

UNETHICAL NEGOTIATOR BEHAVIOR DURING NEGOTIATION PROCESS

Edyta GAŚSIOROWSKA-MĄCZNIK

Technical University in Kielce; edytag@tu.kielce.pl, ORCID: 0000-0002-9224-3389

Purpose: The main objective of the study is to identify the causes of unethical negotiator behavior during negotiations.

Project/methodology/approach: An interview questionnaire was used in the survey. The survey was conducted through a random selection of a sample. The electronic survey was conducted in April 2023. The questionnaire was completed by 100 people, who use negotiation techniques in their professional work. The study is of a pilot nature.

Results: The analysis of the survey results shows that there are at least several reasons why negotiators choose unethical practices. Respondents' attitudes toward unethical behavior ranged from immediate reactions to wait-and-see attitudes.

Originality/value: The analysis of the literature leads to the conclusion that there is not much research on the reasons for unethical behavior in negotiations. The article is addressed to researchers dealing with the topic as well as negotiators - practitioners interested in this issue.

Keywords: negotiation, ethics, unethical behavior, tactics.

Category of the paper: Research paper.

1. Introduction

Negotiations are understood as talks aimed at reaching an agreement between the parties, resulting in the conclusion of a contract. Parties involved in negotiations seek agreement when they have common interests, some of which are shared by the parties, while others are opposing interests (Fisher, Ury, Patton, 2023). Negotiations, are also a sequence of mutual actions through which the parties seek to obtain a favorable solution to a partial conflict (Nęcki, 2013). The guarantee of achieving mutual satisfaction is an honest and reliable exchange of information. Negotiations play an important role in the operations of organizations. The ability to conduct talks often determines the establishment of new contacts and further cooperation between companies. A variety of tactics are used in negotiation practice to help achieve the desired goal. However, many of these raise ethical concerns. The purpose of this article is to

present negotiation tactics with particular focus on unethical tactics and to identify the reasons for using behavior that does not comply with the principles of the negotiation process.

2. Negotiation ethics

Ethics is understood as a set of moral assessments and norms adopted by a given society (Lewicki, Barry, Saunders, Minton, 2008). To be ethical is to act in accordance with prevailing norms, accepted principles, to follow recognized moral guidelines and to be guided by good intentions and good faith. The philosophical doctrine on morality distinguishes between theoretical, normative, applied and descriptive ethics.

Theoretical ethics deals, i.a., with defining moral value and determining which values can be called moral.

Normative ethics states what is morally right and what is morally wrong and, on this basis, generates directives or norms of positive behavior.

Descriptive ethics concerns people's actual behavior and moral beliefs.

Applied ethics deals with tools through which to influence the formation of moral attitudes.

Negotiation ethics refers to business ethics. During negotiations, it is worth paying attention to the dialogic ethics, understood as the general principles by which negotiation talks should be conducted. Negotiations always occur whenever a conflict of interest occurs. Competitive perceptions of participants in a negotiation situation are quite normal. Opposing interests consequently enforce a sense of competitiveness. Competitiveness results in a mutual rivalry between the parties. It should be noted that the more competitive are found in negotiations, the stronger the tendency towards unethical behavior.

Negotiation ethics consist of the ethics of process, the ethics of division, the ethics of representation and the ethics of intervention. Process ethics deals with the course of negotiations in three stages: preparatory, primary and finalizing (Kałużna-Drewińska, 2006).

The ethics of the process include the ethics of lies, or false statements, and the ethics of tactics.

The ethics of division answers the question of what criteria for division will be fair, that is, it concerns the ethical evaluation of the results of negotiations.

Ethics of representation deals with issues of fairness to those being represented, such as the attitudes of attorneys toward clients.

The ethics of intervention concerns fairness to those who are helped to reach an agreement, such as mediators involved in resolving a negotiation impasse.

It is worth noting that the first stage of negotiations covers a number of aspects and in fact ethical issues can be raised in any of them. These include defining the main and secondary objectives of negotiations, obtaining information on individuals and companies. Moral dilemmas can arise in any of the situations mentioned. One of them is that negotiators set goals that consider only their own interests. The next step is to gain knowledge about the negotiators so that in the future you know what tactics to use against them. A number of them are manipulative and often serve to win their sympathy. This is because the positive emotions of negotiators influence their perception and interpretation of the offer presented to them.

According to J. Kaminski (Kamiński, 2009) we can divide unethical behavior into three areas:

1. The area of dishonest information exchange:
 - using unauthorized methods to obtain information regarding the other party to the negotiation, such as stealing documents, using wiretapping, spy cameras, etc.,
 - dishonest self-presentation - falsifying information about the negotiator's competences, skills and credibility,
 - bluffing - falsifying true intentions,
 - falsification - creating incorrect conclusions,
 - fraud,
 - selective disclosure of information and data,
 - acting to the detriment of the represented party,
 - the pretense of impartiality.
2. An area of dishonest persuasion:
 - giving gifts and bribes,
 - undercutting the credibility of the other party by using slander,
 - exerting psychological pressure - time-pressure tactics, using threats,
 - inducement to adopt a position detrimental to the interests of the other party,
 - making decisions without agreement - in the case of unfair mediation.
3. The area of application of unfair criteria for evaluating the negotiation situation:
 - abusing one's position - demanding concessions for oneself, making demands under threat of abandoning negotiations,
 - failure to adhere to the negotiation rules established in the negotiations,
 - using different evaluation criteria with reference to one's own position and that of the other party,
 - manipulating the criteria for division.

3. Typology of manipulative negotiation tactics in light of research

Unethical behavior in the negotiation process is a fairly common practice. Analyzing the literature and empirical studies, R.J. Lewicki and R.J. Robinson proposed a typology of manipulative negotiation tactics, on which they based the construction of a scale to measure their perception SINS (Self-reported Inappropriate Negotiation Strategies). In his considerations, Levitsky assumed that these tactics are based on lies, i.e., “conveying intentionally deceptive information” aimed at gaining negotiating advantage. The classification of lie-based tactics proposed by the aforementioned authors is as follows (Lewicki, Barry, Saunders, Minton, 2008):

1. Camouflaging one’s position - e.g., giving a false point of resistance in negotiations, below which one cannot go. In studies conducted back in the early 1970s, it was also established that inflated demands are an effective means of winning greater concessions from the other side.
2. Bluffing - is making false assurances or threats, i.e., making promises that conditional on the other party behaving in the way expected by the bluffer. In fact, the bluffer has no intention of making good on the conditional promise.
3. Falsification - for example, by knowingly providing financial analysis based on falsified data that puts the company in a more favorable light, presenting falsified evidence and certificates, and false guarantees, which consequently changes the opponent’s position.
4. Distortion - involves the manipulation of the negotiator’s rational thinking and inference, leading the interlocutor to draw erroneous conclusions. This may include, e.g., omission of certain unfavorable issues, selectively citing arguments that cause an unfavorable decision made by the other party.
5. Selective disclosure of information or misleading parties to negotiation. By exerting influence on those indirectly involved in the negotiations, the aim is to make them resist or favor a given form of arrangements (e.g., negotiations of trade unions with representatives of company managements or public administration involve members of a given professional group, who with their reactions shoot down some proposals of the other side).

R.J. Anton stated that camouflaging one’s position is seen as most ethical, bluffing is seen as neutral, with fraud and finally forgery seen as extremely unethical (Kowalczyk, 2017).

Different perceptions of the degree of unethicalness of manipulative tactics are influenced by, i.a.:

- profession,
- age,
- gender,
- cultural differences.

R.J. Anton found that differences in perceptions of the ethicalness of these behaviors depend on the professional group. He said that people associated with business are more liberal in their views than other professions.

The same study concluded that bluffing was perceived as less ethical by younger and older people compared to middle-aged people, and by those with 3 to 5 years of work experience compared to those with shorter or longer work experience. In contrast, older respondents rated fraud as significantly less ethical than younger respondents.

Research by R.J. Anton also showed that bluffing and fraud were perceived as less ethical by women compared to men.

There are also cross-cultural differences in the perception of unethical negotiation tactics. For example, Chinese negotiators are significantly more tolerant than North American ones. The cultural dimension also influences the assessment of negotiation process according to the rival strategy and its characteristic methods of manipulation, making it more acceptable in Middle Eastern countries than in Asia, Western Europe or Latin America. There was also greater acceptance of them in the United States than in Europe. Similarly, bluffing was more accepted among Americans and Asian negotiators than European ones (Lewicki, Barry, Saunders, Minton, 2008). The ethical aspects of negotiating are strongly culturally conditioned, and when going from country to country, negotiators may doubt whether their behavior is acceptable to the other side. Sometimes they are forced to use methods that are seen as unethical in their cultural circle, but when they reach for them, the intended goal can be achieved. What hinders cross-cultural negotiations is the adoption of one's own perspective as the dominant one and the desire to subordinate the conduct of the other party to one's own ethical standards (Kowalczyk, 2017). Such a course of action is doomed to failure, as negotiations need to develop a common model, sometimes deviating from culturally ingrained principles or even abandoning the talks. Thus, the evaluation of the ethical side of negotiations varies by method as well as by profession, gender, age and seniority, and national culture. However, the cited studies show that there no situations occur in which any of the groups surveyed completely condemn all types of manipulation equally.

4. Reasons for unethical behavior of negotiators

4.1. Research sample characteristics

An interview questionnaire was used in the paper. The electronic survey was conducted in March 2023. The questionnaire was completed by 100 people. The selection of the test sample was deliberate. The survey aimed to answer the question of whether negotiators behave unethically during negotiations, and if so, what are the reasons behind such behavior. The study is of a pilot nature.

The survey included 29 women and 71 men who are responsible for negotiating with contractors in their companies. They were, for example, sales representatives, lawyers and salesmen. All respondents hold a university degree and have more than one year of work experience.

4.2. Results of own studies

When asked: “Do you behave unethically in your negotiations?”, 55 people confirmed, 33 — denied, 12 had difficulty answering (Figure 1).

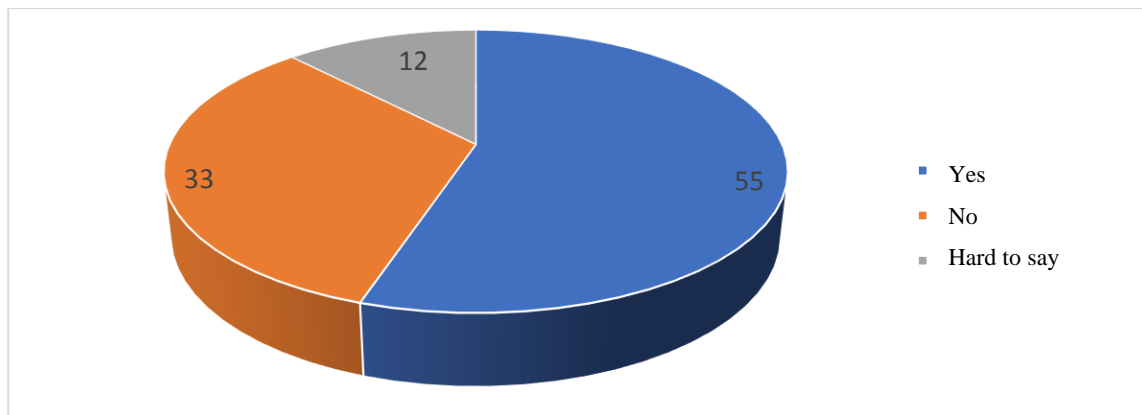


Figure 1. Number of respondents behaving unethically.

Source: Own elaboration.

Why did negotiators behave unethically in negotiations? Nine answers were available (Figure 2).

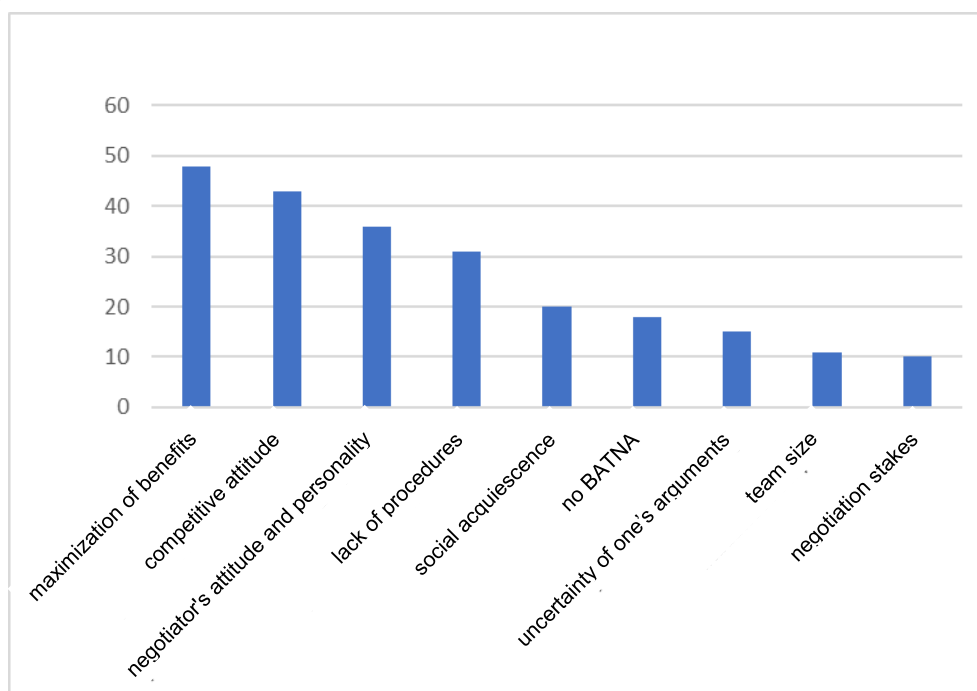


Figure 2. Most common reasons for unethical behavior.

Source: Own elaboration.

The first reason, most often chosen by respondents, is the desire to obtain maximum benefits. The negotiators' adoption of such an assumption makes them at least partially blind to many aspects of the negotiation situation. The more a negotiating party pursues profit, the stronger the tendency for unethical behavior to emerge.

The second reason is to conceive of negotiations as a win-lose situation. Competitiveness results in a mutual rivalry between the parties. The two parties compete with each other, and to win, they are even capable of reaching for foul play. Researchers of the problem say that the greater the focus on achieving self-interest, the greater the desensitization to unethical behavior. J. Kaminski (Kamiński, 2009) distinguishes two types of rivalry: incidental and essential. Incidental rivalry is that which occurs with respect to certain negotiating issues, the result of which is at least a partial alignment of the interests of both parties. Essential rivalry completely excludes the possibility of pursuing the interests of the opposing party. There is the following relationship: the more the negotiation has features of essential rivalry, the stronger the tendency towards unethical behavior.

The third reason is the attitudes and personalities of the negotiators. The following are distinguished:

- absolutists - guided by universal ethical principles,
- situationists - who profess the lack of universal rules; each situation requires a different approach,
- subjectivists - who approach situations from the perspective of their own interests,
- pragmatists - recognizing the existence of moral principles, but accepting the admission of unethical behavior when necessary to achieve an objective (Figure 3).

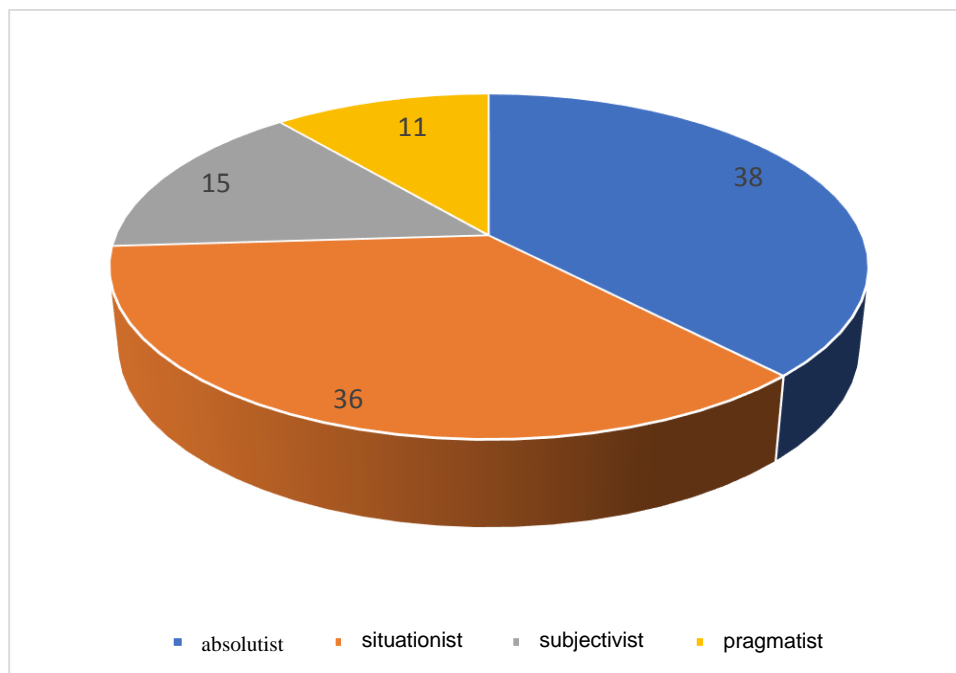


Figure 3. Negotiating attitudes.

Source: Own elaboration.

Among those surveyed, 38 declared themselves absolutists. Analysis of the survey results shows that these were all people who denied behaving unethically during negotiations. The high percentage (36%) of situationists is not surprising. People who do not adhere to universal principles in negotiation usually act unethically.

In addition, a personality factor is important, which seems to be important in terms of the tendency to behave unethically. For example, the so-called Machiavellian personality is characterized by a strong tendency toward unethical behavior. Machiavellians are individuals who share the set of beliefs of N. Machiavelli regarding tactics, manipulation of people and the relativity of moral norms (Zimbardo, Ruch, 1998). In the negotiation process, there is often the thought that the goal is so important that the means to achieve it may not be entirely honest, e.g., fighting for a contract that will keep jobs for a large number of people justifies falsifying information. In the context of respondents' fairly high approval of unethical actions, there was no high percentage of those who would describe their personality as Machiavellian (33%). Perhaps in the opinion of the negotiators taking part in the survey, this personality has such pejorative overtones that it is difficult to admit. It should be added at this point that all those who declared unethical behavior were consistent in their answers and answered the question in the affirmative: "Do you have a Machiavellian personality?" (Figure 4).

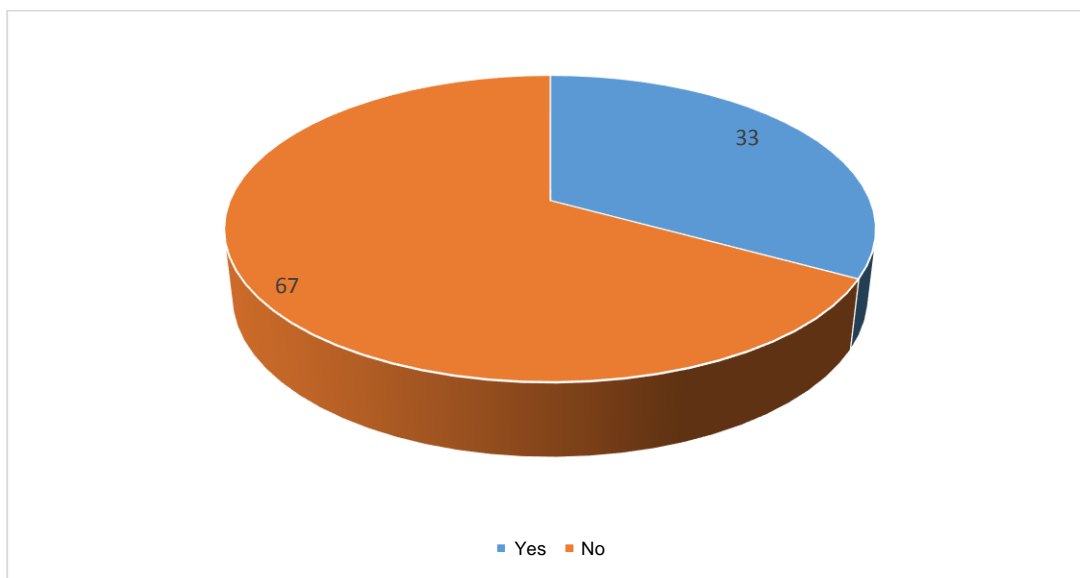


Figure 4. Machiavellian personality among the respondents.

Source: Own elaboration.

The fourth selected reason for unethical behavior in the negotiation process is the lack of procedures for handling negotiations. If procedures and rules have not been established at the beginning of the negotiation talks, arbitrary behavior very often leads to unethical actions, both in terms of how negotiations are conducted and in terms of the substantive context. Procedures in negotiations have an organizing function. For a given negotiation process, it is determined what is allowed and not allowed during what is known as metanegotiation, or negotiation about how to negotiate.

The fifth reason is social acquiescence, or lack thereof, to disregard ethical norms. This applies, for example, to such phenomena as social acquiescence to corruption, nepotism, lying. Agreeing to these behaviors is, in fact, allowing unethical behavior. R. Gesteland (Gesteland, 2000), as a result of his research, found that cultures in which a high degree of acquiescence to corrupt behavior occurs are pro-partner cultures in which personal contacts are central to contracts signed. In addition, the same author stated that these are polychronic cultures, that is, without schedules or time restrictions. In addition, they are characterized by a hierarchical society. The mere fact that someone is a representative of a certain type of culture does not determine the propensity for unethical behavior. Rather, it is a matter of pointing out certain conditions that increase the likelihood of such behavior occurring. At this point, it should be noted that Poles belong to moderately pro-partner and moderately polychronic cultures.

The sixth reason is the lack of BATNA, i.e., Best Alternative To a Negotiated Agreement. Having a BATNA proves really helpful in negotiations. This is because it adds confidence and allows for a flexible approach to the issues at hand. It also allows you to walk away from the negotiating table if the situation after the negotiation talks were to be worse than it was before the talks began. The lack of alternative options increases negotiators' tendency to cheat. Their bargaining power is less than that of having BATNA.

The seventh reason is uncertainty. This is the conclusion of a study by Roy J. Levitsky (Lewicki, Barry, Saunders, Minton, 2008). Unconfident negotiators provide more aggressive arguments and less honest information than opponents who are confident in their position.

The eighth reason is the size of the negotiator teams. When negotiating with one person, we are less likely to lie than when negotiating with a group of people or with new people at later stages of the negotiation process. In one-on-one communication, a kind of bond, a certain lasting interpersonal relationship, is established between negotiators. It makes it more difficult to behave unethically toward another person. However, if you are negotiating with a group of people or in the next stages of negotiations with new partners, it is definitely easier to lie. People perceive interactions with groups as less personal than interactions with individuals.

The ninth reason is the negotiations stakes. Whether negotiators behave unethically also depends on how big the possible benefits are, how profitable the gains made if negotiations are won. The higher the stakes in a negotiation, the greater the tolerance for unethical behavior. Higher profits and greater benefits “justify” ethically questionable actions.

5. Attitudes towards unethical action

The survey results showed that the majority (68 negotiators) were able to detect manipulation from the opposing side (Figure 5).

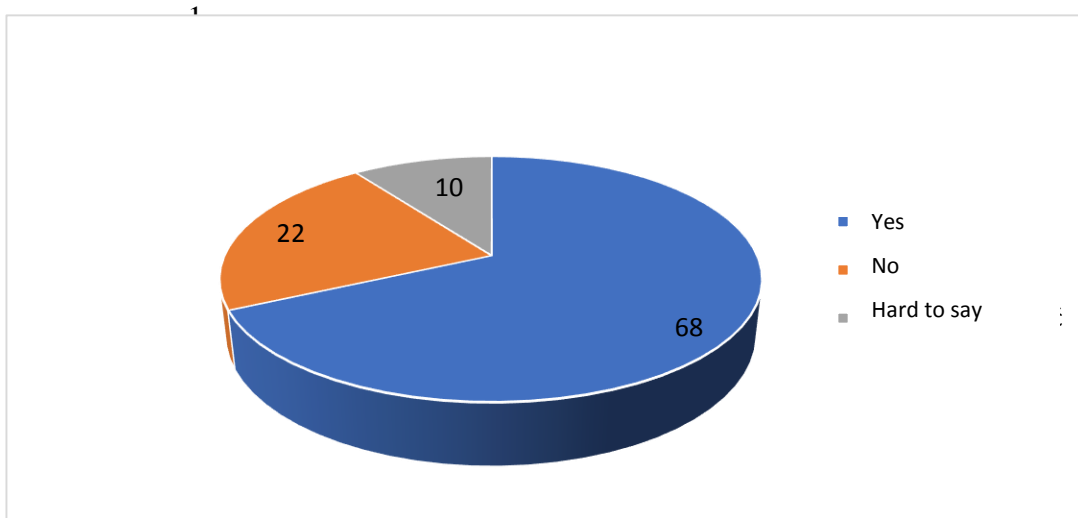


Figure 5. The ability to detect manipulation during negotiations.

Source: Own elaboration.

All women answered this question in the affirmative. In addition, those respondents had at least 5 years of work experience. Thus, experience, participation in many negotiations and the gender of the respondents determined the affirmative answer. Respondents were characterized by different attitudes toward unethical behavior. The highest percentage (42%) declared an immediate response. Only 6% of respondents indicated that when they observe unethical attitudes on the part of their opponent, they pretend not to see these behaviors (Figure 6).

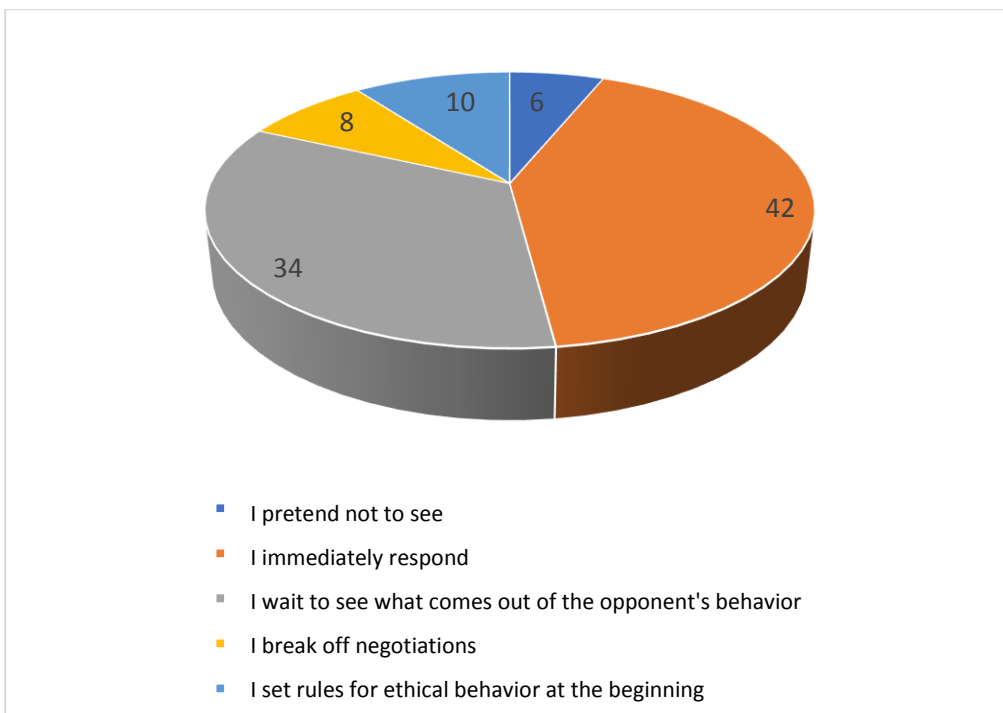


Figure 6. Behavior towards unethical attitudes of negotiators.

Source: Own elaboration.

At this point, it is worth noting the different approaches to unethical behavior. Interesting is the concept of Richard Shell, who distinguished three different approaches: the so-called poker players, idealists and pragmatists (Shell, 2006).

In the poker player approach, negotiations are a game based on certain rules. The precursor of this approach was President Harry Truman's advisor, Albert Z. Carr (Gasparski, Deitl, 2001). In his book "Business as a Game", he stated that bluffing and misleading are acceptable tactics in negotiations, and that negotiators who do not use them will never gain huge money or power. Carr's believed that good negotiators should ignore tips on building a friendly atmosphere and mutual trust, and focus on concealment and deception, and take full advantage of their craftiness.

In the idealist school, negotiations are seen as one aspect of coexistence in society. As cheating is morally reprehensible in normal life, it is not acceptable in negotiations either. This approach draws inspiration from religion and philosophy, especially from the ethical principles propounded by Immanuel Kant.

The pragmatic approach shows the influence of the above two concepts. It recognizes fraud as acceptable, however, it is not used if there are other honest alternatives. Credibility in negotiations is very important, as it builds mutual trust between parties and helps to reach an agreement. Dishonesty is not advisable, as it can badly affect both the negotiations and the reputation of the negotiator, not only at the negotiating table, but also future cooperation.

For example: A seller of used motorcycles, knowing that a particular motorbike is technically defective, when asked by a customer *What is the technical condition of this motorcycle?* will answer: *Excellent. It has just passed a technical inspection* - poker player approach; *I don't have detailed information about the technical condition of this motorcycle* - pragmatic approach; *Not the best. That's why we have an attractive price offer for it* - idealistic approach.

70% of the respondents called themselves pragmatists. Thus, they chose an immediate approach, recognizing the possibility of unethical actions when there is no ethical alternative (Figure 7).

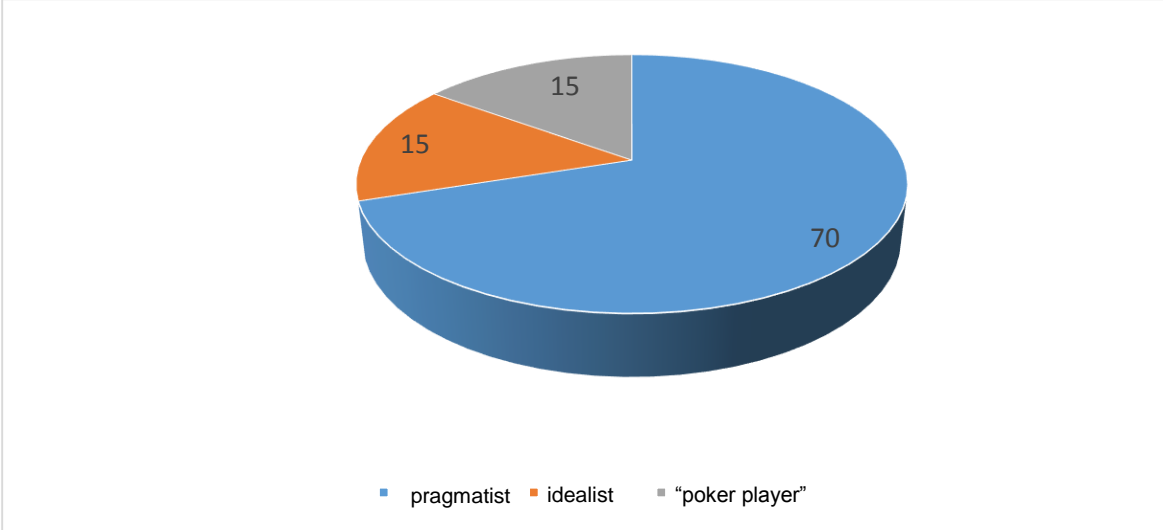


Figure 7. Supporters of positions against unethical behavior.

Source: Own elaboration.

“Poker players” were those respondents who had previously recognized that it was possible to behave unethically in negotiations and declared a Machiavellian personality. They were consistent in their responses. Only 15% of respondents said they were “idealists”. As with “poker players”, the connection between the earlier responses is quite noticeable. All respondents who did not support unethical behavior in the negotiation process previously described themselves as idealists.

6. Final thoughts

Ethics in negotiation involves acting with integrity. Sometimes, however, despite the best intentions, unethical behavior occurs. It is usually caused by a number of the factors mentioned above. The lack of respect for ethics in negotiations stems primarily from the belief that one must fight for one’s interests at all costs. Rivalry is then placed over relationship building and the pursuit of agreement. To this end, opponents use a number of tactics considered unethical. Knowing them makes it easier to defend against their consequences. The ability to recognize underhanded tactics and counter them is an essential part of the negotiation process. It allows the negotiator to defend against incurring large costs and losses during the negotiations. Moreover, it strengthens the negotiator’s bargaining power.

A number of authors, when discussing the negotiation process, provide universal, general ethical principles that should be applied during discussions (Kamiński, 2009). Thus, it is worth proceeding in such a way that the negotiator’s behavior - if it were to become public - would not stain the negotiator's image and that of the organization represented. Lack of integrity, even if it enables them to win that one time, in the long run it will make the negotiator perceived as untrustworthy. Thus, the negotiations should be conducted in good faith and the goal should be to reach a mutual agreement, satisfying both sides. It is necessary to recognize the opponent’s rights to their own beliefs and try to understand their point of view. It is important to treat each other with respect and honor previous agreements. On the other hand, the possibility of including issues proposed by the other side in the negotiations cannot be denied, especially during the initial phase of the negotiations. Untruth should not be stated, but not revealing everything is not lying. It is also not advisable to interfere in the internal affairs of the opposing party (Fisher, Ury, Patton, 2016). Ethical behavior in negotiations manifests itself in, i.a., following accepted procedures, not using manipulative and aggressive techniques or not pressuring the opponent. It is also very important to be honest in the exchange and acquisition of information and not to conceal inconvenient facts.

References

1. Fisher, R., Ury, W. Patton, B. (2023). *Getting to Yes*. Random House.
2. Gasparski, W., Deitl, J. (2001). *Etyka biznesu w działaniu. Doświadczenia i perspektywy*. Warszawa: PWN.
3. Gesteland, R.R. (2000). *Różnice kulturowe a zachowania w biznesie*. Warszawa: PWN.
4. Kałużna-Drewniska, U. (2006). *Negocjacje w biznesie. Kluczowe problemy*. Wrocław: Wydawnictwo Akademii Ekonomicznej.
5. Kamiński, J. (2009). *Negocjowanie techniki rozwiązywania konfliktów*. Warszawa: POLTEXT.
6. Kowalczyk, E. (2017). Wykorzystanie i percepcja dwuznacznie etycznych technik negocjacyjnych. *Organizacja i zarządzanie, Vol. I*, pp. 142-143.
7. Lewicki, R.J., Barry, B., Saunders, D.M., Minton, J.W. (2008). *Zasady negocjacji*. Poznań: Rebis.
8. Nęcki, Z. (2013). *Negocjacje w biznesie*. Kraków/Kluczbork: Antykwa.
9. Shell, G.R. (2006). *Bargaining for advantage: Negotiation strategies for reasonable people*. Penguin Publishing Group.
10. Zimbardo, P.G., Ruch, F.L. (1998). *Psychologia i życie*. Warszawa: PWN.