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BUSINESS ETHICS OF FOREIGN INVESTORS*

Summary

The study of foreign investments and the status of foreign investors begins and ends in finding out mechanisms that ensure that the most favourable investment climate is created. However, to obtain a complete picture of the position of foreign investors, it is necessary to find out all negative sides of their activities in the country they invest into. This is what makes the issue of investors' business ethics so topical. Although business ethics is not something that national business entities excel at, recourse to non-ethical business methods on the part of foreign investors is more pronounced and more harmful to national economy. The author first deals with causes of non-ethical business of foreign investors as their detection is a precondition for successful prevention. After mentioning typical cases of non-ethical investments, the author analyzes American Foreign Corrupt Practices Act and Convention on Combating Bribery of Foreign Public Officers in International Business Transactions. Those sources sanction the most spread form of non-ethical investments. Finally, the author cites some basic observations on the importance of business ethics for a business strategy of foreign investors.

Keywords: *business ethics, foreign investments, non-ethical business, prevention.*

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I On the necessity of establishing the notion of business ethics of investors

The study of foreign investments and the status of foreign investors begins and ends in finding out mechanisms that ensure that the most favourable investment climate is created. In short, legal security of the investor is a provision to be aimed at; this is achieved by means of various instruments, the most important being those deriving from the law. A greater degree of legal security within a legal system is a warranty of a greater inflow of foreign investments together with all the positive effects which are brought along by them.¹⁾

Nevertheless, taking an overall view of the status of foreign investors also implies uncovering of all the negative sides of their actions in the country where investments are made. Empirical data indicate that the greatest number of foreign investors behaves in a significantly different way in the country where they invest. Well aware of the fact that they are beyond the scope of their own legal system and the jurisdiction of the hosting country as well, foreign investors are being quite condescending towards legal systems other than their own.²⁾ This is what makes the issue of investors' business ethics so topical. If the history of business ethics in the field of foreign investments is analysed, i. e. if we take into account countries which were among the first to pinpoint the phenomenon of a non-ethical way of investing and who reacted accordingly by creating laws to sanction such practices, we could claim that the notion of business ethics in foreign investments has evolved exactly for the above mentioned reason.³⁾

Lack of any concept of business ethics could, in the long run, become Achilles' heel of any company (business entity) with a tendency towards disintegration due to the accumulation of ethical blunders of the staff, management and members of the bodies wielding managerial and supervisory power. Even companies that are not facing such problems at the time may fall victim to individuals' neglectful attitude towards business ethics if they do not promote the concepts of ethically based business activities.⁴⁾ If a person, who totally disregards the requirements of business ethics, has more power and is in a more important position, the consequences that the company will suffer are all the graver.⁵⁾ Technological revolution and great opportunities brought about by the knowledge and use of state-of-the-art technology act

1. See: *R. August*, International Business Law, Fourth Edition, 2004, p. 266.
2. As if foreign law has less importance than national law! Such an approach results in significantly greater flexibility and creates more chances to breach foreign law. If there is a condescending attitude towards foreign law, why would foreign investors even bother to pay attention to the standards of business ethics anyway? This being true even if they respect those standards at home and if there is an existing code of ethics! This will not prevent them whatsoever from respecting the Code of Business Ethics when it comes to doing business on their own territory. But once their business goes across the border of their country, moral principles and scruples are viewed from a different perspective or they are not (!) even being taken into account whatsoever.
3. The USA is usually given as an example. The USA has introduced Foreign Corrupt Practices Act, 1977. (further in the text: FCPA). This Act prohibits corruption aimed at foreign state officers in order to obtain or block a business deal.
4. See: *L. Colero*, Five Questions That Corporate Directors Should Ask, Crossroads Programs Inc, 2007, p. 1.

as an additional challenge even for those people who haven't got the most influential positions in the company.⁶⁾

The fact that a certain economy does business on a foreign territory and that it is more or less exposed to the effects of the fluctuation of some relevant political and legal factors cannot be used as an excuse to resort to certain methods of non-ethical business. In other words, it is necessary to have continuous effort in promoting concepts of social accountability of any economic entity.⁷⁾

II Causes of non-ethical behaviour of foreign investors

1. Unpredictability in terms of possibility to enter the market of a particular country.

The existence of foreign investors on the territory of one or more foreign countries requires the fulfilment of all the conditions required by the legal system of the country in question regarding the performance of a certain action. The chances for their fulfilment are much greater (accordingly, the chances of the foreign investor are proportionately greater) if the action is in the scope of a certain normative system. The foreign investor in the mentioned case only has to meet all the conditions regarding business s/he wants to do and after that s/he can begin his action in the country where s/he has made investments. This state of affairs leads to a conclusion that, if there are no great impediments in the realisation of foreign investments, people are less tempted to resort to non-ethical forms of investing.

However, the situation is quite different in business spheres (insurance, banking and other financial services) where the system of licence is applied. If the foreign investor wants to invest in this field, s/he faces greater and more numerous 'challenges'.⁸⁾ Not only must s/he meet all the conditions required by the regulations, which in the mentioned fields have the value of *lex specialis*, but s/he also has to go through a tedious procedure to get the approval of the body or the organ in authority.⁹⁾ If we take into account the fact that issuing of a licence or an approval comes down to an assessment of the purposefulness of the investment in a

5. A qualitatively different dimension of business ethics is required when a change in man's role, i. e. his increased power is taken into account. This is necessary not only within business ethics, but within ethics in general. Up until recently man has been considered to have limited power, whereas the strengthening of technology and the emergence of the so called technological revolution marked a watershed since when more and more has been said about the need to redefine and adjust the basic ethical principles to suit the changed role of man. In other words, greater human power must find its counterpart in greater accountability on his part. More details to be found in: *H. Jonas, Das Princip der Verantwortung, Versuch einer Ethik für die technologische Zivilization, Suhrkamp, 1990, p. 13, 23.*
6. See: *J. P. Mallor, L. T. Bowers, A. J. Barnes, A. W. Langvardt, Business Law: The Ethical, Global, and E-Commerce Environment, Thirteenth Edition, McGraw-Hill International Edition, 2007, p. 93.*
7. For more details on what is meant by the concept of social accountability of a company see: *Social Accountability Standard, SA8000.* See also: *R. L. Miller, G. A. Jentz, Business Law Today, Sixth Edition, South-Western, West, 2003, p. 63-66; J. F. Beatty, S. S. Samuelson, Essentials of Business Law for a New Century, South-Western, West, 2003, p. 35-42.*
8. See: *J. Leeson, L'éthique à travers les mutations industrielles, in „L'Ethique des Affaires“, Edition de l'Université de Bruxelles, 2001, p. 43-45.*

certain business activity, it is more than obvious that foreign investors benefit much more if they 'speed up' the whole process.

2. Unpredictability in terms of enjoying rights gained through foreign investment.

If the investor manages to secure his/her place on the foreign market by legal or any other means, s/he is constantly exposed to a greater or lesser degree of business risk. Although all the countries that want to attract foreign investors point out legal and other activities that are supposed to increase the degree of legal security of foreign investments,¹⁰⁾ in reality things are quite different from what is being proclaimed. Foreign investors are therefore 'motivated' to strengthen their position by means of mechanisms beyond the legal and institutional realm. In the background of all this is a question whether a foreign investor can or is allowed to spur corruption of the officials in the country where s/he invests in order to protect his/her position? Development of the ethics of foreign investors implies creating awareness of the accountability for causing a series of non-ethical actions in a foreign country (countries).

3. Unpredictability in terms of the (non-)binding nature of the Code of Business Ethics.

The fact that there are no clearly defined concepts of (non-)binding nature of the Code of Business Ethics with respect to foreign investors is, doubtless, one more incitement to non-ethical ways of investing.¹¹⁾ When it comes to introducing ethical norms into business relationships, there should be a distinction between the legal instruments passed by chambers of commerce (or by other associations of business entities) and those passed by indivi-

9. As an example we can take business activities of an insurance company. As for this sector of financial services, it is regulated by the Insurance Act ("The Official Gazette of the Republic of Serbia", 55/04), which says that foreign, both physical and legal entities, may, on the condition of reciprocity, set up a joint-stock insurance company or invest their resources in this company (art. 26, par 2). Thanks to this approach of the Insurance Act, a year-long system of restrictions in foreign investment was abandoned and a more favourable system for foreign investors was introduced. However, the importance of the insurance-related business in the country's economy justifies the fact that the system of licence is retained when it comes to starting a business. What follows from the systematic interpretation of the articles that regulate applications for issuing of the licence to perform actions in the field of insurance and re-insurance, issuing of the working permit, as well as turning down the applications for the insurance-related business, is that, when reaching a decision related to an application, the National Bank of Serbia should appreciate not only the fulfilment of the legal requirements, but the 'legitimacy' of the foundation itself as well. *A question has been raised as to the criteria based on which the authorized organ should decide whether the founding of a foreign insurance company is justified, i. e. is there another valid form of foreign investment in the field of insurance? The criterion of the legitimacy of the foundation follows unequivocally from the quoted articles.* A similar comment can be made when it comes to banking (see: Law on Banks, "The Official Gazette of the Republic of Serbia", 107/05) and founding of the investment funds (see: Investment Funds Act, "The Official Gazette of the Republic of Serbia", 46/06).
10. When it comes to legal activity, foreign investment acts, as a rule, contain a part that stipulates guaranteed rights that a foreigner enjoys. Those rights are the following: freedom of foreign investment, national treatment of foreign investors, prohibition to expropriate their property, conversion and freedom of payment, right to keep business accounts, right to transfer profit and properties etc.

dual business entities. Although some companies (and business entities in general) have introduced the Code of Business Ethics, which is highly commendable since it is an expression of their readiness to take some concrete measures in order to ensure that it is respected, it still seems that greater importance should be laid on the creation of the same code by a national association of business entities.¹²⁾ The reason for this is that, in this case, the chamber of commerce would take on the responsibility to ensure compliance with the mentioned Code.

We have already said something about the fact that foreign investors, when abroad, have less respect for the code that they created themselves. A question is raised: how can they be forced to respect the code that was created in the country where they make investments?¹³⁾ The main prerequisite for this is that the code exists and that it explicitly states that it is mandatory for the foreign investors who do business on the territory of the country they are in. When it comes to our law, the Code of Business Ethics of the Chamber of Commerce of the Republic of Serbia in the very first article¹⁴⁾ states that foreign business entities are obliged to respect the provisions of the Code. The Code is mandatory for them even when their business activity is done through travelling salesmen, via Internet, catalogues etc.¹⁵⁾ However, in order to assess the effectiveness of the above mentioned Code, it is necessary to take into consideration provisions that refer to the measures that may be imposed in case of the Code violation. When the Code provisions are violated, a difference should be made between measures that may be imposed upon an business entity which violates provisions and the person responsible in that entity. Sanctioning both of them is essential as it directly raises the awareness of individual and organizational dimensions of business ethics. When it comes to imposing measures upon the responsible person in an economic entity or some other person performing work under contract, the responsibility is in the hands of the appropriate organ of the business entity itself. After determining that the mentioned person violated the Code provisions, the appropriate organ can impose some of the following measures: 1) warning 2) referral to further training 3) other measures envisaged by the Law.¹⁶⁾ Imposing some of these measures results in a double effect: first – direct, responsible person is prevented from avoiding his/her responsibility for the Code violation, which boils down to an unambiguous message to potential violators that their behaviour will not remain unpunished; second – indirect, the economic entity confirms its commitment to encourage the development of moral relationships.

11. In this respect, there are indicative data that not all the countries have a Code of Business Ethics. Given that the notion of business ethics is a relatively new one and insufficiently developed, countries that have managed to define their codes of business ethics, i. e. the codes of behaviour are extremely rare. Therefore, it is up to them to decide how they are going to ensure the application of the code and come up with the efficient ways to sanction its breach.

12. Examples of the codes of some companies can be found on the following site: www.transparency.org.

13. This is so because the Code of Business Ethics is considered to be part of the so called autonomous sources of law, the reinforcement of which is not sanctioned by the state.

14. "The Official Gazette of the Republic of Serbia", 01/06 (further in the text: Code).

15. Code, Art. 1, p. 4.

16. Code, Article 97.

Once it is determined that the Code provisions are violated by the business entity, the Court of Honour imposes some of the following measures: 1) warning; 2) public warning announced at the managing board of the chamber; 3) public warning announced in the printed or electronic media.¹⁷⁾ Besides some of these measures, the Court of Honour may impose some of the preventive measures on the convicted business entity: 1) ban to participate in the work of the chamber; 2) ban to participate in fairs and exhibitions; 3) abolition of the right to public transportation to the business entity which engages in activities of transportation 4) ban to operate for a certain period of time defined by the Law.¹⁸⁾ Although the insight into the measures that may be imposed on the business entity may incite reservation about their effectiveness, in order to assess their effectiveness, it is necessary to take into account the information on the number and professional position of persons that may get acquainted with their content. Basically, who are the addressees of these measures? For the imposed measures to be effective and have an educational effect (not only to the Code violator but to other members of the chamber), it is necessary that they are available to addressees. Since addressees may be divided into two basic groups, measures are also suited to those target groups. Public warning announced at the managing board of the chamber refers to other business entities - potential business partners of the business entity which violated the Code provisions. The evidenced Code violation will influence their attitude towards the business entity. Careful entities are normally expected to avoid cooperation with such an entity. By means of this measure combined with the preventive measure of banning the participation in the work of the Chamber (a pretty harsh measure since the chamber membership implies numerous privileges) or banning the participation in fairs and exhibitions, the effect of the so-called corporate sanctions is achieved. Public warning in the printed or electronic media has a much more comprehensive effect. It makes the public, and particularly potential users of products and services provided by the Code violator, acquainted with the fact that the business entity is capable of resorting to non-ethical business practices.

The mentioned factors determine the degree of respecting business ethics. However, depending on the state that is being invested into some other factors can be determined stemming from the concrete social-economic surroundings. Therefore, business ethics of foreign investors may be viewed *in abstracto* and *in concreto*.

III Basic modality of non-ethical investments

Companies doing business on the territory of different states, and frequently even different continents,¹⁹⁾ resort to various methods of non-ethical business. However, bribing civil servants is the most spread form of non-ethical behaviour in international business transacti-

17. Code, Article 96, p. 2.

18. Code, Article 96, p. 3, Items 1-4.

19. This refers to the so-called multinational companies that have a leading role or that can be considered the most responsible companies for the creation of the notion investors' business ethics and for the adoption of regulations that strive to sanction their non-ethical practice. To see examples of their violation of business ethics: *F. O. Wolf, L'esprit d'entreprise, les règles du marché et le problème des règles morales, u „L'Ethique des Affaires“, Edition de l'Université de Bruxelles, 2001, p. 47-48.*

ons.²⁰⁾ In the research carried out in mid 1970's of the XX century in the USA, more than 400 American companies admitted to illegal payments amounting to more than \$300m.²¹⁾ It is interesting to see who these payments are made to and in which investment phase. When it comes to persons these payments are made to, the greatest number of the interviewed companies put civil (government) servants at the first place.²²⁾ However, when it comes to receiving "strategic" support for "capital" investments, payments are very frequently made directly to the governing political structures (politicians and political parties).²³⁾ As for the phase when bribery is made, a difference should be made between bribery in the true sense of the word (when bribery enables a foreign investment, e. g. sector of financial services) and the so-called facilitating payments (to ensure or in other words accelerate a certain action on the part of a foreign official).²⁴⁾

A related issue is whether an ethical business entity may participate in a corrupt market? Generally speaking is it in accordance with its proclaimed orientation and if it is, what are its chances to succeed in the market? Since business entities, as well as individuals, must exist in the world as it is not as they would like it to be, their activities in non-ethical societies may be acceptable if the following conditions are fulfilled: 1) non-ethical features of their business are unavoidable but for a limited period of time; 2) they do useful and socially beneficial work; 3) they work towards changing the situation in their surroundings.²⁵⁾

IV Prevention of non-ethical investing

Prevention of non-ethical investing is the first and the most important step in combating non-ethical practice. It is necessary to make a difference between internal and external prevention. Internal prevention is carried out within an economic community by means of the appropriate Code of Business Ethics which is adopted and presented to employees. There is a question of who is responsible for introducing business ethics or incorporating it into a business process. The responsibility is always in the hands of the board of directors. Directors make the so-called company "leadership" whose task is to shape business strategies and incorporate business ethics into them.²⁶⁾ They should ensure that all persons in an economic community are acquainted with the values statement (teamwork, responsibility, loyalty, etc).²⁷⁾ Members of the Board always refer to great "business pressures" they are exposed to and that prevent them from considering ethical factors while making business decisions

20. www.usdoj.gov/criminal/fraud/fcpa/fcpa.html.

21. www.usdoj.gov/criminal/fraud/fcpa/fcpa.html, p. 1.

22. *Ibid.*

23. *Ibid.*

24. *Ibid.*

25. The example of American companies backs up this statement – they filed an official complaint and influenced the reduction in the occurrence of bribery in some countries. See Anticorruption Handbook – Combating corruption through the system of social integrity, p. 130.

26. V. A. Boyer, I. Arnaud, L'éthique au service de la stratégie de l'entreprise, in "L'impossible éthique des entreprises, Editions d'Organization, Paris, 2002, p. 3-23.

27. V. B. A. Hamm, Corporate Ethics Programs: Inspiring the Workforce, Refresher publications Inc, 2003, p. 1.

of utmost importance. However, the truth is completely different. The Board can resist pressures or even eliminate them. Namely, if the business policy of the Board is clearly defined and directed towards the achievement of ethical goals, there will be no dilemmas during the decision making as their business orientation will automatically exclude decisions implying a greater or lesser degree of the violation of ethical values.²⁸⁾ The choice between potentially highly profitable decision and the one which brings considerably less profit but which in no way jeopardizes the company (as it is in line not only with the law but with ethics as well) will not be difficult.

A company's business strategy with ethical foundations implies the elimination of the influence of various kinds of "pressure".

One of the ways to avoid investing which is contradictory to the fundamental principles of ethical business is the compliance with the procedure of business decision making. While making a decision on foreign investments, a decision maker should be guided by/with the following parameters:

1. Does the decision fit into the strategy of corporate ethics? This particularly refers to decisions on the implementation of foreign investments. At this point it is necessary to emphasize that the defining of business goals in line with ethical principles precedes the making of business decisions.²⁹⁾ In this context, ethics may be seen as an integral part of the business goals achievement process. Defining business goals that are in accordance with the requirements of business ethics is also related to a qualitative aspect of corporate management. It is clear that for a society or a company planning foreign investment the profit that a foreign investment may yield is the most important element. However, a company must take care both of the way and the means it will resort to in order to achieve its aim. It is essential to prevent bribery and corruption of foreign officials in general whose aim is to facilitate the access to the foreign market. One of the tools used to this aim is the law which sanctions such a practice.
2. Are there any alternatives to the above mentioned decision? Is there any other state (or states) that may be invested into and where investing conditions are more favourable? Is the expected profit the basic and the only indicator of the profitability of a foreign investment or should attention be paid to some other moments as well? It seems that while estimating a certain alternative it is necessary to take into consideration not only the interests of shareholders,³⁰⁾ but also to what extent and how it may influence the interests of stakeholders?³¹⁾ When it comes to this category of

28. V. F. O. Wolf, *L'esprit d'entreprise, les règles du marché et le problème des règles morales*, in „L'Éthique des Affaires”, Édition de l'Université de Bruxelles, 2001, p. 47-48.

29. V. D. Koehn, *The ground of professional Ethics*, Routledge, London, 1994, from p. 69.

30. V. R. Dourai, *L'éthique de l'entrepreneur: entre conviction et compromis*, in "L'impossible éthique des entreprises, Editions d'Organization, Paris, 2002, p. 43-61.

31. It refers to the interests of the creditors of an business entity, customers, employees and the society in general. Their interests are promoted as one of the principles of corporate management (1999). More details to be found in: R. L. Miller, G. A. Jentz, p. 53; J. P. Mallor, L. T. Bowers, A. J. Barnes, A. W. Langvardt, p. 107-108.

persons, it is particularly interesting to see how a certain decision may influence the interest of the very same business entity that makes it, the interest of the state(s) that is invested into and the interest of the state that the investor comes from.³²⁾ First of all, it is debatable whether the interest of the state which makes the investment may be classified as the interest of stakeholders. An affirmative answer seems to lend itself since all states strive to encourage economic development through as many foreign investments as possible. For this reason a foreign investor must respect the interest of the state that is invested into in order to prevent non-ethical investing. Secondly, but equally important, there is the issue of the attitude towards the interest of the state that a foreign investor comes from. Should it be classified among stakeholders? Since non-ethical business of a company directly harms its reputation, it is necessary that its interest is also respected in the process of foreign investment decision making. If all these interests are taken into account and if the differences referring to the profitability of an investment are negligible compared to the investment risk which is considerably greater in one of the states, any foreign investor acting ethically would opt for a less profitable and a less risky decision. If all alternatives are not taken into consideration, there is a risk of not choosing the best option for a potential investor only because that alternative was not considered.³³⁾

3. What are practical hindrances to the implementation of a certain alternative? How can problems arising in the process of its realization be solved? Is it possible to overcome them within the limits of ethical business?
4. Who is responsible for the implementation of a corporate ethics strategy? Who is authorized and obliged to point out to the possible non-ethical character of the planned decision? An analysis of comparative law and business practice indicates that there are differences among states concerning this issue. While states where ethically-based business practice has a central role have a body responsible for the application of corporate ethics (Ethics Officers), most states do not. Responsibility for the implementation of business ethics strategy is in the Human Resource Department and the Board of Directors as the highest managing body. Once the responsibility for the implementation of corporate ethics is determined, if a decision maker has dilemmas about its alignment with the proclaimed ethical business principles, s/he may consult the responsible body and avoid making a decision that may become the source of inconvenience for an business entity.

External prevention of non-ethical investing, as well as the sanctioning of non-ethical practice, is carried out at national and international level. When it comes to the prevention carried out by state bodies, the most important form are laws. It is worth noting that the United States of America were among the first to adopt such a legislation which sanctioned the basic form of non-ethical practice of investing. American FCPA includes two groups of provisions. Firstly, it forbids payments made to foreign public officials with the aim of recei-

32. V. J. P. Mallor, L. T. Bowers, A. J. Barnes, A. W. Langvardt, p. 107.

33. V. J. P. Mallor, L. T. Bowers, A. J. Barnes, A. W. Langvardt, p. 107.

ving or keeping a job.³⁴⁾ Secondly, it stipulates the obligations of companies whose shares are high in the stock market to keep business records and financial reports that authentically reflect corporate payments and to take other steps to make it possible for potential investors to have a true and complete picture of their assets.³⁵⁾

Although the purpose of the adoption of this law was to restore the trust in American business system, as soon as its implementation started, the Congress faced negative consequences that influenced American multinational companies. Namely, this ban put them in an unequal position to the companies originating from the states that did not adopt the same law and which could without any consequences bribe foreign public officials and get an easier access to certain jobs. Ironically enough, in some states companies could even present amounts given to bribery abroad as the business expenditures and in that way decrease taxes. In order to improve the position of its companies, in 1988 the Congress entered negotiations with the Organization for Economic cooperation and Development (OECD) to achieve consensus of the greatest American trade partners on a convention that would regulate this matter.

As the result of American efforts, and with the assistance of the OECD, the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions was adopted and signed by more than forty states.³⁶⁾ Bearing in mind the number of signatures and ratifications, the Convention presents an extremely successful tool for the implementation of anti-corruptive actions in international business. The Convention regulates the criminal act of bribing foreign public officials. This criminal act is done by a person who offers, promises or gives money or some other privilege, directly or indirectly, to a foreign public official for himself/herself or the third person so that the foreign official would do or not do a certain action that is a part of his/her duty and in that way receive or keep a job or some other privilege in international business.³⁷⁾ Encouraging, assisting and hiding the bribery of a foreign public official are also incriminated.³⁸⁾ Apart from the incrimination of bribery itself and the sanctioning of natural persons that commit it, the responsibility for bribery of the legal person, i. e. company is also proscribed.³⁹⁾ Since the majority of legal systems do not include criminal responsibility of legal persons, the court imposes fines on companies.⁴⁰⁾

Apart from the sanctioning of bribery, the Convention includes a provision on preventive measures that states should take to combat bribery.⁴¹⁾ These measures refer to record-keeping and minutes, publishing of financial records, accounting and auditing standards. The purpose of these standards is to force business entities to include certain incomes or expenditures into business records and to prevent falsifying data and other activities that may conceal bribery of foreign public officials.

34. The Law and the comment may be found at: www.usdoj.gov/criminal/fraud/fcpa/fcpa.html.

35. V. J. Entine, Corporate Ethics and Accountability, *www.AtWorkNews*, p. 1; Review of Implementation of the Convention and 1997 Recommendation, p. 1.

36. Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (hereinafter: Convention).

37. Convention, Art. 1. p. 1.

38. Convention, Art. 1. p. 2.

39. Convention, Art. 2.

40. Convention, Art. 3. p. 2.

41. Convention, Art. 8.

V Conclusion

The following conclusions stem from the presented causes and prevention of non-ethical business of foreign investors:

1. The fact that a certain entity does business on the territory of a foreign country and that it is more or less influenced by the changeable relevant political and legal factors can't serve as an excuse to resort to non-ethical business methods.
2. Business ethics in general, including business ethics of investors, may be viewed as a form of *insurance*. If a foreign investor refrains from non-ethical business not only in his/her own country but also in the country that is invested into, such behaviour is the best and the greatest guarantee that s/he will not face negative consequences sooner or later arising from non-ethical business. Instead of insuring his/her business against an event that may have fatal influence on business, the investor can turn to ethical business and direct the money s/he would spend on insurance to taking measures required by ethical standards of business.⁴²⁾

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ПОСЛОВНА ЕТИКА ИНВЕСТИТОРА

Резиме

Проучавање страних улагања и положаја страних улагача зајочине и завршава се изналажењем механизма чији је циљ обезбеђење штоповољније инвестиционе климе. Међуиим, поитно сагледавање положаја страних улагача подразумева оикривање и негитивних страна њиховог деловања у држави улагања. То актуелизује итпање пословне етике инвеститора. Иако пословна етика није оно чиме би се могли похвалити домаћи привредни субјекти, прибегавање неетичким методама пословања од стране страних улагача мноо је израженије и итеитније по домаћу привреду. Аутор се најре бави узроцима неетичког пословања страних улагача, јер је њихово оикривање предуслов уситне превенције. Након навођења иитичних случајева неетичког инвестирања, аутор анализира амерички закон и Конвенцију о сузбијању подмићивања страних државних службеника, који санкционишу најраширенији облик неетичког инвестирања. Најзад, у закључку наводи основна зајажања о значају пословне етике за пословну итеију страних улагача.

Кључне речи: пословна етика, страна улагања, неетичко пословање, превенција.

42. В. А. Хамп, р. 1.