Business Environment in Belarus
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Preface

The International Finance Corporation (IFC) is currently implementing an extensive technical assistance program in the CIS countries, which is aimed at:

• attracting investment to the private sector;
• promoting small and medium-sized business development;
• and improving the business environment.

Belarus was one of the first CIS countries to join the IFC in November 1992. This allowed Belarus to tap the IFC’s vast experience of and resources for executing market-oriented economic reforms.

At the invitation of the Belarusian Government, IFC expanded into Belarus in 1993 and has implemented a range of technical assistance projects in this country over the last 10 years.

The report entitled “Business Environment in Belarus” is based on the data garnered in the course of a 2004 “Cost of Doing Business in Belarus” survey. This is the third in a series of studies jointly executed by the World Bank and IFC. Previous surveys were carried out in 2001 and 2002.

The results of the present survey do not amount to an exhaustive study of all the problems faced by SMEs in Belarus, and neither do they represent the opinion of the World Bank and the International Finance Corporation. On the contrary, the report sets forth the actual viewpoints held by Belarusian entrepreneurs.

In some instances, these views might run counter to the applicable Belarusian legislation. Nevertheless, small and medium-sized entrepreneurs do believe that these problems are in evidence. These inconsistencies show the need for closer contact between the Belarusian Government and the private sector.

This report also contains the IFC’s conclusions and recommendations regarding the framing of state policy in the area of private business development. They set out general guidelines of activities aimed at removing key impediments obstructing private enterprise growth. The recommendations draw on the analysis of the Belarusian legislation and IFC’s experience accumulated in the course of its long-term involvement in Belarus.

The report results will go a long way towards creating a system of baseline business environment indicators and identifying key problems encountered by entrepreneurs. Subsequent polls might become a useful tool for monitoring the effectiveness of business-related legislation introduced by the Belarusian government.

The present report is published both in Russian and English. For additional copies, please contact the IFC Belarus Office.
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The International Finance Corporation is a member of the World Bank Group and seeks to promote sustainable investment in the private sector of developing countries. The IFC implements private sector investment projects in partnership with other investors and renders technical and advisory assistance to governments in cooperation with international donor organizations.
SMEs in Belarus

Small business operates in Belarus in two forms: legal entities and individual entrepreneurs.

About 31,000 small companies operated in Belarus in 2003\(^1\). Of these, nearly 28,000 were privately owned enterprises, 1,800 state-owned companies and 1,400 firms with foreign investment. Year-on-year comparison with 2002 shows that the SME sector expanded by only 2,000 companies, showing that the pace at which the SME sector has been developing remains quite slow.

There are 3.1 SMEs per 1,000 residents in Belarus, up from 2.8 in 2000 and 2.9 in 2001 and 2002. This is twice lower than in Russia, with 7 SMEs per 1,000 residents, 1.8 times lower than in Ukraine and three times lower than in Uzbekistan. The EU average ranges from 37 to 54 SMEs per 1,000 residents\(^2\).

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2 The statistical information in Belarus and Russia includes small businesses only.
In 2003, about 190,000 individual entrepreneurs were registered in Belarus. In 2003 and over the first four months of 2004, the number of individual entrepreneurs declined by 2,000 and fell to 187,400. This trend has been driven by a number of changes in the operating environment of individual entrepreneurs: unstable legislation, limited access to bank financing, introduction of cash registers, complex settlement procedures, etc.

More than half of SMEs and a quarter of individual entrepreneurs are clustered in Minsk. In the regions, more than 50% of SMEs are based in regional capitals. Small business is underdeveloped in small towns and rural areas, which suffer from shortages of goods and services, unemployment and other problems which could be resolved by SMEs.

In 2003 SMEs generated 8.2% of GDP, up from 6.7% in 2000 and 7.2% in 2002. Although this share is expanding, there is still a long way to grow to reach the EU average of 60-70% of GDP accounted for by small businesses.

According to official statistical information, the average profitability of SMEs in Belarus declined from 16% in 2000 to 11% in 2003. The share of loss-making SMEs climbed from 22% in 2000 to 28% in 2003. Broken down by region, the Mogilev Region led the way in terms of inefficient SMEs with 38% of the total, followed by the Gomel Region with 38% and the Brest Region with 36%. The lowest percentage (30%) is registered in the City of Minsk.

The above-mentioned statistics paint a picture of a slow-growing and inefficient SME sector in Belarus. The sector has seen very little development over the last ten years. The SME sector’s contribution to the Belarusian economy does not exceed 10% in terms of the following macroeconomic indicators: GDP, output of goods and services, industrial production and retail trade turnover.

In accordance with IFC’s survey entitled “Business environment in Belarus”, more than 56% of the respondents reported an increased turnover in comparison with 2002. As many as 44% of entrepreneurs noted negative or zero growth. Polled participants regard the outlook for the coming year as uninspiring: it is estimated that the portion of companies with zero or negative growth will increase to 53%.
Analysis of survey results demonstrates that companies involved in different sectors had been developing at roughly the same pace. The percentage of companies reporting larger business turnover was higher in R&D and manufacturing and lower in retail trade.

Sources:


“2004 Statistical Yearbook,” Ministry of Statistics and Analysis of Belarus

“SMEs Statistics in Belarus for 2003,” Ministry of Statistics and Analysis of Belarus

“On the Current State and Prospects of Small Business in Belarus,” Report by a Deputy Director of the Ministry of Economy’s Entrepreneurship Department, A.V. Topilin
Chapter 2

Executive Summary

In the course of the survey, the respondents were asked to assess key business-related procedures. The complexity of each procedure is rated using a 4 point scale, with 4 being very complex. Inspections, securing of premises use permits and licensing lead the way in terms of complexity.

Directors of the polled companies spend an average of 17% of their working time on going through procedures, filling out forms and complying with the provisions of the business-related legislation.

The survey revealed the following key impediments holding back private business development in Belarus.

The state business registration procedure in Belarus is time-consuming, resource-intensive and involves a great deal of state agencies.

- Excessive number of state agencies is engaged in state business registration. The whole procedure is overly complex.
- In comparison with 2002, the state registration outlay nearly doubled in 2003 and reached about $270.
- The procedure is time consuming and in 2003 it took an average of 62 days.

The overwhelming majority of entrepreneurs hold the view that licensing procedures in 2003 deteriorated.

- The list of licensed activities remains excessively long and runs to 49 types and 350 subtypes.
- The procedure for securing a license is still complex, time-consuming and resource intensive. In 2003 it took an average company 39 days and $260 to obtain a license.

Procedures related to certification and hygienic registration of goods and services in 2003 grew lengthier and more costly in comparison with the previous year. The rules regulating these procedures are ill-defined and subject to frequent changes.
Executive Summary

- In 2003 it took an average company 315 days and $2,695 to complete certification procedures and 85 days and $555 to go through hygienic registration.
- Procedures associated with confirming compliance of goods and services with Belarusian quality and safety standards are overly complex and lack transparency. Rules governing these procedures are fluid. Certification guidelines have been overhauled more than ten times over the last six years.

Procedure for securing permits for construction, renovation, re-profiling of premises and use of premises, which were subject to neither of the above, are too drawn-out and pricey.
- In 2003 it took an average company 257 days to obtain a construction permit.
- In 2003 an average company spent from $147 to $1,004 on premises use permits, depending on the procedure.

Most Belarusian companies are exposed to state pricing control and regulation.
- Although the applicable legislation declares free pricing, the state interferes in price formation by means of price controls and regulation, a fact mentioned by 60% of the poll participants.
- In 2003 price controls grew tighter in comparison with the previous years.
- A multitude of administrative pricing control methods unduly complicates price formation. The methods used overlap at times.

Belarusian economic entities are on the receiving end of frequent and lengthy inspections mounted by numerous control agencies. The penalty imposition process lacks transparency.
- In 2003 an average Belarusian company hosted 12 inspections, lasting an average of 60 days.
- The larger the company, the longer and more frequently inspections occur.
- Inspections usually result in steep economic sanctions, whose imposition is far from transparent.
- The quantity and duration of inspections, as well as the resultant costs for companies, exhibit significant regional differences. This testifies to the lack of a single procedure for the application of business-related legislation.

A set of recommendations on how to improve the business environment and lower administrative barriers impeding SME development was devised drawing on the results of the survey.

Registration

1. Reduce the time taken up by registration procedures;
2. Substitute the permissive principle of state registration with the declarative principle allowing an economic entity to submit to the Registration Authorities stipulated documents. The applicant shall be held responsible for the compliance of the submitted document with the relevant legislation. The Registration Authorities shall be sufficiently equipped to handle the processing of registration documents.
3. Introduce a one window principle whereby having submitted the required registration documents, an entrepreneur could rest assured that all other post-registration procedures will be completed without his involvement. If a state agency is selected to perform the function of a registration one-stop shop, it will unify all registration procedures and render them less costly and time consuming. This step will also go a long way towards boosting the safeguards available to the business community.

4. Reduce the list of reasons necessitating the registration of amendments to foundation documents.

**Licensing**

1. Cut the number of licensed activities, lower processing times and reduce the costs of licenses. Business endeavors should fall into the category of licensed activities if they touch upon national security, public health and environment.

2. Introduce a declaratory principle of licensing whereby companies are automatically issued licenses once they have submitted all the required documents, an exhaustive list of which should be set forth in the applicable legislation.

3. Withdraw licenses in line with a court’s decision to eliminate bias, reduce corruption and strengthen guarantees available to the business community.

**Certification and Hygienic Registration**

1. Cut the lists of goods and services subject to mandatory certification and hygienic registration and retain only the goods and services which present an immediate danger to public health, life, property and environment.

2. Make sure that the lists of goods and services subject to mandatory certification and hygienic registration do not overlap.

3. Simplify the certification and hygienic registration procedures, including those for acknowledging the quality certificates issued by foreign manufacturers.

4. Transfer the authority to develop, alter and amend the lists of goods and services subject to mandatory certification and hygienic registration to the Government or adopt these lists by means of laws to reduce the underlying causes of corruption and prevent state agencies from advancing their own narrow interests.

**Premises Use Permits**

1. Stipulate that a special permit to use the premises is required only in cases when the activities pursued on these premises could harm the health and life of the people or environment.

2. Render the procedures for securing premises use permits more uniform to boost the transparency of the whole process.

3. Legally stipulate that in cases when an entrepreneur intends to use the acquired premises for activities pursued by the previous owners without any scraps with control agencies, such entrepreneur shall not be obliged to seek any additional permits.
**Executive Summary**

**Pricing**

1. Apply pricing regulation and controls only to products manufactured by monopolists or to socially-significant goods and services.
2. Cut the list of socially-significant goods.
3. Wipe out the overlap of administrative pricing control methods.
4. Avoid the overlap of the authorities enjoyed by state control agencies.

**Inspections**

1. Make sure the remits of control agencies do not overlap.
2. Limit the extra judicial power vested in control agencies, particularly those related to property expropriation and company closures.
3. Eliminate the possibility of holding unjustified non-scheduled inspections.
4. Introduce a legal mechanism whereby economic sanctions will be levied in line with the severity of transgressions committed. Key economic sanctions should be imposed by a court order.
5. Envisage a procedure under which state control agencies will be held accountable for the damage incurred by their illegal actions.
6. Make sure that legislation governing business oversight is applied uniformly.
The present report has been prepared on the basis of a survey entitled “Cost of Doing Business in Belarus” conducted in March 2004. The report aims to pinpoint key administrative and regulatory barriers faced by privately-owned economic entities. It reflects the state of the Belarusian business environment in 2003. Similar studies conducted in 2001 and 2002 were used as benchmarks.

The report contains the following terms, which are defined as follows:

- **Official fees** charged by state agencies for administrative procedures.
- **Irregular/unofficial payments** are payments made by economic entities to facilitate administrative procedures. These payments are not set forth in applicable legislation.
- **“Voluntary” donations** are payments made by economic entities at the request of state agencies. The passage of administrative procedures is as a rule made conditional on the execution of these payments.

A total of 600 economic entities from six regions throughout Belarus and the City of Minsk, including 103 individual entrepreneurs, took part in the survey. Agricultural companies remained outside the survey’s purview.

The poll was conducted in March 2004.

Structured face-to-face interviews comprising 68 questions and 11 additional sections addressed the following topics: general information about the company/individual entrepreneur, business registration, securing of premises use permits, licensing, certification, hygienic registration, import/export regulation, inspections, tax administration, pricing control and regulation, labor relations and contract enforcement.

The sample is representative of the situation in the SME sector in Belarus, as it takes into account the regional and sectoral distribution of SMEs as set forth in the data furnished by the Belarusian Ministry of Statistics.

Economic entities are classified in line with the applicable legislation of the Republic of Belarus. Small business and company types are defined in Box 1 herein.

**Box 1. Definition of Small Business**

The Law of the Republic of Belarus dated 16 October 1996 entitled “On State Small Business Support” defines small businesses as entities operating without the status of a legal entity (individual entrepreneurs) or legal entities which have the following number of employees on their books:

- Industry and transport — up to 100 people;
- Agriculture, including private farms and R&D — up to 60 people;
- Construction and wholesale trade — up to 50 people;
- Retail trade and customer services — up to 30 people;
− Other non-manufacturing sectors - up to 25 people. Medium-sized companies are not yet defined by applicable legislation.

**Legal forms assumed by economic entities in Belarus:**

Economic entities in Belarus can pursue commercial activities as individual entrepreneurs or legal entities subject to mandatory state registration.

**An individual entrepreneur** is an individual involved in business activities without assuming the status of a legal entity. He is entitled to hire up to three people under labor and/or civil contracts. Assets owned by an individual entrepreneur shall not be used or levied to cover the liabilities arising out of his business activities.

**Commercial organizations:**

**A limited liability company** is a company set up by two or more individuals, whose charter capital is split into corresponding shares outlined in the foundation documents. Only contributions made by the limited liability company founders shall be used to settle the liabilities and losses flowing from their commercial activities.

**An additional liability company** differs from a limited liability company in one respect only, namely subsidiary liability of the company founders in regard to liabilities and losses arising out of their business pursuits. The extent of the subsidiary liability shall be set forth in the foundation documents, but shall be no less that the threshold stipulated in the applicable legislation.

**A joint stock company** is a company whose charter capital is broken into a certain number of shares. Shareholders shall not be held culpable for the company's liabilities and losses caused by the company's activities in excess of the value of their shares.

A joint stock company can be either open or closed. Shareholders of open joint stock companies shall not be obliged to seek the consent of fellow shareholders to sell their shares, while shareholders in closed joint stock companies shall either secure the consent of their fellow shareholders prior to going ahead with the sale or sell their shares to a limited range of buyers.

**A manufacturing cooperative** is a commercial entity whose members are obliged to make an in-kind contribution, be directly involved in its activities and assume subsidiary liability regarding the manufacturing cooperative's liabilities. The subsidiary liability shall be equally shared out between the cooperative members if the cooperative charter does not provide otherwise. The amount of the subsidiary liability borne by each cooperative member shall not be less that his annual revenue earned at the cooperative.

**A unitary enterprise** is a commercial entity which does not own the property it is using. The property used by the unitary enterprise is indivisible and shall not be split into shares, including those allocated to company staff. Unitary companies can either be private or state-owned.

**A general partnership** is a partnership whose participants engage in business activities on behalf of the partnership in line with the contracts signed and shall assume unlimited subsidiary liability for the liabilities incurred by the partnership.
A limited partnership is a partnership which, in contrast to a general partnership, has members who are not directly engaged in business activities and shall not be held accountable for the partnership’s liabilities and losses in excess of their contributions.

Note: General and limited partnerships are vanishingly rare in Belarus.

About half of all economic entities are clustered in Minsk and the Minsk Region, which is duly reflected in the sample.

<table>
<thead>
<tr>
<th>Regional Break-down</th>
<th>Diagram 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mogilev Region</td>
<td>7,3%</td>
</tr>
<tr>
<td>Grodno Region</td>
<td>7,3%</td>
</tr>
<tr>
<td>Brest Region</td>
<td>8,8%</td>
</tr>
<tr>
<td>Vitebsk Region</td>
<td>9,2%</td>
</tr>
<tr>
<td>Gomel Region</td>
<td>9,7%</td>
</tr>
<tr>
<td>Minsk Region</td>
<td>12,3%</td>
</tr>
<tr>
<td>City of Minsk</td>
<td>45,3%</td>
</tr>
</tbody>
</table>

In terms of legal form, limited liability companies (27%) and private unitary companies (22.2%) make up the bulk of the companies polled. Individual entrepreneurs numbering 103 in total (17.2%) were also surveyed. This sample was not meant as representative since individual entrepreneurs account for the disproportionately large share of all economic entities in Belarus.

<table>
<thead>
<tr>
<th>Distribution of the Respondents by Legal Form</th>
<th>Diagram 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manufacturing Cooperatives</td>
<td>3.3%</td>
</tr>
<tr>
<td>Closed Joint Stock Companies</td>
<td>3.7%</td>
</tr>
<tr>
<td>Open Joint Stock Companies</td>
<td>4.2%</td>
</tr>
<tr>
<td>Additional Liability Companies</td>
<td>10.8%</td>
</tr>
<tr>
<td>State Unitary Enterprises</td>
<td>11.7%</td>
</tr>
<tr>
<td>Individual Entrepreneurs</td>
<td>17.2%</td>
</tr>
<tr>
<td>Private Unitary Enterprises</td>
<td>22.2%</td>
</tr>
<tr>
<td>Limited Liability Companies</td>
<td>27%</td>
</tr>
</tbody>
</table>

Companies employing up to 50 people amount to 77% of the respondents, while those with more than 50 people on the books constitute 23% of the sample.
Diagram 4 breaks down the poll participants by line of business. The majority of those surveyed are engaged in 26.2%, followed by services (25%) and manufacturing (22.7%).

The survey polled only going concerns.
Facts to consider:

- **Business registration is carried out by a plethora of state agencies and its procedure is overly complex.**
- **Business registration procedures are expensive. In 2003 their cost nearly doubled in comparison with 2002 and reached about $270.**
- **Business registration procedures are time-consuming, lasting in 2003 an average of 62 days.**

The Regulation “On State Registration and Liquidation of Economic Entities” adopted by Presidential Decree N11, dated 16 March 1999 with subsequent amendments, is the principal legal act in the realm of business registration.

**Registration** as legal entity or individual entrepreneur is mandatory for anyone willing to get into business. It comprises two stages: 1) state business registration; and 2) post registration procedures.

All registered economic entities are subject to **re-registration** in cases set forth in applicable legislation.

**Changes to foundation documents** shall be introduced by company founders if the following information was altered: the composition of owners or founders; the company location; the size of the company’s of charter capital, objectives and lines of business activities; creation (liquidation) separate structural subdivisions; profit sharing arrangements; and procedure for allocating liability among owners; as well as other data which shall be included in foundation documents in accordance with applicable legislation.

Individual entrepreneurs and most legal entities are registered by regional executive committees, the Minsk City Executive Committee and executive committees of regional capitals. Presidential Decree N11 dated 16 March 1999 allowed these agencies to delegate a portion of their authorities to lower ranking bodies.

Registration, re-registration and registration of amendments to foundation documents are meant by registration procedures herein.

**Business registration is carried out by a plethora of state agencies and its procedure is overly complex.**

While registering their businesses, entrepreneurs have to deal with a variety of state agencies, including executive committees, the Fund for Social Security, local branches of the Taxation Ministry, the Justice Ministry, etc. Each of these state agencies applies its own procedures, which makes business registration more lengthy and costly for entrepreneurs.
Many transition countries (Latvia, Ukraine, Uzbekistan, etc.) employ a one window principle, when an applicant has to deal with only one registration authority. The registration body, acting on behalf of an entrepreneur, performs all further stages of the registration process, including registration with the tax inspectorate, the Social Security Fund, the Ministry of Statistics, etc. It will render the whole process less time-consuming and costly and will boost the safeguards available to entrepreneurs by reducing bureaucratic discretion.

### Scheme 2. Simplified registration procedure in line with one-window principle

The number of documents an applicant is obliged to submit to secure state registration as a legal entity or an individual entrepreneur bears witness to the complexity of the whole procedure.

**An applicant seeking state registration as an individual entrepreneur shall make available the following documents:**

1. An application setting forth lines of business to be pursued.
2. Documents outlining the applicant’s professional background (a copy of the labor registration book authenticated at the most recent place of employment or the pension certificate issued by a social security agency; a certificate issued by an appropriate employment agency, if available).
3. Photograph.
4. A document confirming payment of the registration fee.

**A legal entity shall submit the following documents for state registration:**
Chapter 4

1) An application of an established format;
2) A form of an established format to be filled out by each individual acting as a company founder;
3) A copy of the decision to create a commercial entity which should be authenticated in line with the stipulated procedure or a protocol of a founders’ meeting containing the decision;
4) A foundation document (two copies of a company charter and/or a contract on the creation of a commercial entity), if this is required in accordance with the applicable legislation;
5) Documents confirming the formation of a charter capital (payment document stating that the monetary contribution to the charter capital has been made and an expert assessment confirming the valuation of the property in case of an in-kind contribution);
6) Documents containing information about property owners (founders and participants) involved in the company (a copy of the labor registration book authenticated at the most recent place of employment or the pension certificate issued by a social security agency or any other agency at the place of residence in line with the applicable legislation; a certificate issued by an appropriate employment agency, if available);
7) Notarized copies of foundation documents and a copy of a state registration certificate confirming that the legal entity acting as a founder is duly registered;
8) A letter of guarantee or another document confirming the right of the commercial entity to be domiciled at the location mentioned; and
9) Document confirming payment of the state registration fee.
10) To secure state registration, a commercial entity under re-organization shall additionally submit a merger deed (mergers and reorganizations) or a separation balance sheet (separations and hive-offs).

State registration bodies could request additional information about company founders if this information is required for the execution of state registration. An exhaustive list of additional documents which could be demanded by state registration authorities is not set forth in applicable legislation. In Russia and Ukraine, state registration bodies are prohibited from requesting documents which are not mentioned in the applicable legislation.
Regulation

In 2003, 13% of the polled entrepreneurs resorted to irregular payments in the course of state registration. Although the volume of such payments has seen a certain reduction, they still remain on the high side, averaging out at $111. Unofficial payments can be ascribed to the complexity of state registration.

This in turn forces a significant portion of economic entities (more than 30%) to seek expert advice in registration matters.

Economic entities regard state registration procedures as costly.

- Official registration fees are as follows:
  - 6 Euros for individual entrepreneurs
  - 60 Euros for legal entities

In 2003 an average registration outlay nearly doubled in comparison with 2002 and reached about $270. This figure comprises official and unofficial payments as well as “voluntary” contributions.

The increase in the state registration outlay in 2003 was fueled by the rise in official payments and voluntary contributions. The rise in official payments could be attributed to higher notary charges.

In addition to the mandatory registration fee, entrepreneurs also have to bear some other costs.

For example, the need to appraise the in-kind contribution to the charter capital will set the applicant back from $15 to $50 per unit of equipment or 1% to 2% of the market value of the appraised real estate with the exception of residential premises.

A company set up by two founders will have to pay an average of $260 to get foundation documents notarized. Other costs, including the approval of the company name, production of a stamp, securing of a director’s identification and a bank card, for example, might exceed $100.

Outside experts could charge from $100 to $250 for the development of registration documents. In more complex cases (creation of a foreign-invested company), they could command a fee in excess of $500.

In some instances, registration of a start-up company could entail costs of over $500.
**Chapter 4**

**State registration is time-consuming.**

In accordance with the applicable legislation, state registration of an economic entity should be completed within one month from the date the required documents were submitted. However, if additional information about company founders is required, this timeframe could be extended by one month. The applicable legislation mandates that foreign-invested companies should be registered within 15 days and no extensions are allowed.

The official period of time allocated for state registration in the Russian Federation is six times shorter than in Belarus and does not exceed five days. In Ukraine, state registration of legal entities is carried out 10 times faster and individual entrepreneurs 15 times faster, three and two days respectively.

It normally takes registration authorities in Belarus more than one month to register an economic entity. Consequently, they deploy their statutory right to extend the registration procedure. This premise is borne out by the fact that in 2003 it took 97% of the companies an average of 35 days to register.

All economic entities are subjected to a number of post-registration procedures, including the production of a stamp, as well as registration with the Fund for Social Protection of the Population and tax authorities and the opening of a bank account. Thus, the whole state registration procedure takes significantly more than set forth in the applicable legislation.
In 2003 the duration of registration and post-registration procedures grew from 50 days in 2002 to 62 days. Re-registration and registration of changes in foundation documents became less time-consuming.

<table>
<thead>
<tr>
<th>Changes in the Duration of Registration Procedures in 2002 and 2003</th>
<th>Diagram 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amendments to foundation documents</td>
<td>2003: 30 days</td>
</tr>
<tr>
<td>Re-registration</td>
<td>2003: 46 days</td>
</tr>
<tr>
<td>Registration</td>
<td>2003: 62 days</td>
</tr>
</tbody>
</table>

More time-consuming registration procedures seen in 2003 can be partly ascribed to changes in the legislation governing the functioning of individual entrepreneurs. A cap imposed on the number of people who can be hired by an individual entrepreneur forced many such entrepreneurs to register commercial entities.

**Recommendations**

1. Reduce the time taken up by registration procedures.
2. Replace the permission principle of registration with a declaratory one, whereby an economic entity submits the required registration documents and is held accountable for the compliance of these documents with applicable legislation. Registration authorities should be properly equipped to handle the flow of legislation applications.
3. Introduce a one-window principle whereby having submitted all the required registration documents, an entrepreneur will no longer be involved in post-registration procedures. It will render the whole process less time-consuming and costly and will boost the safeguards available to entrepreneurs.
4. Cut the list of requirements imposed on the registration of amendments to the foundation documents.

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1. Russia’s Federal Law N129 dated 8 August 2001 (as amended on 23 December 2003), entitled “On State Registration of Legal Entities and Individual Entrepreneurs” (passed by the State Duma on 13 July 2001)
Facts to consider:

- Despite a reduction in the number of licensed lines of business, their lists remain excessively lengthy and run to 49 types of licensed activities, subdivided into 350 subtypes.
- Licensing procedures are complicated, time-consuming and costly. In 2003 it took an average company 39 days and $260 to secure a license.
- Most entrepreneurs hold the view that licensing conditions in 2003 deteriorated.

A license is a special permit issued to a legal entity or an individual to pursue a licensed activity, provided that the mandatory conditions attached are complied with. Not all lines of business are subject to licensing. Licenses are required only for those which touch upon the realms of national security, public order, protection of rights and freedoms, morality, public health and environment.

Licensing in Belarus is regulated by Presidential Decree N17 dated 14 July 2003 entitled “On Licensing of Certain Activities,” 13 government ordinances which adopted regulations for the licensing of specific lines of business, and four acts passed by ministries to facilitate the implementation of these regulations.

Scheme 1. Procedure for Securing Business Licenses in Belarus

1. Registration/inclusion of licensed activities in foundation documents (a registration authority) 30 days
2. Consideration of a list of documents by a registration authority - 30 days
3. Expert assessment or verification (if the need arises) - 15 days
4. Issuance of a license
   No timeframe set forth in applicable legislation
Licensing

The list of licensed activities in Belarus is overly broad.

A total of 49 types of activities subdivided into about 350 subtypes are presently subject to licensing in Belarus. An additional 20 lines of business are licensed by the National Bank of Belarus.

Although Presidential Decree N17 dated 14 July 2003 reduced the number of licensed activities by nearly four fold, they still remain excessive. The majority of the respondents believe that the number of licenses did not change in 2003 in comparison with the previous year.

Changes in the Number of Licenses in 2003 in Comparison with the Previous Year as Assessed by the Poll Participants

<table>
<thead>
<tr>
<th>% of the respondents</th>
<th>Reduced</th>
<th>Remained the same</th>
<th>Increased</th>
</tr>
</thead>
<tbody>
<tr>
<td>17%</td>
<td></td>
<td></td>
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<tr>
<td>59%</td>
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<td></td>
<td></td>
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<tr>
<td>24%</td>
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</tbody>
</table>

In 2003 an average company held three licenses (3.8 in 2002).

Licensing procedures are complicated, time-consuming and costly.

The official licensing fees per one license are as follows:

- 10 Euros for the processing of an application and licensing documents by the appropriate authority; and
- 90 Euros per license.

In 2003, 88% of economic entities had to go through licensing procedures. An average company spent $260 on one license in 2003. Since 2001, the costs associated with the securing of one license have more than doubled.
This can be ascribed to a steep rise in the licensing fee for individual entrepreneurs in 2003, as well as other issues such as mounting notary fees and charges for licensing-related services and an increase in irregular payments.

In comparison with 2001, the licensing costs went up all over Belarus in 2003. The most significant increase was recorded in the Minsk Region, where licensing-related costs shot up three-fold.

In accordance with the applicable legislation, a license should be processed within 30 days. This period of time can be extended by 15 days if an expert assessment is required. No timeframe is fixed for the license issue.

The time needed to get one license increased from 31 days in 2002 to 39 days in 2003. The average time required for securing one license is increasingly closer to the limit of 45 days set forth in the applicable legislation.
Licensing

In comparison with the previous years, the period of time needed to get a license is lengthening in Minsk, as well as the Minsk and Mogilev Regions. It was slightly shorter in the Gomel, Brest and Grodno regions if compared with 2002.

As the whole licensing procedure is regulated only by a single document, namely Presidential Decree N17 dated 14 July 2003, these differences call into question whether or not the licensing legislation is being uniformly applied in Belarus.

Most entrepreneurs hold the view that licensing conditions in 2003 deteriorated.

Presidential Decree N17 dated 14 July 2003 entitled “On Licensing of Certain Activities” was enacted on 1 November 2003. This document was touted as revolutionary by state officials. To a large extent this assessment is not an exaggeration. Specifically, it reduced the number of licensed activities, defined licensing requirements and conditions, set an exhaustive list of flagrant violations of licensing requirements, and streamlined license withdrawal procedures.

It was planned that Decree N17 would stabilize licensing legislation, limit the ability of state agencies to advance their narrow interests, and cut the discretion of state officials while issuing licenses and overseeing the compliance with licensing requirements. However, the objectives set forth in the Decree are not always applied in practice.

Although the number of licensed activities saw a reduction, most entrepreneurs hold the view that licensing conditions in 2003 deteriorated.
This could be explained by the fact that the implementation of the aforementioned Decree ballooned into an extensive campaign for the substitution of licenses. It failed to significantly simplify the licensing procedures and extended the scope of licensed endeavors to retail trade in markets pursued by individual entrepreneurs. Most business people negatively assess re-licensing as launched by the Government. This new procedure involves a substitution of the still valid old license forms for new ones and obliges entrepreneurs to introduce licensed lines of business in foundation documents, which entails a great deal of expense on the business community.

Most respondents said that Decree N17 had affected the functioning of their companies.

**Recommendations**

1. Cut the number of licensed activities, processing times and the costs involved. Cut only the activities posing a threat to state security, public health and environment.

2. Introduce a declarative principle of licensing whereby an entrepreneur would automatically get a license once he has submitted all the required documents, a list of which should be set forth in the applicable legislation.

3. Licenses should only be annulled by a court order to cut out a subjective approach, boost guarantees available to entrepreneurs and reduce the underlying reasons for corruption.
Certification and Hygienic Registration

Facts to consider:

• **Mandatory certification** is one of the most lengthy and costly administrative procedures in Belarus. In 2003 it took the average company 315 days and $2,695 to go through certification. The costs incurred by the hygienic registration of goods and services have doubled since 2001.

• **Procedures associated with confirming compliance of goods and services with mandatory state quality and safety requirements** are overly complex and non-transparent.

In accordance with the Law N269/3 dated 5 January 2004 entitled “On Assessing the Compliance with Standards Set Forth in Applicable Legislation,” goods and services are subject to certification if they present a potential danger to the life, health and heridity of individual citizens, property and environment.

The list of goods and services subject to mandatory certification was adopted by the Cabinet of Ministers’ Committee for Standardization, Metrology and Certification (hereinafter referred to as “the Standardization Committee”) by Ordinance N35 dated 30 July 2004. It runs to over 500 entries. The above-mentioned ordinance also introduced a list of 75 goods whose compliance with Belarusian standards should be declared. A manufacturer or a seller of a good on the list is obliged to confirm compliance of the good in question to the Belarusian standards. The compliance declaration shall be registered with the duly authorized certification bodies in line with the applicable legislation and under a contract concluded between an applicant and the certification body.

In accordance with Law N2583/XII dated 23 November 1993 entitled “On Sanitary-Epidemiological Wellbeing of the Population,” the following goods are subject to hygienic registration: imported or locally-made goods potentially hazardous for public health as well as goods and inputs used for the manufacture, packaging, stocking, transportation, sale and other means of alienation and use of foodstuffs.

The list of goods subject to mandatory state hygienic registration was adopted by the Health Ministry’s Ordinance N44 dated 8 October 2003 and contains in excess of 350 types of goods.

**Mandatory certification and hygienic registration are time-consuming and costly.**

**Certification**

An appropriate certification body is obliged to consider an application and a set of documents submitted by an economic entity within five days. If a need to confirm the compliance of foreign certificates with Belarusian standards arises, this period can be extended to seven days (State Standard STB 5.1.04/96 “Procedure for Certification of Goods. General Guidelines” ).
The above-mentioned set of documents comprises trial results, licenses, permits, normative documents and other materials.

The time required to secure each of the documents varies. Applicable legislation does not set forth a timeframe for the analysis and trials of samples of goods subject to certification. The timescale and fees are fixed by an appropriate certification body and an accredited laboratory.

In 2003, 43% of the economic entities had their goods and services certified. Of these, 88% had to certify individual batches of goods. It took an average of 22 days and $214 to take out a certificate for a batch of goods.

Since 2001, batch certification costs have been on the rise.

In 2003 Belarusian companies had to get individual batches of goods certified an average of ten times per annum, spending 220 days and $2,140. Thus, certification takes up 80% of the annual work time of an average company employee and costs 109 times the minimal salary in Belarus.

In 2003 an average company had to get their production lines certified five times a year (21% of all the companies subjected to certification), spending an average of 230 days and $1,070.

In 2003 the costs associated with production line certification mounted.
Production line owners

Increases of certification costs could be ascribed to higher fees charged by the laboratories.

**Hygienic Registration**

The state hygienic registration shall be completed and the state hygienic registration certificate shall be issued within 35 days of the day all the required documents were submitted (the Cabinet of Ministers’ Ordinance N1807, dated 14 December 2001).

The list of the required documents is passed by the Belarusian Health Ministry, includes six items and is not exhaustive (Ordinance N54 issued by the Head State Sanitary Doctor on 13 November 2000).

In 2003, 39% of economic entities went through hygienic registration an average of five times annually. It took an average of 17 days and $111 to secure hygienic registration of a good. An average company spends 85 days and $555 per annum on this procedure. It amounts to 34% of the annual working time of a company employee and equals 28 times the minimal salary in Belarus.*

In 2003 hygienic registration outlay of an average company nearly doubled in comparison with 2001.

<table>
<thead>
<tr>
<th>Changes in the Cost of Hygienic Registration</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
</tr>
<tr>
<td>2002</td>
</tr>
<tr>
<td>2001</td>
</tr>
</tbody>
</table>

Economic entities are forced to go through certification and hygienic registration very frequently, as they have to get every batch of goods sold (imported) certified. This trend is also driven by the unjustifiably lengthy lists of goods subject to certification and hygienic registration.

**Certification and hygienic registration remain complex and non-transparent.**

The list of goods and services subject to mandatory certification was amended more than ten times from 1998 to 2003.

The lists of goods subject to mandatory certification and hygienic registration overlap at times. This applies to clothes and footwear as well as other goods (see the list adopted by the Standardization Committee’s Ordinance N4 dated 24 January 2003 and the list passed by the Health Ministry’s Ordinance N44 dated 8 October 2003).
Chapter 6

The scheme herein illustrates the certification and hygienic registration procedures applied to a batch of foodstuffs.

The Scheme of Certification and Hygienic Registration

- Securing of a permit from the Ministry of Agriculture to import goods containing animal ingredients
- Obtaining of a permit from the veterinary control agency while importing the batch of goods
- Submission of the documents required for the hygienic registration to the hygienic registration agency and a permit to undergo expert assessment
- Conclusion of a contract with the registration authority on conducting the hygienic registration
- Obtaining of the hygienic registration authority’s permission to approach a certification agency
- Submission of the documents required for certification to the certification agency
- Obtaining of samples of goods and their identification by an expert for expert assessment in the laboratory and conclusion of a deed to this effect
- Development of an expert assessment by the certification agency and conclusion of a contract to this effect
- Submission of samples to the laboratory and conclusion of an agreement for the execution of the expert assessment
- Testing of the samples and analysis of the test results to determine whether a state hygienic registration certificate and a compliance certificate can be awarded
- Payment for the services render under the concluded contracts and the hygienic registration certificate
- Obtaining of test protocols and reports
- Submission of documents to the hygienic registration authority to facilitate the inclusion of the good into the State Hygienic Register
- Issuance of the hygienic registration certificate by the
- An applicant shall submit the following documents in line with Ordinance N54 issued by the Head State Sanitary Doctor on 13 November 2000:
  - A quality certificate issued by the manufacturer or a certificate of origin
  - A veterinary certificate
  - A phito-sanitary certificate of the country of origin
  - A document confirming the ingredients of the goods authenticated by the manufacturer
  - A user’s manual
  - Other documents confirming the goods’ quality and safety as well as their origin.
- A state hygienic registration authority carries out analysis and expert assessment of the documents submitted to make sure they are correctly drawn up and are sufficient.
- In accordance with the state standards STB 5.1.04-96 and STB 5.2.01, the following documents should be provided to get a batch of goods certified:
  - An application
  - Documents accompanying the batch of goods
  - State hygienic registration certificate
  - Quality certificate issued by the manufacturer
  - A phito-sanitary certificate of the country of origin
  - Permits and licenses set forth in applicable legislation
  - Compliance certificate if required in line with the certification procedure
- The following documents shall be presented for the certification of serial goods:
  - A document describing the goods
  - State hygienic registration certificate
  - Certificate of the quality control system used
  - Testing protocols
  - Additional information about the quality of goods and their manufacturer
  - Permits and licenses set forth in applicable legislation
- A certification authority carries out analysis and expert assessment of the documents submitted to make sure they are correctly drawn up and are sufficient.
In 2003, 26% of the economic entities had to get the same goods certified and registered. Thus, every fourth company was subjected to a complex procedure of confirming the quality and safety of goods and services sold.

Mounting unofficial payments made by economic entities undergoing certification and hygienic registration bears witness to the complexity and unpredictability of these procedures.

Certification legislation leaves much to the discretion of certification agencies. Specifically, these bodies can make their own judgment calls in the following areas: additional trials of the goods in the course of the certificate extension, supervision over the sale of certified goods, acknowledgement of foreign certificates, as well as in other spheres (Items 5.9.3., 5.9.10, 5.11.2., 6.2., 6.8., 7.3, 7.4., 8.2.a of the State Standard 5.1.04_96). The current certification and hygienic registration rules as well as the lists of goods subject to certification and hygienic registration are not uniform for all economic entities.

This premise is borne out by the following examples taken from the relevant Belarusian legislation:
(A) The acknowledgement of foreign certificates issued in countries with which Belarus has entered into appropriate agreements shall be carried out in line with a simplified procedure applicable to individual entrepreneurs at sales points at outdoor markets (Ordinance N314/21 co-authored by the Health Ministry and the Standardization Committee on 4 October 1999). In addition, the lists of non-food goods subject to certification and hygienic registration by individual entrepreneurs are also shorter.

(B) Confiscated goods shall be certified for subsequent sale by state retail trade outlets in line with the list adopted by the Standardization Committee’s Ordinance N17 dated 16 September 1999. This list is ten times smaller the usual one introduced by the Standardization Committee’s Ordinance N35 dated 30 July 2004.

These examples demonstrate that the current lists of the goods subject to mandatory certification and hygienic registration are unjustifiably extensive and could be reduced.

Recommendations

1. Cut the lists of goods and services subject to mandatory certification and hygienic registration and retain only those which pose a real threat to public health, property or environment.

2. Eliminate overlap of the lists of goods and services subject to mandatory certification and hygienic registration.

3. Simplify mandatory certification and hygienic registration procedures including those for acknowledging foreign quality certificates.

4. Transfer the authority to develop, alter and expand lists of goods and services subject to mandatory certification and hygienic registration to the Belarusian Government to reduce the underlying reasons for corruption and lower the ability of state agencies to pursue their limited interests.

* This is calculated on the basis of an average exchange rate of the Belarusian rouble to the US dollar in 2003, which equals 2,075, and the minimal salary of 40,670 roubles set by the Belarusian Government’s Ordinance N59 dated 20 January 2003, which was valid from 1 January 2003 to 1 January 2004.
Facts to consider:

- Procedures for securing premises use permits are time-consuming, lasting in 2003 for an average of 257 days.
- Procedures for obtaining premises use permits are costly, in 2003 averaging from $147 to $1,004, depending on the procedure.

Economic entities can secure premises for use as office space or for locating production facilities and rendering services by the following means: (a) conclusion of a lease, (b) acquisition, and/or (c) greenfield construction.

An entrepreneur, willing to renovate (restructure), remodel or reconstruct the premises, is obliged to secure permits and approvals of a multitude of state agencies. In certain cases, when an entrepreneur intends to do none of the above, permits and approvals are still required.

“Premises use permits” are defined as permits needed to go through all of the above-mentioned procedures. For the sake of brevity, “renovation and/or reconstruction of the premises” is referred to as “premises renovation.”

This chapter does not consider permits for the lease of premises.

Prior to using the premises, 13% of the polled entrepreneurs build them, 39% renovate, 9% remodel, and another 40% do none of these. All entrepreneurs, with the exception of the latter group, are obliged to secure permits. Of those who have not made any changes on their premises, 24% still had to obtain permits.

Procedures for taking out premises use permits are overly lengthy.

Even if an entrepreneur has not changed the premises in any way, he is still obliged to spend 18 days on securing all the necessary permits.
If the premises require any changes, this period will be several times longer. For example, it took the poll participants 44 and 59 days to obtain renovation and remodeling permits. This is significantly longer than the time needed to secure a license (39 days). It should be noted that we regard the duration of license processing procedures as unjustifiably lengthy (see Chapter entitled “Licensing”).

Securing of construction permits and approvals with an average of 257 days leads the way in terms of the time it takes up. The duration of this procedure equals that an economic entity will have to spend on passing through four state registrations and obtaining six licenses.

Securing a land plot accounts for a significant port of the time needed to gain a construction permit. Although the “Regulation on the Procedure for Repossession and Allocation of Land Plots” passed in 2002 sought to reduce the number of approvals needed to cut the time required for obtaining a land plot, the actual duration of the whole procedure increased from 135 days in 2001 to 172 in 2002 and 257 in 2003.

This trend holds true for other procedures.
This process was started by an entrepreneur in the middle of 2002 and was still far from the finishing line when the report went to print.
Chapter 7

Procedure for security premises use permits are pricey.

Procedures for securing premises use permits remain on the expensive side and in 2003 averaged out at $147 to $1,004, depending on the procedure.

The analysis of the costs associated with premises renovation permits reveals that irregular payments and “voluntary” contributions far exceed official payments.

In comparison with 2001, costs related to premises use permits in 2003 mounted.
Premises Use Permits

The fact that the procedures for obtaining premises use permits remain time-consuming and costly can be ascribed to the complexity of these procedures. Specifically, the legislation governing the issuance of such permits is yet to be codified. Thus, mandatory requirements are scattered in numerous laws, Government ordinances and documents issued by state agencies, authorized to oversee this or that sphere. Thus, the need to take out a certain permit and the procedure for doing so are not readily apparent to entrepreneurs. As many as 44% of the polled economic entities say that the procedures and conditions attached to the use of premises have grown more complex in comparison with the situation seen a year ago.

Recommendations

1. Stipulate that a special permit to use the premises is required only in cases when the activities pursued in or on these premises could harm the health and life of the people or environment.

2. Render the procedures for securing premises use permits more uniform to boost the transparency of the whole process.

3. Legally stipulate that in cases when an entrepreneur intends to use the acquired premises for activities pursued by the previous owners without any scraps with control agencies, such entrepreneur shall not be obliged to seek any additional
A few facts to consider:

- More than 60% of the polled economic entities noted that the state was actively interfering in price formation by means of pricing regulations and controls.

- The year 2003 saw a considerable tightening of pricing controls in comparison with the previous years.

- The multitude of administrative pricing regulation methods unduly complicates price formation and the administrative tools applied overlap.

Pricing regulation is defined as influence exerted on the formation of prices (tariffs) by state agencies by means of legal, administrative, budgetary and financial measures to stabilize and stimulate economic development in Belarus. It is applied either directly (with administrative tools) or indirectly (by influencing pricing factors through monetary and tariff policies).

The following are the key legal acts regulating pricing in Belarus:

- Presidential Decree N285 “On Certain Measures to Stabilize Prices (Tariffs),” dated 19 May 1999

According to the Civil Code of the Republic of Belarus (Item 1, Part 1, Article 394), parties to the contract are to set prices, provided that all legal provisions are complied with. At the same time, the Civil Code empowers duly authorized state agencies to fix or regulate prices in certain cases (Item 1, Part 2, Article 394). These cases are set forth in Article 7 of the Law “On Pricing” and apply to prices of products manufactured by companies enjoying a monopolistic position in the goods markets of Belarus and are included in the state register. They also cover certain socially significant goods and services, a list of which is developed by the President or the Cabinet of Ministers following the President’s request.

The state interferes in price formation by means of pricing regulation and controls.

More than 60% of the economic entities are exposed to state pricing controls. These include most service companies, retail and wholesale trade outlets, as well as manufacturing enterprises.
The pricing control on the part of the state is manifestly excessive despite the declaration of market pricing contained in the applicable legislation.

The year 2003 saw a further tightening of pricing controls on the previous years.

The applicable legislation does not contain an exhaustive list of state bodies empowered to exercise control over pricing. In 2003, as many as 11 state agencies oversaw price formation by economic entities. In comparison with 2001, the present pricing controls are twice as strict. In 2003 companies which manufacture goods not subject to state pricing controls (39% of the economic entities) were still inspected by price control units of the Ministry of Economy, the taxation authorities and the State Control Committee.
A multitude of administrative control methods applied unduly complicates pricing procedures. The tools used overlap at times.

In 2003 the frequently employed pricing regulation methods included profitability caps, price ceilings, fixed prices and floor prices. On average, more than one administrative price control tool was imposed on every second retail and wholesale trade, service and manufacturing company. In some cases the price of a good was regulated by several tools simultaneously.

For example, by its Ordinance N23 dated 13 April 2004, the Grodno Region Executive Committee adopted a list of goods and services whose prices are subject to administrative regulation. In accordance with this document, prices of numerous goods will be exposed to several price control techniques. Specifically, flour prices are fixed by the state and subject to a profitability cap. Both profitability caps and mark-up ceilings are prescribed for potatoes, fresh vegetables and children’s goods.

In its Ordinance N706 of 22 December 2003, the Vitebsk Region Executive Committee introduced profitability caps and mark-up limits for potatoes and fresh vegetables.

**Recommendations**

1. Limit pricing regulation and controls to the products manufactured by monopolists and socially significant goods and services;
2. Develop an exhaustive list of socially-significant goods whose number should be reduced;
3. Remove the overlap of administrative pricing; and
4. Eliminate the overlap of the remits enjoyed by control agencies.
Facts to consider:

- Belarusian economic entities are subject to frequent and lengthy inspections mounted by numerous control agencies. In 2003 each Belarusian company hosted an average of 12 inspections, lasting an average of 60 days.
- The larger the company, the more frequent and lengthy inspections it attracts.
- Inspections customarily result in the imposition of economic penalties, which most Belarusian entities consider excessive. The procedure for levying sanctions lacks transparency.
- The duration of inspections and the resultant costs incurred by companies exhibit significant regional variations. This testifies to a lack of a uniform procedure for the application of relevant legislation.

Dozens of state agencies are empowered to exercise control over the activities of economic entities in Belarus. Their remit is set forth in numerous legal acts, from laws to ordinances, issued by these very bodies. The procedures for the organization and execution of financial inspections and the levying of economic sanctions are regulated by Presidential Decree N673 dated 15 November 1999, entitled “On Certain Measures to Streamline the Coordination of Activities Pursued by Control Agencies of the Republic of Belarus and the Procedure for Imposition of Sanctions by These Agencies,” as amended on 6 December 2001.

Belarusian economic entities are on the receiving end of frequent and lengthy inspections conducted by a plethora of control agencies.

Inspections can be either scheduled or unscheduled. An economic entity can play host to a scheduled inspection no more than once a year. The applicable legislation does not specify whether this rule applies to all or each control agency.

A company can be subject to an unscheduled inspection only if it is requested by the President of the Republic of Belarus, the Council of Ministers, the State Control Committee, the Council for the Coordination of Control Activities in Belarus, taxation, law enforcement and/or judicial bodies, with the exception concomitant inspections, which aim to determine how a company in question reported transactions with companies under investigation by state control agencies. Other control agencies are entitled to approach the above-mentioned state bodies and initiate unscheduled inspections.

In 2003 each Belarusian company hosted an average of 12 inspections, lasting an average of 60 days. This is longer than in other countries with transition economies. For example, companies in Tajikistan had an average of only four inspections lasting eight days and Ukrainian firms 10 inspections lasting 13 days.
Virtually all economic entities (90%) in Belarus were inspected in 2003. Of these, 34% hold the view that the number of inspections were on the up in 2003, while 57% think that it remained unchanged.

In 2003 the average number and duration of inspections rose from seven in 2002 to 12 inspections lasting approximately 39 to 60 days.

This trend can be ascribed to increased administrative interference in the economy. For example, amendments introduced in Presidential Decree N40 dated 16 January 2002 entitled “On Additional Measures to Regulate Business Transactions” further toughened penalties imposed on economic entities for violations perpetrated.
About 70% of the companies which were inspected in 2003 received visits from taxation and fire fighting authorities, every second company from the sanitary authorities and every third from the police.

The larger the company, the more frequent and lengthy inspections it attracts.

Companies with more than 100 people on the books attracted the most inspections in 2003. Inspectors spent an average of 100 days in each such enterprise. This is 1.5 times longer than the nationwide average.
Individual entrepreneurs are subjected to longer and more frequent inspections than small companies employing fewer than 50 people. This trend is driven by the following changes introduced over the last two years in the legislation governing the functioning of individual entrepreneurs: altered operating conditions, new settlement procedures, introduction of cash registers, increased flat tax rates, allocation of specific trading spots for the sale of certain goods and tougher penalties for transgressions.

Larger companies bear higher costs as a result of inspections held by state control agencies. These include fines, confiscation, “voluntary” donations and unofficial payments.

An apparent link between the frequency and duration of inspections as well as the severity of sanctions they entail and the size of the inspected company bears witness to the fact that inspections perform a fiscal function.

Economic penalties levied as a result of inspections remain onerous. The procedure for the imposition of fines lack transparency.

A variety of central and local bodies are presently empowered to frame the procedure and set the total amount of economic penalties. Sanctions can be levied on the basis of interim inspection results. Also, control agencies can indisputably withdraw fines from bank accounts held by the company being inspected and its debtors.

In 2003 the average company lost $812 as a result of inspections, which represents a 42% increase on the year 2002, when the costs did not exceed $572. The 2003 losses stemming from inspections equal 41 times the minimum salary in Belarus.


In comparison with 2002, “voluntary” contributions and irregular payments doubled in 2003 from $186 to $285 and from $135 to $360, respectively.

This testifies to a lack of transparency in the application of economic sanctions in the wake of inspections. At the same time, the volume of confiscated property saw a two-fold decline.

Most inspections resulted in fines, which were imposed on 53% of all companies in 2003. An average fine equaled $778.

The most costly are the inspections mounted by the tax authorities, the State Control Committee, as well as ministries and other state agencies. An average penalty imposed by the State Control Committee amounted to $3,436.

Significant regional differences exist in the number and duration of inspections, as well as the costs borne by entrepreneurs.

Companies based in Gomel Region hosted more inspections than the national average, while firms from the Vitebsk Region attracted the least attention of control agencies.
Chapter 9

An average enterprise in Mogilev Region was inspected for 103 days, which is twice as long as the nationwide average.

### Changes in the Number and Duration of Inspections Hosted by an Average Company in 2003 and in the Amount of Costs Incurred Broken down by Region

<table>
<thead>
<tr>
<th>Region</th>
<th>Number of Inspections</th>
<th>Duration of Inspections</th>
<th>Financial Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mogilev Region</td>
<td>14</td>
<td>103 days</td>
<td>$1,065</td>
</tr>
<tr>
<td>Gomel Region</td>
<td>18</td>
<td>68 days</td>
<td>$831</td>
</tr>
<tr>
<td>Vitebsk Region</td>
<td>8</td>
<td>67 days</td>
<td>$358</td>
</tr>
<tr>
<td>Grodno Region</td>
<td>14</td>
<td>24 days</td>
<td>$843</td>
</tr>
<tr>
<td>Brest Region</td>
<td>11</td>
<td>66 days</td>
<td>$343</td>
</tr>
<tr>
<td>Minsk Region</td>
<td>14</td>
<td>86 days</td>
<td>$881</td>
</tr>
<tr>
<td>City of Minsk</td>
<td>11</td>
<td>81 days</td>
<td>$916</td>
</tr>
</tbody>
</table>

In 2003 the largest costs as a result of inspections were incurred by companies based in the City of Minsk, Minsk and Mogilev Regions. The firms in Brest and Vitebsk Region were the least affected.

Regional differences in the number and duration of inspections testify to the absence of a uniform application of business oversight legislation.

### Recommendations

1. Reduce overlapping of the authorities enjoyed by the state control agencies.
2. Limit extra judicial powers of state control authorities related to property expropriation, suspension of business activities and closure of companies.
3. Eliminate unscheduled inspections.
4. Make sure that economic sanctions levied correspond to the gravity of violations committed. Economic sanctions should be levied by a court of law.
5. Introduce a procedure under which control agencies will be held accountable for the damage caused by their actions.
6. Make sure that business-related legislation is applied uniformly.
BUSINESS ENVIRONMENT IN BELARUS