



# DOING BUSINESS in Belarus

# 2020

# REVERA



Ministry of Economy  
of the Republic of Belarus

8<sup>th</sup> Edition

## Greetings, to our dearest would-be investor!



Many investment reviews would start from a list of reasons why this particular country is good for investors: competitive business environment, advantageous geographical position, well-developed infrastructure together with a high business rating – all would be usually advised.

This is quite natural, because any country review aims at attracting investors' attention. However, if you think of it, any of over 250 countries in the world will have similar or equal advantages, which renders such an approach meaningless.

In our 'Doing Business 2020' guide we aim not just to present the advantages of business in Belarus, but also in assisting you in making your independent assessments of the existing risks and in forming a competent and impartial judgement about our country's opportunities. You will not find a list of public holidays or a "5 reasons to invest in Belarus" here. You will only find facts which will be most illustrative of our national business environment.

'Doing Business 2020' guide has been compiled by REVERA lawyers. The guide contains a comprehensive review of all legal spheres and business features: from choosing the best tax regime to anti monopoly legislation.

I believe that this Doing Business will resolve your questions and will be a good aid in making your cogent decisions.

*Sincerely,  
Dmitry Arkhipenko  
REVERA managing partner*

# Facts about REVERA



ranked among the leaders in the Belarusian market of legal services according to The Legal 500, Chambers and Partners, IFLR1000

**BEST**

the best law firm in 2011 and 2013 according to the Ministry of Justice of the Republic of Belarus



REVERA lawyers are recommended by Chambers Global, Chambers Europe, The Legal 500, IFLR1000 international guides as experts in investment projects, M&A deals, companies restructuring, support of construction activities, dispute resolution and intellectual property law



REVERA is a member of Nextlaw network that unites leading independent law firms of the world

**>50**

lawyers in our team – the biggest number for Belarus

**20+**

years of experience

**>500**

1000 foreign investors have received our consultation

**>4000**

clients



## We specialize in:

- Investment Project Support
- Tax
- Corporate Law
- M&A, Due Diligence
- Commercial contracts
- Construction and Real Estate
- Intellectual property
- Antitrust Law
- Dispute Resolution
- Arbitration
- Retail
- Trade and Customs
- Banking and Finance
- Information Technology and Data Protection
- Life Science
- Labor Law

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*This review has been prepared by experts of **REVERA** with the support of the **Ministry of Foreign Affairs**, the **Ministry of Economics** and the **National Center for Marketing and Price Study**.*

*All information in the review is current as of March 1, 2020, unless otherwise indicated in the text.*

*The base value is a unit approved by the Government of Belarus, which is used to calculate various tariffs, duties and other payments. From 01.01.2020, the base amount is 27 Belarusian rubles (BYN).*

*On 04/01/2020, the official exchange rate of the Belarusian ruble against the euro: 1 Euro = 2.8446 BYN. The current rate can be found on the website of the National Bank (<https://www.nbrb.by/statistics/rates/ratesdaily.asp>)*

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*The author of the cover photo is **Dmitry Vazhnyk**.*

**REVERA**

## Dear friends! Our dearest colleagues!



In 2019 the Belarusian economy has shown stable growth trends.

In a number of key macroeconomic indices we have delivered the best results during our entire modern history: the inflation rate and refinancing rate have both decreased and our gold and currency reserves have reached an historical peak.

We have had a low current account deficit for three consecutive years.

We are successfully discharging all our debt liabilities.

We have a stable growth of investment activities in our economy.

At present, the Ministry of Economy is encouraging the positive trends in the national economy, while mitigating the negative ones. However we must acknowledge that today we face an unfavourable external market situation that greatly affects our too open economy.

The principal plan of measures for the year 2020 envisages empowerment of sustainable balanced growth in the medium term. Preparation of the National Sustainable Growth Strategy 2035 is almost over, and we have launched the preparation of our development programme for the next five years. These policies tackle the strategic issues of national development and the creation of a comfortable institutional environment for business entities of all proprietary forms.

We have always adhered to a policy of openness to dialogue and prospective mutually rewarding projects with businesses perceiving Belarus as the place for their challenging ideas.

Investments in our country are supported by profound investment legislation based on best practices. We are continually providing systematic refinement of our regulations and policies.

2020 will see a comprehensive updating of the Investment Law of the Republic of Belarus aimed at securing further guarantees of investors' rights, with due account for the practice in the application of the Law and international treaties of the Republic of Belarus.

Our Medium Term Action Plan will contribute greatly to the perfection of the investment climate. The Plan envisages, in particular, updating of laws on property relations and land relations, customs regulations and tax regulations. The Plan is part of the 2025 Strategy on Attracting Direct Foreign Investment in the Republic of Belarus.

Today's main goals, in terms of improving Belarus's investment appeal, involve the creation of efficient investor feedback systems, digitalization of approval procedures for investment activities, activating infrastructure projects, in particular using best practices of public-private partnership.

Our long-term goal is creating the most competitive investment and business environment among EAEU countries.

I wish to assure you that we will give due consideration to any and all investment proposals that provide mutually rewarding business projects in our country.

Welcome to Belarus!



Ministry of Economy  
of the Republic of Belarus

*The Minister of Economy,  
A.V. Cherviakov*

**REVERA**

## Dear investor!



Over recent years, the volume of foreign investments into the Belarusian economy has steadily grown. In January–September 2019, Belarus received about \$7.1 bln of foreign investments, including \$5.2 bln of direct investments. With regard to the unprecedented conditions provided by Belarus for foreign capital investments, one can clearly see from these figures that there is further scope to exceed the current position. Since 1996, Free Economic Zones have been successfully operating in all Belarusian regions. At present, we are implementing a new breakthrough project – Great Stone industrial park, having a special economic zone status and featuring hi-tech innovative production facilities. Current state policies are aimed at further increasing our country's investment appeal.

The National Marketing Centre of the Belarusian Ministry of Foreign Affairs gives continuous support to foreign companies encouraged to do business in Belarus. We conduct integrated surveys, help select partners, arrange business visits and conferences. We are aware that in order to enter a foreign market an investor requires answers to lots of questions.

In this respect, the Doing Business in Belarus guide compiled by REVERA's lawyers is a real plus for foreign investors. Here you will find useful information on the Belarusian economy, national business policies and rules, tax issues and other preferences. We believe that this guide will help you to reach cogent conclusions and reach positive decisions.

We look forward to welcoming you among our partners!  
Welcome to Belarus!

*Sincerely,*

*Valery Sadokho  
Director, National Marketing Centre  
of the Ministry of Foreign Affairs  
of the Republic of Belarus*



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# 1

About Belarus

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**Official name:** Republic of Belarus.

**Abbreviated name:** Belarus.

**Territory:** 207,600 sq. km (84th in the world).

**Geographic position:** located in Eastern Europe. Borders on Russia, Ukraine, Poland, Lithuania and Latvia.

**State languages:** Belarusian, Russian.

**National currency:** Belarusian rouble (BYN).

**Population:** 9,475,200 (as of 1 January 2019). Urban population — 78.4%.

**Ethnicities:** Belarusians — 83.7%, Russians — 8.3%, Poles — 3.1%, Ukrainians — 1.7%, Jews — 0.1%, other — 3.1% (according to 2009 census).

**Capital city:** Minsk (1,992,700 inhabitants as of 1 January 2019).

**Regions and regional centres (as of 1 January 2018):**

**Brest region** — 1,380,300 (Brest – 350,600);

**Vitebsk region** — 1,171,600 (Vitebsk – 378,500);

**Gomel region** — 1,409,900 (Gomel – 536,900);

**Grodno region** — 1,039,300 (Grodno – 373,500);

**Mogilev region** — 1,052,900 (Mogilev – 383,300);

**Minsk region** — 1,428,500.

## Employment and labour compensation

Total workforce	4,330,100
Unemployment rate in able-bodied population, 2019	4.3% (218,000)
Average gross payroll, 2019	465.8 EUR/month, or 521.6 USD/month

## 1.1. GENERAL INFO

### Natural resources

Potassium salts, wood, peat, granite, dolomite, limestone, clays, sand, minor oil and natural gas fields.

Forests are among our country's key renewable natural resources. Belarus is among the ten 'forest states' of Europe.

### Transport corridors

The country is crossed by two trans-European transport corridors designated according to the international classification as No. 2 (East-West) and No. 9 (North — South) with branch 9b.

#### **Transport corridor No. 2**

Berlin—Poznan—  
Warsaw—Brest—Minsk—  
Moscow—Nizhny Novgorod  
crosses Germany, Poland,  
Belarus and Russia.

#### **Transport corridor No. 9**

Helsinki—St. Petersburg—  
Pskov—Orsha—Kyiv—Chisinau—  
Bucharest—Dimitrovgrad—  
Alexandropulis crosses Finland,  
Russia, Belarus, Ukraine, Moldova,  
Romania, Bulgaria and Greece.

#### **Transport corridor No. 9b**

Klaipeda—Vilna—Minsk—  
Kyiv—Chisinau crosses Lithuania,  
Belarus, Ukraine, and Moldova.

## 1.2. ECONOMY

Belarusian economy is based on the socially oriented economic model. Centralized distribution and planning are used in terms of macroeconomic indices only.

The country's major industries include energy production, machine engineering, agriculture, chemical industry, forest industry, construction industry and production of construction materials, extractive industry. GDP in 2019 ≈ \$ 63.1 bln (+1.2% to 2018 level)

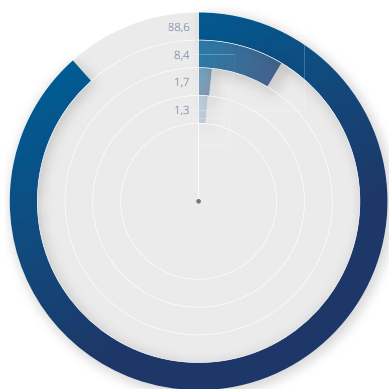
### GDP breakdown in 2019<sup>1</sup>

	percent of GDP	percent ratio to 2018 level (in comparable prices)
Gross domestic product, including gross value added in:	100%	101.2%
processing industry	21.3%	101.2%
wholesale and retail trade; automobile & motorcycle service	9.4%	100%
agriculture, forestry & fishery	6.8%	103.1%
information & communications	6.2%	109.3%
transportation, warehousing, post and courier service	5.9%	98.4%
construction industry	5.6%	103.1%
supply of electric power, gas, steam, hot water, conditioned air	3%	99.1%
mining industry	0.7%	100.4%
water supply; collection, processing and disposal of wastes, pollution control	0.7%	102.1%
gross value added from other activities	27.3%	101%
net taxes on products	13.1%	100.9%

<sup>1</sup> Source: National Statistical Committee of the Republic of Belarus

### 1.3 INDUSTRIAL PRODUCTION BREAKDOWN<sup>2</sup>

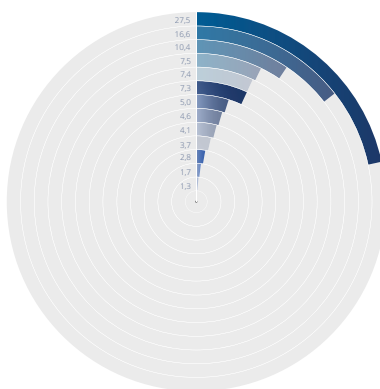
A vast share of GDP is contributed by the processing industry – 21.3%. Also, considerable shares are held by wholesale and retail trade, automobile and motorcycle service — 9.4%, agriculture, forestry and fishery — 6.8%, information and communications – 6.2% and other sectors. 2019 saw the biggest growth, against 2018 level (in comparable prices), in the information and communications sector – 109.3%, mainly due to a boost in the IT industry.



- ◆ Processing industry
- ◆ Supply of electrical power, gas, steam, hot water and conditioned air
- ◆ Water supply; collection, processing and disposal of wastes, pollution control
- ◆ Mining industry

### 1.4 BREAKDOWN OF PROCESSING INDUSTRY IN 2019<sup>2</sup>

In terms of basic indices, the industrial sector is the leader in the Belarusian economy. Belarusian industrial sector is dominated by processing industries – 88.6%. At present, Belarus tends to focus on oil refining, production of food and beverages, chemical fibre and yarn, freight and agricultural equipment, woodworking products.



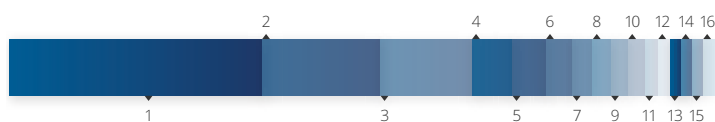
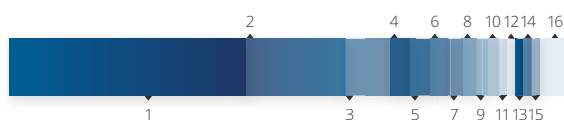
- ◆ Production of food, beverages and tobacco products
- ◆ Production of coke and petroleum refinery products
- ◆ Production of chemical goods
- ◆ Metallurgical production, production of finished metal products, except machines and equipment
- ◆ Production of machines and equipment
- ◆ Production of rubber and plastic goods, other non-metallic mineral products
- ◆ Production of woodwork and paper; printing and replication of recorded media

- ◆ Production of vehicles and transportation equipment
- ◆ Production of other end products; repair and assembly of machines and equipment
- ◆ Production of textile goods, clothes, leather goods and fur goods
- ◆ Production of electrical equipment
- ◆ Production of computing, electronic and optical devices
- ◆ Production of basic pharmaceutical products and preparations

### 1.5 EXTERNAL TRADE

Belarusian economy is highly open and oriented towards foreign markets. Over 50% of all produced goods are exported. In 2019, national sales turnover amounted to 72.28 bln USD, including exports worth 32.94 bln USD and imports worth 39.34 bln USD. Principal exports include oil products and petroleum, potash and nitrogen fertilizers, cargo vehicles, tractors, woodwork, chemical fibre and yarn, metal products, tyres, dairy and meat products, furniture, medicinal drugs, plastic packing. Principal imports include energy resources (petroleum and natural gas), primary products, materials and parts (metals and metalware, raw material for chemical production, machine parts), technological equipment.

<sup>2</sup>Source: National Statistical Committee of the Republic of Belarus

№ 1. Breakdown of exports by category (top 15) in 2019<sup>3</sup>№ 2. Breakdown of imports by category (top 15) in 2019<sup>3</sup>

## №1

1	Oil products, crude petroleum, including gas condensate	18,01%
2	Potash fertilizers	8,43%
3	Dairy products	6,51%
4	Cargo vehicles	2,89%
5	Meat products	2,38%
6	Tractors and truck-tractors	1,9%
7	Sawn timber	1,43%
8	Other furniture/components	1,3%
9	Spare parts & components for motor-cars and tractors	1,22%
10	Non-alloy steel rods, hot-rolled, other	1,21%
11	Mineral fertilizers, mixed	0,93%
12	Tyres	0,89%
13	Medicinal drugs packed for retail sales	0,78%
14	Plastic packing	0,77%
15	Insulated wires/cables	0,76%
16	Other product categories	47,47%

## №2

1	Crude petroleum, including gas condensate	16,73%
2	Petroleum gas and gas hydrocarbons, other	7,03%
3	Passenger cars	3,15%
4	Medicinal drugs packed for retail sales	1,43%
5	Spare parts & components for motor-cars and tractors	1,39%
6	Communication equipment and related components	1,37%
7	Iron-and-steel waste/scrap	0,94%
8	Cut flowers/buds	0,93%
9	Pipe fittings	0,88%
10	Reciprocating internal combustion engines	0,68%
11	Computing machines for automatic data processing	0,61%
12	Components of railway vehicles	0,61%
13	Earth coal	0,58%
14	Apples, pears, quinces, fresh	0,54%
15	Remote controls, boards, tables for electrical equipment	0,53%
16	Other product categories	58,69%

<sup>3</sup>Source: National Statistical Committee of the Republic of Belarus

Share of Belarusian products in global exports<sup>4</sup>

1	Potash fertilizers	21.1%
2	Bitumen mixtures based on natural earth pitch	17.5%
3	Paints and varnishes, other	13%
4	Straps of synthetic fibres	4.3%
5	Dairy butter	3.6%
6	Wallpaper and similar wall decor	3.4%
7	Fermented/sour dairy products	3.4%
8	Matches	3.4%
9	Wood chipboards	3.4%
10	Linen fabric	3.1%
11	Salt	2.8%
12	Wires from non-alloy steel	2.7%
13	Cheese / curd cheese	2.5%
14	Frozen/chilled beef	1.5%
15	Tractors	1%
16	Freight vehicles	0.9%

The second place is held by the IT sector (21.7%). Belarus is acknowledged as the IT leader in Eastern Europe.

Next lines are held by tourist services (10.2%) and construction services (6.1%).

Last year saw the biggest growth in the exports of advertising/marketing/exhibition services (166.3%), computer services (134.9%) and financial services (124.9%).

Exports of services<sup>4</sup>

	against January–November 2018	share in total volume
total	108.2%	100%
transportation services	102.2%	42.4%
computer services	134.9%	21.7%
tourist services	107.6%	10.2%
construction services	82.5%	7.2%
advertising/marketing/exhibition services	166.3%	3.3%
telecommunication services	103.5%	2.8%
repair/maintenance services	86.8%	2.7%
operating lease	95.3%	1.2%
intellectual property user fee	168.2%	1%
architectural/engineering and other technical services	98.3%	0.9%
financial services	124.9%	0.5%
other services	107.4%	6.1%

In 2019 Belarus exported its products to 178 countries and imported products from 202 countries.

The Republic of Belarus rapidly develops its services sector. Exports of services in January–November 2019 amounted to 8,632.4 mln USD increasing by 8.2% against January–November 2018. Exports breakthrough features transportation services as the national leader (42.4%).

<sup>4</sup> Source: National Statistical Committee of the Republic of Belarus

GDP	59,96 bln USD	Doing Business 2020 IFC & World Bank research	49 <sup>th</sup> of 190
Real GDP growth rate	101.2%	Moody's credit rating	B3 (stable)
GDP per capita	6 744 USD	Standard & Poor's long-term credit rating	B
Inflation rate	5.7%	Standard & Poor's short-term credit rating	B
Export of goods and services <sup>1</sup>	33.73 bln USD	Legatum Prosperity Index 2019	73 <sup>th</sup> of 167
Import of goods and services <sup>2</sup>	38.41 bln USD	ICT development Index 2019	32 <sup>nd</sup> of 176
Profit tax*	18%	Human Development Index 2019	0.817 (50 <sup>th</sup> of 189)
VAT*	20%	Уровень грамотности	99.7%
Personal income tax*	13%		

<sup>1</sup> in 2019

<sup>2</sup> in 2019

\* special tax rates are provided by preferential investment regimes

<sup>5</sup> Далее везде приводится курс EURO на 31.03.2020 г. (1 EURO=2.793 BYN)

# 2

## Business environment

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## 2.1. ECONOMIC ENTITIES

There are no specific requirements for foreigners who wish to start a business in Belarus. Investors, whether they are residents of the Republic of Belarus or any other country, are entitled to same legal treatment and equal rights for incorporating a business in Belarus. In order to incorporate a legal entity an applicant shall pass through a number of legal formalities including registration with the Uniform State Register of Legal Entities and Individual Entrepreneurs.

A legal entity is required to have its own name, statutory fund (to be formed, unless otherwise stipulated by law, within one year from the date of state registration, its minimal amount stipulated by law for certain forms of business), management bodies, registered office and bank account(s).

Legal entities registered in Belarus are subjects of the Belarusian law. However, agreements concluded by Belarusian companies with foreign companies may be governed by any law chosen by the parties.

The Belarusian legislation provides for the following legal forms of business entities:

- individual entrepreneur (abbreviated as IE);
- farm enterprise (peasant economy) (abbreviated as FE);
- unitary enterprise (abbreviated as UE);
- production cooperative (abbreviated as PC);
- general partnership (abbreviated as GP);
- special partnership (abbreviated as SP);
- additional-liability company (abbreviated as ALC);
- limited liability company (abbreviated as LLC);

- open/public joint-stock company (abbreviated as OJSC or PJSC);
- closed joint-stock company (abbreviated as CJSC).

Business entities may also establish representative offices and branches/affiliates.

Most of the businesses in Belarus are legal entities, organized in the form of UE, LLC, ALC, CJSC and OJSC — as those are most favourable legal forms. Only citizens of the Republic of Belarus and foreigners having a special permission to stay in the Republic of Belarus are entitled to be registered as individual entrepreneurs.

In 2019, there were 48 251 business entities registered in the Republic of Belarus — 10 813 legal entities and 37 438 individual entrepreneurs, including:

- in Brest region — 868 legal entities and 4,763 individual entrepreneurs
- in Vitebsk region — 725 legal entities and 4,291 individual entrepreneurs
- in Gomel region — 758 legal entities and 4,078 individual entrepreneurs
- in Grodno region — 687 legal entities and 4,054 individual entrepreneurs
- in Minsk region — 1,770 legal entities and 6,247 individual entrepreneurs
- in Mogilev region — 702 legal entities and 3,794 individual entrepreneurs
- in Minsk region — 5,226 legal entities and 10,992 individual entrepreneurs

National Bank, Ministry of Finance, Ministry of Justice and its Main Department \*

\*applies to local public associations/funds and law offices

### 2.1.1 Unitary enterprise

Unitary Enterprise is a commercial entity having no right of ownership to property allocated to it. The enterprise founder or the person/entity that purchased or otherwise acquired title thereto is the owner of its property. Only one individual or one legal entity can be the founder (and the wealth holder) of a unitary enterprise.

For a unitary enterprise set up by an individual the word “private” shall be used in its name.

Property of a unitary enterprise cannot be divided in contributions (shares, equity interests) and cannot be divided among employees.

The Charter is the founding document of any Unitary Enterprise. Manager (director) appointed by the owner is the managerial body of a unitary enterprise. The owner of a unitary enterprise may also act as its director.

Powers of a director of a unitary enterprise may be delegated contractually to another commercial entity (management company) or to an individual entrepreneur (executive manager) by owner’s decision.

The legislation does not stipulate a minimal amount of statutory fund for unitary enterprises. The owner determines the amount of the statutory fund independently.

A unitary enterprise is liable for its obligations with all of the property belonging to it and is not liable for obligations of its founder. Subsidiary liability for enterprise obligations will be imposed on the owner only if owner’s actions have caused economic insolvency (bankruptcy) of the enterprise.

### 2.1.2. Limited Liability Company

A Limited Liability Company is a business entity with a number

of participants not more than fifty, having a statutory fund divided into shares of certain sizes as specified by its constituent documents. A single member (either individual or legal entity) may form a Limited Liability Company as well.

The legislation stipulates one restriction for business entities founded by a single member: such that single member cannot be another business entity consisting of a single member (regardless of jurisdiction).

The legislation does not stipulate a minimal amount of statutory fund for the Limited Liability Company. The founders determine the amount of the statutory fund independently.

The Charter duly approved by the founders is the founding document of a Limited Liability Company.

A Limited Liability Company is liable for its obligations with all of the property belonging to it.

A Limited Liability Company is not liable for obligations of its participants, except in cases provided by the legislative acts or its Charter.

Participants of a Limited Liability Company are not liable for its obligations and will only bear the risks of losses pertaining to Company activities to the extent of the value of their contributions to company's statutory fund.

Those participants of a Limited Liability Company who have made their contributions not in full will be jointly and severally liable for company obligations to the extent of the unpaid part of each such participant's contribution.

Corporate structure of a Limited Liability Company comprises:

**a) General Meeting of Shareholders**

The General Meeting of Shareholders is the supreme authority of a Limited Liability Company that

takes the most important decisions on company activities. If a Limited Liability Company consists only of one participant, General Meetings of Shareholders will not be conducted, such sole participant exercising the authorities of the General Meeting of Shareholders.

**b) Board of Directors or Supervisors**

The Board of Directors (Supervisory Board) will be formed where its formation is stipulated by the company Charter.

**c) Executive Body — Sole Director or Administrative Board**

Powers of the executive body may be delegated contractually to another commercial entity (management company) or to an individual entrepreneur (executive manager) by the decision of the General Meeting of Shareholders.

**d) Inspector or Inspection Commission — is the controlling authority of the company.**

Board of Directors (Supervisory Board), Executive Body and Inspection Commission are accountable to the General Meeting of Shareholders or, in case of a company consisting of a sole participant, — to such sole participant.

**2.1.3. Additional liability company**

An Additional Liability Company is a company with a number of participants not more than fifty, having a statutory fund divided into shares of certain sizes as specified by its constituent documents. Additional Liability Companies are governed by the same rules and regulations as established by the legislation for Limited Liability Companies (with regard to founding documents, number of participants, size of statutory fund, corporate structure, etc.).

The only difference between Additional Liability Company and Limited Liability Company is that participants of an Additional Liability Company will jointly and severally bear subsidiary responsibility for any obligations of the Additional Liability Company with their property to the extent determined by the company Charter, but not less than the amount established by the legislative acts, in proportion to participants' contributions to the statutory fund of such Additional Liability Company. The Charter of the Additional Liability Company may establish a different procedure for the distribution of additional responsibility among its participants.

At present, the minimum size of subsidiary responsibility of an Additional Liability Company shall be at least equivalent to 50 basic units.

**2.1.4. Closed joint-stock company**

The number of participants in a Closed Joint Stock Company cannot be more than fifty.

The minimum amount of statutory fund of a Closed Joint Stock Company is 100 basic units.

Statutory fund is divided into a number of shares of equal nominal value.

The Charter is the founding document of a Closed Joint Stock Company.

The corporate structure of the Closed Joint Stock Company comprises the same elements as the corporate structure of the Limited Liability Company.

Shareholders are not liable for company obligations and will only bear the risks of losses pertaining to company activities to the extent of the value of their shares.

A shareholder may alienate

shares owned by it to a third party and/or to a closed group of persons designated by the Company, only upon consent of other shareholders.

A Closed Joint Stock Company is not entitled to carry out a public subscription to capital stock issued by it or in any other way offer capital stock for purchase to the general public.

#### 2.1.5. Open joint-stock company

The number of participants in an open joint-stock company is unlimited.

The minimum amount of statutory fund of an open joint-stock company is 400 basic units.

Statutory fund is divided into a number of shares of equal nominal value.

The Charter is the founding document of an open joint-stock company.

The corporate structure of an open joint-stock company comprises the same elements as the corporate structure of a limited liability company. However, formation of the Board of Directors (Supervisory Board) of an open joint-stock company is mandatory as required by Law, if the number of its shareholders is more than 50.

Shareholders are not liable for

the obligations of an open joint-stock company and will only bear the risks of losses pertaining to company activities to the extent of the value of their shares.

A shareholder may alienate its shares to general public without consent from other shareholders (with some exceptions, where a regional executive committee (or Minsk municipal committee) has the pre-emptive right to acquire ownership of stock of some open joint stock companies).

An open joint-stock company is entitled to carry out public subscriptions for shares issued by it or public sales of additional shares in a manner and upon terms as prescribed by applicable laws on securities. An open joint-stock company is also entitled to the private offering of additional shares where such additional shares are being placed at the cost of company capital and/or at the cost of shareholders' funds, and in other cases stipulated by legal acts.

#### 2.1.6. Representative offices and branches of business entities

A representative office is a subdivision of a foreign corporate entity located in the territory of the Republic of Belarus, safeguarding and representing interests of such foreign

entity and exercising other functions in accordance with legislation.

A branch is a subdivision of a corporate entity located outside its main premises and exercising all or some of its functions, including the functions of representation.

Representative offices and branches are not deemed to be 'legal entities' and they may only operate on behalf of the legal entity which created them. A representative or a branch manager shall act under the power of attorney. Property of representative offices and branches shall be accounted separately on balance sheets of the founding legal entities.

The Belarusian legislation does not allow foreign legal entities to establish branches; therefore foreign entities may only establish stand-alone structural subdivisions in the form of representative offices in the Republic of Belarus.

Procedures of conducting business through a representation office are described in detail in section 2.2 below.

#### 2.1.7. Procedures for registration as commercial entity in the Republic of Belarus

Registration of a commercial entity in the Republic of Belarus comprises the following main stages:

1. Founder(s) take a decision  
on company incorporation in the Republic of Belarus



2. Choosing business legal structure



3. Approving company name



4. Looking for premises to locate the newly created business entity  
(domicile)



5. Founders will form the management board, approve and sign constituent documents of the new  
business entity



6. Submitting documents to registration agency and state registration

7. Production of official seal  
*(optional since February 2018)*



8. Legalization of employment relations with director  
and chief accountant



9. Opening a settlement bank account



10. Mandatory post-registration activities:  
execution of electronic digital signature for reporting purposes, acquisition of an inspection log book  
and a recommendations & concerns book



*Additional stage*

11. Some lines of business may require filing of a notice of a specific type of activity.



*Additional stage for CJSCs / PJSCs*

12. Execution of an agreement on depositary and advisory services. Registration of shares with the  
authorized government body

**Declarative principle of business entity registration and notice filing of market entry**

Decree No. 7 “On developing entrepreneurial activities” was signed on November 23, 2017. It prescribes that interaction of government bodies (officers) and legal entities (entrepreneurs) shall be based on the combination of the declarative principle of state registration and notice requirement for market entry for the following types of activities:

- hotel services, temporary accommodation services;
- domestic services;
- public catering;
- passenger and luggage transportation services by motor transport (except regular transportation and transportation for own needs of legal entities or individual entrepreneurs);
- repairs and maintenance of transport vehicles;
- touristic services;
- retail trade (except retail trade in restricted or licensed goods);
- wholesale trade (except wholesale trade in restricted or licensed goods);

- manufacture of textile, garments;
- manufacture of apparel;
- manufacture of leather, leather goods, including footwear;
- wood fashioning and manufacture of woodwork and balsa wood products, except furniture;
- cropping, livestock farming and fish farming;
- manufacture of food products (except alcoholic products);
- manufacture of tare and packing materials;
- manufacture of furniture;
- manufacture of building materials and products;
- services pertaining to website development, installation (adjustment) of computers and/or software, computer failure recovery, repairs/maintenance of computer and peripherals, computer task training;
- psychological aid services.

Any business entity intending to carry out any business activity from this list shall notify the local executive body to that effect and may start the declared activity already on the next day following the day of notice (whether or not information on such

entity, its activities and property has been included into the official registers, databases / data banks, information systems and/or other required information resources). The notice may be furnished by means of:

- “all services at one place” service;
- registered mail with delivery confirmation;
- unified portal of electronic services.

The notice filed by such business entity shall contain an indication stating that respective business activities have been organized in a proper manner. The business entity may start its activities on the following day after the day of notice.

This rule is in effect since February 26, 2018.

Carrying out of a business activity not included in the above list may require a special permit/license, inclusion of information on such entity and/or its property into the official registers, databases / data banks, information systems and/or other required information resources, and other administrative procedures.

**2.1.8. Expenses on registration of commercial entities and representative offices**

Registration of a commercial entity		Registration of a representative office	
Action	Cost	Action	Cost
Legalization, translation of extract from a foreign Commercial Register into Russian and notarization of translator’s signature (where incorporator is non-resident)	1 page translation into Russian costs 6 to 27 Euros depending on the language. Notarization of translator’s signature — 6 Euros (if translated document is less than 10 pages), or 7 Euros (if translated document is more than 10 pages).	Notarization of the signature on the Representative Office Regulation	Notarization of the signature on one copy of Regulation — 6 Euros (if translated document is less than 10 pages), or 7 Euros (if translated document is more than 10 pages).

Registration of a commercial entity		Registration of a representative office	
Action	Cost	Action	Cost
Translation of personal identification document(s) into Russian and notarization of translator's signature	1 page of translation into Russian costs 6 to 27 Euros depending on the language. Notarization of translator's signature costs 6 Euros.	Legalization, translation of extract from the foreign Commercial Register into Russian and notarization of translator's signature (2 copies)	1 page of translation into Russian costs 6 to 27 Euros depending on the language. Notarization of translator's signature costs 6 Euros (if translated document is less than 10 pages), or 7 Euros (if translated document is more than 10 pages).
Legalization, translation of the power of attorney into Russian and notarization of translator's signature (in case of transfer of powers)	1 page of translation into Russian costs 6 to 27 Euros depending on the language. Notarization of translator's signature costs about 6 Euros.	Legalization, translation of extract from the foreign Commercial Register into Russian and notarization of translator's signature (2 copies)	1 page of translation into Russian costs 6 to 27 Euros depending on the language. Notarization of translator's signature costs 6 Euros (if translated document is less than 10 pages), or 7 Euros (if translated document is more than 10 pages).
Formation of business entity's statutory fund	A minimum statutory fund is not prescribed. Exceptions: for a CJSC — ca. 1,150 Euros; for a PJSC — ca. 4,605 Euros.	State duty for the permission to open a Representative Office (for 3 years)	about 2,245 Euros.
State duty for the state registration	About 11 Euros	Legalization, translation of Representative Office manager's power of attorney into Russian, notarization of translator's signature (2 copies)	1 page of translation into Russian costs 6 to 27 Euros depending on the language. Notarization of translator's signature costs 6 Euros (if translated document is less than 10 pages), or 7 Euros (if translated document is more than 10 pages).
Producing the official seal	17-20 Euros	Legalization, translation into Russian of the power of attorney in the name of the person authorized to procure the opening of the Representative Office, notarization of translator's signature (2 copies)	1 page of translation into Russian costs 6 to 27 Euros depending on the language. Notarization of translator's signature costs 6 Euros. 6 Euro (if translated document is less than 10 pages), or 7 Euros (if translated document is more than 10 pages).
		Producing the official seal	17-20 Euros

### 2.1.9. Liquidation and reorganization of legal entities

Liquidation of a legal entity may be carried out voluntarily by the decision of the company owner or company shareholders (sole shareholder), or in other cases as prescribed by law (by an economic court or by the public registering authority).

Company owner (shareholders) or management body duly authorized by the Charter will take a decision on the liquidation of the company, appoint a liquidation commission (liquidator) responsible for the implementation of all formalities associated with the liquidation process and establish liquidation procedure and terms.

It should be noted that a business entity can be in the process of winding-up for a maximum term of 9 months from the date of the decision on liquidation; however, such term may be extended to 12 months.

Business reorganization in Belarus can be performed in the form of consolidation, merger, division, separation and transformation.

#### Liquidation of a business entity in the Republic of Belarus

1. Shareholders (property owner) will adopt a decision on liquidation and appoint a liquidation committee (liquidator).



2. Notifying employees of impending dismissal due to liquidation.



3. Submitting an application for liquidation to the registration authority.  
*The registration authority will notify tax authorities, social security authorities, social / retirement insurance carriers, and industrial accidents / occupational diseases insurance carriers, and will publish liquidation particulars at the official website.*



4. Notifying the servicing bank, re-registration of bank accounts in liquidator's name.  
*Re-registration is required only where any transactions through settlement accounts are indispensable.*



5. Compiling the list of creditors. Notifying creditors of the liquidation.



6. Dismissal of employees and payroll settlement.



7. Inspections by state authorities.



8. Taking inventory of property.  
Drawing up and approval of an interim liquidation balance sheet. Furnishing the interim liquidation balance sheet to the tax authority.



9. Payments to creditors in the order of priority as established by law. Distribution of property remaining after settlements with creditors among company shareholders.



10. Taking inventory of property. Drawing up of the liquidation balance sheet. Furnishing the liquidation balance sheet to the tax authority.



11. Depositing documents pertaining to company activities in the archives.



12. Submitting documents to the registration authority for the removal of the entity from the Unified State Register of Legal Entities and Individual Entrepreneurs (USR).



13. Obtaining an extract from registration authority decision on entity removal from USR. Furnishing the extract to the servicing bank in order to close entity's bank accounts.

## 2.2. WAYS OF DOING BUSINESS FOR FOREIGN ENTITIES AND INDIVIDUALS IN THE REPUBLIC OF BELARUS

Foreign investors can choose between the two following ways of doing business in the Republic of Belarus:

a) individual entrepreneurs and legal entities:

establishment of a Belarusian legal entity in one of the above listed forms. The statutory fund of a commercial entity shall be declared in Belarusian roubles. Foreign investors are entitled to make contributions to the statutory fund in foreign currency, but by the moment of declaring the statutory fund in the corporate documents such contributions shall be recalculated in Belarusian roubles at the official rate stated on the date of their actual transfer;

b) legal entities

doing business via a permanent representative office in the territory of the Republic of Belarus.

### 2.2.1. Doing business via a permanent representative office in Belarus

Doing business via a permanent representative office in Belarus, according to the Tax Code of the Republic of Belarus, means doing business by virtue of:

- a permanent establishment through which a foreign entity is eligible to perform, either fully or partially, entrepreneurial or other activities in Belarus;
- a dependent agent (a corporate entity or an individual, operating in the name of / on behalf of a foreign entity and/or having/using foreign entity's powers to conclude contracts or negotiate essential terms thereof).

### 2.2.2. Carrying out activities via a permanent establishment in Belarus

During this time, such foreign companies are subject to tax registration according to the location of its permanent establishment in the Republic of Belarus.

The legislation of the Republic of Belarus prescribes certain periods of legal validity for permanent establishments of foreign entities in the Republic of Belarus. However, if an international treaty of the Republic of Belarus prescribes other terms; such international norm shall be applied.

As a general rule, a place of work/service delivery will be acknowledged a 'permanent establishment' under the legislation of the Republic of Belarus, where respective activities are carried out (either continuously or in total) during 180 days in any 12-month period starting or finishing in a respective tax period.

Similar norms apply to construction sites and installation sites (assembly objects) that are acknowledged as a permanent establishment of a foreign entity, where such site/object is located in the territory of the Republic of Belarus during more than 180 days in any 12-month period starting or finishing in a respective tax period.

'Construction site', 'installation object' or 'assembly object' of a foreign entity in the Republic of Belarus is a site used for the construction of new objects, reconstruction (modernization), expansion, re-engineering and/or repair of existing real estate objects (except for aircrafts and ships, inland waterways crafts and space objects), or a site used for the construction and/or installation, repair and reconstruction (modernization), expansion and/or re-engi-

neering of structures, machinery and equipment, which requires a rigid attachment to the footing or to the structural component(s) of capital structures/buildings.

In defining the period of existence of a construction site or an installation/assembly object, the following time frames are not included:

- time needed for object designing by a foreign entity outside the Republic of Belarus;
- time spent by the contractor on other construction sites and/or objects not related to the construction site/object.

### 2.2.3. Doing business via a dependent agent

A foreign entity may also operate in Belarus via a dependent agent — a Belarusian corporate entity or individual entrepreneur.

A 'dependent agent' is a legal entity or an individual operating in the name of or on behalf of a foreign entity and/or authorized to conclude contracts or negotiate essential terms of contracts.

According to the Tax Code of the Republic of Belarus, doing business via a dependent agent is recognized as operating via a permanent representative office, for the purposes of taxation. Therefore, a foreign entity operating via a dependent agent is obliged to pay taxes on profits derived in Belarus. Taxes of such foreign entities shall be paid by the agent according to the place of its tax registration.

If an agent operates within the frame of its ordinary course of business (an independent agent or an agent with independent status), it is not recognized as a permanent representative office for the purposes of taxation. 'Ordinary course of business' means operating inde-



pendently without instructions and/or control by such foreign entity, and bearing business risks for operating results by such agent (not by the foreign entity which it represents). In such cases the foreign entity will not pay the profit tax, but will pay the tax on income of foreign entities carrying out activities via a permanent representative office.

According to Belarusian law, business entities have to obtain special permits (licenses) in order to perform certain types of activities. Thus, because of this rule, agents cannot perform activities subject to licensing.

The Belarusian legislation provides that a clause stipulating the exclusivity of relations cannot be introduced into an agency contract with the participation of a Belarusian party. Any clause requiring refusal to contract with other suppliers or purchasers contradicts the Belarusian anti monopoly legislation and may be invalidated under the Belarusian law.

#### 2.2.4. Establishing a representative office in Belarus

Any foreign entity may establish its representative office in the Republic of Belarus. This does not imply any entrepreneurial activity in Belarus and as a rule is needed exclusively for the performance of representative functions and/or preparation for doing business in the Republic of Belarus. However, if any attributes of a permanent representative office are found in the activities of a foreign entity for taxation purposes (execution of works, rendering of services, selling goods, pursuant to the above requirements), such foreign entity will pay taxes in Belarus under the rules applying to entrepreneurial activities via a per-

manent representative office.

Representative offices of foreign entities are established and managed in Belarus on the basis of permits issued by local regional executive committee (or Minsk municipal committee) according to the location of such representative office.

A representative office: is not recognized as a legal entity by the Belarusian law; is not entitled to perform entrepreneurial activities.

**A representative office of a foreign noncommercial entity** can only be opened for the implementation on behalf of such foreign entity of:

- social support and protection of citizens, including improvement of financial position of the poor, social rehabilitation of the unemployed, the disabled and other persons who due to their physical or mental state or other circumstances are not able to exercise their rights and legitimate interests;
- preparation of citizens for the prevention of accidents, industrial accidents, man-made dangerous situations, natural hazards, natural or other disasters, social, ethnic and religious conflicts, and provision of support in dealing with consequences thereof, as well as to the victims of repression, refugees and internally displaced persons;
- assistance in:
  - peace, friendship and harmony among nations, prevention of social, ethnic and religious conflicts;
  - strengthening prestige of the family in the society;
  - protection of motherhood, fatherhood and childhood;
  - activities in the field of education, science, culture, art, education, personal development;
  - activity in the preventive health care and public health protection,

promotion of healthy lifestyles, improving moral and psychological condition of citizens;

- activities in the sphere of physical culture and sports;
- environmental and animal protection;
- protection and maintenance of buildings, structures, and other objects and areas of historical, cultural, religious or environmental value, and burial places;
- other socially useful activities.

In order to promote international cooperation in the field of education, including the conclusion of agreements on cooperation between educational institutions of the Republic of Belarus and foreign educational organizations, to study best practices of the Belarusian education system, to facilitate the exchange of experience and information in the field of education and science, realization of advertising and information arrangements pertaining to educational activities of foreign educational organizations, — **representative offices of foreign educational organizations** may be opened.

**A representative office of a foreign commercial entity** may be opened, unless otherwise stipulated by international treaties or legislative acts of the Republic of Belarus, only for the purposes of **preparatory and auxiliary activities** on behalf of such foreign entity, including:

- assistance in implementing international treaties of the Republic of Belarus on cooperation in economy, trade, finance, science and technology, transport, seeking opportunities for further development and improvement of such cooperation, arranging and expanding the exchange of economic, commercial, scientific and technical information;

- researching the commodities/ services market of the Republic of Belarus;
- exploring opportunities for investment in the Republic of Belarus;
- creating commercial entities with the participation of foreign investors;
- selling/booking tickets for aircraft, rail, road and sea transport;
- other socially useful activities.

## 2.3. LABOUR RELATIONS AND WORKING CONDITIONS

### 2.3.1. Information on the labour market

According to the official statistics, in 2019 the employed population was 4,330,100 people.

The number of the unemployed registered by labour, employment and social protection bodies by the end of January, 1 2020 was 8,800 people.

The level of registered unemployment in January, 1 2020 was 0.2% of the economically active population<sup>1</sup>.

### 2.3.2. Legal regulation of labour and associated relations

This sphere of relations is basically regulated by the Labour Code of the Republic of Belarus. Also, many other acts of legislation stipulate more specific issues.

According to the Labour Code, an employment contract shall be concluded in writing. Some mandatory conditions that must be included in each employment contract are also stipulated by the Labour Code.

The Ministry of Labour and Social Protection of the Republic of Belarus is the supreme state authority responsible for the public policy of labour and employment.

### 2.3.3. Schedule of work and rest

The working pattern is a manner of distribution of norms of daily and weekly working and rest hours during day, week, month and other calendar periods by the employer for the employees.

A working pattern for the employees is developed on the basis of the schedule of work applicable by the employer.

A working pattern is determined by the internal work regulations or by the operating schedule (shift schedule).

Standard working time cannot exceed 40 hours in a week. For some categories of employees reduced working time is established. Working week has 5 or 6 working days, Sunday always being a day of rest. Normally, a working day has eight working hours with one-hour lunch break. There are specific norms that regulate night work, work on weekends and holidays, labour of minors, etc.

Employers are obliged to provide all guarantees and compensations for work on weekends/holidays and during night time as stipulated for employees by the labour legislation. Any overtime work shall be paid extra.

Employees are entitled to annual and social leaves by virtue of grounds stipulated by the Labour Code of the Republic of Belarus. During such leaves an average salary (so called "vacation allowance") shall be saved for the employee calculated in a manner established by the Government of the Republic of Belarus or by another authorized body.

The minimum period of annual leave is 24 days. Labour contracts may not contain provisions aggravat-

ing employee's working conditions (as prescribed by the law), and any labour contract shall be deemed invalid, if less than 24 days of annual leave is specified by it.

The following public holidays are non-work days in Belarus:

- 1 and 2 January — New Year;
- 7 January — Orthodox Christmas;
- 8 March — Women's Day;
- according to the Orthodox calendar — Radunitsa;
- 1 May — Labour Day;
- 9 May — Victory Day;
- 3 July — Independence Day of the Republic of Belarus (the National Holiday);
- 7 November — Day of the October Revolution;
- 25 December — Catholic Christmas.

### 2.3.4. Remuneration of labour

Commercial entities and individual entrepreneurs are free to independently determine wage conditions, with due account for the complexity of work, skills of workers, working conditions and so on. At the same time, the Unified Wage Scale of the Republic of Belarus may be applied in establishing wage conditions, though its application is not obligatory. Hence, commercial entities have the right to choose any system of wage payment, either applying the Unified Wage Scale or not. Commercial entities normally pay wages to their employees on the basis of local normative legal acts adopted by such entities.

The minimum monthly wage is determined by the government (375 Belarusian roubles or ca. 130 Euros as of 01.01.2020), however, the maximum wage is not limited.

<sup>1</sup> <https://www.belstat.gov.by/ofitsialnaya-statistika/solialnaya-sfera/trud/godovye-dannye/>

Wage costs are included in production and sale expenses and are also accounted for in price calculation and taxation procedures.

The nominal accrued average wage of workers of the Republic of Belarus in 2019 amounted to 1,090.9 BYN, of which:

- Information and Communication — 3,221.2;
- Financial and insurance activities — 1,715.0;
- Professional, scientific and technical activities — 1,488.0;
- Construction — 1,235.9;
- Industry — 1,167.8;
- Transport activities, storage, postal and courier activities — 1,147.8;
- Wholesale and retail trade, car and motorcycle repair — 1,011.2;
- Real estate operations — 896.7;
- Healthcare — 876.4;
- Creation, sports, entertainment and recreation — 814.9;
- Agriculture, forestry and fisheries — 791.5;
- Services for temporary accommodation and meals — 787.9;
- Education — 767.6;
- Activities in the field of administrative and support services — 750.0.

### 2.3.5. Local acts in the sphere of labour relations

According to article 1 of the Labour Code of the Republic of Belarus, local normative legal acts are collective contracts, agreements, internal labour regulations and other normative acts of a particular employer, adopted according to the established procedure and regulating labour and

associated relations. Hence, it can be concluded that local normative legal acts regulate relations among employees and relations between employees and the employer.

For example, local normative legal acts regulating labour routine are provided for in the art. 194 of the Labour Code:

- rules for internal labour order, collective contracts/agreements, internal labour regulations and other local normative legal acts;
- staff schedules;
- employees' job descriptions;
- work schedules (shift schedules);
- leave schedules.

According to the labour legislation and other laws of the Republic of Belarus, business entities (irrespective of types of performed activities) shall maintain labour protection documentation.

Labour legislation establishes that local normative legal acts shall not aggravate employees' work conditions as prescribed by labour laws and other laws of the Republic of Belarus regulating relations in the social/labour sphere.

In order to comply with legislative requirements and avoid conflicts with employees, each employer shall always thoroughly elaborate all aspects of labour and associated relations by means of preparing and approving respective corporate normative acts.

## 2.4. LABOUR MIGRATION

### 2.4.1. Entry into the territory of the Republic of Belarus for labour activities

As a general rule, foreigners may enter the territory of Belarus only after obtaining a visa of the Republic of Belarus.

There is no requirement for obtaining employment visas for citizens of Azerbaijan, Armenia, Georgia, Kazakhstan, Kyrgyzstan, Russian Federation, Moldova, Uzbekistan, Tajikistan, Turkmenistan, Ukraine and Ecuador.

Visa-free entry is also provided for citizens of Argentine, Brazil, Venezuela, Cuba, Serbia, Israel, Qatar, Macedonia, Mongolia, United Arab Emirates, Turkey, Montenegro, and Macao Special Administrative Region. However, if citizens of these countries are planning to carry out labour, commercial or other income-generating activities in the Republic of Belarus, they are obliged to obtain a visa in advance.

Also, citizens of 74 states, as listed in the annex to Presidential Edict No. 8 dated 9 January, 2017, are entitled to visa-free entry/departure in/from Belarus at the Minsk National Airport border station for not more than 30 days (without any additional registration with Belarusian migration authorities). Almost all EU countries, USA, Japan and other states are on the list. These measures are targeted at spurring travels by foreign businessmen, investors, tourists and individuals to Belarus.

All foreigners arriving in Belarus shall within five days (exclusively of Sundays and public holidays) register themselves at a local registration authority, according to their place of stay, or at the single electronic services portal [portal.gov.by](http://portal.gov.by). When accommodating themselves in a hotel,

<sup>2</sup> <https://www.belstat.gov.by/ofitsialnaya-statistika/realny-sector-ekonomiki/stoimost-rabochey-sily/graficheskiy-material-grafiki-diagrammy/nominalnaya-nachislennaya-srednyaya-zarabotnaya-plata-rabotnikov-respubliki-belarus-po-otdelnym-vidam/>

hostel, health spa or other collective place of residence, foreigners are registered by administrative bodies of such institutions by default during check-in procedure.

As from March 28, 2018 the following categories of persons are entitled to visa-free entry in Belarus (using special entry procedure):

- persons engaged by Hi-Tech Park residents for labour activities under labour contracts
- persons who are wealth holders, founders, participants/shareholders of Hi-Tech Park residents and their employees

The same procedure applies to the residents of the Great Stone industrial park.

In order to perform labour activities in the Republic of Belarus a foreigner may obtain one of the following types of entry visas:

#### 1. C (short-term “employment” visa).

This type of entry visa is issued on the basis of one of the following documents:

- a copy of a special permit for labour activity in the Republic of Belarus for a foreign citizen or a stateless person notarized by a public notary of the Republic of Belarus (hereinafter — the special permit);
- a notification made by a local citizenship and migration office of issuing a special permit to a foreigner delivered to a foreign establishment through the channels of departmental electronic mail of the Ministry of Foreign Affairs (hereinafter — the MFA).

#### 2. D (long-term “employment” visa).

This type of visa is issued to citizens of migration-friendly states on the basis of an original petition of a

Belarusian legal entity or of a representative office of a foreign company in the Republic of Belarus (including banks) and one of the following documents:

- a copy of the special permit certified by a Belarusian notary;
- a notification made by a local citizenship and migration office of issuing a special employment permit to a foreigner delivered to a foreign establishment through the channels of departmental electronic mail of the MFA.

However, a foreigner can enter Belarus having any other visa, but then such foreigner must obtain a multiple exit-entry visa from a local citizenship and migration office (providing such foreigner has a temporary residence permit).

In some cases, foreigners may obtain a long-term type D visa (business contacts). This kind of visa is issued to maintain business relations on the basis of an agreement between a Belarusian legal entity and a foreigner or its foreign employer which confirms actual existence of stable business relations of such parties. This visa may also be obtained by foreign nationals working on the staff of a representative office of a foreign organization.

Visas are issued by diplomatic missions and consular offices of the Republic of Belarus. Multiple exit-entry visas are issued by local citizenship and migration offices according to the place of foreigner’s residence in Belarus.

Citizens of states having no diplomatic missions or consular offices of the Republic of Belarus shall apply for visa to the General Consular Department of the Ministry of Foreign Affairs of the Republic of Belarus and border control authorities of the Republic of Belarus.

#### 2.4.2. Stay in the territory of the Republic of Belarus

All foreigners arriving in Belarus must get registered according to their actual place of residence at the local body of internal affairs within 5 calendar days (exclusively of Sundays and holidays).

International agreements of the Republic of Belarus can provide longer terms of stay in the Republic of Belarus without registration in the internal affairs bodies for certain categories of foreigners.

For example, citizens of Lithuania, Latvia, Ukraine and the Republic of Kazakhstan may stay in the territory of the Republic of Belarus without registration for 30 days from the day of entry, and citizens of the Russian Federation — for 90 days from the day of entry. Citizens of the Republic of Armenia and the Kyrgyz Republic and members of their families may also stay in the Republic of Belarus without registration for 30 days from the date of entry, provided they conclude a labour or a civil contract within 5 days from the date of entry. If they stay in the territory of Belarus for more than 30 days, they have to register according to their place of residence at the local internal affairs body according to the standard procedure.

Foreigners can stay temporarily, reside temporarily or reside permanently in the territory of the Republic of Belarus.

All foreigners in the territory of Belarus having no permission for temporary or permanent residence are subject to the rules of the Temporary Stay Regime in Belarus. The total term of foreigner’s temporary stay in the Republic of Belarus depends on the validity term of his/her visa and cannot exceed 90 days in a year.

International agreements of the Republic of Belarus may provide longer terms of temporary stay in the Republic of Belarus without obtaining permission for temporary or permanent residence for certain categories of foreigners.

If a foreigner intends to stay in Belarus for more than 90 days in a year (or longer than for the term determined by the international agreement), such foreigner will have to obtain permission for temporary or permanent residence.

A permission for temporary residence is issued to foreigners who have entered Belarus for certain purposes, including labour, business or other activities. Decisions on granting such permission will be made by the local internal affairs body according to such foreigner's place of stay.

A permission for permanent residence gives a foreigner the right to permanent residence in the Republic of Belarus. It is issued by the Ministry of Internal Affairs and by other internal affairs bodies only for certain categories of foreigners determined by the legislation of the Republic of Belarus.

#### 2.4.3. Permission for labour activity

Foreigners having no permission for permanent residence in the territory of the Republic of Belarus have the right to labour activity once they have obtained the special employment permit and have concluded a labour contract.

A labour contract concluded with a foreign citizen having no permission for permanent residence in the Republic of Belarus must contain additional conditions, such as: procedures and grounds pertaining to termination, amendment and pro-

longation of the labour contract in accordance with the requirements of migration laws; conditions of resettlement to the Republic of Belarus, medical service, catering and lodging in the Republic of Belarus. Labour contract shall be concluded in written form in the Russian and/or Belarusian language. Where a migrant employee lacks knowledge of Russian or Belarusian language, labour contract shall also be concluded in his/her native language or another language known to such migrant employee.

Special permit is granted to employers in respect of their foreign employees for one year. Special permits will be granted for two years period to highly skilled workers. Those are foreign employees that are simultaneously conforming to the two following conditions:

- they have a high level of professional knowledge, skills and expertise, confirmed by academic credentials and employment experience in the same occupation of at least 5 years;
- their monthly remuneration shall exceed the fifteen fold amount of the minimum monthly emolument as set out in the Republic of Belarus.

There is no need to receive special permit for foreigners who:

1. have a permission for permanent residence in the Republic of Belarus;
2. are being employed according to another procedure provided for by an international agreement of the Republic of Belarus (for example, citizens of the Russian Federation, the Republic of Kazakhstan, the Republic of Armenia, the Kyrgyz Republic that are excluded from the regulation on intake and usage of foreign labour force);
3. are employed as chief execu-

tives of foreign entities' representative offices;

4. graduate from a higher education institution in the Republic of Belarus and are immediately employed according to their degree and qualification;

5. have graduated from a higher education institution in the Republic of Belarus and are employed according to their degree and qualification within one year upon their graduation and award of qualification;

6. are employed by a Hi-Tech Park resident;

7. are winners (awardees) of national/international competitions;

8. have been specially acknowledged for their professional activities.

Foreign citizens having no permission for permanent residence in the Republic of Belarus can seek employment by themselves or with the assistance of legal entities, individual entrepreneurs or foreign organizations that render recruitment services. However, citizens of Belarus and foreign citizens permanently residing in Belarus have the priority right of employment.

A Belarusian entity that employs more than 10 foreigners having no permission for permanent residence in the Republic of Belarus must obtain a permission for employment of foreign labour force. However, this limit number does not include:

- foreigners who are highly skilled workers
- foreigners engaged as chief executives of entities created with their participation (as property owner, founder or participant)
- foreigners who are winners (awardees) of national/international competitions
- foreigners who have been specially acknowledged for their profes-

sional activities

- foreigners who are employed by a Hi-Tech Park resident

#### 2.4.4. Responsibility for violation of migration legislation

The Republic of Belarus has established administrative responsibility for the violation of legislation regulating foreign workforce intake, in particular in regard to:

- chief executives of legal entities and individual entrepreneurs who engage foreign labour force with violation of the established procedure — a warning or a fine in the amount of up to 20 basic units;
- chief executives of legal entities and individual entrepreneurs who engage foreigners for work purposes without procuring their timely registration, receipt of permissions for temporary residence in the Republic of Belarus, exit of such individuals from the Republic of Belarus after the expiration of terms for their stay — a warning or a fine in the amount of up to 20 basic units;
- foreign citizens who have violated the order of staying in the territory of the Republic of Belarus, including those who have violated the established order of registration — a warning or a fine in the amount of up to 50 basic units or deportation;
- foreigners working without a special employment permit in the Republic of Belarus — a warning or a fine in the amount of up to 50 basic units or deportation.

## 2.5. LICENSING

Individuals and business entities have to obtain special permits (licenses) in order to carry out certain types of activities. Licensing in the Republic of Belarus is regulated by Edict of the President of the Re-

public of Belarus of 01.09.2010 No. 450 “On Licensing of Certain Types of Activities”.

At present, licensed types of activities are as follows:

- Advocatory activity;
- Banking activity;
- Veterinary activity;
- Activity in the field of automobile transport;
- Activity in the field of usage of atomic energy and sources of ionizing radiation;
- Activity in the field of industrial safety;
- Activity in the field of telecommunication;
- Gambling activity;
- Procurement (purchase) of junk and refuses of ferrous and non-ferrous metals;
- Control of fire safety;
- Design and production of forms of securities and documents with a certain degree of protection, as well as documents with a certain degree of protection and special materials for their protection against forgery;
- Technical and cryptographic security of information;
- Activity connected with environmental impact;
- Activity connected with precious metals and precious stones;
- Activity connected with cryptographic security of information and means of clandestine acquisition of information;
- Turnover of narcotic substances, psychotropic drugs and their precursors;
- Activity connected with health improvement of children abroad;
- Activity connected with employment of citizens abroad, gathering and distribution (including via the Internet worldwide computer network) of data on individuals with purpose

of their acquaintance;

- Activity connected with military products;
- Activity connected with manufacture of alcohol, non-food alcohol-containing products, non-food ethanol and tobacco products;
- Activity connected with service and civilian weapons and ammunition, collecting and exhibition of weapons and ammunition;
- Medical activity;
- Educational activity;
- Rendering of legal services;
- Wholesale and retail trade in oil products;
- Wholesale trade and storage of alcohol, non-food alcohol-containing products, non-food ethanol and tobacco products;
- Security guard activity;
- Polygraphic activity;
- Professional and exchange activities with securities;
- Retail trade in alcoholic drinks and/or tobacco products;
- Insurance activity;
- Pharmaceutical activity.

Licenses are issued to legal entities and individual entrepreneurs of the Republic of Belarus, foreign legal entities and organizations established in accordance with laws of foreign states, provided they have a representative office in the Republic of Belarus duly established according to the law, and also to individuals (for carrying out advocatory activity and collecting and exhibition of weapons and ammunition). Some licensable activities may only be carried out by Belarusian legal entities or by Belarusian and/or foreign legal entities, but not by individual entrepreneurs.

In order to obtain a license an applicant shall submit an application attaching related documents to the state licensing authority and pay a

state fee that normally amounts to 10 to 2.200 basic units. In 2020, a basic unit amounts to 27 Belarusian roubles.

Such application will be reviewed by the licensing body within 15 working days from the day of receipt of documents. This term may be prolonged for the period of evaluation and/or examination of compliance of applicant's capabilities with license requirements and conditions, but no longer than for 10 working days.

A license is valid from the effective date of decision on its issuance made by the licensing authority. A license is valid in the whole territory of the Republic of Belarus — or its part indicated in such license, if the legislation specifies that a license on a corresponding type of activities shall be valid in a certain part of the territory of the Republic of Belarus indicated in such license (e.g., activity in the field of telecommunications). The type of activities for which a license is issued may be carried out only by the license holder. Transferring the right to carry out such activities to another legal entity or individual is prohibited.

Standalone subdivisions of legal entities may carry out a licensed type of activity under a license issued to their parent entity.

As from July 1, 2020, a license may be verified by means of a request to the Unified License Register (hereinafter — the Register) sent via the Internet network from the unified electronic services web-portal of the National Computer-Based Information System. For all licenses issued after July 1, 2020, the date of their registration in the Register is deemed to be the date of licensing.

Entrepreneurial activities carried out without a license (where licensing is obligatory) or with violation of rules and conditions indicated in the license may entail administrative liability. Same entrepreneurial activities involving realization of profit on a large scale may entail criminal liability.

## 2.6. REPUBLIC OF BELARUS AS PART OF THE EURASIAN ECONOMIC UNION

### General information about the Eurasian Economic Union

On January 1, 2015, the Eurasian Economic Union (hereinafter — the EAEU) started functioning. The Republic of Belarus, the Russian Federation, the Republic of Kazakhstan, the Republic of Armenia, and the Kyrgyz Republic are EAEU member-states.

The overall volume of EAEU member states' foreign trade in goods with non-EAEU countries in January — December 2019 amounted to 733.1 bln USD, including exports worth 459.3 bln USD and imports worth 273.8 bln USD. As compared with the same period of 2018, foreign trade volume decreased by 2.7%, that is by 20.7 bln USD, exports decreasing by 6.4% (31.4 bln USD), while imports increasing by 4.1% (by 10.7 bln USD). Foreign trade surplus amounted to 185.5 bln USD against 227.6 bln USD in January — December 2018. Volumes of EAEU member states' foreign trade in goods with non-EAEU countries in January — December 2019 are shown in Table 1.

### EAEU member states' foreign trade in goods with non-EAEU countries in January — December 2019

(mln,USD)

	Turnover	Exports	Imports	Balance	In % against January — December 2018		
					turnover	exports	imports
EAEU including:	733,140.1	459,343.4	273,796.7	185,546.7	97.3,,	93.6	104.1
Armenia	5,701.7	1,879.4	3,822.3	-1,942.9	108.4,	109.0,	108.1
Belarus	35,572.4	18,393.1	17,179.3	1,213.8	99.7	92.1	109.5
Kazakhstan	74,783.6	51,405.7	23,377.9	28,027.8	100.2	93.4	119.5
Kyrgyzstan	4,232.6	1,344.4	2,888.2	-1,543.8	97.8	112.4	92.3
Russia	612,849.8	386,320.8	226,529.0	159,791.8	96.7	93.6	102.4

The pattern of EAEU member states' commodity exports to third countries is dominated by mineral commodities (65.8% of overall EAEU exports), metals and metalware (8.8%), chemical products (5.8%). About 80% of these commodities are sold in the external market by Russian Federation. Imports are dominated by machines, equipment and vehicles (44.4% of overall imports), chemical products (19.1%), food products and agricultural raw materials (11.1%). Over 80% of these purchases of products from abroad of the EAEU is made by Russian Federation.

2019 saw a decrease of Belarusian exports, as compared to January — December 2018, by 7.9% due to a decline in supplies of mineral products by 19.1% (37.1% of overall Belarusian exports to third countries), of chemical products by 5.1% (22.9%), of machines, equipment and vehicles by 3.7% (8%), of metals and metalware by 5.4% (7.4%). However, there was an increase of exports of timber and pulp-and-paper products by 6.7% (7.1%).

Belarusian imports grew by 9.5% against the level of January — December 2018. Purchases of machines, equipment and vehicles increased by 11.6% (36.1% of overall Belarusian imports from third countries), of food products and agricultural raw materials — by 1.9% (18.1%), of chemical products — by 5.6% (17.5%), of textile, textile products and footwear — by 6.6% (8.5%), of metals and metalware — by 7.7% (7.3%).

Most EAEU's export products are bought by the European Union (48.7% of total exports). Among European countries, the most active buyers include Netherlands (10.9%), Germany (6.5%), Italy (5%) and Great Britain (3.7%). APEC countries bought

27.7% of exported goods, including China — 14.3%, South Korea — 4.2% and United States of America — 3.1%. CIS countries bought 5.3% South Korea.

#### EAEU's legal regime

EAEU is an international organisation for regional economic integration founded on the basis of the Customs Union and the Common Economic Space of the Republic of Belarus, the Russian Federation and the Republic of Kazakhstan, with the aim of creating a single market of goods, services, capital assets and labour supplies within the EAEU.

EAEU Treaty was signed by the Republic of Belarus, the Russian Federation and the Republic of Kazakhstan on May 29, 2014. The Republic of Armenia and the Kyrgyz Republic became full EAEU members in 2015.

Main EAEU's goals are as follows:

- procuring stable economic development of member states in order to increase their living standards;
- ambition to form a single market of goods, services, capital assets and labour supplies within the EAEU;
- in-depth modernization, cooperation and competitive growth of national economies in the context of global economy.

The EAEU is headed by the Supreme Eurasian Economic Council (hereinafter — the Supreme Council) comprising heads of EAEU member states.

At the level of heads of governments of EAEU member states, the Eurasian Intergovernmental Council (hereinafter — the Intergovernmental Council) is functioning. It conducts its meetings on an as-needed basis, however at least twice a year.

The Eurasian Economic Committee (hereinafter — the EEC) is the

sole permanent regulating body of the EAEU. Its legal status has been defined by Appendix 1 to the EAEU Treaty.

EAEU's judicial functions are discharged by the EAEU Court. It is a permanent body located in Minsk, Republic of Belarus. Its competence comprises disputes concerning the implementation of the EAEU Treaty, international instruments in the context of the EAEU and/or decisions of EAEU bodies upon application of EAEU member states or economic entities, on grounds established by clause 39 of the EAEU Court Charter (Appendix 2 to the EAEU Treaty).

EAEU's regulatory and legal framework comprises:

- the EAEU Treaty;
- international instruments in the context of the EAEU;
- decisions of the Supreme Council, Intergovernmental Council, EEC.

Any issues not regulated by the above acts are subject to national legislation.

The EAEU Customs Code is effective as from January 1, 2018, after three years of preparatory work. This document aims at laying the groundwork for the transition to the unified customs regulations within the EAEU. The EAEU Customs Code supersedes the Customs Code of the Customs Union adopted in 2009.

#### Tariff regulation in the Eurasian Economic Union

Tariff regulation of commodity imports is exercised in accordance with subsection 2, section IX of the EAEU Treaty, the Protocol on the Common Customs Tariff Regulation (Annex 6 to the EAEU Treaty), the Protocol on the remittance and distribution of import customs duties (other duties, taxes and levies having equivalent applica-



tion) and their transfer to the budgets of member-states (Annex 5 to the EAEU Treaty).

### Import customs duties

The EAEU Uniform Customs Tariff (hereinafter — the UCT) is applied in the territory of the EAEU as approved by the EEC.

The UCT is a list of rates of customs duties to be used with respect to goods imported from third countries, systemized in accordance with the EAEU Uniform Foreign Economic Activity Commodity Nomenclature (FEACN). The existing FEACN and UCT were approved by decision No. 54 of the EEC Council dated July 16, 2012 and underwent over 150 amendments since.

Rates of the UCT import customs duties are unified and are normally not subject to changes due to various types of entities transporting goods through the customs border, types of deals and other conditions.

The sums of payable import customs duties are apportioned pursuant to the following standards:

- Republic of Armenia — 1,22%;
- Republic of Belarus — 4,56%;
- Republic of Kazakhstan — 7,055%;
- Kyrgyz Republic — 1,9%;
- Russian Federation — 85,265%.

### Export customs duties

With regard to export customs duties, EAEU member-states apply the Agreement on Export Customs Duties With Regard To Third Countries dated January 25, 2008.

EAEU member countries may establish export customs duties to be applied if goods are exported from the territory of a certain state or where the fact of unlawful goods transportation across the EAEU customs border has been revealed in

the territory of such state.

As of January 1, 2018 the Republic of Belarus has established export customs duties on the following goods:

- potash fertilizers;
- timber;
- rawhide;
- rape seeds;
- crude oil and some goods produced from oil.

However, at present a unified procedure for the payment and distribution of export customs duties between EAEU member-states has not been arranged yet.

### Tariff preferences applied by EAEU member-states

The Protocol on the Unified Customs Tariff Regulation (Annex 6 to the EAEU Treaty) stipulates that any tariff benefits in the form of exemption from import customs duties shall be granted with regard to the following goods imported into the EAEU customs territory from third states:

1) goods imported as foreign founder's contribution to the authorized capital in order to form the authorized capital, within the time frames as defined by the constitutive documents;

2) goods imported within the terms of international cooperation in cosmic research including provision of services for space launching in compliance with the list defined by the Commission;

3) products of sea fishing vessels of member-states and sea fishing vessels leased (chartered) by legal entities and/or private individuals of member-states;

4) currency of member-states, currency of third states (except for currency used for numismatic purposes) and securities, according to the legislation of the member-states;

5) goods imported as humanitarian aid and/or for control of natural calamities, accidents or catastrophes;

6) goods, except for excise goods (but for motor cars dedicated for medical purposes), imported through any third countries, international organizations or governments for charitable purposes and/or acknowledged in accordance with the member-states' legislation as gratuitous aid (support), including technical assistance (support).

The legislation of the Republic of Belarus specifies the following tariff preferences:

1. In accordance with Edict of the President of the Republic of Belarus No. 6 of 07.05.2012 "On encouragement of entrepreneurial activity in medium-sized/small urban and rural areas", business entities registered in the territory of small towns and rural areas are exempt from import customs duties for certain types of goods imported in the territory of the Republic of Belarus as non-monetary contribution to the authorized capital of such entities, provided not more than 5 years have passed from their production date. Goods which are subject to exemption from customs duties for the purpose of charter capital formation include various types of equipment, ships and other goods.

2. In accordance with Edict of the President of the Republic of Belarus No. 5 of 31.08.2015 "On foreign gratuitous aid", foreign gratuitous aid received by legal entities and individual entrepreneurs for certain purposes (scientific research, preservation of historical and cultural heritage, development of cinematography, music, theatre and other arts, health-care and other purposes) shall be, as per decision of the Presidential Property Management Department by agreement with the President

of the Republic of Belarus, exempt from customs duties and customs fees, VAT, excise duties, income tax, tax under the simplified tax system, single tax for agricultural producers and personal income tax.

3. Pursuant to Decision No. 9 of the EEC Council of 19.03.2012, any goods imported into the customs territory of the Customs Union for the purposes of construction and operation (within the warranty period) of the Belarusian nuclear power station shall be exempt from customs duties, provided the state institution "Directorate of the Nuclear Power Station Construction" has confirmed to the tax authority that such imported goods are intended for such purposes.

4. Decision of the Customs Union Committee No. 727 of 22.06.2011 established a list of goods which may be imported into the territory of the Customs Union as part of international cooperation in the sphere of space investigation, in particular for space launching services, which shall be exempt from customs fees and duties.

5. Pursuant to cl. 7.1.11 of Decision No. 130 of the Customs Union Committee of 27.11.2009, processing equipment, its components and spare parts, raw and other materials imported exclusively for use in the territory of a member-state of the Customs Union under an investment project falling under a priority activity (economy sector) shall be exempt from customs fees and duties.

At the national scale, the mentioned preferential procedure has been stipulated by the following main regulatory legal acts:

5.1. Edict of the President of the Republic of Belarus No. 10 of 06.08.2009 "On creation of additional incentives for investment in

the Republic of Belarus" stipulates that during the term of an investment agreement investors shall be entitled to exemption from import customs duties and VAT (otherwise imposed by customs authorities) with respect to production equipment, its components and spare parts imported into the territory of the Republic of Belarus for exclusive use in the territory of the Republic of Belarus under an investment project.

5.2. Edict of the President of the Republic of Belarus No. 12 of 22.09.2005 "On the High Tech Park" stipulates that residents of the High Tech Park shall be exempt from import customs duties and VAT imposed by the customs authorities on production equipment, its components and/or spare parts imported into the territory of the Republic of Belarus for exclusive use in the territory of the Republic of Belarus under certain types of investment projects as stipulated by High Tech Park Regulations.

5.3. Edict of the President of the Republic of Belarus No. 326 of 30.06.2014 "On the activities of the China-Belarus "Great Stone" Industrial Park" stipulates that goods (production equipment, its components and spare parts, raw and other materials) imported into the territory of the Republic of Belarus for exclusive use in the territory of the Republic of Belarus under investment projects of the China-Belarus Industrial Park, including construction and equipping of Park facilities, shall be exempt from import customs duties (with due account for international obligations of the Republic of Belarus) and VAT otherwise imposed by customs authorities.

### 2.6.1. Unified non-tariff regulation measures in the EAEU

Non-tariff regulation measures are a set of measures designed to regulate foreign trade and implying introducing a number of quantitative and other economic restrictions.

The following non-tariff regulation measures are allowed within the EAEU territory:

- import ban and/or export ban;
- quantitative restrictions on import and/or export;
- exclusive right to export and/or import;
- automatic licensing (supervision) of export and/or import;
- authorization-based procedure for import and/or export.

Non-tariff regulation measures are introduced and applied on the basis of transparency and non-discrimination in the manner prescribed by Annex 7 to the EAEU Treaty.

### Quantitative restrictions of exports and/or imports

Within the territory of the EAEU, quantitative restrictions may be applied in the form of export and import quotas.

A decision to apply quotas will be made by the EEC. The EEC will then apportion the volumes of quotas among EAEU member-states and determine a method of quota apportioning among EAEU's foreign economic activity subjects. If necessary, the EEC will apportion some volume of an import quota among third countries.

The goods subject to export quotas must be included in the list of essential goods for the EAEU internal market. Such list has been established by Decision of the EEC No. 168 dated 27.01.2010 "On supporting the unified system of tariff regulation of the Customs Union of Belarus, Kazakhstan and the Russian Federation".

Export and import quotas are established for a definite period of time.

Quantitative restrictions do not apply to:

- import of goods originated from a third country, or export of goods intended for a third country, — unless such quantitative restriction applies to imports from all third countries or exports to any third country;
- trading in goods under international treaties pertaining to free trade zones.

#### Exclusive right to export and/or import

The list of goods to be exported/imported on the basis of an exclusive right and the list of participants of foreign economic activities entitled to an exclusive right to export/import certain types of goods, are established by the EEC and are published on the official EAEU website in the Internet (<http://www.eaeunion.org/>). At present, the list of such goods is fixed in Decision of the Board of the Eurasian Economic Commission No. 134 dated 16.08.2012 "On regulatory legal acts in the sphere of non-tariff regulation".

At present, in Belarus only the government has the exclusive right to import alcoholic beverages, raw tobacco and tobacco products.

Also, the Belarusian government has the exclusive right to export mineral, potassium and chemical fertilizers.

#### Automatic licensing (supervision)

This is a temporary arrangement established in order to monitor the dynamics of exports and/or imports of certain goods. The list of goods and the duration of such arrangements are established by the EEC.

Export and/or import of goods

subject to automatic licensing (supervision) is carried out under special permits issued by the competent authority, in a manner determined by the EEC.

Such permits are issued pursuant to the Annex to the Protocol on non-tariff regulation measures in respect of third countries.

#### Authorization-based procedure for import and/or export of goods

An authorization-based procedure implies introduction of licensing or other administrative measures regulating foreign trade. Introduction, application and abolishment of the authorization-based procedure are subject to EEC decisions.

Licenses are issued in accordance with the Annex to the Protocol on non-tariff regulation measures in respect of third countries.

#### Types of licenses:

Single-use license (valid for no longer than 1 year after issuance (can be limited by the validity period of a foreign trade contract or the expiry date of the document supporting such license)).

General license (valid for no longer than 1 year after issuance, and for goods subject to quantitative restrictions the validity term shall expire in the calendar year to which the quota applies, unless otherwise stipulated by an EEC decision).

Exclusive license (effective term is determined by an EEC decision in each particular case).

The Ministry of Antitrust Regulation and Trade of the Republic of Belarus is authorized to issue licenses for the exports and/or imports of goods included in:

The unified list of goods subject to non-tariff regulation policies pertain-

ing to trade with third countries and the guidelines on importing and/or exporting such goods.

The unified list of goods subject to prohibitions/restrictions on exports/imports with respect to EAEU Customs Union member states pertaining to trade with third countries and the guidelines on the application of such prohibitions/restrictions.

#### 2.6.2. Indirect taxation

Indirect taxation in the EAEU is regulated by articles 71 and 72 of the EAEU Treaty and the Protocol on applying indirect taxes and payment mechanisms for commodity export and import, performance of work and provision of services (Annex 18 to the EAEU Treaty).

##### Indirect taxation of commodity export

0% VAT and/or exemption from excises are applied for commodity export if the exporter has duly submitted to the tax authority the documents as specified in paragraph 4 of the Protocol on applying indirect taxes and payment mechanisms for commodity export and import, performance of work and provision of services (Annex 18 to the EAEU Treaty).

The term for submission of these documents is 180 calendar days from the date of delivery (shipping) of the goods.

##### Indirect taxation of commodity import

Where any goods are imported into the territory of an EAEU member-state from the territory of another EAEU member-state, indirect taxes are collected by a tax authority of the importing country.

Rates of indirect taxes are determined in accordance with the legisla-

tion of the importing country.

Indirect taxes are not levied from goods imported into the territory of an EAEU member-state in the following cases:

- in respect of goods which according to the legislation of such member-state are not taxable (exempt from tax) when imported;
- in respect of goods imported into the territory of such member-state by individuals not for business purposes;
- in respect of goods imported into the territory of one member-state from the territory of another member-state in connection with their transfer within the same legal entity (legislation of a member-state can establish an obligation to notify the tax authorities about the import (export) of such goods).

#### Indirect taxation of performance of works, provision of services

As a general rule, performance of works and/or provision of services are subject to indirect taxes in the EAEU member-state that is acknowledged as the place of such performance/provision.

Tax rates, taxable base, tax collection procedure and tax privileges (tax exemption) pertaining to the performance of works and/or provision of services are determined according to the laws of the EAEU member-state acknowledged as the place of such performance.

#### 2.6.3. Supervision over safety and quality of goods in the EAEU

Supervision over safety and quality of goods within the territory of the EAEU means registration, testing and confirmation of conformity (declaration/certification of products), examination, registration of product safety,

veterinary control, quarantine control and phytosanitary control.

#### Certification (declaration of conformity)

A unified list of products subject to mandatory conformity assessment (followed by issue of conformity certificates and conformity declarations under a common format for technical regulatory acts) is applicable in the territory of the EAEU. Assessment and confirmation of conformity will be carried out by the following authorities and in the following forms:

- product testing: in a certified laboratory (research centre) included in the uniform register of EAEU conformity assessment authorities;
- certification (declaration of conformity): by a conformity assessment authority included in the uniform register of EAEU conformity assessment authorities.

The certificate (declaration of conformity) will be compiled according to the common EAEU format. There is no requirement on a specific country of product testing or certification procedure. For instance, a Belarusian manufacturer may undergo certification in Russia or Kazakhstan, and then use the certificate in Belarus.

Uniform certificates (declarations of conformity) are valid in the entire EAEU territory and will be accepted without any requirements on reissuance or any additional procedures. Moreover, these certificates may be issued not only in respect of products manufactured in the EAEU, but also in respect of products imported from third countries.

In Belarus, mandatory conformity assessment applies only to conformity assessment objects which are subject to EAEU technical guidelines or internal technical guidelines.

At present, uniform EAEU certi-

fication does not cover all types of goods. Currently, the EAEU is in the process of unification of its technical regulatory acts: Technical Rules are being developed aimed at establishing common uniform requirements for all EAEU member-states.

As of January 2020, the EAEU has adopted 48 Technical Rules:

- On the safety of railway rolling stock (TP TC 001/2011)
- On the safety of high-speed railway transport (TP TC 002/2011)
- On the safety of railway transport infrastructure (TP TC 003/2011)
- On the safety of low voltage equipment (TP TC 004/2011)
- On the safety of packages (TP TC 005/2011)
- On the safety of fireworks (TP TC 006/2011)
- On the safety of products for children and teenagers (TP TC 007/2011)
- On the safety of toys (TP TC 008/2011)
- On the safety of perfumes and cosmetics (TP TC 009/2011)
- On the safety of machines and equipment (TP TC 010/2011)
- On the safety of lifts (TP TC 011/2011)
- On the safety of equipment designed for explosive atmospheres (TP TC 012/2011)
- On requirements to automobile and aviation gasoline, diesel and marine fuel, jet fuel and residual fuel oil (TP TC 013/2011)
- On the safety of motor roads (TP TC 014/2011)
- On the safety of grain (TP TC 015/2011)
- On the safety of gas-fired mechanisms (TP TC 016/2011)
- On the safety of light industry products (TP TC 017/2011)
- On the safety of wheeled transport (TP TC 018/2011)

- On the safety of personal protective gear (TP TC 019/2011)
  - Electromagnetic compatibility of technical facilities (TP TC 020/2011)
  - On the safety of food products (TP TC 021/2011)
    - Marking of food products (TP TC 022/2011)
    - Technical regulation for juice products from fruits and vegetables (TP TC 023/2011)
      - Technical regulation for fat-and-oil products (TP TC 024/2011)
      - On the safety of furniture (TP TC 025/2012)
      - On the safety of small vessels (TP TC 026/2012)
      - On the safety of certain types of specialized food products, including dietary medical and dietary preventive food (TP TC 027/2012)
      - On the safety of explosives and similar products (TP TC 028/2012)
        - On the safety of food additives, flavorings, and processing aids (TP TC 028/2012)
        - On requirements for lubricants, oils and special fluids (TP TC 030/2012)
        - On the safety of agricultural and forestry tractors and trailers (TP TC 031/2012)
        - On the safety of high pressure equipment (TP TC 032/2013)
          - On the safety of milk and milk products (TP TC 033/2013)
          - On the safety of meat and meat products (TP TC 034/2013)
            - Technical regulation for tobacco products (TP TC 035/2014)
            - Requirements to liquified hydrocarbon gases used as fuel (TP EAEU 036/2016)
            - On restricted use of hazardous substances in electrical and radio electronic appliances (TP EAEU 037/2016)
              - On the safety of amusement

- rides (TP EAEU 038/2016)
  - On requirements to mineral fertilizers (TP EAEU 039/2016)
    - On the safety of fish and fish products (TP EAEU 040/2016)
      - On the safety of chemical products (TP EAEU 041/2017)
        - On the safety of equipment for children's playgrounds (TP EAEU 042/2017)
          - On requirements to fire safety and fire extinguishing appliances (TP EAEU 043/2017)
            - On the safety of packaged drinking water, including natural mineral water (TP EAEU 044/2017)
              - On the safety of crude oil prepared for shipment and/or consumption (TP EAEU 045/2017)
                - On the safety of natural combustible gas prepared for shipment and/or consumption (TP EAEU 046/2018)
                  - On the safety of alcoholic products (TP EAEU 047/2018)
                    - On requirements to energy efficiency of energy consuming appliances (TP EAEU 048/2019)

#### Registration of goods safety

Import and circulation of particular goods within the EAEU are allowed only subject to the availability of documents duly confirming state registration of safety of such goods. This applies to such products as products for children, household products and other products directly relating to the human body.

State registration is a procedure of conformity assessment of products against the uniform sanitary, epidemiological and hygienic requirements (or requirements of technical rules) which is carried out by an authorized public body in the sphere of sanitary-and-epidemiological safety.

The state registration certificate issued under a common format es-

tablished by the EEC is the document duly confirming the safety of products (goods).

Documents confirming sanitary/hygienic safety of products (goods) issued in one of the EAEU member-states will be recognized in another EAEU member-state without re-issuance of documents of such another member-state state-member of the EAEU (country of consumption) and without repeated laboratory tests (trials).

#### Veterinary control

Decision of the EEC dated June 18, 2010 No. 317 "On the application of veterinary and sanitary methods in the Customs Union" approves the Uniform List of controllable goods of animal origin as well as uniform requirements for all three member-states of the Customs Union. At the moment, the decision applies to EAEU member-states.

The goods subject to veterinary control (supervision) shall be imported under a respective permit of an authorized body of the EAEU member-state and a veterinary certificate issued by an authorized body in the sphere of veterinary medicine according to the legislation of such member-state. Circulation of goods subject to veterinary control within the EAEU is carried out on the basis of veterinary certificates. The common format of such certificates has been established by the EEC.

#### Quarantine and phytosanitary control

The EAEU has a List of controllable products subject to phytosanitary quarantine control at the customs border and the uniform requirements to vegetable products such as fruits, vegetables, flowers and other products, transport boxes, package,

soil, and soil organisms. Imported goods shall comply with phytosanitary requirements of the country of consumption of controllable products and shall be accompanied by a phytosanitary certificate.

#### 2.6.4. Customs measures protecting intellectual property objects

The EAEU has a unified customs register (hereinafter — the UCR) of intellectual property (IP) objects of EAEU member-states aimed at comprehensive protection of IP objects within the EAEU. The UCR has not replaced the national registers which are still valid in their respective countries.

Therewith, at present the Commission does not examine applications on the inclusion of IP objects into the UCR, as an electronic document management system has to be implemented providing electronic document management between the Commission, applicants and main customs authorities of member states.

To date, the following normative legal base has been formed:

- Regulations on the use of the unified customs register of IP objects of EAEU member states, approved by decision of the Commission Board No. 35 dated March 6, 2018;
- Implementation rules for the procedure “Formation, maintenance and use of the unified customs register of IP objects of EAEU member states”, approved by decision of the Commission Board No. 174 dated October 30, 2018;
- Process documents regulat-

ing information interoperability in implementing, by means of Union's integrated information system, the general procedure “Formation, maintenance and use of the unified customs register of IP objects of EAEU member states”, approved by decision of the Commission Board No. 148 dated September 2, 2019.

In order to include IP objects in the UCR, it is necessary to submit an application together with a list of required documents. An application shall be submitted in respect of each IP object. The intellectual property objects are added in the UCR free of charge.

An application may be submitted by a proprietor, several proprietors (in particular, if different proprietors in different countries have the right to the same IP object — upon their common consent), a representative having a permanent representative office in the territory of the EAEU under a power of attorney valid within the whole territory of the EAEU (a proprietor can also act as a representative).

IP objects are added to the UCR for a period of no more than 2 years. This period can be extended any number of times on the basis of a rightholder's (its representative's) application, however each time for no more than 2 years. An IP object can be added to the UCR for a period no longer than the term of such object's legal protection in an EAEU member-state in which such term expires earlier.

Consequences of listing an IP object in the UCR:

If during a customs procedure

customs authorities discover a breach they are obliged to:

- suspend release for free circulation for up to 10 days (may be prolonged one more time for extra 10 days);
- notify the applicant and the proprietor of such suspension, as well as of its reasons and terms, within 1 day;

If eventually no breach is found, the rightholder shall indemnify damages to such applicant.

#### 2.6.5. EAEU functioning within the Multilateral Trading Facilities

All member countries of the EAEU except for the Republic of Belarus (the Russian Federation, the Republic of Kazakhstan, the Republic of Armenia and the Kyrgyz Republic) are members of the World Trade Organization (hereinafter — “the WTO”). In this connection, in pursuance of Protocol on EAEU functioning within the Multilateral Trading Facilities (Appendix 31 to EAEU Treaty of May 29, 2014), the Treaty on Functioning of the Customs Union within the Multilateral Trading Facilities signed on May 19, 2011 applies to EAEU member-states. The Treaty defines the rules for regulating the import duty rates within the EAEU where they differ from WTO rates, and declares the requirement to harmonize the EAEU's regulatory system with WTO acts.

The Republic of Belarus has created a Committee on WTO Accession and is carrying on active negotiations on Belarus's accession to the WTO.

# 3

Investment

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Relations stemming from investment activities in the territory of the Republic of Belarus are regulated by the Law of the Republic of Belarus "On investments" of 12.07.2013, regulatory legal acts of the President of the Republic of Belarus, civil and other legislation of the Republic of Belarus, international treaties concluded with the participation of the Republic of Belarus, and investment agreements signed by the Republic of Belarus.

### 3.1. GENERAL CONDITIONS OF INVESTMENT ACTIVITIES

In accordance with the Law on Investments, investment is any property and/or other objects of civil law rights which belong to the investor on the basis of the ownership right (or another legal basis), and which the investor invests in the territory of the Republic of Belarus in order to gain profit (income) and/or achieve other specific results or for other purposes not connected with personal, family, home and other similar use, in particular:

- movable and immovable property, including stocks, participatory shares, property shares in commercial entities established in the territory of the Republic of Belarus, monetary funds, including borrowed funds, including loans and credits);
- rights of claim, duly assessed;
- other objects of civil rights duly assessed, except for certain types of objects of civil rights withdrawn from public circulation.

Investments in Belarus may be carried out by any means complying with Belarusian laws. The Law on Investments of the Republic of Belarus specifies, in particular, the following ways of investments:

1. creation of a commercial entity;
2. acquisition, creation (including

### Composition of investments made by foreign investors in 2019 (thousand USD) [1]

|  | Bcero       |
|--|-------------|
| Republic of Belarus  | 7,055,059.5 |
| <i>including:</i>  |             |
| wholesale and retail trade; auto and moto service industry | 2,396,391.1 |
| transportation, warehousing, postal and courier service    | 2,274,446.6 |
| information & communications                               | 1,262,348   |
| financial & insurance activities                           | 408,340.3   |
| real estate operations                                     | 186,835.4   |
| administrative and ancillary services                      | 144,333.8   |
| professional, scientific and technical activity            | 28,127.5    |
| Construction industry                                      | 90,882.8    |
|  | 173,195.0   |

by means of construction) of real estate units, except as living quarters/spaces are purchased or constructed by Belarusian citizens, foreign citizens or stateless persons, for permanent accommodation of such persons and/or their families;

3. acquisition of rights to intellectual property;

4. acquisition of capital stock, participatory shares, or shares of stock in a commercial entity, in particular by means of increasing its authorized capital;

5. under a concession agreement;

6. other ways complying with the Belarusian legislation.

### 3.2. RIGHTS AND OBLIGATIONS OF INVESTORS

The following rights of investors are provided for by the legislation of the Republic of Belarus:

- the right to exercise property rights and intangible rights in accordance with legislation of the Republic

of Belarus;

- recognition of exclusive rights to intellectual property;

- the right to grant land plots for use, lease, for title, in accordance with legislation of the Republic of Belarus on land use and land protection;

- the right to create a commercial entity in the territory of the Republic of Belarus with any amount of investment, in any legal form as provided for by legislation of the Republic of Belarus (restrictions: investment is not allowed to be made in the property of legal entities holding dominant position in the Belarusian goods market without a permit of the antimonopoly body of the Republic of Belarus, and in activities prohibited by the laws of the Republic of Belarus);

- the right to make monetary contributions in the authorized fund in foreign currency and/or Belarusian rubles and non-monetary con-



tributions duly assessed in money terms, in accordance with the procedure stipulated by legislation of the Republic of Belarus;

- the right to privileges and preferences established in accordance with the laws of the Republic of Belarus and/or international legal acts binding upon the Republic of Belarus;

- the right to enter into an investment agreement(s) with the Republic of Belarus (for detailed information about this right see cl. 3.4);

- the right to engage foreign citizens and stateless persons for labour activities in the Republic of Belarus.

In carrying out their activities in the Republic of Belarus investors are obliged to:

- comply with the Constitution of the Republic of Belarus and legislative acts of the Republic of Belarus adopted in accordance with it;

- abstain from actions that constitute unfair competition as well as actions (inaction) aimed at prevention, elimination or restriction of business competition, causing harm to rights, liberties, legitimate interests of other persons;

- perform other obligations established by legislation of the Republic of Belarus.

### 3.3. THE RIGHT TO CONCLUDE AN INVESTMENT AGREEMENT(S) WITH THE REPUBLIC OF BELARUS

For the purpose of additional encouragement of investments, an investor (investors) may conclude an investment agreement(s) with the Republic of Belarus. Such agreements are governed by special legal regulations.

An investment agreement with the Republic of Belarus is normally concluded on the basis of a decision of a state body or a state organization under a special procedure as established by legal acts of the Republic of Belarus.

An investment agreement with the Republic of Belarus shall define:

- object, amount, terms and conditions of investment activities;

- rights and obligations of the investor(s) and the Republic of Belarus;

- liability of the parties to the agreement for non-fulfillment of its provisions;

- other conditions stipulated in accordance with legal acts of the Republic of Belarus.

### 3.4. GUARANTEES OF INVESTOR'S RIGHTS

The Law on Investments guarantees to investors:

- protection from uncompensated nationalization and requisition;

- unrestricted transfer outside the territory of the Republic of Belarus of compensation received as a result of nationalization; however such nationalization is possible only in cases of natural disasters,

accidents, epidemics, epizootic diseases and other cases of emergency for the benefits of the society at discretion of state bodies;

- the right of an investor whose property was placed in requisition to judicially claim the return of such impressed property, if the circumstances of such requisition are not valid any longer.

- unconditional transfer\* outside the territory of the Republic of Belarus of incomes (profits) and other legally obtained monetary funds connected with investments in the territory of the Republic of Belarus as well as payments made in favour of a foreign investor and connected with investments, including:

- a) monetary funds, received by foreign investors after partial or full termination of investment activities in the territory of the Republic of Belarus, including monetary funds received by foreign investors due to disposal of investments or property created in the result of investments, other objects of civil rights;

- b) monetary funds which are outstanding wages to foreign citizens and stateless persons performing labour activities under the labour contract;

- c) monetary funds due to foreign investors under a judicial decision.

\*after payment of taxes, duties and other mandatory payments established by legislation of the Republic of Belarus.

### Restrictions on foreign participation in investments made in the Republic of Belarus (Strategy for attracting direct foreign investments till year 2035)

| No. | Economy sector                           | Statutory restrictions   |
|-----|--|--|
| 1   | Land transactions                        | Land plots, including those transferred in case of sale of state-owned real property, are granted to foreign entities only on a leasehold basis. A land plot may be privately owned by a foreign individual or a stateless person being a blood relative to the testator, where he/she inherits a land plot privately owned by the testator, unless otherwise stipulated by applicable legislative acts.   |
| 2   | Privatization                            | Property units owned exclusively by the state may not be privatized, unless otherwise stipulated by applicable legislation or acts of the President of the Republic of Belarus.  |
| 3   | Insurance and other financial activities | A quota has been established for foreign investors' participation in statutory funds of all insurance entities in the Republic of Belarus — 30 percent.  |
| 4   | Bank sector                              | A quota has been established for foreign capital participation in the banking system of the Republic of Belarus — at most 50 percent.  |
| 5   | Activities of information agencies       | <p>Foreign legal entities, as well as foreign individuals and stateless persons having no permanent residence in the Republic of Belarus, may establish mass media only jointly with citizens and/or legal entities of the Republic of Belarus.</p> <p>A mass medium may not be edited by a commercial entity with at least 20 percent of participatory shares owned, jointly or individually, by a foreign state, foreign and/or international legal entity (or unincorporated entity), foreign individual or stateless person.</p> <p>A mass medium may not be edited by a non-commercial entity with at least 20 percent of its founders/participants represented by a foreign state, foreign and/or international legal entity (or unincorporated entity), foreign individual or stateless person.</p> <p>Only citizens of the Republic of Belarus may perform functions of chief editors of mass media.</p> |
| 6   | Alcohol production                       | Production of cognacs, brandies and cognac-like liquors may only be carried out by state-owned legal entities or non-state legal entities with more than 30 percent of statutory fund owned by the state, unless otherwise prescribed by the President of the Republic of Belarus.   |

### 3.5. GUARANTEES AND PRIVILEGES FOR INVESTORS THAT HAVE CONCLUDED AN INVESTMENT AGREEMENT

1. Indemnity for any losses caused to investors by illegal actions (omissions) of state bodies and authorities of executive committees.

2. Investors have the right to:

- procurement without any competitive tendering (auction for the right to execute lease agreement, auction for the right to design and construct permanent structures (buildings, other objects) and/or auc-

tion for land plot transfer) of land plots included in the list of land plots for the purposes of investment projects, under property law pursuant to the legislation on land protection and use (including lease and/or ownership);

- construction of objects provided for by the investment project with the right to remove objects of flora without making compensation payments;

- full deduction of VAT amounts (except for tax amounts not subject to deduction according to legislation)

paid for the acquisition (import into the territory of the Republic of Belarus) of any goods, works, services, property rights used for designing, construction (reconstruction), equipping of facilities under the investment project, irrespective of VAT amounts charged on the realization of such goods (works, services, property rights);

- selection without tendering of contractors and/or design documentation developers, suppliers of goods, construction service providers, in particular for the reconstruct-

tion of objects defined by the investment agreement (except for state tenders for goods (works, services));

- divide a construction project into separate stages, implement operations under a current stage and concurrently implement design works for the next stage(s), provided that the architectural & construction plan for the investment project facilities has been duly approved.

3. Investors are exempt from:

- payments for the right to conclude lease contracts land plots;

- land tax or lease payment for state owned land plots provided for the construction of facilities specified by the investment project, within the period of designing and construction of such facilities, and till December 31 of the year following the year of completion of construction;

- compensation of losses of agriculture and/or forestry production caused by expropriation of land plots;

- payment of import duties (with due account for the international obligations of the Republic Belarus) and VAT in case of import of technological facilities and their spare parts into the customs territory of the Republic of Belarus, to be used for any facilities pertaining to the investment project;

- payment of state duty for permits to engage foreign labour force in the Republic of Belarus, special permits for labour activities in the Republic of Belarus; any foreign citizens or stateless individuals duly engaged by the investor and/or investee company will be exempt from the state duty for granting temporary residence in the Republic of Belarus; moreover, the term for issuing (or declining) such special permit cannot exceed 7 calendar days, and the term for the approval (or declination)

of investor's right to engage foreign labour is 2 calendar days;

- VAT and profit tax normally charged for gratuitous transfer of permanent structures (buildings, constructions), isolated premises, permanent structures under construction and other permanent assets duly transferred for the purposes of the investment project to be owned by the investor and/or investee company.

### 3.6. INVESTMENTS IN A FORM OF PUBLIC-PRIVATE PARTNERSHIP

The Law of the Republic of Belarus "On Public-Private Partnership" of December 30, 2015 makes provisions for public-private partnership (hereinafter — the "PPP") projects.

The PPP usually presupposes mutually profitable cooperation of governmental authorities (a public partner) and business entities (a private partner) within an established time frame, for the purposes of construction (reconstruction) and exploitation of infrastructural assets under a special agreement between the public and the private partners — the PPP Agreement. PPP is an alternative to privatization of state-owned objects.

PPP projects may be implemented in respect of energy, transportation and social infrastructure, in the spheres of education, public health, sport and tourism. However, the Belarusian PPP model does not allow private partners to render government services under PPP projects.

**Public partners under PPP projects are:**

a) The Republic of Belarus, on behalf of which a state body or another public organization authorized by the President of the Republic of Belarus, a national state administra-

tion body or another state organization authorized by the Council of Ministers of the Republic of Belarus may act;

b) administrative-territorial unit, on behalf of which a local executive and regulatory body (executive committee) may act.

*A private PPP partner may be:*

a) a legal entity (except for state unitary enterprises, state institutions and public organizations, as well as business entities with at least 50 percent of equity owned by the Republic of Belarus or its administrative-territorial unit);

b) a foreign organization not being a legal entity;

c) an individual entrepreneur.

**The PPP Law stipulates four stages of PPP projects:**

1) preparation of proposals for the implementation of a PPP project

2) taking a decision on the implementation of a PPP project

3) bidding in order to select a private partner for the PPP project

4) conclusion and performance of the PPP agreement.

The PPP Law stipulates that both public bodies (organizations) and potential private partners have the right to submit proposals for PPP projects. It should be noted that the National Infrastructure Plan of the Republic of Belarus has been developed in Belarus for the years 2016–2030, which identifies 100 priority infrastructure projects in the Republic of Belarus with a total amount of investments of over 3 billion US dollars. The national infrastructure strategy was updated in 2017 by the Interagency Infrastructure Coordination Council.

The government regards raised funds under PPP/investment agreements, borrowed funds and special supporting funds for certain sectors

of the Belarusian economy as major sources of finance for the TOP-100 projects of the National Infrastructure Plan.

**7 pilot PPP projects have been selected:**

- reconstruction of the road M-10: the border of the Russian Federation (Selishche) — Gomel — Kobryn, km 109.9 — km 184.5;
- construction of a highway in Gomel 41.35 km long, plus construction of a bridge across the river Sozh and five overpasses;
- construction of Beshenkovichy hydroelectric power plant (33 MW, 130 million kWh) on the Dvina river in Vitebsk region;
- construction of a waste processing plant in Bobruisk;
- reconstruction of buildings of Grodno Municipal Clinical Hospital No. 3 belonging to the Grodno Regional Clinical Oncology Centre;
- construction of kindergartens in the rural areas of Minsk region;
- capital repairs (including restoration of facades and reconstruction into a hotel complex) of facilities in the western part of the Brest Fortress.

**PPP proposals may be evaluated and endorsed by:**

- 1) The President of the Republic of Belarus;
- 2) The Council of Ministers of the Republic of Belarus;
- 3) local Councils.

Selection of a private partner for a PPP agreement is normally carried out on a competitive basis. The PPP Law stipulates that such competition shall consist of two stages: preliminary selection of participants and selection of the winner.

A PPP agreement will be concluded by the authorized state body and the winner or the only participant of the competition (if such participant's

bid meets the conditions of the competition), and/or a person selected without conducting the competition.

The scope of the PPP partnership agreement comprises the implementation of design, construction and/or reconstruction, restoration, repair, modernization activities, technical maintenance and/or operation in respect of an infrastructure facility.

### 3.7. INVESTMENT ON THE BASIS OF A CONCESSION

Investment in respect to subsoil resources, water, forests, land and facilities owned or operated exclusively by the state may be carried out on the basis of a concession by means of a concession contract.

In accordance with the Law on Concessions, a concession contract is a written agreement by virtue of which one party (concessor) undertakes to provide another party (concessionary) with the right to possession and use of the concession object or the right to perform a type of activity on a paid or gratuitous basis for a certain period.

Concession objects are granted, as a general rule, in four stages:

1. formation, approval, publication (in print mass media and in the Internet network) of the lists of concession objects of the Republic of Belarus and concession objects of administrative-territorial units, specifying types of concession contracts and ways of concessionary selection;
2. determining the concession authority, development, agreement and approval of concessional offers;
3. organizing and conducting a competition (auction), selection of the concessionary;
4. conclusion of the concession contract.

A concession contract can be concluded for a period of up to 99 years, unless a shorter term is established by legislative acts in respect to certain concession objects.

In order to receive a concession object for use in accordance with the concession contract, an investor shall make a single payment to the national (or local) budget.

The sum of the single payment, as a general rule, is determined according to the results of the competition (auction), or in the amount:

- offered by the single participant of the competition, whose offers comply with the competition terms, in case the competition is recognized as failed;
- initial payment increased by 5%, in case the competition is recognized as failed and the single participant agrees to conclude the concession contract under the conditions offered;
- as established by the President of the Republic of Belarus, in where the concession contract is being concluded without tendering;
- as established by the agreement of the parties, but not less than the initial amount of the single payment, where a new concession contract is being concluded by the President of the Republic of Belarus upon expiry of the maximum validity term of the concession contract.

### 3.8. RESOLUTION OF DISPUTES BETWEEN INVESTORS AND THE REPUBLIC OF BELARUS

According to the Law on Investments, disputes between an investor and the Republic of Belarus pertaining to investment activities are subject to pre-court resolution by means of negotiations, unless otherwise established by legislative acts

of the Republic of Belarus.

Disputes between an investor and the Republic of Belarus that have not been regulated according to the pre-court procedure by means of negotiations during three months from the date of receipt of a written offer on their resolution are to be settled in a judicial proceeding according to the legislation of the Republic of Belarus.

If a dispute not relating to the exclusive jurisdiction of courts of the Republic of Belarus arisen between a foreign investor and the Republic of Belarus has not been resolved according to the pre-court procedure by means of negotiations during three months from the date of receipt of a written offer on its resolution under the pre-court procedure, then such dispute at investor's option may also be referred to:

- an arbitration court specified for the resolution of each specific dispute according to the Rules of Arbitration of the United Nations Commission on International Trade Law (UNCITRAL), unless parties to the dispute have agreed otherwise;
- the International Centre for Settlement of Investment Disputes (ICSID), in case such foreign investor is a citizen or a legal entity of a state party to the Convention on Settlement of Investment Disputes between states and individuals and legal entities of other states of March 18, 1965.

In case an international treaty of the Republic of Belarus and/or a contract concluded between an investor and the Republic of Belarus stipulate other ways of settlement of disputes between the investor and the Republic of Belarus concurrent with the investment activities, then the provisions of such international treaty of the Republic of Belarus and/or contract between the inves-

tor and the Republic of Belarus shall be applied.

### 3.9. EXTERNAL SAFEGUARDS OF INVESTMENTS IN BELARUS

#### 3.9.1. Multilateral Investment Guarantee Agency

In order to create conditions corresponding to the international standards of insuring foreign investors' risks in our country, and attract foreign financial resources without providing guarantees of the Government of the Republic of Belarus to foreign investors and, correspondingly, without increase of the national external debt, the Government facilitated full-fledged membership of the Republic of Belarus in the Multilateral Investment Guarantee Agency (hereinafter — MIGA).

The Republic of Belarus joined the MIGA Convention in December 1992, ratified the amendments to the Convention in 2011, and signed and ratified the Agreement on the legal protection of guaranteed foreign investments and the Agreement on local currency use in 2011–2012.

MIGA is an organization of the World Bank Group and therefore allows investors to insure their current projects against political and non-commercial risks (restrictions of currency transfer and exchange, expropriation, war, civil disorders and other risks).

All projects have to comply with the development goals of the host country and the MIGA sustainable development policies.

#### 3.9.2. Safeguards provided for by the EAEU Agreement

Safeguards for investors' rights and protection of investments have been provided for by a number of international agreements. A unique

position among them is held by Appendix 16 to the Treaty on the Eurasian Economic Union endorsing the Protocol on trade in services and investment activities. Thus, this Protocol provides for the following guarantees:

- equitable and peer treatment of investments and investment activities made by investors of other member-states;
- application of national regimes to investors of other member-states;
- granting most-favoured status to investors of other member-states;
- repatriation of incomes;
- indemnity for losses;
- prompt and adequate compensation in case of expropriation;
- subrogation of investor's rights to a member-state;
- each investor facing a dispute is free to choose among proceeding in the recipient country or ad hoc arbitration by the chamber of commerce under UNCITRAL or ICSID rules.

At the same time, the EAEU Agreement sets forth that member-states may restrict activities of investors from other member-states, introduce exemptions from national regimes, which still hinders the formation of a single investment environment.

#### 3.9.3. Agreements on the encouragement and protection of investments

The Republic of Belarus is a party to the fundamental international conventions on investment regulation, such as:

1. The Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (1965);
2. The Convention on the Recognition and Enforcement of Foreign

Arbitral Awards (1958);

3. The Seoul Convention Establishing the Multilateral Investment Guarantee Agency (1985).

In order to create favourable conditions for investments made by foreign investors and to promote mutual assistance in the realization and protection of such investments, the Republic of Belarus has signed over 60 bilateral agreements on the encouragement and mutual protection of investments and over 60 bilateral agreements on the avoidance of double taxation.

In particular, these agreements provide for the following guarantees and safeguards:

- national treatment (each party treats investors of the other party's state on at least the same level of favour that such party applies to the investors of its own state in similar situations, etc.);
- most favoured treatment (each party treats investors of the other party's state on at least the same level of favour that such party applies to the investors of any third state in similar situations, etc.);
- minimum standards (each party treats investments of investors from the other party's state according to the international law, including fair and equal treatment, protection and safety, etc.);
- expropriation and compensation guarantees (neither Party may expropriate or nationalize investments either directly or indirectly by means of measures similar to expropriation or nationalization, for other purposes than: for the public benefit; on non-discriminatory basis; according to an appropriate legal procedure; on an indemnity basis, etc.).

### 3.10. SPECIAL LEGAL REGIMES

The Belarusian legislation defines

some territories with special legal status, in particular: free economic zones, the Hi-Tech Park and the China-Belarus Industrial Park.

#### 3.10.1. Free economic zones (FEZs)

Currently, Belarus has six free economic zones (hereinafter — FEZ): FEZ Minsk, FEZ Brest, FEZ Gomel-Raton, FEZ Mogilev, FEZ Grodnoinvest, and FEZ Vitebsk. On January 1, 2017 the borders of FEZ Brest and FEZ Vitebsk were extended.

All Belarusian FEZs are free to operate till December 31, 2049.

#### Joining FEZ

FEZ residents are business entities of the Republic of Belarus or individual entrepreneurs duly registered by FEZ Administration in accordance with the procedure defined by the applicable FEZ legislation.

In order to obtain the FEZ resident status, a corporate entity or an individual entrepreneur shall comply with all the following requirements:

- such entity/entrepreneur shall be located within FEZ territory;
- such entity/entrepreneur shall conclude a Business Environment Agreement with FEZ Administration on the terms of activities within FEZ;
- the volume of investments shall be at least 1,000,000 Euros, or at least 500,000 Euros where investments are made within 3 years from the date of FEZ agreement;
- creation and/or development of manufacturing capacities aimed at exporting products and/or import substitution.

FEZ residents shall carry out their activities under the existing laws and under the FEZ Business Environment Agreement.

A FEZ Business Environment Agreement is executed between a business entity / individual entrepreneur and a FEZ Administration.

The FEZ Business Environment Agreement is executed for the duration of the project under development. The model form of the FEZ Business Environment Agreement is approved by the Administration of the respective FEZ.

#### Taxation of FEZ residents

Tax regimes in free economic zones offer a number of privileges and benefits (exemption from payments of some duties, other payments, and/or reduced tax rates).

Tax privileges for FEZ residents do not apply to banks and insurance companies, public catering, gambling activity, activities in electronic interactive games, securities business; selling of goods (works, services) produced (performed) by using fixed assets owned (possessed under another real right) by a FEZ resident and/or by using labour of FEZ resident's employees outside the FEZ territory.

Privileges under the FEZ regime apply to FEZ residents with regard to their realization of:

- in-house goods (works, services) produced for export under foreign trade agreements concluded with non-residents;
- in-house goods (works, services) produced by residents within the FEZ territory, to other FEZ residents;
- in-house goods produced by non-residents under agreements concluded between a FEZ resident and a foreign individual or a foreign legal entity on the realization or storage of such goods and/or their participation in exhibition fairs conducted in a foreign country.

## Tax privileges and other benefits for FEZ residents:

| № | Tax benefit  | Tax benefit terms and duration   |   |
|---|--|--|---|
| 1 | Exemption from profit tax  | FEZ residents  |   |
|   |  | registered before 01.01.2012<br>are fully exempt from profit tax for the period from January 17, 2017 till December 31, 2021   | registered after 31.12.2011<br>are fully exempt from profit tax within 10 years from the date of gross profit declaration   |
|   | profit tax rate reduced by 50% (but not less than 12%)                                 | in other cases, i.e. upon the expiry of above periods  |   |
| 2 | Exemption from real estate tax*  | within 3 years from the date of registration as FEZ resident   | upon the expiry of 3 years after registration as FEZ resident   |
|   |  | with regard to facilities acquired for title (constructed) in FEZ territory irrespective of their purpose of use   | with regard to facilities in FEZ territory irrespective of their purpose of use, provided goods (works, services) subject to FEZ special regime have been realized in the immediately preceding quarter |
| 3 | Exemption from land tax  | for the period of engineering and construction of facilities but not more than for 5 years from the date of registration as FEZ resident   | for the period from January 1, 2017 till December 31, 2021  |
|   |  | with regard to land plots within FEZ territory designed for real estate construction   | with regard to land plots within FEZ territory, provided goods (works, services) subject to FEZ special regime have been realized in the immediately preceding quarter                                  |
| 4 | Exemption from VAT   | with regard to goods which are placed by FEZ residents under the customs procedure of release for domestic consumption and/or which have been produced with the use of foreign goods placed under the FEZ customs procedure  |   |
| 5 | Exemption from rental payments for state-owned land plots upon the end of construction | with regard to land plots located within corresponding FEZ territories irrespective of their purpose of use; therewith the mentioned privilege will be applied from the 1st day of the 1st month to the last day of the 3rd month of a quarter if within the immediately preceding quarter such FEZ resident has realized goods outside the territory of the Republic of Belarus or to other FEZ residents. Before January 1, 2017 such benefit was applied only during the period of engineering and construction of FEZ residents' facilities, but at most during 5 years since their registration as FEZ residents. |   |

\*For reference only: This benefit is not applied to real estate units which have been acquired or transferred by a FEZ resident for rent, lease or other compensated or uncompensated use, as well as to buildings, premises and transfer devices of above-norm uncompleted construction.

Additionally, in order to create favourable business conditions for free warehouses and to develop trading activities, from January 1, 2017 to December 31, 2019, owners of free customs warehouses are exempt from VAT, which is normally collected during the release of goods for domestic consumption after the customs warehouse procedure.

### Customs privileges

Any entity importing goods into a FEZ may declare a 'free customs zone' (hereinafter — FCZ) customs procedure. Both foreign and Customs Union goods may be placed under the FCZ procedure and used in the FEZ territory. Such FCZ goods are exempt from customs duties, taxes, special, anti-dumping and compensation duties. An entity placing goods under the FCZ procedure needs not secure the payment of customs duties.

FCZ goods may undergo a number of operations such as:

- storage
- loading/unloading
- batch splitting, shipment formation, sorting, packing, repacking, marking, market condition improvement
- processing, reprocessing, manufacture, repair, maintenance of goods
- consumption, etc.

A declarant shall keep records of FCZ goods and other goods produced in the FEZ using FCZ goods.

Goods must be removed from the FEZ territory according to the following rules:

1) foreign FCZ goods without modifications shall be removed outside the Customs Union territory without paying customs duties (the 're-export' customs procedure);

2) foreign FCZ goods without modifications shall be removed to the remaining Customs Union territory (outside FEZ) subject to import customs duties (the 'release for domestic consumption' customs procedure);

3) Customs Union FCZ goods without modifications (and goods produced in a FEZ exclusively from Customs Union goods) shall be removed outside the Customs Union territory subject to export customs duties and taxes (the 'export' customs procedure);

4) Customs Union FCZ goods without modifications (and goods produced in a FEZ exclusively from Customs Union goods) shall be removed to the remaining Customs Union territory (outside FEZ) without paying customs duties/taxes (the 're-import' customs procedure);

5) goods produced in a FEZ using foreign goods in compliance with the sufficient processing criteria and exported outside the Customs Union territory are treated as Customs Union goods and are therefore subject to export customs duties and taxes (the 'export' customs procedure);

6) goods produced in a FEZ using foreign goods without observing the sufficient processing criteria and exported outside the Customs Union territory are treated as foreign goods and shall be exported without paying customs duties and taxes (the 're-export' customs procedure).

### 3.10.2. High Tech Park (HTP)

The High Tech Park offers a preferential tax regime provided by the Republic of Belarus specially for information technology companies. The HTP was established in 2005.

Its ultimate goal is to increase competitiveness of the national economy by boosting the information and communication sector. Presidential Decree No. 8 "On the development of digital economy" of December 21, 2017 extended the effective period of the HTP special regime till January 1, 2049.

### I. Joining HTP

HTP residency may be acquired by a legal entity or an individual entrepreneur registered in the Republic of Belarus. Both Belarusian citizens and foreign individuals and companies may act as founders of such legal entities. As of January 1, 2018, 192 companies are HTP residents — they are engaged in software development and rendering IT services to clients from 67 countries all around the globe.

The legislation of the Republic of Belarus specifies certain requirements for applicants intending to join the High Tech Park:

1) an applicant shall carry out activities permitted by the legislation for the HTP;

2) an applicant shall have a business plan to implement as an HTP resident.

The following documents shall be submitted to the HTP Administration in order to join the High Tech Park:

1) an application;

2) copies of statutory documents and a state registration certificate;

3) a business plan proposed for implementation by the would-be HTP resident.

A business plan is the key factor in making the decision on registration of an entity as an HTP resident. Such business plan shall include information on the applying legal entity, its history and achievements, a development strategy with regard





to the High Tech Park, a description of its major products to be manufactured, as well as an analysis of potential markets for selling them. Furthermore, a business plan shall contain an action plan for achieving the objectives listed in the business plan with well-defined time limits for all such actions.

A business plan shall contain an estimate of main economic indicators planned for the period of its implementation, including product costs, sales revenues, project profitability, as well as sources and amounts of its funding and areas for reinvestment of future profits, and other required information.

The HTP Administration will examine the submitted documents and will then furnish them to the Supervisory Board together with its opinion on advisability or inexpediency of applicant's registration as an HTP resident. As a rule, the final decision on registration (or refusal to register) will be made within a month from the date of application.

## II. Types of activities carried out by HTP residents

HTP residents may only carry out types of business activities declared in their business projects during registration. In order to pursue another (not declared) activity type, a resident shall submit a new (supplementary) business project to the approval of the Supervisory Board. Violation of this rule will entail withdrawal of the HTP resident status and cancellation of all privileges.

At present, HTP residents are entitled to carry out the following types of activities:

- analysis, design and development of software for information systems;
- data processing activities using third parties' or own software;
- fundamental and applied research, experimental development in the field of natural and technical sciences (R&D works connected with HTP activities, including information society development) and implementation of R&D results;

- development or separate stages of development (research, designing (construction), testing, technical tests) of materials, technologies, devices and systems of micro-, opto- and nanoelectronics, microelectromechanical and implementation of their results, selling materials, technologies, devices and systems of micro-, opto- and nanoelectronics, microelectromechanical developed by an HTP resident and compatible built-in software;

- development or separate stages of development (research, designing (construction), testing, engineering tests) of technologies, devices and systems of mechatronics, built-in systems, software and hardware tools, software and hardware complexes, components and computer equipment and implementation of such development results involving (or not involving) services for their manufacturing application;

- development (research, designing (construction), testing, engineering tests) of data transmission

equipment, radio location, radio navigation, radio communication, radio control, radio frequency identification technologies/devices/systems, and implementation of such development results involving (or not involving) services for their manufacturing application;

- development or separate stages of development (research, designing (construction), prototyping, testing, engineering tests), manufacture of science-intensive materials, technologies, hi-tech devices/systems, embedded systems, soft hardware facilities, software-hardware appliances and associated software, and implementation of such products and/or development results involving (or not involving) services for their manufacturing application;
- activities in technical and/or cryptographic protection of information including application of electronic digital signatures;
- designing, development, implementation (separate implementation stages), support, maintenance and operation of software and/or soft hardware facilities/appliances using cloud computing technology, i.e. a technology providing computing resources and software as services to users via telecommunication networks by means of automated processes of computer power allocation and application deployment;
- consulting services for corporate entities in the sphere of commercial activities and management, involving services pertaining to the complex control of development processes and implementation of information systems/technologies;
- analysing informational needs of legal entities and individuals (system analysis, business analysis), consulting in the application of information technologies for the in-

novation (reengineering) of business processes involving the development of technical specifications for information systems and software;

- auditing of data systems and software in the process of their development, implementation and operation, in terms of their compliance with users' technical requirements and/or informational needs;
- services pertaining to the system support and maintenance of computer facilities and local computer networks of public information systems;
- automated services in searching, selection, processing and sorting data at third parties' requests, furnishing information to third parties via the Internet network;
- designing, development, implementation and operation of software and/or soft hardware facilities based on or using transaction block registers (block chain technology), other distributed decentralised information system, in particular using cryptographic data protection facilities;
- designing, maintenance, operation and realization of unmanned control systems for vehicles;
- designing, maintenance and realization of finance information technologies, software and hardware technologies for the financial sphere (contact-free cashless settlement technologies, mobile payments, electronic biddings, etc.);
- creation and training of neuron networks and other algorithms in the specialised spheres of artificial intelligence, implementation of results of such activities;
- development or separate stages of development of biotechnology, medical, aviation, space technology, implementation of results of such activities;
- activities pertaining to services

rendered to non-residents of the Republic of Belarus using software (soft hardware) developed by HTP residents involving the management of auxiliary production, administrative and business processes of corporate entities (business process outsourcing);

- services involving the provision of software and technical capacities via the Internet network enabling contacts and transactions between sellers and buyers (including the provision of a real-time Internet trading site), using software (soft hardware) developed by HTP residents;
- advertising and intermediary services, except bank transactions, conducted in the Internet network using software developed by HTP residents;
- activities pertaining to the development, implementation and realization of the Internet-of-Things concept (a network of physical objects fitted with embedded interaction technologies);
- educational activities in information & communication technologies, in particular via the Internet network, according to study programmes approved by the HTP Administration;
- publishing of software; which means usage by one person (publisher) of software developed by another person (writer) under a license agreement or another type of agreement between them, providing for publisher's proprietary rights to such software for the purpose of its commercialisation by the published anyway, in particular by means of modification/adaptation, promotion, or distribution;
- services involving the creation and placement of digital tokens via the Internet network, in particular

services involving the promotion of digital tokens, consulting and other related services;

- crypto platform operator activities;
- crypto currency exchange operator activities;
- mining;
- other activities involving digital tokens, in particular activities which can be characterised as professional/exchange securities activities, investment fund activities, securitisation activities, and operations involving the creation and placement of own digital tokens;
- activities involving the promotion of software, in particular computer games, for any platforms, including marketing, advertising and/or consulting services rendered via the Internet network;
- services of data processing centres;
- services based on cloud computing technologies using software and/or soft hardware appliances/complexes developed by HTP residents;
- activities involving the creation of audio/video/music compositions using software developed by HTP residents, creation of graphical/video materials using computer graphics;
- activities in cybersports, in particular training of cyber teams, arrangement and holding of competitions, arrangement of broadcasting of such competitions, arrangement of advertising services pertaining to such activities.

The above list is not exhaustive — the Supervisory Board may grant to an HTP resident the right to pursue other types of activities.

Furthermore, HTP residents are entitled to:

- lease out immovable property

(portions of such property) owned by an HTP resident;

- grant loans to employees out of own profits;
- create Belarusian or foreign corporate entities, acquire, alienate and otherwise dispose of shares (capital stock, equity interests) in the authorized funds of legal entities, including foreign legal entities, receive dividends;
- receive proceeds (income) from software developed with the participation of such HTP resident or distributed by such HTP resident (for instance, from advertisements placed within such software, paid subscription to software, fees for additional functionality, etc.);
- alienate property (including immovable property) which has been used by such HTP resident for at least 12 months from the date of acquisition;
- provide gratuitous (sponsor) aid to educational institutions of the Republic of Belarus under gratuitous aid agreements;
- act as project owner (developer) with regard to permanent buildings erected for own needs or for its employees' needs;
- engage in activities involving transactions via smart-contracts, use and exchange of electronic money, creation of electronic wallets.

### III. Taxation of HTP residents

The following tax privileges and other benefits pertaining to mandatory budget payments are provided to HTP residents:

1. Exemption from:
  - profit tax, except:
    - profit tax payable in the capacity of tax agent;
    - profit tax on the alienation of HTP resident's property;
    - profit tax on certain business

activities subject to a diminished (9%) tax rate as defined by legislation;

- value added tax on sales of goods (works, services, property rights) in the territory of Belarus (this privilege does not apply to lease/alienation of HTP resident's property (including real estate));
- land tax on land plots within the High Tech Park for a period of construction of permanent structures (buildings and constructions) on such land plots by HTP residents in order to carry out their activities, but no more than for 3 years;
- real estate tax on real estate objects of HTP residents located in the HTP territory (except for leased objects);
- offshore duty on settlements for advertising, marketing or intermediary services, and on dividends paid to HTP resident's founders/participants;
- personal income tax on incomes drawn by natural persons from the sale of participatory shares (capital stock) of HTP residents which have been in such natural person's ownership continuously during at least 365 calendar days from the date of acquisition;
- 'import' VAT on the sales made in Belarus to Park residents by foreign entities not having a permanent establishment in Belarus:
  - sales of proprietary rights to intellectual property objects;
  - advertising, marketing, consulting services;
  - data processing services;
  - services involving software/database development, software/database adaptation of modification, support/maintenance services for such software/databases;
  - services involving the provision of server disk space for data alloca-

tion, and/or disk space maintenance services, services involving the designing, development, figuration or modification of web pages, creation of databases, providing access to databases;

– services involving searching and/or furnishing of information on prospective buyers to customers.

This privilege provides an exemption from VAT on purchases of foreign web hosting and/or advertising services, and allows cooperating with online app stores and platforms without extra VAT costs.

2. compulsory insurance contributions are not charged on the portion of HTP resident employee's income which exceeds one average monthly salary in the Republic of Belarus, as received in the month preceding the month of payment of compulsory insurance contributions. Thus, compulsory insurance contributions will be calculated and paid to the Social Security Fund according to the amount of one average salary in the Republic of Belarus, irrespective of the employee's actual salary. Consequently, the amount of compulsory insurance contributions will not depend on HTP residents' salaries — which allows money saving.

3. the 9% tax rate is applied to incomes of individuals received within a calendar year from HTP residents under employment contracts, as well as to the income of HTP residents which are individual entrepreneurs, — unlike the standard 13% rate of income tax applied to private individuals normally.

4. a reduced 0% rate applies to incomes of foreign entities having no permanent representative office in Belarus, in respect of:

- alienation of participatory shares (equity interests, capital stock) of HTP residents (or portions

thereof), provided they have been in such foreign entity's beneficial ownership continuously during at least 365 calendar days;

- activities involving data processing, data allocation, web hosting;
- services involving processing of data furnished by clients and compilation of customised reports;

- services involving input and processing of data (including database management, data storage, database access);

- arrangement of advertisements in the Internet network;

- activities of web portals supporting websites using search engines, for the purpose of creation and maintenance of large Internet address/content databases, in formats allowing prompt data search;

- provision of server disk space and/or communication channel for data allocation, and related maintenance services;

- debt obligations of any type, regardless of execution mode;

- royalties;
- intermediary services;
- advertising services.

5. a reduced 5% income tax rate is applied to foreign companies having no permanent representative office in Belarus in respect of their dividends received from HTP residents.

6. a reduced 9% income tax rate is applied to:

- incomes from the alienation of participatory shares (portions thereof), equity interest (portion thereof) in a business entity;

- incomes from the sale of an enterprise as a property complex;

- incomes from the sale (redemption) of securities;

- interest income on loans;

- dividends from sources outside Belarus;

- participant's (shareholder's) income pertaining to company liquidation, participant's withdrawal/exclusion, in an amount exceeding his/her contribution to the authorized fund or such participant's actual expenses on the acquisition of participatory/equity share;

- participant's (shareholder's) income in the form of value of participatory share (value of equity interest, stocks at par) in the same entity, and/or in the form of increased value of capital stocks due to equity capital increase, where any member's participatory share changes by more than 0.01 per cent;

- a positive difference between the value of lent/borrowed property and the value of property transferred for the purpose of loan redemption.

Customs privileges: exemption from customs duties and VAT on goods imported into the Republic of Belarus and pertaining to projects implemented by HTP residents. To apply this privilege, an entity needs to obtain a resolution of the HTP Administration on the intended use of such goods.

In consideration of the privileges granted, all Park residents must remit 1% of their revenues in each quarter to the Park Administration.

#### IV. Other privileges for HTP residents

Other privileges pertaining to HTP residents' activities:

*A. in the sphere of currency control:* HTP residents are exempt from the forex surrender liability, where such foreign currency is earned within the course of their authorized business activities; HTP residents are allowed to use electronic money issued by foreign companies, buy foreign currency in the internal money market

without restrictions as to its use, conduct capital flow currency operations and open accounts in foreign banks upon notification to the National Bank (no permission by the National Bank is required);

*B. in foreign economic activities:* HTP residents need not comply with the mandatory terms and procedures pertaining to foreign trade transactions, may conclude foreign economic agreements by implicative conduct;

*C. accounting privileges:* HTP residents are entitled to autonomously compile source accounting documents reflecting transactions in the accounting books, to record a set of homogenous commercial transactions within one calendar month by a single accounting document (and specifically, by an autonomously compiled document), and to make use of source accounting documents issued by non-residents in a foreign language, in particular in electronic form;

*D. migration privileges:* HTP residents need not obtain special permits for labour activities in order to engage foreign workforce; visa-free entry regime is provided for general owners of HTP residents, foreign employees of HTP residents and employees of wealth holders, founders and participants of HTP residents if they are legal entities.

### 3.10.3. Great Stone Industrial Park

The Great Stone Industrial Park is a transnational project aimed at creating favourable conditions for investment and trade cooperation. The Park's advantageous location and privileged business regime provides the investors with a gainful access to the EEU and CIS markets.

The Industrial Park will become a platform for projects developing the

following spheres:

- telecommunications
- pharmaceuticals
- fine chemistry
- biotechnologies
- machine building
- new materials
- integrated logistics
- electronic commerce
- activities in storing and processing large volumes of data
- social and cultural activities
- research and advanced development

The *Great Stone* China-Belarus Industrial Park (hereinafter — the Industrial Park) is notable among other economic zones for the following privileges:

#### I. Tax and customs privileges

The business regime offered by the Industrial Park features an unprecedented selection of tax and customs preferences:

- exemption from the profit tax — within 10 years from the date of first profit accrual, thereafter — at half standard rate (standard rate is 18%);
- dividend tax rate is 0% during 5 years from the date of first dividend

distribution, plus exemption from the offshore duty (i.e. dividends may be received free of taxes in Belarus);

- a reduced 5% royalty tax — until 2027;

- exemption from real estate tax;
- exemption from land tax;
- a reduced 9% personal income tax rate for Park employees (instead of the standard 13% rate), plus Social Security Fund contributions may be paid according to the national average wage amount (instead of the standard rate which is five times bigger);

*For instance, if an employee has a monthly take-home pay equivalent to 1,500 USD, the Belarusian employer has to pay 820 USD of tax and non-tax payments to various funds, while a Great Stone resident will only have to pay 286 USD (three times less);*

- Social Security Fund contributions need not be paid for foreign employees;
- Great Stone residents may apply the 'free economic zone' procedure (i.e. they may import goods to be later exported (including goods processed) outside the Eurasian Union territory, without paying VAT and customs duties);



- produced by Park residents within the 'free customs zone' are exempt from 'import VAT', provided they are realized in Belarus;

- revenues pertaining to most operations and services performed to Park residents by foreign companies are exempt from VAT. Such operations/services include auditing, consulting, marketing, legal, engineering, advertising and other services.

## II. Great Stone has advantageous location

- Great Stone offers visa-free entrance regime for foreigners;
- the Park is located on the international Moscow-Berlin route;
- proximity to the Belarusian capital city provides access to highly qualified human resources;
- Great Stone is a part of the One Belt and One Road Initiative as its key hub;
- Great Stone provides easy entrance to the Eurasian Economic Union market of over 200 mln consumers.

## III. Government support and investment security assurances

The Great Stone Industrial Park is the main investment project of the Republic of Belarus in the real economy sector. Its fundamental legal principles and guarantees are stipulated by the Agreement between the Government of the Republic of Belarus and the Government of People's Republic of China on the China-Belarus Industrial Park. However, the Industrial Park is open for investors from all over the globe and imposes no obligations on residents to use Belarusian or Chinese goods, services, etc.;

- cooperation with residents and investors is arranged on the basis of "one stop service" principle;

- Park residents are granted the most favourable business regime in Belarus as compared to other modes of treatment (where any more advantageous business regimes should be established, they will immediately apply to Park residents as well);

- all guarantees and assurances stipulated by the Belarusian legislation apply to Park residents, in particular international treaties and the grandfather clause guaranteeing that any changes in legislation will not impact Park residents (in terms of taxation — at least until 2027);
- any inspections of Park residents may be performed only in exceptional cases and only as agreed by the Administration.

## IV. Infrastructure

- the Industrial Park boasts modern well-developed infrastructure that has been specially designed for manufacturing investment projects and may be tailored for any special needs of a specific investor;
- the up-to-date warehouse and customs infrastructure created by the world biggest logistic company China Merchants Group optimises the flow of goods and the export-import procedures;
- land plots may be granted under lease or for title, at the discretion of resident/investor;
- the Park territory comprises the National Minsk Airport capable of accommodating all aircraft types.

## V. Partnership advantages:

- the joint "Industrial Park Development Company" arranges the

construction of Park's engineering infrastructure and also assists in constructing investors' facilities;

- opportunity to do business side by side with other major companies.

## Requirements for Industrial Park resident status

Obtainment of Industrial Park resident status is a standalone administrative procedure requiring compliance with two conditions:

### • Location

Only legal entities founded in the Republic of Belarus and located in the territory of the Industrial Park can be registered as Industrial Park residents. Thus, in order to be registered as a resident, a company must be located in the Industrial Park territory.

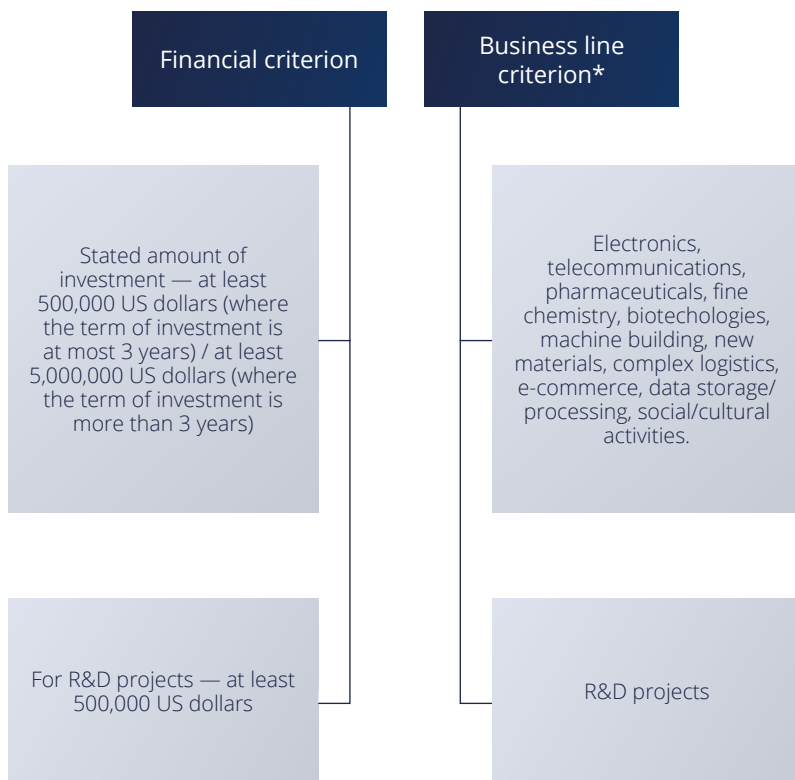
If a company is founded directly within the Industrial Park territory it needs not change its legal address to become a resident of the Industrial Park. *The procedure for the creation and registration of a legal entity in the Industrial Park territory is described below.*

An existing legal entity registered by another registering body (not by the Industrial Park Administration) may as well become an Industrial Park resident. However, before applying for Park residency, such legal entity shall notify the Industrial Park Administration of its relocation.

### • Investment project implementation

The second requirement for Park residency is implementing an investment project in a prescribed sphere in the Park territory.

An investment project of a legal entity applying for Park residency shall concurrently comply with the following criteria:



*\*If a legal entity desires to carry out another type of activities or define other investment volumes, it shall submit such proposal to the Industrial Park Administration.*

**Procedure for gaining resident status**

**Preparing required documents**

Any entity applying for the residency in the Industrial Park shall prepare the following documents:

*1. Application*

An application shall be prepared according to the model form prescribed by the Head of the Industrial Park Administration, and shall specify, in particular, information on the investment project, type (types) of business activity planned to be conducted in the Industrial Park, the volumes and terms of investments. The application form is available on the Industrial Park website on the Internet.

*2. Originals and copies of the state registration certificate and the constituent documents verified by company CEO or duly authorized official*

Company Charter (Articles of Association) is the 'constituent document' for the purpose hereof.

*3. Investment project rationale*

Investment project rationale is the document containing the main aspects of the prospective investment project. It shall be compiled according to the model form prescribed by the Head of the Industrial Park Administration. An investment project rationale shall be approved by company CEO or another duly authorized official.

Investment project rationale shall include:

- description of the project and the products
- analysis of market outlets, marketing strategy
- concrete methods to create and develop high-quality produc-

tion facilities competitive in external markets

- production plan
- investment plan
- project performance evaluation
- project schedule chart

*4. Draft agreement on Park operational conditions*

This draft shall be compiled according to the model form prescribed by the Head of the Industrial Park Administration. The draft agreement shall be signed by company CEO or another duly authorized official.

**Examination of documents and decision making**

The Industrial Park Administration is authorized to make decisions on the registration of a legal entity as an Industrial Park resident.

The Industrial Park Administration will examine the submitted documents and approve (or refuse) the registration of an applicant within 5 working days.

An applicant will be refused the Industrial Park residency status in the following cases:

- the application and/or attached documents have been prepared in violation of the mandatory requirements
- the applicant has failed to submit any of the required documents
- applicant's location fails to comply with the Industrial Park location requirement
- applicant's prospective business activity and/or volumes of investment do not comply with the Industrial Park's main areas of activity and/or prescribed volumes of investment, unless the Administration decides otherwise
- applicant's prospective business activity does not comply with the Industrial Park's main business

objectives

- the Industrial Park territory does not have an available land plot fitting for the characteristics of the proposed investment project as stated in the application
- the proposed investment project implies any business activities prohibited in the Industrial Park

The date of Administration's decision on applicant admission is the date of registration of such applicant as a Park resident.

### 3.10.4. Special economic zone "Bremino-Orsha"

This regime offers the following preferences:

- exemption from profit tax with respect residents' profits from sales of goods/works/services produced within the special zone, for 9 years;
- exemption from real estate tax for 20 years;
- exemption of exchange rate differences from non-operating gains/losses for the purpose of profit tax till January 1, 2033;

- full deduction of VAT in construction/fitting projects, exemption from VAT with respect to sales and leasing of real estate units to residents till January 1, 2033;

- 0% dividend tax — within 5 years of first dividend accrual, plus exemption from offshore duty (i.e. dividends are paid without being taxed in Belarus);

- legal regime guaranteed till January 1, 2028

### 3.10.5. Business activities in Orsha district, Vitebsk region

- lower tax rate under Simplified Taxation System (5% for other Belarusian regions, while in Orsha district: only 1% with respect to proceeds from sales of goods of own making, and 2% with respect to proceeds from sales of works/services of own making);

- lower Social Security Fund contributions for employers (retirement insurance: 24% instead of 28%);

- exemption from fees normally paid for special permits for foreign-

ers' labour activity;

- bigger amount of investment deduction for the purposes of profit tax (in some positions); in Belarus it normally amounts to 15% (for buildings) and 30% (for equipment), while Orsha district offers 30% (for buildings) and 50% (for equipment);

- no interest charged in case of tax deferral or tax payment by instalments;

- VAT sums paid under construction projects may be accepted for deduction without incurrance of output VAT;

- streamlined foreign trade regulations: no statutory time frames and methods of completion of foreign trade transactions;

- EU, EAEU, Chinese construction regulations/rules may be applied in design projects, without adapting them to Belarusian norms;

- exemption from VAT, instead of tax payment by instalments, will be used for foreign process equipment and spare parts imported under 0% import duty.



# 4

## Privatization

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Belarusian legislation is aimed at improving legal and economic relations in the field of privatization of state-owned property and transformation of state-owned unitary enterprises into joint stock companies. This is aimed at attracting investments and developing an effective economy.

#### 4.1. THE CONCEPT OF PRIVATIZATION

In accordance with current legislation, privatization of state property means selling state unitary enterprises as property complexes or selling stocks (participatory shares) of companies owned by the Republic of Belarus or by its administrative/territorial units (hereinafter — privatization objects) to privatization sub-

jects, in a manner and under terms provided for by legislation.

Subjects of privatization are:

- natural persons, including:
- individual entrepreneurs
- foreign citizens
- stateless persons
- legal entities of the Republic of

Belarus except state organizations and business entities with over 50 percent of equity owned by the Republic of Belarus and/or its administrative/territorial units

- foreign states and their administrative/territorial units
- international organizations
- foreign legal entities
- foreign organizations not being legal entities

**Ways of privatization of state property in the Republic of Belarus:**

Privatization is carried out by selling:

- capital stock (participatory shares) at an auction
- capital stock (participatory shares) in a competitive bidding
- enterprise as a property complex at an auction
- enterprise as a property complex in a competitive bidding
- capital stock of an open joint-stock company, as a result of trust management

Sale of a privatization object without holding an auction (competitive bidding) may be carried out in case of selling shares of an open joint-stock company resulting from trust management and in other cases defined by the President of the Republic of Belarus.

#### 4.2. PRIVATIZATION PROCEDURE

Competent privatization body renders a decision on privatization



Privatization body publishes a notice of auction (competitive bidding) for the sale of the privatization object and publishes information on such auction (competitive bidding) in the Internet network



Privatization body organizes and holds the auction (competitive bidding): it defines auction/bidding rules (caution deposit, time frames and other conditions), accepts applications to participate and forms a commission to conduct such auction (competitive bidding).



The auction (competitive bidding) winner is defined by the auction/bidding commission, such decision to be formalised by means of a protocol



Sale of privatization objects is carried out only for monetary assets at open auctions (competitive biddings) open for all privatization subjects.

#### 4.2.1. Special aspects of selling capital stock (participatory shares) and enterprises as property complexes at auctions

Sale of capital stock (participatory shares) and enterprises as property complexes at auctions is carried out with no additional conditions required from buyers.

Sale of shares of closed joint stock companies and participatory shares of other business entities at auctions shall be carried out according to the established rules requiring offering such shares (participatory shares) for purchase to other participants, such business entities themselves, or third persons, in accordance with legislation.

The initial sale price of an enterprise being sold through a competitive bidding as a property complex having a number of employees less than 100 and having an outstanding loan debt as of the date of assessment equal to or exceeding the book value of its assets, shall be one basic unit as of date of competitive bidding established in accordance with legislative acts.

The participant who offered the highest price for the privatization object during the auction is the winner.

The auction winner and the auction commission shall sign a protocol specifying the results of the auction and its date.

The enterprise as a property complex will be transferred to the buyer after the state registration of the sale and purchase contract under a transfer act. State registration of the transfer of the ownership right to the enterprise as a property complex will be carried out after buyer's full payment for the privatization object in accordance with the sale and purchase contract. The

ownership right to the enterprise as a property complex is transferred to the buyer immediately upon the state registration of the ownership right transfer.

Buyers shall be aware that penalties for the breach of payment terms are quite strict: a fine in the amount of 10 percent of the purchase price of the privatization object and a penalty interest of 1/360 of the refinancing rate of the National Bank of the Republic of Belarus established on the date of payment on the unpaid sum for each day of delay.

#### 4.2.2. Special aspects of selling capital stock (participatory shares) and enterprises as property complexes on the basis of competitive bidding

Sale of capital stock (participatory shares) is carried out on the basis of competitive bidding, if the buyer is required to fulfill certain conditions set forth in the privatization decision.

Sale of shares of closed joint stock companies and participatory shares of other business entities on the basis of competitive bidding shall be carried out in accordance with the established rules requiring offering such shares (participatory shares) for purchase to other participants, such economic entities themselves, and third persons, in accordance with legislation.

The following conditions may be specified in a decision on privatization by means of sale of capital stock (participatory share) on the basis of competitive bidding:

- volumes, time frames and spheres of investment;
- preservation and/or creation of a certain number of jobs within a certain period;
- preservation of the entity's

business profile within a certain period;

- preservation or providing of funding, within a certain period, for social facilities owned or managed by the company;
- other conditions.

The following conditions may be specified by a decision on privatization by means of sale of enterprises as property complexes on the basis of competitive bidding:

- volumes, time frames and spheres of investment;
- preservation and/or creation of a certain number of jobs within a certain period;
- retraining and/or advanced training of employees;
- preservation of a range of manufactured products (types of works, services) within a certain period;
- preservation of the state unitary enterprise's business profile within a certain period;
- other conditions.

In the event of sale of an enterprise as a property complex on the basis of competitive bidding with the initial sale price equal to one basic unit, the owner of such privatized enterprise will be required to repay its loan debt, to keep a certain amount of jobs, to ensure continuous operational and commercial activities of the enterprise and to meet other conditions of the sale and purchase contract.

The winner of the competitive bidding is the participant who, according to the official commission report, has submitted a bid (bids) entirely complying with the terms of the competitive bidding or containing better terms.

The winner and the bidding commission shall sign a protocol on the date of the competitive bidding.

### 4.2.3. Selling shares of an open joint stock company as a result of trust management

Partial sale of shares (not more than 10 percent of the authorized fund) in an open joint-stock company owned by the Republic of Belarus or its administrative/territorial unit having an outstanding loan debt during two years before the date of the privatization decision mainly (at least during 14 months) equal to or exceeding the book value of its assets, may be carried out under the procedure of trust management of shares of loss-making open joint-stock companies.

Shares of loss-making open joint-stock companies owned by the Republic of Belarus or its administrative/territorial unit may be transferred into trust management with the right to buy out such shares (according to the results of trust management) to privatization subjects from among professional securities market participants (banks and other financial organizations).

The privatization authority accepts applications for participation in a competitive bidding and establishes a commission to conduct the competitive bidding. The commission determines the winner of the competitive bidding and compiles the protocol of its results.

A competitive bidding will be considered invalid if:

- application for participation in the competitive bidding has been filed only by one participant;
- no applications for participation have been filed;
- only one participant or no participants appeared at the competitive bidding.

A competitive bidding is considered to have no result if among the applications filed by participants

none of the proposals complies with bidding terms.

The winner of the competitive bidding is the participant who, according to the official commission report, has submitted a bid (bids) entirely complying with the terms of the competitive bidding or containing better terms.

The winner and the bidding commission shall sign a protocol on the results of the competitive bidding on the date of such competitive bidding.

The procedure for conducting a competitive bidding for the transfer of shares of a loss-making open joint-stock company into trust management with the right of partial buy-out of such shares (according to the results of trust management) and for concluding a contract on trust management of shares with the right of partial buy-out of such shares (according to the results of trust management) (hereinafter — trust management buy-out contract) and the procedures of supervision over the implementation of such contract are determined by the Council of Ministers of the Republic of Belarus with due account for legislative requirements.

A privatization subject that has concluded a trust management buy-out contract, after the termination of trust management powers and in case it has fulfilled all conditions of the trust management buy-out contract, has a right to purchase a portion of shares managed by it under trust management, under a sale and purchase contract and upon terms specified in the trust management buy-out contract. The sale price of shares of loss-making open joint-stock companies is determined by their nominal value in accordance with charters of such companies on

the date of the trust management buy-out contract.

In case of breach of a trust management buy-out contract, the privatization subject has no right to buy out the shares of a loss-making open joint-stock company and shall bear responsibility as provided by the trust management buy-out contract.

### 4.3. TRANSFORMATION OF STATE UNITARY ENTERPRISES INTO OPEN JOINT STOCK COMPANIES

Decisions on the transformation of state unitary enterprises into open joint stock companies are rendered by various state bodies, depending on the amount of employees and the ultimate wealth holder of such enterprises:

- concerning national unitary enterprises employing 1,000 or more people — by the State Property Committee of the Republic of Belarus;
- concerning national unitary enterprises employing less than 1,000 people — by local state property committees of regional executive committees (Minsk municipal executive committee);
- concerning municipal unitary enterprises — by the appropriate local executive and administrative authorities.

Privatization bodies act as founders of open joint stock companies created by means of transformation of state unitary enterprises. Other privatization subjects making monetary and/or non-monetary contributions to authorized funds of such open joint-stock companies can also act as founders.

Additional founders are selected by the privatization authority by means of competitive biddings, and where such competitive bidding is

recognized as failed — by means of direct negotiations with the sole participant.

A transformation commission arranges activities on the transformation of a state unitary enterprise into an open joint-stock company. The transformation commission normally comprises representatives of personnel of the state unitary enterprise and a representative of a state agency (state organization, local administrative/executive body) managing such unitary enterprise.

The authorized fund of an open

joint-stock company is determined based on the balance sheet value of assets and liabilities of such state unitary enterprise (or several state unitary enterprises) as of 1 January of the year in which the transformation is conducted, pursuant to the procedure established by the national state property authority, and where another founder (other than the state) participates, also based on the value of such founder's contribution, determined in accordance with legislation, and may not be less than the minimum size established

by the law.

The sectorial commission shall harmonize the project of transformation of a state unitary enterprise into an open joint stock company and prepare a feasibility report for such open joint stock company.

Based on the report of the sectorial commission, the privatization authority will render a decision on the establishment of an open joint stock company by means of transformation of a state unitary enterprise or by means of transformation of several state unitary enterprises.

# 5

Real Estate

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REVERA

## 5.1. REAL ESTATE

A general notion of real estate is given by the Civil Code of the Republic of Belarus: 'real estate' ('real property') comprises land plots, subsoil plots, surface water objects, and anything firmly connected with the land, including forests, perennial plantings, capital structures (buildings), incompleting suspended capital structures, premises, parking places. Some things are treated as equivalents of real estate, for example enterprises as property complexes, and those aircraft and sea vessels, inland navigation vessels, 'river-sea ships' and spacecraft which are subject to state registration. Furthermore, other objects can be classified as real estate according to the laws of the Republic of Belarus. The main feature of real estate units is that they cannot be moved without incommensurate detriment to their purpose.

## 5.2. STATE REGISTRATION OF REAL ESTATE AND ASSOCIATED RIGHTS AND TRANSACTIONS

Real estate units as well as rights and transactions pertaining to real estate are subject to state registration to the extent required by applicable law.

State registration is a legal act acknowledging and confirming creation, modification or disestablishment of a real estate unit, rights and/or encumbrances pertaining to such real estate unit, as well as associated transactions.

The Republic of Belarus has a Unified State Register of Real Estate Property Rights and Transactions. It contains information and documents pertaining to all registered real estate units.

State registration is necessary in

case of:

- creation, modification or disestablishment of a real estate unit;
- creation, modification or termination of a right to real estate, including part interest, except part interest for common ownership of common household and limitations (encumbrances) of rights to real estate according to the above-mentioned law and other legislative acts;
- transaction with a real estate unit which is subject to state registration according to the law of the Republic of Belarus;

State registration is carried out in relation to the following types of real estate:

- land plots — a portion of land surface with a distinct border and purpose, and regarded as a single entity with any constructions (buildings, structures) located on it;
- permanent structures (buildings) — any objects built on or under ground intended for long-term use, acknowledged as completed in accordance with laws of the Republic of Belarus, provided their purpose, location and dimensions are described in the documents of the Unified State Register of Real Estate Property;
- incompleting suspended permanent structures — a suspended construction project initiated as a permanent structure in accordance with the law of the Republic of Belarus, however not accomplished;
- isolated units (including residential units) — inner space of a building/structure separated from other segments of such structure by overlaps, walls, division walls, and having an independent entrance from an auxiliary premise (entrance hall, corridor, walkway, stairway, stairs landing, elevator hall, etc.) or from a public area (adjacent area,

sidewalk, etc.) directly or from other premises/territory (with landlord's consent), provided its purpose, location inside the structure, and floor area are described in the documents of the Unified State Register of Real Estate Property;

- parking places — a stall intended for placing a vehicle, which is a part of a structure belonging to a legal entity or an individual and registered as a real estate unit;
- enterprises as property complexes used for entrepreneurial activity. An enterprise comprises all types of property intended for its activities, including land plots, buildings, structures, equipment, implements, raw material, products, rights in action, debts, as well as its trade name, trademarks, service marks and other exclusive rights.

State registration is legally significant because only upon state registration:

- a real estate unit is deemed to be created, modified or disestablished;
- the right(s) or a limitation (encumbrance) of the right to a real estate unit arises, can be transferred or terminated;
- a real estate transaction is deemed to be accomplished.

According to the Civil Code, real estate transactions are normally subject to state registration. Non-observance of this obligation will entail invalidation of a transaction. No rights or obligations will arise from such transaction and the parties will have to return all assets and considerations received in such transaction.

The time and date of receipt of documents furnished for state registration is deemed to be the time of state registration.

There are exceptions from this

rule provided by the legislation of the Republic of Belarus. The following transactions are not subject to state registration: lease and sublease contracts, contracts of uncompensated use of real estate (buildings/structures, isolated premises, parking places) regardless of the term of lease, sublease or uncompensated use, as well as agreements modifying or terminating such contracts, and rights to real estate arising from such contracts.

These contracts are deemed to have been concluded from the date of signature.

State registration is performed by local registration authorities under the Property State Committee of the Republic of Belarus (the National Cadastral Agency, regional and Minsk municipal agencies for state registration and land cadastre and their subordinate branches and bureaus).

Also, from 2018 applicants may make use of authorized agents providing state registration of real property, such as counsels-at-law. Services provided by such authorized agents allow remote (without personal presence) communication with state bodies in electronic form for the purpose of registering real property wherever it is situated. This greatly curtails applicant's time outlays and the multistage registration procedure.

Pursuant to art. 24 of the "Notaries and Notarial Activities" Law of the Republic of Belarus of July 18, 2004 (hereinafter — the "Notaries and Notarial Activities" Law), notaries, after performing a notarial action, are entitled to represent, pursuant to applicant's written request, such applicant's interests in national or local real property registration authorities, where documents authenticated or issued by such no-

tary entitle state registration of real property and/or related rights, restrictions/encumbrances, interests or transactions.

The terms of administrative procedures relating to state registration and fees for state registration are established by legislation. The standard term of state registration is 5 working days from the date of application (7 working days — where registration pertains to real estate units situated in more than one registration districts). Also, registration formalities may be performed by means of an express procedure — within 2 working days or as a matter of urgency — within 1 working day (in this case an additional fee is required).

### 5.3. LAND PLOTS

Land plot is a type of real estate that is normally subject to state registration.

The legislation stipulates two ways of land allocation: based on auction results and without conducting an auction. As a general rule, provision of land plots, regardless of their designated purpose, is performed according to the results of an auction.

In the Republic of Belarus legal entities are provided with land plots according to the results of an auction:

- for the right to conclude land rental agreements;
- for the right to design and construct capital structures (buildings);
- for the sale of land plots as private property (according to the results of such auction, land plots may be granted for title only to non-state legal entities of the Republic of Belarus).

In practice, most legal entities are provided with land plots according

to the results of an auction for the right to conclude land rental agreements.

In specific cases, land plots may be provided without holding an auction, based on a decision of a local executive committee on the seizure and provision of a land plot.

According to the legislation of the Republic of Belarus, legal entities may use land plots on the basis of the right of ownership (title), right of permanent or temporary use, and the right of lease, while foreign legal entities may only use land plots on a leasehold basis.

The type of the right entitling the legal entity to a land plot is determined in the decision of the local executive committee and depends on:

- method of land allocation (if a land plot is provided only by results of an auction (the local executive committee has announced a corresponding auction, or a land plot has been included in a relevant list, or a decision to prepare a land plot for the auction has been taken), such land plot can be provided for rent or for title, depending on the type of auction);
- subject who applies for a land plot (foreign legal entities are provided with land plots only on a leasehold basis);
- type of object/facility to be constructed on the land plot.

One of the main principles of the land law is the principle of use subject to the designated purpose. Non-compliance with this rule may result in increased ratios of payments for the land or forced termination of right to the land plot (including ownership right).

Use of land plots in the Republic of Belarus is fee-based. Land tax and rent are the forms of payment for land plots.



Use of privately owned land plots, permanently or temporarily used plots and land plots in lifetime inheritable possession is subject to land tax.

Rent is to be paid for the use of land plots under lease.

The procedure of collection of rental fees for the use of land plots owned by the state is established by the President of the Republic of Belarus.

### 5.3.1. Property title to land

Land plots can be owned as private property by citizens of the Republic of Belarus, non-state legal entities of the Republic of Belarus, foreign states and international organizations.

Land plots owned by the state can be transferred to private ownership as a result of an auction or without auction. The legal grounds and the procedure for allocation of land plots owned by the state are established by the President of the Republic of Belarus.

Disposal of privately owned land plots is implemented on the basis of civil law transactions.

### 5.3.2. Right of permanent use of land plots

Permanent use is a form of land use implying no legal requirement of a predefined term of use and terminated according to the law.

Commercial private entities are entitled to the right of permanent use of land plots, where such land plots were transferred to them before the Land Code entered into force, where the title to such permanent use was transferred to them from another legal entity of the Republic of Belarus, or where such land plot was transferred:

- for the maintenance of real es-

tate units owned by the state;

- for the construction of apartment houses (except luxury dwelling houses as defined by legislative acts); for the maintenance of apartment buildings; for the construction and/or maintenance of garages and parking lots;
- for the reconstruction of existing objects, where a change of designated purpose and/or size of the allocated land plot is required;
- for the construction and/or maintenance of transport/engineering infrastructure and roadside service.

### 5.3.3. Right of temporary use of land plots

Temporary use is a form of land use implying a limited period of use as stipulated by the Land Code of the Republic of Belarus, subject to the purposes of land allocation.

Commercial legal entities of the non-state property category may apply the right of temporary use for land plots allocated to them prior to the entry into force of the Land Code of the Republic of Belarus, land plots duly transferred (under the right of temporary use) to them by other legal entities of the Republic of Belarus, as well as land plots provided:

- for the extraction of common commercial minerals, including peat, for the construction of facilities needed for their processing and storage, for the use of geothermal subsoil resources and drying of lignin, for the extraction of strategic minerals, limited minerals (provided mining lease is available), for the construction of facilities needed for their processing and storage;
- to concessionaires under concession contracts; in this case, land plots may be granted for temporary

use for a period of up to 99 years.

Furthermore, land plots may be provided for temporary use to legal entities for a period of up to 10 years, for the same purposes as stipulated for permanent use.

### 5.3.4. Lease of land

Land plots may be granted by lease to citizens, individual entrepreneurs, legal entities of the Republic of Belarus, foreign entities, their representative offices, foreign states, diplomatic/consular missions of foreign states, international organizations and their representative offices.

Lease of privately owned land plots is carried out on the basis of civil law transactions.

Land plots owned by the state are normally granted by lease at auctions. However, in a number of cases stipulated by legislation land plots may be granted by lease without an auction. For example, land plots may be granted by lease without an auction to an investor for the realization of a project under an investment agreement with the Republic of Belarus, to an organization involved in the construction of engineering and transport infrastructure facilities, construction of roadside service objects, to residents of free economic zones, special tourist and recreational parks — for the construction and maintenance of real property in these areas/parks, to organizations and entrepreneurs engaged in collection, sorting (unbundling), preparation for disposal, and/or use of secondary material resources — to house reception/processing centers to process/recycle secondary raw materials, sorted materials, disposal objects, communal (solid) waste.

The time frames and other conditions of land lease are determined by the lease contract. However, the term of lease of a land plot owned by the state and allocated for the construction and/or maintenance of permanent structures shall be not

less than the period of construction/operation of such permanent structures. In any case, the land lease term may not exceed 99 years.

A lessee may start construction of a permanent building/structure, plant trees, shrubs and/or perennial

grass on a leased state-owned land plot, only if such activities comply with the intended purpose of such land plot, with the lease terms as specified by the decision of the respective land use authorities and by the land lease contract.



# 6

Construction industry

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## 6.1. REGULATION OF ACTIVITIES IN THE CONSTRUCTION INDUSTRY

According to law, there are 5 classes of complexity for construction objects depending on the technical characteristics and functionality of buildings and structures. This classification is used for the purpose of state examinations, procedures for conformity assessment and certification.

Furthermore, some construction activities (design, engineering surveys, acting as contractor, general designer or general contractor, providing engineering services) and some types of works in the complexity categories 1 to 4 may be performed by organizations and individual entrepreneurs only on the basis of a certificate of conformity for a respective type of work.

Currently, organizations and individual entrepreneurs operating in the field of construction are required to undergo mandatory certification for construction activities.

In order to obtain a certificate of conformity, a corporate entity must have professionals on its staff having respective qualification certificates for the right to carry out construction activities. In order to comply with the qualification certificate requirements, such professionals must have proper education level in a respective area and professional experience in their respective speciality.

NUE "BelStroyCentre" is the organization authorized to carry out certification of corporate entities, individual entrepreneurs and specialists and to issue certificates of conformity and qualifying certificates.

A certificate of conformity will be issued after checking the compliance of the applicant party with the legal criteria on the necessary qualification of applicant's employees, resources

needed to perform respective operations and the quality control system.

Where controlling authorities find out that a certificate holder no longer complies with the qualifying criteria established by the legislation, its certificate of conformity will be terminated.

A certificate of conformity may be terminated (on the above grounds) according to a proposal for such termination submitted to the Ministry of Architecture and Construction of the Republic of Belarus by state examination bodies and/or bodies of state construction supervision.

Normally, certificates of conformity are repealed in the following cases:

- expiry of validity period;
- recurrent, during a calendar year, certificate holder's violation of requirements of technical regulatory acts regulating architectural, town-planning and construction activities, requirements of design documentation pertaining to construction/assembly works;
- request by certificate holder;
- voidance of a certificate of conformity where it has been revealed that any inaccurate data (including forged, falsified or invalid documents) were submitted during the issuance procedure;
- holder's non-compliance with qualification requirements;
- holder's refusal to pass unscheduled qualification;
- imposition of administrative sanctions on certificate holders for unauthorized construction activities.

Also, where a legal entity is reorganized by means of merger, accession of transformation, and such legal entity must within three months apply to the local competent body in order to obtain a new certificate of conformity.

Construction of buildings and structures is carried out on the ba-

sis of authorizations. Local Executive Committees, their departments, specialized utility enterprises will on call-off basis prepare and issue authorization documents provided for by legislation, subject to construction project type and place. The following authorization documents are obligatory:

- act of selection of site location (where an approval of tentative land plot location is required; this act will be the basis for design and survey works);
- local Executive Committee's decision permitting to carry out design and exploration works and construction activities;
- local Executive Committee's decision on land plot allocation;
- architectural planning assignment;
- opinions of coordinating bodies;
- land plot development passport (if required by legislation);
- technical specifications pertaining to engineering support.

A customer may not conclude a contract for the development of project documentation and a construction contract, unless it has obtained respective permits.

As a general rule, project documentation is subject to mandatory state expert review to be carried out by a specialized state enterprise — the National Unitary Enterprise "GlavGosStroyExpertiza" or its subsidiaries (in regions and in the city of Minsk), on a paid basis. Once the state examination of the project documentation has been passed and the project documentation has been approved by the customer it may be used for the construction works.

Where within 2 years from the date of positive opinion of the state examination commission no operations at the project site have been started, such opinion becomes void, and the examination procedure must

be initiated again.

Actual construction/assembly works at the project site may be started after the project owner has duly furnished a notice to the state construction supervision authorities, in a manner prescribed by the Council of Ministers, except for sites exempt from construction supervision (earlier, an approval from the state construction supervision authorities was required in order to start construction/assembly works).

Each completed construction project is to be accepted for operation. The customer shall arrange acceptance into operation at own expense and is responsible for it. Customer shall appoint an acceptance committee by means of a respective decision (order, decree) specifying a list of members of such committee, its chairman (appointed from among its members), the commencement date and the completion date of commission activities.

The list of members of the acceptance commission shall include representatives of the customer, the contractor, the developer of project documentation, the operating entity, if any, and the local executive and administrative body.

The list of members of the acceptance committee may include representatives of other government agencies and other organizations, if agreed with such bodies and organizations.

Acceptance of a building shall be formalised by an act of acceptance, signed by all members of the acceptance committee and approved by the decision (order, regulation) of the customer.

## 6.2. PROCEDURE FOR CONCLUDING CONSTRUCTION CONTRACTS

The legislation provides for special requirements to the procedure for

concluding construction agreements, in particular, to the process of determining the contractor organization.

Tendering is required for the following construction projects:

- projects financed (wholly or partly) through budget or 'parabudget' funds, provided project value is over 6,000 basic units;

In such cases a contractor for a construction project will be determined only subsequent to tender's results. All construction projects subject to tender requirements also imply tender/auction procedures with respect to orders for:

- elaboration of pre-project/pre-investment documentation, provided it is required by legislative acts;
- design and/or survey works;
- purchase of goods, provided each article is worth at least 3,000 basic units;
- provision of engineering services worth at least 3,000 basic units;
- performance of some types of construction/assembly/special and other works, provided each article is worth at least 3,000 basic units.

As from 15 May, 2016 investors carrying out construction projects under investment agreements with the Republic of Belarus are also exempt from the required procurement procedures. Where such investment agreement was concluded before 15 May, 2016, an investor will have to execute a corresponding addendum to the investment agreement in order to receive this privilege.

As from February 26, 2018, the mandatory procurement requirements are no longer applicable, where procurement of goods/works/services pertaining to construction projects is performed (partially or in full) without attracting national/local budget funds, state extra-budgetary funds, external government loans or external loans

raised against security of the Council of Ministers of the Republic of Belarus, credits of Belarusian banks raised against security of the Council of Ministers of the Republic of Belarus, regional executive committees of Minsk municipal committee, and where such procurement is needed for emergency/complete repairs of permanent structures/buildings.

In carrying out procurement procedures, construction project owners shall strictly comply with all requirements as established by legislation, as violation thereof may entail administrative responsibility under art. 21.17 of the Administrative Code which stipulates that avoidance of procurement procedures (tenders, negotiations) pertaining to construction activities or violation of their requirements entails a penalty of up to 1,000 basic units, depending on corpus delicti.

## 6.3. APPLYING FIDIC MODEL FORMS

Belarusian legislation allows using FIDIC model contracts in regulating contractual relations between customers and contractors to the extent they comply with mandatory requirements of the laws of the Republic of Belarus. Profound regulation procedures used in Belarusian construction industry diminish the scope of pure application of FIDIC forms, therefore they can only be used after being somehow adapted. FIDIC forms may be used in Belarus by means of:

- (1) incorporating certain clauses from FIDIC model contracts into the draft contract;
- (2) using FIDIC forms as a basis in compiling the draft contract.

Year by year, FIDIC model contracts are increasingly used in Belarus in large investment and construction projects.

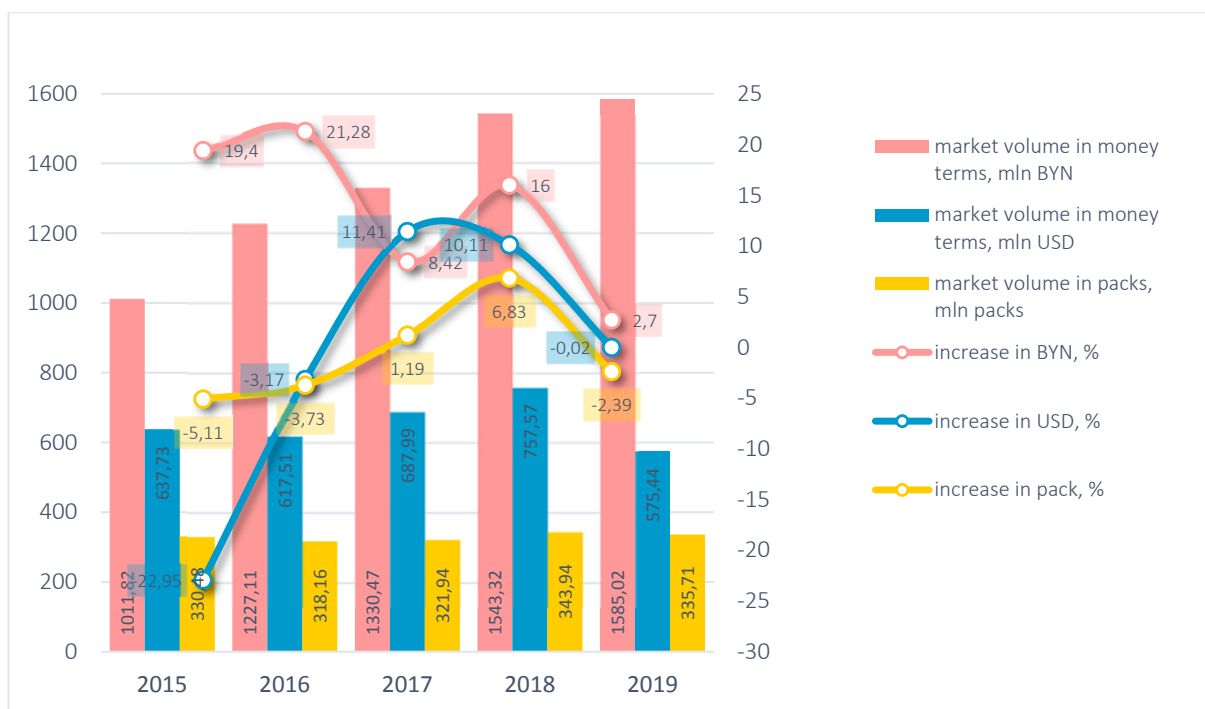
# 7

## Pharmaceutical activities

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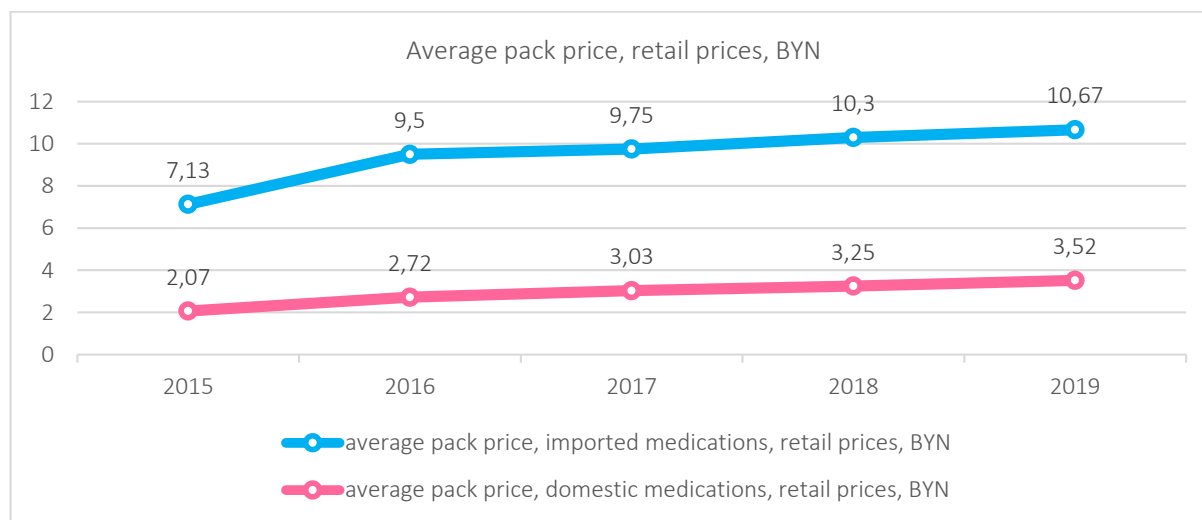
### 7.1. BELARUSIAN PHARMACEUTICAL MARKET PERFORMANCE

The following table depicts the volumes of the Belarusian retail pharmaceutical market from 2015 to 2019

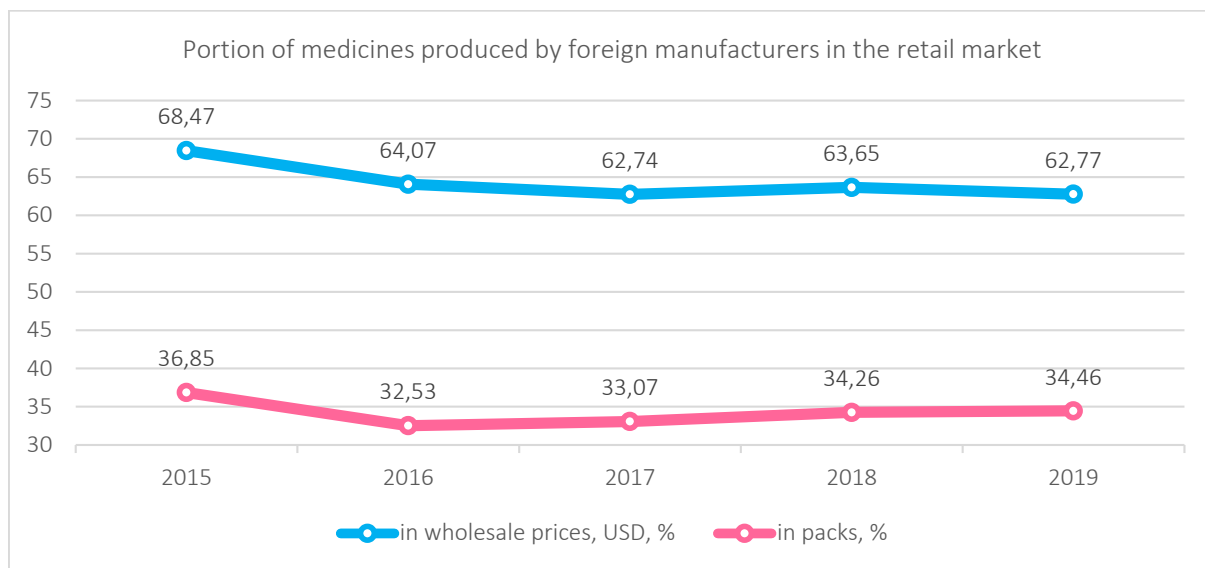


In 2019, the pharmaceutical market saw a decrease of its volumes as measured in natural units by 2.39%, in US dollars — by 0.02%, while increasing in Belarusian roubles by 2.7%, as compared to the previous year. Market dynamics measured in Belarusian roubles have always been positive throughout 2015 to 2019 (unlike in foreign currency).

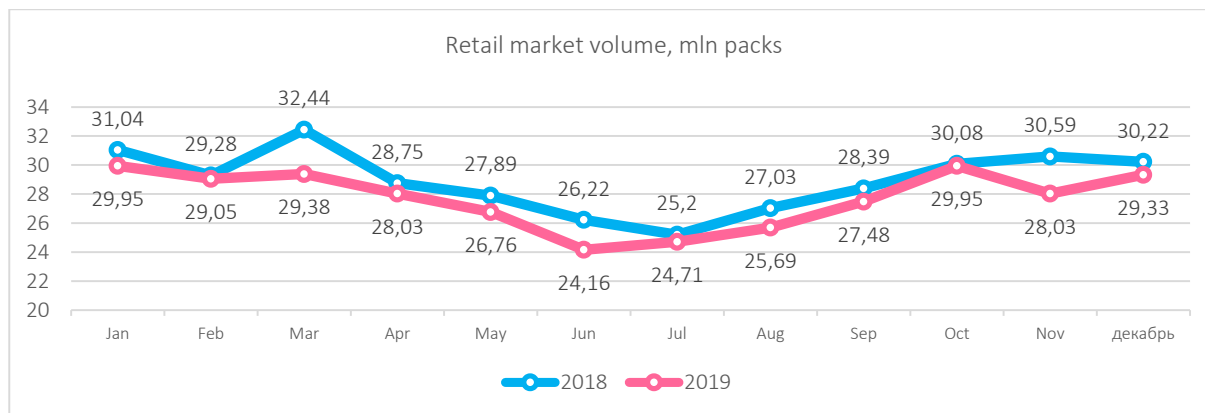
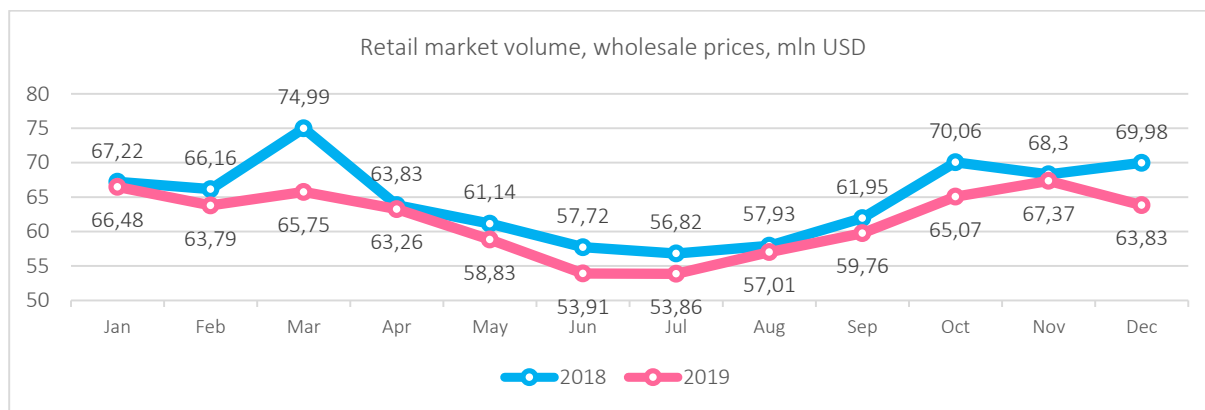
Average pack price (in BYN) of both domestic and imported medications has been growing.



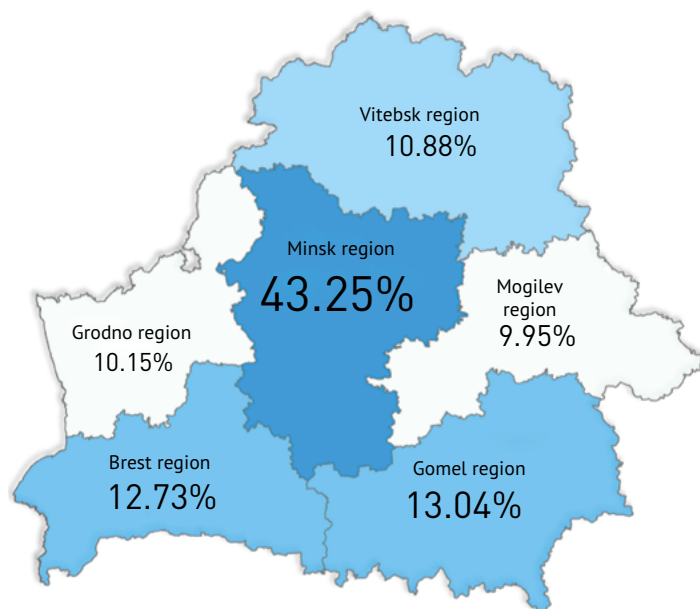
In 2017–2019, the portion of medications produced by foreign manufacturers has been largely levelled off in the retail market.



Monthly dynamics of the retail market in 2018–2019 is as follows.







The regional pattern of the Belarusian retail pharmaceutical market in 2019 is as follows.

Regional portions of overall sales, wholesale prices, USD, %

#### The top 10 manufacturers present in the Belarusian pharmaceutical market in 2019

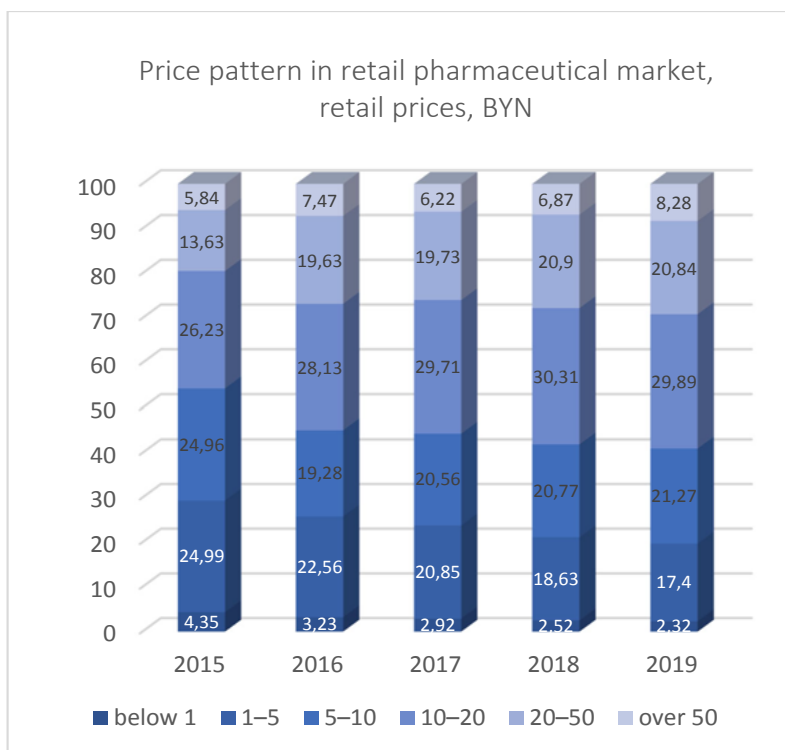
| Corporation                     | Gross sales in USD, wholesale prices, mln | Q-ty of packs, mln | Sales growth in USD, % | Sales growth in packs, % | Rating dynamics |
|---------------------------------|---|--------------------|------------------------|--------------------------|-----------------|
| Borysovsky medicine factory JSC | 53.90                                     | 69.74              | 3.04                   | -5.71                    | 0               |
| BelMedPreparaty RUE             | 48.80                                     | 42.25              | -6.20                  | -5.06                    | 0               |
| LekPharm JLLC                   | 48.13                                     | 20.17              | 3.90                   | 7.62                     | 0               |
| Bayer Healthcare                | 29.47                                     | 2.97               | 26.77                  | 6.83                     | 3               |
| Sandoz GmbH                     | 25.88                                     | 6.21               | 0.56                   | 7.97                     | 0               |
| PharmLand JV LLC                | 25.86                                     | 16.04              | 0.43                   | 3.76                     | -2              |
| Pharmtechnology LLC             | 23.16                                     | 16.94              | -6.67                  | -13.41                   | -1              |
| MinskInterCaps NUE              | 21.94                                     | 8.59               | 8.49                   | -1.78                    | 2               |
| Gedeon Richter                  | 21.10                                     | 3.97               | -6.23                  | 1.13                     | -1              |
| KRKA                            | 20.53                                     | 4.59               | 10.83                  | 9.98                     | 3               |
| other                           | 438.67                                    | 144.25             | -1.67%                 | -1.43%                   |                 |

In 2019, the Belarusian retail pharmaceutical market featured the following principal therapeutic groups of medications:

| ATS-2  | Sales in USD, wholesale prices, mln | Q-ty of packs, mln | Sales growth in USD, % | Sales growth in packs, % |
|--|-------------------------------------|--------------------|------------------------|--------------------------|
| Medications impacting the renin-angiotensin system | 48.38                               | 16.94              | 2.31                   | 3.41                     |
| Antiphlogistics & antirheumatics                   | 38.87                               | 15.62              | 0.50                   | 0.59                     |
| Antibacterial medications for regular application  | 36.37                               | 10.05              | -7.52                  | -4.07                    |
| Diabetes medications                               | 26.25                               | 7.43               | 5.92                   | 6.65                     |
| Ophthalmopathy medications                         | 25.85                               | 10.28              | 1.30                   | -0.69                    |
| Nasal medications                                  | 25.65                               | 14.39              | -2.91                  | -7.42                    |
| Analgetics   | 22.93                               | 30.18              | -11.86                 | -8.38                    |
| Anticoagulants                                     | 21.55                               | 5.84               | 50.97                  | 1.53                     |
| Psychoanaleptic medications                        | 21.54                               | 4.08               | 3.68                   | 2.60                     |
| Cardiac medications                                | 21.29                               | 19.40              | 0.95                   | -3.23                    |
| Other  | 468.76                              | 201.47             | -0.98%                 | -2.17%                   |

During the recent 3 years, circa 20% of medical products were sold at a price between 5 and 10 BYN, circa 30% at a price between 10 and 20 BYN, and circa 20% at a price between 20 and 50 BYN. In general, there is a tendency of gradual rise of prices in Belarusian roubles.

Dynamics of retail prices in the Belarusian market in 2015–2019



## 7.2. LICENSING OF PHARMACEUTICAL ACTIVITIES

A special permit (license) is necessary for pharmaceutical business activities in Belarus.

Procedures for issuance and revocation of licenses, requirements to applicants and holders of licenses (licensees) have been established by Regulation on licensing of particular business activities as approved by Edict of the President of the Republic of Belarus No. 450 dated 01.09.2010.

A license is required for the following works/services being part of pharmaceutical activities:

1. Works/services involving commercial manufacture of pharmaceutical products and bulk sales thereof. In particular:

- commercial manufacture of pharmaceutical products (hereinafter — PPs) and bulk sales thereof

- commercial manufacture of gases used for medical purposes and bulk sales thereof

- commercial manufacture of radio-pharmaceuticals and bulk sales thereof

- commercial manufacture of alcohol-containing PPs and bulk sales thereof

- commercial manufacture of PPs in terms of pre packaging and packaging of finished PPs and/or pharmaceutical substances and bulk sales thereof

- commercial manufacture of PPs in terms of processing, pre packaging and packaging of medicinal plant raw material, production of herbal teas and bulk sales thereof

2. Works/services involving sales of pharmaceutical products, pharmacy production and dispensing bulk sales thereof. In particular:

- pharmacy production of PPs

- dispensing PPs to health care institutions and/or their structural subdivisions

- bulk sales of PPs of domestic and/or foreign manufacture

- retail sales of PPs

Licenses are normally issued by the Ministry of Public Health of the Republic of Belarus (hereinafter — MPH). The MPH is the licensing authority in this sphere and is in charge of decision-making, particularly, with respect to amendments, suspension, resumption, dissolution and revocation of licenses, issues duplicate copies of licenses and monitors compliance with key license requirements and conditions.

### 7.2.1. License requirements

Requirements to applicants differ subject to a particular type of works/services comprised by applicant's activity.

| Activity   | License requirements  |
|--|---|
| Activities/services involving PP sales, pharmacy production and dispensing | Applicants must validate the possession of premises, equipment and transport facilities required for the licensed activity.   |
|  | Chief executive of a pharmacy storehouse or a pharmacy (or a person in charge of licensed activities in standalone divisions of a business entity, and/or head of the local health agency) must have: <ul style="list-style-type: none"> <li>• his/her employment in such entity must be primary employment</li> <li>• university degree in pharmaceutics</li> <li>• first or highest qualification category (not required for working in radioactive contamination zones and pharmacies of categories 3 to 5);</li> <li>• certificate of advanced training or professional retraining;</li> <li>• such person must be made responsible (by a written order) for the performance of the licensed activities.</li> </ul> |
|  | All requirements to such chief executives also apply to IEs applying for such licenses.   |
|  | At least 2 employees (apart from the chief executive) must have: <ul style="list-style-type: none"> <li>• higher or vocational secondary pharmaceutical education;</li> <li>• a qualification category (apart from employees of pharmacies of categories 3 to 5 and those working in radioactive contamination zones)</li> <li>• certificate of advanced training or professional retraining (in a respective area of expertise).</li> </ul>  |

| Activity   | License requirements   |
|--|--|
|  | Other employees involved in any licensed activity must have: <ul style="list-style-type: none"> <li>• higher or vocational secondary pharmaceutical education;</li> <li>• certificate of advanced training or professional retraining (in a respective area of expertise).</li> </ul>  |
| Activities/services involving commercial production and wholesale trade in PPs | Applicants must validate the possession of premises, equipment and transport facilities required for the licensed activity.<br>A full-time specialist must have: <ul style="list-style-type: none"> <li>• university degree in chemical technology, chemical pharmaceuticals, biotechnology, pharmaceuticals or medicine;</li> <li>• at least 2 years' work experience in PP manufacturing enterprises;</li> <li>• such person must be made responsible (by a written order) for the quality and gross sales of PPs manufactured.</li> </ul> |

Additional requirements to license holders involve:

- compliance with requirements and conditions prescribed by regulatory acts, including mandatory requirements of technical regulatory standards pertaining to pharmaceutical products circulation
- performance of licensed activities

only in places prescribed by the license

### 7.2.2. Pharmacy categories

Various license requirements are applicable to various pharmacy categories. There are 5 pharmacy categories, subject to their activities and services rendered, room spaces oc-

cupied and pharmaceutical products (including narcotic and psychotropic substances) sold.

Pharmacy categories and respective requirements are defined by the Good Pharmacy Practice as ratified by Resolution No. 120 of the Ministry of Public Health of the Republic of Belarus dated 27.12.2006.

| Pharmacy category                  | Activities and services rendered   | Required premises  |
|------------------------------------|--|--|
| 1 (apart from hospital pharmacies) | Pharmacy manufacturing of PPs, narcotic and psychotropic substances.<br>Prepackaging.<br>Quality inspection of PPs manufactured.<br>Retail sales of PPs to general public and entities for medical use.<br>Retail sales of narcotic and psychotropic substances to health agencies and the general public. | Floor space must be at least 100 sq.m. (in case of a hospital pharmacy — according to the work scope), and must include: <ul style="list-style-type: none"> <li>• inlet premise or area;</li> <li>• at least 2 storage rooms;</li> <li>• salesroom (for retail sales of PPs);</li> <li>• administrative and personnel facilities (personnel room and cloakroom (may be combined), administration office, lavatory);</li> </ul> |
| Hospital pharmacy category 1       | Pharmacy manufacturing of PPs, narcotic and psychotropic substances.<br>Dispensing PPs and narcotic / psychotropic drugs to health agencies or their structural subdivisions.  | <ul style="list-style-type: none"> <li>• production areas: water treating and sterilization rooms (may be combined), utensil treatment room, packing and accessory materials treatment room; PPs production room, aseptic room with a lock chamber (where PPs in aseptic/sterile conditions are produced);</li> <li>• PPs quality control room/area.</li> </ul>  |

| Pharmacy category                  | Activities and services rendered  | Required premises   |
|------------------------------------|---|---|
| 2 (apart from hospital pharmacies) | Retail sales:<br>PPs — to the general public and entities for medical use.<br>Narcotic/psychotropic drugs — to health agencies (if such pharmacies are state-owned) and general public. | Floor space must be at least 60 sq.m. (in case of a hospital pharmacy — according to the work scope), and must include: <ul style="list-style-type: none"> <li>• salesroom (for retail sales of PPs);</li> <li>• storage room (if PPs are sold at retail to health agencies — at least 2);</li> </ul> |
| Hospital pharmacy category 2       | Dispensing PPs and narcotic / psychotropic drugs to health agencies or their structural subdivisions.   | <ul style="list-style-type: none"> <li>• administrative and personnel facilities: personnel room and cloakroom (may be combined), lavatory, administration office;</li> <li>• products inlet areas.</li> </ul>  |
| 3*                                 | Retail sales of PPs and psychotropic drugs.<br>*Are created in rural areas and “agro towns”, where the founding entity/IE has a category 1 or category 2 pharmacy.                      | Floor space must be at least 20 sq.m. and include: <ul style="list-style-type: none"> <li>• salesroom;</li> <li>• storage room;</li> <li>• products inlet area;</li> <li>• hand-washing basin is obligatory.</li> </ul>   |
| 4**                                | Retail sales of PPs and psychotropic drugs.<br>**Are created within health agencies, where such an agency or IE has a category 1 or category 2 pharmacy.                                | Floor space must be at least 15 sq.m. and include 1 or more premises (rooms) including the following rooms which must be separate: <ul style="list-style-type: none"> <li>• inlet areas;</li> <li>• storage areas;</li> <li>• public service areas.</li> </ul>  |
| 5***                               | Retail sales of PPs. ***Are created in local hubs — stores, markets, passenger stations, etc., where the founding entity/IE has a category 1 or category 2 pharmacy.                    | Floor space must be at least 15 sq.m., the pharmacy must be located in premises isolated from premises of other use, and must include: <ul style="list-style-type: none"> <li>• inlet area;</li> <li>• storage area;</li> <li>• public service area.</li> </ul>                                       |

Apart from the requirements to premise structure, there is also a number of other requirements binding upon pharmacies (for instance, regarding porch structure, interior fit-out, equipment, etc.).

### 7.2.3. Pharmacy storehouse

In Belarus, wholesale trade of pharmaceutical products of both domestic and foreign manufacture is performed from pharmacy storehouses.

A pharmacy storehouse is a suite of designated premises and equip-

ment units designed for acceptance, registration, sample taking, storage, and sales of pharmaceutical products and ensuring their safety.

Rules for wholesale trade of pharmaceutical products have been established by Good wholesale trade practice, approved by Resolution No. 6 of the Ministry of Public Health of the Republic of Belarus dated 15.01.2007.

Floor area of a pharmacy storehouse (except administrative and personnel premises), must be at least 100 sq.m. and must include

(in succession):

- premise, area or ramp for handling operations;
- premise for pharmaceutical products delivery;
- premise for pharmaceutical products storage;
- premise or area for pharmaceutical products offloading;
- administrative and personnel premises: office premise; cloak room, dining room (may be combined); lavatory;

Where pharmaceutical substances are packaged within the pharma-

cy storehouse, the following premises must be provided:

- packaging room — with a floor area of at least 20 sq.m;
- distillation and sterilization room — with a floor area of at least 10 sq.m;
- washery — with a floor area of at least 12 sq.m.

A pharmacy storehouse must be located in non-residential premises of permanent buildings/structures, and its storage rooms must be isolated from premises of other use.

The handling premise/area/ramp must have all requisite facilities for the clean-up of shipping containers of any impurities.

There are also requirements to storehouse interior fit-out, equipment, etc.

### 7.3. STATE REGISTRATION OF PHARMACEUTICAL PRODUCTS

State registration involves inspection of conformance of a pharmaceutical product to the existing requirements in terms of safety, efficiency and quality.

Procedures and terms of state registration of pharmaceutical products/substances have been established by the Regulation approved by Resolution No. 254 of the Council of Ministers of the Republic of Belarus dated 01.04.2015.

#### 7.3.1. General provisions

In order to be produced commercially, sold, and used in Belarusian medicine, pharmaceutical products must be included into the State Register of pharmaceutical products of the Republic of Belarus. This applies to both domestic and foreign pharmaceutical products sold and used in Belarus. However, there is a number of exceptions from this rule. The following pharmaceutical products

are not subject to state registration:

- produced in pharmacies;
- designed for demonstration as exhibition samples;
- designed for preclinical studies and/or clinical trials;
- imported in the territory of the Republic of Belarus by natural persons for personal use;
- designed for commercial manufacture for export only.

Also, state registration of pharmaceutical substances is not required, if registration dossiers for pharmaceutical products containing such substances comprise manufacturer's certificates of such pharmaceutical substances conforming with the requirements to registration dossier documents.

Medicinal plant raw material is subject to state registration as pharmaceutical product following the stage of the production process which gives it a specific pharmaceutical form.

#### 7.3.2. State registration procedure

State registration procedure comprises several stages.

##### Stage 1. Technical preliminaries

Technical preliminaries are carried out by the national unitary enterprise "Centre of evaluations and trials in public health service".

Procedures of arrangement and performance of technical preliminaries have been established by the Guidelines approved by Resolution No. 55 of the Ministry of Public Health of the Republic of Belarus dated 23.04.2015.

The following is necessary for technical preliminaries:

To conclude an agreement with the Centre of evaluations and trials in public health service.

Submit documents required for state registration.

This stage involves:

- primary examination of documents;
- inspection of commercial manufacture of the pharmaceutical product under consideration for compliance with the requirements of Good Manufacturing Practice;
- approval of the quality control technique applied to the pharmaceutical product;
- specialised examination of documents;
- studies of bioavailability (bioequivalence) of generic pharmaceutical product;
- clinical trials of the pharmaceutical product;
- other studies and trials (if necessary).

Duration of such preliminaries shall not exceed 180 calendar days. Subsequent to the results of such preliminaries, a conclusion will be issued on conformity of the pharmaceutical product/substance to the existing requirements in terms of safety, efficiency and quality. Period of validity of such conclusion is 6 months from its date.

##### Stage 2. Submitting registration dossier to MPH

A registration dossier is a package of documents submitted for state registration of a pharmaceutical product. Such package normally comprises information on safety, efficiency, quality, posted price of the pharmaceutical product, etc.

Requirements of documents for state registration of pharmaceutical products have been established by Resolution No. 52 of the Ministry of Public Health of the Republic of Belarus dated 08.05.2009.

Duration of review of such doc-

uments by MPH is at least 15 days and may last up to 1 month (in case MPH needs to direct inquiries to other agencies).

### Stage 3. Payment of state duty and state registration

Upon examination of submitted documents, MPH will decide on state registration or refusal to register the pharmaceutical product. The decision must be communicated to the applicant in writing within 5 business days. In case of a positive decision, the applicant has to pay the state registration duty amounting to 10 basic units. Within 5 days following payment confirmation, the Centre of evaluations and trials in public health service will enter respective data into the State Register of pharmaceutical products of the Republic of Belarus and will issue a registration certificate to the applicant.

Procedures of issuance of registration certificates have been established by the Regulation approved by Resolution No. 254 of the Council of Ministers of the Republic of Belarus dated 01.04.2015.

Period of validity of a registration certificate is 5 years. Upon expiry of this period, holders must undergo a state registration confirmation procedure, which is similar to the procedure of state registration. Upon confirmation of state registration, an unlimited registration certificate will be issued.

### 7.3.3. Marking of pharmaceutical products

In order to register a pharmaceutical product, an applicant, along with relevant documents, must submit a packing design with a marking in Russian or Belarusian language

| Packing of a pharmaceutical product | Description   |
|-------------------------------------|---|
| Primary                             | Packing in direct contact with the pharmaceutical product (inner pack)    |
| Secondary                           | Packing enveloping the pharmaceutical product in its primary (inner) pack |

and a graphic design model.

Requirements to the marking of pharmaceutical products have been specified by Decision of EEC Council No. 76 dated 03.11.2016 and Resolution of the Ministry of Public Health of the Republic of Belarus No. 52 dated 08.05.2009.

Requirements to the marking of pharmaceutical products can be nominally divided into:

- general requirements
- requirements to marking content
- requirements to marking application technique

The general requirements include provisions on the information that must be included in the primary and the secondary packing.

Requirements to marking content are defined by respective provisions which prescribe methods of information display in inner and secondary packs, what types of warning notices must be present on such packs. Thus, for instance, names of pharmaceutical products shall be indicated in the nominative case, and addresses shall be indicated compactly (country, or country and town) or in full; additionally, telephone/fax numbers and/or e-mails may be indicated.

Marking application techniques define the colour scheme to be used, recommendations for pack material and size of symbols to be used on the pack.

## 7.4. PRICE FORMATION

Price formation in pharmaceutical products in Belarus is regulated by means of “marginal markups” — this is a margin included by the seller in the price, which is restricted by law and cannot exceed an established rate. This rule applies to both Belarusian and foreign medicines.

Pricing procedures for pharmaceutical products have been established by Decree No. 366 of the President of the Republic of Belarus of 11 August, 2005 “On price formation in pharmaceutical products, medical products and equipment”.

### 7.4.1. Pharmaceutical products of Belarusian manufacture

Wholesale prices for pharmaceutical products of Belarusian manufacture are formed according to the formula:

$$\text{Wholesale price} = \text{Belarusian manufacturer's price} + \text{bulk markup}$$

Manufacturer's (ex-factory) prices are pegged for a range of Belarusian producers, and such producers are not entitled to sell PPs at a higher price. This list has been approved by Resolution of the Council of Ministers of the Republic of Belarus No. 137 dated 07.09.2012 (see Table 1).

Table 1.  
Ceiling ex-factory prices for drugs manufactured by PharmaTech, PLLC

| No.                                | International nonproprietary name of the drug | Trade name of the drug | Formulation, dosage                | Meas. unit | Max marginal ex-factory price (BYN) |          |
|------------------------------------|---|------------------------|------------------------------------|------------|-------------------------------------|----------|
|                                    |   |                        |                                    |            | not repacked                        | repacked |
| 1                                  | 2   | 3                      | 4                                  | 5          | 6                                   | 7        |
| 1. Alimentary canal and metabolism |   |                        |                                    |            |                                     |          |
| 1.1                                | lactulose                                     |                        |                                    |            |                                     |          |
| 1.1.1                              | lactulose                                     | prelax                 | syrup 0.67g/ml<br>220 g N 1, flask | pack       |                                     | 4.8825   |
| 1.1.2.                             | lactulose                                     | prelax                 | syrup 0.67g/ml<br>400 g N 1, flask | pack       |                                     | 7.95     |

Source: Resolution No. 137 of the Ministry of Public Health of the Republic of Belarus of 7 September, 2012 "On ceiling ex-factory prices for pharmaceutical products manufactured by Belarusian entities"

A wholesaler may however sell any drugs at a price lower than the normal ex-factory price (during a marketing action, for instance). At the moment, changes to legislation are expected which would abolish

the maximum ex-factory price rule.

As to the bulk markup, its rate is limited as follows:

Its limit size depends on the ex-factory price of a pharmaceutical product and is established in

percent (%);

the rate of such marginal bulk markup normally incorporates markups of all entities in the entire distribution chain for such drugs (Table 2).

Table 2.

| Belarusian manufacturer's price or calculated ex-factory price per unit, in basic units [2] | Bulk markup on Belarusian manufacturer's price or calculated ex-factory price, % | Resale markup on Belarusian manufacturer's price or calculated ex-factory price, % |
|---|--|--|
| below 0.5   | 9  | 30   |
| 0.5–1   | 8  | 25   |
| 1–1.5   | 7  | 14   |
| 1.5–3   | 7  | 12   |
| 3–5   | 6  | 10   |
| 5–10  | 4  | 5  |
| over 10   | 2  | 1  |

Costs of ex-factory transportation will increase the ex-factory price and, consequently, the eventual markup and the wholesale price, no matter who will perform transportation of goods under the agreement — manufacturer or wholesale buyer.

Where a manufacturer grants a monetary discount, it will not affect

the eventual markup and the wholesale price — they will be calculated net of such discount. This discount (i.e. available profit) may be only used for the procurement of Belarusian pharmaceutical products, development of pharmacy networks in rural areas and/or compensation of losses on internal drug production

of pharmacies.

Retail prices are calculated according to the formula:

$$\text{Retail price} = \text{wholesale price} + \text{resale markup}$$

Resale markup rates are also calculated on the basis of Belarusian



manufacturer prices. Table 2 shows that maximum resale markups differ from bulk markups.

#### 7.4.2. Pharmaceutical products of foreign manufacture

Wholesale prices for foreign pharmaceutical products are calculated according to the formula:

$$\text{Wholesale price} = \text{calculated ex-factory price} + \text{bulk markup}$$

Therewith, the calculated ex-factory price is defined as follows:

$$\text{Calculated ex-factory price} = \text{contract price} + \text{customs charges} + \text{import VAT} + \text{carriage costs}$$

The 'contract price' is the price under the agreement with the foreign manufacturer/supplier. The contract price shall not exceed the price declared for the purposes of registration of the drug in Belarus. Otherwise, validity of registration certificate may be suspended for a period of up to 6 months. During this period such drugs will be prohibited for import and sale in Belarus. If the violation is not cured in a timely manner, registration certificate may be cancelled.

In order to calculate the wholesale price, seller may realign the contract price each month owing to currency rate fluctuations, if:

- such drug has been placed under a customs procedure of clearance for domestic consumption, and
- the wholesale buyer has accounts payable to the foreign supplier for such drug.

As in the case of Belarusian drugs, monetary discounts of foreign manufacturers/suppliers will not affect the calculation of the wholesale

price. However, benefits of such discounts may be used without any restrictions.

Retail prices for foreign drugs are formed in the same way as for Belarusian drugs:

$$\text{Retail price} = \text{wholesale price} + \text{resale markup}$$

Resale markup rates are calculated on the basis of calculated manufacturer (ex-factory) prices, according to the same rules as in Table 2.

As in the case of Belarusian drugs, foreign drugs may be sold at a price lower than the calculated ex-factory price.

#### 7.5. BULK PURCHASES OF PHARMACEUTICAL PRODUCTS

All procurements of pharmaceutical products for the public sector in the Republic of Belarus are always bulk purchases. Bulk purchases of pharmaceutical products allow for significant reduction of expenses on the delivery of pharmaceutical products to public health care institutions.

The peculiarities of bulk purchases as part of state procurements of pharmaceutical products have been established by Decree No. 46 of the President of the Republic of Belarus dated 28.02.2017 "On state procurements of patient care items, pharmaceutical products and health food". The decree is expected to remain in force in the near future.

Centralized bulk purchases of pharmaceutical products are carried out in Belarus as follows:

1. Competent government bodies/institutions compile lists of pharmaceutical products to be purchased via bulk purchases (Presidential Property Management De-

partment, regional executive committees, etc.).

2. National unitary enterprise BELPHARMACY and regional Pharmacy unitary enterprises are organizers of state purchases of pharmaceutical products.

3. Organizers (BELPHARMACY or local Pharmacy enterprises) conclude agreements with suppliers of pharmaceutical products.

4. Customers (polyclinics, hospitals, pharmacies) purchase pharmaceutical products from organizers without any procedures of state purchases.

BELPHARMACY carries out procedures of bulk state purchases of pharmaceutical products according to a specific stock list, within the scope of nation-wide needs, and transfers their results to regional Pharmacy enterprises, which thereafter conclude contracts with winners for further sales of pharmaceutical products to health care institutions.

Regional Pharmacy enterprises, conversely, carry out procedures of state purchases according to different stock lists of medical supplies within the scope of regional needs, and thereafter conclude contracts with winners for further sales of pharmaceutical products to health care institutions.

Annual plans of bulk purchases are formed on the basis of applications filed by health care institutions and are subject to approval by the Ministry of Public Health. Pharmaceutical products not included in an annual plan may be purchased from own floating assets (for instance, domestic pharmaceutical products required for fee-based medical services), or from extra-budgetary resources (foreign pharmaceutical products).

## 7.6. ADVERTISING AND PROMOTION OF PHARMACEUTICAL PRODUCTS

Special requirements have been established in Belarus for advertisements of pharmaceutical products. These requirements shall be complied with along with the general requirements to advertising.

The peculiarities of advertisements of pharmaceutical products have been established by Law of the Republic of Belarus No. 225-Z dated 10.05.2007 "On advertising", and by Resolution No. 63 of the Ministry of Public Health of the Republic of Belarus dated 23.07.2013.

Any violation of advertising requirements entails administrative liability.

### 7.6.1. Peculiarities of pharmaceutical products advertising

The following peculiarities of pharmaceutical products advertising exist in Belarus:

#### Advertisements must be approved by MPH.

According to the general rule, all advertisements of pharmaceutical products in Belarus must be approved by the MPH. In order to obtain such approval, an advertiser shall file a request to MPH together with samples of advertising materials, drug package insert, history of its use and a confirmation of veracity of the advert. MPH will decide on advert approval within a term from 15 days to 1 month (if an expert advice regarding an advert is needed). The effective duration of such approval is 1 year.

Advertisers do not need approval for adverts of pharmaceutical products in the following cases:

- in venues of medical or pharmaceutical exhibitions, workshops, conferences, and similar events, where advert information is furnished only to medical and pharmaceutical specialists;
- in specialised print publica-

tions, approved by MPH [3].

#### Prohibition of advertising.

You can advertise only registered pharmaceutical products. The only exception is advertising of non-registered pharmaceutical products during their clinical trials for state registration. Such advertising is aimed at engaging volunteers (patients) to participate in such clinical trials.

Any distribution of adverts of pharmaceutical products sold only on prescription is allowed only in specialised print publications and venues of medical or pharmaceutical exhibitions, workshops, conferences, and similar events.

#### Content of adverts of pharmaceutical products.

The list of requirements to the contents (and prohibitions on content) of adverts of pharmaceutical products is very broad. The table below provides a number of examples of such requirements (the presented lists are not exhaustive).

| Requirement             | Advert content  |
|-------------------------|---|
| Advert must contain     | Indication that the information is of advertising nature, and the subject of such advert is demonstrated for the purpose of advertising.  |
|                         | Name of the pharmaceutical product and name of its manufacturer (producer).   |
|                         | Recommendation that users should read the package insert or seek doctor's advice (except for adverts in venues of medical or pharmaceutical exhibitions, workshops, conferences, and similar events, or in specialised print publications). |
|                         | A notice that the pharmaceutical product has medical contraindications and by-reactions.  |
|                         | Duration of drug administration, notices on special use during pregnancy, on severity levels of symptoms, syndromes or disorders requiring use of this pharmaceutical product (if the package insert contains such information).            |
| Advert must not contain | Statement on curative (therapeutic) effect of the pharmaceutical product in regard to illnesses insusceptible or hardly susceptible to medical treatment.   |
|                         | Information addressed directly to underage persons.   |
|                         | Information on therapeutic indications, methods of use, curative (therapeutic) effect which does not conform to the information in the package insert of the pharmaceutical product.  |
|                         | Any statement that curative (therapeutic) effect in using the pharmaceutical product is absolutely guaranteed.  |

| Requirement | Advert content   |
|-------------|--|
|             | Any references to actual cases of recovery after using the pharmaceutical product, or any expression of gratitude for that matter. |
|             | Indications that any material reward may be obtained after buying the pharmaceutical product.                                      |
|             | Any recommendations of state authorities or organizations, in order to reinforce the advertising effect.                           |

### 7.6.2. Promotion of pharmaceutical products

'Promotion' is an activity carried out, arranged or sponsored by a pharmaceutical company in any form, using various communication channels (including Internet) and aiming at contributing to attracting attention, forming or maintaining demand, prescription, recommendations, supplies, sales, application, assigning and/or use of pharmaceutical products of a company. [4]

#### Activities of pharmaceutical representatives

Activities of representatives of pharmaceutical companies who inform clients of their products is one of the means to promote pharmaceutical products.

Procedures and terms of information sharing by medical and pharmaceutical specialists with regard to pharmaceutical products included in the State register of pharmaceutical products of the Republic of Belarus by representatives of manufacturers of pharmaceutical products are regulated by Resolution No. 44 of the Ministry of Public Health of the Republic of Belarus dated 17.04.2015 (hereinafter — Resolution No. 44).

Such information sharing may be carried out only by the following representatives:

- having a university degree in Medicine or Pharmacy;

- who are competent in pharmaceutical products circulation.

The law provides for the following legitimate forms of information sharing:

- oral presentation involving (or not involving) demonstration of information or other materials on pharmaceutical products during meetings, conferences, workshops, symposia and other events specified by the director of the respective health care institution;
- placing information materials on pharmaceutical products in places specified by the director of the respective health care institution.

In promoting pharmaceutical products, you should take into account the existing prohibitions for representatives. These are:

- be present and/or to speak at any events not specified by host institution head;
- place (distribute) information materials in any places not specified by host institution head;
- enter offices or other working spaces of the host institution or otherwise

distract workers' attention away from their job duties;

- distribute (furnish) any samples of pharmaceutical products, either for a compensation or free of charge;
- carry out and activities/actions aiming at creating workers' interest in ordering or selling pharmaceutical products to patients.

#### Anti-corruption regulations

Anti-corruption laws restrict promotion of pharmaceutical products in cases where such activities affect relations involving administrative officials.

Prohibitions and restrictions with regard to medical and pharmaceutical specialists who are administrative officials have been established by Law of the Republic of Belarus No. 305-Z dated 15.07.2015 "On fighting corruption" (hereinafter — the Anti-Corruption Law).

'Administrative officials' are: i) government administrative officials, and ii) persons equivalent to administrative officials.

| Government administrative officials   | Persons equivalent to administrative officials   |
|---|--|
| Administrative/organizational or administrative/economic functions in state agencies or entities with at least 50% share of the state | Administrative/organizational or administrative/economic functions in NON-government agencies;<br>Powers to carry out legally significant acts (sick note, prescription) |

Below are the main prohibitions and restrictions established by the Anti-Corruption Law:

| Prohibition   | Exceptions from the prohibition  |
|---|--|
| Taking presents   | Only souvenirs during protocol event and official events are allowed   |
| Making trips at the expense of another person relationship to whom are connected with official activities | Allowed where it is: <ul style="list-style-type: none"> <li>• an official business trip;</li> <li>• financed by close relative;</li> <li>• made in accordance with an international treaty or an arrangement between state authorities of different states;</li> <li>• made upon senior officer's consent and at the expense of a non-government association (fund)</li> </ul> |

### 7.7. PROCEDURES FOR IMPORTATION (EXPORTATION) OF PHARMACEUTICAL PRODUCTS

Importation (exportation) of pharmaceutical products in/from the territory of the Republic of Belarus is controlled by the state.

Procedures for importation (exportation) of pharmaceutical products are regulated by Law of the Republic of Belarus No. 161-Z dated 20.07.2006 "On pharmaceutical products" (hereinafter — the Pharmaceutical Products Law).

Only the following pharmaceutical products may be imported in the Republic of Belarus:

- registered in the Republic of Belarus;
- with effective period of validity;
- of good quality, not forged.

Importation of non-registered pharmaceutical products is allowed in restricted cases only. The following pharmaceutical products may be imported without registration:

- intended for preclinical studies;
- for state registration;
- for use as exhibition samples;

- for clinical trials;
- imported by natural persons for individual use;
- used to cure restricted cohorts of patients with uncommon pathologies;
- used to mitigate effects of emergency conditions or epidemic diseases;
- imported as foreign gratis aid;
- imported pursuant to the requirements of customs laws of the Eurasian Economic Union (if placed under the customs procedures of: processing in the customs territory, customs warehouse, free economic zone, free warehouse, destruction, or customs transit)[5].

Regarding exportation, the current legislation does not provide for any particular requirements in this respect. There is only one peculiarity: if pharmaceutical products are intended exclusively for commercial production for export, they cannot be registered in Belarus.

#### 7.7.1. Opinion letter for importing pharmaceutical products

In some instances, in order to im-

port registered (or non-registered) pharmaceutical products in the Republic of Belarus, you will need an opinion letter (a permit) of the Ministry of Public Health.

Procedure for release of MPH opinion letters for importation of pharmaceutical products have been established by the Regulation on procedures and terms of release of MPH opinion letters (permits) for importation of pharmaceutical products and pharmaceutical substances controlled by Belarusian Frontier Service due to non-economic reasons, as approved by Resolution of the Council of Ministers of the Republic of Belarus No. 1397 dated 23.09.2008.

In particular, you will need such an opinion letter when importing non-registered pharmaceutical products, and also pharmaceutical products delivered:

- as aid/supplies in emergency situations or epidemic diseases;
- for state re-registration or amendments of registration dossiers;
- for delivery of health care during international sports events;
- to be used as exhibition samples;
- as foreign gratis aid.

Such opinion letters are issued by MPH. The national unitary enterprise "Centre of evaluations and trials in public health service" (hereinafter — the Expert Evaluation Centre) accepts and examines required documents and issues opinion letters for importation of pharmaceutical products. Opinion letters are issued within 20 calendar months. Such opinion letters are valid within 6 months.

#### 7.7.2. Peculiarities of importation (exportation) of medicinal narcotic drugs

A special procedure has been established for importation (exportation) of medicinal narcotic drugs in the territory of the Republic of Belarus.

Procedures for importation (exportation) of medicinal narcotic drugs are regulated by Law of the Republic of Belarus No. 408-Z dated 13.07.2012 “On narcotic drugs, psychotropic substances, their precursors and equivalents” (hereinafter — the Narcotic Drugs Law).

Importation (exportation) of medicinal narcotic drugs is carried out by legal entities under special permits.

Such permits are issued in respect of pharmaceutical products which are narcotic and are, as such, included in the National List.[6]

Permits in respect of narcotic pharmaceutical products included in List 1, Table 1 of List 4, and List 5 of the National List are issued in consultation with the Ministry of Internal Affairs of the Republic of Belarus.

Procedures for issue of such permits have been established by Resolution of the Council of Ministers of the Republic of Belarus No. 1397 dated 23.09.2008 “On some issues of procedures for movement of particular goods across the state frontier of the Republic of Belarus”.

Obtaining MPH permit is an administrative procedure provided for by cl. 10.27.1 of the Catalogue

| Issues tackled at the supranational level   | Issues tackled at the national level of EAEU member states  |
|---|---|
| <ul style="list-style-type: none"> <li>• development</li> <li>• preclinical and/or clinical studies</li> <li>• quality control</li> <li>• registration</li> <li>• manufacturing</li> <li>• distribution of pharmaceutical products</li> </ul> | <ul style="list-style-type: none"> <li>• granting permits on preclinical and/or clinical studies of drugs</li> <li>• price setting</li> <li>• retail trade</li> <li>• state purchases of pharmaceuticals and other procedures related to cost recovery in the sphere of pharmaceuticals trade</li> <li>• advertising</li> </ul> |

of administrative procedures. This procedure will be carried out by the Expert Evaluation Centre, which is subordinated to MPH[7]. Required documents are examined free of charge within 15 calendar days.

### 7.8. PECULIARITIES OF REGULATING PHARMACEUTICAL PRODUCTS TURNOVER AT EAEU LEVEL

At present, a single EAEU market of pharmaceutical products has been legislated and is rapidly growing.

The ‘single market’ of pharmaceutical products means that the following pharmaceutical products are freely traded within the EAEU: i) conforming to standards of good pharmaceutical practices (laboratory, production, clinical, pharmacovigilance, etc.), and ii) registered pursuant to unified rules of registration and expert evaluation.

The single EAEU market of pharmaceutical products is regulated by the Agreement on uniform principles and rules of turnover of pharmaceutical products within EAEU of 23.12.2014. In order to regulate the procedures for the turnover of pharmaceutical products within the single market, the EAEU Committee jointly with EAEU member states prepared a package of documents which entered into force on 6 May, 2017.

Manufacturers of EAEU member states may submit their applications for the registration and issue of pharmaceuticals under the unified procedures, which will reduce administrative expenses.

In order to harmonize the pharmaceutical markets of EAEU member countries, a transition period was established to secure a smooth transition of national regulation to the unified regulation.

| Period              | Procedure   |
|---------------------|---|
| prior to 31.12.2020 | manufacturers are entitled to choose the type of rules (national or unified) to be used in registering pharmaceutical products              |
| prior to 31.12.2025 | all pharmaceutical products registered under the national rules before 31.12.2020 must be re-registered pursuant to the single market rules |
| as from 01.01.2026  | turnover of pharmaceuticals not duly registered or not conforming to the EAEU requirements will be ceased                                   |

### 7.8.1. Registration of pharmaceutical products under unified rules

In registering pharmaceutical products according to the single market rules, applicants may choose one of the following registration options:

- mutual recognition procedure;
- decentralised procedure.

The difference between these two options lies in the synchronism or the sequencing of activities. The decentralised procedure will take longer time: the dossier will be concurrently evaluated both in the reference state[8], and in the recognition states[9]. The mutual recognition procedure implies that dossiers are first examined in the reference state, and thereupon in the recognition states.

#### 1. Mutual recognition procedure

This procedure implies registration of a pharmaceutical product in two steps:

- national registration procedure — reference state will carry out registration for the purposes of turnover of the pharmaceutical product in the local market of this state;
- mutual recognition procedure — if preferred by the applicant, the pharmaceutical product may be recognized in other EAEU member states (recognition states).

During the step of national registration, the competent authority of the reference state will carry out expert evaluation of the pharmaceutical product. If such evaluation results in a positive decision, a registration certificate will be granted to the applicant and the data on the pharmaceutical product will be entered into the Unified Register.

Upon registration of a pharmaceutical product in the reference state (after the applicant has al-

ready obtained registration in any EAEU member state), the applicant is entitled to apply to competent authorities or expert organizations of other EAEU member states for the registration of the pharmaceutical product using the mutual recognition procedure. Expert evaluation of pharmaceutical products in the recognition states is carried out via examination of the applicant's request and required documents, and the expert evaluation report prepared by the reference state. If such examination results in recognition of the expert report and a positive decision on registration of the pharmaceutical product, the recognition state will grant a registration certificate to the applicant by virtue of which the pharmaceutical product will be accepted for turnover in the territory of the respective recognition state.

#### 2. Decentralised procedure

Registration under this procedure implies that registration of the pharmaceutical product is carried out by several EAEU member states. There-with, the applicant will autonomously choose a reference state when applying for registration of the pharmaceutical product (if such product is not registered in any EAEU member state).

Registration of a pharmaceutical product under the decentralised procedure is also carried out in two steps which are simultaneous:

- registration in the reference state;
- recognition of the expert report in the recognition states.

For the purposes of the mentioned registration procedure, competent authorities of the reference state and the recognition states will cooperate to carry out the expert evaluation of the pharmaceutical product. A positive decision of the

competent authorities of the reference state and the recognition states will result in granting corresponding registration certificates to the applicant.

Duration of a registration certificate granted under the unified procedure is 5 years. Upon expiry of this term, an unlimited registration certificate for the pharmaceutical product is granted, provided its registration be confirmed.[10]

Within the framework of the EAEU, the following types of pharmaceutical products are not subject to registration:

- manufactured in pharmacies;
- to be used as exhibition samples;
- intended for preclinical and/or clinical studies/trials;
- imported by natural persons for individual use;
- radiopharmaceuticals manufactured directly in health care facilities pursuant to procedures established by competent authorities of a member state;
- not intended for sale within the EAEU customs territory;
- samples of pharmaceutical products intended for registration procedures and standard samples.

### 7.8.2. Non-tariff regulation measures in respect of pharmaceutical products

Non-tariff regulation measures are applied to particular pharmaceutical products. This means that importation of such products in the EAEU territory is subject to authorization-based procedures (licensing).

The list of pharmaceutical products subject to authorization-based procedures has been established by clause 2.14, Annex 2, as approved by Decision of the Board

of Eurasian Economic Commission No. 30 dated 21.04.2015 “On non-tariff regulation measures” (hereinafter — the List).

The authorization-based procedures are not applied:

- in respect of pharmaceutical products:
  - not included in the List;
  - imported by natural persons for individual use;
  - kept in medicine chests of vehicles and intended for treatment of passengers and crew members;
  - imported for treating participants of official international cultural and sports events and participants of international expeditions;
  - where all pharmaceutical products (without limitation to the list in clause a.) are placed under one of the following customs procedures:
    - processing within customs territory;
    - customs warehouse;
    - free economic zone;
    - free warehouse;
    - destruction;
    - customs transit;
    - customs procedure of temporary import (admission).

The authorization-based procedures are applied in two forms:

- availability of record on a pharmaceutical product in the Unified Register or in the respective state register of pharmaceutical products of the member state;
- availability of permit for importation.

Importation of registered pharmaceutical products will be allowed provided a record on respective pharmaceutical product exists in the Unified Register or in the respective state register of

pharmaceutical products of the member state. In spite of the fact the Importation Regulation allows for importation of pharmaceutical products included into the EAEU Unified Register of pharmaceutical products, actually at the moment it is not possible due to the fact that the single EAEU market is not yet operating in full.

Moreover, imports of non-registered pharmaceutical products and registered pharmaceutical products intended for: i) humanitarian aid and/or supplies for emergency situations, ii) clinical studies and/or trials, shall be supported by an official permit (authorization document).

Such official permits (authorizations) are issued by MPH. Documents required for such permits are accepted and examined by the national unitary enterprise “Centre of evaluations and trials in public

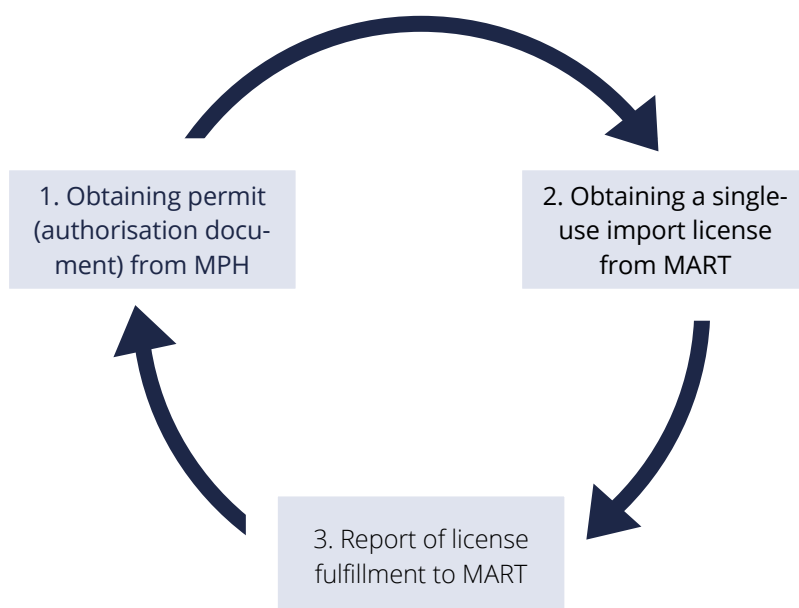
health service” (hereinafter — the Expert Evaluation Centre). The time frame for issuing such permit is 20 calendar days. Its duration is 6 months.

### 7.8.3. Peculiarities of importation (exportation) of medicinal narcotic drugs

Stricter requirements apply to importation (exportation) of medicinal narcotic drugs.

The list of medicinal narcotic drugs subject to authorization-based procedures for importation (exportation) has been established by clause 2.12, Annex 2, as approved by Decision of the Board of Eurasian Economic Commission No. 30 dated 21.04.2015 “On non-tariff regulation measures”.

Importation of all other narcotic drugs (not included in the mentioned list) is prohibited in the EAEU territory.



Importation of medicinal narcotic drugs is subject to special single-use import licenses. Such licenses are granted by the Ministry of Anti-Monopoly Regulation and Trade of the Republic of Belarus (hereinafter — MART)[11], where there is a permit (authorization document) from MPH. Permits (authorization documents) in respect of narcotic drugs, psychotropic substances and precursors included in List 1, Table 1 of List 4, and List 5 of the National List of narcotic drugs, psychotropic substances and their precursors subject to state control in the Republic of Belarus are issued in consultation with the Ministry of Internal Affairs of the Republic of Belarus.

MPH permits (authorization documents) will be granted subject to submission of documents for an import license. This is an administrative procedure carried out by the national unitary enterprise “Centre

of evaluations and trials in public health service”, which is subordinated to MPH[12]. Required documents are examined free of charge within 15 calendar days.

Granting a license for importation of medicinal narcotic drugs by MART is also an administrative procedure carried out within 15 calendar days. The fee for the procedure is 5 basic units.

Single-use licenses for importation of medicinal narcotic drugs are issued for 1 year, unless otherwise provided for by the terms of a foreign trade contract (agreement) by virtue of which imports are made, or by the duration of the permit (authorization document). A single-use license for importation of medicinal narcotic drugs shall particularly specify the description, the quantity and the value of imported products.

Upon expiry of a license, the im-

porter is obliged to furnish a statement of license fulfillment to MART within 15 calendar days.

Production of license is not required in importation of[13]:

- medicinal narcotic drugs by natural persons to a limited extent (narcotic drugs — not more than the rate of weekly need; psychotropic substances and precursors — not more than 90 single doses, upon availability of supporting medical documents or copies thereof duly certified by a notary or by the issuing health care institution);
- medicinal narcotic drugs, intended for emergency actions in emergency situations;
- medicinal narcotic drugs in first-aid kits in vehicles, in limited quantities specified by the legislation of the state of registration of such vehicles (however, narcotic drugs cannot be kept in railway or motor vehicles in any circumstance).



# 8

## Finance and Banking System

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## 8.1. SETTLEMENTS AND FINANCIAL ACCOUNTING

According to the general rule, payments between legal entities and individual entrepreneurs in Belarus are carried out via bank transfers. Nevertheless, some settlements are made in cash. Cash settlements are carried out by depositing cash directly to bank cash departments and further crediting onto current bank accounts of recipients. **The total amount of cash transactions made by one payer cannot exceed 100 basic units during one day.**

Apart from bank cash departments, the following entities may receive cash payments from business entities in the amount of not more than 100 basic units:

- business entities engaged in exhibition activities — for any services rendered by them, rental of premises;
- business entities performing wholesale trade through self-service shops with a minimum trade markup, including on a cash basis, and business entities engaged in retail trade — for any goods sold by them;
- administration bodies of markets, — for their services in accordance with internal regulations of such markets pertaining to lease of retail space, rental of premises;

- business entities selling fuel and providing services directly related to international road transport — for fuel and services (vehicle washing, minor involuntary repair of vehicles, execution of documents for carriage of dangerous goods requiring special permits, parking services, telephone and fax services, terminal services (communication with transport and cargo border control services), escorting of cargos (in exceptional cases).

All cash payments to budget and state non-budget funds are made without size restrictions.

Some legal entities and individual entrepreneurs are not allowed to conduct cash transactions. These are:

- legal entities and individual entrepreneurs engaged in wholesale trade of alcoholic, inedible alcohol-containing products, inedible ethyl alcohol, tobacco raw material, tobacco products;
- legal entities undergoing liquidation and individual entrepreneurs facing a decision on termination of their activities, legal entities and individual entrepreneurs facing bankruptcy proceedings.

The sources of cash for cash settlements are as follows:

- cash received from current bank accounts and client accounts

on which corporate (private) debit cards have been issued;

- cash received into cash registers;
- personal money of employees of legal entities used for the benefit of such employing entities.

Cash transactions between business entities and natural persons in selling goods, performing works and/or rendering services are allowed in the amount of not more than 1,000 basic units (as of January 1, 2019 equals to circa 10,350 Euros).

Business entities shall lodge cash assets with servicing banks, to collecting agents or to organizations subordinated to the Ministry of Communications and Informatization of the Republic of Belarus. Business entities independently determine in writing their procedure and terms for depositing cash, except for those business entities that receive cash in the servicing bank or apply other unsteady methods of receiving cash (at most 5 days in the preceding calendar month). Such business entities do not determine their procedure and terms for cash depositing. Furthermore, 2018 saw the cancellation of the former rule prescribing that business entities may only receive and spend cash money for purposes defined by legislation.



## 8.2. BANKING SYSTEM

The Banking Code of the Republic of Belarus is the main legal act regulating the Belarusian banking system.

According to the provisions of the Code, the banking system of Belarus comprises:

- the National Bank of the Republic of Belarus (the central bank of the Republic of Belarus which regulates credit relations and currency circulation, determines settlement procedures and has the exclusive

right of currency issue);

- other banks (24 banks are registered in the Republic of Belarus as of February 1, 2020, apart from the National Bank);

The financial system of the Republic of Belarus also comprises non-banking credit and financial institutions (as of February 1, 2020, 3 non-banking credit and financial institutions are registered in the Republic of Belarus). Non-banking credit and financial institutions (unlike banks) are not entitled to exercise the following banking operations:

- attraction of money from legal entities and/or individuals onto accounts and/or deposits;
- placement of attracted funds on its own behalf and at own expense under the terms of refundability, serviceability and maturity;
- opening and maintaining of bank accounts of individuals and/or legal entities.

### 8.2.1. Banking principles

The main principles of banking activities include the following:

1. obligatory licensing of banks and non-banking credit and financial institutions engaged in banking activities (hereinafter — Banking License);
2. independence of banks and non-banking credit and financial institutions in their activities and non-interference of government authorities into their work, except for cases provided for by laws of the Republic of Belarus;
3. division of responsibilities between banks, non-banking credit and financial institutions and the state;
4. compliance with safety functioning standards introduced by the National Bank of the Republic of Belarus (hereinafter — the National Bank) to ensure stability and soundness of the banking system in the Republic



of Belarus.

5. the right of individuals and legal entities to choose banks and non-banking credit and financial institutions at their discretion;

6. securing confidentiality of clients' transactions, accounts and deposits;

7. securing the recovery of funds placed by bank depositors.

### 8.2.2 Authorized funds of banks and formation procedures

An authorized fund of a bank is formed by contributions (assets) of its founders (shareholders). An authorized fund of a bank determines the minimum amount of bank assets to safeguard the interests of its creditors.

The minimum amount of an authorized fund of a bank is determined by the National Bank upon approval of the President of the Republic of Belarus. Pursuant to Resolution of the Board of the National Bank of the Republic of Belarus No. 380 of June 23, 2015 "On the minimum amount of authorized funds of banks", a minimum amount of a bank's authorized fund is established in the amount of 45 mln Belarusian roubles (ca. 19 mln Euros) as of February 1, 2020.

In the process of bank establishment, the minimum amount of its authorized fund shall be formed by means of cash contributions. Only own funds of bank founders can be used for the purpose of forming the bank's authorized fund, and only own funds of bank founders, other persons, and/or shareholders' equity can be used for an increase of the authorized fund.

'Own funds' of bank founders (shareholders) and other persons mean legitimately acquired financial resources or other assets owned by such persons by virtue of ownership or other proprietary rights. 'Shareholders' equity' are bank's retained earnings from past years or funds established from bank profits (where such funds have not been used).

Non-monetary contributions to the authorized fund of a bank may be represented by property required for banking activity and pertaining to fixed assets, except for unfinished construction projects.

Monetary contributions to the authorized fund of a bank shall be transferred to a temporary account opened by bank founders or by the bank itself, in case its authorized fund is increased in the National Bank, or

(as agreed with the National Bank) to a temporary account opened in another bank. If a temporary account is opened in another bank, monetary funds are transferred to such temporary account via a correspondent account of this bank opened in the National Bank.

Opening of a temporary account is not required in case of:

- adoption of a legal act of the Republic of Belarus that provides for making monetary contributions to the authorized fund of a bank;
- increase of authorized fund at the expense of shareholders' equity;
- increase of authorized funds at the expense of credits (loans) placed at such bank earlier and recognized as subordinated according to Belarusian legislation.

### 8.2.3. Terms and conditions for obtaining a banking license

According to Belarusian legislation, banking is a licensed activity. Banking licenses and lists of allowed banking operations are issued by the National Bank of the Republic of Belarus.

Each bank is obliged to apply to the National Bank for a banking license within ten months from the date of state registration.

To obtain a banking license, a Bank must comply with the licensing requirements as established by the National Bank.

Decision on the issue of license (refusal to issue) and/or on introduction of amendments (refusal of introduction) to the list of allowed banking operations is made by the National Bank within at most two months from the date of application.

Founders of a bank may apply to the National Bank for a license concurrently with their application for state registration of the bank, provided all license requirements are

fulfilled. The period of examination may be extended up to three months by the National Bank.

If a bank has not received a license within twelve months from the date of its registration, such bank will be liquidated in accordance with the procedure established by the law of the Republic of Belarus, by the decision of its shareholders or a bank authority duly authorized by the charter, or by the decision of the Minsk economic court (Minsk region economic court), at the suit of the National Bank.

A bank must have a stable financial position over the last two years (or from the date of obtaining a license, if the license was obtained less than 2 years ago), in order to obtain the right to exercise banking operations, to attract funds of individuals to its accounts/deposits, and to open and maintain bank accounts of individuals. A bank must have regulatory capital in the amount of 45 million Belarusian roubles, or 90 million Belarusian roubles if the banking license was obtained less than 2 years ago, as of the first day of the month of application to the National Bank.

### 8.2.4. Additional requirements to banks with foreign investments created and managed in Belarus

A limit (quota) for foreign participation in the banking system of the Republic of Belarus is set by the National Bank upon the approval of the President of the Republic of Belarus. As of February 1, 2020 this limit amounts to at most 50 percent. The limit shall be calculated as the ratio of the total non-resident capital in the aggregate equity capital of banks founded by foreign investors to the total equity capital of banks registered in the territory of the Re-

public of Belarus.

The National Bank will stop registration of banks founded by foreign investors once foreign participation in the banking system of the Republic of Belarus has reached the established limit.

Where equity capital of a bank is increased by means of non-resident funds, and/or a bank (and/or its resident shareholder) alienates a share (stock capital) to a non-resident, either such non-resident buyer or resident seller shall procure a prior consent of the National Bank to such transaction.

Applications will be duly examined by the National Bank within thirty days from the date of submission.

Any transactions involving disposal of shares to non-residents concluded without an authorization of the National Bank will be deemed void.

The National Bank is entitled to forbid any increase in the authorized fund of a bank founded by foreign investors at the expense of funds of non-residents and/or to dispose shares to non-residents, if such actions result in exceeding the limit (quota) for foreign participation in the banking system of the Republic of Belarus.

The Government of the Republic of Belarus, at the suggestion of the National Bank, are entitled to introduce restrictions on banking operations for banks founded by foreign investors, if respective foreign states apply similar restrictions for the activities of banks with investments of Belarusian citizens and/or legal entities of the Republic of Belarus.

### 8.2.5. Representative office of a foreign bank

Foreign banks are entitled to open representative offices in the Republic of Belarus. Five representative offices



of foreign banks are operational in the Republic of Belarus as of February 1, 2020.

A representative office of a foreign bank is not a legal entity and carries out its activity basing on a regulation approved by its parent bank.

A representative office of a foreign bank is not entitled to carry out banking operations or other activities, except for protection and representation of interests of its parent bank, including consulting and/or information services.

The decision on the opening of a foreign bank's representative office (or refusal of such opening) is made by the management board of the National Bank within at most two months from the date of submission of required documents.

An application for the opening of a representative office of a foreign bank may be declined due to the following:

- the provided information is incorrect
- the internal regulation of the representative office does not comply with the legislation of the Republic of Belarus

Representative offices of foreign banks in the Republic of Belarus may be established for a maximum term of three years. The operating term of

a foreign bank's representative office may be extended by the decision of Deputy Chairman of the Management Board at the request of the respective foreign bank provided that it has applied to the National Bank at least one month before the expiry of the permit. The decision on the prolongation of the representative office's operating term will be made within at most one month from the date of application.

If such request is not submitted within the specified term after the expiry of the permit, the Banking Supervision department of the National Bank will exclude such representative office's records from the register of foreign bank representative offices and will notify such foreign bank thereof within five days.

### 8.3. SECURITIES MARKET

A number of legal acts of the Republic of Belarus are dedicated to securities market regulation, the main being the Civil Code of the Republic of Belarus and the Law of the Republic of Belarus No. 231-Z "On the securities market" dated January 5, 2015 (hereinafter — "the Law").

Apart from the Law, a number of bylaws have been adopted in Belarus over the last two years, aimed at better regulation of the securities market

and professional securities activities.

Pursuant to article 1, part 1, cl. 36 of the Law, the securities market is a system of relationships between legal entities and/or private individuals and other subjects of civil law pertaining to the issue of, transactions with and redemption of securities, professional and exchange activities with securities.

There are two types of securities market: organized and unorganized. An organized market is a set of relationships pertaining to securities transactions in a trading system of a securities market maker including securities exchange. In an unorganized market, securities transactions are carried out beyond a trading system of a securities market maker.

The Ministry of Finance is the main administrative body of the Republic of Belarus in securities market regulation.

#### 8.3.1. Types of securities

There are two types of securities: equity (issue-grade) securities and non-equity securities.

The issue-grade securities are capital stock, government bonds, debenture bonds, and other types of securities (including derivative securities) classified as 'issue-grade' according to the legislation of the Republic of Belarus on the securities market. Exchange-traded debentures and housing bonds are also classified as issue-grade securities.

The non-equity securities are those which are not classified as issue-grade (equity) securities.

According to the legislation of the Republic of Belarus, issue-grade securities can be inscribed or to bearer, certificated or non-certificated.

Non-certificated issue-grade securities are securities which are issued as a complex of records in compli-

ance with mandatory corporate details.

Certificated issue-grade securities are issue-grade securities which are issued as paper documents (blanks) in compliance with mandatory corporate details and other requirements.

Normally, inscribed issue-grade securities can only be non-certificated, while bearer issue-grade securities can only be certificated.

The procedure of issuing capital stock or bonds (except exchange-traded bonds) requires their obligatory state registration in the Ministry of Finance of the Republic of Belarus.

### 8.3.2. Professional and exchange activities in the securities market. License requirements and conditions for professional and exchange activities

Professional and exchange activities in securities — are entrepreneurial activities in transactioning with securities (including derivative securities) issued by third parties, agency operations with securities (including derivative securities) in behalf of a client for the purposes of profit (except interest/discount/dividend income deals, in particular with professional securities market makers), in delivering works or services pertaining to such types of deals and/or enforcement of rights certified by securities, in custody business, clearing activities and settlement of securities trading.

This type of activities includes the following works and services:

- brokerage activity — implementation of securities transactions by a professional securities trader on client's behalf and at client's expense, or on its own behalf and at client's expense, under fee-based agency/commission agreements;

- dealer activity — implementation of securities transactions by a professional securities trader on its own behalf and at its own expense with the rights to simultaneously buy and sell securities, in particular under the terms of a public offer, provided that such securities be purchased by it at the price posted in the public offer;

- securities trust management activity — implementation of transactions by a professional securities trader on its own behalf for remuneration within a predetermined period, with securities owned by a third party and transferred in such trader's trust, or with moneys for purchasing securities for further trust management of such securities, or with money and other securities obtained in the course of securities trust management;

- clearing activity — activity performed by a professional securities trader in order to define obligations and requirements of securities sale-and-purchase deals (collection, verification, adjustment of information on securities transactions, drafting of pertaining payment documents) in order to arrange settlements of securities and moneys;

- custody activity — activity performed by a professional securities trader in rendering accounting services pertaining to securities, rights to them and encumbrances (restrictions) of such rights, by means of systems of records on depositors and their securities, custody of certificated securities, and transfers (withdrawals, depositing) of securities on deposit accounts, according to the legislation of the Republic of Belarus;

- securities trading activity — activity performed by a professional securities trader in rendering services promoting and encouraging

securities transactions between professional securities traders, non-resident legal entities authorized to carry out professional securities activity according to the international law, and/or through the intermediary of such legal entities, by means of securities bidding under the rules established by the securities market operator.

Professional and exchange activity in the securities market is subject to licensing. Licenses are issued by the Ministry of Finance only to legal entities of the Republic of Belarus.

A license on professional and exchange activities in the securities market may be issued on several types of activities.

A number of requirements are imposed on license applicants and licensees in the sphere of professional and exchange activities in the securities market. They are as follows:

- employers (except for chief executives of banks and non-bank financial institutions) and employees engaged in professional and exchange transactions in securities must comply with the applicable qualifying requirements;

- conformance to the financial sufficiency liability and the prescribed structure of financial investments as stated by the Ministry of Finance;

- such professional and exchange activity in securities shall be licensee's only business activity (this does not apply to banks, non-bank financial institutions and stock exchanges), except for cases specified by the legislative acts of the Republic of Belarus;

- licensee's chief executives and employees shall not have an unpunished/outstanding conviction for the manufacture, storage or sale of counterfeit securities or other eco-

conomic crimes.

Banks and non-bank financial institutions are granted licenses for professional and stock exchange activities upon Belarusian National Bank's consent to their business activities.

An application for license must be examined by the licensing authority within 15 working days from the date of submission.

## 8.4. INVESTMENT FUNDS

Activities of investment funds are regulated by the national law "On investment funds".

### 8.4.1. Types of investment funds

According to the law, an investment fund in Belarus may be created as a joint-stock investment fund (OJSC) or as a private equity fund.

Joint-stock investment fund (JSIF) is an open joint-stock company that accumulates and invests (pursuant to the investment declaration) the monetary funds contributed by its shareholders in return of issued stocks and other property acquired due to such investment activities.

A joint-stock investment fund is not entitled to carry out other activities apart from the activities as a joint-stock investment fund.

A JSIF may independently manage its assets — monetary funds and financial instruments intended for investment purposes, or place property intended for investment purposes into trust of the managing company. If JSIF's property comprises not only monetary assets and financial instruments (but also, for example, precious metals and gemstones, immovable property and proprietary rights to immovable property including land plots), all of it must be placed into trust of the managing company.

JSIF's stocks shall be paid only by means of monetary assets. When floated, JSIF's stocks must be paid in full.

A joint-stock fund may be reorganized only where such reorganization results in a creation of a joint-stock investment fund (or several joint-stock investment funds). Joint-stock investment funds may not be reorganized into other types of business entities.

Private equity fund (PEF) is formed where fund participants amalgamate their property for investment purposes and obtain each an investment unit. A PEF is not a legal entity. An investment unit is an uncertified security attesting an equal share in the title for the fund's common property and equal associated rights. Investment units may freely circulate after a private equity fund has been formed. Owners of investment units bear all risks pertaining to any eventual changes in the market value of the PEF's property.

A private equity fund may be of two types: open or closed. The main difference is the scope of participants' rights: participants of closed private equity funds (CPEF) are entitled to dividends, while participants of open private equity funds (OPEF) collect no dividends but are entitled to demand buyback of their unit.

A subsort of the open PEF, the interval fund, allows selling a participant's unit after a pre scheduled term, however at least once a year.

Partners acquire fund's units by concluding accession agreements and paying for fund property with monetary assets.

PEF's property must be placed into trust management of its managing company.

### 8.4.2. Operations of investment funds

Investment funds accumulate their partners' monetary assets and channel them into investment projects. Funds carry out investment operations in accordance with their strategy as stated in the investment declaration, a document detailing investment purposes and duly approved by the general meeting of fund participants.

- Investment assets may comprise:
  - monetary assets;
  - security papers of Belarusian residents and non-residents, other financial instruments;
  - precious metals and gemstones;
  - real estate and proprietary rights to real estate including land plots, subject to restrictions specified by land protection and land use laws of the Republic of Belarus.

### 8.4.3. Fund manager

Investment fund activities may be (and in some cases must be) managed by a managing company duly certified by state authorities and acting under a trust management contract.

A fund manager is entitled to invest own monetary assets, make transactions involving assignment of its property for use, and render consulting services in the sphere of investment fund property management and investment operations.

### 8.4.4. Investment fund information

Investment fund information must be revealed on the single information portal of the securities market and on the official website of such investment fund (or PEF's manager),

or made public otherwise.

## 8.5. SECURITISATION

The institution of securitisation was introduced in Belarus on July 1, 2018 by Edict of the President of the Republic of Belarus No. 154 “On factoring financing of commercial entities”.

According to this Edict, securitisation is financing provided by a special financial organization (SFO) to an initiator under the terms of cession of rights/claims, at the expense of resources raised through bond issue or covered by a further bond issue.

The ‘initiator’ is any commercial entity with a completely formed authorized fund (pursuant to its charter) that carries out a cession of rights/claims to the special financial organization.

### 8.5.1. Special financial organization (SFO)

SFO is a joint-stock company created for securitisation operations.

Apart from securitisation operations, SFOs are also entitled to buy and sell financial assets (money, se-

curities), and procure loans/credits to defray bond issue and other expenses pertaining to debts.

### 8.5.2. Securitisation operations

Securitisation operations may be carried out:

- where an SFO issues bonds and concurrently acquires rights/claims from an initiator;
- where an SFO acquires rights/claims from an initiator and issues bonds later.

In the first case acquired rights/claims are paid for with funds raised by means of bond issue, and the second option implies using SFO's own funds or borrowed funds.

An initiator is obliged to acquire at least 5% of bonds issued by an SFO during a securitisation operation of which such initiator is a participant and to be in possession of such bonds until their maturity.

Bonded obligations are discharged at the expense of revenues on the assigned rights/claims.

Due to the cession of rights/claims under a securitisation transaction, an SFO obtains the right to claim:

- debtor's main money obligation to initiator;
- interest money and other payments pertaining to debtor's main money obligation not paid as of the date of cession;
- rights securing debtor's satisfaction of ceded rights/claims, including rights of pledge holder in a pledge agreement.

As of February 1, 2020, two SFOs are registered in Belarus: closed joint-stock company “Special financial organization — Obligation Restructuring and Asset Securitisation Agency” and closed joint-stock company “Special financial organization — Securitisation Centre”.

The first Belarusian securitisation transaction was conducted on December 27, 2019: debenture bonds of closed joint-stock company “Special financial organization — Securitisation Centre” were registered (total issuing volume amounted to 11,500,000 BYN, with maturity till 27.12.2029). BelGazPromBank was the initiator of this securitisation transaction.



# 9

## Features of trade with Belarus

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### 9.1. CURRENCY CONTROL

The law of the Republic of Belarus of July 22, 2003 No. 226-Z "On currency regulation and currency control" (hereinafter — Law No. 226-Z) is the main legal act that regulates activities of state bodies authorized to exercise currency control in the Republic of Belarus. This law also regulates circulation of currency values, the scope of rights and duties of participants of currency operations, etc.

The currency legislation divides currency transactions between residents and non-residents into the two following types:

**Current currency operations** (these are treated with fewer restrictions);

**Currency operations associated with capital flow** (in order to perform these, residents normally need special permissions from the National Bank of the Republic of Belarus).

Current currency operations are carried out between Belarusian residents and foreigners without restrictions, except for currency operations related to transfers of funds by a resident to a non-resident under gift (donation) agreements, — which require a permission from the National Bank of the Republic of Belarus.

The legislation provides an exhaustive list of **current currency operations**:

- settlements on transactions for export and/or import of goods (except for export/import of money, securities and real estate), proprietary information, exclusive rights to the results of intellectual activities, works, services;
- settlements on transactions involving lease-out/lease of property;
- transfer and receipt of dividends and other income arising from investments;
- non-trading operations, which

include:

- transfer and receipt of monetary funds for the payment of wages and salaries, scholarships, pensions, alimony payments, state aids, allowances and compensation, as well as disbursements for damages;
- transfer of monetary funds to pay for employee's business trip expenses outside the Republic of Belarus;
- transfer and receipt of monetary funds connected with the acceptance of inheritance and sale of inheritance;
- transfer and receipt of monetary funds relating to the burial of a deceased person, including grants and financial aid for burial, transportation and other expenses;
- receipt of monetary compensation by victims of political repressions, members of their families and heirs;
- transfer of cash for maintaining diplomatic missions and other official representative offices, consular institutions of the Republic of Belarus abroad;
- receipt of cash by courts, the international arbitration court, law enforcement bodies, notarial offices, notarial bureaus, in connection with their activities, and also by state bodies or other organizations in the course of notarial actions fulfilled by respective public officials;
- transfer and receipt of funds pursuant to judgment decisions and rulings of the court and other service documents;
- transfers connected with payment of registration, entrance, membership fees to funds, religious or international organizations, as well as other payments in connection with participation in international organizations;
- transfer and receipt of Belarusian roubles, foreign currency, trans-

fer and receipt of other currency values under gift (including donation) agreements, gratis aid (sponsor support) contracts, in accordance with the laws of the Republic of Belarus;

- receipt of currency values by residents from non-residents for custody;
- transfers related to the payment of taxes, duties and other compulsory budget payments established by the legislation of the Republic of Belarus or foreign states, as well as the return of such payments;
- transfers related to the payment of dues and other payments to patent authorities;
- transfers and receipt of funds connected with participation in conferences, seminars, sport events, exhibitions, fairs;
- transfers related to the return of funds transferred erroneously and/or excessively;
- other currency transactions as enlisted by the President of the Republic of Belarus, or (under Presidential order) by the Council of Ministers, or by international treaties of the Republic of Belarus.

Currency operations **associated with capital flow** are those not considered as current currency operations. They include namely:

- acquisition of capital stock at the time of its distribution among founders, a share in the authorized fund or a share in the property of a non-resident entity, as well as making additional contributions to the authorized fund of a non-resident entity during capital increase;
- acquisition from a non-resident of securities emitted (issued) by non-residents, except acquisition of capital stock at the time of its distribution among founders;
- acquisition of property situated outside the Republic of Belarus and

considered as real estate under the Belarusian law, particularly under agreements stipulating the establishment of shared construction units;

- placements of money in banks of non-residents or money transfer to non-residents (except non-resident banks) under the terms of trust management;

- provision of loans;
- receipt of financial credits and/or loans under certain circumstances, particularly where the rate of interest pertaining to such credit/loan exceeds 14 percent per annum, if the currency of transactions is USD or euro;

- settlements on obligations of a resident currency transactioner (except banks) acting as a guarantor/pledger before a non-resident entity under a guarantee/surety contract existing between them;

- settlements on obligations of a resident currency transactioner (except banks) before a non-resident entity under an agreement for debt transfer or cession of right/claim, where under such agreement such resident currency transactioner incurs non-resident entity's debt to another non-resident entity or makes a payment for the ceded right/claim.

The current legislation stipulates several regimes for currency operations associated with capital movement. Thus, business entities and individual entrepreneurs are allowed to carry out currency operations associated with capital flow:

- on a registration basis
- on a notification basis
- without National Bank's permission

With the aim of improving legal control of currency transactions and dedollarization issues, the Managing Board of the National Bank adopted on 19.12.2018 Resolution No. 612

that amends Rules for conducting currency transactions No. 72 (hereinafter — Rules No. 72).

Resolution No. 612 prescribes the following procedures of capital flow currency transactions for residents:

1) the following currency transactions (capital outflows) shall be conducted on a registration basis:

- loans granted to non-residents;
- purchasing shares in non-resident's statutory funds;
- purchasing securities issued by non-residents;
- purchasing real estate located abroad;
- placing monetary funds in non-resident banks;
- loans obtained from non-residents, etc.;

2) the following currency transactions, pursuant to art. 10, Law No. 226-Z, shall be conducted without National Bank's permission, registration/notification procedures:

- selling a participatory/equity share in a resident entity to a non-resident;
- transactions with securities issued by residents;
- forming statutory funds of resident entities by means of contributions of non-residents in foreign currency;
- attracting financial resources against security provided by the Government of the Republic of Belarus;
- attracting financial resources under intergovernmental agreements, etc.;

3) all other currency transactions shall be conducted on a notification basis.

It should be noted that, according to Decree No. 8 of the President of the Republic of Belarus dated December 21, 2017, residents of the Belarusian Hi-Tech Park need not obtain National Bank's permissions in

order to found foreign affiliate companies, purchase securities issued by foreign companies or open accounts in foreign banks. More detailed information on privileges granted to Hi-Tech Park residents is given in section 3.10.2 "Hi-Tech-Park".

## 9.2. FOREIGN TRADE OPERATIONS

Export and import operations are traditionally subject to special oversight by the public authorities. According to Edict No. 178 of the President of the Republic of Belarus of March 27, 2008, in case of each foreign trade contract providing for a compensatory transfer of goods with a total value (with due account of all appendices and amendments to such contract) of at least **3,000 Euros in equivalent, the resident party is obliged to register such transaction** in its servicing bank before fulfilling the obligations to the non-resident party. Registration shall take place on the day of submission of the document by which such foreign trade contract is executed. The fee for the registration of such transactions is not charged by banks.

The mentioned Edict stipulates time frames for the completion of foreign trade transactions which normally are as follows:

- **for export transactions, including commission agreements**, — at most 180 calendar days from the date of shipment (or transfer of proprietary information or exclusive rights to intellectual property), completion of works, provision of services;
- **for import transactions** — at most 90 calendar days from the date of payment posting.

Edict No. 178 of the President of the Republic of Belarus of March 27, 2008 was amended on June 28, 2017. Deadlines for foreign trade

operations pertaining to foreign construction activities were introduced:

- for construction activities and/or construction services in the Russian Federation under foreign trade agreements for the establishment of shared construction units — on or before the construction deadline date;
- for construction works/services delivered in a foreign state, to the extent of not more than 10 per cent of the total contract value, — not later than 30 calendar days after the end of warranty for the delivered works/services.

‘Completion of a foreign trade operation’ implies, in particular, a receipt of money for the delivered goods under an export contract, and/or a receipt of goods under an import contract (however, the legislation provides for other ways of completion of foreign trade operations).

The mentioned amendments of June 28, 2017 added another way of completion of a foreign trade operation: a resident entity may acknowledge arrears as unrecoverable, but not sooner than three years after the deadline of a foreign trade operation, except as the non-resident entity is declared bankrupt and excluded from the official commercial (taxpayer) register of its home country.

All restrictions on limit-purpose purchases of foreign currency were cancelled on April 11, 2018. The deadlines for the use of purchased foreign currency by legal entities and individual entrepreneurs were cancelled too. Thus, business administrative expenses are diminished: businesses need no longer request a permission from the National Bank to purchase foreign currency for any goals not provided for by legislation. Purchased foreign currency may now be kept for a longer period and used for various purposes.

### 9.3. STATE PURCHASES

#### Notion of state purchases

State purchases imply acquisition of goods/works/services, fully or partially, through budgetary funds and/or state extra-budgetary funds by recipients of such funds, as well as relations pertaining to the execution of state purchases agreements.

Thus, state purchases are defined by the following main features:

- scope of state purchases involves goods, works and/or services;
- state purchases’ funding source involves budgetary funds and/or state extra-budgetary funds;
- goods/works/services are acquired directly by recipients of budgetary funds and/or state extra-budgetary funds.

Information on prescheduled state purchases is provided in annual plans of state purchases placed by recipients budgetary funds and/or state extra-budgetary funds in the State Information and Analytic System for state purchases control (<https://www.gias.by/gias/#/plans>);

Annual plans of state purchases contain lists of goods/works/services to be purchased in the current financial year, including:

- description of uniform goods/works/services;
- description and subtype code for goods/works/services according to the national “Nomenclator of Products by Type of Economic Activity”;
- measurement unit of uniform goods/works/services;
- tentative volumes (quantity) of annual demand for uniform goods/works/services in natural units;
- tentative cost of annual demand for uniform goods/works/services;
- time frames (frequency) of state purchases procedures;
- other data as defined by the

Ministry of Antitrust Regulation and Trade of the Republic of Belarus.

Information on all launched state purchases procedures is placed on electronic trading platforms (<http://zakupki.butb.by/> and <http://goszakupki.by/>), as well as in the State Information and Analytic System for state purchases control (<https://www.gias.by/gias/#/purchase/current>).

#### Regulation of state purchases

The principal regulatory acts in the sphere of state purchases are as follows:

- Law of the Republic of Belarus No. 419-Z dated July 13, 2012 “On state purchases of goods/works/services” (hereinafter — the State Purchases Law);
- Decree of the President of the Republic of Belarus No. 590 dated December 31, 2013 “On some issues of state purchases of goods/works/services”;
- Resolution of the Council of Ministers of the Republic of Belarus No. 395 dated June 15, 2019 “On implementation of Law of the Republic of Belarus “On amending Law of the Republic of Belarus “On state purchases of goods/works/services” (hereinafter — Resolution of the Council of Ministers of the Republic of Belarus No. 395 dated June 15, 2019).

#### Types of state purchases procedures

State purchases procedure is an operational sequence, as defined by the State Purchases Law, prescribing customer’s/organizer’s and state purchases commission’s (if available) actions on choosing a supplier/contractor/performer, from the decision on the state purchases procedure till the contract execution or cancellation/invalidation of the procedure.

State purchases procedures involve the following types:

| Type of state purchases procedure | Contents of procedure  | Grounds for application  |
|-----------------------------------|--|--|
| 'Single-source buying' procedure  | This state purchases procedure implies choosing a supplier (contractor/performer) by a customer proposing to contract to only one prospective supplier (contractor/performer). A customer may propose to contract to more than one prospective supplier (contractors/performers) where the subject of state purchases is divided into portions (lots).   | Customer/organizer may apply single-source buying procedure in cases specified in Appendix to the State Purchases Law.   |
| 'Call for bids' procedure         | A state purchases procedure implying a competitive selection of a supplier/contractor/performer: the competition is won by a participant proposing the minimum bid price and complying with all requirements of procedure documentation.<br>A 'call for bids' procedure is normally carried out on an electronic trading platform.   | A 'call for bids' procedure is applied for state purchases of goods/works/services with a threshold value of estimated annual demand of: <ul style="list-style-type: none"> <li>• for commodities — over 300 but at most 1,000 basic units;</li> <li>• for works/services — over 300 but at most 3,000 basic units.</li> </ul> A 'call for bids' procedure is not applied in case of state purchases of works/services involving creation of subject matter of copyright or allied rights, arrangement of artistic events and other works/services in the sphere of science and culture. |
| 'Closed call for bids' procedure  | A 'closed call for bids' procedure is carried out in a manner defined by customer/organizer, in coordination with competent state purchases authority, with due account for the requirements of the State Purchases Law.   | This procedure is applied where any data on state purchases comprise state secrets. The procedure involves the same requirement for the threshold value of estimated annual demand for goods/works/services as in the 'call for bids' procedure.   |
| Open competitive tender           | A state purchases procedure implying public and competitive selection of a supplier/contractor/performer for the purpose of state purchases on an electronic trading platform, won by a participant proposing the best terms of contract and fully complying with the requirements of tender documents.  | An open competitive tender is applied where the State Purchases Law prescribes no other procedures of state purchases.   |
| Two-stage competitive tender      | An open competitive tender won by a participant that has completed both stages of the tender and has proposed the best terms of contract following the second stage.<br>During the first stage, the customer, together with an expert or an expert commission (where required), will form requirements to the scope of state purchases, in particular on the basis of technical specifications of proposed goods/works/services, prepared in compliance with customer's technical assignment.<br>During the second stage, a supplier/contractor/performer is chosen in a manner prescribed by section 5 of the State Purchases Law for an open competitive tender. | This procedure is applied where state purchases involve proprietary rights to computer programmes, services involving elaboration and implementation of information assets, networks, systems, and/or modernization thereof (in particular, introduction of structural alterations in software and/or hardware facilities), and/or integration with other information resources/systems/networks, and further information is required to form the requirements to the scope of state purchases;  |

| Type of state purchases procedure               | Contents of procedure  | Grounds for application  |
|---|--|--|
| Competitive tender with qualified participation | Competitive tender with qualified participation is a tender won by one of the participants preselected on the basis of additional requirements.  | Competitive tender with qualified participation is applied in the purchases of goods/works/services subject to additional requirements set by the Council of Ministers of the Republic of Belarus.<br><br>At present, additional requirements to participants of state purchases procedures apply to services of dining rooms and buffets of educational institutions.   |
| Closed competitive tender                       | A state purchases procedure involving a competitive selection of a supplier/contractor/performer with respect to state purchases involving state secrets, won by a participant proposing the best terms of contract and fully complying with the requirements of tender documents.<br><br>Closed competitive tenders are carried out in a manner prescribed by the State Purchases Law for open competitive tenders, with account of peculiarities prescribed by art. 37 of the Law. In particular, participants are not allowed to be present during the bid opening procedure. | Is applied where the State Purchases Law prescribes no other procedures of state purchases, provided data on state purchases contain state secrets.  |
| Electronic auction                              | A state purchases procedure implying public and competitive selection of a supplier/contractor/performer for the purpose of state purchases on an electronic trading platform, won by a participant proposing the minimal price and fully complying with the requirements of auction documents.  | Electronic auctions are applied for state purchases according to the list of goods/works/services defined by Appendix 2 to Resolution of the Council of Ministers of the Republic of Belarus No. 395 dated June 15, 2019.<br><br>Electronic auctions may also be applied in other cases independently defined by customers/organizers, except for state purchases of goods/works/services via exchange auctions. |
| Exchange auction                                | Exchange auctions are carried out in accordance with legislation on commodity exchanges, with due account for the requirements of the State Purchases Law.   | State purchases are carried out by means of exchange auctions where involved goods/works/services are listed in Appendix 6 to Resolution of the Council of Ministers of the Republic of Belarus No. 395 dated June 15, 2019.   |

#### Who can participate in state purchases procedures?

Participants of state purchases procedures may include:

- a legal entity;
- a natural person, in particular an individual entrepreneur.

Therewith, state of residence normally does not affect prospective participant's qualification for a state

purchases procedure.

Exceptions to the general rule have been established by Resolution of the Council of Ministers of the Republic of Belarus No. 206 dated March 17, 2016 "On admission of foreign commodities and suppliers to state purchases procedures" (hereinafter — Resolution of the Council of Ministers of the Republic

of Belarus No. 206 dated March 17, 2016).

Thus, Resolution of the Council of Ministers of the Republic of Belarus No. 206 dated March 17, 2016 has established a list of 131 commodities subject to the conditions of admission of foreign goods/works/services and suppliers/contractors/performers to state purchases procedures.

The conditions stipulate that only those participants are admitted to an open competitive tender, electronic auction and/or call for bids whose bids contain information on goods/commodities indicated in appendix to Resolution of the Council of Ministers of the Republic of Belarus No. 206 dated March 17, 2016 shipped from a foreign state, except the Republic of Armenia, the Republic of Kazakhstan, the Kyrgyz Republic, or the Russian Federation, provided less than two bids have been filed containing information on the delivery of the same commodity from the Republic of Armenia, the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic, or the Russian Federation.

The admission condition does not apply where 'national treatment regime' has been granted by a foreign state (or by a group of foreign states) with regard to domestic goods and/or suppliers. National treatment regime in the sphere of public purchases is granted to member states of the Eurasian Economic Union (par. 4, cl. 1, art. 88 of the Treaty on the Eurasian Economic Union (signed in Astana on May 29, 2014)).

#### Requirements to participants of state purchases procedures

Clause 2, article 16 of the State Purchases Law establishes that the following requirements apply to participants of state purchases procedures:

- participants shall comply with statutory requirements to legal/natural persons (including individual entrepreneurs) providing goods/works/services as part of state purchases;
- participants shall comply with additional requirements to participants where such requirements are set by par. 7, article 9 of the State

Purchases Law (additional requirements to participants of state purchases procedures with regard to services of dining rooms and buffets of educational institutions);

- legal entity or individual entrepreneur shall have no tax/penalty arrears. However, this requirement does not apply to a legal entity or an individual entrepreneur undergoing insolvency/bankruptcy procedure applied for the purpose of solvency restoration (as part of sanitation procedure);

- legal or natural person, including individual entrepreneurs, shall not be included in the list of suppliers/contractors/performers temporarily debarred from state purchases procedures;

- legal person or individual entrepreneur shall not be on the list of commercial entities and individual entrepreneurs having a high risk of economic offences;

- legal or natural person, including individual entrepreneurs, as well as employees of such legal persons or individual entrepreneurs, shall not provide any services to the customer/organizer with regard to arrangement of state purchases procedures, including consulting, as well as compilation of requirements to the scope of state purchases and/or preparation of opinions following examination of bids;

- legal person or individual entrepreneur shall not be the customer/organizer of the conducted state purchases procedure;

- natural person shall not customer's/organizer's employee, unless a single-source buying procedure is conducted with respect to natural persons not being individual entrepreneurs;

- legal person shall not under-

go a liquidation or a reorganization procedure (except for legal entities affiliating with another legal person by means of accession), individual entrepreneur shall not undergo close of business procedure;

- legal entity or individual entrepreneur shall not be subject to insolvency/bankruptcy procedure. However, this requirement does not apply to legal persons and individual entrepreneurs undergoing an insolvency/bankruptcy procedure for the purpose of solvency restoration (as part of sanitation procedure);

- legal or natural person, including individual entrepreneurs, shall possess absolute title to results of intellectual activities where, according to the contract, customer shall acquire title to such results, unless a contract for the creation of intellectual property is concluded;

- legal or natural person, including individual entrepreneurs, shall possess authority for the realization of goods (provision of works/services) in the territory of the Republic of Belarus using respective trademarks and/or service marks.

Thus, clause 2 article 16 of the State Purchases Law, aiming at equitable stance on all suppliers (contractors/performers), establishes a single list of requirements to participants of state purchases procedures, to be used by customers in compiling their lists of verification documents.

#### Preferential amendment

Preferential amendment implies preference granted to goods/works/services proposed by a specific participant.

Preferential amendment is used in open and closed competitive tenders, electronic auctions and calls for bids, as follows:

| Preferential amendment rate | Ground for application   | Documents supporting application of preferential amendment  |
|-----------------------------|--|---|
| 15 percent                  | If proposed by a supplier of goods/works/services, originating from the Republic of Belarus and/or countries enjoying the national treatment regime in the Republic of Belarus in accordance with international treaties of the Republic of Belarus. | with respect to goods originating from the Republic of Belarus, — a document on the origin of goods to be issued by the Belarusian Chamber of Commerce and Industry or its unitary enterprises, in accordance with applicable criteria of origin of goods established by the Regulations on the definition of origin of goods incorporated into the Agreement on the definition of origin of goods in the Commonwealth of Independent States dated November 20, 2009, or a copy thereof;<br>with respect to goods originating from countries enjoying the national treatment regime in the Republic of Belarus in accordance with international treaties of the Republic of Belarus, — a document on the origin of goods to be issued by a competent authority of such state, or a copy thereof;<br>with respect to works/services — certificate of state registration of a legal entity or individual entrepreneur issued by a competent authority of the Republic of Belarus, or a similar document issued by a competent authority of a country enjoying the national treatment regime in the Republic of Belarus in accordance with international treaties of the Republic of Belarus, or a copy thereof. |
| 25 percent                  | If proposed by a supplier of in-house goods/works/services of a Belarusian entity with at least 50 percent of personnel formed by disabled persons.  | a document signed by CEO of a Belarusian entity with at least 50 percent of personnel formed by disabled persons, or by its authorized representative, at least five business days prior to the date of submission of bids for a state purchases procedure, indicating total labour force, number of disabled persons, numbers and dates of expiry of certificates of disabled persons, and certificates of in-house products/works/services issued by the Belarusian Chamber of Commerce and Industry or its unitary enterprises, or copies thereof;   |

Where a preferential amendment is applied, the bids of participants proposing respective goods/works/services are, for the purpose of appraisal and comparison of bids of participants, diminished by, respectively, 15 or 25 percent. Where such participants will be chosen as winner, the agreement will be concluded at the actually proposed bid

prices, preferential amendment not impacting the actual agreement price.

#### 9.4. JURISDICTIONS OF DISPUTES. ARBITRATION

Foreign economic disputes between foreign and Belarusian residents may be examined by Belarusian or foreign state courts

or arbitration courts. In particular, such disputes may be examined by a court (arbitration court) of a third country not related to disputants or to contract performance.

Therewith, the judicial practice of the Republic of Belarus does not allow settlement of disputes between Belarusian residents in foreign state courts or arbitration courts. Such



disputes may only be settled in the territory of the Republic of Belarus.

Also, the following categories of disputes pertain to the exclusive competence of Belarusian courts:

- disputes with regard to government property of the Republic of Belarus (in particular, with regard to its privatization and compulsory acquisition for state requirements);
- with regard to real estate located in the territory of the Republic of Belarus;
- with regard to invalidation of records in state registers;
- disputes involving incorporation, registration or dissolution of legal entities or individual entrepreneurs in the territory of the Republic of Belarus, or appealing against decisions of bodies of such legal entities;
- with regard to insolvency/bankruptcy of legal entities or individual entrepreneurs located in the Republic of Belarus;
- with regard to removal of property from an estate inventory or exemption of property from distraint, where such distraint was carried out by a state body of the Republic of Belarus;
- with regard to invalidation of non-regulatory acts of state bodies of the Republic of Belarus.
- with regard to administrative legal relations (tax disputes, customs disputes; contestation of actions, inaction, acts of state bodies, Belarusian notaries; with regard to payments into the state budget of the Republic of Belarus, etc.).

Other regulations may be stipulated by respective international treaties concluded by non-resident's country with the Republic of Belarus.

Where a foreign state court or arbitration court decides on any of the above-mentioned disputes, such decision will not be acknowledged and will not be enforced in the territory of the Republic of Belarus.

Parties may stipulate their dispute settlement procedure and/or choose a dispute settlement body in their foreign economic agreement or separate agreement. Judicial practice and arbitration practice provide rather wide interpretation of statements of such agreements, in particular, alternative clauses (plaintiff's election between a regular court of law and an arbitration court) and asymmetrical clauses (only one party is entitled to elect a judicial body) are often recognized. Where the wording of an arbitration agreement is ambiguous, the parties may apply for the proper construal to the Belarusian Chamber of Commerce and Industry, by virtue of the European Convention on International Commercial Arbitration (executed in Geneva on April 21, 1961).

Foreign economic disputes in the Republic of Belarus are normally examined by economic courts of Belarusian regions, by Minsk Municipal Economic Court or by arbitration (mediation) courts. Debts may be recovered by economic courts by way of writ procedure (a truncated procedure for collection of unquestioned debts), or by notaries by way of notarial executive inscription (as a rule, with regard to acknowledged debts). Disputes may also be resolved by way of mediation procedure. For more information on dispute settlement procedures in

the Republic of Belarus, see section 16 "Court system".

Decisions of foreign arbitration courts may be recognized in the territory of the Republic of Belarus by virtue of the UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards (executed in New York on June 10, 1958).

Decisions of foreign state courts are recognized either by virtue of an international treaty concluded by such foreign state with the Republic of Belarus, or by virtue of the reciprocity principle (where such foreign state recognizes decisions of Belarusian courts). Therewith, applicability of the reciprocity principle is basically implied by court, and it is debtor who shall prove its eventual impertinence.

Belarusian courts examine applications on the recognition and execution of foreign awards where debtor or its property are located in the territory of the Republic of Belarus.

Following the recognition procedure, execution (enforcement) of a foreign award will be carried out in accordance with the standard procedure. For more information on enforcement proceedings, see section 16 "Court system".

Therewith, the Republic of Belarus does not recognize and does not enforce foreign extrajudicial enforcement documents and agreements, such as executive inscriptions of foreign notaries or foreign mediation agreements. Also, the Republic of Belarus still has no judicial practice of recognizing interlocutory judicial and arbitration rulings, such as rulings to impose injunctive relief.

# 10

Tax System

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### 10.1. GENERAL INFORMATION

The Tax Code (comprising the Primary Part and the Special Part) is the principal legal act that regulates the system of taxes and duties levied to the national and local budgets, the main principles of taxation in the Republic of Belarus, regulates official relations that pertain to the introduction, alteration and termination of taxes and duties, and relations arising in the course of discharge of tax liabilities, administration of tax control, appealing against orders of tax authorities, actions/inaction of tax officers, as well as establishes rights and obligations of taxpayers, tax authorities and other participants of tax relations.

The Primary Part specifies the notions of tax obligation, taxpayer, and the object of taxation. It also contains regulations on tax accounting and control and describes the procedure of appealing decisions made by tax authorities.

The Special Part of the Tax Code regulates specific taxes and duties, specifies various categories of taxpayers, objects of taxation, rates, privileges, procedures of tax calculation and payments of respective taxes and duties.

All tax payments applicable in the Republic of Belarus are subdivided into national taxes/duties and local taxes/duties.

**National taxes/duties include the following:**

- value added tax (VAT);
- excise duties;
- profit tax;
- tax on income of foreign entities having no permanent representative office in Belarus;
- personal income tax;
- property tax;
- land tax;
- ecological tax;
- mineral extraction tax;
- off-shore duty;
- stamp duty;

- consular fees;
- state duties;
- patent fees;
- customs fees and duties, customs fees with respect to personal use products;
- waste disposal fee.

**Local taxes and duties include the following:**

- dog tax;
- resort levy;
- packer shipper levy.

### 10.2. TRANSFER PRICING

Taxes payable normally depend on actual transaction price. In some cases in calculating and paying taxes business entities are required to apply prices corresponding to the existing range of market prices, lest tax authorities adjust the assessed taxes and bring the taxpayer to responsibility.

The chart below describes all types of transactions subject to control in 2020:

| Transaction group                    | Participants of transaction   | Transaction amount threshold   |
|--------------------------------------|---|--|
| Transactions involving real property | with a related party  | none   |
|                                      | with a taxpayer subject to a special taxation regime  | none   |
| Foreign trade transactions           | with a resident of an off-shore area, involving sale or purchase of goods (works, services, proprietary rights) | <ul style="list-style-type: none"> <li>• 400,000 BYN (net of VAT, excise duties) – for entities not classified as major taxpayers;</li> <li>• 2,000,000 BYN (net of VAT, excise duties) – for entities classified as major taxpayers;</li> </ul> |
|                                      | with a resident of an off-shore area, involving sale or purchase of goods (works, services, proprietary rights) | 400,000 BYN (net of VAT, excise duties)  |

| Transaction group   | Participants of transaction                       | Transaction amount threshold  |
|---|---|---|
| Transactions involving sale or purchase of strategic goods according to the check-list established by the Council of Ministers of the Republic of Belarus | with a non-resident (a foreign trade transaction) | 2,000,000 BYN (net of VAT, excise duties)   |
| Transactions with entities/ persons not paying profit tax   | with a related party                              | <ul style="list-style-type: none"> <li>• 400,000 BYN (net of VAT, excise duties) – for entities not classified as major taxpayers;</li> <li>• 2,000,000 BYN (net of VAT, excise duties) – for entities classified as major taxpayers</li> </ul> |

### 10.3. TAXATION OF ECONOMIC ENTITIES

Alongside with the general taxation system, specific regimes of taxation are also applied in Belarus. They provide a number of benefits, lesser number of assessed/paid taxes, reduced tax rates, etc.

### 10.4. GENERAL SYSTEM OF TAXATION: PRIMARY PAYMENTS

1) Excise duties apply to the following types of goods:

- spirit;
- alcoholic products;
- food and non-food alcohol-containing production;
  - beer & beer cocktails;
  - low-alcohol beverages and wine with overall volume ratio of alcohol of 1.2 to 7%;
- tobacco products;
- motor gasoline;
- diesel fuel and diesel fuel with methyl ethers of fatty acids;
  - marine fuels;
  - liquefied hydrocarbon gas and natural compressed fuel gas used as automobile fuel;
- motor oil;
- ciders.

Excise rates for various goods can be set in absolute values of physical units of measurement (the 'fixed rate') or in percentage points of the cost of goods (the 'ad valorem rate').

2) The value added tax (hereinafter — VAT).

The Republic of Belarus has several VAT rates, including 0%, 10%, 20% and 25%.

20% is the most common VAT rate. For instance, this rate applies to sales of goods, works, services and proprietary rights, including services provided in electronic form.

The 0% rate applies to sales of goods exported (without obligation of reverse import into the Republic of Belarus) to EAEU member states, or to sales of goods placed under the export customs procedure, provided such actual export of goods beyond the territory of the Republic of Belarus is duly supported by documents. Also, the 0% rate applies to sales of goods of own production to owners of duty-free shops, for their further sale in duty-free shops.

The 10% rate is applied, for instance, to imports in Belarus and/or sales of foodstuffs and goods

for children included in the List approved by the President.

The 25% rate is applied to telecommunication services.

Furthermore, the Tax Code allows application of a computed VAT rate for business entities focusing on retail trade and public catering.

3) Profit tax.

Gross profits as well as dividends and similar incomes gained by Belarusian entities are objects levied by profit tax.

Gross profit for a Belarusian entity is the sum of profit from realisation of goods (works, services), proprietary interests and non-sale incomes, decreased by the sum of non-sale expenses.

Standard profit tax rate is 18%.

The 12% tax rate is applied to dividends accrued and paid to Belarusian entities (in some cases — 6% or 0%).

The 10% rate is applied to profits of scientific/technology parks, technology transfer centres, residents of scientific/technology parks (except profit tax calculated, withheld and paid by entities acting as tax agents) and profits from sales of goods of

own production classified as high-tech products.

The 25% rate is applied to profits of banks, insurance companies and micro-finance organisations.

Tax period for profit tax is calendar year.

Reporting period for profit tax is calendar quarter. Reporting period for profit tax on dividends is calendar month.

#### 4) Tax on revenues of foreign organisations having no permanent representative office in Belarus (hereinafter — revenue-based tax).

The revenue-based tax is paid by foreign and international organisations (including non-legal entities) not operating in Belarus via a permanent representative office but deriving income from a source in the Republic of Belarus.

Corporate entities and individual entrepreneurs that assess and pay income to a foreign entity must compute and pay the revenue-based tax to the state budget. Such entities/entrepreneurs are recognised as tax agents.

Some foreign entities pay the revenue-based tax independently: for instance, entities that organise cultural events/shows, amusement parks and wild beast shows.

The revenue-based tax applies to the following incomes: income on credits and loans; income from securities, where issue terms imply profit-making in the form of interest (discount); royalties; dividends and similar income; income from the sale of goods in the territory of the Republic of Belarus under agency contracts, commission contracts and other similar civil-law contracts; income from the alienation of real estate situated in the Republic of Belarus, equity/participatory shares (or

portions thereof) of entities situated in the Republic of Belarus, income from performed works/services, and other incomes of foreign organisations not operating in Belarus via a permanent representative office, as provided for by the Tax Code.

Tax rates depend on the type of income and may amount to 0%, 6%, 10%, 12% and 15%. Tax period for revenue-based tax is the calendar quarter in which the tax payer's obligation arises.

#### 5) Real estate tax.

Corporate entities, natural persons and individual entrepreneurs are recognised as payers of real estate tax.

With respect to corporate entities, the real estate tax applies to:

- permanent buildings/structures (portions thereof) owned on the basis of a right of ownership or economic control by a corporate entity;
- permanent buildings/structures (portions thereof) situated in the Republic of Belarus and taken on financial lease from a Belarusian entity, provided such building/structure is not included into lessor's balance sheet;
- permanent buildings/structures (portions thereof) situated in the Republic of Belarus and taken on (financial) lease or hired for other compensated or uncompensated use from a natural person or a foreign entity not operating in Belarus via a permanent representative office;
- permanent buildings/structures (portions thereof) on special file, that is subject to state registration in case of (and prior to) creation/modification thereof, creation/transfer of right of ownership, economic control or operative manage-

ment thereto;

- permanent buildings/structures (portions thereof) owned by the state, obtained for uncompensated use by joint-stock companies created in the course of modification of leased, collective (popular), state or state unitary enterprises.

For the purposes of real estate tax, car places situated in the Republic of Belarus are also categorised as 'structures'.

According to the general rule, annual rate of the real estate tax for corporate entities is 1%.

Real estate tax rates may be differentiated subject to taxable items and taxpayer categories. Furthermore, the Tax Code empowers local councils of deputies to increase/decrease real estate tax rates for certain categories of payers or items. In 2020 and subsequent years the tax rates may be decreased by local councils of deputies not more than by 2 times.

One of remissions provided by legislation is exemption from real estate tax for corporate taxpayers in respect of permanent buildings/structures (portions thereof) of research institutions and scientific/technology parks and permanent buildings/structures (portions thereof) leased out or handed over for other compensated/uncompensated use by corporate taxpayers to research institutions or scientific/technology parks.

Calendar year is tax period for real estate tax.

#### 6) Ecological tax.

Ecological tax is levied from entities exploiting natural resources and entities engaged in activities polluting the environment. Corporate entities and individual entrepreneurs pay the ecological tax.

There is a number of ecological tax rates. Subject to a particular taxable item, fixed rates apply to volumes of emissions released, storage/disposal of waste.

Tax period for ecological tax is calendar quarter.

Ecological tax shall be paid at taxpayer's discretion once a year in the amount of an estimated annual sum, or quarterly in the amount of one-fourth of the estimated amount of the ecological tax.

### 7) Mineral extraction tax.

Corporate entities and individual entrepreneurs pay the mineral extraction tax (MET).

Tax base is defined as the actual volume of extracted natural resources (except potassium salt).

The mineral extraction tax applies to the extraction of the following natural resources:

- forming sand, glass-making sand, mortar sand, sand used for white ware products, fireproof materials, cement;
- sand-gravel mixtures;
- building and facing stone;
- surface and underground water;
- mineral water, mineralised industrial water;
- sand;
- clay, sand clay, clay loam and bergmeal;
- bentonitic clay;
- potassium salt (in terms of potassium oxide) and halite;
- petroleum and gas condensate;
- chalk-stone, malm, limestone and dolomite;
- plaster-stone;
- ironstone;
- peat with humidity of 40%;
- spropel with humidity of 60%;
- bog oak;
- amber;

- gold;
- grapevine snail;
- chironomid larvae;
- green frog (pond, edible, lake);
- adder;
- brown coal (in terms of standard fuel);
- oil shale (in terms of standard fuel);
- long-fingered (narrow-clawed) crayfish.

MET period (except for potassium salt and petroleum) is calendar quarter. For petroleum and potassium salt, MET period is calendar month.

Multiple MET rates are specified in separate schedules to the Tax Code and Presidential Decree on the Tax Code.

### 8) Land tax.

Land tax is levied from land plots and part interests in land plots located in the territory of Belarus:

- owned by corporate entities under the right of ownership, permanent or temporary use;
- owned by individuals under the right of ownership, lifetime inheritable possession or temporary use, as well as inherited;
- other land plots that may be legally used by taxpayers in accordance with legislation;
- assigned for temporary use but not returned in time in accordance with the law, arbitrarily occupied.

Taxation base for the purposes of land tax is normally equal to land plot cadastral value.

In certain cases, taxation base may be based on land plot area.

Land tax rate is subject to land plot use. According to the general rule, local councils have the right to increase (decrease) the rate of land tax for certain categories of taxpayers, however not more than by 2 times.

Reduction factors are applied to land plots (or portions thereof) housing permanent buildings/structures constructed by payers after January 1, 2019, subject to length of service after commissioning.

Corporate taxpayers must submit their tax declarations annually.

Land tax is paid by corporate entities, according to the general rule, at entity's option: once a year in the amount of the estimated sum for such year, or quarterly in the amount of one-fourth of the annual amount of land tax.

Land tax for rented land plots is levied in the amount defined by legislation, according to a procedure similar to the procedure used for land tax calculation.

### 9) Obligatory insurance payments to the National Social Security Fund. Insurance contributions for obligatory insurance against occupational diseases and industrial accidents.

These payments are not classified as taxes/duties in the taxation system of the Republic of Belarus, however they are worth mentioning.

Obligatory insurance payments for retirement, disability and loss of breadwinner insurances (pension insurance) normally amount to 28% for employers.

Workers pay such obligatory insurance charges in the amount of 1%.

The rate of obligatory insurance contributions in case of temporary incapacity for work, pregnancy and childbirth, care for children under 3 years, provision of one monthly day-off for mother (father, guardian) bringing up a disabled child under the age of 18, death of insured person or a member of his/her family (social insurance) for employers, nat-

ural persons independently paying obligatory insurance payments (except for citizens working outside Belarus), and BelGosStrakh corporation (for persons who receive additional payments to the monthly average wage or receive disability benefit) is 6%.

Insurance contributions for obligatory insurance against occupational diseases and industrial accidents at production facilities amount to 0.6% for all corporate entities (except for state-financed entities); other benefits and discounts (increments) may be applied further to the established rate.

#### 10) Personal income tax.

Income derived by individuals is subject to personal income tax:

from sources both in the Republic of Belarus and/or from sources abroad, — for natural persons recognised as tax residents of the Republic of Belarus;

from sources in the Republic of Belarus, — for natural persons not recognised as tax residents of the Republic of Belarus.

Entities employing labour force under employment contracts or civil-law contracts are obliged to act as tax agents, that is withhold taxes from incomes of their employees and transfer them to the state budget. The most widespread source of natural persons' income paid by employing entities is remuneration for labour or other duties, including monetary remuneration and other allowances.

The Belarusian legislation provides for various deductions reducing the taxable income of individuals.

Standard rate of personal income tax is 13%.

Personal income tax rate is set at 16% in respect of income received by:

- individual entrepreneurs (notaries, attorneys-at-law) from their business (notarial, individual advocacy) activities;
- calculated by the tax authority on the basis of expenditures in excess of revenues, in accordance with legislation;
- gained by individuals carrying out entrepreneurial activity without state registration in contravention of the law.

The personal income tax rate is set at 4% for income received in the form of gambling gains (or refunds of non-triggering bets) paid to individuals by gambling hubs being legal entities of the Republic of Belarus.

Personal income tax rate is set at 6% in respect of income in the form of dividends, provided profits have not been distributed among participants/shareholders of a Belarusian resident entity during 3 immediately preceding calendar years. Where such profits have not been distributed during 5 years, dividend profit tax rate is 0%. Personal income tax rates applying to incomes from leasing (subleasing) of residential and/or non-residential premises and car places located in the Republic of Belarus are determined in fixed amounts.

Tax period for personal income tax is calendar year. Accounting periods for personal income tax paid by individual entrepreneurs (private notaries, attorneys-at-law) are three, six and nine calendar months and calendar year.

Other entities and individual entrepreneurs do not furnish reports on personal income tax.

#### 10.5. SPECIAL TAX REGIMES

The legislation provides for the following principal special tax regimes for business entities:

- simplified tax system;
- single tax on individual entrepreneurs and other individuals;
- single tax on producers of agricultural products;
- tax on gambling business;
- tax on incomes from lottery activity;
- tax on incomes from electronic interactive games;
- levy on craft activity;
- levy on agro- and ecotourism services;
- single tax on imputed income.

The most attractive taxation systems for foreign investors in the Republic of Belarus are described below.

##### 10.5.1. Simplified taxation system

This system applies to small enterprises with incomes below a certain level specified by the legislation.

Organisations willing to use the simplified tax system are required to simultaneously comply with the two criteria of average number of workers and gross proceeds within the initial nine months of the year previous to the year of application. The following organisations may apply: organisations with an average number of workers of not more than 100 persons, individual entrepreneurs and notaries performing notarial activities in notarial offices, and attorneys-at-law (hereinafter, for purposes of this tax regime – individual entrepreneurs).

In order to switch to the simplified tax system, as from January 1, 2021, corporate entities and individual entrepreneurs must have cumulative gross proceeds during nine months of 2020, correspondingly, not higher than 1,538,843 or 330,750 Belarusian roubles.

Under the simplified tax system, a

large number of taxes are replaced by a single tax with a simplified procedure of calculation.

The tax under the simplified system substitutes for the following taxes for corporate entities:

- **Profit tax** (except taxes that are calculated, withheld and paid by entities acting as tax agents). The general procedure for the profit tax still applies to the following profits:

- a) dividends and profits accrued by a unitary enterprise to its corporate founder;

- b) profits of participants/shareholders of corporate entities in monetary form or in kind, resulting from the liquidation of company, withdrawal of member from membership, where such profit exceeds member's/shareholder's capital contribution or actual expenses incurred/paid during the acquisition of participatory share;

- c) profits of participants/shareholders of corporate entities in the form of value of a participatory/equity share (share denomination), as well as in the form of increase of par value of shares produced on account of own company capital, where any member's/shareholder's participatory share changes by more than 0.01 per cent;

- d) taxpayer's profit under a trust cash management agreement or a trust securities management agreement specifying such taxpayer as trustor;

- e) profits from selling bank bullions, weighted ingots or bullion coins made of precious metals to banks, in the sum equal to a positive difference between the selling price and the acquisition price;

- f) positive difference between the estimated value of property transferred by taxpayer as a non-monetary contribution to the statutory

fund of another taxpayer and the carrying value of such property (or depreciation value – for fixed assets, intangible assets, or income-bearing investments in tangible assets);

- g) profits from realisation/redemption of securities;

- h) profits from alienation/redemption of participatory/equity shares (portions thereof) in economic entities;

- i) profits from realisation of an enterprise as a property complex.

- **VAT on overall sales of goods** (works, services), property rights, for business entities with an average staffing level of not more than 50 employees from the beginning of year till the reporting period, provided the amount of their cumulative gross proceeds from the beginning of year makes not more than 1,404,286 Belarusian roubles.

- **Real estate tax.** The general procedure for real estate tax still applies to:

- a) permanent buildings/structures (portions thereof) taken on (financial) lease or hired for other compensated or uncompensated use;

- b) all taxable items of entities with a total area of permanent buildings/structures (portions thereof) that are in ownership, economic control, operative management or (in certain cases) in use, or with a total area of permanent buildings/structures (portions thereof) that are on special file, that is subject to state registration in case of (and prior to) creation/modification thereof, creation/transfer of right of ownership, economic control or operative management thereto (where such registration is mandatory), exceeding 1,000 square metres.

The tax under the simplified system

substitutes for the following taxes for individual entrepreneurs:

- **Personal income tax.** The general procedure for personal income tax still applies to:

- a) incomes of participants/wealthholders of commercial entities drawn from such entities;

- b) incomes drawn from commercial entities by spouses, parents (adoptive parents), children (including adopted children) of participants/wealthholders of such entities.

- **VAT on overall sales of goods** (works, services), property rights. However, the general procedure for the assessment and payment of VAT still applies to individual entrepreneurs that pay VAT according to the standard procedure and sell goods (works, services), property rights to commercial entities (except joint-stock companies) in which such individual entrepreneurs, their spouses, parents (adoptive parents), children (including adopted children) are participants/wealthholders.

- **Real estate tax.** The general procedure for real estate tax still applies to:

- a) permanent buildings/structures (portions thereof) recognised as taxable items for the purposes of real estate tax on individuals, taken on (financial) lease or hired for other compensated or uncompensated use;

- b) permanent buildings/structures (portions thereof) recognised as taxable items for the purposes of real estate tax on individuals, where total area of all real estate units used in entrepreneurial activities, including those leased out (let out on financial lease terms), using the simplified taxation system, exceeds 1,000 square metres.

The tax under the simplified system substitutes for the following tax-



es for both corporate entities and individual entrepreneurs:

- ecological tax; the general procedure still applies to burial of wastes taken for the purposes of burial;
- packer shipper levy.

Moreover, the general procedure for VAT payment also applies to:

- VAT on goods imported in the territory of the Republic of Belarus;
- VAT on goods (works, services), property rights realised in the territory of the Republic of Belarus by foreign entities having no permanent representative office in Belarus and, accordingly, not registered with tax authorities as such;
- VAT on overall sales of goods (works, services), property rights of a trust manager due to management of assets under an agreement on behalf of trustor/beneficiary.

Some restrictions for the application of the simplified tax system are stipulated with regard to certain types of activities, as well as for certain categories of entities and individual entrepreneurs.

Where entity's cumulative gross proceeds within a calendar year exceed 2,046,668 Belarusian roubles and/or the number of employees is more than 100, such entity must stop using the simplified tax system and must pay taxes according to the standard procedure (for individual entrepreneurs, the upper limit for gross proceeds is 441,000 BYN).

Where an entity applies the simplified tax system without paying VAT, it must stop using the simplified tax system and must apply the standard tax system once its average number of employees from the beginning of year till the reporting period has exceeded 50 persons

and/or its cumulative gross proceeds within a calendar year have exceeded 1,404,286 Belarusian roubles.

If the simplified tax system is applied, the tax base will amount to proceeds from realisation of goods (works, services, property rights) plus non-operating gains.

At present, business entities can use the following tax rates under the simplified tax system:

- **five per cent (5%)** — for legal entities and individual entrepreneurs that do not pay VAT.
- **three per cent (3%)** — for legal entities and individual entrepreneurs that pay VAT;
- **sixteen per cent (16%)** — for legal entities and individual entrepreneurs with regard to donated goods (works, services), property rights, moneys.

Business entities with no more than 15 persons on the staff and a gross revenue below 774,900 Belarusian roubles using the simplified tax system and individual entrepreneurs are entitled to keep their records in special books (ledgers) designed for the simplified tax system. Tax period under the simplified tax system is calendar year.

Reporting period under the simplified tax system is:

- calendar month — for entities that apply the simplified tax system and pay VAT monthly;
- calendar quarter — for entities that apply the simplified tax system and do not pay VAT or pay VAT quarterly.

Tax declarations shall be submitted not later than on the 20th day of the month following the expired reporting period.

Tax under the simplified tax system shall be paid not later than on

the 22nd day of the month following the expired reporting period.

### 10.5.2. Tax on gambling business

Gambling business activities may be carried out only by legal entities of the Republic of Belarus.

Corporate entities are exempt from VAT (except VAT charged for imported goods) and profit tax insofar as their income is derived from gambling business. As for activities that do not relate to gambling, corporate entities are obliged to pay taxes according to the standard procedure.

Objects of the gambling business tax are: gambling tables; slot machines; bookmaker office counters; totalizator counters; positive margin between the amount of accepted gambling bets and the amount of paid wins (returned non-triggering bets).

The first mentioned four objects shall be registered in the local tax office. A taxpayer certificate in witness thereof will be issued by the tax office.

Gambling tax rates have been established per taxable unit as follows:

- 7,140 Belarusian roubles – for a game table;
- 240 Belarusian roubles – for a slot machine;
- 2,250 Belarusian roubles – for a totalizator counter;
- 1,500 Belarusian roubles – for a bookmaking office counter.

The tax rate on a positive margin between the amount of accepted gambling bets and the amount of paid wins (returned non-triggering bets) is 4%.

Gambling tax amounts are calculated as the product of tax base and gambling tax rate determined for respective taxable object.

Gambling tax period is calendar month. Payment of gambling tax shall be made not later than on the 22nd day of the month following the expired tax period.

### 10.5.3. Taxation in middle, small towns and rural areas

Some special tax regimes are regulated not by the Tax Code, but by Presidential decrees/edicts and other regulatory acts. Such acts regulating special tax regimes include:

- Presidential Decree No. 6 dated May 7, 2012 “On boosting entrepreneurial activities in middle/small towns and rural areas” (hereinafter — Decree No. 6)

According to Decree No. 6, a special taxation regime is applied to commercial entities and individual entrepreneurs registered in the Republic of Belarus and domiciled in the territory of middle/small towns or rural areas (hereinafter – rural areas) that carry out activities involving production of goods and/or performance of works/services.

#### **Peculiarities of taxation and benefits for business entities registered in rural areas.**

Such business entities are for 7 years (following date of registration) exempt from:

- profit/income tax with regard to sales of products of own making;
- payment of state duties for the issuance of special permits/licenses;
- other taxes and duties (except VAT, excises, stamp, off-shore and government duties, patent tax, utilisation fee, customs fees and duties, land tax, natural resource tax (ecological tax), and taxes that are calculated, withheld and paid during the performance of tax agent duties);
- forex surrender liability with regard to foreign currency received under the deals with non-residents

of the Republic of Belarus from the sales of goods (works, services) of own production, including income from lease of property.

The Decree has also established some peculiarities of taxation and privileges for business entities that have standalone subdivisions in rural areas.

An additional advantage is exemption from import customs duties on some goods imported by such business entities as founders' non-monetary contributions to authorised funds.

The privileged regime offered by Decree No. 6 does not apply to banks, non-bank financial organisations, investment funds, insurance companies, microfinance organisations; professional stock market participants, residents of the Hi-Tech Park, of the special recreational park “Avgustovsky Channel”, of the China-Belarus Industrial Park, and ordinary business entities that carry out: real estate broker activity, gambling activity, lottery activity, activity in electronic interactive games, production and sale of excisable goods, production and sale of jewelry, production of securities, banknotes, coins, stamps; activities within ordinary partnerships.

- Presidential Edict No. 345 dated September 22, 2017 “On boosting trade, public catering and public amenities” (hereinafter — Edict No. 345).

Edict No. 345 has established that individual entrepreneurs and legal entities are entitled to carry out such activities as retail trade in trading facilities, in trading places at market-places/fairs, public catering services in public catering facilities, provision of household services, in the territory of rural areas, and individual entrepreneurs and micro organisa-

tions are entitled to provide public catering services in public catering facilities and household services, in the territory of small towns based on the following special exemptions and privileges:

- exemption from VAT on overall sales of goods/works/services pertaining to, respectively, activities carried out in rural areas or small towns;
- profits from sales of goods/works/services drawn, respectively, from activities carried out in rural areas or small towns are subject to profit tax at the rate of 6%;
- incomes from activities carried out in the mentioned areas are subject to personal income tax at the rate of 6%, where individual entrepreneurs drawing such incomes pay personal income tax;
- the monthly single tax rate for individual entrepreneurs paying such tax and carrying out activities in the mentioned areas amounts to 1 basic unit;
- such entities/entrepreneurs are exempt from real estate tax, land tax and rental fees for some state-owned land plots.

Privileges stipulated by Edict No. 345 do not apply to:

- retail trade in motor fuel (diesel fuel, motor gasoline, motor gas fuel), automotive vehicles, self-propelled machines, trailers (semi-trailers, pole trailers), jewelry and other household goods made from precious metals and gems;
- provision of household services involving maintenance and repair of motor vehicles

### 10.5.4. Single tax on individual entrepreneurs and other natural persons

The single tax on individual entrepreneurs and other natural persons

is paid by individual entrepreneurs and natural persons not involved in entrepreneurship or not registered as individual entrepreneurs. Such taxpayers include natural persons involved in activities subject to single tax on individual entrepreneurs and other natural persons.

Taxpayers are exempt from the following taxes:

- personal income tax on income derived by natural persons in carrying out activities which are subject to the single tax;
- value added tax levied on the realisation of goods (works, services), property rights in the territory of the Republic of Belarus;
- ecological tax;
- mineral extraction tax;
- local taxes and duties paid for business activities subject to the single tax.

Natural persons not engaged in entrepreneurship pay the single tax for the following activities: services in cropping; services in grain shattering; cattle grazing; tutoring services; household cleaning; caring for children and adults; washing and ironing of bed linen and other things; walking pets and care for them; buying food, cooking, washing dishes; paying housing rent and utility payments on customer's behalf; packaging of customers' goods; music and entertaining services at weddings/jubilees/festive occasions; activities of actors, dancers, standup actors, individual musicians; face painting; master of ceremonies services; video recording, photography, production of photographs; activity involving congratulations on holidays; selling kittens and puppies provided they would be kept by the buyer; lawn mowing, cleaning of green areas (removing leaves, mowings, garbage); services involving keeping, care and

training of domestic animals except for farm animals; services for copying and preparation of documents and other specialised office activities; translation and interpretation services; services provided by means of automatic devices for measuring body weight/height; repair of apparel, knitwear, furs and headwear, except for repair of carpets and carpeting; realisation of products of ornamental plants, seeds and sprouts thereof, animals (except kittens and puppets) within trade places and/or in other places specified by local executive authorities; realisation of bakery and pastry items, gastronomy food produced by such natural persons within trade places and/or in other places specified by local executive authorities; leasing out living quarters, garden cottages, weekend houses owned by natural persons for short-term use; works/services pertaining to interior design, graphical design, motorcar decoration, finishing/decoration of the interior of permanent structures/buildings, other premises, simulation/designing of interior items, textile goods, furniture, clothes, footwear, personal items, household goods; repair of watches, repair of furniture; repair and renovation (including reupholstering) of home furniture using customer's materials; furniture assembly; tuning of musical instruments; firewood splitting, freight handling/discharging; manufacture of clothes (including headdress) and footwear using customer's materials; plastering, painting, glazing, flooring works, wall decoration/wallpapering, furnace/chimney lining/repair; services pertaining to website development, installation (adjustment) of computers and/or software, computer failure recovery, repairs/maintenance of computer and peripherals, com-

puter task training; hairdressing and cosmetic services, manicure/pedicure services.

The list of activities for which individual entrepreneurs pay the single tax is also quite broad: it includes all abovementioned types of activities as well as a number of other consumer services.

Tax period for the single tax is calendar year.

Reporting period for the single tax paid by individual entrepreneurs is the calendar quarter in which respective activities are performed.

Individual entrepreneurs shall independently calculate sums of their single tax by reference to the taxable base and the tax rates applicable in the location of their activities (except for certain cases).

Basic single tax rates for reporting month are set as a fixed amount in Belarusian roubles, subject to the type and location of respective business activities, and may amount from 9 Belarusian roubles to 438 Belarusian roubles.

#### 10.5.5. Single tax on producers of agricultural products

The single tax on producers of agricultural products amounts to 1% of gross proceeds. The term 'producers of agricultural products' comprises corporate entities that manufacture (and process) agricultural products and/or carry out primary processing of flax, as well as branches of corporate entities that discharge tax functions of their parent companies (hereinafter in this section — branches), where such branches manufacture (and process) agricultural products and/or carry out primary processing of flax.

Payment of the single tax substitutes for the following taxes for

taxpayers:

- profit tax (except taxes that are calculated, withheld and paid by entities acting as tax agents, and except profit tax on certain types of income such as dividends);

- real estate tax;

- land tax and rent for land plots owned by state and let out by rural, district, municipal (including Minsk municipal) executive committees or administrations of free economic zones;

- ecological tax, except ecological tax on burial of production wastes taken for the purposes of burial under a waste takeover transaction or another operation giving evidence of a takeover of wastes for the purposes of burial; moreover, assessment and payment of ecological tax shall be made only with respect to wastes taken in the aforementioned manner;

- packer shipper levy.

Tax period is one calendar year.

Reporting period for the single tax is:

- calendar month — for entities that pay VAT monthly;

- calendar quarter — for entities that pay VAT quarterly.

#### 10.5.6. Single tax on imputed income

Payers of the single tax on imputed income are those legal entities of the Republic of Belarus that provide services involving maintenance/repairing of motor vehicles and vehicle components and have no more

than 15 employees on their staff. Also, this tax is paid by entities that had stopped using the simplified taxation scheme and later started or resumed their maintenance/repairing activities prior to the expiry of consecutive twelve months immediately following the tax period in which such maintenance/repairing activities had been suspended.

The object of taxation is the income from maintenance and repair services. The tax rate is 5%.

The 'income from maintenance and repair services' is the margin of imputed income/revenue from maintenance and repair services over the amount of imputed income.

For the purposes of calculation of the single tax on imputed income, the basic monthly profitability per employee shall be determined by dividing the basic rate of the single tax on individual entrepreneurs and other natural persons applicable in Minsk by the 0.1 ratio.

Tax period for the single tax is calendar month. Tax returns shall be submitted on or before the 20th day of the month following the expired tax period. The tax shall be paid not later than on the 22nd day of the month following the expired tax period.

#### 10.6. TAXATION OF NATURAL PERSONS

Natural persons not involved in entrepreneurship pay the following taxes in Belarus:

- personal income tax;

- tax;

- real estate tax.

Personal income tax is the principal tax. It is paid on incomes from labour activity, works/services performed under civil law contracts, royalties, and on other incomes. Core information on the personal income tax is provided in cl. 10, section 9.4.

#### 10.7. AGREEMENTS ON AVOIDANCE OF DOUBLE TAXATION

In order to avoid double taxation, the Republic of Belarus has signed a vast number of bilateral agreements with other states. Currently there are over 70 such agreements with many countries (including Austria, Azerbaijan, Armenia, Bahrain, Bangladesh, Belgium, Bulgaria, Great Britain, Hungary, Venezuela, Vietnam, Georgia, Denmark, Egypt, Israel, India, Indonesia, Iran, Ireland, Spain, Italy, Kazakhstan, Qatar, Cyprus, China, Democratic People's Republic of Korea, Kuwait, Kyrgyzstan, Laos, Latvia, Lebanon, Libya (not yet in effect), Lithuania, Macedonia, Malaysia, Moldova, Mongolia, Netherlands, United Arab Emirates, Oman, Pakistan, Poland, Romania, Russia, Saudi Arabia, Serbia, Singapore, Slovakia, Slovenia, Syria, USA, Sudan (not yet in effect), Tajikistan, Thailand, Turkey, Turkmenistan, Uzbekistan, Ukraine, Finland, France, Germany, Croatia, Switzerland, Sweden, Sri Lanka, Czech Republic, Ecuador, Estonia, South Africa, and Japan).

## 10.7.1. Rates of dividend income tax applied by double taxation agreements

| No.          | Types of international double taxation agreements   | State  | Tax rate  | Conditions of tax rate application  |
|--------------|---|--|-----------|---|
| 1            | Tax rate applied by the host country of dividend payer may be different (subject to many factors) and may be more or less than the 12% rate provided for by the Belarusian legislation. | Austria*   | Up to 5%  | For a participatory share of at least 25%.  |
|              |   | Belgium*   | Up to 15% | In all other cases.   |
|              |   | Hungary*   |           |   |
|              |   | Venezuela*   |           |   |
|              |   | Italy*   |           |   |
|              |   | Korea*   |           |   |
|              |   | Macedonia*   |           |   |
|              |   | Serbia*  |           |   |
|              |   | Finland*   |           |   |
|              |   | Croatia*   |           |   |
|              |   | Switzerland*                                       |           |   |
|              |   | SAR*   |           |   |
|              |   | Great Britain*                                     | Up to 15% | When these dividends are paid from income received from immovable property by an investment company, income from such income from immovable property is exempt from tax |
|              |   |  | Up to 5%  | In all other cases.   |
|              |   | Bangladesh*  | Up to 10% | Where beneficiary owner is a company directly owning at least 10% of dividend payer's capital   |
|              |   |  | Up to 12% | In all other cases  |
|              |   | Armenia*   | Up to 10% | For a participatory share of at least 30%.  |
|              | Up to 15%   | In all other cases.                                |           |   |
| Pakistan*    | 11%   | For a participatory share of at least 25%.         |           |   |
| India*       | Up to 10%   | For a participatory share of at least 25%.         |           |   |
| Iran*        | Up to 15%   | In all other cases.                                |           |   |
| Slovakia*    |   |  |           |   |
| Turkey*      |   |  |           |   |
| Cyprus*      | Up to 5%  | For a participatory share of at least 200,000 EUR. |           |   |
|              | Up to 10%   | For a participatory share of at least 25%.         |           |   |
|              | Up to 15%   | In all other cases.                                |           |   |
| Netherlands* | Up to 5%  | For a participatory share of at least 25%.         |           |   |
|              | Up to 15%   | In all other cases.                                |           |   |

| No. | Types of international double taxation agreements | State           | Tax rate  | Conditions of tax rate application   |
|-----|---|-----------------|---|--|
|     |   |                 | Only in the home state of dividend beneficiary.                             | For a participatory share of at least 50% worth at least 250,000 EUR.  |
|     |   | Spain*          | Up to 5%  | Where beneficiary owner is a company directly owning at least 10% of dividend payer's capital  |
|     |   |                 | Up to 10%   | In all other cases.  |
|     |   |                 | Only in the home state of dividend beneficiary.                             | Where beneficiary owner is a company directly owning at least 10% of dividend payer's capital worth at least 1,000,000 EUR   |
|     |   | Poland*         | Up to 10%   | For a participatory share of at least 30%.   |
|     |   |                 | Up to 15%   | In all other cases.  |
|     |   | Germany*        | Up to 5%  | For a participatory share of at least 20% worth at least 81,806.70 EUR.  |
|     |   |                 | Up to 15%   | In all other cases.  |
|     |   | Sweden*         | Only in the home state of dividend recipient.                               | Where participatory share is 100%, but only to the extent that profits subject to dividends have been received from industrial / manufacturing activity, rural, forestry, fish industry or tourism (including restaurants and hotels). However, such exemption will not be applied, where profits subject to dividends are exempted from tax in the other Contracting State. |
|     |   |                 | Up to 5%  | For a participatory share of at least 30%.   |
|     |   |                 | Up to 10%   | In all other cases.  |
|     |   | Czech Republic* | Up to 5%  | For a participatory share of at least 25%.   |
|     |   |                 | Up to 10%   | In all other cases.  |
|     |   | 2               | Tax rate applied by the host country of dividend payer shall not exceed 5%. | Bahrain*<br>Qatar*<br>Kuwait*<br>Oman*<br>Saudi Arabia*<br>Slovenia*<br>Singapore*   |

| No. | Types of international double taxation agreements                             | State  | Tax rate   | Conditions of tax rate application  |
|-----|---|--|--|---|
| 3   | Tax rate applied by the host country of dividend payer shall not exceed 7.5%. | Lebanon*   | Up to 7.5%   |   |
| 4   | Tax rate applied by the host country of dividend payer shall not exceed 10%.  | Bulgaria*<br>Israel*<br>China*<br>DPRK*<br>Latvia*<br>Lithuania*<br>Mongolia*<br>Romania*<br>Thailand*<br>Estonia* | Up to 10%  |   |
|     |   | Ireland*<br>Georgia*   | Up to 5%   | For a participatory share of at least 25%.  |
|     |   |  | Up to 10%  | In all other cases.   |
|     |   | Laos*  | Up to 5%   | For a participatory share of at least 20%.  |
|     |   |  | Up to 10%  | In all other cases.   |
|     |   | UAE*   | Up to 5%   | For a participatory share worth at least 100,000 US dollars.  |
|     |   |  | Up to 10%  | In all other cases.   |
|     |   | Sri Lanka*   | Up to 7.5%   | For a participatory share of at least 25%.  |
|     |   |  | Up to 10%  | In all other cases.   |
|     |   | 5  | Tax rate applied by the host country of dividend payer shall not exceed 15% — which is more than the 12% rate applied by the Belarusian legislation. | Azerbaijan*<br>Vietnam*<br>Denmark<br>Egypt*<br>Kazakhstan*<br>Kyrgyzstan*<br>Malaysia<br>Moldova*<br>Russia<br>Syria*<br>Tajikistan*<br>Turkmenistan*<br>Uzbekistan*<br>Ukraine*<br>Japan* |
| 6   | Tax is paid only in the host country of dividend payer.                       | France   | Up to 15%  |   |
| 7   | The agreements have not yet entered into force, but provide that:             |  |  |   |

| No. | Types of international double taxation agreements   | State  | Tax rate  | Conditions of tax rate application                  |
|-----|---|--------|-----------|---|
|     | Tax rate applied by the host country of dividend payer may be different (subject to many factors) and may be more or less than the 12% rate provided for by the Belarusian legislation. | Libya* | Up to 5%  | For a participatory share of at least 25%.          |
|     |   |        | Up to 15% | In all other cases.                                 |
| 8   | Tax rate applied by the host country of dividend payer shall not exceed 5%.   | Sudan* | Up to 5%  | Possession of at least 25% of the company's capital |
|     |   |        | Up to 10% | In all other cases.                                 |

\* the asterisk means that in order to apply such rules according to the place of tax payment and the tax rate provided for by a respective agreement, the recipient of dividend shall be the beneficiary owner of such dividend.

### 10.7.2 Rates of interest income tax applied by double taxation agreements

| No | Types of international double taxation agreements  | State  | Tax rate   | Conditions of tax rate application   |
|----|--|--|--|--|
| 1  | Tax is paid <b>only in the home state of interest income receiver.</b>   | Great Britain<br>Denmark   | Defined in accordance with the legislation of interest income receiver's home state. |  |
| 2  | Tax rate <b>applied by the host country of interest payer</b> may be different (subject to many factors) and may be equal to or less than the 10% rate provided for by the Belarusian legislation. | Switzerland*   | Up to 5%   | For any types of loans provided by a bank.   |
|    |  |  | Up to 8%   | In all other cases.  |
|    |  | SAR*   | Up to 5%   | If the interest income receiver is a bank or any financial institution from among SAR residents. |
|    |  |  | Up to 10%  | In all other cases.  |
| 3  | Tax rate <b>applied by the host country of interest payer shall not exceed 5%.</b>   | Austria*<br>Bahrain*<br>Hungary*<br>Venezuela*<br>Georgia*<br>Iran*<br>Qatar*<br>Cyprus*<br>Kuwait*<br>Lebanon*<br>Netherlands*<br>UAE*<br>Oman*<br>Finland*<br>Germany*<br>Sweden*<br>Czech Republic* | Up to 5%   |  |



| № | Types of international double taxation agreements                             | State   | Tax rate   | Conditions of tax rate application |
|---|---|---|------------|------------------------------------|
|   |   | Ireland*<br>Saudi Arabia*<br>Slovenia*<br>Singapore*<br>Spain*  |            |                                    |
| 4 | Tax rate applied by the host country of interest payer shall not exceed 8%.   | Serbia*<br>Italy*<br>Laos*  | Up to 8%   |                                    |
| 5 | Tax rate applied by the host country of interest payer shall not exceed 7.5%. | Bangladesh*   | Up to 7,5% |                                    |
| 6 | Tax rate applied by the host country of interest payer shall not exceed 10%.  | Azerbaijan*<br>Armenia*<br>Belgium*<br>Bulgaria*<br>Vietnam*<br>Egypt*<br>Israel*<br>India*<br>Kazakhstan*<br>China*<br>DPRK*<br>Korea*<br>Kyrgyzstan*<br>Latvia*<br>Lithuania*<br>Macedonia*<br>Moldova*<br>Mongolia*<br>Pakistan*<br>Poland*<br>Russia*<br>Romania*<br>Slovakia*<br>Syria*<br>Tajikistan*<br>Thailand*<br>Turkmenistan*<br>Turkey*<br>Uzbekistan*<br>Ukraine*<br>Croatia*<br>Sri Lanka*<br>Estonia*<br>Japan* | Up to 10%  |                                    |
| 7 | Tax rate applied by the host country of interest payer shall not exceed 15%.  | Malaysia*   | Up to 15%  |                                    |

| No | Types of international double taxation agreements                                  | State                | Tax rate  | Conditions of tax rate application   |
|----|--|----------------------|-----------|--|
| 8  | Tax is paid <b>only in the host country of interest payer.</b>                     | France               | Up to 10% | Except for interests on bank credits / loans and interests on commercial loans that are taxed in interest payer's host country under tax rates applicable in such state. |
| 9  | The agreements have not yet entered into force, but provide that                   |                      |           |  |
|    | Tax rate <b>applied by the host country of interest payer shall not exceed 5%.</b> | Libya*<br>Hong Kong* | Up to 5%  |  |

\* the asterisk means that in order to apply such rules according to the place of tax payment and the tax rate provided for by a respective agreement, the recipient of interest income shall be beneficiary (true) owner of such interest.

### 10.7.3 Rates of royalty income tax applied by double taxation agreements

| No. | Types of international double taxation agreements   | State  | Tax rate  | Conditions of tax rate application   |
|-----|---|--|-----------|--|
| 1   | Tax rate <b>applied by the host country of royalty payer</b> may be different (subject to many factors) and may be equal to or less than the 15% rate provided for by the Belarusian legislation. | Malaysia*  | Up to 10% | When using or granting a right of usage for any patent, trademark, blueprint or model, plan, secret formula or process, copyright on science product, or for usage or granting a right of usage for industrial, trade or science equipment, or for information on industrial, trade or science experience. |
|     |   |  | Up to 15% | When using or granting a right of usage for cinema films / tapes for radio broadcasting or television, any copyright on an art or literature product.  |
| 2   | Tax rate <b>applied by the host country of royalty payer cannot be more than 5%.</b>  | Austria*<br>Bahrain*<br>Belgium*(S)<br>Hungary*<br>Georgia*<br>Iran*<br>Qatar*<br>Cyprus*<br>Korea*<br>Lebanon*<br>Ireland*<br>Czech Republic*<br>Slovenia*<br>Singapore*<br>Laos*<br>Spain* | Up to 5%  |  |

| No. | Types of international double taxation agreements                             | State  | Tax rate  | Conditions of tax rate application   |
|-----|---|--|-----------|--|
|     |   | Germany*   | Up to 3%  | When using or granting a right of usage for copyright on a product of science, patent, trademark, design or model, plan, secret formula or process, or for information on industrial, trade or science experience.       |
|     |   |  | Up to 5%  | When using or granting a right of usage for copyright on products of literature or art, including video films and films / tapes for radio broadcasting or television, or for usage of any type of equipment or vehicles. |
| 3   | Tax rate applied by the host country of royalty payer cannot be more than 6%. | Italy*   | Up to 6%  |  |
| 4   | Tax rate applied by the host country of royalty payer cannot exceed 10%.      | Azerbaijan*(CP)<br>Armenia*<br>Bangladesh*<br>Bulgaria*<br>China*<br>DPRK*<br>Kuwait*<br>Latvia*<br>Lithuania*<br>Macedonia*<br>Mongolia*<br>Oman*(S)<br>Russia*<br>Turkey*<br>Croatia*(S)<br>Estonia*<br>Serbia*<br>Saudi Arabia*<br>Sri Lanka* | Up to 10% |  |
|     |   | Venezuela*   | Up to 5%  | When using or granting a right of usage for any copyright on a product of science, any software, trademark or for usage or granting a right of usage for any type of equipment or vehicles.                              |
|     |   |  | Up to 10% | In all other cases.  |
|     |   | Israel*  | Up to 5%  | When granting or using any copyright on a literature, science or art product (except for video films) or when using or granting a right of usage for industrial, commercial or scientific equipment or vehicles.         |
|     |   |  | Up to 10% | In all other cases.  |

| No. | Types of international double taxation agreements | State        | Tax rate  | Conditions of tax rate application   |
|-----|---|--------------|-----------|--|
|     |   | Netherlands* | Up to 3%  | When using or granting a right of usage for any patent, trademark, blueprint or model, plan, secret formula or process, or copyright on a science product, or for information on industrial, trade or science experience.  |
|     |   |              | Up to 5%  | When using or granting a right of usage for any industrial, trade or science equipment, including road vehicles.   |
|     |   |              | Up to 10% | When using or granting a right of usage for cinema films / tapes for radio broadcasting or television, any copyright on a literature, science or art product.  |
|     |   | UAE*         | Up to 5%  | When using or granting a right of usage for any copyright on products of science, any patent, trademark, blueprint or model, plan, secret formula or process, or for usage or granting a right of usage for industrial, trade or science equipment, or for information on industrial, trade or science experience. |
|     |   |              | Up to 10% | When using or granting a right of usage for cinema films / tapes for radio broadcasting or television, any copyright on a literature or art product.   |
|     |   | Slovakia*    | Up to 5%  | When granting a right of usage for any copyright on products of literature, science and art, including video films or films / tapes and other imaging or sound techniques.   |
|     |   |              | Up to 10% | When using or granting a right of usage for any patent, trademark, blueprint or model, plan, secret formula or process, or for information on industrial, trade or science experience or vehicles.   |
|     |   | Switzerland* | Up to 3%  | When using or granting a right of usage for any patent, secret formula or process, or for information on industrial, trade or science experience.  |

| No. | Types of international double taxation agreements | State   | Tax rate  | Conditions of tax rate application  |
|-----|---|---------|---|---|
|     |   |         | Up to 5%  | When using or granting a right of usage for any industrial, trade or science equipment, including vehicles.   |
|     |   |         | Up to 10%   | In all other cases.   |
|     |   | Sweden* | Up to 3%  | When using or granting a right of usage for any patent, secret formula or process, or for information on industrial, trade or science experience.   |
|     |   |         | Up to 5%  | When using or granting a right of usage for any industrial, trade or science equipment.   |
|     |   |         | Up to 10%   | In all other cases.   |
|     |   | SAR*    | Up to 5%  | When using or granting a right of usage for any industrial, trade or science equipment, including vehicles.   |
|     |   |         | Up to 10%   | In all other cases.   |
|     |   | Japan*  | Only in the home state of royalty beneficiary.  | When using or granting a right of usage for any copyright on literature, art or science products, including cinema films and films / tapes for radio broadcasting or television.  |
|     |   |         | Up to 10%   | When using or granting a right of usage for any patent, trademark, blueprint or model, plan, secret formula or process, or for granting a right of usage for industrial, trade or science equipment, or for information on industrial, trade or science experience. |
|     |   | 5       | Tax rate applied by the host country of royalty payer cannot be more than 15% (which is the rate prescribed by Belarusian legislation). | Vietnam*<br>Egypt*<br>India*<br>Kazakhstan*<br>China*<br>Kyrgyzstan*(CP)<br>Moldova*<br>Pakistan*<br>Romania*<br>Tajikistan*<br>Thailand*<br>Turkmenistan*<br>(CP)<br>Uzbekistan*(CP)<br>Ukraine*   |

| No. | Types of international double taxation agreements                              | State  | Tax rate  | Conditions of tax rate application |
|-----|--|--------|-----------|------------------------------------|
| 6   | Tax rate applied by the host country of royalty payer cannot be more than 18%. | Syria* | Up to 18% |                                    |
| 7   | The agreements have not yet entered into force, but provide that               |        |           |                                    |
|     | Tax rate applied by the host country of royalty payer cannot be more than 5%.  | Libya* | Up to 5%  |                                    |
|     |  | Sudan* |           |                                    |

\* the asterisk means that in order to apply such rules according to the place of tax payment and the tax rate provided for by a respective agreement, the recipient of royalty income shall be beneficiary (true) owner of such royalty.

Used abbreviations:

- P — programme;
- PEC — programme for electronic computer;
- S — software;
- CP — computer programme.

Each treaty uses different terminology: "royalty" is defined as remuneration for the use of various objects (rights) which either may or may not pertain directly to intellectual property. Thus, in using the above information in the table, please, each time clarify the actual possibility of using a preference as stipulated by a specific international treaty applying to your situation.

11

Antitrust legislation

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**11.1. MONOPOLISTIC ACTIVITY: GENERAL INFORMATION**

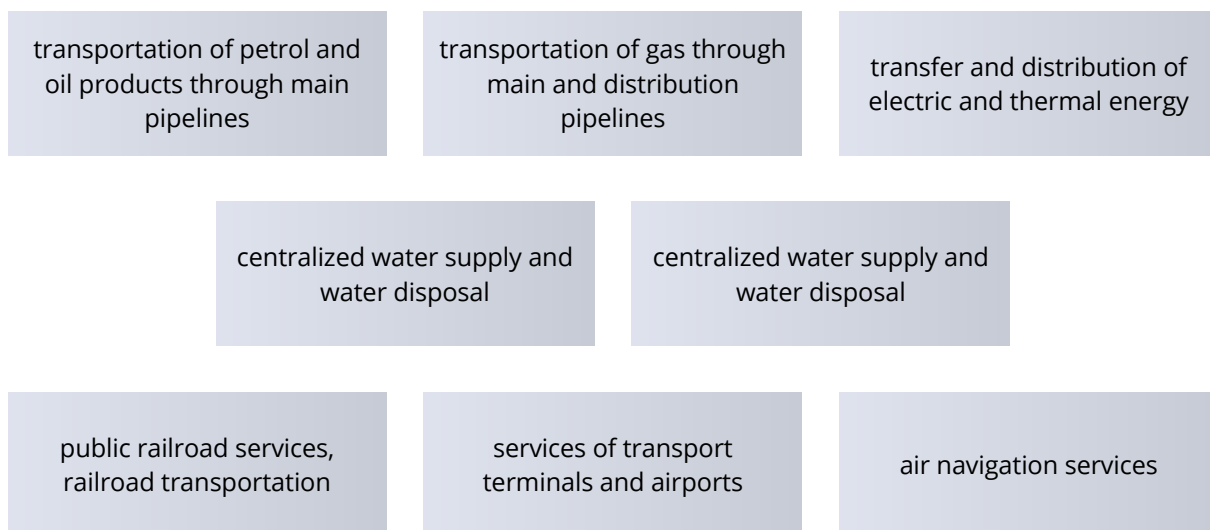
In 2019, the monopolistic activity is basically regulated by Law of the Republic of Belarus No. 94-Z of December 12, 2013 “On suppression of monopolistic activity and development of business competition” (hereinafter — Law No. 94-Z) and by Law of the Republic of Belarus No. 162-Z of December 16, 2002 “On natural monopolies” (hereinafter — Law No. 162-Z). Monopolistic activity is defined as actions (inaction) of business entities or state bodies

aimed at prevention, limitation or elimination of business competition. As from August 3, 2018, a new edition of Law No. 94-Z will be effective expanding the notion of ‘monopolistic activity’ to include also abuse of a dominant position of a business entity or a group of entities, conclusion of agreements, performance of concerted practices, or performance of other actions (inaction) aimed at prevention, limitation or elimination of business competition.

In the Republic of Belarus existence of state monopolies is permitted. A state monopoly is a system of

social relations in which an exclusive right to perform certain activities, including business activities, is owned by the state represented by certain state bodies or other authorized entities.

Special legal rules regulate natural monopolies (i.e. market situations where business competition in certain services is impossible or economically inadvisable due to technological peculiarities of production and provision of such services). Law No. 162-Z indicates the following types of activities as natural monopolies in Belarus:



Anti Monopoly policies in the Republic of Belarus are implemented by the antimonopoly body — the Ministry of Antimonopoly Regulation and Trade of the Republic of Belarus, and its structural subdivisions — main departments of the Ministry of Antimonopoly Regulation and Trade in regions and Minsk city.

Antimonopoly control in Belarus includes the following types of activities:

- control over creation and reorganization of holding companies,

unions, associations and other alliances of business entities;

- control over transactions with capital stock, shares in statutory funds of business entities, as well as acquisition of interests in management bodies of business entities;
- control over creation and reorganization of commercial entities through mergers and acquisitions;
- control over reorganization of dominant business entities through transformation into joint stock companies;

- control over agreements and coordinated actions of business entities;

- control over activities of business entities having market share dominance;

- control over acquisition of fixed assets or intangible assets, where book value thereof exceeds 20% of the book value of seller’s assets.

**11.1.1. Anti Monopoly control over creation of holding companies**



Creation and reorganization of holding companies are regulated by Law No. 94-Z and Edict of the President of the Republic of Belarus No. 660 "On some issues relating to creation and activities of holding companies" dated December 28, 2009 (hereinafter — Edict No. 660). In accordance with the Edict No. 660, before submitting documents to register a holding company (or to change its participants) the management company of such holding company (owner or its authorized representative) must obtain an approval of the antimonopoly body for the creation of such holding company, where such approval is required by Law No. 94-Z. Such approval is required where the total balance sheet value of assets of companies forming such holding company estimated on the basis of financial statements as of the latest reporting date exceeds 200,000 basic units, or where total revenues of companies forming such holding company from sales of goods in the reporting year immediately preceding the year of creation of such holding company exceed 400,000 basic units, or where one of such entities is included in the State Register of economic entities with a dominant position in the commodity markets or in the State Register of natural monopolies.

The antimonopoly body may:

- either approve the creation (reorganization) of a holding company,
- or render a substantiated decision declining the approval, if creation (reorganization) of such holding company may lead to an incurrance or reinforcement of a dominant position in a commodity market and/or limitation of business competition, or if during the application process the antimonopoly body discovers that the submitted

information is inaccurate and/or incomplete.

The antimonopoly body may approve the creation of such holding company even if founding entities establish or strengthen their dominant position in a commodity market and/or if business competition is thereby prevented, limited or eliminated. To obtain such a decision, the founding entities have to prove that their actions have or may have the following effect:

- they improve production (sales) of goods, or stimulate technical (economic) progress, or increase the competitiveness of goods manufactured in the Republic of Belarus in the global commodity market;
- consumers receive a proportionate portion of advantages (benefits) acquired by the founding entities due to such actions.

Approval or substantiated declination shall be made within 30 days from the date of application. Such approval or substantiated declination is valid within 1 year.

#### 11.1.2. Anti Monopoly control over transactions with capital stock (shares)

Approval of the antimonopoly body for a transaction is required where the total balance sheet value of assets of the entity selling stock/shares/interests or of the entity buying stock/shares as of the latest reporting date exceeds 200,000 basic units, or where total revenues from sales of goods in the reporting year immediately preceding the year of acquisition exceed 400,000 basic units, or where one of such entities is included in the State Register of economic entities with a dominant position in the commodity markets or in the State Register of natural monopolies.

Apart from the financial criterion, the approval of the antimonopoly body is subject to a concurrent transaction resulting in:

1) acquisition of a right to dispose a block of shares:

- of more than 25% of stocks (shares), if the purchaser was not a participant of such economic entity before, or had a share of 25% or less;
- of more than 50% of stocks (shares), if previously the purchaser had a share of 25% to 50% in such a transaction party.

2) acquisition of, in total, over 25% of voting stocks (participatory shares) of another business entity in a particular commodity market by a business entity holding a dominant position in the same commodity market.

3) acquisition by a business entity of at least 25% of capital stock (participatory shares) of a business entity holding a dominant position in a commodity market, or other transactions enabling such buyer to influence the decision-making process of such business entity holding a dominant position in a commodity market.

The antimonopoly body shall render its decision within 30 days. As in the case of registration of a holding company, such decision may be either positive or negative. A negative decision will be issued if the transaction under consideration will or may result in an incurrance or reinforcement of a dominant position of the business entity in a commodity market and/or limitation of competition, or if during the application process the antimonopoly body discovers that the submitted information is inaccurate and/or incomplete.

The anti monopoly body may approve a transaction with capital

stock (shares) even where it entails reinforcement of a dominant position in a commodity market, if such transaction has or may have the following effect:

- they improve production (sales) of goods, or stimulate technical (economic) progress, or increase the competitiveness of goods manufactured in the Republic of Belarus in the global commodity market;
- consumers receive a proportionate portion of advantages (benefits) acquired by the transacting entities due to such actions.

### 11.1.3. Non-compliance with approval procedures

#### Civil law consequences

Failure to obtain an approval of the antimonopoly body to a transaction with capital stock (participatory share) of a business entity and any transacting resulting in an incurrance or reinforcement of a dominant position of a business entity in a commodity market and/or in limitation of business competition will entail invalidation of such transaction by court.

Non-compliance with this obligation itself will not cause invalidation. The essential condition is the fact that a transaction has resulted in an incurrance or reinforcement of a dominant position of a business entity in a commodity market and/or in limitation of competition. However, this fact must be proved in court.

#### Administrative liability

Failure to submit application for approval of mentioned transactions may be qualified as failure to present data (documents, explanations) enabling anti monopoly authorities to discharge their functions (in terms of monitoring economic concentration), which may entail a fine in the

amount of up to 100 basic units, in accordance with art. 11.24 of the Administrative Violations Code.

### 11.1.4. Anti-monopoly control over agreements (coordinated actions) of business entities

Anti Monopoly legislation prohibits agreements and coordinated actions of business entities if such agreements or coordinated actions lead to prevention, limitation or elimination of business competition, including agreements implying:

- imposing contractual clauses on sellers/consumers that are un-economic or irrelevant;
- economically, technologically or otherwise unreasonable establishing of different prices/tariffs for the same product;
- limitation of access to, or withdrawal from, or exclusion of other business entities from a commodity market.

And where parties to such agreement are business competitors, the following agreements/arrangements between them are prohibited if they entail or may entail:

- establishing, increasing, decreasing or fixing prices (tariffs);
- division of a commodity market on a territory basis, by types/volumes of transactions, types/volumes/range of products and/or respective prices/tariffs, scope of sellers/consumers;
- reduction or termination of production of goods;
- refusal to conclude agreements with certain sellers/consumers, where such refusal is not stipulated by legislative acts.

The antimonopoly law provides for specific rules in respect of 'vertical agreements', i.e. agreements involving a business entity acquiring goods or acting as a potential

purchaser, and another business entity providing goods or acting is a potential seller.

Vertical agreements are forbidden by the antimonopoly law:

- where such agreements lead or may lead to an establishment of a resale price of a product, except for cases where the seller fixes a maximum resale price for the buyer;
- where such agreements provide for the buyer's obligation not to sell any goods of a business entity competing with the seller. This prohibition does not apply to agreements on the organization of sale of goods by the buyer under a trademark or other means of identification of a seller/manufacturer.

Agreements and coordinated actions may be considered as acceptable by the antimonopoly body, if they do not impose on other business entities any restrictions irrelevant for the purposes thereof and do not entail or enable prevention, restriction or elimination of competition in a respective commodity market, providing involved business entities can prove one of the following consequences:

- improvement of production (sales) of goods, or stimulation of technical (economic) progress, or increase in the competitiveness of goods manufactured in the Republic of Belarus in the global commodity market;
- consumers receive a proportionate portion of advantages (benefits) acquired by the entities due to such actions.

Vertical agreements are allowed:

- if such agreements are complex business license agreements (franchising agreements);
- if the share of each business entity being a party to such agreement in any commodity market does not exceed 20%.

### 11.1.5. Consequences of anti-competitive agreements and coordinated actions

#### Administrative liability

Administrative liability is stipulated for officials of the violating legal entity and such legal entity (or individual entrepreneur) itself. Pursuant to cl. 2, art. 11.25 of the Administrative Violations Code, the liability for an official of a violating legal entity is a fine in the amount of 20 to 100 basic units. The liability for an individual entrepreneur is a fine in the amount of 100 to 200 basic units. The liability for a legal entity is a fine in the amount of up to 10% of revenues from sales of goods (works, services) in the market where the violation has occurred, either during the calendar year preceding the year of administrative violation, or during a portion of the calendar year of such administrative offense immediately preceding the date of detection of such administrative offense, if the offender was not involved in the sale of goods (works, services) in the preceding calendar year; however, such fine shall be at least 400 basic units.

### 11.1.6. Anti-monopoly control over activities of business entities with market share dominance

A 'dominant position' of a business entity is determined in accordance with the legislation of the Republic of Belarus based on the analysis of commodity markets conducted by the antimonopoly authorities of the Republic of Belarus. The Instruction on Determination of Dominant (Monopsonist) Position of Business Entities approved by Resolution of the Ministry of Antimonopoly Regulation and Trade No. 63 of December 27, 2017 prescribes the rules to be

used to determine a dominant position of a business entity in a particular commodity market.

For the purposes of identification of business entities holding a dominant position, the following characteristics will be taken into account:

- such business entity has no competitors in a corresponding commodity market;
- such business entity, not being the only manufacturer (supplier) or consumer of a respective type of goods, is however capable of imposing unacceptable terms of sale/purchase when executing the supply contract;
- such business entity is capable of limiting business competition by other business entities in the resource market (market of raw/primary materials, equipment, energy resources, etc.);
- such a business entity is capable of decreasing or limiting the supply of goods to the sales market for the purpose of one-sided advantages, when executing the supply contract.

If the position of a business entity (or several business entities) in a market is recognized as a dominant position, then production output, product quality, price levels and other indicators of such business entity (entities) will be subject to special government control aimed at preventing and restraining any abuse of such dominant position (if any).

Business entities holding a dominant market position must submit statistical reports to the antimonopoly authority under a special form.

The activities of companies holding a dominant position in the commodity markets of the Republic of Belarus are controlled by means of audits conducted by the antimonopoly authorities and by means of

agreements stipulating compulsory terms and conditions excluding antimonopoly activities and price/tariff ranges.

Government bodies monitor the level of prices (tariffs) for goods (works, services) provided by economic entities with market share dominance by means of setting fixed or limit prices (tariffs) or declaration of prices (tariffs).

Clause 2, art. 11.25 of the Administrative Violations Code stipulates liability of officials of legal entities in the amount of up to 100 basic units where such legal entity holding a dominant position should commit any act of abuse of its dominant position as specified by the antimonopoly law; for individual entrepreneurs a fine of up to 200 basic units is prescribed, and for legal entities — a fine of up to 10% of revenues from sales of goods (works, services) within the calendar year immediately preceding the year in which the administrative offense was identified, or within a portion of the calendar year in which such administrative offense was detected immediately preceding the date of detection of such offense, if the offender was not involved in the sale of goods (works, services) in the preceding calendar year; however the fine shall be at least 500 basic units.

## 11.2. UNFAIR COMPETITION

The Belarusian legislation qualifies unfair competition as any actions taken by a business entity or by several business entities which aimed to gain advantages in business activities or violate the antimonopoly law or honesty and rationality principles and which may inflict or have inflicted losses on other competitors or may damage their goodwill.

Various forms of unfair competition may include the following actions: dissemination by a business entity of false, incorrect or distorted information, false representation with respect to consumers, goods or quality of goods, incorrect comparing of own goods and competitors' goods, registration of trademark in order to unfairly impede competitor's use of a similar trademark, using trademarks/brands identical with competitors' trademarks/brands, unlawful access to competitors' commercial secrets, etc.

Unfair competition is prohibited in Belarus. The legislation of the Republic of Belarus provides for judicial and administrative protection against unfair competition, as well as civil, administrative and criminal sanctions for unfair competition.

Pursuant to art. 11.26 of the Administrative Violations Code, unfair competition is punished by a fine in the amount up to 100 basic units for officials, up to 200 basic units for individual entrepreneurs, and for a legal entity — up to 10% of revenues from sales of goods (works, services) at the market where such violation has taken place, in the calendar year preceding the year in which such administrative offense has been identified, or for a portion of the calendar year in which such administrative offense has been identified

immediately preceding the date of identification of such administrative offense, if the offender did not start selling such goods (works, services) in the previous calendar year, — however, at least 400 basic units.

### 11.3. UNIFORM RULES OF BUSINESS COMPETITION IN THE EURASIAN ECONOMIC UNION

Since January 1, 2015 the Treaty on the Eurasian Economic Union (EAEU) has been in force. The Republic of Armenia, the Republic of Belarus, the Republic of Kazakhstan, Kyrgyz Republic and the Russian Federation are parties to the EAEU Treaty.

Issues related to unfair competition are regulated by Section XVIII "General principles and rules of business competition".

General rules of competition imply a number of prohibitions set forth to ensure effective market performance. The EAEU Treaty prohibits:

- abuse of dominant position;
- unfair competition;
- agreements between legal entities that result or may result in a limitation of competition;
- coordination of economic activities of legal entities, if it causes or may cause any negative consequences.

More detailed provisions on unfair competition are specified in Annex 19 "Protocol on general principles and rules of competition" to the EAEU Treaty.

This protocol, among other things, determines:

- penalties for the violation of general rules of competition in cross-border markets;
- a procedure to be used by the Eurasian Economic Commission in monitoring compliance with the general rules of competition in cross-border markets, as well as interaction with the competent authorities of the EAEU Treaty member-states;
- a procedure for cooperation between competent authorities of member-states in supervising compliance with the competition (antitrust) laws.

Authorized bodies of the EAEU Treaty member-states are responsible for the restraint of any violations of the general rules of competition in the territories of respective member-states. The Eurasian Economic Commission restrains violations of the general rules of competition (except financial violations), where such violations have or may have an adverse effect on the business competition in the cross-border markets.

# 12

Intellectual Property

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At present, legal protection in Belarus may be granted to the following objects of intellectual property:

- 1) results of intellectual activity:
  - scientific, literary and artistic works
  - broadcasting performances, phonograms and programmes
  - inventions, utility models, industrial prototypes
  - selection achievements
  - topologies of integrated circuits
  - manufacturing secrets (know-how)
- 2) means of individualization:
  - brand names
  - trademarks & service marks
  - geographical indications
- 3) other results of intellectual activity and means of individualization, as provided for by legislation.

The most common intellectual property objects most often requiring protection from unlawful use are examined below.

### 12.1. OBJECTS OF COPYRIGHT AND RELATED RIGHTS

Such objects include works of science, literature and/or art resulting from creative activity, regardless of the purpose and dignity of the works, mode of expression (copyrights) and performance thereof. These also comprise phonograms and broadcasts of broadcasting companies and cable transmission organizations (objects of related rights).

A period of legal protection for copyrights and related rights begins with the creation of an object and, therefore, requires no formalities. Author's moral rights (copyright, the right to name, the right to inviolability of the work, the right of disclosure, the right to recall) are protected indefinitely.

Author's exclusive rights are pro-

tected during his/her lifetime and within 50 years after his/her death. Exclusive right for the performance remains in effect within 50 years after the first public performance, first record, first broadcast (on the air, by cable or otherwise), and on a phonogram — within 50 years after its first publishing or first record, provided such phonogram has not been published within this term. Exclusive right for air/cable broadcasting remains in effect within 50 years after the first air/cable broadcast. Author's exclusive rights may be transferred to a third party by assignment of rights or granted under an exclusive or nonexclusive license.

A copyright holder is entitled to prohibit or authorize the following actions in respect of the copyright object:

- reproduction in any form;
- distribution of originals or copies of the object and its renting;
- the right to perform a work in public (the right to public performance);
- public presentation or any other form of showing to the public;
- translation into other languages;
- modification/revision;
- import of work copies;
- on-air transmission;
- transmission by cable;
- other admissible actions.

In case of violation of copyright and/or related rights, the remedies of civil legal protection are:

- withdrawal/elimination of material objects used to violate exclusive rights and any material objects resulting from such violation. Counterfeit copies of works, recorded performances, phonograms, broadcasts of broadcasting companies and cable transmission organizations must be confiscated under a court

decision;

- compulsory public announcement of such violation featuring information about the actual owner of the violated right;
- recovery of damages, including lost profits;
- compensation to be paid in the amount of 1 to 50 thousand basic units (as of February 1, 2020, one basic unit makes approximately 11.5 Euros) instead of recovery of damages;
- other remedies.

Furthermore, the legislation provides for administrative or criminal liability for certain types of violations of copyright or related rights.

## 12.2. INDUSTRIAL PROPERTY OBJECTS

### 12.2.1 Inventions, utility models, industrial designs

An invention in any field of technology will qualify for legal protection if it is new, relates to a product/process and/or to product/process intended application, involves an inventive step and is industrially applicable.

A useful model qualifying for legal protection is a technical solution relating to technical devices; it shall be new and industrially applicable.

An industrial design is specified by the law as an artistic or art-design solution for a product that defines its look, is new and original.

Legal protection of inventions, utility models and industrial designs is certified with a patent. A patent is valid as from the date of application to the National Centre for Intellectual Property (hereinafter — NCIP):

- for inventions — within 20 years, it is renewable for up to 5 years;
- for a utility model — within 5

years, it is renewable for up to 5 years;

- for an industrial design — within 10 years, it is renewable for up to 5 years.

Attribution of authorship, compulsion to co-authorship, illegal disclosure of the essence of an invention, utility model and/or industrial design before submitting a relevant application without author's permission, as well as violation of exclusive rights of patent holders entail civil, administrative or criminal liability.

Civil remedies for the protection of violated rights are:

- restraint of unlawful acts actually violating and/or capable of violating copyrights;
- recovery of damages;
- compulsory public announcement of the violation featuring information about the actual owner;
- withdrawal/elimination of material objects used to violate exclusive rights and material objects resulting from such violation;
- compensation in the amount of 1 to 50 thousand basic units instead of recovery of damages;
- other remedies as specified by law.

### 12.2.2. Means of individualization

Means of individualization qualifying for legal protection in the Republic of Belarus include brand names, geographical indications, trademarks (service marks).

A brand name refers to a name of a legal entity used for its individualization for civil law purposes. Period of legal protection of a brand name remains in force until the legal entity has been dissolved or has changed its brand name.

A geographical indication is a designation that identifies goods as originating from a certain country or a region or locality in that territory, where a certain quality, reputation or other characteristics of the goods are to a great extent connected with its geographical origin. A geographical indication comprises the "appellation of origin" and the "indication of origin".

A trademark (service mark) is a designation that distinguishes goods or services of one person from homogenous goods or services of others.

In order to obtain legal protection, trademarks, service marks and appellations of origin must be registered with the NCIP which will then issue a relevant registration certificate. Indications of origin are not subject to state registration.

The Republic of Belarus is a party to the Madrid WIPO Agreement "On International Registration of Marks" (along with the Protocol Relating to the Madrid Agreement on International Registration of Marks (signed in Madrid on June 28, 1989)), therefore it is possible to obtain legal protection for a trademark in the territory of the Republic of Belarus by means of registration in the WIPO under the Madrid

system which will extend respective rights to the territory of Belarus.

The Eurasian Economic Union has established a unified trademark registration system. Trademark owners must apply to the Eurasian Economic Commission in order to have their trademarks registered in the unified customs register and secure protection thereof in the entire territory of the EAEU.

The legal protection period for trademarks (service marks) and geographical indications is 10 years. It is renewable for another 10 years for an unlimited number of times.

The ways to protect rights to trademarks (service marks) are as follows:

- restraint of unlawful acts actually violating and/or capable of violating the law;
- reimbursement of damages;
- compensation to be paid in the amount of 1 to 50 thousand basic units instead of reimbursement for damages.
- removal of unlawfully used trademarks or designations similar to the extent of confusion from counterfeit products, labels or packages; where it is impossible — removal from trading circulation and destruction of counterfeit products, labels, packages.

Disputes relating to the protection of intellectual property objects are resolved by the Judicial Board for Intellectual Property of the Supreme Court of the Republic of Belarus.

# 13

Retail

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## STATISTICS

BelStat has summarized the dynamics of internal trade and catering services in 2019. Retail sales in 2019 amounted to 49.3 bln BYN, that is 104.2% in comparable prices to the 2018 level.

Daily retail volume per capita from the beginning of year amounted to 14.2 BYN — against 13 BYN for the same period of the previous year.

Retail volume of trading facilities — comprising 90.6% of overall national retail volume — amounted in 2019 to 44.7 bln BYN, or 105.8% in comparable prices against the corresponding period of previous year.

According to various assessments, Internet trade in Belarus accounts for 3 to 3.5% of the overall retail volume. In money terms, it is 1.48 to 1.73 bln BYN.

According to the national trade register, total floor area of trading facilities at the beginning of 2020 amounts to 7.3 mln sq.m. At the beginning of 2019 this index amounted to 5.8 mln sq.m.

In 2019 wholesale turnover amounted to 95.4 bln BYN, or 95.8% in comparable prices against 2018 level.

Sales turnover in public catering in 2019 amounted to 2.9 bln BYN, or 106.4% in comparable prices against last year level.

Belarusian gross domestic product in January–December of 2019 amounted, on current basis, to 132 bln BYN, or 101.2% in comparable prices to 2018 level. GDP deflator index in 2019 amounted to 106.5% against last year level.

Real disposable household income in the Republic of Belarus in January–November 2019 amounted to 106.3% as compared to the level

of January–November of 2018.

In the overall volume of money income, remuneration of labour accounts for 64.1%, incomes from entrepreneurial and other gainful activities — 7.8%, social transfers (pensions, allowances, studentships and other social transfers) — 23.4%, property incomes and other incomes — 4.7%.

### 13.1. RETAIL TRADE IN THE REPUBLIC OF BELARUS

Retail trade implies purchasing and selling goods for private, household and similar use not related to entrepreneurial activity, unless otherwise specified by legislative acts of the Republic of Belarus (article 1 of the Law of the Republic of Belarus dated January 8, 2014 “On state regulation of trade industry and public catering in the Republic of Belarus” (hereinafter — the Law)).

Retail trade in Belarus is at the top of all economy sectors in terms of contribution to national GDP. According to National Statistics Committee, Belarusian gross domestic product during 3 quarters of 2019 amounted, on current basis, to 96.935,3 bln BYN, being 1% higher than in the same period of 2018.

2019 saw a steady growth of retail sales. According to the National Statistics Committee of the Republic of Belarus, retail sales in January–December 2018 amounted to 44.674,9 mln BYN. Food products occupy over 53% in retail turnover, being provided mostly by domestic manufacturers (over 70%).

According to the Trade Register of the Republic of Belarus, total floor area of trading facilities amounts to 7.3 mln sq.m. There are 111.713 trading facilities in our country.

National retail policies have been specified by Resolution of the Minis-

try of Antitrust Regulation and Trade of the Republic of Belarus No. 56 “On systematics of retail trade” dated June 28, 2019. The Resolution classifies various forms of retail trade (as methods of process arrangement) according to types of trading facilities and trading techniques.

The Republic of Belarus has the following forms of retail trade:

- **commission trade** — a form of retail trade carried out in a commission store/section involving selling of goods accepted under commission agreements from Belarusian nationals, foreign nationals or apatrides;
- **trade in stationary trading facilities** — retail trade carried out in a trading facility being a permanent building/structure connected to engineering networks, or a portion thereof, fitted with shop equipment;
- **trade in non-stationary trading facilities** — retail trade carried out in a trading facility being a temporary structure (not being a permanent building/structure or a portion thereof), whether or not connected to engineering networks, carried out from a mobile retail delivery facility fitted with shop equipment, or from a mobile pedlery facility;
- **trade without/outside trading facilities** — retail trade without stationary trading facilities, non-stationary trading facilities or outside such facilities;
- **trade by sample** — retail trade carried out without/outside trading facilities by means of selling goods under a retail sales agreement concluded without concurrent presence of seller and buyer, after buyer’s examination of a description of commodity in a catalogue, leaflet, advert, booklet, or presented in photographs or other information sources, sent by seller to public at large, by means of postal service,

mass media or otherwise, in accordance with applicable legislation, in particular in the global Internet network, excluding buyer's immediate familiarization with such commodity or its sample prior to and at the moment of concluding such agreement;

- **retail delivery trade** — a form of retail trade carried out outside stationary trading facilities using mobile delivery trade facilities being specially fitted vehicles (rolling stores);

- **pedlery** — retail trade carried out outside stationary trading facilities using mobile pedlery facilities (vending machines, bogeys, trays, baskets and other fittings), or without such facilities;

- **fun-fair trade** — retail trade carried out at fun-fairs at special sites allotted for sales of goods;

- **auction trade** — retail trade carried out at tenders/auctions at a pre-scheduled time and in a pre-set venue, implying selling goods to a participant bidding the highest price;

- **marketplace trade** — retail trade carried out at marketplaces.

The following principal segments of retail trade are presented in the Republic of Belarus:

- **FMCG** — fast moving consumer goods. The FMCGs are goods purchased by individuals for private consumption and have a short life cycle. These are basic day-to-day goods: food products, household chemicals, beer, cigarettes, etc. These goods are sold in the Republic of Belarus mainly by retail chains, food stores and electronic trade platforms.

2018 saw first public merger & acquisition transactions between major FMCG chain operators, one network acquiring assets of another network.

- **DIY (do it yourself)** — trading

in handicraft goods and products, including stores selling construction/repair supplies, horticulture goods, household decoration supplies, furniture, tools, bathroom fixtures and other goods. In the Republic of Belarus this format is represented by several major operators of construction supplies malls.

- **Drogerie** — these are small shops selling toiletries, household chemicals/fittings, personal hygiene goods, pet food, etc.

- **technology and electronics** — represented in the Republic of Belarus by offline operators, with some active online competitors;

- **children's products** — represented in the Republic of Belarus by a chain of children's products.

These are the main development trends in the retail business in Belarus in 2020:

- increase in efficiency of all retail facilities within each retail chain, based on customer needs;

- creation of food-courts and self-scanners in shopping malls and hypermarkets;

- active introduction of loyalty programmes and IT-solutions/innovations in operational management.

The retail market is basically regulated by the Civil Code of the Republic of Belarus, Law of the Republic of Belarus dated January 8, 2014 "On state regulation of trade industry and public catering in the Republic of Belarus", Presidential Decree No. 7 dated November 23, 2017 "On the development of entrepreneurship" (hereinafter — the Decree), Presidential Edict No. 450 dated September 1, 2010 "On the licensing of certain types of activities", Resolution of the Ministry of Antitrust Regulation and Trade of the Republic of Belarus No. 56 dated June 28, 2019 "On systematics

of retail trade", Law of the Republic of Belarus dated August 27, 2008 "On state regulation of production and turnover of alcoholic products, non-food alcohol-containing products and non-food ethyl alcohol", etc.

Law of the Republic of Belarus dated January 8, 2014 "On state regulation of trade industry and public catering in the Republic of Belarus" (hereinafter — the Law) prescribes maintenance of the national Trade Register. As from June 22, 2014, all trading facilities, public catering facilities, administration bodies of shopping malls and marketplaces are obliged to furnish data to be entered in the Trade Register. Also, the Law established mandatory requirements to trading facilities, public catering facilities, shopping malls and marketplaces, as well as to trading activities without/outside trading facilities, in particular via online stores.

A business entity involved in retail trade in a trading facility shall comply with the following provisions of the Decree:

1. Creation of a legal entity or registration of an individual entrepreneur.

Registration procedure was established by Presidential Decree No. 1 dated 16.01.2009 "On state registration and dissolution (close of business) of economic entities".

2. Choosing (in or outside a populated locality) a premise to house a trading facility and obtaining a right to use/possess such premise (land plot) (acquiring for title, for lease or for free use).

Therewith, stationary trading facilities may be created regardless of whether such facilities are present on current layout charts of stationary trading facilities, public catering facilities, shopping malls or marketplaces.

According to the Law, allocation of non-stationary trading facilities on common-use lands of populated localities, horticultural societies, suburban cooperatives, or in state-owned permanent buildings/structures is allowed only in compliance with lists of allocation of non-stationary trading facilities and public catering facilities approved by municipal and district executive committees (including Minsk municipal committee) posted on official Internet websites of respective executive committees.

3. Rearrangement (replanning, etc.) of a premise to house a trading facility (where required).

Therewith, the following real estate units may be used:

- not complying to design/construction requirements as prescribed by technical regulatory legal acts, provided such units comply with such requirements as of the date of commissioning;
- with designated use different from that specified in the Uniform State Register of Real Property and Associated Rights and Transactions, provided no legitimate rights/interests of other individuals or economic entities are infringed.

4. Video surveillance system in stationary trading facilities.

Pursuant to Resolution of the Council of Ministers of the Republic of Belarus No. 1164 dated 30.12.2013 "On criteria of mandatory equipping with video surveillance facilities for the purposes of public safety", all premises housing stationary trading facilities are subject to obligatory equipping with video surveillance systems.

5. Elaboration and approval of assortment lists for trading facilities.

Assortment lists of goods are elaborated and approved by trading facilities independently, in compli-

ance with the Regulation on elaboration and approval of assortment lists of commodities and assortment lists of public catering products, approved by Resolution No. 703 of the Council of Ministers of the Republic of Belarus dated 22.07.2014 "On the approval of Rules for selling certain types of commodities and providing public catering services and Regulation on elaboration and approval of assortment lists of commodities and assortment lists of public catering products", on the basis of lists of commodities specified by Resolution No. 28 of the Ministry of Antitrust Regulation and Trade of the Republic of Belarus dated 27.06.2017 "On lists of commodities and invalidation of some resolutions of the Ministry of Antitrust Regulation and Trade of the Republic of Belarus".

6. Acquisition of license (where required).

License acquisition procedures with respect to certain types of activities and the list of such activities are specified by Presidential Edict No. 450 dated September 1, 2010 "On the licensing of certain types of activities".

7. Purchasing measuring devices and shop equipment.

Sellers must possess and properly use cash register equipment, payment terminals, measuring instruments, devices to check originality of excise and/or special labels on alcohol and tobacco products, etc.

8. Compliance with general fire safety requirements, health and disease control requirements, environmental control requirements and veterinary requirements with respect to maintenance/operation of permanent buildings/structures, isolated premises and other property units.

General requirements have been

specified by the Decree.

9. Compliance with other statutory requirements.

Trading facilities shall have: a customer comment book, an inspection record book, documents confirming purchase/delivery of goods, documents confirming quality and safety of goods as prescribed by legislation of the Republic of Belarus, and other documents as prescribed by law.

10. Formalisation of customer information.

Requirements are established by Rules for selling certain types of commodities and providing public catering services approved by Resolution No. 703 of the Council of Ministers of the Republic of Belarus dated July 22, 2014.

11. Establishing trading facility's working hours without approval of local executive committee or other government bodies, except trading facility's working hours between 23.00 and 7.00 to be approved by local executive committee, and compliance control.

12. Forwarding a written notification of the commencement of retail trade activity to local executive/administrative body via the "single window" service, or by means of registered mail service with return receipt requested, or by means of the Unified Electronic Services Portal.

13. Opening the trading facility on the next day after notifying of the commencement of retail trade activity (regardless of whether information on the trading facility (its activity, property units in possession) has been entered into registers, databases, data banks, information systems or other information resources, in particular in the Trade Register of the Republic of Belarus, or whether any other administrative procedures have been completed).

However, a trading facility may only start selling licensable goods only after it has obtained a respective license.

14. Where a trading facility terminates, suspends or resumes its business activity, it shall forward a notification to local executive/administrative body via the “single window” service, or by means of registered mail service with return receipt requested, or by means of the Unified Electronic Services Portal.

### 13.2. E-COMMERCE MARKET

E-commerce is boosted by the rapid development of the global Internet network allowing active entrepreneurship. Nowadays, sales of various goods via retail and wholesale online platforms take up a large slice of Internet activities.

Electronic trading platforms contributed much to the introduction and expansion of e-commerce in the Belarusian business-to-business sector. Belarusian Common Commodity Exchange (OJSC) was opened in 2005. Its main goal was creating a single regulated wholesale market of products of strategic importance in national terms. Retail e-commerce, a prospective trading trend, is attractive to both common buyers and online store owners.

At present, online stores are constantly growing in number. As of February 1, 2020, 22,617 online stores were registered in the Republic of Belarus, and the ratio of individual entrepreneurs and legal entities among their owners is nearly 50/50.

According to the National Statistics Committee of the Republic of Belarus, retail sales in in 2019 amounted to 49.3 billion BYN. E-commerce accounts for some 3 to 3.5% in the overall volume of na-

tional retail sales.

E-commerce in the Republic of Belarus is basically regulated by: Law of the Republic of Belarus No. 128-Z dated 08.01.2014 “On state regulation of trade and public catering in the Republic of Belarus” (hereinafter — the Law), Resolution No. 31 of the Council of Ministers of the Republic of Belarus dated 15.01.2009 “On approval of Rules for retail trade by sample”, Resolution No. 924/16 of the Council of Ministers of the Republic of Belarus and the National Bank of the Republic of Belarus dated 06.07.2011 “On application of cashier’s equipment, payment terminals, automatic electronic machines, vending machines and reception of cash and bank cards in selling goods, providing works/services, carrying out gambling activities, lottery activities, conducting electronic interactive games and issuing cashier’s equipment”, Law of the Republic of Belarus No. 90-Z dated 09.01.2002 “On consumer protection”, and Law of the Republic of Belarus No. 225-Z dated 10.05.2007 “On advertising”.

The Republic of Belarus has no direct legislative control of e-commerce activities.

With account of current norms of law, creation of an online store implies the following stages:

#### 1. Development of vendor’s website, with due account for statutory requirements as to contents

In particular, website’s home page must contain the following information:

- vendor’s name (trade name of legal entity) and location (individual entrepreneur’s data);
- name of online store;
- working hours;
- date of registration in the Trade Register of the Republic of Belarus;
- method of payment.

The following information shall be placed on any of website’s pages:

- on documents confirming acquisition of goods;
- execution procedures and samples (for instance, a photo of a sales slip);
- on goods offered (descriptions, prices, payment terms, delivery terms, warranty period (if any)).

#### 2. Vendor’s website layout

Websites of online stores shall be designed in compliance with applicable requirements as to registration of exclusive rights to intellectual property items and correct recording of such rights in vendors’ accounting books.

#### 3. Registration of domain name and hosting for online store website

Owners of online stores must apply to the registrar in order to register their domain names in the national domain zone of the Internet network (“.by” or “.бел”). the BY domain is administered by the Operational and Analytic Centre under the President of the Republic of Belarus (OAC). Registration of second level domain names is carried out by legal entities of the Republic of Belarus providing such services and accredited by the OAC.

Online store websites shall be hosted on Internet servers that have permanent connection to the Internet network. Hosting for online store websites will be provided under a services agreement with a hosting provider. All such websites shall be located in the territory of the Republic of Belarus.

#### 4. Registration of online stores in the Trade Register of the Republic of Belarus

Trading facilities are entitled to carry out retail trade via the Internet network only through online stores

registered in the Trade Register Republic of Belarus.

Online stores are registered in the Trade Register by local executive/administrative bodies according to the place of state registration, without charge.

For the purpose of registration of online store's data in the Trade Register, head of legal entity (individual entrepreneur) or an authorized person shall sign and submit an application in the prescribed form attaching an application for approval of working schedule.

Where an online store is hosted on several domains, each of them must be registered in the Trade Register Republic of Belarus.

## 5. Operation of online store

### 5.1. Transfer of goods.

Vendors selling through online stores normally transfer goods to buyers by means of personal delivery or by mail.

Legislation pertaining to online retail trade does not directly regulate transfer of goods at outlet points. Moreover, current legislation does not regulate delivery of unpaid goods by third-party courier services.

Recently, draft law "On payment systems and payment services" was elaborated aiming at comprehensive regulation of public relations involving payments by natural persons and legal entities and payment services provided by banks, legal entities and individual entrepreneurs.

### 5.2. Merchandise payment

Buyers are entitled to pay for purchased goods and delivery services in cash or by non-cash transfer. Payment may be made at the moment of delivery or remotely, via the "Raschiot" system, by means of mobile/Internet banking services, by means

of a bank plastic card, through pay desks of banks and post-offices, by means of pay on delivery in case of postal delivery; by means of other modes of payment securing correct remittance of money onto vendor's settlement account.

Online vendors are obliged to:

- use payment terminals accepting bank cards, except business models allowing only cashless transfers (as from January 1, 2016);
- enable payment via the "Raschiot" system or an Internet acquiring system (immediately on the website).

## 13.3. CONSUMER PROTECTION AND ADVERTISING

In Belarus, consumer rights are protected by Law No. 90-Z of the Republic of Belarus "On protection of consumer rights" dated 09.01.2002. This law stipulates main obligations of sellers (manufacturers) and main rights of consumers with regard to information on goods (works, services) and their quality, as well as sellers' (manufacturers') responsibility before consumers, procedures and instruments for consumer protection. Law of the Republic of Belarus No. 111-Z "On amending the law of the Republic of Belarus "On protection of consumer rights" of June 13, 2018 has amended the initial Law No. 90-Z of 2002 imposing new requirements to information on goods/works/services, manufacturers/performers/sellers. The amended Law introduced new consumer notification procedures and new service procedures in case of sales of defective goods.

## 13.4. INFORMATION ON GOODS AND SELLERS (MANUFACTURERS)

Each seller (manufacturer) is obliged to provide consumers with full and accurate information about itself and its goods (works, services).

Information about a seller (manufacturer) shall include:

- company name and location;
- name of sales outlet (service point) actually selling goods/services, where such name is different from brand name;
- working hours of sales outlet (service point);
- information about the special permission (license) to perform respective types of activities (number, issuing body, validity period), if such activities are subject to licensing;
- other information as required by law.

Information about goods (works, services) shall include:

- name/description of product (operation, service);
- types and features of proposed works (services);
- quantity and completeness of goods;
- price and terms of payment for the goods (works, services), where such terms are different from standard terms of payment for respective goods (works, services);
- recommendations/restrictions pertaining to the use (including cooking) of food products;
- date of manufacture (service life, and/or shelf life, and/or expiration date of goods and work products), unless otherwise stipulated by applicable legislation, technical specifications of the Customs Union, technical specifications of the Eurasian Economic Union;
- information on basic consumer properties of goods (work products, services), special properties of food products, including dietary supplements, claims of specialized food

products, provided such properties/claims are duly documented;

- terms and conditions of effective and safe use;
- name and location of manufacturer (seller, supplier), and (if available) of importer in the territory of Belarus, representative agent, maintenance entity;
- and other characteristics;
- country of origin, if different from manufacturer's location;
- information on energy efficiency class of product, if required by legislation, technical specifications of the Customs Union, technical specifications of the Eurasian Economic Union;
- indication of particular person providing work/service;
- warranty period, if any;
- identification bar code, if such obligatory marking of goods is provided for by the legislation;
- information about the obligatory conformity of goods (works, services) that are subject to obligatory confirmation of quality.

For some categories of goods, additional data must be indicated.

Information must be communicated to consumers in the Belarusian or Russian language clearly and legibly in the documentation accompanying goods (works, services), on consumer packaging (packing), on the label, in catalogs, brochures, advertisements or other information sources, and in particular in the Internet global computer network, unless otherwise prescribed by international legal acts included in the legislation of the Eurasian Economic Union. It is allowed to use a foreign language only at consumer's request. Date of manufacture and shelf life of food products shall be indicated on a firmly attached consumer package/label. Information

on some categories of goods and realization methods shall be communicated to consumers pursuant to additional requirements. For instance, where any goods corresponding to samples/descriptions shown in catalogues, leaflets, adverts, booklets, photographs or other information sources, in particular in the Internet network, are realized to end consumers, all information on such goods, prices and payment terms shall be communicated to end consumers, prior to contract execution, by means of such information sources, in particular in the Internet network.

### 13.5. OBLIGATIONS OF MANUFACTURERS (SELLERS OR PERFORMERS)

#### 13.5.1. Obligations of manufacturers (sellers, performers) to ensure safety of goods (works, services)

to ensure safety of goods within the specified period of service and the shelf life period, and if such period is not fixed and sale of goods (works, services) is allowed without such term — within 10 years from the date of sale of goods to a consumer;

- to inform consumers about possible risks, conditions of safe using of products (work products, services), special rules to be followed during storage, transportation and disposal of products (work products);
- refrain from selling goods with defects violating binding safety requirements established by legislation, technical specifications of the Customs Union, technical specifications of the Eurasian Economic Union;
- to suspend production (selling) of goods (works, services) immedi-

ately, if, being used in accordance with use specification, they cause or may cause harm to life, health, heredity, property of a consumer and/or the environment, and to notify representative agent (supplier, seller), until causes of such harm are eliminated, and where such causes cannot be eliminated — to discontinue the production/realization of such goods (works, services) and to notify representative agent (supplier, seller) to that effect. Supplier (seller, representative agent) must forthwith stop realization of such goods (works, services) on the date it has received such notification. Within 7 days of such production/realization being stopped, manufacturer (performer, supplier, representative agent) shall notify thereof the competent authorities of the Republic of Belarus in charge of monitoring the compliance with technical specifications of the Customs Union and technical specifications of the Eurasian Economic Union, as well as consumers via mass media, and to use all reasonable efforts to recall such products.

#### 13.5.2. Obligations of manufacturers (performers, sellers) to establish service life, expiration date, shelf life, warranty period for goods (works, services)

to establish service life (a period during which the manufacturer (performer) is obliged to ensure proper usability of goods) of durable goods, including spare parts and components of basic products which after a certain period can be dangerous to life, health, heredity, property of consumers and the environment, unless otherwise stipulated by technical specifications of the Customs Union and/or technical specifications of the Eurasian Economic Union. The list of

such goods has been established by the Government of the Republic of Belarus. Durable goods, for which service life must be established in accordance with technical specifications of the Customs Union and/or technical specifications of the Eurasian Economic Union, are subject to compulsory inclusion in the above list.

In particular, this list includes vehicles, household appliances, television and radio electronics, communication equipment and other goods;

- to establish expiration date and/or shelf life (a period during which the product is considered suitable for its intended purpose and retains its properties) for food products, perfumes, cosmetics, medical drugs, in accordance with CU/EAEU technical specifications, for medical drugs and other goods/products with deteriorating consumer properties. Realization of goods/products upon expiry of prescribed expiration date and/or shelf life (service life), as well as of goods/products without required expiration date and/or shelf life (service life) is prohibited;

- in cases stipulated by the law, to establish warranty period for products (work products, services) during which such products (work products, services) must comply with respective quality requirements. In this case, the warranty period for goods manufactured outside the Republic of Belarus shall be not less than the warranty period provided for by the legislation of the Republic of Belarus and/or CU/EAEU technical specifications for similar goods produced in the territory of the Republic of Belarus.

### 13.5.3. Obligations of manu-

**facturers (sellers, suppliers, performers) to ensure proper usability of products (work products) for intended purpose, repair and maintenance**

- to ensure proper usability of goods (work products) for intended purpose during service life; if manufacturer (performer/supplier) fails to ensure proper usability of goods (work products) for intended purpose during service life, consumer is entitled to dissolve the contract, to return the product and to demand return of payment;

- to provide repair and maintenance of goods, production and supply of spare parts to sales units and repair shops, with proper product selection ranges and scopes required for such repair and maintenance, within the period of production of goods (works) and after such goods have been withdrawn from production (after termination of works) — for the duration of the service life of such product (work product), and where a product has no such term — within 10 years from the date of sale;

- if manufacturer (supplier) fails to ensure proper maintenance and repair of goods, seller shall provide proper maintenance and repair of goods (excluding real estate) within the warranty period, and if a warranty period has not been fixed or is less than two years — within two years from the date of sale, unless a longer period has been established by law and/or by contract.

### 13.5.4. Payment procedures

Settlements in respect of goods/works/services are made in cash or via bank transfer.

Sellers/performers are obliged to afford consumers the right to choose the mode of payment for

goods/works/services purchased.

Consumers paying for goods/works/services by means of the automated Unified Settlements and Information System (ERIP) are entitled to confirm their payments for goods/works/services by using ERIP transaction account numbers.

### Realization of goods by means of gift vouchers

Law of the Republic of Belarus No. 111-Z “On amending the law of the Republic of Belarus “On protection of consumer rights” of June 13, 2018 has introduced another form of sales — by means of gift vouchers. Sellers (performers) are allowed to realize goods (provide works/services) under a gift voucher or a similar document authenticating bearer’s right to receive product/work/service specified in such document or equivalent to a sum of money indicated in such document.

## 13.6. LIABILITY OF SELLERS

### 13.6.1. Liability of sellers (manufacturers, suppliers, representatives, performers) for improper information about goods (works, services)

If a consumer is not provided with an opportunity to obtain necessary and reliable information about goods (works, services) immediately at the place of sale, such consumer is entitled to demand a compensation for any damages caused by unreasonable avoidance of contract, and if such contract has already been signed — within a reasonable period to demand the termination of such contract and a return of payment.

If necessary and reliable information about a product (work, service) has not been provided to a consumer, such consumer is entitled to raise

a claim about the inadequate quality and/or defects in the product (work, service) revealed after the delivery of such product (work, service), if the consumer is able to prove that such defects have resulted from the lack of relevant information.

If failure to provide relevant information (or provision of inappropriate or insufficient information) about goods (works, services) results in damage to life, health, heredity or property of a consumer, such consumer is entitled to seek damages from the seller (manufacturer, performer).

### 13.6.2. Liability of sellers (manufacturers, performers) for damage caused by defects in goods (works, services)

Damage to life, health, heredity or property of a consumer caused by defects in goods (works, services) shall be reimbursed in full by the seller (manufacturer, performer), irrespective of seller's actual guilt and irrespective of whether the consumer has been in a contractual relationship with the seller or not.

Any harm caused by defects in a product (work product, service) shall be reimbursed if it has arisen during the specified shelf life or service life of such product (work product), and where shelf life / service life has not been specified — within 10 years from the date of manufacture of such product (work product, service).

### 13.6.3. Liability of sellers for selling defective goods

If goods of inadequate quality have been sold to a consumer and if defects of such goods have not been specified by the seller, the consumer may demand at its discretion:

- replacement of a defective product by a product of good quality;

- proportionate reduction of the purchase price;
- prompt elimination of product defects at no charge;
- reimbursement of expenses pertaining to the elimination of product defects;
- or, instead of the above measures, to demand termination of the sale-and-purchase contract and refund of money paid for such goods.

The consumer is entitled to make such claims to the seller (manufacturer, supplier, representative) in respect of product defects within the warranty period or shelf life of the product.

If money paid for such product are returned to consumer, the seller (manufacturer, supplier, performer) is not entitled to deduct the difference of price of such product due to full or partial use of product, loss of marketable condition or other circumstances, as well as to demand that consumer should present his/her identity document.

Moreover, if such consumer and seller (manufacturer, supplier, representative) are in dispute about the existence of product defects and/or their causes, the seller (manufacturer, supplier, representative) must arrange an examination of such product at its own expense.

### 13.6.4. Consumer's right to return goods of good quality

Within 14 days from the date of sale of a non-food product, a consumer may return such product of adequate quality or exchange it for a similar product of other size, shape, dimension, style, color or configuration, and if there is difference in the price, the consumer shall make a corresponding recalculation with the seller.

In order to exercise this right, a

consumer must meet the following requirements:

- such goods have not been used;
- consumer properties of such goods have been preserved;
- consumer must have a proof of purchase of such goods from the seller to whom such claim is made.

In case of exchange or return of product, consumer must return such product in consumer package, provided the product has been sold in such package.

Certain goods are not subject to exchange or return. The list of such goods has been established by the Government of the Republic of Belarus. Such goods include cars, medical drugs, tobacco products, printed publications and other goods.

In case of return of money, settlements with consumers are made in the same form in which the product was paid for, unless otherwise has been stipulated by the agreement of parties.

## 13.7. ADVERTISING

Legislation of the Republic of Belarus specifies obligatory requirements and restrictions concerning:

- advertising of certain goods and services (medicinal drugs, medical devices, cosmetic products, alcoholic beverages, beer and low-alcohol beverages, tobacco products, etc.);
- advertising locations (for example, advertising is restricted in the premises of state bodies);
- means of advertising (mass media, television, billboards, etc.);
- content of advertisements (requirement for relevant information, etc.).

The following types of advertisements require an approval by state bodies:

- outdoor advertising — by



Minsk Municipal Executive Committee, executive committees of regional cities, regional executive committees. The Council of Ministers of the Republic of Belarus has established a list of outdoor advertising media which do not require such approval;

- vehicle advertising — by Minsk Municipal Executive Committee, executive committees of regional cities, regional executive committees and, normally, by a respective subdivision of the State Automobile Inspection of the Ministry of Internal Affairs of the Republic of Belarus;

- advertising of medicinal drugs, methods of medical care, works and/or services qualified as medical activities, as well as medical equipment and devices — by the Ministry of Health of the Republic of Belarus;

- advertising of services relating to job placement and education of Belarusian citizens abroad — by the Ministry of Internal Affairs.

Unfair, misleading, unethical, hidden advertising and other forms of inappropriate advertising are prohibited by the legislation of the Republic of Belarus. Placement (distribution) of advertisements of alcoholic beverages is prohibited. Placement (distribution) of advertisements of tobacco products, free-of-charge distribution of tobacco products, in particular using tobacco products as prizes/gifts in contests, lotteries, games and other advertising, cultural, educational and sportive events, etc. is prohibited.

In the event of placement (distribution) of an improper advertisement, the Ministry of Trade of the Republic of Belarus or a local executive/administrative body may

issue an order requiring to eliminate such violation. Such order may include a requirement for counter advertising. Counter advertising in this case will be carried out by the offender at its own expense within the period prescribed in the order, in the same way as the improper advertising has been made, and it must contain the wording “counter advertising”.

The content of counter-advertisement shall be approved by the Ministry of Antitrust Regulation and Trade of the Republic of Belarus or a local executive/administrative body that has ordered to place/distribute such counter-advertisement.

If the offender fails to comply with such requirement to eliminate violation, the placement (distribution) of improper advertising will be stopped by the local executive/administrative body which will also be entitled to reimburse any incurred expenses at the expense of the offender.

On November 25, 2017, Decree No. 7 of the President of the Republic of Belarus “On developing entrepreneurial activities” was published, introducing some amendments into the advertising sphere. In particular, the Decree prescribes that business entities may arrange outdoor advertising without preparing design documentation (prior to the adoption of Decree No. 7, arranging of outdoor advertising required, in some instances, elaboration, harmonization and approval of design documentation for the advertising medium and/or its installation). Also, Decree No. 7 cancelled the requirement for the approval of contents of outdoor

advertisements and vehicle advertisements with local executive/administrative bodies and other state agencies. Prior to the adoption of Decree No. 7, contents of such advertisements were subject to mandatory approval.

Decree No. 7 came into force on February 26, 2018.

It is expected that 2020 will see a number of modifications in the advertising laws of the Republic of Belarus, as the Advertising Law will be brought in line with the requirements of Decree No. 7. The redrafted Law has been approved by the House of Representatives of the Belarusian Parliament in the first reading on October 2, 2019.

It is expected that the redrafted Law will exclude all administrative procedures requiring to harmonize outdoor advertisements and vehicle advertisements, requirements on the production of advertisements of domestic products, works, services and outdoor advertisements exclusively by Belarusian entities/individuals, in particular on using only images of Belarusian citizens in such advertisements (due to obsolescence of this requirement); will confirm the right of mailbox owners to give up on ad serving; will prohibit sound advertising in public transport; will remove some restrictions on the advertising of bookmaker games and totalizators; will remove the ban on advertising in children’s TV shows; will allow advertisements of alcoholic beverages in public food courts; will allow free-of-charge distribution of up to 5 litres of beer or low-alcohol beverages per person as prize/gift, etc.

# 14

Information technology

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### 14.1. REGULATION OF PERSONAL DATA PROTECTION

At present, Belarus has no single act providing protection of personal data. Particular provisions on personal data protection are provided by Law of the Republic of Belarus No. 455-Z dated 10.11.2008 “On information, information system development and data protection” and Law of the Republic of Belarus No. 418-Z dated 21.07.2008 “On population register”. In June 2019, draft law “On personal data protection” (hereinafter — the Draft Law) was adopted in the first reading. The Draft Law is expected to be adopted in the second reading in the spring 2020, and to take effect 1 year after its official publication.

Adoption of the Draft Law in the Republic of Belarus will introduce a notion of ‘personal data’, principal requirements to collection and processing of personal data, detailed responsibilities of personal data operators, and a range of rights of personal data subjects.

### 14.2. DEFINITION OF PERSONAL DATA

The Draft Law applies the description of ‘personal data’ to any information relating to an identified natural person or a natural person identifiable based upon such information. Therewith, an ‘identifiable natural person’ means a natural person that can be directly or indirectly identified, in particular, via an identification number or via one or more than one distinctive features characteristic of its physical, psychological, mental, economical, cultural or social identity.

That is, the scope of personal data in Belarus will comprise both data allowing to identify a user directly (without any additional data), and indirect data allowing to identify a user by

means of correlation with other data, as well as any information relating to such persons. A similar definition of personal data is given in the legislation of the Russian Federation, Republic of Kazakhstan and European Union.

### 14.3. LEGAL GROUNDS FOR GATHERING AND HANDLING OF PERSONAL DATA

According to the Draft Law, gathering, processing, dissemination and furnishing (hereinafter — handling) of personal data must be carried out on the basis of a proper consent of a personal data subject. It is operator’s responsibility to prove that such consent has been duly obtained.

An ‘operator’ is a state body, a natural person (including an individual entrepreneur), a legal persons of the Republic of Belarus, or another organisation, performing, independently or jointly with above persons, any actions with personal data, such as gathering, processing, dissemination and furnishing of personal data.

Such consent is not required in the following cases:

- where an agreement is concluded/performed involving a personal data subject as one of the parties;
- where employment relations are formalized;
- in respect of personal data divulged publicly earlier;
- in respect of lawful professional activities of a journalist (a mass medium) for the purpose of protection of public interest;
- where gathering, processing, distribution or disclosure of personal data is obligatory according to the law;
- in other cases, in particular for the purposes of operational investigations, supervisory activities, administration of justice, notarial

activities, etc.

Where the above-mentioned consent is obligatory, the Draft Law establishes the following criteria of proper consent:

- such consent shall be free, concrete and informed;
- proper consent may be obtained in writing in the form of an electronic document, or in another electronic form. Proper consent also implies ticking a box in a document or entering a code received via SMS service or via electronic mail;
- ‘tacit’ consent (for instance, implied by a phrase “if you continue using our website, you accept our confidentiality policy”) is not deemed to be proper consent.

### 14.4. CROSS-BORDER TRANSMISSION OF PERSONAL DATA

The Draft Law also establishes the rules for transmitting personal data outside the Republic of Belarus. According to the Draft Law, the competent body for the protection of personal data will establish a list of countries with a proper level of personal data protection. Transmitting data to a country lacking a proper level of personal data protection is prohibited. However, transmission of data to a country lacking proper protection level, pursuant to the Draft Law, is possible in particular:

- where a subject of personal data granted his/her consent;
- where an agreement is being concluded or performed involving a personal data subject as one of the parties;
- where personal data are open to public;
- where an international treaty of the Republic of Belarus is being performed;

- where a permit has been acquired from the competent body protecting rights of personal data subjects.

## 14.5. RIGHTS OF PERSONAL DATA SUBJECTS

### 14.5.1. Right to information

According to the Draft Law, operators shall, prior to obtaining consent, explain to personal data subjects their rights pertaining to the collection and handling of personal data, and bring the following information to the notice of personal data subjects:

- name of operator obtaining consent;
- purpose of collection and handling of personal data;
- list of personal data subject to collection and handling, in accordance with consent;
- list of actions with personal data, in accordance with consent;
- time frame for collection and handling of data, in accordance with consent;
- information on other persons carrying out collection, processing, distribution or disclosure of personal data by order of such operator.

The above information shall be presented in available form, in terms understandable to personal data subject, and in the form corresponding to the consent query.

**14.5.2. Right to acquire information on transmission of personal data to third parties. Operators must reply to such queries within 15 days, or report reasons of refusal.**

**14.5.3. Right to give and revoke consent to personal data handling.**

Revocation of personal data subject's consent has no retroactive force, that is does not invalidate any handling of personal data prior to such revocation.

Printed matter, audio/video records of programmes, radio/television programmes, newsfilms containing personal data and issued prior to revocation of personal data subject's consent are not withdrawn from civil circulation.

**14.5.4. The right to review own personal data, to obtain information pertaining to the handling of such data. Operators must furnish copies of such data to a personal data subject within 5 days of such query being received.**

**14.5.5. Right to demand amendment of subject's personal data.**

Personal data subjects are entitled to demand that operators amend/alter their personal data where such data are found to be incomplete, outdated or inaccurate.

**14.5.6. Right to demand termination of handling or deletion of personal data.**

The Draft Law stipulates that operators must stop handling personal data and/or delete such data, in particular upon request of personal data subject, where there are no grounds for such handling of personal data, or such data are not required for the declared purpose, or the time frame specified in personal data subject's consent has expired.

Where deletion of personal data is technically impossible, operator shall exclude any further processing, distribution and/or disclosure of personal data, in particular, block

such data.

Operators must reply to queries on the termination of handling (deletion) of personal data within 15 days.

## 14.5. APPEALING AGAINST OPERATOR'S ACTIONS

The Draft Law provides for the creation of a competent body to monitor proper protection of personal data in the Republic of Belarus. In particular, such competent body will examine complaints of personal data subjects against actions (inaction) and/or decisions of operators in regard to handling of personal data. A decision adopted by such competent body may be appealed by a personal data subject in a court of law.

## 14.6. OPERATORS' RESPONSIBILITIES IN TERMS OF PERSONAL DATA PROTECTION

The Draft Law stipulates the following responsibilities of operators with respect to personal data protection:

- appointing a person in charge of personal data protection;
- issuing documents setting forth personal data handling policy;
- notifying employees of applicable legislative provisions, operator's documents defining personal data handling procedures, procuring training for employees;
- establishing a personal data access arrangement;
- providing technical and cryptographic protection of personal data in a manner specified by the Operational and Analytic Centre under the President of the Republic of Belarus, in accordance with the applicable classification of information resources/systems containing personal data.

# 15

Gambling business

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### 15.1. GENERAL RULES FOR ORGANIZATION OF GAMBLING GAMES\*

The following gambling games are allowed in Belarus:

- bookmaker games;
- online bookmaker games;
- bingo games;
- card games;
- games of dice;
- arcade machine games;
- totalizator games;
- online card games;
- online totalizator games;
- slot games;
- cylindrical games (roulette).

Organization and arrangement of other gambling games is prohibited in Belarus.

Only Belarusian legal entities may organize gambling games in Belarus. Subject to type of gambling game, a Belarusian entity will need to obtain a license for:

- operation of a betting shop;
- operation of a virtual gambling house;
- operation of a slot parlour;
- operation of a casino;
- operation of a totalizator.

A license for the operation of a virtual gambling house allows arrangement of online gambling games via the Internet network. Furthermore, during the transition period till April 1, 2021 bets can be accepted online by Belarusian entities licensed to operate a totalizator or a betting shop provided they had

accepted online bets via the Internet prior to April 1, 2019.

A license for the operation of a casino, totalizator, slot parlour or betting shop allows arrangement of offline gambling games.

Also, organization of live gambling games is allowed. Such gambling games are organized online via a virtual gambling house, also using (broadcasting) real gaming tables or gaming machines located either in Belarus or abroad. Where such gaming tables/machines are located in the territory of Belarus, the Belarusian operator needs to obtain both virtual gambling house license and offline casino/slot parlour license. Where such gaming tables/machines are located outside Belarus, the operator needs only a virtual gambling house license.

Belarus has the following peculiarities of gambling games:

There are no special zones to house gambling establishments. However, there are requirements to premises of gambling houses — they are subject to approval of local executive/administrative bodies.

**Taxation.** Organizers of gambling games in Belarus shall pay: i) a fixed tax for each gaming table, gaming machine, pay desk of totalizators and betting shops; ii) a 4% gambling tax on positive difference between the sums credited by gamblers onto their gaming accounts and the sums of payouts per month (net of fixed

tax); iii) a 4% personal income tax on payouts to each payer (as tax agent); iv) other taxes and dues (except profit tax and VAT on gambling business).

**Advertising of gambling games is allowed in Belarus.** However, some restrictions apply to the contents and locations of such advertisements. Contests and lotteries promoting gambling games are prohibited.

Gaming machines, pay desks of totalizators, pay desks of betting shops, gaming tables and software of virtual gambling houses shall be connected to the Special Computer Paydesk System (SCPS) monitored by supervisory bodies around-the-clock. The SCPS in particular contains a unified national list of persons whose access to gambling houses is restricted.

Payouts in gambling games shall not be related to any referenda, elections (or results thereof), purchase of alcoholic beverages, tobacco products, or any unlawful activities.

Minimal authorized age of players is 21 years.

### 15.2. PECULIARITIES OF ORGANIZATION OF ONLINE GAMBLING GAMES

Normally, a Belarusian operator needs to obtain a virtual gambling house license in order to organize online gambling games in Belarus.

\* List of normative legal acts regulating arrangement of online gambling games in Belarus:  
 Resolution of the Ministry of Taxation of the Republic of Belarus No. 10 dated 31.01.2019.  
 Resolution of the Ministry of Taxation of the Republic of Belarus No. 9 dated 31.01.2019.  
 Resolution of the Council of Ministers of the Republic of Belarus No. 123 dated 26.02.2019.  
 Resolution of the Council of Ministers of the Republic of Belarus No. 156 dated 17.02.2012.  
 Resolution of the Ministry of Taxation of the Republic of Belarus No. 27 dated 16.09.2016.  
 Resolution of the Ministry of Taxation of the Republic of Belarus No. 5 dated 28.01.2013.  
 Resolution of the Council of Ministers of the Republic of Belarus No. 139 dated 01.03.2019.  
 Edict of the President of the Republic of Belarus No. 305 dated August 7, 2018.

Such license authorizes organization of the following online gambling games:

- online totalizator game;
- bookmaker online game;
- online card game;
- dice game;
- slot game;
- bingo game.

Also, live gambling games are allowed, where real gaming tables, cards or roulettes located either in Belarus or abroad are broadcast online while players participate remotely. Card games, dice games, roulette games and arcade machine games may be organized in the live mode.

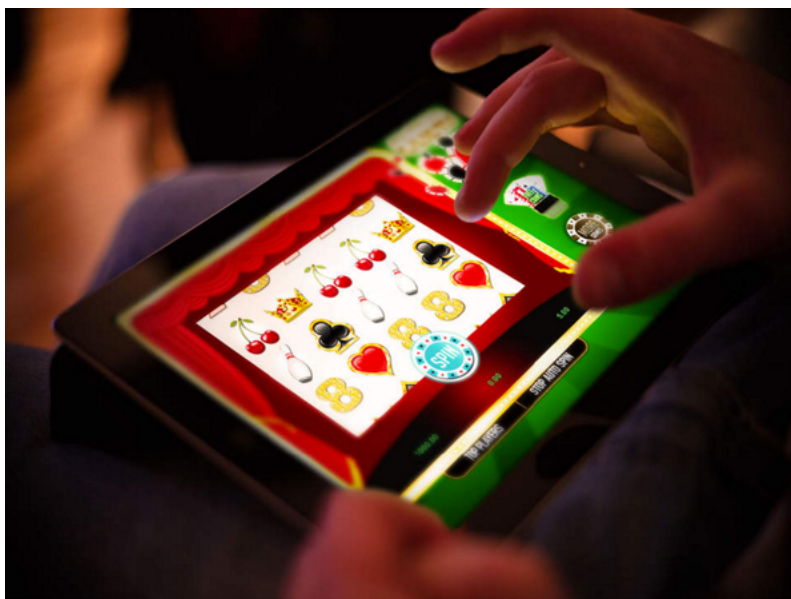
In order to start an online gambling business in Belarus you need to:

Be affiliated with a company registered in Belarus having an active gambling license and at least two years of operational background

Acquiring a share in such a company is your first step in organizing an online gambling business in Belarus. Only such companies are entitled to specify a new type of activity — operation of a virtual gambling house — in their license.

Particular types of gambling games organized by such companies in the past does not matter. For instance, such a company may have organized an offline casino or a slot parlour. Organizer may wind up its offline activities upon obtaining a license for a virtual gambling house. However, organizers will still need an offline license where bets will be accepted via pay desks of an offline gambling house.

Where such companies had organized online bookmaker/totalizator shops before April 1, 2019, it may continue such activities. Such a company does not need to specify its virtual gambling business in its li-



cence and is released from observing requirements applying to virtual gambling establishments till April 1, 2021.

Both Belarusian and foreign nationals/entities may act as company participants/shareholders. The following individuals may not act as participants/shareholders:

- those brought to administrative responsibility during last two years for a violation related to legalization of proceeds of crime, financing terrorist activities or financing spread of weapons of mass destruction;
- those subject to unexpunged/outstanding conviction for an economic crime.

Minimal amounts of authorized funds are as follows:

- no restriction for limited liability companies and additional liability companies (may amount to 1 BYN);
- for closed joint-stock companies — 100 basic units (BYN 2,550);
- for open joint-stock companies — 400 basic units (BYN 10,200).

#### **Elaborate regulations for internal control of financial transactions**

In particular, you'll have to elaborate a specific document — inter-

nal control regulations, as well as a questionnaire to identify stakeholders of financial transactions, financial transactions log books and special form reports.

Add a new business activity — operation of a virtual gambling house — into your license specification

In order to add a new business activity, you will have to submit an application and the following documents to the Ministry of Taxation (MT):

Document confirming payment of state duty. State duty amounts to 250 basic units (6,750 BYN).

Document confirming your bank account and availability of required funds. You will have to open two accounts in a Belarusian bank: i) settlement account — all settlements with players must be transacted via accounts in a Belarusian bank; ii) special account for budget payments and payouts in case of insufficiency of settlement account funds. Your special account must have a mandatory sum of 90,000 basic units (BYN 2,430,000) — for all gambling games, or 20,000 basic units (BYN 540,000) — for a bookmaker game

or an online totalizer game;

A copy of a document confirming registration of your gambling house's domain name in the ".бел" and/or ".by" zone. Any online gambling games using websites with domain names not specified in your license will be prohibited.

A copy of an expert report confirming compliance of your virtual gambling house with applicable requirements. In order to obtain such confirmation document your virtual gambling house must undergo testing at the Gambling Business Monitoring Centre.

A copy of data safety system conformity certificate confirming that your virtual gambling house complies with applicable data safety requirements. Certification may be carried out directly by gambling business organizer (if organizer has technical/cryptographic protection specialists on its staff), or by a specialized agency under a contract.

Data on CEO (deputy CEO): their employment in the organizer's company must be primary employment; at least one of them shall have work experience in gambling business (as CEO or deputy CEO) of at least

three years (excluding combined/part-time jobs), their track record shall not include any administrative sanctions for violations related to legalization of proceeds of crime, financing terrorist activities or financing spread of weapons of mass destruction, within two years preceding appointment, and shall not include any unexpunged/outstanding convictions for an economic crime.

Confirmation that founders, CEO and deputy CEOs have no unexpunged/outstanding conviction for an economic crime.





# 16

Court system

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The judicial system of the Republic of Belarus undergoes continuous dynamic development. Audio recording as well as videoconferencing is commonly used in court sessions.

As from January 1, 2014 the judicial system of the Republic of Belarus comprises the Constitutional Court and courts of general jurisdiction.

Also, two permanent international arbitration courts, about 30 mediation courts and the Arbitration Commission of the Belarusian Common Commodity Exchange are functioning in Belarus.

On August 1, 2015, functions of economic courts on liquid debt collection were transferred to notaries. In order to collect a debt from a Belarusian economic entity you do not have to apply to court — you can use the simplified ‘notarial executive inscription’ procedure.

Compulsory execution of decisions of courts and other competent bodies is possible via the ‘enforcement proceeding’ procedure performed by local enforcement bodies within the structure of the Ministry of Justice of the Republic of Belarus.

Legislation regulating dispute settlement, compulsory execution of court rulings and undisputable recovery of money is subject to regular amendment. In particular, it is expected that 2020 will see alterations in the legislation on enforcement proceedings.

## 16.1. THE CONSTITUTIONAL COURT

### 16.1.1. Competence

The Constitutional Court exercises the following powers:

- examines the conformity of legal acts with the Constitution of the Republic of Belarus, with internation-

al legal acts ratified by the Republic of Belarus, with laws of the Republic of Belarus, and with decrees and edicts of the President of the Republic of Belarus;

- provides mandatory preliminary control of all laws for their conformity with the Constitution of the Republic of Belarus and international legal acts ratified by the Republic of Belarus;

- on the proposal of the President of the Republic of Belarus, decides on the conformity of international legal acts, which have not come into force, with the Constitution of the Republic of Belarus;

- on the proposal of the Presidium of the National Council of the Belarusian Parliament renders decisions on systematic or gross violations of legislative requirements by local Councils of Deputies;

- on the proposal of the President of the Republic of Belarus officially interprets decrees and edicts of the President of the Republic of Belarus concerning constitutional rights, freedoms and duties of citizens;

- on the proposal of the President of the Republic of Belarus, the House of Representatives of the Belarusian Parliament, the National Council of the Belarusian Parliament, the Council of Ministers of the Republic of Belarus, expounds its position on documents adopted (issued) by foreign states, international organizations and/or their bodies affecting the interests of the Republic of Belarus in terms of compliance with generally recognized principles and norms of international law;

- on the proposal of the President of the Republic of Belarus conducts checks of the constitutionality of directions of legislation activities determined by the President, law

enforcement practice of courts, law enforcement agencies and other public authorities;

- decides on elimination of gaps in laws, on exclusion of conflicts of laws and lack of legal clarity;
- adopts annual messages to the President of the Republic of Belarus and the chambers of the Belarusian Parliament on the constitutional legality in the Republic of Belarus.

### 16.1.2. Procedure for verification of congruence of legal acts with the Constitution of the Republic of Belarus

Only the following entities are entitled to apply to the Constitutional Court with a proposal to verify a legal act for congruence:

- the President of the Republic of Belarus;
- the House of Representatives of the Belarusian Parliament;
- the National Council of the Belarusian Parliament;
- the Supreme Court of the Republic of Belarus;
- the Council of Ministers of the Republic of Belarus.

All other entities have only the right to address the above-mentioned bodies with an initiative to verify the conformity of a legal act.

Conformity verification of a legal act is carried out, as a rule, in an open court hearing by the Constitutional Court panel on the basis of principles of the adversarial system, equality of parties and presumption of the constitutionality of acts.

Upon results of such verification, the Constitutional Court issues a resolution which has supreme legal force and direct action and becomes effective on the date of its adoption.

## 16.2. COURTS OF GENERAL JURISDICTION

The system of general jurisdiction courts comprises:

- district (city) courts;
- regional courts and the Minsk city court, regional economic courts and the Minsk City Economic Court;
- the Supreme Court of the Republic of Belarus.

### 16.2.1. The competence of non-economic courts

District (city), regional courts and the Minsk city court examine:

- criminal cases;
- civil cases arising from civil, family, labor, housing, land and other relations provided that at least one of the parties is a natural person;
- cases involving legal entities only if stipulated by laws of the Republic of Belarus, decrees and edicts of the President of the Republic of Belarus;
- civil cases arising from military service relationships, as well as criminal cases of all crimes committed by service members. Previously such cases were examined by military courts and the Belarusian Military Court, but as from July 1, 2014 these courts are abolished and all their authorities have been transferred to district (city) courts, regional courts and the Minsk city court.

Cases involving creation, legal protection and use of intellectual property, regardless of the parties involved, are examined only by the Intellectual Property Judicial Board of the Supreme Court of the Republic of Belarus.

As from July 21, 2018 a procedure of appealing decisions of district/city courts in civil cases is applied. Economic courts introduced such procedure even earlier.

### 16.2.2. The competence of economic courts

Regional economic courts and the Minsk City Economic Court examine:

- cases on economic (business) disputes between legal entities, individual entrepreneurs;
- cases related to entrepreneurial and other economic activities;
- cases on appealing against non-regulatory legal acts and actions (inaction) of state bodies infringing rights of legal entities, individual entrepreneurs in the sphere of entrepreneurial and other economic activities;
- cases on recognition and enforcement of decisions of foreign courts, including foreign arbitral awards in economic disputes;
- cases with the participation of the Republic of Belarus, administrative and territorial units of the Republic of Belarus, state bodies, bodies of local government and self-government, disregarded entities, officials and citizens, only in cases stipulated by laws of the Republic of Belarus, decrees and edicts of the President of the Republic of Belarus.

## 16.3. ECONOMIC COURTS

### 16.3.1. Jurisdiction of economic courts

Economic cases are examined at first instance by regional economic courts and the Minsk City Economic Court. Some cases are examined at first instance by the Supreme Court of the Republic of Belarus (cases related to state secrets, disputes between the Republic of Belarus and administrative and territorial units of the Republic of Belarus, etc.).

Therewith, the Supreme Court of the Republic of Belarus is entitled to initiate proceedings in, and take jurisdiction of, any case as a court of first appearance.

### 16.3.2. Review duration in economic courts of first instance

Economic courts of first instance normally proceed in two main stages:

- preparation of a case for proceedings (as a rule, it results in a preparatory court hearing not later than within 15 working days from the date of receipt of suit by the court);
- court proceedings.

As a rule, a case is examined by a court within at most two months from the date of adoption of a court ruling on the assignment of case for judicial examination.

Some cases (disputes on state property, connected with state registration and liquidation of legal entities and individual entrepreneurs; disputes on the release of distrained property) are examined within one month from the date of adoption of a court ruling on the assignment of case for judicial examination.

Cases on certain kinds of proceedings (cases on appealing against non-regulatory acts, actions (inaction) of state bodies, cases on recognition and enforcement of decisions issued by foreign courts and foreign arbitral awards) are examined within at most one month from the date of receipt of application (complaint) by the economic court.

A case involving a foreign entity located outside the Republic of Belarus will be examined by an economic court of first instance within at most seven months from the date of adoption of a court ruling on the assignment of case for judicial examination, unless otherwise specified by a corresponding international treaty of the Republic of Belarus.

However, if management bodies of foreign entities, their branches, representative offices or representatives authorized to participate in a case are located in the territory

of the Republic of Belarus, cases involving such foreign entities are examined within generally prescribed time frames.

In exceptional cases, with due account for the special complexity of a case, a period for a case to be examined may be extended by the chairperson of an economic court or his/her deputy up to four months, and for a case involving a foreign entity located outside the Republic of Belarus — up to twelve months.

### 16.3.3. Writ proceedings in economic courts

Writ proceeding means examination by an economic court, solely on the basis of documents furnished by the parties, of claims that are:

- uncontroversial;
- recognized (not contested) by the debtor but not satisfied yet.

If a claim is satisfied, the court will issue a writ, which is an enforcement document.

A debtor is entitled to file a response to recoverer's claim seeking writ proceeding. In 2019, requirements to the contents of such responses were refined: any submitted objections must be grounded on applicable norms of the law and related circumstances.

Where such debtor's response is found to be reasonable and containing an issue in law, the court will refuse to issue a writ. In such a case, recoverer is entitled to file an action which will be examined according to the standard procedure.

Cases pertaining to writ proceedings are examined within at most twenty days from the date of receipt of petition by economic court. In doing so, a court will examine such case on the basis of submitted documents only, without summons to parties and without court session.

As from 2019, third parties affected by writ orders are entitled to apply for cancellation thereof within at most 10 business days.

As from August 1, 2015, writ proceedings do not apply to claims subject to the notarial executive inscription procedure.

### 16.3.4. Appealing against decisions of economic courts

Decisions of economic courts may be appealed under the appeal procedure or the cassational procedure, as well as in exercise of supervisory powers.

#### Appeals instance

Decisions of economic courts of first instance which have not come into force may be examined in appellate litigation.

Appeals are considered by regional economic courts and the Minsk City Economic Court acting as appeal courts, subject to the place of decision.

An appeal may be filed within 15 working days after the court decision has been pronounced.

An appeal must be considered within 15 working days from the date of its receipt by the economic court.

In exceptional cases, with due account for special complexity of a case, the time for appeal proceeding may be extended by the chairperson of the economic court or his/her deputy, but by no more than 15 working days.

A resolution issued by an economic court acting as an appeal court comes into force upon its adoption.

#### Cassation instance

Judicial decisions of economic courts of the first and appeal instances which have come into force may be appealed under the cassation procedure.

Cassational appeals are considered by the Judicial Chamber for Economic Cases of the Supreme Court of the Republic of Belarus. However, they are filed through economic courts of first appearance.

A cassational appeal may be filed within one month from the effective date of the judicial decision being appealed.

A cassational appeal must be examined within one month from the date of case transmission for cassation procedure.

#### Judicial supervision

Judicial decisions of economic courts which have come into force may be reconsidered in the exercise of supervisory powers only upon a protest lodged by an authorized official.

The following courts may act in exercise of supervisory functions:

- Presidium of the Supreme Court of the Republic of Belarus — with regard to judicial decisions adopted by economic courts of first, appellate and cassation instances;
- Plenum of the Supreme Court of the Republic of Belarus — with regard to decisions of the Presidium of the Supreme Court of the Republic of Belarus.

The following officials are entitled to lodge protests in exercise of supervisory powers:

- Chairperson of the Supreme Court of the Republic of Belarus and his/her deputies;
- Prosecutor General of the Republic of Belarus and his/her deputies.

An appeal may be lodged on own initiative of any of the above officials, or following examination of an appeal in exercise of supervisory powers lodged by an interested person.

An appeal in exercise of supervisory powers may be filed within

one year from the effective date of judicial decision.

An appeal in exercise of supervisory powers must be considered by an official within two months from the date of receipt.

Protests must be considered:

- within at most two months —

by the Presidium of the Supreme Court of the Republic of Belarus,

- within at most three months — by the Plenum of the Supreme Court of the Republic of Belarus.

### 16.3.5. State fee rates

Rates of state fees for the exam-

ination of cases in economic courts are fixed in Appendix 15 to the Tax Code of the Republic of Belarus. The amount depends on the type (property or non-property) of claim, sum of claim and other circumstances.

At present, the following rates of state fees of economic courts apply:

| Type of claim   |   | State fee rate  |
|---|---|---|
| Property claims amounting to  | up to 100 basic units   | 25 basic units  |
|   | from 100 to 1,000 basic units                                     | 5% of the claim amount, but at least 25 basic units   |
|   | from 1,000 to 10,000 basic units                                  | 5% of 1,000 basic units + 3% of the amount exceeding 1,000 basic units  |
|   | over 10,000 basic units   | 1% of the claim amount, but not less than the amount established in the previous paragraph  |
| Action seeking bringing to subsidiary liability due to debts of legal entity: | regardless of value of suit and suitor                            | 25 basic units  |
| Non-property claims filed by:   | legal entities to the Supreme Court                               | 50 basic units for each claim (act)   |
|   | legal entities to economic courts                                 | 20 basic units for each claim (act)   |
|   | individual entrepreneurs to the Supreme Court and economic courts | 10 basic units for each claim (act)   |
|   | individuals to the Supreme Court and economic courts              | 5 basic units for each claim (act)  |
| Petitions for writ proceedings with a sum of recovery of:                     | up to 100 basic units   | 2 basic units   |
|   | from 100 to 300 basic units                                       | 5 basic units   |
|   | over 300 basic units  | 7 basic units   |
| Appeals:  | to appellate instance   | 40% of rate established for non-property claims (petitions, appeals); in property disputes — 40% of rate calculated on the basis of the disputed amount |
|   | to cassation instance   | 80% of rate established for non-property claims (petitions, appeals); in property disputes — 80% of rate calculated on the basis of the disputed amount |
|   | to review judicial decision in exercise of supervisory powers     | 80% of rate calculated on the basis of the disputed amount  |

## 16.4. ARBITRATION

Apart from national courts, disputes may also be resolved by international arbitration courts.

Legal relations connected with the establishment and activities of international arbitration courts in the Republic of Belarus are regulated by the Law of the Republic of Belarus No. 279-Z “On international arbitration/mediation courts” dated July 9, 1999.

A dispute may be resolved in a permanent international arbitration court or in an ad hoc international arbitration court.

Two permanent international arbitration courts functional in the Republic of Belarus are:

- the International Arbitration Court under BelCCI;
- the international arbitration/mediation court “Chamber of Arbitrators under the Lawyers Union”.

Most disputes are examined by the International Arbitration Court under BelCCI (hereinafter — the IAC). Examination procedures are specified by IAC Regulations (<http://www.iac.by/index.php?id=36778&>).

Furthermore, about 30 permanent mediation courts are functional in the Republic of Belarus authorized to examine economic disputes involving non-residents. Mediation courts are regulated by Law of the Republic of Belarus No. 301-Z “On mediation courts” dated July 18, 2011. Functions of mediation courts are somewhat different from those of arbitration courts, in particular, mediation courts may examine non-economic disputes, such as employment disputes and succession disputes.

Disputes relating to exchange deals may be examined by the Arbitration Commission of the Belarusian Common Commodity Exchange

having special status and regulated by Law of the Republic of Belarus No. 10-Z “On commodity exchanges” dated January 5, 2009.

For the purposes of recognizing and executing arbitration awards outside the Republic of Belarus, all above courts shall be deemed to be arbitration courts.

### 16.4.1. IAC competence

The IAC examines the following disputes:

- disputes between any subjects of law arising from foreign trade relations and/or other international economic relations, if the location or residence of at least one of such subjects is outside the Republic of Belarus;
- disputes between companies with foreign investments, international associations and organizations established in the territory of the Republic of Belarus; disputes between members of the above legal entities, disputes between such legal entities and other legal entities and individual entrepreneurs of the Republic of Belarus;
- disputes between foreign legal entities and individual entrepreneurs located outside Belarus;
- other economic disputes, if parties have agreed to refer their case to an international arbitration court and if it is allowed by the legislation of the Republic of Belarus.

A dispute may be adjudicated by the IAC if parties have agreed to do so, such agreement being executed either as a separate arbitration agreement or as an arbitration clause in a contract. The IAC Regulations specify an exemplary wording of an arbitration clause recommended by the IAC to be included in contracts (<http://www.iac.by/index.php?id=36789&>).

### 16.4.2 Appointment of arbitrators

Disputes shall be adjudicated by the IAC panel composed of one or three arbitrators. The composition of the IAC panel shall be agreed upon by the parties, and in default of such agreement shall consist of three arbitrators.

If parties have agreed to resolve a dispute by a sole arbitrator, they shall upon mutual agreement appoint a certain person as the sole arbitrator. In default of such agreement, IAC President shall appoint such arbitrator.

If parties have agreed to resolve a dispute by three arbitrators, the plaintiff shall appoint one arbitrator, and the defendant shall appoint one arbitrator as well. Afterwards the two arbitrators so appointed shall designate the third arbitrator who shall be the Chairperson. If the Chairperson has not been designated, IAC President shall appoint such Chairperson.

### 16.4.3 Review duration in IAC

The IAC arbitrator(s) shall hear the case and render an award within at most 6 months from the filing date. IAC President may prolong the above term upon a substantiated application from the sole arbitrator or the Chairperson. The IAC Regulations do not stipulate time periods for the preparation and signing of arbitration decisions: normally, the procedure lasts several months.

On average, the entire IAC procedure, from commencement of action till obtainment of arbitration decision, takes about 12 months.

### 16.4.4. Law applicable to consideration on the merits

The IAC arbitrator(s) shall adjudicate the dispute pursuant to such provisions of law which parties have

identified as applicable to the subject matter of dispute.

If parties have not specified the applicable law, the IAC arbitrator(s) shall render an award based on the law determined in accordance with the conflict-of-law rules which are recognized as reasonable.

#### 16.4.5. Appealing against IAC award

An award rendered by the IAC may be appealed by submitting a petition to vacate such award to a regional economic court (or the Economic Court of Minsk) according to the location of the international arbitration court.

A petition to vacate an award rendered by the IAC shall be submitted within 3 months from the date of receipt of award.

Therewith, a state court is entitled to vacate an award rendered by the IAC only on certain grounds set forth by Law of the Republic of

Belarus No. 279-Z "On international arbitration/mediation courts" dated July 9, 1999 (these grounds generally pertain to dispute resolution procedures, for instance failure to notify defendant of court session), and may not reexamine such case on the merits.

#### 16.4.6. Procedure for enforcement of IAC awards

Awards rendered by the IAC are enforced in the territory of the Republic of Belarus by applying to a local economic court, according to debtor's (or debtor's property's) location, with a petition to issue a writ to enforce such award.

If a Belarusian arbitration award requires enforcement in the territory of another country, it shall pass a procedure of recognition and enforcement under the UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards (signed in New York on June

10, 1958). 156 states are parties to the Convention.

#### 16.4.7. Arbitration costs in the IAC

Arbitration costs in the IAC include arbitration fee and expenses related to the dispute resolution process.

In order to file a claim, a plaintiff shall pay a registration fee. The sum of such registration fee is included in the arbitration fee as its essential part. The registration fee makes 150 Euros plus VAT rate as set forth by the legislation of the Republic of Belarus (at present, VAT rate is 20%). Registration fee is not subject to refund or reduction.

Arbitration fee in disputes between corporate entities, where at least one of such entities is located or resides outside the Republic of Belarus, depends on the amount in dispute and shall be calculated on the following basis:

| Amount in dispute (in Euros) | Amount of arbitration fee               |
|------------------------------|---|
| up to 5000                   | 700                                     |
| 5 001 to 10 000              | 700 + 5.5% of any sum over 5 000        |
| 10 001 to 25 000             | 975 + 5.5% of any sum over 10 000       |
| 25 001 to 50 000             | 1 800 + 5% of any sum over 25 000       |
| 50 001 to 75 000             | 3 050 + 4.5% of any sum over 50 000     |
| 75 001 to 100 000            | 4 175 + 4% of any sum over 75 000       |
| 100 001 to 150 000           | 5 075 + 3.5% of any sum over 100 000    |
| 150 001 to 200 000           | 6 825 + 3% of any sum over 150 000      |
| 200 001 to 500 000           | 8 325 + 1.5% of any sum over 200 000    |
| 500 001 to 1 000 000         | 12 825 + 1% of any sum over 500 000     |
| 1 000 001 to 2 000 000       | 17 825 + 0.5% of any sum over 1 000 000 |
| Over 2 000 000               | 22 825 + 0.4% of any sum over 2 000 000 |

If a claim does not specify any disputed amount, arbitration fee shall be determined by IAC President, but such fee shall be at least 700 euros.

Arbitration fee shall be reduced by 30 percent, if a case is adjudicated by sole arbitrator.

In any event, arbitration fee may not be less than 700 euros.

Arbitration fee shall be increased by VAT sum calculated pursuant to the legislation of the Republic of Belarus (the current rate is 20%).

Payment of arbitration fee by plaintiff is an essential precondition for the initiation of proceedings on a case.

Upon plaintiff's substantiated petition, IAC President may permit to initiate proceedings after the payment of at least 50% of the due arbitration fee, provided that the other 50% be paid before the first court hearing.

Expenses related to the dispute resolution process include:

- travel allowances and other expenses incurred by arbitrators;
- remuneration paid to witnesses, experts (expert institutions) and professionals;
- expenses related to on-site inspection, transportation and storage of material evidence;
- other court expenses.

## 16.5. NOTARIAL EXECUTIVE INSCRIPTION

### 16.5.1. Classes of claims subject to notarial executive inscription

Notaries are entitled to issue notarial executive inscriptions in regard to some claims. A notarial executive inscription is an enforcement document. Classes of such claims have been specified by Edict of the President of the Republic of Belarus No. 366 "On some issues of notarial

activities" of August 11, 2011.

In particular, notary officers are entitled to make executive inscriptions prescribing the recovery of:

- debt under contracts of lease of movable property, provided the rent has been defined in fixed amounts of payments to be made regularly or as a lump sum, forfeit penalty (fine) pertaining to such debt, where it is stipulated by legislation or contract;
- debt under a credit agreement or another agreement containing essential terms of a credit agreement, forfeit penalty (fine) pertaining to such debt, where it is stipulated by legislation or agreement;
- debt under notarised transactions creating an obligation to pay money, forfeit penalty (fine) pertaining to such debt, where it is stipulated by legislation or contract;
- arrears of rent for non-residential premises located in buildings owned by the state or by legal entities (individual entrepreneurs);
- debts claimed by legal entities (individual entrepreneurs) under sale contracts, supply contracts, tender contracts, haulage contracts, contracts for fee-based services, storage contracts, or forfeit penalty (fine) pertaining to such debt, where it is stipulated by legislation or contract, and duly recognized by debtor in writing.

### 16.5.2. Documents to be furnished to notary officers

Lists of documents to be furnished by creditor to notary officer in order for an executive inscription to be made are different subject to claim type. They are defined by Resolution No. 1737 of the Council of Ministers of the Republic of Belarus "On the list of documents supporting extrajudicial recovery under execu-

tive inscriptions" of December 28, 2006.

In particular, in order to collect debts under a sale contract, supply contract, tender contract, haulage contract, contract for fee-based services, storage contract, or forfeit penalty (fine) pertaining to such debt, a creditor shall furnish the following package of documents to a notary officer:

- original contract/agreement and a copy certified by the creditor;
- document duly confirming transfer of property, delivery of works/services under the contract/agreement and copies thereof certified by the creditor;
- a document confirming debtor's written acknowledgement of the sum in arrears (reconciliation act signed by creditor and debtor with seal affixed (if any), response to the claim in which the debtor acknowledges its obligation to pay money, accepted payment demand or another document signed by a debtor's authorized person), and its copy certified by the creditor;
- document containing a calculation of payable money.

### 16.5.3. Procedure for executive inscription

A creditor may apply to any notary officer in the Republic of Belarus in order for an executive inscription to be made. Both Belarusian and foreign business entities may act as creditors in the executive inscription procedure. However, executive inscriptions are made only with respect to debtors located in the territory of the Republic of Belarus.

In order to obtain an executive inscription, a creditor shall file a request. Such request will be examined by a notary officer during 1 to 3 business days. A notarial executive



inscription is effective immediately upon its execution as an enforcement document empowering the creditor to institute an enforcement procedure.

Execution of notarial executive inscriptions is subject to a fee to be

paid by the creditor. The amounts of fees have been defined by Resolution No. 1145 of the Council of Ministers of the Republic of Belarus "On notarial tariffs for notarial actions and legal/technical services rendered by notary officers and tar-

iffs for technical services rendered by officers of notarial archives" of December 27, 2013.

The following notarial fees apply to the most common recovery claims pertaining to business activities:

| Claim class  | Notarial fee   | Amount in BYN      |
|--|--|--------------------|
| Debt under contracts of lease of movable property, provided the rent has been defined in fixed amounts of payments to be made regularly or as a lump sum, forfeit penalty (fine) pertaining to such debt | 5% of claimed sum, but at least 10% of the basic unit and at most 1000% of the basic unit        | 2.7 BYN to 270 BYN |
| Debt under sale contracts, supply contracts, tender contracts, haulage contracts, contracts for fee-based services, storage contracts, forfeit penalty (fine) pertaining to such debt                    |  |                    |
| Debt under a credit agreement or another agreement containing essential terms of a credit agreement, forfeit penalty (fine) pertaining to such debt  |  |                    |
| Debt under notarised transactions creating an obligation to pay money, forfeit penalty (fine) pertaining to such debt  | 600% of the basic unit   | 162 BYN            |
| Arrears of rent for non-residential premises located in buildings owned by the state or by legal entities (individual entrepreneurs)   | 5% of amount claimed, however at least 10% of the basic unit and at most 1000% of the basic unit | 2.7 BYN to 270 BYN |

#### 16.5.4. Appealing a notarial executive inscription

A debtor may appeal against a performed notarial executive inscription in the following ways:

1) petition a court with a complaint against the performed notarial executive inscription;

2) petition a court with a claim seeking to acknowledge the notarial executive inscription as unenforceable.

##### Complaint against performed notarial action

Such complaint may be filed by a debtor where a notary violated the prescribed legal procedure in performing the notarial executive inscription. A complaint shall be lodged to a local economic court

according to the location of the notary officer.

Such complaint shall be lodged within 10 business days of the debtor being reported of the performance of the notarial executive inscription.

The state fee for an examination of a complaint against notarial action by an economic court is 10 basic units.

A complaint against notarial action implies that the debtor acknowledges the amount of debt and contests only the procedure of the notarial executive inscription. Therefore, such way of appealing shall not be deemed to be the top-priority method for the debtor. Where, in the process of examining the com-

plaint, the court discovers that the complaint contains an issue in law, the court will leave such complaint undecided.

##### Petition seeking to acknowledge the executive inscription as unenforceable

Such petition is lodged where the debtor has general demurrer against the payable sums. Such petition shall be lodged to an economic court according to general jurisdiction rules.

No specific time frame is established for such petitions, therefore debtors may petition the court seeking to acknowledge the notarial executive inscription as unenforceable within the general period of limitations (3 years).

The amount of state fee for such

a petition will be calculated subject to the amount in dispute, according to the rates established for pecuniary court proceedings (ref. 16.3.5 State fee rates).

Such cases are examined within the time frames generally prescribed for court claims (ref. 16.3.2. Review duration in economic courts of first instance).

Where court examination results in an acknowledgment of no grounds for the recovery of debt, the court will decide to acknowledge the executive inscription as unenforceable.

## 16.6. ENFORCEMENT PROCEEDINGS

Where a debtor fails to voluntarily execute a court decision or another document confirming creditor's right of recovery, such creditor is entitled to lodge a petition seeking enforcement proceedings with respect to such debtor. Enforcement proceedings are regulated by Law of the Republic of Belarus No. 429-Z "On enforcement proceedings" of October 24, 2016.

### 16.6.1. Enforcement documents

Enforcement documents subject to execution proceedings in the territory of the Republic of Belarus are as follows:

- enforcement orders and writs issued by general courts of the Republic of Belarus;
- rulings of economic courts on the issuance of writs;
- cautionary judgements or *cautio judicatum solvi* judgements of general courts with respect to judgments not implying immediate execution;
- rulings of general courts or administrative bodies, with respect to pecuniary sanctions in administra-

tive cases;

- rulings of officers of court, to the extent permitted by applicable law;
- enforcement documents of foreign courts, in cases stipulated by the international treaties of the Republic of Belarus;
- executive inscriptions of notaries, diplomatic agents of diplomatic missions of the Republic of Belarus and officers of consular institutions of the Republic of Belarus, on the recovery of moneys (debts);
- public prosecutor orders on eviction in an administrative proceeding;
- testimonial letters of labour disputes commissions;
- other acts, where they are enforcement documents by virtue of legislation and are subject to execution in a manner prescribed by legislation.

Decisions of foreign courts may be enforced in the territory of the Republic of Belarus only after a general court has examined a request to acknowledge and execute such decision, except for decisions of arbitration courts of the Russian Federation which require no special procedure and are executed in the same manner as decision of economic courts of the Republic of Belarus. A decision of a foreign court may be recognized and executed in the territory of the Republic of Belarus, where such procedure is provided for by an international treaty or by virtue of the principle of reciprocity.

### 16.6.2. Enforcement bodies

Enforcement documents are executed by enforcement officers of the Main Enforcement Department of the Ministry of Justice of the Republic of Belarus and local enforcement bodies.

Local enforcement bodies comprise:

- enforcement directorates of departments of justice of regional and Minsk municipal executive committees;
- district/interdistrict, municipal, district (in cities) enforcement directorates/departments.

Applications seeking enforcement proceeding shall be filed to a local enforcement body according to the location of debtor or debtor's property.

### 16.6.3. Timeframes for enforcement proceeding

Enforcement documents that are court rulings or have been issued by virtue of court rulings may be presented for execution within 3 years of their becoming *res judicata*, or of the expiry of adjournment/extension term.

A notarial executive inscription may be presented for execution not later than 6 months after issuance.

### 16.6.4. Enforcement measures

Upon an institution of an enforcement proceeding, an officer of court will provide a time period for the debtor to voluntarily execute the enforcement document. Such time period for voluntary execution lasts 7 business days from the date when debtor has received the court ruling on the enforcement proceeding.

Where debtor fails to execute the enforcement document before the expiry of such term, an officer of court will initiate enforcement measures and will be entitled to the following enforcement actions:

- summon the debtor and/or its representatives/participants, for explanations and/or presentation of required documents;
- request that the debtor provide

information on its property, sources of income, other data required for the purposes of the enforcement document;

- request that the parties to the enforcement proceeding and/or other persons provide oral and/or written information, materials and/or documents required for the purposes of the enforcement document, and thereafter impound such documents/materials;

- obtain, free of charge, any required materials, documents and/or information, in particular information containing bank secrets and/or other legally protected secrets, personal data of physical persons;

- put the debtor (in particular, individual entrepreneur) on the wanted list via the internal affairs bodies;

- apply to the state registrar of real estate property rights and associated transactions in order to register a creation, modification or termination of debtor's real property, creation or lapse of rights, limitation/encumbrance of rights and associated transactions, and in order to register in recoverer's name a transfer/termination of rights, limitation/encumbrance of rights to any real property registered by debtor's name;

- prohibit to debtor and/or other persons certain actions hindering the execution of the enforcement document with respect to money assets and/or other debtor's property;

- make use of recoverer's or debtor's vehicle to transport property exempted from the debtor, charging all expenses pertaining to such compulsory execution to the debtor;

- distraint debtor's monetary assets and/or other property owned

by debtor, whether physically located at debtor's place or otherwise;

- sell or otherwise dispose of debtor's distrainted property;

- decree full or partial suspension of bank transactions on accounts of individuals (including individual entrepreneurs) and legal entities;

- give a ruling on compelling the appearance of debtor (including individual entrepreneur), representative or participant of legal entity debtor;

- give a ruling on detention and/or compulsory recovery and/or impoundment of debtor's vehicle;

- the right to unhindered access to territories/premises of individual entrepreneurs and legal entities, other facilities/premises, where necessary the right to unlock and inspect such facilities/premises;

- seal up premises where material values and/or documents are stored, cash registers and/or cash offices, warehouses, archives;

- enter debtor's land plots, living/non-living premises, where necessary forcibly unlock such premises.

#### 16.6.5. Order of money distribution among recoverers

Where the monetary assets recovered is not sufficient to satisfy all demands of creditors under all enforcement proceedings initiated against a debtor, such monetary assets shall be distributed among recoverers as follows:

1) in the first instance: claims seeking alimony payments, government expenses for children under government social security programmes, amounts to compensate injury.

2) the following claims are satisfied in the second instance:

- claims seeking payments to the national budget or local public budget, budgets of state extra-budgetary funds;

- survivor pension, insurance payments under obligatory insurance policies, payments under state social insurance of citizens, payments on claims pertaining to labour relations, claims seeking royalties, claims seeking damages inflicted by a criminal act or administrative violation, and claims seeking moral damage;

3) the following claims are satisfied in the third instance:

- arrears of discharge of contract obligations secured by pledge, out of the realizable value of the pledged property;

- amounts in discharge of debts under credits allotted by banks of the Republic of Belarus on security of the government of the Republic of Belarus, regional executive committees, Minsk city, district and municipal executive committees;

- amounts in discharge of debts pertaining to assets acquired by the Development Bank of the Republic of Belarus from banks of the Republic of Belarus, and under credits allotted for the projects included in programmes endorsed by the President or the Government;

4) all other claims are satisfied in the fourth instance.

Claims in each following category will not be satisfied until all claims of the previous category have been satisfied in full. Claims of creditors in the first category shall be repaid in proportion to claim amounts, and claims of categories 2 to 4 shall be repaid according to the queue, based on the dates of initiation of enforcement proceeding.

# 17

Bankruptcy

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Bankruptcy proceedings in the Republic of Belarus are regulated by the Law of the Republic of Belarus “On economic insolvency (bankruptcy)” dated July 13, 2012. The Law sets forth the grounds for declaring debtor’s bankruptcy and regulates procedures and terms of proceedings in bankruptcy cases and other related relationships.

Furthermore, the Law sets forth some peculiarities of economic insolvency (bankruptcy) of certain categories of debtors from among legal entities and individual entrepreneurs. In particular, it defines some peculiarities of economic insolvency (bankruptcy) of town-forming and similar entities, banks, agricultural organizations, insurance organizations and individual entrepreneurs.

In the Republic of Belarus, individual entrepreneurs and legal entities can be declared bankrupt. The current legislation of the Republic of Belarus does not provide for bankruptcy of individuals.

### 17.1. INITIATION OF BANKRUPTCY PROCEEDING

A petition to initiate a bankruptcy proceeding in respect of a debtor may be filed to an economic court by debtor, debtor’s creditor, prosecutor, representative of debtor’s employees, or public authorities, with respect to certain circumstances.

A debtor may apply for bankruptcy in case of one of the following grounds:

- debtor’s insolvency grows into a sustainable form;
- debtor’s insolvency has become sustainable.

A debtor is obliged to apply for bankruptcy proceeding within one month from the date of occurrence of any of the following circumstances:

- satisfaction of claims of one or more creditors results in debtor’s inability to fully perform its monetary obligations to other creditors or in a termination of debtor’s (legal entity’s) activities;

- if a body (individual) authorized under debtor’s (legal entity’s) constituent documents to make decisions on its liquidation (or owner of debtor’s property, where debtor is a unitary enterprise, or a body authorized by it) has made a decision to file debtor’s petition to an economic court;

- value of property owned by the debtor (legal entity) in respect of which under the civil law a decision on liquidation has been made, is insufficient to satisfy creditors, or there is no property at all.

A creditor is entitled to file a petition to initiate a bankruptcy proceeding in respect of a debtor if all the following grounds are present jointly:

- creditor has reliable documented proofs of debtor’s insolvency being sustainable or getting sustainable;

- enforcement imposed on debtor has not been executed within three months, or it has been revealed during the enforcement process that debtor has no assets sufficient to satisfy claims raised;

- there is a debt to the creditor that has filed a petition, in the amount of 100 or more basic units, and where such debtor is a major or similar entity, a state body, or a legal entity whose stocks (participatory shares) are managed by a state body or are in economic management, operational management of a state-owned legal entity, or where such debtor is a legal entity or an individual entrepreneur having state and (or) international orders — in

the amount of 2,500 or more basic units.

In practice, an economic court commences a proceeding on debtor’s bankruptcy if debtor’s insolvency grows into a sustainable form or has become sustainable. The criteria of solvency of business entities have been defined by Resolution No. 1672 of the Council of Ministers of the Republic of Belarus of December 12, 2011. If a petition for an initiation of bankruptcy proceeding does not meet formal requirements, or there is no factual basis for an initiation of bankruptcy proceeding, an economic court will dismiss such petition.

### 17.2. GENERAL PROVISIONS ON BANKRUPTCY

As a general rule, a court will set a protective period, with a duration of at most three months, in order to procure the finalization of pre-trial sanitation procedures, verify the existence of grounds for bankruptcy proceeding and procure safe custody of all assets.

Upon a petition of the debtor or bodies of pre-trial sanitation, a court may set a protective period of up to three years for the purposes of pre-trial sanitation procedures.

At this stage, a court appoints a temporary manager of the debtor, provided, however, that debtor’s management bodies are not released from their obligations. The debtor’s CEO can be dismissed by the court only if violations of the law made by the CEO are admitted. At the end of the protection period the court shall examine a petition for bankruptcy, a report provided by the temporary manager on its activities and an analysis of debtor’s financial condition and solvency, as well as a report on the completion of the pre-trial sanitation plan during the

protective period. If the court discovers the debtor’s insolvency, a bankruptcy proceeding will be initiated.

There are two (2) forms of bankruptcy proceedings:

- sanation — financial rehabilitation (applied in order to ensure stable and efficient business (economic) activities, and to restore debtor’s solvency);
- liquidation proceedings.

In the vast majority of cases, liquidation proceedings are applied to debtors in the Republic of Belarus.

During a bankruptcy proceeding

the debtor is operated by a crisis manager. Such crisis manager is appointed by the court from among candidates proposed by parties involved in the case. A crisis manager must have a corresponding certificate verifying its right to carry out such activities.

Along with the crisis manager, a meeting of creditors takes part in a bankruptcy proceeding. A meeting of creditors represents interests of all creditors and carries out all actions with respect to the debtor on their behalf. Where there are at least ten

bankruptcy creditors, the first meeting of creditors may decide to form a committee of creditors and define its composition.

The legislation provides for mechanisms of lodging a complaint against illegal activities of crisis managers to the creditors’ meeting and/or court.

**17.3. PRIORITY OF CREDITORS**

The Belarusian legislation provides for the following priority of creditors in bankruptcy proceedings:

|                    |  |
|--------------------|--|
| <b>Out of turn</b> | Court expenses and costs for the publication of information provided by the legislation, as well as settlements of debtor’s liabilities arising after the initiation of bankruptcy proceeding (in particular, payment of fees to crisis manager).  |
| <b>Turn 1</b>      | By the claims of individuals: the debtor is answerable for causing harm to their life or health (injury).  |
| <b>Turn 2</b>      | Settlement of severance payments, remuneration of persons employed (or formerly employed) by the debtor under labor agreements (contracts) and civil contracts for the performance of works, provision of services or creation of intellectual property; on compulsory insurance contributions, contributions for pension insurance, other payments to the Social Welfare Fund of the Ministry of Labour and Social Protection of the Republic of Belarus, as well as payments on compulsory insurance against industrial accidents and occupational diseases. |
| <b>Turn 3</b>      | Settlements of mandatory payments to the state budget (as a rule, payment of taxes and customs duties).  |
| <b>Turn 4</b>      | Claims of creditors under obligations secured by a pledge of debtor’s property.  |
| <b>Turn 5</b>      | Settlements with other creditors.  |

As a general rule, claims of creditors shall be furnished to crisis manager within 2 (two) months from the date of official public notification of the initiation of a bankruptcy proceeding in respect of a debtor. If a claim is filed after the deadline it will be considered the last of all, regardless of its normal queueing in case of timely submission. There are exceptions in the following cases:

- extension of the deadline by the meeting of creditors or the court;

- claims of the first and second priority made before the end of settlements with all creditors.

**17.4. CONTESTATION OF DEBTOR’S TRANSACTIONS**

There are special grounds for invalidating debtor’s transactions by virtue of claims filed by crisis managers in bankruptcy proceedings. In particular, the following transactions may be invalidated:

- transactions made within six

months prior to commencement of a bankruptcy case (or after commencement of a bankruptcy proceeding), if such transactions involve preferential satisfaction of property claims of certain creditors before other creditors;

- transactions made within one year prior to commencement of a bankruptcy case (or after commencement of a bankruptcy proceeding), if the debtor intentionally damaged the interests of creditors

by these transactions and other parties were aware or should have been aware of it;

- transactions made within six months prior to commencement of a bankruptcy case (or after commencement of a bankruptcy proceeding), if due to the inequality of parties' obligations it is obvious that a contract of sale, a contract of exchange or another debtor's transaction has been at least partially executed not in the debtor's favour at a price significantly undervalued or overvalued as compared to the price usually charged for similar goods/works/services (such transaction has the nature of donation), or if there is a direct or indirect connection with the debtor's insolvency or its

increase.

#### **17.5. RESPONSIBILITY OF DEBTOR'S CONTROLLING PERSONS**

Debtor's controlling persons (owner of debtor's property, its participants/members, CEO, other persons capable of impacting debtor's actions) shall not bear subsidiary liability in case of insufficiency of such entity's property, unless such entity's insolvency/bankruptcy has been caused by willful misconduct of such persons.

Thus, subsidiary liability is excluded for persons entitled to give binding instructions to debtor in cases of their inaction and/or failure to lodge a petition in bankruptcy where it is

required by law (see cl. 7.1).

A lawsuit seeking imposition of subsidiary liability may be filed by a crisis manager, a creditor, a prosecutor, or state bodies, where debtor's property is insufficient to satisfy creditors' claims. The period of limitation for claims lodged by creditors, prosecutor and state bodies is 10 years from the date of initiation of a bankruptcy proceeding.

Furthermore, the Criminal Code of the Republic of Belarus establishes liability for:

- false bankruptcy;
- concealment of bankruptcy;
- deliberate bankruptcy;
- precluding the compensation for creditor's losses.

# 18

Contact details  
of government bodies

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## 18.1. MINISTRIES OF THE REPUBLIC OF BELARUS

| Ministry of Architecture and Construction                  |   |
|--|---|
| Address  | 220048, Minsk, Miasnikova st., 39                                       |
| Phone/fax  | 226-54-36 / 200-74-24<br>327-19-34 (administrative office)              |
| Website  | <a href="http://www.mas.gov.by">http://www.mas.gov.by</a>               |
| E-mail   | mas@mas.by  |
| Ministry of Health   |   |
| Address  | 220048, Minsk, Miasnikova st., 39                                       |
| Phone/fax  | 222-65-47 / 222-46-27   |
| Website  | <a href="http://minzdrav.gov.by">http://minzdrav.gov.by</a>             |
| E-mail   | mzrb@belcmt.by  |
| Ministry of Foreign Affairs                                |   |
| Address  | 220030, Minsk, Lenina st., 19   |
| Phone/fax  | 327-29-22 / 210-42-50   |
| Website  | <a href="http://www.mfa.gov.by">http://www.mfa.gov.by</a>               |
| E-mail   | mail@mfa.gov.by   |
| Ministry of Taxation                                       |   |
| Address  | 220010, Minsk, Sovietskaya st., 9                                       |
| Phone/fax  | 229-79-72, 229-79-29 / 229-66-87  |
| Website  | <a href="http://nalog.gov.by">http://nalog.gov.by</a>                   |
| E-mail   | gnk@mail.belpak.by  |
| Ministry of Natural Resources and Environmental Protection |   |
| Address  | 220004, Minsk, Kollektornaya st., 10                                    |
| Phone/fax  | 200-66-91 / 200-55-83   |
| Website  | <a href="http://www.minpriroda.gov.by">http://www.minpriroda.gov.by</a> |
| E-mail   | minproos@mail.belpak.by   |
| Ministry of Industry                                       |   |
| Address  | 220033, Minsk, Partizansky Ave., 2/4                                    |
| Phone/fax  | 223-93-96 / 223-64-96 / 328-30-48                                       |
| Website  | <a href="http://www.minprom.gov.by">http://www.minprom.gov.by</a>       |
| E-mail   | minprom4@minprom.gov.by   |
| Ministry of Communications and Information                 |   |
| Address  | 220050, Minsk, Nezavisimosti Ave., 10                                   |
| Phone/fax  | 287-87-06 / 327-21-57   |
| Website  | <a href="http://www.mpt.gov.by">http://www.mpt.gov.by</a>               |
| E-mail   | mpt@mpt.gov.by  |
| Ministry of Agriculture and Food                           |   |
| Address  | 220030, Minsk, Kirova st., 15   |
| Phone/fax  | 327-37-51 / 327-42-96   |
| Website  | <a href="http://mshp.gov.by">http://mshp.gov.by</a>                     |
| E-mail   | kanc@mshp.gov.by  |
| Ministry of Trade  |   |
| Address  | 220030, Minsk, Kirova, 8/1  |
| Phone/fax  | 327-48-02 / 227-24-80   |
| Website  | <a href="http://www.mintorg.gov.by">http://www.mintorg.gov.by</a>       |
| E-mail   | mail@mart.gov.by  |

**Ministry of Transport and Communications**

|           |   |
|-----------|---|
| Address   | 220029, Minsk, Checherina st., 21                                   |
| Phone/fax | 334-11-52 / 292-83-91   |
| Website   | <a href="http://www.mintrans.gov.by">http://www.mintrans.gov.by</a> |
| E-mail    | mail@mintrans.mtk.by  |

**Ministry of Finance**

|           |   |
|-----------|---|
| Address   | 220010, Minsk, Sovetskaya st., 7                                |
| Phone/fax | 222-61-37 / 222-45-93   |
| Website   | <a href="http://www.minfin.gov.by">http://www.minfin.gov.by</a> |
| E-mail    | minfin@minfin.gov.by  |

**Ministry of Economy**

|           |   |
|-----------|---|
| Address   | 220030, Minsk, Bersona st., 14                                    |
| Phone/fax | 222-60-48 / 200-37-77   |
| Website   | <a href="http://www.economy.gov.by">http://www.economy.gov.by</a> |
| E-mail    | minec@economy.gov.by  |

**Ministry of Energy**

|           |   |
|-----------|---|
| Address   | 220030, Minsk, K. Marksa st., 14                                      |
| Phone/fax | 218-21-02 / 218-24-68   |
| Website   | <a href="http://www.minenergo.gov.by">http://www.minenergo.gov.by</a> |
| E-mail    | minenergo@min.energo.by   |

**18.2. STATE COMMITTEES OF THE REPUBLIC OF BELARUS****State Committee for Property**

|           |   |
|-----------|---|
| Address   | 220005, Minsk, per. Krasnozvezdny, 12                     |
| Phone/fax | 288-10-19 / 288-27-25                                     |
| Website   | <a href="http://www.gki.gov.by">http://www.gki.gov.by</a> |
| E-mail    | info@gki.gov.by   |

**State Committee for Science and Technology**

|           |   |
|-----------|---|
| Address   | 220072, Minsk, Akademicheskaya st., 1               |
| Phone/fax | 294-92-44 / 284-02-79                               |
| Website   | <a href="http://gknt.gov.by">http://gknt.gov.by</a> |
| E-mail    | gknt@gknt.org.by                                    |

**State Committee for Standardization**

|           |   |
|-----------|---|
| Address   | 220053, Minsk, Starovilensky trakt, 93                            |
| Phone/fax | 233-52-13 / 233-25-88   |
| Website   | <a href="http://gosstandart.gov.by">http://gosstandart.gov.by</a> |
| E-mail    | belst@gosstandart.gov.by  |

**State Customs Committee**

|           |   |
|-----------|---|
| Address   | 220007, Minsk, Mogilevskaya st., 45/1                             |
| Phone/fax | 218-90-00 / 218-91-97   |
| Website   | <a href="http://www.customs.gov.by">http://www.customs.gov.by</a> |
| E-mail    | gtk@customs.gov.by  |

## 18.3. LOCAL GOVERNMENT BODIES

| <b>Brest Regional Executive Committee</b>   |   |
|---|---|
| Address                                     | 224006, Brest, Lenina st., 11   |
| Phone/fax                                   | 8 (0162) 21-22-37 / 21-96-66  |
| Website                                     | <a href="http://www.brest-region.by">http://www.brest-region.by</a>             |
| E-mail                                      | <a href="mailto:contact@brest-region.by">contact@brest-region.by</a>            |
| Head  | Anatol Lis  |
| <b>Vitebsk Regional Executive Committee</b> |   |
| Address                                     | 210010, Vitebsk, Gogol st., 6   |
| Phone/fax                                   | 8 (0212) 42-57-57 / 42-57-81  |
| Website                                     | <a href="http://www.vitebsk-region.gov.by">http://www.vitebsk-region.gov.by</a> |
| E-mail                                      | <a href="mailto:vitolisp@vitebsk.by">vitolisp@vitebsk.by</a>                    |
| Head  | Nikolay Sherstnev   |
| <b>Gomel Regional Executive Committee</b>   |   |
| Address                                     | 246050, Gomel, Lenina Ave., 2   |
| Phone/fax                                   | 8 (0232) 74-42-68 / 75-45-19  |
| Website                                     | <a href="http://www.gomel-region.by">http://www.gomel-region.by</a>             |
| E-mail                                      | <a href="mailto:kanc@oblispolkom-gomel.by">kanc@oblispolkom-gomel.by</a>        |
| Head  | Vladimir Dvornik  |
| <b>Grodno Regional Executive Committee</b>  |   |
| Address                                     | 230023, Grodno, Ozheshko st., 3   |
| Phone/fax                                   | 8 (0152) 72-31-90 / 72-02-32  |
| Website                                     | <a href="http://www.region.grodno.by">http://www.region.grodno.by</a>           |
| E-mail                                      | <a href="mailto:grobisp@mail.grodno.by">grobisp@mail.grodno.by</a>              |
| Head  | Vladimir Kravtsov   |
| <b>Minsk Regional Executive Committee</b>   |   |
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