

Investors' Rights Protection on a Global Financial Market

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Abstract

In the last decades, we have been faced with a rapid development and sophistication of the investing methods that investors have at their disposal. The emergence of new micro and macroeconomic risks that have affected the markets stability, impose the re-analyzing of the prudential regulations in the field of investors' rights protection. The present paper aims to present and analyze the necessity of investors' rights protection in the context of reducing the informational asymmetry on the financial markets and to propose some ways of solving litigations that can appear in the international investing process. The approach, through the research method, is a dual one, offering the connection between quantitative and qualitative arguments. We show the need for investors' rights protection through an adequate transparency of the financial information and we present solutions that should be adopted in this field by the regulatory and supervising authorities. We also identify and analyze the main risks that limit the foreign investors' rights and offer ways of protection that can be used in the case of international litigation. The analysis done shows that the investors' rights protection level has a significant impact on the development and stability level on the global market.

Key Words: Investors' Rights, Protection, Globalization, Regulations, Litigation

JEL codes: K22, G18

Introduction

Today's world is constantly changing, becoming more and more one space that is under the influence of economic forces that make evolutions from a certain region generate significant effects for individuals and communities that are located at thousands of miles, making it almost impossible for national governments to control such phenomena.

This generates an increasing importance of the globalization concept in the economic literature of the last few decades. Very few aspects of the social life are not under the

globalization process influence, its specific aspects being found at economic, financial, political and cultural level and making globalization a multidimensional phenomenon (Șerbu & Gheorghe, 2006).

In today's society, the economic world is dominated by the free flow of capital and by the strong correlations between the interest rates, the exchange rates and the price of financial assets, the global financial market exercising a strong influence over all economic activities. The most dynamic dimension of the globalization process is the financial globalization that can be considered the backbone of the global economic system.

Globalization generates a new configuration of the international economy that could be defined as the extremely dynamic process of growing interconnections between different states, as a result of enlarged and deep transnational relations that affect various areas of the economic, politic, social and cultural life. This has as implication the fact that problems become more global than national and demand a global solution more than a national one (Ciotloș, 2012).

Globalization is the phenomenon that lead to the changing of the contemporary financial environment, by an increased interdependence of the national financial spaces, an emphasized mobility of the capital flows, a concentration of financial activities in the favorable areas and the creation of large international financial centers, but also by the expansion of the financial operations volume and the creation of new financial instruments with profound implications in the investors' expectations. In this complex context, very few economies can isolate themselves from the day by day functioning of the world market. The important financial markets, as well as the big financial centers are linked and form a global financial system.

The recent flow of financial crises and the contagion phenomenon due to the liberalization of the financial system could suggest that globalization increases the financial volatility and leads to crises.

Even though the internal factors are mainly at the origin of crises, there are different channels through which globalization could be connected to crises. First, as Schmukler (2004) shows, when one country's financial system is liberalized this depends on the degree of respecting the legal regulations and the market discipline exercised both by the local and foreign investors. In a close economy, only the national investors monitor and react to unhealthy fundamentals, while in an open economy, both the national and foreign investors can make it get solid foundations or they can be correlated with the critical situations that can appear.

The lack of solid macroeconomic, financial and institutional fundamentals can increase the probability of crises. It results that antagonist interests and visions of investors (both from the internal and external markets) over the key fundamentals that could speed the appearance of crises and reduce the authorities' capacity of monitoring and managing them in an efficient way.

Even in the case of solid internal fundamentals and quality institutions, the international financial markets' imperfections can lead to crisis due to a mimetic, irrational behavior or due to speculative attacks or bubbles. Shortly, no matter how the market fundamentals are, some investors could for example speculate a certain currency when they consider that the exchange rate is unsustainable. This thesis, illustrated by Obstfeld (1986) was accepted by Schmukler (2004). He considers that the financial globalization could lead to financial crises caused by contagion through shocks that occur due to the real financial links, the mimetic behavior of the investors or the unexplainable intense correlations.

The impact of all these phenomena is felt in the national and international investments dynamics. The investors' decisions regarding the targeted investments are determined by two relevant factors: I. The investor's capacity to filter and analyze the available information; II. The legal framework that exists on the market where the investor wants to place his capital. Taking into account the risks that investors are facing, their protection on the national and international markets cannot be ignored.

The literature (La Porta et al., 1997, 1998, 1999a, 1999b, 2000; Johnson et al., 2000; Djankov et al., 2003; Levine, 1997; Beck et al., 2003a, 2003b; Claessens and Laeven, 2003) shows that shareholders and creditors protection through the legal regulations generates an increase in the investments flows as well as in the companies' capacity of finding financing.

Investors' protection through the legal requirements regards not only the existence of these clear and coherent rules and regulations regarding this sensitive field, but also the level at which they are imposed to the participants on the market (Berkowitz & al., 2003).

The new laws and regulations introduced by the governments as part of the financial market reform (regarding the voting rights, the takeover procedures, the shareholder structure, the company management, the financial reporting standards and the rules regarding disclosure etc) often include express stipulations regarding investors' protection. Still, as Bhattacharya and Daouk (2002) show, just the existence of such regulations is not enough. They show that the shares price does not fluctuate with the adoption of new protection measures but significantly vary when the first crossing of those regulations is punished.

The level of investors' protection through the existing legal regulations differs according to the origins of the legal system (England, France, Germany or Nordic countries). Because of this, the economic development and growth patterns differ from one country to another, countries that have laws that protect the investors being favored (La Porta et al., 2008).

In the present paper we'll be approaching the investors' rights protection through two hypotheses:

H1: The need for protecting investors' rights protection in the context of the reduced informational asymmetry on the financial markets. We'll be taking into account the quality of information that is available to investors on the financial markets, their transparency and the legal regulations regarding the standardizing and harmonizing of financial-accounting information and the role of regulatory and supervising authorities in the investors' rights protection.

H2: The necessity of introducing new aspects regarding the investors' rights protection in the international agreements and the methods of solving litigations between the investors and the state.

The performed research is a descriptive one, bifocused and includes the literature review, in order to identify the arguments in favour of protecting investors' rights but also the analysis of the legal regulations in the field of investors' rights protection. This is important for identifying new legal aspects that can be taken into account by the regulatory authorities so that the investors' protection rights level increases.

1. Investors' Rights Protection and the Global Financial Market's Transparency

The Nobel laureate Amartya Sen said in 2009 that the lack of transparency of the global financial system was among the main factors that have contributed to the appearance and transmission of the recent financial crises. The financial information reduced transparency or

opacity reduced the regulatory authorities' capacity of monitoring the explosive increase of more and more sophisticated but also opaque financial instruments.

The transparency of the financial information has a special importance both for the investors and the regulating authorities of the financial market. Each investor needs to gather as much transparent information as possible regarding the financial data of the economic entities that he is interested in and that are bought and sold on the financial market. This should actually be the main quality of the financial reporting: to give the investors the right to correct information.

"The human development was, is and will be founded on the belief in information" appreciated H. Cristea (2002). In order to induce this belief in information, one must take into account that the information users are very heterogeneous and their position in respect to the information supplier is also different. Therefore, one of the most important problems to be solved refers to the issuing of quality information, characterized by relevance and credibility. The quality of the disclosed financial information cannot be proven as long as there isn't a set of rules accepted by all potential users, regarding the content and form of offering this financial information.

The IAS and IFRS tend to solve this problem. They try to establish international rules regarding the way accounting and financial information is presented as well as regarding the way they are obtained. The standard becomes reference point to which all other situations are reported to, or in other words, they become a filter for obtaining high quality information.

Leuz, Nanda and Wysocki (2003) prove that once the investors' protection increases, the quality of the financial statements and of the disclosed financial information increases and Francis, Khurana and Pereira (2001) show that in the countries with well set in place laws for investors' protection, the accounting standards are much more transparent.

There are four quality characteristics that all financial information should have in order to become useful for its beneficiaries (Popescu, 2006):

- Information should be easily understood by the users
- Information should be relevant for the users' needs concerning decision taking
- Information should be feasible, meaning that it should correctly present transactions and other events it says it presents or could reasonable present; it should present transactions and other events according to their contents and economic meaning and not only according to their juridical form; it should be neutral and eliminate all uncertainty that is around many events and situations, by being prudent and exhaustive in what concerns the significance threshold and cost
- Information should be comparable with the information disclosed by the entity in the financial statements for other periods and with the information supplied by the financial statements of other entities.

The information's transparency allows investors and other participants on the financial market to evaluate one entity's financial statements. Moreover, in order to help investors take the best decisions, transparency contributes to an increased investors trust in the markets fairness. Transparency has a very important role in corporate governance, as it allows management boards to take corrective decisions at due time when necessary, in order to prevent the negative changes in the company's financial state.

Therefore, it is essential that all economic entities publish information that presents a true, comprising, intelligible and feasible image regarding their performance and financial state.

According to IASB, there is a certain amount of information that should be disclosed in order to ensure the minimal level of financial information.

IFRS 1 “First time adoption of International Financial Reporting Standards” purpose is to make sure that the company’s first financial statements drawn according to the IFRS and its intermediate financial reports, for a part of the time covered by those financial statements, include high quality information that:

- (a) Are transparent for users and comparable for all presented periods of time;
- (b) Ensure an adequate starting point for an accounting according to the International Financial Reporting Standards (IFRS);
- (c) Can be generated at a cost that does not overpass the benefits it would generate for the users.

Harmonizing and standardizing at international level the law frame for the financial markets has perfected the instruments regulators can use for a more efficient monitoring of the regulated entities, in order to ensure the transparency and good functioning of the financial market, as well as the protection of investors against abusive or fraud practices. An example is represented by MiFID (Markets in Financial Instruments Directive), the directive regarding the financial instruments market no. 2004/39/CE. This directive has as objective the investors’ rights protection, the consolidated competition in the field of financial services and a better transparency of the financial market at European level.

Transparency represents the degree in which the information users have access to the financial information needed about an entity, such as the level of prices, audited financial statements, the transparency being considered one of the premises of any free and efficient market.

The modern communication era has increased the speed of the information for investors’ flow, the market’s efficiency increasing significantly through the informing instruments. The theoretic finance field is set on the basis of the idea of efficient markets, where information is disseminated almost instantaneous, with a direct impact over the price of assets and unfixed values. This fact is proven in reality. Investors’ capacity of obtaining from Honolulu data about an event that takes place in Moscow and then sending that data to a broker in New York, almost instantaneous, has minimized the world of finance. There is no difference if an investor is at two or 2000 miles distance, the same flow on information being available to both.

The electronic transaction systems have increased liquidity and market efficiency, reducing the transaction costs and disclosing needed information almost in real time. Jain (2005) uses a financial market study performed on 120 countries, through which he proves a better liquidity and a reduced capital cost after the electronic transaction systems being implemented

During financial crises, the quality of financial infrastructure can play a decisive role as it influences the investors’ possibility to exercise their society rights in the legal and statutory limits, as well as their rights of taking advantage of their investments through an exit at a good price. A theory of the financial infrastructure is presented in the study performed by Bossone et al (2003). In their theory, the development of financial infrastructure has four main implications:

- It promotes the financial markets growth
- It helps investors select more efficient opportunities (in respect to the ratio between risk and effect)
- Integrates the capital accumulations in activities that include more uncorporate assets and define a higher density of knowledge

- There is the possibility of being contested by interest groups that register losses from borrowings.

The theory presented in this study and the preliminary results after the empirical analysis suggest that the development of the financial infrastructure has a key role in modeling the relation between financing and economic development. At the basis of these conclusions stands the fact that the benefices of the infrastructure's development are largely spread through the entire society, while its costs are concentrated in a small social segment, that of the investors. This implies that up to the point where the wealth lost due to an inadequate infrastructure becomes severe and visible, making it impossible to avoid a reform in the field, the cost of support for a development action is higher than the cost beneficiary financial institutions should pay for gathering against such an action and organizing an efficient resistance. The cited authors consider that in environments with a poorly developed financial infrastructure, the financial institutions do not exercise all of their roles (such as information collection, monitoring and applying contracts) which are bad for the investors' rights protection. As the financial infrastructure develops, it is promoted the expansion of financial markets and competition. This leads to a better and more efficient allocation of capital and to more choices for the investors.

In the economic developed countries, the financial markets and their infrastructure are significant both from the quantitative point of view (number of financial instruments, attributions of the regulating, supervision and control institutions etc) as well as from the qualitative point of view (the quality of regulations that allow the financial operations in the economy and the protection of investors' rights), while in the emerging markets these are at a less developed level.

Beck et al (2001) have indicated two sets of fundamental, historical factors that can explain the differences between countries regarding the financial development. The first set of factors is under the influence of the legal and regulating frame for the financial sector, underlining the country's traditions, meaning that the financial development is highly connected to the legal environment. Their studies show that a low level on investors' protection, measured through the legal stipulations and the level to which they are imposed, is reflected in the small size of the financial markets.

The second set of factors is under the impact of the financial endowment and that of existing finance, being determined by the national characteristics in connection with the geographic environment. According to the authors, these characteristics have been important in drawing up the property rights and the institutions, showing that such factors have a significant importance.

Besides the big differences in the financial development of different countries, Koubi (2008) notices significant differences in establishing the financial assets profitability rates, especially in the case of shares. The conclusions of his study show that the countries where transaction costs are relatively low and the legal environment is stable (the quality of governance being measured through the quality level of bureaucracy and financial infrastructure) are developed from the economic and financial point of view and register a lower general economic volatility, as well as of the financial assets' price volatility (of shares prices and exchange rate), being more willing to take part in transactions and also having less obstacles for the capital international flows.

In this context, the structural and functional transformation of financial markets have imposed mutations in the financial supervising direction through which financial stability is

established, an important role being attributed to the national supervising authorities of these markets that were confronted with expectations regarding:

- The improvement and updating of national rules regarding the financial market's functioning;
- The initiation of a partnership and international harmonizing regarding the financial information transparency and investors' rights protection.

In order to protect investors and to create a transparent financial market functioning frame, the supervision authorities have to make sure that: All investors' right to information is respected; the principle of equal information and treatment for all investors is respected and all financial market's actors' interests are protected.

The legal aspects of the financial markets, seen both in their dynamics and in a static approach, have a special regulating system: (i) special laws having as regulating object strictly the organizing and functioning system and the dynamics of the financial market; in this area is included the primary legislation of the financial market (laws and other legal regulations that have the power of laws); (ii) the secondary laws, namely regulations that are based on the legal authority given to others by the regulating and supervising authority and on the norms issued by different organisms that have auto regulating power.

In order to protect the investors' rights, the supervising authorities must give proper importance to the claims and notifications received from the investors. For example, in 2012, CNVM (financial supervisory authority for the financial market in Romania) has received and checked about 7,521 current reports and 308 notifications, claims, requests for information and memos from investors that have contributed at identifying of the most frequent problems they have in the relation investor- financial market. This way, the regulatory authority can take the best measures in order to avoid future similar events and to ensure a better protection for the investors' rights.

On the financial market, the regulating, supervision and participants' control problem is far from being solved. In some EU countries was adopted either the model of "mega-commissions" for the financial-banking supervision or the model of a unique supervision authority. Now, at the EU level, we can find unique supervision authorities in Austria, Denmark, Finland, France, Germany, Ireland, Luxembourg, Malta, Great Britain, Holland, Slovakia, Sweden, Hungary and Romania (in 2013 was created the Financial supervision authority that has responsibilities in supervising the financial markets, the insurance field and the private pensions), in Belgium the supervision authority is just for the capital and banking markets and the capital market is separately supervised in: The Czech Republic, Cyprus, Greece, Italy, Lithuania, Poland, Portugal, Slovenia and Spain.

The investors' protection on the capital markets becomes a more and more important subject for the supervision authorities. Pagano(1993) considers that a weak investors' protection discourages the capital markets' development and leads to a reduction in the financial resources inflows at the level of population sector in the same way as commercial barriers reduce the foreign capital inflows (idea found at Braun & Raddatz (2004) and Abiad & Mody (2005), who consider that the financial development is directly connected to the commerce liberalization on a market). Also, the increasing expectations of the shareholders regarding the protection level that a market offers makes them invest more, leading to a higher volume of shares issued on the market and to an increased participation on the shares market. The immediate effect is an increase in the regulating authorities' interest for protecting the shareholders. Under certain circumstances, this situation generates multiple equilibrium

regarding the shareholders’ protection, a higher participation on the market, supplementary shares being issued and a higher level of investments.

Nevertheless, if the investors’ expectations are based on the previous regulations, as Abiad & Mody (2005) showed, without the presence of a major shock, the market’s equilibrium is kept in time and the investments will not grow if companies are allowed to relocate or to merge with companies that are located in areas where the investors’ rights are better protected. Investors tend to transfer their investments in areas where they are better protected. Therefore, when companies can choose not to adopt the local legislation, the local legislation regarding the investors’ rights shall converge towards the superior standards that exist in the field (phenomenon studied by Hansmann and Kraakman in 2000 and known as “convergence by contract”).

Solid arguments in favor of the need to protect investors’ rights and of information transparency are also brought by La Porta & al.(2000) that show that the financial markets’ development is most often connected with the investors’ protection as a higher level of protection against the investment risk increases the market’s “charm”.

Jensen and Meckling (1976) consider that investors, due to their fear of losing capital, give a penalty to the issuers that act in less regulated financial markets. As internal shareholders are the ones that will bear this cost when shares are issued, they will try to reduce the risk of losing the investment and will hire auditors that can check their behavior and report it to investors outside the company.

A special aspect refers to the protection of the minority investors’ rights. Different studies show that financial markets where the minority investors’ rights are properly protected are less sensitive to the financial constraints that allow an increase in the investments performance.

Therefore, Doing Business’ study performed at world level is relevant. It measures how well minority investors are protected against managers’ abuse. In order to measure the minority investors’ protection degree, the study uses three dimensions of protection:

- Approval and transparency with affiliated entities – information disclosure index
- The managers responsibility degree for self transactions – managers responsibility index
- The shareholders capacity of obtaining company documents before and during litigations – shareholders litigation capacity index.

The ranking of the best/worst protected investors at world level is done on the basis of the investors’ protection index level, determined by Doing Business and it is presented in the next table.

Table 1 – Countries ranking according to the investors’ protection level - 2012

Most protected	Rank	Least protected	Rank
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New Zealand	1	Haiti	176
Singapore	2	Gambia, The	177
Hong Kong	3	Guinea	177
Canada	4	Micronesia, Fed. Sts.	177
Malaysia	5	Palau	177
Colombia	6	Djibouti	181
Ireland	7	Venezuela, RB	181
Israel	8	Suriname	183
United States	9	Lao PDR	184
United Kingdom	10	Afghanistan	185

Source: Doing Business database, <http://www.doingbusiness.org/>

At the end of 2012, on the first places in the ranking are the OECD countries that have the highest levels of income and at least 4 legal changes each. In the case of the Eastern European and Central Asian countries, between 2005-2013, there were registered 4 legal changes regarding the investors' protection increase. Countries from other regions have also improved their legal system of investors' protection. In the last 8 years, 68% of the economies from the Eastern Europe and Central Asia, 48% of the OECD countries and 33% of the countries from Eastern Asia and Pacific, Middle East and North Africa have implemented at least one reform meant to increase the investors' protection. According to Doing Business, 49% of these reforms have dealt with the increased disclosure index.

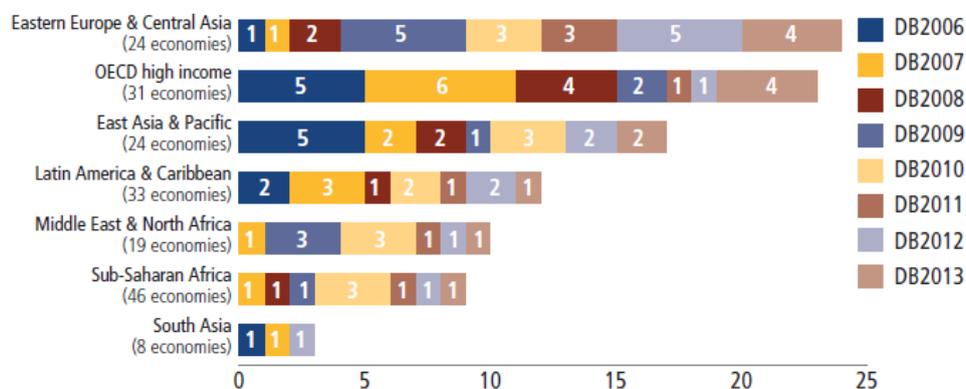


Figure 1 – Number of reforms regarding the investors' protection

Source: Doing Business database, <http://www.doingbusiness.org>

From the data presented, one can notice that the developed financial markets from OECD are characterized by very efficient regulations concerning investors' protection. The financial markets from Eastern Europe and Central Asia are catching up quickly, after they have developed more than countries from Eastern Asia and Pacific in 2007 when the regulating organisms have imposed stricter rules regarding information disclosure and management standards. In Latin America and Caribbean, just Chile, Columbia and Mexico implement investors' protection regulations. In North Africa and the Middle East, protection is very weak as in case of litigation, access to information is strictly restricted (with the exception of countries like Saudi Arabia and Marco).

Foreign investors' wish to invest in a company decreases when the legal environment doesn't offer enough protection (according to the study performed by Leuz, Lins and Warnock in 2009). We find the same idea at Stultz (2005) who proves the shareholders wish to be protected through their contribution at concentrating property and keeping significant packs of shares issued by their company when the legal frame is not very strict regarding minority investors' rights.

1. Protecting foreign investors' rights and solving litigations between the State and investors. The case of EU

Investments are a critical factor for economic growth and for creating working places. Through investments, global value chains are built and they play a more and more important role in the modern international economy, create new opportunities for commerce and also added value and work places.

The globalizing process generated an increase of the international economic and financial relations, through major movements of capitals. As G. Soros (1999) was saying „ We are all part of the capitalistic global system, characterized not only by the free commerce, but mainly by the free movement of capital. The system is very favorable to the financial capital that has complete freedom of movement, which lead to the rapid development of the global financial markets.”

The national special features of the financial markets generate constraints that, for an investor that acts at global level, can significantly influence the investment decision (Goran, 2005). The way foreign investors are treated in the host country regarding access and the right to free transitioning on the local financial market can act as a magnet or, on the contrary, as a barrier in their way, just as costs and transaction taxes are carefully evaluated by any investor.

For sure, between the FDI flows and the level of investors' rights protection, there is a tight connection. Better regulations on the national financial market are correlated with more FDI flows per capita (figure 2).

The studies performed by Doing Business and UNCTAD prove that FDI mobility is influenced by the possibility of registering a superior performance of the investments done in optimum investors' rights protection conditions. For example, in the Doing Business methodology, they calculate the distance from a frontier (representing the best investment's performance at world level). The distance from the frontier must be between 0 and 100, where 100 is the frontier level. In table 2 is presented a grouping of the economies according to the distance from the frontier in 2011. The presented data shows that the economies that have the closest levels from the frontier have more FDI flows, or that the inflows of FDI per capita are higher.

Table 2 – The FDI flows at world level, 2011

Economies grouped by distance to frontier	Average FDI inflows (US\$ millions)	Average FDI stocks (US\$ millions)	Average distance to frontier (percentage points)
Top 10	50.384	768.496	86,0
Average 10	14.362	89.776	58,9
Smallest 10	1.257	8.179	34,2

Source: Doing Business database; UNCTAD database.

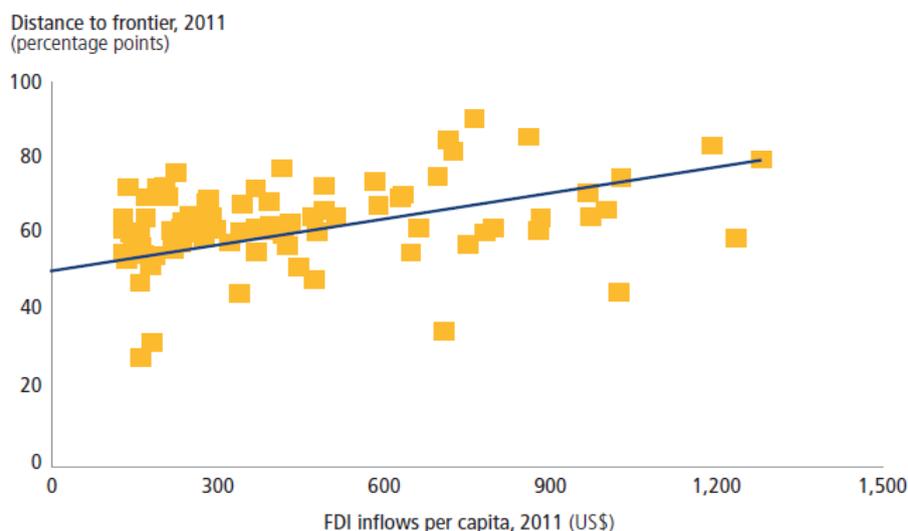


Figure 2 – The relation between the FDI flows per capita and the investors’ rights regulations

Note: For 2011, the sample includes 157 economies with positive inflows of FDI per capita (of 1,500 \$ or less). The sample includes all the economies analyzed by Doing Business in 2012 for which we have data, excluding the economies with negative inflows or inflows over 1,500\$ per capita. Their elimination does not significantly affect the trend.

Source: Doing Business database; UNCTAD database.

The investors that place their money on foreign markets can meet problems that cannot always be solved by the internal legal system: forced expropriation cases in the host country, discrimination, expropriation without adequate compensation, revocation of business licenses and abuses on the part of the host state ranging from the absence of an equitable process to the impossibility of international transfers of capital.

These risks that limit the foreign investors’ rights have generated the introduction in the commercial agreements between states of regulations regarding the investments’ protection. At world level, there are over 3400 such bilateral or multilateral agreements that include stipulations regarding the investments’ protection. These give foreign investors guarantees that their investments are going to be treated exactly like those of the local investors creating a certain legal security and predictability dimension for the investors. Moreover, the foreign investors’ protection is an instrument used by developed and emerging economies to attract and maintain foreign investments.

In this context, the investors’ rights protection for the investors that take part in the international investment flows should regard:

- Protection against discrimination (the most favoured nation treatment and the national treatment);
- Protection against expropriation that is not for the public interest and is not equitable compensated;
- Protection against unfair and inequitable treatment – for example, denial of the basic procedural equity;
- Protection regarding the possibility to transfer capital.

In order to ensure such rights, in the bilateral or multilateral agreements exists a system of “solving legal issues between investors and the State” or „ISDS” (investor-state dispute

settlement). This system allows investors to introduce (when they can prove that a stipulation of the agreement was not respected) an arbitral legal action against the State authorities of the host state, directly at an international court of law. The main reason of an ISDS mechanism is that in some countries, the investment agreements are not directly applicable in the national courts of law. For example, a foreign investor that finds out that he is being discriminated or whose investment was expropriated cannot use the investments' protection legal stipulations in front of the national courts of law in order to get financial compensation from the State. The litigation between the investors and the state can, in this case, directly use the international stipulations that were introduced in order to protect the international investments.

The EU investors are the most usual users of the ISDS litigation solving procedures. Therefore, between 2008-2012, according to UNCTAD data, out of the 214 ISDS cases registered at world level, the EU investors represented 53 % out of the total (113 cases).

In this context, in our opinion, the European Commission should increase its actions towards improving the foreign investors' rights protection by:

(i) Clarifying and improving the investments' protection regulations, the future agreements of EU should include a detailed set of regulations regarding the way in which one can decide if a state measurement is or is not an indirect expropriation, trying to prevent this way the abuse of the host country, as well as the standards regarding „the true and fair treatment“ (defining the actions that have an arbitrary character, the abusive treatment that constraints, pressures or harasses or the crossing of the fundamental principles of an equitable process).

(ii) Improving the way the litigation solving system functions; EU interdicts investors to introduce two actions at the same time at two different arbitral courts of law and is going to try and introduce new measures to increase the transparency of the arbitration system.

The EU has played a leader role in the negotiations of the United Nations Commission for the International Commercial Law (UNCITRAL), during which the countries established regulations regarding the transparency of procedures in the foreign investments field and should maintain this role in adopting adequate procedures that can lead to a better protection of the foreign investors' rights.

Conclusions

The financial crises that occurred in the last decades have determined a reanalyzing of the principles that guide an investor. In the context when the financial globalization made it possible for the transmission of turbulences and financial instruments price volatility through the real time information transfer, the investors' rights protection became an important element in the decision of investing or disinvesting on the global financial market.

Investors are going to be attracted by a financial market if they consider that their requests concerning the free flow of capitals, cheap and quality information, equal treatment for the foreign investment and last but not least, adequate investors' right protection are fulfilled.

Future actions in the field of investors' rights protection must be focused towards the solving of problems regarding information transparency on the global financial market and litigation between investors and the state solving, so that a real protection can be offered to investors. In our opinion, at international level, there should be taken measures regarding:

- An increased capacity of the regulating, supervising and control authority of managing potential financial crises. In this direction, there could be signed international agreements regarding the exchange of information, as well as the prevention, evaluation and management of potential problems with a systemic impact in order to offer better investors' rights protection.

- Clearer regulations concerning the rights and duties of financial intermediaries, as well as administrative penalties when they cross the international rules regarding the investors' rights.

- The drawing up of a standard informing document for the investors that should be put at their disposal by the issuers and financial instruments intermediaries. This document should offer investors the essential necessary information for taking the right decision, namely for comparing the risks and costs of financial investments.

The analysis done in the present paper shows that the financial markets development level is frequently generated by the level of investors' protection. One could say that the present financial crises are not a failure of the markets but more likely a proof of the regulating and supervision institutions incapacity of adapting to the market reality and to ensure an adequate investors' protection. The emergence of new micro and macroeconomic risks makes it necessary to establish new prudential regulations. Still, this regulatory and supervising structures' perfecting process at global level should not generate a reduction of the investors' rights protection.

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