



# The Legislative Aspect for the Economic Zones – Case of Kosovo

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## ABSTRACT

In our paper, we focus on the factors that influence for the legislative aspects of economic zones. One of the most important goals of any Government is to attract foreign direct investment. However, these investments are not withdrawn without the provision of economic zones. The purpose of the study is that economic zones provide investors with space to operate and also the regions where these zones are built for economic development and employment growth. By studying the regulatory aspect of the establishment and development of economic zones, it attracts businesses and investors to invest in that area. The purpose of studying economic zones is that in many countries, economic zones are mechanisms for attracting investments and at the same time improving the conditions for businesses - investors. Despite the fact that the basic law on foreign direct investment exists, other laws related to these investments need to be analyzed, and in this case is the law on economic zones. It is an urgent action to establish economic zones by governments or municipalities and to have no investors in those areas. One of the policy challenges is attracting foreign direct investment. Economic zones are also one of the key components in attracting investment.

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## 1. Introduction

One of the most important goals of any Government is to attract foreign direct investment. However, these investments are not withdrawn without the provision of economic zones. The purpose of the study is that economic zones provide investors with space to operate and also the regions where these zones are built for economic development and employment growth.

In this regard, it is important to point out that free zones are not a new concept. They are at least as old as western civilizations, having existed in the Phoenician city of Tyre and at 300 BC in the Greek Island of Delos, which as a result became one of the wealthiest islands in the world for nearly a century according by The World's First Association on Special Economic Zones.

Creation of economic zones is aimed at encouraging and encouraging investment in Kosovo, opening new jobs and generating income, concentrating businesses in a given place and promoting them, expanding business cooperation, creating conditions for businesses to have easier access to transportation, electricity supply, water and other business support services, increased competition in local and international business, accelerating regional development and expanding Kosovo's economic links with the international market, accelerating the flow of goods and capital (GRK 2017).

This research clearly shows that in reports, publications and the documents, economic and regulatory impacts have a major impact on the development of economic zones. In all development and developing countries, economic zones regulate the creation of these zones and the attraction of foreign direct investment.

If zones do not continue to develop their management skills, and if the countries don't develop increasingly progressive policies for their zones, then indeed zones may get stuck in backward industries. (Haywood, 2004).

The creation of economic zones is intended to help economic development in the country, especially the private one, to stimulate investment, create new jobs, attract advanced technologies, and increase the competitiveness of local businesses (GAP 2012). The issues are regulated based on legislation on economic zones. Well regulated legislation directly affects the development of economic zones. Economic zones in different countries have special economic status such as: Free Zone, Industrial Park, Technology Park, and Business Incubator. During this study we analyzed the status of some European countries. In legal terms,

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economic zones mean a geographical area within the state, which has a special statute, created for the purpose of promoting, developing businesses based to the Law on Economic Zones (2013).

According to the legislation of the Republic of Albania, (2007) the economic zone is a divided territory, a designated area of land or buildings and other immovable property, developed in accordance with a general plan and equipped with the necessary infrastructure for production, industrial development, trade and the provision of services, which is assessed as part of the customs territory of the Republic of Albania, separated from that territory, in terms of fiscal and customs regime and regulated in accordance with the provisions of this Law, other legal acts and by-laws in implementation his.

At the public policy level, the debate continues as to whether special economic zones promote promoting comprehensive economic policy reforms, serving as “demonstration areas” or catalysts, or acting as a “pressure valve” – “obstacles” to unemployment, thereby reducing the impetus for reform and removing positive energy for reform (UBT 2011).

The fourth part discusses the issue of economic zones in some European countries, the final part and we will give conclusions.

## **2. Literature review**

The legal recommendation based on the best practices of the European Union countries, in particular, on Publicly Owned Enterprises “Economic Zones” is created as a subject - a company with financial and economic autonomy, with full rights to act as it may deem appropriate. Appropriate under applicable law and regulations, including the right to sue and be sued. According to Albanian legislation, the economic zone is a separate territory, designated area of land or buildings and other immovable property, developed in accordance with a general plan and equipped with the necessary infrastructure for production, industrial development, trade and service provision, which is considered part of the customs territory of the Republic of Albania, separated from that territory, in terms of fiscal and customs regime and regulated in accordance with the provisions of this Law, other legal acts and bylaws in its implementation based on law (2007).

Creation of economic zones:

According to the law (2007) the creation of technology and economic development zones aims to promote:

- Investment;
- Creation of new jobs;
- Accelerating regional development and expanding the economic links of the Albanian market with the international one;
- Introduction of advanced technology.

The first economic zone and at the same time the most famous in the world is Mark founded by the People's Republic of China in the early 80s. This area developed from a small village to a city with a population of 10 million within 20 years, a direct consequence of the establishment of the economic zone. As a result of the creation of the economic zone, Shenzhen is now one of the richest cities in China is a huge manufacturing hub and the hub of China's most successful high-tech companies

Economic zone - means a geographical area within the state territory, which has a special economic status, created for the purpose of business promotion and development.

While the states of the region are members of the World Economic Area Organization, the state of Kosovo does not have primary acts for the development of economic zones, such as: national plan for economic zones, strategy for development of economic zones and legislation for economic zones where tax and tax relief is also included. It is not only important to establish economic zones but to increase the number of foreign companies, the value of investments and the number of employers, etc.

Through Law (2013) Economic Zones no conditions have been created for their development and attraction of investors. In different countries of the world the main purpose of the laws of economic zones is to concentrate businesses in a given country. In order to regulate the issue of development of economic zones, one should start by analysing the legislation and amending it.

The Law (2013), has these definitions:

- The establishment of economic zones,
- Create the basis for drafting the national plan for economic zones and the location of economic zones.
- The way of using economic zones
- Drafting the national plan for eco-zones and
- Formation of the National Council for Economic Zones.

The National Plan for Economic Zones should be the key to the establishment of economic zones in Kosovo, but unfortunately after 6 years this plan has never been adopted and it remains to be understood how economic zones are established and function. If this law has as its primary purpose the creation of areas then the importance of this law remains.

It also covers the rights and obligations of developers and operators operating in economic zones.

In this law the terms used Free Zone, Customs Warehouse have no concrete definition of what economic zones are said to be defined in the Customs and Excise Code, no explanation is found regarding these definitions, given that the code in question is very old, exactly 2008.

### **Regulation of Economic Zones**

Failure to change the legislative status of economic zones means not changing the current situation. This means the reluctance of investors to invest and invest in neighbouring countries for not providing the facilities.

First, it is important to separate political support from political objectives in zone projects. Although strong commitment from the government is needed, projects must be designed carefully on the basis of clear strategic plans. (Farole, Th. & Akinci, G 2011) .Economic zones are established as business companies that carry out economic, technical, administrative - professional activities and other activities in these economic zones.

Based on this law emphasizes the purpose of creating economic zones where the concentration of businesses in a given country and their promotion is assessed. In Kosovo, the establishment of these economic zones in a given country does not happen because the National Plan for Economic Zones is missing. It is further stated that the Ministry gives consent to the establishment of the economic zone if the proposal to establish the economic zone is in accordance with the national plan for economic zones, how can the Ministry of Trade and Industry approve when there is no such plan to take based on the establishment of the economic zone, there is also a mix and chaos between the creation of economic zones between the local and central level. The establishment and administration of the free zone applies the relevant provisions of the Customs Code, which is not the case in this Code, as the provisions of this Article do not refer to the establishment and administration of the zones.

Article 8 paragraph 1 states that the Ministry, in consultation with municipalities, Kosovo Customs and stakeholders, shall prepare a national plan for the development of economic zones in Kosovo, which foresees that all municipal and central economic zones planned to be built within five years (5) years from the adoption of this plan, and this plan to be approved by the Government within one (1) year from its entry into force, and with this plan the government and municipalities shall harmonize their spatial plans and this national plan for the development of areas, but this plan was never adopted, and all these Economic Zones that have been established so far have no real basis for their creation, as there is no plan to rely on the establishment and administration of these zones. This law is almost entirely related to the national plan for the development of economic zones, since even Article 9 of this law states that the determination of the location of the economic zone is done in accordance with the national plan for the development of economic zones approved by the government and national plans municipal and central space (this plan does not exist). Article 9 paragraph 4 states that the Government and the concerned Municipalities shall have the right, in accordance with Law on Expropriation of Immovable Property, (2009), to expropriate the land area needed for the establishment, construction and development of economic zones, but this is not explained in the Law on Expropriation. The destination of economic zones is very important, according to a World Bank study, the reason for not attracting investment is the wrong choice of destination. For example, the location of the economic zone far from the infrastructure areas is not attractive to investors.

At the beginning of the law it is stated that the Founder is a public institution which according to this law establishes the Economic Zone, while Article 10 (ten) paragraph 3 states that the Founder has the right to build and administer the economic zone through Public-Private Partnership.

Article 21 where the punitive provisions of this law are from 2000 euros up to 10,000 ten thousand euros, and this provision must be in accordance with Law on Minor Offenses, (2016), The entire Government of the Republic of Kosovo is obliged in accordance with this law to change the offenses of all laws and to be fully in compliance with this article.

According to The most common barriers to success (UBT 2011) for areas are:

- Poor location, which creates high costs'
- Non-competitive policies - reliance on the tax system, strict performance requirements, poor labour policies and practices;
- Improved area development practices - design (inadequate or overcrowded facilities and promotion practices);
- Leases and other subsidized services;
- Procedures for other subsidized services;
- Difficult procedures and control;
- Inadequate administrative structures or many bodies involved in the administration of the area;
- Poor coordination between private managers and governments in providing infrastructure.

### 3. Brows Sub Normative Acts

The Law (2013) on Economic Zones was adopted and this law has been supplemented with bylaws such as:

1. Administrative Instruction (GRK) No.03/2014 for the Determination of Conditions and Facilities for Business who Conduct their activity within Economic Zones;
2. Administrative Instruction (MTI) No.15/2016 on the Manner of Establishing and Functioning of Business Incubators;
3. Administrative Instruction (MTI) No. 01/2014 on Setting out the Procedure on Submitting the Application to obtain Permission Its Proceeding and Granting the Permission, and Content of the Registry of Economic Zones;
4. Administrative Instruction (MTI) No.02/2014 on Content of Feasibility Study;
5. Administrative Direction (MTI) No.03/2014 on the Procedure form and Content of the Competition and Criteria Relating to the Settlement of Business.

Administrative Instruction (GRK 2014) on Defining Conditions and Facilities for Businesses Exercising Their Activities within Economic Zones. This AI sets out the conditions and facilities for businesses operating within the Economic Zones to attract new investment within the economic zones. In this Administrative Instruction (GRK 2014) talks about these facilities:

- Benefiting businesses to settle in economic zones will benefit from facilities such as:
- Businesses established in economic zones shall be supported by the founder of the economic zone with advisory services without compensation for a period of two years.
- Establish a one-stop-shop for each economic zone that facilitates the following processes:
- Obtaining work permits for employees of companies operating in that free economic zone (accelerated procedure);
- Business registration for all activities;
- Provision of VAT certificate, fiscal number and customs certificate;
- Equipping foreign nationals with work / residence permits;
- Work permits for certain business activities;

Simplification of procedures for issuing construction permits and geodetic-cadastral measurements;

- Consultation on importing production lines / machinery, and raw materials; Customs procedures for export and import of machinery and raw materials.
- Businesses that are located in economic zones, supported by the founder of the economic zone with advisory services without compensation for a two year period. The investor is interested in facilities rather than advice from the founder. The founder based on the Law on Economic Zones is a public institution that establishes the economic zone. This does not even provide a guarantee of what advice this institution can give, and in this case it is the government or the municipality, depending on where the economic zone is built.

Articles are designated the Establishment of the same Economic Zones, in Article. The creation of one stop shop is aimed at facilities related to:

1. Obtain work permits for employees of companies operating in that free economic zone (accelerated procedure). This is regulated by Law (2013) on Foreigners, Article 48 regulates the Conditions for granting a temporary residence permit.

A foreigner will be granted a temporary residence permit if:

- proves the purpose of the temporary stay;
- possesses valid travel documents;
- possesses sufficient means of life;
- Possesses health insurance;
- There is no prohibition of entry and stay in the Republic of Kosovo;
- Does not pose a threat to state security, public order or public health.

Article 49 Temporary residence for the purpose of family reunification, Article 71 Conditions for obtaining a residence permit for work outside the annual quota. This Article may not be fulfilled without regard to (Article 48) 6 the six purposes stated above of this Law and also to attach:

1. Contract of employment, respectively written confirmation of conclusion of employment contract or adequate proof of employment;
2. Evidence of education, qualification and training of foreigners;
3. Evidence of registration of a business organization, association, subsidiary, branch, business, and organization in the Republic of Kosovo.
4. Reasoning for employment of foreigners containing the data on professional skills and qualifications and work experience for foreigners as well as justification, although the job position cannot be filled by the labor force from the labor market in the Republic of Kosovo.

Article 73 Conditions for obtaining a residence permit for work outside the annual quota for foreigners, Article 74 Decision to grant a residence permit for work. All such procedure shall be in accordance

with this Law and the provisions of this Law. In this regard, One Stop Shop cannot even play a role in obtaining work permits for company employees.

All these are justifications that based on (GRK 2014) obtaining a work permit cannot be enabled by a one stop shop, because an office like this cannot affect the breach of legislation and this cannot be called easy. Another facility mentioned in the AI is also the simplification of procedures for issuing construction permits and geodetic - cadastral measurements. The issue of building permits is regulated by Law No. 04 / L-110 on Construction. The principles of issuance and supervision permit are applied in accordance with the principles such as:

1. Protection of health and safety;
2. Preservation and protection of cultural heritage;
3. Protection of property rights;
4. Transparency in administrative procedures;
5. The principle of a service office, and
6. Silence is acceptance.

Article 73 Conditions for obtaining a residence permit for work outside the annual quota for foreigners, Article 74 Decision on granting a residence permit for work. All such procedure shall be in accordance with this Law and the provisions of this Law. In this regard, One Stop Shop cannot even play a role in obtaining work permits for company employees. This Administrative Instruction, which is designed to define facilities for businesses, cannot achieve what facilities are concerned.

Administrative Instruction (MTI) No.15 / 2016 on the Way of Establishment, Functioning and Administration of Business Incubators, is generally an instruction on administrative matters without key issues related to the Establishment and Business Incubators, There are a number of ambiguities and burdens in this guideline. There are also issues of definitions where in the Law on Applicable Economic Zones is any natural or legal person, domestic or foreign, who according to this law submits a claim for the right to development of an economic zone, whereas in this AI Applicant / Initiator is any public institution which according to this AI submits a request to acquire the right to establish and develop a Business Incubator. Here is a mistake regarding definition issues. Harmonization should be made regarding definitions in law and bylaws. Also Article 3, paragraph 1.6 where the Applicant or initiator is a public institution, while Article 5 states that the establishment of a Business Incubator may initiate:

- 1- The Government of Kosovo, on the basis of the proposal of the relevant Ministry in consultation with the relevant municipality within the administrative territory of which the Business Incubator is envisaged to be established;
2. The municipality within the administrative territory and within their competences determined by the legal provisions in force;
3. Public-Private Partnership, according to the relevant PPP legislation.

Whereas in Article 9, paragraph 2, the Founder has the right, in accordance with the relevant Law on Public Procurement, to contract any legal entity to perform certain tasks related to the construction and administration of the business incubator. This runs counter to Articles 3 and 5 where every public and not private institution is the founder. In addition, the procedure for operating units within the Business Incubator is not in accordance with European Union standards, which is based on the date of establishment and the limited number of employees, not more than three employees. I strongly recommend repealing this Administrative Instruction.

Administrative Instruction (MTI) Nr. 02/2014 on the Content of a Feasibility Study, Article 7 of the Law states that the Applicant must arrest the establishment of an Economic Zone on the basis of a feasibility study which includes: reasons economic, fiscal, environmental, legal and administrative, and The Ministry shall, by sub-legal act, determine the content of the feasibility study. While in the AI analysis besides the environmental aspect, there is neither fiscal nor legal reasoning, there is no feasibility study as specified in this AI Article 5 subparagraph: Power supply, Supply of potable water; Fuel supply. Internet, telephone and cable supply, 1.5. Wastewater treatment, 1.6. Road infrastructure construction etc. This does not coincide with a feasibility study. Feasibility study is an in-depth study that comes out with concrete, fiscal, environmental legal results. This instruction does not comply with the law on economic zones.

Administrative Instruction (MTI) No.01/ 2014 on Determining the Procedure for Submitting a Consent, Processing It and Granting Consent, Manner and Procedures for Public Consultation. This instruction incorporates two articles of the Law on Economic Zones, Article 5, Paragraph 5 states that the Ministry shall by sub-legal act determine the procedure for submitting the request for obtaining consent, proceeding and giving consent. Whereas in this Law Article 7, paragraph 5 states that the Ministry shall by a bylaw determine the manner and procedures for public consultation. In accordance with Administrative Instruction no. 03/2013 on standards of drafting acts, the legal rules are that an article represents the issuance of an act, which should be precisely specified the appointment of the Administrative Instruction as it must be in full compliance with the appointment in law, while in this case Article 5 and Article 7 have been merged into a single guideline. This AI should have been only for the part of the procedure for submitting the request for consent, its proceeding and not for the consultation part, as this is regulated by Regulation (GRK 2016) on

Minimum Standards for Process of Public Consultation. In this AI, the Agency within the MTI within 60 days reviews the application and responds to the applicant regarding the procedure for obtaining consent for the establishment of Economic Zones. This 60 days is a long time, compared with other states that minimize deadlines for the creation of these zones, this relates to their national plan for the establishment of eco zones. In this case in Kosovo without this national plan even though it is a long term it may not be effective. Also in this Administrative Instruction Article 4, paragraph 1.2. Rejects the request if it is contrary to the provisions of the law and bylaws or there is no economic justification, it is unclear which laws and bylaws are concerned. Facilities should be provided for the consent procedure for the establishment of the economic zone, as in this Administrative Instruction application procedure is very long and time consuming. In this AI are the following procedures for establishing an Economic Zone:

- The initiator for the establishment of the Economic Zone submits a written request to the Ministry of Trade and Industry;
- If the initiator is a public institution it must attach the decision, while the initiator is another legal entity it must attach the statute;
- Feasibility Study;
- Proof of ownership or possession / lease contract;
- Municipal Urban Regulatory Plan;
- Consent from responsible institutions:
- Ministry of Agriculture, Forestry and Rural Development;
- Ministry of Environment and Spatial Planning;
- Independent Commission for Mines and Minerals;
- Ministry of Culture, Youth and Sports;
- Ministry of Infrastructure;
- Responsible Municipality,
- EE conceptual design;
- Investment Plan;
- Duration of operation of the Zone;
- Sewage treatment project,
- Water supply project;
- Power supply project - technical solution.

As you can see, there is a great deal of paperwork required to create an economic zone.

I strongly recommend repealing this AI as it does not regulate the issue of requesting consent and giving consent for the establishment of economic zones, while the manner and procedures of public consultation are regulated at the level of governments by Regulation (GRK 2016) on Minimum Standards for Ownership of Consultation.

Administrative Instruction (MTI 2014) On the Procedure, Form and Content of the Contest, Terms and Criteria for Placement of Business Entities within the Spaces of Economic Zones, is an AI which explains the application procedure, which begins with the official announcement of competition for the placement of business entities in the Economic Zone. As for the content of the competition which is the main purpose of this Administrative Instruction only the founder should specify the terms and conditions and attach the documentation as set out in the selection criteria and it is very unclear. The part that should be discussed about the remembrance of the competition is only regulated by two paragraphs and all not well defined and very unclear.

The criteria for assessment for placement in economic zones are:

- 40 point employment;
- 30 point inventory value;
- Type of activity 30 points;
- Production 30 points;
- 20 point processing;
- 10 point servers.

It is not clearly explained in relation to Employment, it is not defined the employment of local or foreign staff, who usually bring some of their staff with them. Then the type of manufacturing or processing activity is not as important as this change in value. Evaluation criteria are not clearly defined as it leaves room for misunderstandings and misinterpretations. An Administrative Instruction of this kind should clearly state the procedure, form and content of the competition and the criteria for deciding on economic zones, and this The Administrative Instruction should be as it should be, and the whole procedure of settling in economic zones will be clearly described.

Here are presented the economic zones that are established in Kosovo and their functioning. The Government of the Republic of Kosovo is in a hurry to create many economic zones. As can be seen only three economic zones are fully developed while other zones are created while there are no investors and no investors who have invested their investments in these areas.

**Table 1. Economic Zones in Kosovo**

Business Park in Drenas	There are currently 41 businesses with a variety of business activities ranging from pharmaceuticals products.	There is no free business space available in this Park.
Business Park in Mitrovica	Currently it is filled by 24 businesses that carry out their business activities, ranging from plastics recycling, carpentry, manufacturing of paper bags, textiles, metal products etc.	There is no free business space available in this Park.
Technology Park in Shtime	There are about 10 businesses located in the Technology Park that carry out their business activities such as: vegetable pickling, production of electric poles from concrete	There is no free business space available in this Park.
Industrial Park in "Frashër i Vogel-Zhigovina" in Mitrovica	Have started the first investments in this park in 2014, but due to the lack of budgetary funds the finalization of physical infrastructure construction has not been achieved yet. However, contracts for the establishment of some businesses have begun, including various activities such as: furniture production, production of paints and glues, production of wooden doors, processing of medical waste, etc.	So far, only one business has started the business activity.
Agro-Industrial Zone in Suhareka	But due to lack of budgetary funds, the finalization of the physical infrastructure construction to establish businesses has not been achieved yet. However, in this economic zone the businesses have started to settle.	There are no investors located in these areas.
The Industrial Park in Lipjan	There are no investors located in these areas.	There are no investors located in these areas.
Industrial Park in Shiroka	Businesses that are located carry out various activities such as: production of shoes, facades, refreshments processor, production of concrete elements, vegetable processing and pickling, marble and granite processing etc.	There are vacancies for business development in the area.
Industrial Park in Viti	In 2017 have started first investments, at this time are taking place investments in building physical infrastructure for establishing businesses in this park.	There are no investors located in these areas.
Industrial Park in Vushtrri	In 2019 has started investments in Construction of physical infrastructure for establishing businesses in this park.	There are no investors located in these areas.

**Table 2. FDI for period January – August 2018 by country:**

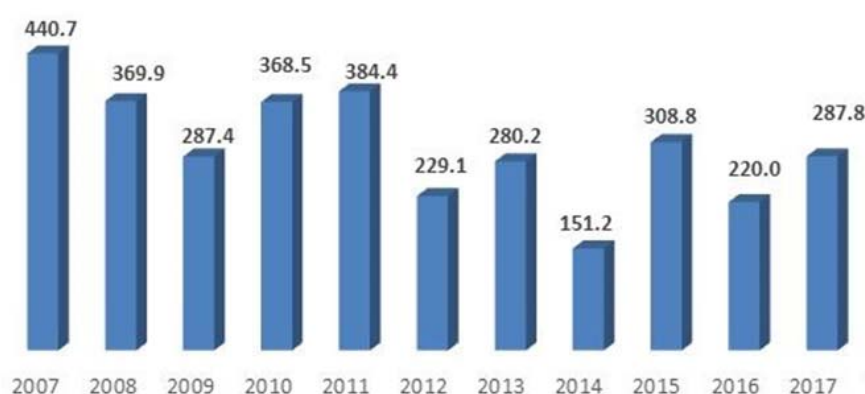
Country	Value Mil. €
Switzerland	47.1
Germany	29.5
Albania	18.8
USA	9.5
Great Britain	9.0
United Emirates	5.6
France	3.7
Norway	3.1
Bulgaria	2.0
Other	-6.4
Total	121.9

Source: Kosovo Investment and Enterprise

**Table 3. FDI for period January – August 2018 based on economic activity**

Economic activity	Value Mil. €
Real-estates , Rentals and business activities	140.9
Finance services	-9.3
Industry	-16.5
Trade services	13.6
Other services /1	5.7
Mines	0.1
Transport and Communication	-4.4
Energy	3.2
Other activities not classified elsewhere	1.2
Agriculture	-0.1
Construction	-14.3
Hotels and Restaurants	1.6

Source: Kosovo Investment and Enterprise

**Figure 1. FDI 2007-2017 by years in million euro**

Source: Kosovo Investment and Enterprise

#### 4. Results

Based on the charts and figures, foreign direct investment is shown based on the countries which have invested and based on the economic activity that they have invested and also graphs from year to year presenting the percentage of foreign direct investment. The tables also show all the economic zones in Kosovo, indicating whether or not that economic zone is operational and whether there is free space in those zones. With this research we have come to the conclusion that in spite of the establishment of economic zones, other incentives are needed which will result in attracting foreign investments. The law on economic zones was adopted in 2013 and also came into force in 2013. The figure shows that foreign direct investment began to disappear that year.

It should then be understood that the legislation on economic zones needs to be amended in order to initially be in line with European Union legislation and then to be more operational by regulating the investment climate.

#### 5. Conclusions

Economic Zones have been for decades the tool to create jobs, attract FDI and increase the economies for many Countries.

Economic Zones, have usually been developed to assist economic needs or the creation of employment, but in most cases they have grown without any technological basis and without proper studies of the construction of these areas and proper analysis of whether there will be investment in these areas or not.

Foreign direct investment (FDI) is generally considered to include any foreign investment which serves to establish lasting to economic development.



Until now, the Union and the Member States have separately built around the common objective of providing investors with legal certainty and a stable, predictable, fair and properly regulated environment in which to conduct their business.

In some of the eco areas in Kosovo are some of the businesses that are located and developing their business. However, not many economic zones need to be built and then these zones are left without investors. There is a need for a better government plan for the development and concentration of economic zones and thus to create better conditions for investors. Economic zones play a key role in improving the climate, since if the economic zones are well regulated then the investor will have the convenience of their investment.

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