

The Investor's Responsibility under the Fair and Equitable Treatment Standard

Zeinab Asqari

Abstract

Fair and equitable treatment is written in most of the documents related investments and is mainly cited by investors in the arbitration references. Citing this standard provided review for host states and compelled the state government to response for his decision. However, the investor must also be held accountable for their performance. In this paper we want to evaluate the responsibilities of the investor under the fair and equitable treatment standard. Theoretical investigation and arbitration practice shows this criterion implies that each party is entitled relation to what it can achieve. Thus the investment that did not respect the rights of the local community host government or has shown corrupted, immoral or irrational action can't claim to be a violation of fair and equitable treatment. Balancing the interests of the host state and investor demands, investor respects the host government development-oriented goals and in the other hands host government and its community should be honest.

Key words: Foreign investors, Fair and equitable treatment standard, Bilateral investment treaties, International arbitration.

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Introduction

Fair and equitable treatment as a center of international law investment is a tool that has provided cases adhering to the international investment, the possibility to review the actions of the legislative, executive and judicial authorities of the host state near the international reference and is authorized to intervene in its governance; So it is natural that the host government is expected to take control as possible adequate means of defense till the right balance between protecting the investor and the inherent right of states to regulate business operations in its territorial jurisdiction is established. The need to accept such defenses might be more important in developing countries, in which nearly half the cases of investment are known as Read, especially because in these countries due to their limitations, Government's ability to assess the nature of the proposed investment is lower and therefore ensuring expected benefits is more difficult than attracting investment. (Dolzer, 2014). In 2012 for the first time in a judgment based on bilateral investment treaties, the Goetz case against Burundi, the jurisdiction Court has confirmed to hear the counterclaim against the Burundi government funding. Burundi claim a million dollars of America's as a compensation from the demander for failure to observe provisions in the banking license. The Court stated that, despite the silence of the bilateral treaties on mutual respect, this authority According to article 46 of the Convention Ayksyd also has jurisdiction to hear the counterclaim. Acceptance of the claim is a turning point by the investor relations and the host government and the investor responsibilities in an investment relationship. (Paparinskis, 2013). Applying the correct fair treatment standard requires to review what functions the investors had that leads to such decisions from government, decisions that now are called unfair and unjust. In fact, it is considered parts of the strength of the defenses of the host government to show that damage to the investor is a rational response. Investment by almost consensus definition that is offered, should be beneficial to the economic development of the host state and if it doesn't have a fundamentally important role in the development of the home, it cannot be considered investment-backed bilateral treaties. With this description that part of the investor's function that is harmful to the economy and the public interest of the home state, may justify his out of the scope of the convention treatment. (Treves, Seatzu, and Trevisanut, 2014). Fair and equitable treatment requires attention to the rights, interests and needs of host governments and it cannot be interpreted unilaterally and only in order to protect the rights of investors. In this paper we follow the standard place for responsible investing fortunes. The role that investor's behavior plays in applying the standard of fair and equitable treatment is less discussed; this is partly linked to the government's foreign investment law assumed a position of strength for the states and have assumed the right to protect the foreign investors and private entities. But in the past half-century on the one hand with the empowerment of large transnational corporations, it can be said the strength turned in favor of the investors; on the other hand, according to the developmental goals of the host government demands that performance of the investor be also considered in lawsuits arising from the investment. Relying on theoretical analysis and the emerging jurisprudence of international arbitration can born the responsibility of the investor. Responsibility that is created for the corrupted, non-moral and non-rational actions, and will make the government innocent against claim of violation of fair and equitable treatment. (Hirsch, 2011).

Theoretical Evaluation Of Investor Responsibility

Fair and equitable treatment standard requires a performance that is justified in the framework of the rule of law, based on the principle of goodwill Government is required to avoid the arbitrary and discriminatory actions, respect the investor major expectations to maintain the relative stability of the legal and business and be committed to the required legal formalities and the principles of fair trial. But fair treatment rather than a rule is a

legal standard and thus will endure flexibility in the specific circumstances of each case. Among the factors determining the actual conditions of each case, performance may be attributed to the investor. This approach is also consistent with the principles governing the interpretation of treaties. Fair and equitable treatment should be applied in the context of the value system of reading and pave the way to promoting and supporting the development of investment treaties. Governments like to admit foreign investors, capital flows and increase the level of economic development. Also it is important to consider that host governments need to control foreigners on the territory of their territorial in order to protect the national interests. Rights and obligations are aroused from the inherent right of sovereign states in domestic legislation of States in International Law, and are deep rooted rights that had been existed before any international agreements establish limits. So fair and equitable treatment must be interpreted in such a way that the principle of sovereignty as a general principle of international law is respected. International investment treaties effective actions require the political legitimacy and this legitimacy cannot be achieved unless the states find the investor's rights and the obligations and responsibility that he is responsible for, balanced. Unilateral support of the investor, regardless of his responsibilities, fuels the notion of international investment arbitration tribunals overseeing the transformation of its national sovereignty and overshadows legislative power in the territory of the host state's territory. Besides granting too much discretionary powers to the states leads to fear of bad governance, inappropriate environment for investment, asset and property rights and... that makes international investment tainted in a different way. Substantive justice in international law must be interpreted in the context that global capital markets follow. The market operates in a political system of government, and thus determining factor are the views of governments on development priorities, cultural values, social needs, and the distribution of goods. The political system is trying to create rules and institutions necessary to promote development. Thus justice is like a process that facilitates development. Particularly the development of developing countries in international law is considered the core of the course of justice. To this description it is possible that the level of government intervention in investment, production and income, be required. In this context we can say that justice and equity to the investor, without the simultaneous assessment of investor behavior towards society which it represents the government cannot be judged. This adds another conceptual considerations to interpret and apply fair and equitable treatment, concepts such as corporate social responsibility, the relationship between investment risks and expectations of self and... .

Risky Investment

Foreign investment in principle, compared with a domestic investment is in a greater risk. Very large multinationals may even experience a high level of risk in countries that are not so familiar with the name. If a host country involved in political instability, corruption, inefficient government bureaucracy, etc., this risk will exacerbate. Basically concluding investment treaties, predicted behavioral norms embedded in international dispute settlement system are the means devised to reduce these risks and it's natural and reasonable that investor rely on the political and security risks to ensure their investment is expected to reduce. However, the demands of a market economy is that investors expect a level of investment risk. It is not necessary nor possible to protect the investor against all investment risks. Such concerted support the effective functioning of a market economy, can be disrupted, because the heart of the mechanism of market economy, freedom of economic actors to make informed business decisions. Market make the investor companies responsible for knowing the risks and how to deal with them. Any assessment of fairness and justice should be done according to this fact that the investor responsible for informed assessing risks and they should be aware of the risks that will probably happen to his investment. Foreign investment is called «high risk, high profit» investment, so who's expected profits, also look for the risks and cannot compensate risks of investment losses resulting from mismanagement under the standard of fair and equitable treatment. This expectation that the losses resulting from mismanagement of risk, of course, cannot be compensated by the host government to be seen as part of an investor's legitimate expectations.

The social responsibility of transnational corporations

Since early years of 1990s, the public's growing awareness was diverted to social and environmental consequences of trade funds and globalization of development. Corporate social responsibility is an emerging concept that considers the social, political, environmental and economic consequences of performance of foreign investors and aimed at corporate decision-making practices targeting improving business practices, environmental and social. This concept seeks to ensure that, in the face of such consequences of transnational corporations will be held accountable on the basis of internationally accepted principles and standards. Corporate social responsibilities are, economic, legal, ethical, humanitarian, and safety measure expectations that community have from organizations at a point in time and place. By this description the social responsibility is dynamic concept and set based on the conditions of society. One of the important aspect of this concept is that the company shouldn't only look for increasing shareholder profits - which every trading company is traditionally looking for - but must go beyond and consider the social benefit of all stakeholders, including community groups, consumers, government agencies, international organizations, the media, trade unions, workers, the next generation, and... . In this context the UN Global Compact states that, corporate social responsibility is a continuous commitment to the ethical behavior of economic actors, and contribute to economic development and improve quality of life of the workforce and their families as well as members of local communities and society on the whole. Imbalance between the rights and obligations of investors on the one side and the rights and duties of others who are affected by the investment has resulted the creation of this concept. Social issues are not addressed directly in investment treaties and investor actions consequences of such topics as human rights, working conditions, health and safety and are not discussed.¹ While large investments in addition to pursuing economic growth as a primary

¹ Concept of social responsibility has gradually increased its position in investment treaties, four Latin American countries in 2012, members of the "Pacific Alliance", Mexico, Colombia, Chile and Peru, signed a Framework Agreement which is due for release males movement of

goal, have extremely significant social, political and environmental consequences. Large transnational corporations – as a major group of foreign investors - can take positive or negative role in the society of the host country. The ultimate goal of investments is promoting development in the host country, but development is not the only aspect of prosperity and it is very broad. No universal consensus definition of development has been provided, but its meaning largely depends on the institutional context that defines and describes its characteristics; declaration of the UN Millennium Development Goals of reducing poverty and efforts to combat the spread of HIV has spoken for universal primary education. However, investment treaties are quiet on this issue, the principles governing the transnational corporations express expectations of the international communities from investors as a "good citizen", in the international codes of conduct by the Organization for Economic Cooperation and Development and the UN. Also social responsibility programs and tools pervasive in many large companies around the world and affect their way of function. By improving the flow of foreign investment, corporate social responsibility has become the nucleus of the promotion of sustainable development. It is interesting that in trade agreement of the Government of Peru with the United States of America and trade agreement of the Government of Peru with Canada, which entered into force in 2009, some rules concerning the principles of corporate social responsibility are inserted. Although these documents are among the first commercial-investment papers which explicitly deal with the concept, but there are clear signs that point to a continuation of this track in future. But now with regard to treaty clear obligations poverty, conflict of interests between investors and protection of human rights, labor rights and environmental rights of local people must get help from fair and equitable treatment standard. Corporate social responsibility requires commitment to local laws, pay taxes, obeying the basic principles of working conditions, respect of human rights and the protection of the environment; in addition, companies should avoid bribery and other financial corruption and treat on the basis of equity markets based on the law. Companies should not have to resort to anti-competitive practices, abuse of dominant position, they shouldn't either seek unfair advantage of weaker competitors, or in any way limit the appeal of the market economy; also they should not use the authorities that they have as a large transnational companies to influence the pricing of goods and disturb pricing according to the market formula. But corporations' practices are not limited to negative obligations, positive obligations are also predicted. Companies should take an active role in the development of the host country and facilitate the development using the ways such as assistance in technology transfer, obeying national development policies and programs and etc. International Organization for Standardization (ISO) had released a guidance called "ISO 26000" in 2010, in which some of the most important principles of international corporations' responsibility is expressed as follows: organizing principles of environmental, human rights (including civil rights political and economic rights and the fundamental right to work), work policies, consumer rights, and participation in community development. According to these principles the companies have to respond, which means obeying the rules and obligations, acting with transparency and responding in accordance with the applicable principles and willing and being capable enough to meet the expectations of the business community.² Mrs. Ioana Tudor (2008) stated the significant characteristic of fair and equitable treatment as: "According to a reasonable assessment of the condition of the person, he grants what is desirable for him." It seems that foreign investors having the rights and protections enshrined in an international treaty without the social responsibility, is beyond the fair and equitable treatment, because it's not based on an assessment of the conditions. Therefore, investors' adherence to the principles of socially responsible can be considered to assess the situation and claim of a violation of fair and equitable treatment. Of course, this does not mean that negligence and investor failure to adhere to the principles create a mutual effort, host government officials, in any case, are obliged to observe the principles of good governance and rule of law which are the soul of fair and equitable treatment. However, the non-committed performance of investor in applying the proportionality was effective and allows judge to assess, does the nature of actions of investor put the government in circumstances that justified the interference in the rights or not. Also the burden of proof in these cases should fall on investor's shoulder to show his behavior didn't deserves such a response from the government. Finally, it should be emphasized that appealing to international standards of corporate social responsibility won't prevent imposing higher standards of behavior that might predict national legislation. The way to justify shouldn't open for investors, the standards used as a means of violation of national laws and by justifying to obey behavioral norms of international, violate standards which are required in accordance with its national laws.

The Responsibility Of Investors In Arbitration Procedures

In this discussion, we are going to evaluate the responsibility of the investor in the arbitration procedure; look at the arbitration procedure shows a tendency to assume the responsibility of for investors and conflict oriented attitudes on the rights and duties of the parties to has gradually spread, although still it's not rich enough, it is hoped to be strengthened in the years leading and approaches more than before. It is worth mentioning the arbitration procedure has interpreted responsibilities to investors very narrow and is satisfied with the minimum

goods, services, capital and people's agenda, promotes investment in consensus with an emphasis on sustainable development and new elements such as corporate social responsibility and accountability to the investor's. See: United Nations Conference on Trade and Development, "World Investment Report 2013: Global Value Chains: Investment and Trade for Development", 2013

² In order to consider corporations responsive, the need to develop a wide array of laws, standards and codes of conduct adapt and even beyond that should have clear performance way, and report and inform the function. Corporations responsibility doesn't end in reporting, they should have a direct engagement with beneficiary ensure that and strategies and actions match to the needs of the community and other beneficiary with local, regional and international. See: United Nations Environment Programme, "Corporate Social Responsibility and Regional Trade and Investment Agreements", 2011, p18.

that is rationally and logically necessary, it is hoped the development and spread of the practice of the investor's substantive obligations will be increased under the standard of fair and equitable treatment.

The investor responsibility for the corrupted actions

Corrupted practices cover all the procedures and practices in which the investor's behavior is better than what they are legally entitled to obtain. Business Law have been identified the acts against the good business practices. Thus, fraud, misrepresentation, undue influence or abuse of power; are the instances that could give the government the permission to interfere with the rights of investors, and investing in such cases even if the ending is the investor's proportionate action is justified. Corrupted practices may be referring to cheating, abuse of power or undue influence. For example, if an investor has the ability to contract or distort their investment in the host state, the performance is corrupt. In *Olguin* case against Paraguay, the issue of illegal contacts with government officials, the court took into consideration, in this case, the applicant argued, capital where he was assigned to a fast food company, was seized because the Paraguayan authorities came short to effectively regulate banking activities in which he had a deposit account, the bank went bankrupt in 1995, resulting in a huge economic crisis and called for a substantial portion of its assets lost. During the hearing, it was proven that the client wants to promote an official of the Central Bank of Paraguay persuaded to invest in the country and opening of bank deposits in the bank. The chief and the head of the insolvent bank, set up the charter company, and their names had taken place along with the name of the applicant as a member of the board. Here, the applicant claimed that the government had failed to control the actions were leading to the conflict of public interest and the private interests of bankers. The investor claimed that if it was a dishonest communications, the government was obliged to deal with it and the investor has no responsibility in this regard. But the judge said, it might be too dogmatic to call foundation of financial control Paraguay pledged for detecting and preventing hidden relations in the shadows of public or private officials, connections that puts them at risk of conflict of interest illegitimate. Although no evidence was found to prove corruption investor and officials who worked with them - and rather, it seemed investor have been deceived - this resulted that the court does not follow the applicant's claim with relish, however, the Court Paraguayan officials had neglected in their duties in controlling and supervision of financial markets and preventing corrupt practices. The Court did not find evidence of wrong behavior on the part of investors, but if there is enough evidence, such behavior could severely affect the court's decision. Banned principle on corrupted behavior away from the conscience, may be required that the investor not abuse superior bargaining position and their trading in order to benefit the host government inexpedient. This is especially important today according to the economic power of large transnational corporations which is active in developing countries.³ But in the *Fraport's* case against the Philippines the Court took a very interesting approach to corruption in investor behavior that shows the importance of the principles of investor behavior the Court. In this case, not in the nature of competence but in the recognition stage, the Court examined the investor performance abuse. At first the Court defined the bilateral investment treaty between Germany and the Philippines investor, which according to, investment should be done in accordance with national legislation.⁴ The Court assessed investor misconduct in violation of national law and said, according to the this the investment concept has not be proven and Court has no jurisdiction to deal with disputes, so was not included with substantive disputes.⁵

The responsibility of investor in properly evaluating risk

The recent judgment of the investment process support indicates the acceptance of this principle that the investor before entering into a contract is required to evaluate the investment risks and have realistic expectations of the profitability of the project and be aware of the prospects and problems. Accordingly if lack of an accurate assessment of risk caused the damage, it is the responsibility of the investor and it's not compensable according to investment protection treaties contents. It seems that the analysis is consistent of the concept of fair and equitable treatment standard of as the centerpiece of balance and proportion between the parties. Also good business practice confirms this principle, because it requires investor to take reasonable risk of their business not that the contents investment agreements to ensure that the risks of the host government. The development based on the view that of such investment agreements, they do not provide a guarantee against adverse business performance. In addition to its corporate social responsibility requires the investment will be done carefully and according to the local conditions of being less durable and more advantage and its adverse effects. The main focus of the task, correctly assessing the risks of investing in the investment process is beginning. On this basis, when investors from malpractice project feasibility study conducted properly, should damages be receptive to it. In the case *Genin* investor behavior according to the lack of professionalism had been criticized by the Court, the Court had the

³ In investment cases there was no certain arbitration to this subject. But the *ELSI* case, in the International Court of Justice, is a good example. See: *United States of America v. Italy, Elettronica Sicula S.p.A. case (ELSI)*, ICJ Reports 15, (1989).

⁴ From the way of writing and express many bilateral investment treaties it can be concluded that violate the rules and regulations of the host state may deprive investor of the protections contained in it. For example, the bilateral investment treaties model, Malaysia, the definition of investment protection, says: "All the investments that complies with the laws, regulations and policies of the National Party members." This formula makes the investor committed to obey national laws or it may not include protections set forth herein. In *Fraport's* case against the Philippine Court relied on a similar provision in the bilateral treaties between Germany and the Philippines, didn't count the investment one of the supported investment and didn't find itself competent to deal with their disputes.

⁵ Some had criticized this decision and stated, since investment agreements was made in a legal manner and in accordance with national laws, depriving Investor of all protections provided under bilateral treaties is radical. It was more qualified and appropriate if the court paid attention to investor behavior in the nature stage not in stage of recognizing the jurisdiction, or even to determine the stage of compensation pays attention to investor behavior and if it was necessary to reduce the amount of compensation or even no compensation at all. See: (Tudor, 2008).

opinion that if you want a more comprehensive knowledge of the Estonian regime, approach could help authorities better understand the information disclosure. The Court emphasized the need for proper risk assessment stated: "It is necessary to consider the specific circumstances of the case, we have a situation like this, and the government of the Estonia is a newly independent state that is trying to speed with the realities of commercial, financial and modern banking is dedicated to the creation of new institutions, who are responsible for monitoring areas that perhaps were previously unknown. It is admitted that the applicant has chosen wisely investment in it. "It seems that the Court is on the view that investors should consider risks with regard to the degree of development of the country when they decide to operate in a particular country. Also, when the host is a country like Estonia that is in the process of change and transition, higher level of honesty and transparency of investor may be required in the host state, as long as we face a far more developed country in the economy that the investor can have more opportunities to measure and record. Investment in a developing country or transition have features and considerations that investor is expected to be aware of. This vote can also open up doctrines and outlets on corporate social responsibility of activities in developing countries. Particularly from investors who invest in transition economies, such precautions is expected. The investor knows what the local conditions may affect the outcome of his investment. Furthermore, when the host government is facing a serious economic crisis, the Court will also consider prudent foreign investor makes convinced to take risks of severe economic problems in the host country and think about the remedy. Arbitration procedure indicate that concerns such as transition economies, economic crisis, developing countries... and should be considered in assessing the risk of the investor, otherwise he will contribute at least part of the damage. But it should be emphasized, accurately assess risk and investment climate in the absence of the host country may not be able to meet higher standards of behavior, but does not, and misrule is invoked as an excuse to the state. The purpose of this discussion is not that defects and irregularities with the host government can justify resorting to these reasons; also passage of time and get more experience in the market means higher legal and administrative measures necessary to obeying that countries should adhere to it. On the other hand, some have noted investor decided to risk assessment depends largely on the ability to learn from the host country. In cases where the information available to the public on the state of the economy is not very accurate requires precision courts. In these cases, the Court must be satisfied that investor is aware of the situation in state and the decision to investment is taken. Investor responsibility for the risk assessment becomes true when an investor neglects the current situation in the host state, has not properly assessed risks before deciding investment in the host state and his expectations has not been formed on the basis of current realities. Investor should comprehensively and objectively assess the possible risks. The ability to accurately calculate risks and results showed professionalism investment, despite the existing risks in the region, he is still willing to investment, he should bear the consequences of his decision. Duty of investor to assess investment risk, may be interpreted as a counterweight to balance the risk benefit. Approach the International Court of Justice in the Barcelona Traction case confirms this view. In relation to the question of whether state shareholders of a corporation the right to diplomatic protection on behalf of the company or not; The Court stated, "It should also envisage that the founders of a company that has a range of international activities, the fact must be considered that the government has a power of discretion in granting diplomatic protection in relation to its own nationals or to refuse it. When the founders attempted to start a business in a foreign country, they consider some considerations that are usually related to the tax and other benefits that the government gives to local national companies. So in no way it is unfair to say that the benefits, risks arising from the fact that public support for the company and its shareholders, other than shareholders delegated government must reach a balance. "This is an interesting view because it emphasizes that benefits of investment in a state should reach equilibrium by the voluntary acceptance of risk by the corporation or its shareholders, the possibility of appealing to diplomatic protection or other items. The benefits and risks of investment in a country as an indivisible continuum finds balance each other and those who wants the benefits of investment in a country, would be forced to accept the risks. This approach implies that voluntary acceptance of risk by the investor, in determining whether the government's conduct was fair to the Investor or not, is an effective factor. Although the International Court of Justice discussed the issue in the context of diplomatic protection, but the overall result can be concluded that the government should comprehensively assess the benefits and risks of an investment in infrastructure that will be done. Investors should not only operate at a reasonable the stage of risk and the decision to investment and with a vision to present facts to decide, but also during the investment and project management requires that degree of rationality and accuracy. The general approach of the courts of arbitration implies that foreign investors assumed professional experts in their own performance field and so before we make a decision to investment carefully reviewed the available fields. In addition, since foreign investment usually requires passing a relatively long period, so it is thought that an investor doesn't invest without a general analysis of the conditions prevailing in the host country. Investors should show the care of the applicants that reflect their professionalism throughout the project work. Investor should act in a manner that will ensure the continuity and sustainability of economic investment, should always be aware of the law in which it operates, must take obeying applicable legal implications and professional and technical advice to seriously. In addition, in the event of a dispute with a local executive authorities, investor is required to use the benefits of any available sanctions in place that are able to correct the mistake and informed the Chief Executive Officer. Ensure the economic viability investment not only because of the general principles of corporations' law and a clear commitment and investor is required to act in the best way possible to provide the greatest benefits to shareholders, but also is necessary according to the doctrine of social responsibility, because the investor is required to consummate the interests of the host government, community and economic development is also considered. Only a successful investment can create jobs, transfer of technology, skills and income to the host country and local communities can play in developing

their assignments. Of course, this does not mean that investor should predict any possible ups and downs that may damage the investment, or that they are responsible for all possible consequences. All it means is that a reasonable investor should have investment in the office as much as possible, to realize the anticipated benefits. Methanex case against the United States of America beautifully explained the importance and necessity of good management. In this case the applicant is a Canadian manufacturer of methanol, protested a law passed in California that produce gasoline with methanol compounds was banned. . He claimed that this action violated NAFTA Article 1110, equivalent to expropriation and it was also done inconsistent with the due process standard of fair and equitable treatment required. The Court rejected this claim. Court puts special attention on the fact that American officials have made statements that the applicant could reasonably conclude that these laws are unchangeable. But, the applicant attempted to invest in a political economic context that it was explicit and clear that environmental protection and public health institutions, either in the States or at the federal level, regularly controlled use of chemicals through the media, nongovernmental organizations, corporations interest and prohibit or limit the use of compounds that are harmful to the environment or public health. Court expects the applicant to have good knowledge about optimum and efficient project management to the legal framework governing the work area and predict any change in the law would likely affect the work place. It is true that the government is required not to make instability in the overall atmosphere of investment due to the fair and equitable treatment, but on the other hand, when investors have entered the legal realm, you must accept the risk of regulatory changes predictable and routine, unless a clear commitment to the stability of the rules given by the host. Otherwise the regulatory changes which no explicit commitment are given change that, even if it's against the investor interests, could not be considered a violation of fair and equitable treatment standard. Clearly, the host government cannot take advantage of it and with sudden and unexpected change in the law with bad intentions take aim to lure investors waste the rights of investors, without doubt, such performance is in contrasts with spirit of fair and equitable treatment standard.

Conclusion

The fair and equitable treatment is one of the oldest standards that is inserted in most treaties and agreements on investment, but with the evolution of international investment law, new factors in the interpretation of this standard has emerged. In this research we charge the investor paid under this criterion. The emergence of concepts such as good business practices, responsible citizenship, corporate social responsibility, etc. will convince investors to be responsive to their actions and in case of failure, pay for it themselves. Evaluation standard violation of fair and equitable treatment requires that investor behavior is also contemplated with regard to all the circumstances, what is the demand for justice in the relations between be ruling. If investors act away from equity and justice, cannot claim compensation from the host relying on the fair treatment standard. The literal interpretation of fair treatment standard based on simple phrases or with respect to the object and purpose of investment treaties confirms this truth. Evaluation of investment arbitration jurisprudence also indicates that investor is responsible for the development of the host government, local community rights, transparency and local authorities...; also investor is required to assess the possible risks rationally and build their expectations based on the events of the host government. Although these results are based primarily on procedures that can be derived from the first generation of arbitration decisions on the Investor's responsibility, but evidence is growing that view. Consciousness of the twenty-first century human that has been aware with the help of various international organizations to exercise their right to social welfare, environment, health, safety and working conditions, developed knowledge, and..., demands investors not only consider their own interests in order to increase the economic benefit but also the interests of the society in which they are fed, and put aside unilateralism in their calculations. Many large multinational companies, subsidiaries, and their employees around the world, formulating a code of conduct, which implies the acceptance of the contribution and commitment that international community prepared for them and for the host governments community. It is expected in the near future investor responsibility provisions in treaties and agreements find their place and be considered further in the arbitration procedure.

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Zeinab Asqari, PHD Student of Public International Law, Allame Tabatabaai University