

THE INFLUENCE OF THE LEGISLATION ON THE FDI THE CASE OF THE R. OF MACEDONIA IN THE PERIOD 2001-2010

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1. Introduction

The Foreign Direct Investment (FDI) represents such form of investment of capital which obtains the foreign investor gaining of right to ownership, control and management on basis of the invested capital. According to the definition of the International Monetary Fund the foreign direct investments are investments which aim is to gain permanent interest in the enterprises, which operate out of the investor's country and by that the essential intention of the investor is to enable and achieve effective management with the enterprise where he invests in (Kapor, 2007, p. 9). This is connected to certain minimal share in the ownership capital (equity) in the company (most frequently 10%) so as this investment to be able to be treated as foreign direct investment and which enables effective participation in the management. It is similar definition of OECD according to which a company with foreign direct investment is such company where one investor owns 10% or more of the regular shares or votes of an enterprise, or a company where the foreign investor owns less than 10% of common shares or votes but still there is possibility effectively to influence on the company management (Kapor, 2007, p. 9).

The main holders of the foreign direct investments are the international corporations. Besides their basic interest recognized in profit maximizing and expanding the capital for their owners, the international corporations realize other strategic goals, such as expanding the volume of their economic operations based on new resources, securing more market opportunities and realizing more efficient production and more competitiveness (Kapor, 2007, p. 10).

From the other side the basic motive for attraction of foreign direct investments for each country is securing means which are missing for work and development that enables realization of projects and programs in conditions when own means are not sufficient (domestic savings/accumulation) or when the conditions for its engagement are inconvenient. It is obvious that on the macro level,

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with the help of FDI one country could stabilize and make sustainable the balance of payments, but also it could improve the conditions on the domestic market, it could decrease the level of unemployment, and the last but not least, to transfer a technology and know-how. All of the previous has its positive impact on the economic growth.

2. The importance of FDI to developing countries

The economic science and the historical experience show that the economic development in a longer period at the developing countries or those in a period of transition, by rule is performed in conditions of lack of infrastructure regarding the production capacities. It is due to disposal of limited investment capital which together with the remained restrictions for the use of the development resources unable reaching the optimal relation, regarding the construction of infrastructure and production capacities. Such research were present at Hirshaman and Frey who emphasized the following remarks:

1. That it is impossible simultaneous growth of the infrastructural and production activities in optimal relation;
2. In the choice of the investment priorities between one and the others preference should be given to those who maximize the benefits of “inducted” decision that is inducted investments, in other words which will give maximal development effects in certain time.

At less developed countries and the developing countries, it is most frequently recommended “a strategy of development with lack of infrastructure” but with existence of infrastructural minimum for the functioning of the social and the economic life. In those countries the limited accumulation (investment capital) unable simultaneous harmonized development of the infrastructural and their production capacities.

The essence of the term investments is inbuilt economic logic of fertilization-means are engaged in order to make profit (some amount of benefit), which size should be such that it would compensate (returned) engaged means and would even contain increase (benefit). As a result of that the increase is the motive of the investment. It represents the essence of the investment. Regarding the investment in the infrastructure that is the transport infrastructure, it is necessary not only larger size of capital, but also returning of the invested capital. But, due to the nature of construction of the transport infrastructure which is going on in a longer period of time, the return of the investment capital is slower unlike the returning of the investments in the production capacities.

The long-term, permanent and active policy in the creation of the optimal relations of the production and infrastructural capacities must have priority task in the economic development of the country. It is usually emphasized that in the initial phase of the infrastructure, development priority is given towards the filling in of shortage of capacities; in the second phase the necessary priority should be dedicated towards the creation of a real and consistent plan for the new possibilities, while in the third phase as a higher level of development to unable balanced development. In that direction the strategy of balanced development of the infrastructure and the production capacities is regarded for real at the countries with developed economies while for the countries with less developed economies (as our

country) it is taken as a priority. Use of the existent infrastructure, and then (when the existent does not satisfy the grown necessities) construction of new impractical capacities. In that context the research shows that the growth of gross domestic product (GDP) and the capacities of the infrastructures of 1% are followed with 1% GDP by rule in all countries.

Each increase of the investments in capital funds, shorten the time for reaching of the developing aims of the economic growth and vice versa, if the level of saving is decreased (investments), it is the period increased in which the aims of the economic growth can be reached. Certainly, the level and the speed of the economic growth are not conditioned not only the size of saving, but also the efficiency of section and space allocation of the investments.

3. Constitutional basis and legal framework for FDI in the Republic of Macedonia

With the independence and the adoption of the Constitution in November 1991 R. of Macedonia found the constitutional legal frames for the new social order and establishment of new economic system. The obvious intention for establishing of an economy based on market principles, it was firstly easy confirmed as one of the basic values planned in the constitution of the R. of Macedonia defined as “freedom on market and the entrepreneurship”. Further, the Constitution additionally confirmed the market principles on which new economic regulations are based, planning guarantees and limitations of the same. Namely, according to the Constitution the freedom of market and the entrepreneurship is guaranteed. The Government supplies equal legal status of all subjects on the market. The Government takes measures against the monopolistic status and the monopolistic behavior on the market. Freedom of the market and the entrepreneurship can be limited with law solely for defense of the country, environmental and nature protection, or people’s health.

Having in mind the capacities of the national economy and the economic subjects in Macedonia the Constitution additionally gives support for entrance of foreign investors through the guarantee of the safety for taking (export) of the invested equity and the equity that they invested in Macedonia. That is in Article 59 and it has been planned to foreign investors the right of free export and the invested equity and gain are guaranteed. The right gained on bases of the invested capital cannot be reduced by law or other provision.

The legal system in Macedonia has been constantly improved in the direction of continuous encouragement and support of the economic progress of the country, the globalization flows and the political development. It is significant to mention the adjustment of the domestic legislature towards the legislature of EU, which goes according to the confirmed dynamics of Macedonia with the Agreement for stabilization and association. That means that many legal decisions are closer or identical to the corresponding in the developed European countries. In the passed period there has been implemented regulatory guillotine, which enabled confirmation of the boundaries and the drawbacks which influenced the management procedures connected to the realization of the necessary steps for investments and the development of entrepreneurship in Macedonia. After statements, the observations and findings from the made guillotines the government of the R. of Macedonia took steps for the removal of the boundaries and drawbacks which resulted with the

increase of the efficiency and the effectiveness of the management procedures. In that direction many of the Government measurements are in the direction of faster realization of the business plans and project of the investors. The tax policy, the human potential, the enforcement of the service, obtaining process as well the simplification of the management procedures, but also the development in the field of the protection of intellectual and industrial property, they all are considered as advantages in the direction of attraction of investments and also taking into consideration that such parameters and fields are most frequently the crucial preconditions for entrance of foreign investors in one country.

With the appropriate legislation, the Republic of Macedonia undertook economic reforms, and by doing so it offered the most attractive tax package in Europe. Namely, the income (profit) tax rates and the personal income tax are 10% (the profit tax was decreased for 15% and the personal income tax was decreased for 15%, 18% and 24%). Regarding the value added tax, the general tax rate is 18% whereas the preferential/privileged tax rate is 5% (including computer software and hardware, food etc.).

The property tax rate amounts 0.1-0.2% and the inheritance tax is in the range between 2-3% for the tax payers that are second in the row of inheritance and 4-5% for the tax payer who is third in the row of inheritance or the one who is not in any relation with the person leaving the inheritance. For the purpose of stimulating additional foreign and domestic investments, the corporate tax on undistributed profit is 0%.

The introduction of the flat rate tax was made for the purpose of simplifying the tax system which is expected to further stimulate the successful companies to improve their operation and to increase their profitability. The intention is to also make the companies use the money they "saved" from taxes for the purpose of increasing their competitiveness. The flat rate system enables having transparent and efficient administrative procedures, simple calculation and fast filling in of the tax forms.

Special tax relief is offered to companies that operate in technological industrial development zones. This covers relief from both profit tax and personal income tax payment during the first 10 years. Each company is relieved from paying the undistributed profit tax.

Companies can pay tax via Internet, and this saves their time and money.

There are no restrictions on transfer accounts i.e. on the current account payments. The profit and the dividends from the investments can freely be transferred abroad, after the payment of corporate profit tax.

There are no regulatory restrictions for foreign direct investments made by non-residents in the Republic of Macedonia. Credit transactions between residents and non-residents can freely be made as long as they are registered in the Central Bank. Certain legal entities that operate abroad can hold their deposits in foreign banks, only if being given permission for this by the Central Bank. Non-residents are free to open non-resident accounts in Macedonian banks. The Law on foreign exchange operations enables liberal regime regarding capital transactions, to a great extent.

According to legislation, foreign companies and foreign citizens may own construction land in the Republic of Macedonia. Construction site is offered with

public tender procedure.⁶

The Republic of Macedonia introduced one-counter system that enables investors to register their business in 4 hours. An individual can register a company by visiting one office, getting information at one place and engaging only one administration officer. This significantly reduces the administrative barriers and the business start-up costs. Decrease was made of the pension and health insurance

All stated, ranks the Republic of Macedonia as third in the list of 183 countries ranked by reforms implemented in the latest report "Doing Business" by World Bank and International Finance Corporation. The Republic of Macedonia, along with Morocco and Moldova, is among the top three reformers, and at the list of countries ranked by ease of doing business rose 12 positions (from 34th position last year to 22 th position this year). With these results, the Republic of Macedonia is better than all the countries of the region, and the 19 Member States of the EU. Such reports will stimulate and emit positive signals to investors abroad, who are increasingly looking to the future.

4. Economic preconditions for the FDI in the Republic of Macedonia

The economy of the R. of Macedonia which at the beginning of the 1990s to the beginning of the new millennium passed through the process of transition, has been transferring into market oriented economy and the investor's interest is increased for it from all over the world. Namely, the national treatment of the foreign investors, the protection of the ownership, the stabile legal and business surrounding influence the economic and before all the political stabilization of Republic of Macedonia, which represents a basic precondition for the increase of investors' interest. The improvement of the investment climate the capable and qualified labor, the fertile tax policy transformed into lowest tax rates in Europe, influences the investors to take into consideration Macedonia as a potential country for investments of their capital.

GDP growth in the decade 2001 - 2010 is relatively stable: starting from 2001 when he was - 4.5%, in 2002 rise, and through 4% in 2004, 2005 and 2006, reaches the maximum of 5.9% in 2007 and 5 , 0% in 2008. In the next (2009) decreases to - 0.9%, and again in 2010 increase of 1.8%.

Generally, the inflation rate is low. The lowest has the value of - 0.8 in 2009 and - 0.4% in 2004. Fiscal discipline is confirmed by international financial institutions and there is coordination between fiscal and monetary policy.

Table 1 – Main economic indicators for the R. of Macedonia 2001-2010

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Real growth of GDP (%)	-4.5	0.9	2.8	4.1	4.1	4.0	5,9	5.0	-0.9	1.8
Inflatio	5.5	1.8	1.2	- 0.4	0.5	3.2	2.3	8.3	-0.8	1.6

⁶ The minimum price offer is determined on the part of the Ministry of Transport and Communications, in compliance with the Construction Land Price Determination Methodology.

Change on annual basis (%)										
Central Budget Balance (as a % of GDP)	-7.2	-1.1	0.0	0.0	0.2	-0.5	0.6	-1.0	-0.9	-2.7
The extent to which the export covers the import (%)	68.34	55.912	59.271	57.165	63.173	64.366	64.35	57.981	53.392	60.58

Source: State Statistical office and Central Bank of the R. of Macedonia.

5. FDI in the Republic of Macedonia for the period 2001-2010

In this paper, foreign direct investments are investments of foreign legal and physical entities in business entities in the Republic of Macedonia, which results in establishing mutual long-term interest where the foreign investor owns at least 10% of the total value of the business entity.

Table 2: Gross investment and gross domestic product by activity (in production method, annual real growth rates in%) for the period 2001-2010

Operations/Years	Agriculture, hunting, forestry	Mining and stone extraction	Processing industry Electricity, gas and	Construction	Wholesale and retail	Hotels and restaurants	Traffic, storage and connections	Financial mediations. Operations regarding real estate, renting and business activities	GDP	Gross investment

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2001	-10.8	-4.6	-14.4	-0.8	-4.5	-8.3	2.1	-2.3	-4.5	-15.6
2002	-2	-0.8	0.6	5.4	16.7	-1.8	-3.7	3.5	0.9	13.1
2003	4.8	5.0	13.3	1.8	9.6	0.4	-3.6	4.9	2.8	-2.4
2004	6.4	2.8	5.7	11.7	-1.7	-4.8	13.8	-0.6	4.6	10.6
2005	0.3	4.6	-0.3	16.1	4.8	10.2	-0.9	3.6	4.4	-3.6
2006	4,8	2,6	4,8	4,9	1,5	9,8	8,2	1,5	5,0	7,9
2007	2.7	12.6	3.3	6.6	8.5	10.5	4.1	2.4	6.1	22.2
2008	5.7	2.4	-5.5	6.5	5.9	12.2	6.6	4.5	5.0	5.4
2009	2.7	-10.7	4.4	6.4	-8.6	-1.1	4.6	2.4	-0.9	-1.5
2010	4.4	-2.2	15.0	6.0	-9.3	5.1	2.3	1.3	1.8	-3.7

Source: State Statistical office of the R. of Macedonia.

Analyzed by activities:

- In the agriculture, hunting and forestry, it can be noticed that in the period from 2001-2004 an improvement was achieved which in 2004 reached the maximum of 6,4 %, and in 2005 fell to 0,3%. Again in 2006 it is noticed considerable growth to 4,8. The following years it varied between 2,7 and 5,7 %
- In the mine and stone extraction, in 2001 from -4,6% in 2003 reached 5,0%, and then with variations about 3%, in 2007 reached the value of 12,6%. In 2009 it was evident sharp fall of -10,7 with improvement in 2010 of -2,2%.
- In the processing industry, electricity, gas and water supply, the lowest percentage was in 2001 of -14, 4% and maximum reaches in 2010 of 15%, through 13, 3 % in 2003. The largest fall was in 2008 of -5, 5%.
- In the construction industry except in 2001 when the value was -0,8%, the other years positive trend was noticed which reached the maximum of 16, 1% in 2005, through 11, 7 % in 2004. From 2007 to 2010 the percentage was stabilized and it had ranges from 6.0 to 6.6 %.
- In trading on wholesale and retail, the largest growth was in 2002 (16,7%) and 9,%, in 2003, with fall in 2004, and with variations in the following years between 5 and 8,5%. The sharp fall is notable in the last years (2009 and 2010) in amount of -8,6% and -9,3%

- Regarding the hotels and restaurants, it can be noticed negative amount including 2004, from -8,3% in 2001 to -4,8 in 2004. From 2005 to 2008 there was growth which had ranges between 10,2 % in 2005 to 12,2 in 2008. The fall was sharp to -1,1% in 2009, and the next year (2010) it increased to 5,1%.
- In the activity traffic, storage and connections, during the first three analyzed years, the value decreased from 2.1 % to -3,6%. In 2004 the highest growth of 13,8% was reached, with fall of next year to -0,9%. In 2006 a growth of 8,2% was reached, with variations of 4,1 in 2007 to 6,6% in 2008, decreased to 2,3 in 2010.
- Referring to the financial intermediation and activities regarding the real estate, renting and business activities, the highest amount was reached in 2003 and in 2008 (4,9% and 4,5 %). The lowest amount was in 2004 of -0,6 %.
- In 2001, GDP was -4,5 %, with increase in 2002 of 0,9 and in 2003 of 2,8 %. In the period from 2004 to 2008, the increased varies in the frames of 4, 4% to 6, 1 %, and in the last two years it decreased to -0, 9 in 2009 и 1, 8 in 2010.
- The gross investments had their lowest amount in 2001 of -15.6%. Negative amount had in 2003 of -2,4, in 2005 of -3, 6 %, 2009 of -1, 5 and in 2010 of -3, 7%. Gross investments reached highest amount in 2007 of 22, 2 %. The amount was high in 2002 of 13, 1% and in 2004 of 10, 6 %.

Analyzed by years:

- In 2001, gross investments were positive only in the activity traffic, storage and connections of 2, 1 %. In all other activities the amount was with negative sign.
- In 2002, compared with the remained activities the trading had the largest amount of 16,7%. Positive were at the construction of 5,44% and at the financial intermediation of 3,5%. The lowest amount is in the traffic of -3,7%, and at the agriculture, hunting and the forestry of -2,0%. At the remained activities it is smaller than -2,0%.
- In 2003, the negative amount was only at traffic with -3, 6%. The highest of all remained activities is in the processing industry with 13,3% and at trading with 9.6%.
- In 2004 with negative amount were the hotels and the restaurants (-4,8%), commerce (-1,7%) and the finances (-0,6). The remained values at all activities were positive of 13,8% in traffic and 11,7% in construction, and the lowest is in mine and stone extraction of 2,8%.
- In 2005 the negative amount had the traffic (-0,9) and in the processing industry (-0,3%). Out of all positive, the highest were the amounts at the construction (16,1%), the hotels and restaurants (10,2%) and commerce (4,8%). The lowest was at agriculture with only 0,3%
- In 2006 there is no negative trend. The most positive were the hotels and restaurants with 9,8% and traffic with 8,2%. The lowest was at the commerce and at the finances (1,5%). The remained activities were around 5%.
- In 2007 at all activities, the trend was positive. The highest was at mine and stone extraction (12, 6%), hotels and restaurants (10,5%) and at commerce

(8, 5%). The lowest was at finances (2, 4%) and in agriculture, hunting and forestry (2, 7%).

- In 2008 beside the processing industry with decrease of -5,5%, all other activities had growth. The highest was at hotels and restaurants of 12,2 % and the lowest was in mine and stone extraction (2,4%). At the remained it was around 6%.
- In 2009 the amount was the lowest at mine and stone extraction (-10,7%) and commerce (-8,6%). The highest was the amount in the construction industry (6,4%) around 4,5% in traffic and processing industry, and around 2% in the agriculture, hunting and forestry and in financial intermediation
- In 2010 the amount was negative at commerce with -9,3% and the mine and stone extraction with -2,2%. At the remained it was positive. The highest was the growth in the processing industry of 15,0%, in the construction industry with 6,0%, in the agriculture and in the hotels around 5%. The lowest was at finances of 1,3%
- Regarding the gross investments in period from 2001-2010, the highest were in 2007 with amount of 22,2%, then follow 2002 with 13,1 and 2004 with amount of 10,6%. In the other analyzed years was under 5,4% (except in 2006 when it was about 8%). Gross investments had negative sign in 2001 (-15,6%), in 2010 (-3,7%), in 2005(-3,6%) and in 2003 (-2,4%) and in 2009 (-1,5%).

The overall discussion consists of the following:

In the activity agriculture, hunting and forestry it was not invested in 2001 and 2002. In the subsequent years it was invested with different size.

At the mine and stone extraction it was not invested in 2001, 2002, 2009 and 2010. In the other years it was invested, with maximum in 2007.

In the processing industry it was not invested in 2001, 2003 and 2008. At the remained years there were investments with maximum in 2010.

In the construction industry it was invested in all years in the research period, except in 2001 when there were no such investments.

In the commerce it was not invested in 2001, 2004, 2009 and 2010. In the other years it was invested, with maximum in 2002.

In hotels and restaurants, it was not invested in 2001, 2002, 2004 and 2009. In the period from 2005 to 2008 the investment was around 10,5%.

In the activity traffic there were no investments in 2001, 2002, 2003 and 2005. The maximum of investment was in 2004.

At the financial intermediations there were no investments in 2001 and 2004, and in the remained years the investment was 3% average per year.

From the made research by activities it was concluded that in all activities the gross investments were different. The most stable were in the construction.

In 2001 it was only invested in traffic with 2,1%. In 2002 it was invested the most in commerce with 16,75 %. In 2003, the highest investments in the processing industry with amount of 13,3%, but also in the commerce with 9,6%. In 2004 in the traffic the amount was the highest of 13,8% then in the construction industry 11,7%. In 2005 it was invested in the construction industry with 16,1 % then in hotels and restaurants 10,2%. In 2006 hotels and restaurants were leaders with 9,8%. In 2007

the mine and stone extraction had the highest value of 12,6% and in hotels and restaurants of 10,5%. In 2008 it was invested in hotels and restaurants with 12,2%. In 2009 the highest 6,34% was invested in the construction industry and in 2010 in the processing industry 15,0%.

By years, gross investments vary from -15,6% in 2001 to 22,2% in 2007. In 2006 and 2007 there were investments in all activities. In 2008 there were no investments only in the processing industry, and in 2003 there were no investments only in traffic.

7. Conclusions

In the last two years Republic of Macedonia grew into market oriented economy which successfully is included in the world economic flows.

The Constitution of the Republic of Macedonia gives the necessary basis for adoption of legislature which supports the entrance of foreign capital in the country.

With the legislature, among the other, it has been secured national treatment of the foreign investors, property protection, reduction of the administrative barriers and reduction of start-up costs. Supplemented with stabile legal and business surrounding, it represents basic precondition for the increase of the investors' interest.

In this paper regarding the analyzed data for the economic parameters that are connected to SDI for the period from 2001-2010, we can separate the following conclusions:

Regarding the GDP except in 2001 and 2009, in the remained years GDP has average growth of 4%.

The inflation, except in 2004 and 2009, has average rate of 3% per year.

In the first year of the analyzed periods there is a decrease of the investments in all activities from -14,4% to -0,8%, except in traffic which is with positive sign. Since 2003 there has been increase of the percentages of the investments compared to 2001 in all activities, with different intensity in individual activities.

In 2006 and 2007 there were investments in all activities, from 1, 5% in commerce to 12, 6% in mine and stone extraction.

In the other years the percentage of investment in different activities varies.

The increase in the construction was stabile from 2007 to 2010 (over 6%).

The largest fluctuations there have been in the investments in the processing industry (29, 4%), at commerce (26%), mine and stone extraction (23,3%) and hotels and restaurants (20, 5%).

Around 17% are the fluctuations in the investments at traffic, agriculture, and construction. The lowest percentage of fluctuation is in the investments in the financial intermediation with 7, 2%.

The largest decrease of the investments is noticeable at the processing industry in 2001 (-14,5%) and the largest jump was in commerce in 2002 (16, 7%) and the construction industry in 2005 (16,15%)

From the above, the fluctuations are evident at the foreign direct investments in the Republic of Macedonia in the analyzed period, by activities and by years. It can not be confirmed with certainty that the reason for this fluctuation is only the legal regulation. It is certain that the legislature has contributed for defined increases of the investments by activities and by years but correlation is impossible to find. For more sustainable conclusions, further research is necessary.

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