persons to use it. Collective halal trademarks protect consumers better than individual trademarks. A natural or legal person may register an individual trademark indicating the respect

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<sup>35</sup> On this issue, see **A. FUSEINI, S.B. WOTTON, T.G. KNOWLES, P.J. HADLEY**, *Halal Meat Fraud*, cit., pp. 134-137.

<sup>36</sup> **A. GERMANÒ**, *Informazione alimentare halal: quale responsabilità per un’etichetta non veritiera?*, in *Rivista di diritto alimentare*, 2010, 4/3, pp. 1-10.

<sup>37</sup> Legislative Decree no. 30 of 10 February 2005 *Industrial Property Code*, pursuant to Art. 15 of Law no. 273 of 12 December 2002, published in the Official Gazette of the Italian Republic no. 52 of 4 March 2005, and last modified by the Legislative Decree no. 63 of 11 May 2018.

<sup>38</sup> **P. LOJACONO**, *La rilevanza dei simboli religiosi nel campo economico e commerciale: il marchio e la pubblicità (traendo spunto dagli Accordi spagnoli con ebrei e islamici)*, in *Il diritto ecclesiastico*, 1997, pp. 179-220; **F. LEONINI**, *La certificazione del rispetto delle regole alimentari confessionali: norme statuali e libertà religiosa*, in *Cibo e religione: diritto e diritti*, ed. by A.G. CHIZZONITI, M. TALLACCHINI, Tricase, Libellula Edizioni, 2010, pp. 145-150; **A. GIUFFRIDA**, *La certificazione di conformità del c.d. Halal Food*, in *Il diritto dell’economia*, 2017, 30/1, pp. 103-105; **L. SCOPEL**, *Le prescrizioni alimentari di carattere religioso*, Edizioni Università di Trieste, Trieste, 2016, pp. 11-12.



for halal dietary rules, but no previous control is legally required to verify that this declaration is true. The trademark owner becomes legally responsible and may be subject to civil or criminal penalties, only *ex post* when a fraud has been proved. By contrast, the owner of a collective halal trademark has the legal obligation *ex ante* to guarantee that the products or services bearing this trademark are shariah-compliant. Pursuant to Art. 11 § 2 of the Industrial Property Code, the request to register a trademark must be accompanied by a copy of the regulation on its use, containing detailed rules on 1) the characteristics that the products or services must possess in order to bear the trademark; 2) the checks that the trademark owner commits to make, in order to verify that those products or services actually possess such characteristics; 3) the sanctions imposed by the trademark owner on those who are authorized to use the trademark and breach the regulation on its use. A collective halal trademark thus offers more guarantees to consumers, whose trust is strengthened by the envisaged system of checks and sanctions<sup>39</sup>.

## 5 - The Constitutional Regulation of the Religious Factor and Its Impact on Halal Certification

A detailed treatment of the constitutional provisions on the religious factor goes beyond the purposes of this paper. Here I will briefly refer only to the principles that are relevant to halal certification: the right to religious freedom, religious pluralism and religious denominations' right to autonomy.

As noted, halal certification is instrumental in the respect for the right to religious freedom, which encompasses the right to observe religious dietary rules, and which is guaranteed by Art. 19 of the Italian Constitution<sup>40</sup>.

“Everyone is entitled to freely profess his/her religious faith in any form,

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<sup>39</sup> P. LOJACONO, *La rilevanza dei simboli religiosi*, cit., pp. 168-170; F. LEONINI, *La certificazione*, cit., pp. 150-154; A. GIUFFRIDA, *La certificazione*, cit., pp. 105-109; L. SCOPEL, *Le prescrizioni alimentari*, cit., p. 12.

<sup>40</sup> For a general treatment of the respect for religious dietary rules within the context of the right to religious freedom, see A.G. CHIZZONITI (ed.), *Cibo, religione e diritto*, cit.; A.G. CHIZZONITI, A. GIANFREDA, D. MILANI, *Cittadini-fedeli, fedeli-cittadini: coordinate, limiti e problematiche della libertà religiosa alimentare in Italia e in Europa*, in *A tavola con Dio e con gli uomini. Il cibo tra antropologia e religione*, ed. by G. COLOMBO, Vita e Pensiero, Milano, 2016, pp. 103-123; A. FUCCILLO, F. SORVILLO, L. DECIMO, *Diritto e religioni*, cit.; A. FERRARI, *Cibo, diritto, religione*, cit.; D. MILANI, *L'osservanza dei precetti*, cit.; M. ABU



alone or with others, to propagate it and to manifest it in worship in private or public, provided that rites are not offensive to public morality”<sup>41</sup>.

The issue of the respect for the dietary rules envisaged by one’s religion or belief has been expressly addressed by the National Bioethics Committee. In its opinion of 17 March 2008, the Committee stated that food differences related to ethnic origins or religious or ideological beliefs deserve protection, because they express a person’s or a group’s identity. This is even more so for dietary rules envisaged by religions or beliefs, where individuals manifest their personal and deep adherence to a life and world vision. The integration of differences amongst cultures must be promoted, by avoiding assimilation or separation liable to lead to homogenizing indifferention and discriminatory marginalization. The respect for this type of food differences does not generally pose problems of conflict with the fundamental values and principles that must be respected by all members of society<sup>42</sup>. Thus, they may be approached in such a way as to transform them into a factor of reciprocal enrichment. The Italian legal system prohibits forcing somebody to ingest foodstuff against his or her own will. This means that, in public institutions, nobody should ever be posed the choice between eating and respecting one’s religion or belief. This issue is especially relevant in schools, hospitals, prisons and barracks, where the nature of such institutions prevents individuals from having an easy and immediate access to their own preferred food<sup>43</sup>.

Religious pluralism is at the very core of the notion of secularism. Unlike other countries<sup>44</sup>, Italy has not enshrined the principle of secularism in the Constitution. It is the Constitutional Court that has derived it from

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**SALEM**, *Religious Dietary Rules and the Protection of Religious Freedom: Some Evidence from Practice in Italy*, in *Scripta Instituti Donneriani Aboensis*, 2015, 26, pp. 181-200.

<sup>41</sup> The translation into English is mine.

<sup>42</sup> As noted, the slaughter of animals according to a religious rite without previous stunning is authorized in Italy. Although this practice is controversial, Italian public debate so far has not been so heated as in other countries, where measures have been adopted to prohibit it. See inter alia **P. LERNER, A.M. RABELLO**, *Il divieto di macellazione rituale (shechitah kosher e halal) e la libertà religiosa delle minoranze*, CEDAM, Padova, 2010; **R. BOTTONI**, *I recenti decreti delle Regioni vallona e fiamminga sulla macellazione rituale nel contesto dei dibattiti belga ed europeo in materia*, in *Quaderni di diritto e politica ecclesiastica*, 2017, 2, pp. 523-558.

<sup>43</sup> **ITALY’S NATIONAL BIOETHICS COMMITTEE**, *Opinion concerning food differences and interculturality. Bioethical orientations* (in [www.bioetica.governo.it](http://www.bioetica.governo.it)), 17 March 2006, pp. 2-6.

<sup>44</sup> See in particular the preamble and Art. 7 § 1 of the Azerbaijani Constitution, Art. 2 § 1 of the French Constitution, Art. 14 § 1 of the Russian Federation’s Constitution, Art. 11 § 1 of the Serbian Constitution, and Art. 2 of the Turkish Constitution.



Arts. 2, 3, 7, 8, 19 and 20 of the Constitution<sup>45</sup>. In the judgment no. 203 of 12 April 1989, it ruled that this principle “implied not that the State should be indifferent to religions but that it should guarantee the protection of the freedom of religion in a context of confessional and cultural pluralism”<sup>46</sup>.

The programmatic constitutional principle of pluralism can be found in Art. 2 Const., which recognizes and guarantees the individual’s inviolable rights both as an individual and within social formations, where he/she develops his/her personality, and which requires the fulfillment of non-derogable obligations of political, economic and social solidarity. What is relevant here is the acknowledgment of the important role played by social formations, a category also including religious denominations. As regards specifically religious pluralism, this principle is grounded on Art. 7 § 1 Const., according to which the State and the Catholic Church are, each in its own sphere, independent and sovereign, and on Art. 8 §§ 1-2 Const., recognizing the equal freedom of all religious denominations before the law, and the right of religious denominations other than the Catholic Church to self-organization according to their own statutes, provided that they do not conflict with the Italian legal system<sup>47</sup>.

Thus, this is a system of pluralism that makes distinctions amongst the religious denominations in the Italian territory: all are equally free, but they are not equal before the law. All are entitled to the right to autonomy, but the Catholic Church is independent and sovereign in its own sphere, whereas the other religious denominations are (only) entitled to the right to self-organization according to their own statutes. A further distinction amongst religious denominations other than the Catholic Church can be made as regards the legal regulation of their relationships with the State. Most of them are regulated by Law no. 1159 of 24 June 1929 on the so-called admitted cults and the related Regulation of application no. 289 of 28 February 1930. Twelve religious minorities<sup>48</sup> have nonetheless succeeded in emancipating from this legislation, thanks to the signing and approval of a bilateral agreement (*Intesa*) between their representative entities and the

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<sup>45</sup> Art. 2 enshrines the so-called personalistic principle. Under Art. 3, all citizens enjoy equal social dignity and are equal before the law, regardless inter alia of their religion. Arts. 7 and 8 regulate the relationships between the State and religious denominations. Art. 19, as already mentioned, guarantees the individual’s right to religious freedom. Art. 20 prohibits discrimination of ecclesiastical entities.

<sup>46</sup> The translation and a short summary in English is provided by the European Court of Human Rights’ judgment of 18 March 2011 concerning the case of *Lautsi and others v. Italy*, para. 23 (available at <https://hudoc.echr.coe.int>).

<sup>47</sup> C. CARDIA, *Manuale di diritto ecclesiastico*, il Mulino, Bologna, 1996, pp. 182-185.

<sup>48</sup> See [http://presidenza.governo.it/USRI/confessioni/intese\\_indice.html#2](http://presidenza.governo.it/USRI/confessioni/intese_indice.html#2).



State pursuant to Art. 8 § 3 of the Italian Constitution<sup>49</sup>.

Muslim organizations, associations and communities are still subject to the legislation enacted during the Fascist period, since none of their requests to sign an *Intesa* has so far been accepted<sup>50</sup>. In 1992, the *Unione delle Comunità Islamiche d'Italia* (Union of Islamic Communities of Italy), an organization reuniting a number of local associations and regarded as promoting a version of Islam influenced by the Muslim Brotherhood's ideology, drafted and presented the text of a bilateral agreement. A few months later, the *Centro Islamico Culturale d'Italia* (Islamic Cultural Center of Italy) - the Italian expression of the so-called Embassy Islam<sup>51</sup> - requested to start negotiations for the signing of a bilateral agreement, without presenting a text. In 1996 and 1998, a draft text was proposed respectively by the *Associazione Musulmani Italiani* (Italian Muslims' Association), which represents Italian Muslims, and Co.Re.Is., whose members are mainly converts<sup>52</sup>, and which has promoted the initiative *Halal Italia*. As mentioned, the Italian government has never started negotiations with any of them.

The lack of a bilateral agreement has not meant the refusal or uninterest in any form of dialogue or collaboration with Muslim communities. The Italian government has sponsored the promotion of an Islamic consultative body reuniting the leaders of different organizations, the *Consulta Islamica* (Islamic Council) between 2005 and 2010, and the *Comitato per l'Islam italiano* (Committee for Italian Islam) afterwards<sup>53</sup>.

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<sup>49</sup> There is an enormous literature on these issues. English-language readers can easily refer to the numerous articles published in *Stato, Chiese e pluralismo confessionale*, cit.

<sup>50</sup> For an exhaustive treatment of the legal condition of Islam in Italy, see C. CARDIA, G. DALLA TORRE (eds.), *Comunità islamiche in Italia. Identità e forme giuridiche*, Giappichelli, Torino, 2015; A. FERRARI (ed.), *Islam in Europa/Islam in Italia tra diritto e società*, il Mulino, Bologna, 2008; R. ALUFFI BECK-PECCOZ, *Islam in the European Union: Italy*, in *Islam and the European Union*, ed. by R. POTZ, W. WIESHAIDER, Peeters, Leuven, 2004, pp. 181-198; S. FERRARI (ed.), *Musulmani in Italia: la condizione giuridica delle comunità islamiche*, il Mulino, Bologna, 2000; S. FERRARI (ed.), *L'Islam in Europa: lo statuto giuridico delle comunità musulmane*, il Mulino, Bologna, 1996, pp. 241-280 and 287-306.

<sup>51</sup> See inter alia J. LAURENCE, *Muslim Mobilization Between Self-Organization, State-Recognized Consultative Bodies and Political Participation*, in *After Integration. Islam, Conviviality and Contentious Politics in Europe*, ed. by M. BURCHARDT, I. MICHALOWSKI, Berlin, Springer, 2015, pp. 59-78. The Center "promotes the official Islam of the States" and "has its seat at the Great Mosque in Rome. Its board of directors is formed mainly by ambassadors of Muslim sunni States accredited to the Holy See or to the Italian State" (R. ALUFFI BECK-PECCOZ, *Islam in the European Union*, cit., p. 184).

<sup>52</sup> R. ALUFFI BECK-PECCOZ, *Islam in the European Union*, cit., pp. 184-185.

<sup>53</sup> C. SAINT-BLANCAT, *Italy*, in *The Oxford Handbook of European Islam*, edited by J. CESARI, Oxford University Press, Oxford, 2015, p. 282.



Co.Re.Is. has been represented in both consultative bodies, and has been involved in a number of other institutional initiatives, at the national and local level. In particular, it signed the *National Pact for an Italian Islam* on 1 February 2017<sup>54</sup>.

It may be argued that the lack of a bilateral agreement with a representative body of Muslim communities in Italy has been uninfluential on the regulation of halal certification. None of the draft bilateral agreements prepared by the above mentioned Muslim organizations included a norm on halal certification. The principles of religious freedom, religious pluralism and religious denominations' right to autonomy have allowed the existence of a plurality of halal certification bodies<sup>55</sup>, which corresponds to the extant plurality of Muslim organizations and associations<sup>56</sup>.

As of May 2018, the database of the Italian Office for Patents and Trademarks recorded 20 trademarks including the word "halal" and 7 pending requests of registration<sup>57</sup>. The first request was submitted in 2002 and the related trademark was registered in 2006. Of the 20 registered trademarks, 5 have been registered by natural persons, and 15 by legal persons. The latter include 12 retail shops and companies, and only 3 Muslim organizations. The three trademarks clearly linkable to Islamic religious authorities are: 1) *Centro Islamico Crema*, registered by a Muslim association bearing the same name, and located in the town of Crema, near Milan; 2) *Halal Italia*, a trademark registered by Co.Re.Is.; 3) *Halal International Authority*, registered by Halal International Authority Onlus, a

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<sup>54</sup> The English version of the text is available at [www.interno.gov.it/it/amministrazione-trasparente/disposizioni-general/atti-general/atti-amministrativi-general/documenti/patto-nazionale-islam-italiano](http://www.interno.gov.it/it/amministrazione-trasparente/disposizioni-general/atti-general/atti-amministrativi-general/documenti/patto-nazionale-islam-italiano). See also **A. FABBRI**, *Il Patto nazionale per un islam italiano come condizione preliminare per la stipula di intese con l'islam, le fasi costitutive*, in *Federalismi.it*, Rivista telematica ([www.federalismi.it](http://www.federalismi.it)), no. 10 of 2017; **V. TURCHI**, *Convivenza delle diversità, pluralismo religioso e universalità dei diritti. Modelli di approccio. Indicazioni metodologiche*, in *Stato, Chiese e pluralismo confessionale*, cit., no. 16 of 2017, pp. 12-15; **C. MORUCCI**, *I rapporti con l'Islam italiano: dalle proposte d'intesa al Patto nazionale*, in *Stato, Chiese e pluralismo confessionale*, cit., no. 38 of 2018.

<sup>55</sup> Inter alia [www.halalitaly.org](http://www.halalitaly.org), [www.wha-halal.org](http://www.wha-halal.org), [www.halalglobal.it](http://www.halalglobal.it).

<sup>56</sup> It should be noted nonetheless the existence of halal certification bodies established by economic actors having no clear link to a religious authority.

<sup>57</sup> See [www.uibm.gov.it](http://www.uibm.gov.it).



body created with the specific purpose to provide halal certification<sup>58</sup>.

## 6 - *Halal Italia* and the 2010 Inter-Ministerial Convention

Co.Re.Is. submitted its request to register the trademark *Halal Italia* on 13 May 2009. The trademark was registered on 23 November 2010, but the signing of the Inter-Ministerial Convention took place even before registration, on 30 June.

The *Inter-Ministerial Convention for the Support of the Initiative "Halal Italia"* was signed by four Ministries: 1) Foreign Affairs, 2) Economic Development, 3) Health, and 4) Agricultural, Food and Forestry Policies. Interestingly, but not surprisingly, the Convention has not been signed by the Ministry of Internal Affairs, which is competent *inter alia* for the regulation of the right to religious freedom and of the relationships between the State and religious denominations<sup>59</sup>. In fact, the Convention made it clear that its rationale was economic.

The text was signed in the light of the positive experience of a pilot project on halal certification in the food sector promoted in 2009 by the Region Lombardy, *Union Camere Lombardia* (the regional union of the Chambers of commerce of Lombardy) and the Chamber of commerce of Milan. This project had the two-fold purpose *a)* to provide companies with business opportunities in the increasingly important halal market, with about 1.5 billion consumers and a value of over 150 billion euros, and *b)* to introduce Lombardy's food excellencies to the Muslim communities in the Mediterranean area and in the Middle East, and in particular in the United Arab Emirates (with an important internal market, as well as a strategic position for commerce and clearing in the Gulf area). Co.Re.Is. was involved as an institutional partner. The project was characterised by three phases: 1) the organization of a technical seminar in Milan on 20 March 2009 on the opportunities provided by the halal market and the modalities to obtain halal certification, which numerous food companies attended; 2) the arrangement of a standard "certification package", valid three years, for Lombardy's interested companies, and the creation of a technical committee of evaluation at Co.Re.Is. concerning all the phases of the production process, from the raw materials being used to the storage of finished goods; 3) the promotion of a mission in Dubai from 23 to 26 May 2009, having a

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<sup>58</sup> See also V. AMICARELLI, T. GALLUCCI, G. LAGIOIA, *The Influence of Halal Certified Products*, cit., p. 14.

<sup>59</sup> See [www.interno.gov.it](http://www.interno.gov.it).



business and at the same time institutional dimension, in order to start the process of recognition of the certificates issued by Co.Re.Is. At the end of the project, the participant companies obtained the halal certificate on the part of Co.Re.Is., consistently with the first technical guidelines created in Italy on this matter, which do not only specify forbidden materials but contain also rules to be followed in all the production stages<sup>60</sup>. The guidelines list forbidden substances and exclude all additives that are not declared in the product label but may contaminate a product or its ingredients. According to the principle of non-contamination, halal substances may not come into contact with haram ones. At this purpose, the guidelines envisage an appropriate sanitization before halal production, and separate production lines of incompatible foods or ingredients. They also aim to guarantee the traceability of halal products along the entire supply chain, and the periodical training of the concerned staff<sup>61</sup>.

In its beginning part, the 2010 Inter-Ministerial Convention refers to the four Ministries' considerations on the need to support the internationalization of the Italian production system, the protection of the 'made in Italy' and the promotion of Italian interests abroad. Italian business operators have become more and more interested in the markets of the Muslim world and have increasingly requested innovation instruments for internationalization. The Ministries have taken note of the request submitted to the Italian Office for Patents and Trademarks by Co.Re.Is. to register a trademark "halal", valid for the entire national territory, to certify the compliance of food, cosmetic and pharmaceutical products produced in Italy with Koranic rules. Having in mind the positive results attained by the abovementioned pilot project on halal certification, the Ministries have committed 1) to promote the trademark *Halal Italia* so that interested companies can be aware of the opportunities it offers in terms of expansion into the markets of Muslim-majority countries; 2) to have this trademark accredited to the Islamic countries' authorities as a certification of quality recognised by the Italian State for the export of products compliant with Koranic rules; 3) to organize training courses for the business operators interested in obtaining the halal certificate. As it should be expected, the Convention specifies that the certified Italian companies continue to have the obligation to abide by all the rules stipulated by the Italian legal system concerning production, distribution, sale, hygiene and safety, as well as the related rules and procedures

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<sup>60</sup> See [www.halalitalia.org](http://www.halalitalia.org).

<sup>61</sup> See [www.exportiamo.it](http://www.exportiamo.it).





envisaged by the European Union.

The Convention highlights the importance of the economic factor related to the promotion of the “made in Italy”. As noted by Elena Toselli, an official at the Ministry of the Economic Development, the strong power of attraction exercised by the “made in Italy” resides in the attention to detail and the handcraft skills commonly associated to Italian products and, more generally, to the Italian lifestyle. In the common opinion, “made in Italy” means beautiful and well produced, and it is related to a heritage of arts and crafts, valorization of differences, mistrust towards homogenization, and search for excellency. The “made in Italy” has such an evocative power that it may be regarded as a trademark itself - the most copied and exploited in the world. The agri-food sector is historically one of the four pillars of Italian excellency (along with the automotive, clothing and design sectors). However, the economic recession started by the financial crisis of 2007-2008 has badly affected the agri-food sector and has reduced the Italian companies’ competitiveness in the international market. In this context, halal certification can be an effective instrument to strengthen Italian companies and, more broadly, to promote the “made in Italy”, by favouring the meeting between the offer of Italian excellencies and the demands for halal-compliant products<sup>62</sup>. Scholars have further noted that

“Italian food products have 264 EU quality schemes of which 160 Protected Designation of Origin (PDO), 103 Protected Geographical Indication (PGI) and 2 Traditional Speciality Guaranteed (TSG). EU awarded them only to high quality products as a guarantee of the protected origin, the authentic taste, the typicality and the high physical-chemical characteristics (MIPAF 2014). If halal certification is added to UE quality ones the product could be a complete set of guarantee for Muslims and why not non-Muslims consumers”<sup>63</sup>.

As mentioned, the acceptability of the halal certificate obtained by an Italian firm depends also on the credibility of the halal certification body in import countries. “More diffused is the acceptability of halal certificate larger will

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<sup>62</sup> E. TOSELLI, *Le diversità convergenti*, cit., pp. 131 and 225-227. See also E. SCARPELLINI, *Il cibo come cultura italiana nel mondo: dall’emigrazione alla globalizzazione*, in *Memoria e ricerca*, 2016, 52/2, pp. 193-208; R.E. RIOS, H.E. RIQUELME, Y. ABDELAZIZ, *Do Halal Certification Country of Origin and Brand Name Familiarity Matter?*, in *Asia Pacific Journal of Marketing and Logistics*, 2014, 26/5, pp. 665-686. The latter is one of the very few studies on the importance of the country of origin in halal certification.

<sup>63</sup> V. AMICARELLI, T. GALLUCCI, G. LAGIOIA, *The Influence of Halal Certified Products*, cit., pp. 15-16.



be the possibility to export”<sup>64</sup>. In this perspective, the Inter-Ministerial Convention aims to provide Italian firms certified by *Halal Italia* with greater opportunities for market penetration. *Halal Italia* has been accredited by Malaysia’s JAKIM, United Arab Emirates’ ESMA and also Singapore’s MUIS<sup>65</sup>.

## 7 - Conclusion

The 2010 Inter-Ministerial Convention does not have the purpose to endorse a specific interpretation of what halal is, as this matter ultimately belongs to the concerned religious authorities. Unlike Malaysia and the United Arab Emirates, where public authorities are concerned with providing the conditions for a correct Islamic practice, Italy has no State department charged with Muslim religious affairs. The content of *Halal Italia*’s technical guidelines has not been the result of negotiations with ministerial authorities. At the same time, the Italian public authorities’ abstention from defining halal standards does not imply that they refrain from any forms of control. *Halal Italia* and any other halal certification bodies are required to respect both national and EU legal norms on health, food safety and hygiene, consumer protection, and so on.

Collaboration with Co.Re.Is. has been started for economic reasons, but the preference accorded to a Muslim organization has not prevented other subjects (including those with no clear link to a religious authority) to register their own halal trademark. All interested parties may register a halal trademark, provided that they comply with the requirements laid down by law. In fact, general rules applying to trademarks also apply to halal trademarks. The sanctions envisaged for the violation of the rules on trademarks are the same, regardless of the concerned trademark - be it halal or bio-organic.

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<sup>64</sup> V. AMICARELLI, T. GALLUCCI, G. LAGIOIA, *The Influence of Halal Certified Products*, cit., p. 12.

<sup>65</sup> Majlis Ugama Islam Singapura (Islamic Religious Council of Singapore). See [www.halalitalia.org/index.php?p=accreditamenti](http://www.halalitalia.org/index.php?p=accreditamenti).