

5. Network Policy

The Belarusian ICT legislation, its development and perfection, with the international experience taken into account, allows to suggest that there are a favorable legal status for electronic trade transactions and a serious legal foundation available, which might serve as a basis for civilized relations between operating legal entities, both Belarusian, and foreign.

A special importance is attached to the Belarusian Law of Electronic Document (2000), Order of the President of the Republic of Belarus About Setting up an Intergovernmental Electronic Trade Center in Minsk (Order No 09/124 - 18 P 94 of 15.01.1999) and appropriate orders of the Council of Ministers of the Republic of Belarus (dated 20.08.1999 No 35/102-583, dated 25.09.1999 No 35/310-280, dated 29.10.1999 No 35/224-1575).

A Resolution of the Council of Ministers of the Republic of Belarus of the Approval of Measures for Export Development Promotion of the Republic of Belarus for 2002 (Resolution No 1819 of 17.12.2001) contains more than 10 key points for efficient usage of networked technologies in foreign economic activities and trade.

A Resolution of the Council of Ministers about setting up information resources on the basis of TeleInternet system and using these resources for electronic trade development should also be referred to this list.

Hence a key feature of the new stage of ICTs application in the national economy is the organization of interaction between different networked systems on the basis of common legal basis and government regulations in order to use the republican export potential to the maximum.

The legal basis for electronic business is currently being developed. The Law of electronic documents and digital signatures was adopted in January 2000, which established grounds for using a digital signature and effecting electronic payments (though the circulation of electronic documents is still limited).

The Belarusian government encourages realization of the Internet potential and exerts efforts to support ICTs. The Decree of the President of the Republic of Belarus of State Support for Development And Export Of Information Technologies (dated May 4 2001, No 234) was adopted in 2001; it served as the basis for the establishment of National Infopark, a scientific and technological association, in December 2001. The members of Infopark, who are ICT and the software product developers, are exempt from taxes, collections and other payments (except for 5% profit tax and compulsory allocations to social insurance funds).

The state system of day-to-day dissemination of the legal information maintained by the National Legal Information Center and the governmental legal information Internet portal, created in compliance with the President of Belarus Decree, are of primary importance.

In order to protect the information and to secure trade in the Internet network, appropriate standards are being actively elaborated. There are working models of protected electronic signatures at the State center for the information security under the President of the Republic of Belarus.

8 major Internet Providers (IPs) have filled in the questionnaires, developed according to the approved methodology [1], in order to gain information, related to **Network Policy component index** variables (sub-indexes). The aforesaid IPs - IP TelCom (www.iptel.by), Atlant Telecom (telecom.by), Basnet (inform.bas-net.by), Global-OneBel (www.global-one.by), BusinessNet (www.bn.by), Forenet (forenet.by), Unibel (www.unibel.by), BSUnet (www.cit.bsu.by) - represent different niches of the Internet Provision market in the Republic of Belarus.

The questionnaire analysis resulted in 6 micro-indices, which were combined into 2 indices of the Network Policy Component Index and presented below. The experts assessed the level of E-Readiness (or advancement) of the country, which can range from the 1st (least-advanced) to the 4th (most-advanced) stage, for each micro-index independently, and average data assessment for each index and generalized data assessment for each component index were evaluated on their basis.

5.1. Telecommunications Regulation

Readiness (or advancement) estimation breakdown (in percentage) and average estimation of the Telecommunications Regulation index are shown below in Table 5.1.

Table 5.1

Average Estimation by Telecommunications Regulation Index

Stage No	Belarus, %
1	33.33
2	40.67
3	26
4	0
Average Index Estimation	1.93

The following Tables 5.2. through 5.4. present the total estimation breakdown (given as share of the total amount of the answers received), assessing three micro-indices of the concerned sub-index.

5.1.1. Liberalization in the telecommunications sector*

The liberalization in the telecommunications market is one of main Belarus for joining to the WTO. The President and the Government of the Republic of Belarus approve and maintain various programs and concepts of informatization, which the liberalization of the telecommunications market to be the key factor of development of the country's ICT infrastructure. As early as 1999 Mr. Vladimir Goncharenko, the Minister of Communications of the Republic of Belarus has declared publicly that by the 1st of July 1999 his ministry should have submit to Government's approval a program of incorporation and partial privatization of Beltelecom RSA. According to the minister, the government was ready to offer for sale at least 25 % of Beltelecom stock.

Thus, everything looks just fine: the government declares its principle intention to implement the policy aimed at liberalization of telecommunications sector without fail. It turns out, however, to be a pretentious statement since no practical steps were made and the situation did not advance any further.

It's been already almost Four years after the Minister of Communications' declaration of 1999 but the procedure of Beltelecom incorporation and privatization has not started yet. Now the representatives of Ministry of Communications set a new date of 2007 for a stage-by-stage privatization to begin. Why does it take so long? Why does the government, recognizing the necessity of liberalization in the telecommunications sector, constantly postpone this process? The answer is obvious enough: the Ministry of Communications is interested in restraining competitiveness and preserving Beltelecom monopoly.

The anxiety of Ministry of Communications stems from the fact that Beltelecom, which is actually a republican state association, organizationally belongs to the structure of the said Ministry and directly subordinate to it. Actually, it is true to say that Beltelecom RSA is an enterprise of the Ministry of Communications and the main source of its incomes.

Table 5.2

5.1.1. Liberalization of the community's telecommunications sector

No	Variable (only 1 option out of 4 was possible)	Belarus, %
1	There are no plans for liberalization of telecommunication sector	56
2	Plans on liberalization of telecommunication services are in place or are being formulated	44
3	Plans on liberalization of telecommunication services are in place or are being implemented	0
4	The telecommunication sector has been liberalized, with a regulatory regime in place to promote open competition	0

5.1.2. Regulatory provisions for the promotion of universal access to telecommunications services**

The telecommunications sector is an important area of the public relations, where various interests of Belarusian suppliers and consumers of the ever-increasing quantity of products and services meet. This explains also the importance of legal regulation of the telecommunications employment conditions by the government.

In a legislation process and law enforcement practice, the following essential aspects were detected in Belarus:

1. Legislative instruments and laws concerning the branch of telecommunications industry as a whole are developed insufficiently,

2. The legislation, which directly regulates certain technical aspects of telecommunications sector activity and determines a common background for operation of the telecommunications market as a constituent part of the general economical system, is based on the main principles of law.

3. A proper reflection of technical features (uncertainty in defining status of the Internet as a special object of legal regulation) presents some difficulties.

What concerns updated laws and statutory orders, the situation looks as follows. A **Law of Communications (1994)**, which is currently in force, is a frame legal instrument that encumbers direct application of its statutory clauses. It is very important to note, that this legislative act has for the first time, at least conceptually, established an opportunity for enterprises of all the forms of ownership to render communication services, which practically means the elimination of state monopoly. It was an indispensable condition for a progressive development of the telecommunications market to begin. Right at the very beginning of the process, the “natural monopoly” notion was legally extrapolated on an extensive list of objects in the field of telecommunications. But in the last year, after the **Natural Monopolies Law (2002)** was adopted the said list was substantially condensed. The law is quite comprehensive, in general, and the main object of regulation is said to be business in post services and publicly shared telecommunication sector. The situation with natural monopoly in the field of the telecommunications system has been developing steadily enough. A further demonopolization of this branch of industry may be forecasted, future measures should include elimination of exclusive state regulation and creation of the competitive environment in all the sectors of the telecommunications market.

The problem of demonopolization of the industrial branch at home market should be solved through a step-by-step privatization, including incorporation of Beltelecom RSA. It is useful to note business peculiarity of the said association and the importance of its activity for the state. It should be clearly understood, that we may not talk about complete waiver of the state control over publicly shared telecommunications equipment at current stage, and the general system of state communications, on the contrary, ought to be the sphere of the state interests exclusively.

We can't but admit the legislation is not being developed and improved, hence no separate laws are elaborated and adopted in a regular legislative process. On the contrary, an increased number of subordinate legal acts and bylaws is issued, mostly at branch industry ministry levels, as well as at local region / area levels. Such state of affairs is practically dangerous. For example, according to the resolution adopted by Minsk Regional Council of Deputies (resolution No 273 dated 27.12.2002) the charges for cellular wireless and radio-paging services on the territory of Minsk were re-imposed again, starting January 1, 2003. The core of the conflict of law is that the same charges were already imposed in 2000. At that time, it contradicted Article 79 of **Investment Code** only. This article guaranteeing certain taxation privileges for the foreign investors within five years from the date of establishment of a business organization with foreign investments.

At present, the imposed charges directly contradict not merely the Investment Code, but also Article 10 of the Law of Budget for 2003, which defines a closed list of the local taxes and levies. This situation may cause the initiation of proceedings in the Constitutional court.

To stress the significance of **attraction of investments for the national economy**, especially for telecommunication system development, it is noteworthy, that success in this process depends in many respects on the readiness of Belarus to join WTO. The spade-work includes a

package of measures concerning harmonization of national legislation in compliance with internationally approved instruments.

The representatives of the Belarusian executive and legislative branches of power are fully aware of the importance and essentiality of further improvements of legal regulation in the telecommunications market following the guideline indicated. It may be evident from joint efforts exerted by the experts in the Parliament and Government before the beginning of spring 2003 session. The Council of Ministers of the Republic of Belarus brought a **Postal Service Draft Law** for approval. A **Draft Law of Telecommunications**, which contains such relevant points as equal rights for legal entities, operating in the field of telecommunications and unified telecommunications specifications and standards for the whole territory of the Republic of Belarus, is under elaboration. In addition, the draft law is supposed to reflect and determine the essence of the state regulation in the field of telecommunications, it should also include elaboration and adoption of related legal acts and laws concerning international cooperation; licensing, standardization and certification.

Table 5.3

5.1.2. Regulatory provisions to promote universal access to telecommunications services

No	Variable (only 1 option out of 4 was possible)	Belarus, %
1	There are no regulatory provisions, which promote universal access to telecommunications services	11
2	Provisions for universal access to services have been established, though the latter are ineffective	78
3	A significant progress is made in achieving universal access, but there are many hardships for implementation	11
4	Regulation is effective in promoting universal access. An independent regulatory body sets and enforces telecommunications regulations	0

5.1.3. Competition at the telecommunication services market*

The monopoly of Beltelecom RSA spreads, first of all, over the external communication lines. There are no alternative operators providing communication services in the republic, which would have own external circuits. Even such major wireless service teleoperators as Velcom, MTS, and BelCel are obliged to use Beltelecom hardware facilities to provide for the international telephone calls. This requirement has been set by the licenses issued to telecom operators by the Ministry of Communications.

The Ministry of Communications keeps vigilant watch over the operators so that an idea to take advantage of some other alternative external link, avoiding Beltelecom RSA, could never struck their minds. One of the main conditions of business activity of telecom operators envisaged by their licenses, issued by the Ministry of Communications, is that only Beltelecom hardware facilities have to be employed for international traffic transfer. This requirement concerns any operators, including Internet access providers.

What concerns Internet providers, the Ministry of Communications has imposed a tacit ban on installation of transceiver satellite antennas. This technology permits to set up a quite fast-speed and cheap external link via a satellite. The prohibition resulted, first of all, in impossibility to get permission to use a frequency for a transceiving antenna. (a unique exception was made for the BASNET. The IP BASNET possesses the license for an independent satellite gateway to Internet for various R&D organizations and scientific institutions. The BASNET satellite communication ground station with the asymmetric traffic to Internet access with its total throughput capacity up to 8 Mbit/sec was commissioned in 2001. Notes by U.Anishchanka).

In their attempt to reduce costs, other Belarusian Internet providers (IPs), have begun to apply a combined system of traffic exchange. They employed Beltelecom hardware for outgoing traffic and installed satellite antennas in receive-only mode for incoming traffic. Such antennas do not generate emissions, and therefore their installation does not require any permission.

The peculiar feature of Internet traffic offered by the providers is that a great part of it falls on incoming traffic. When the IPs began to employ receiving satellite antennas, Beltelecom realized that it lost a significant portion of its incoming traffic, which it would earlier sell to commercial providers. A response from the Ministry of Communications has followed immediately: the IPs

were prohibited, under various reasons, to employ receiving antennas, and it has been already recommended in the renewed licenses to route both outgoing and incoming traffic only through Beltelecom facilities.

The situation became ever more aggravated for the reason that the providers have to lease external lines from Beltelecom RSA at extremely high rates. Hence they are found to be in a certain disadvantage as compared to the Beltelecom RSA, which renders services of switched access on its own, using BelPak, its structural division. According to experts' opinion, BelPak is the major Internet provider, which shares more than 50 % of the market. BelPak maintains very high rates for Internet services but it also offers some reduced rates for Internet connection during the night hours and weekends. Thus, the high rates for Beltelecom leased lines do not allow the commercial providers to reduce their cost for the Internet services and, consequently, to be in keen competition with BelPak.

Quite frequently, The Ministry of Communications points out the fact, that practically all commercial providers operate in Minsk. There are just a few regionally operating IPs only. At the same time, about 98% of subscribers can get linked to the Internet through dial-up access service rendered by Beltelecom RSA using their telephones. So, it is officially stated that Internet has become accessible practically from all the regions of the country. This is a great achievement concerning the availability of Internet connection. However, it is rarely mentioned, that the Internet access rates are so high in remote areas that it is much cheaper to call Minsk and to get connected to the Internet via Minsk-stationed providers.

The representatives of the Ministry of Communications repeatedly acknowledge that monopoly exist only in relation to external communication lines. As for the local telephone calls, there are said to be no limitations at all, and any operator may freely render local telecom services. In fact, Beltelecom monopoly expands to local circuits also as it is impossible to compete with Beltelecom in the local telecom market. The gist is that Beltelecom has put into practice a cross subsidizing system, as it can afford subsidizing local line facilities on the account of very high charges for international communication and Internet services. Beltelecom RSA thereby can put rates on local telephone calls that low, so that no commercial operator will be able to compete with it.

Another issue, which requires our special consideration, is the Ministry of Communications' attitude towards new telecommunication technologies. The problem is that in every possible way the ministry prevents any new technology from being introduced, as it might negatively affect Beltelecom monopoly privilege. The ban on transceiver satellite antennas by the commercial providers might be a good example of such policy. A similar situation arose in the IP-telephony technology field, as this technology threatens Beltelecom RSA's holy cow – meaning international telephone communication. The Communications Ministry immediately forbade the providers to render IP-telephony services by making appropriate notes in the license.

The IP-telephony allows making international telephone calls bypassing the international lines maintained by Beltelecom RSA. It works in the following way: the IP-telephony operator receives a call from a local user, splits telephone traffic into packages in a special method and, consequently, transfers it through the Internet to other IP-telephony operator. The latter makes a reverse operation and ensures delivery of restored telephone traffic to a counter-user in the country of destination. IP-telephony technology permits to reduce costs for the international telephone calls in several times, which is not serving the interests of Beltelecom RSA at all.

To say the truth, the Beltelecom RSA has recently begun to render IP-telephony services on its own. For example, Beltelecom RSA already provides IP-telephony services on the routes to Moscow and St.-Petersburg, the schedules have been put forward on rendering similar services while making long-distance calls to foreign countries. However, the problem is that the rate for IP-telephony charged by Beltelecom RSA is only 30% less than a regular telephony cost, whereas it could be possible to reduce it substantially. So, Beltelecom RSA attempts to employ a new technology for obtaining excess profits, while restraining any competitiveness with its own traditional telephony.

This situation has logically resulted in the appearance of clandestine IP-telephony operators. One of such operators managed to exchange telecom traffic amounting to about 200,000 USD via its own node within a year of its operation. The organizers of this clandestine exchange node have been suited recently; they were sentenced to punitive fines for illegal business activity. This case had a great public resonance, as the prevailing in Belarus situation with IP-telephony and the manner in which the Ministry of Communications and Beltelecom RSA handle it, stimulate a great temptation for arranging similar clandestine exchange nodes and rendering IP-telephony service to a businesses, which produces consequent losses for the budget.

The situation with IP-telephony has revealed obdurate structures of the Ministry of Communications and Beltelecom RSA, which work in an old-style manner and refuse to accept new realities of life. The new technologies promptly supersede traditional communications methods, which are unable to compete with the new ones for a number of objective reasons. There are multiple examples for that. It means bankruptcy for the large-scale world of state telecom corporations and great losses for the national telecom companies, which failed to get fitted for the new requirements of life.

Table 5.4

5.1.3. Competition at telecommunications services market

No	Variable (only 1 option out of 4 was possible)	Belarus, %
1	All services are provided by a single operator, either private or state-owned. Voice and data services are limited	33
2	De jure telecommunication services may be provided by different market participants, but de facto a monopoly of a single operator still exists.	67
3	Services such as data, paging and mobile telephony are available from competing private providers. Alternative carriers compete for private network services, leased lines and other telecommunications services for businesses. Incumbent provider networks are being opened to competition through interconnection and/or unbundling obligations	0
4	Citizens and businesses have a number of options for their telecommunications and data services. Incumbent networks have been opened to competitors, and new competing carriers are taking advantage of these arrangements to offer services. There is vibrant competition among mobile wireless providers. Spectrum has been allocated consistently with international standards, and licensing arrangements encourage new market entrants. The provision of value-added services such as broadband Internet is recognized as a source of competitive advantage	0

5.2. ICT trade policy

Readiness (or advancement) estimation breakdown (in percentage) and average estimation of the ICT Trade Policy Index are shown below in 5.5.

The following Tables 5.6, 5.7, 5.9 present the total estimation breakdown (given as share of the total amount of the answers received), assessing three micro-indices of the concerned sub-index.

Table 5.5

Average Estimation by ICT trade policy Index

Stage No	Belarus, %
1	33.17
2	48.5
3	14.67
4	3.67
Average Index Estimation	1.89

5.2.1. Tariffs and Other Barriers in ICT-related Equipment Trade

Usual tariffs and without any specified restrictions or exemptions are imposed on equipment for information and communication technologies. There are not cumbersome technical standards or licensing requirements. There are no *de facto* trade barriers for ICT use in domestic regulations.

Domestic regulations are not created *de facto* trade barriers for ICT use.

Belarusian communication, software and hardware market develops dynamically, offering a broad range of goods and services at affordable rates. A great amount of hardware and software is imported; part of them is adapted to local needs. There are above 500 private enterprises operating in these markets. About 10 large system integrators operate nowadays in Belarus; they offer license software complete with equipment and services. Here it is necessary to note how many firms sell separate programs (at least approximately).

According to the representatives of the SoftLine company (Russia) in Minsk (www.softline.by), the whole Belarusian market of the license software makes up about 2-3 million USD per one year. For comparison in Russia in 2001 the turnover of SoftLine Moscow head office was approximately 5 million USD. There is a potential for growth in Belarus and it is big enough.

After a range of international tenders and contests, the telecommunication technologies and systems, which are preferable for introduction in Belarus, were determined. The basic suppliers of the telecommunication equipment are Alkatel, Siemens, and Ericsson. The domestic state enterprises (Minsk Production Association of Computer Facilities and Factory "Promsviaz") produce lower level systems for local telephone networks.

A number of organizations were created on the basis of the Design Scientific & Research Republican Unitary Enterprise "GIPROSVIAZ":

1) Body for Certification of Communication Equipment, which is to test the communication equipment included in the production list of equipment subject to obligatory certification. A general purpose communication equipment, a radio-electronic communication equipment for individual use with a radio emission, except for the radio-amateur equipment working in allowed ranges, are subject to certification, according to article 6 of the Law of the Republic of Belarus About Communication;

2) Body for Certification of Communication Services, which is to implement voluntary certification of communication services.

One should carefully consider such relevant peculiarities of legal regulation in telecommunications sector **as certification and standardization**. We have already testified, that the governmental administration bodies endeavored to protect domestic commodity manufacturer and supplier by means of certification. It has not at all increased the competitiveness of domestic products and has not prevented penetration of imported commodity to internal market. Due to this policy, the state has not merely deprived itself of certification payments and customs duties, but has also lost long-term perspectives of technological and economical development in telecommunications sector. One can assume that the government would attempt to take into account all the drawbacks and fix the situation by elaborating a **Draft Law of Availability and Standard Conformance**.

In 2001 at the National Centre for Marketing and Price Studies The Secretariat of Belarusian national organ for trade facilitation BelPRO was created in order to facilitate foreign trade. Starting February 2002 the following information on trade facilitation is available on the web site www.icetrade.by in the category "BelPRO":

- The recommendations of the United Nations Center for Trade Facilitation and Electronic Business (CEFACT, Geneva), part of which is translated into Russian, and also extensive reference material, in particular, links to Internet-resources of national and international trade facilitation organizations. In the separate subcategory are published daily CEFACT news, announcements of materials, CEFACT agenda, and also information on the changes in Belarusian legislation regarding trade facilitation.

BelPRO has done the following in the last 6 operating months:

- informed about the beginning of the Open Development Process of UN/CEFACT Technical Specifications, initiated by the CEFACT Steering Group (CSG);

- presented Internet-based program solution, developed BY SITPRO (Great Britain), which enables traders to create, print and transfer commercial documents via e-mail (WebElecTra);

- presented the updated (fourth) version of the CEFACT recommendation №21 "Codes for types of packages";
- informed about the availability in the Internet of country and currency code list in XML format (ISO 3166 two digit country codes and ISO 4217 three digit codes for currencies, UN CEFACT Recommendation №3 and №9);
- informed about availability in the Internet "ebXML Business Process Specification Schema" technical specification by the department on electronic business of CEFACT UNO for public review;
- informed about the changes in UN/LOCODE 2002.2 code list and in the directory UN/EDIFACT D02.A, and also about the possibility to download UN/EDIFACT D02.A directory in format XML (references to the appropriate sites are given).

At present the "Uniform Transport Document" on the basis of the "Sample Form", given in the recommendation №1 of CEFACT, is in the process of preparation. The document is now discussed in the relevant Belarusian organizations (Ministries, State Customs Committee, etc.), it is coupled with the request to introduce proposals regarding the current situation in Belarus.

The secretariat of BelPRO analyzed world experience in trade procedures simplification on the basis of information, posted in the Internet by international and national organizations occupied with this issue.

Table 5.6

5.2.1. Tariffs and Barriers in ICT-related Equipment Trade

No	Variable (only 1 option out of 4 was possible)	Belarus, %
1	Trade in equipment for information and communication technologies is impeded by high tariffs and other restrictions, including cumbersome technical standards or licensing requirements. Domestic regulations may create <i>de facto</i> trade barriers for ICT use	22
2	Trade barriers for ICT equipment have been reduced, but are still relatively high	56
3	Trade in ICT equipment is not restricted through unnecessary standards or licensing requirements, and tariffs are low and uniform. The community has at least temporarily agreed not to apply disproportionate tariffs on electronically delivered products	11
4	If tariffs exist on ICT goods, they are low and uniform. The community has explicitly affirmed that it will not apply disproportionate tariffs on electronically delivered products	11

In order to enhance research and development and innovation activities, it is necessary to attract foreign investments, to carry out step-by-step liberalization of telecommunication market. This will allow to reduce tariffs and expand the use of ICTs and Internet in science, education, manufacturing, governmental bodies, to develop communication infrastructure and introduce new method of work with information resources, to organize e-commerce, etc.

5.2.2. Trade Openness of Service Sectors

The sphere of e-commerce and its regulation. Like in a number of other countries with transitional economy, in the Republic of Belarus providers of computer equipment, software support, technologies and online business services play a small role in development of electronic commerce. Today the most disturbing issues of e-commerce regulation are responsibility of information providers, protection of intellectual property, and legal regulation of Internet. Another important sphere of regulation is taxation. Rules of taxation of electronic bargains and business accounting associated with them must be formulated. The experience of formation and practical application of legislation in the field of e-commerce in the Republic of Belarus is typical for the majority of countries in transition. As distinct from considerable gap in development of Belarusian Internet, in the last year our legislation greatly moved forward and took the lead over major developed countries. It's possible to observe approximately the same situation in a number of other countries of Eastern Europe.

Influence of legislation on development of e-commerce. In Belarus the greatest influence on e-commerce development is made by the following factors:

- unsolved problems of complexity of legal protection on disputes connected using Network Internet;
- imperfection of technical organization of Network Internet;

inadequacy of social- psychological perception of Network Internet by its users.

It can entail a disorganization of relations in the field of e-commerce and lead to mass disturbance of rights and freedoms, state legislation, interests of organization engaged in e-commerce, mass communication media representatives / SME and simply harm Network users.

Demands for e-commerce. Those, who communicate, conclude bargains or conduct clearing and make payments in electronic form must have opportunity:

- to identify each other,
- to be sure of integrity of transmitted information,
- to be sure of confidentiality of communication session.

Development of certification’s infrastructure of public key of signature is also of decisive importance for successful development of electronic trade. In Belarus the problem of functioning of the Open Keys Certification Centers also remains unsolved, since the order and conditions of certification have not been determined yet. The use of electronic digital signature, the order of electronic transactions conclusion and the responsibility of participants of the electronic document turnover haven’t been properly settled either.

Stage of legislation formation. When forming legislation for the quick-changing sphere of e-commerce it’s essential “to hurry leisurely” in order then not to slip into a vicious circle of endless changes and supplements. It is possible to distinguish two important steps in formation of e-commerce legislation of in Belarus, which should be made next:

- Phase 1 (the middle of ‘90 – and till 2000): adoption of **the Law of Informatization** which consolidated property rights on information for state and private establishments. It also touched upon legal relations in the field of creation of information technologies, systems and Networks;
- Phase 2 (2000-2001): adoption of **the Digital Document Law**, which set the order of means’ use of electronic digital signature for certification of information and notarisation and integrity of document. Order of use of electronic documents in banking was set by various Resolutions of National Bank and also **the Bank Code**, where written and electronic forms of payment directions are equalised. The **President of the Republic of Belarus Decree # 234 of May 4, 2001 of Development and Export of Information Technologies**, marked preferences in this sphere was passed;
- Phase 3 (current stage): development of a number of laws for regulation of electronic financial services rendering, order of electronic bargaining, applications of standards and rules associated with preparation for entrance into WTO (Law "of Electronic Financial Services", Law "of Electronic Bargains", Law "of State Policy of the Republic of Belarus on Development and Use of Network Internet") is realized. The Ministry of Trade prepares legislative proposals on the use of information technologies when implementing tenders and public purchases.

Table 5.7

5.2.2. Openness of Service Sectors to Trade

No	Variable (only 1 option out of 4 was possible)	Belarus, %
1	Service sectors are not open to trade, creating a barrier for electronic commerce and the creation and operation of ICT networks	44.5
2	Some disclosure of service sectors referring electronic commerce and networks ICT was realized	44.5
3	There has been significant liberalization in services that facilitate electronic commerce and creation and operations of ICT networks, but some restrictions remain	11
4	Trade in services is fully liberalized, including services delivered electronically	0

5.2.3. Foreign direct investment to ICT sector

The Republic of Belarus has signed 5 basic intergovernmental documents regarding investments, including:

- Convention on The Settlement of Investment Disputes between States and citizens of another countries from March,18, 1965 – signed in 1992;
- Convention on The Establishment of a Multilateral Investment Guarantee Agency from October,11, 1985 - in 1992;

- Agreement on Investment Activity Cooperation (SIC) – in 1993;
- European Power Charter from December, 17, 1994 – in 1994;
- Convention on Protection of Investors (SIC) – in 1997,

and also:

- 44 international agreements on assistance in Investment realization and protection;
- 30 international agreements on double taxation avoidance.

Total foreign investments in the Republic of Belarus equal to 3675 million USD, including :

- credits under the state guarantee – 2250 million USD;
- transfers into authorized funds of joint ventures and foreign organizations – 435 million USD;
- investments into Yamal – Europe gas-main – 990 million USD.

Special legal acts regulate investment sphere in Belarus:

- “Investment Code” (October 1998);
- Law ”On Free Economic Zones” (December 1998);
- the Council of Ministers Decree “On confirmation of Regulation about the Order an Agreement of Investment projects with Belarus are considered by Government of the Republic of Belarus” (April 2002);
- the Council of Ministers and the National Bank Decree “On confirmation of Regulation for the Order of attraction, use and payment of state foreign loans” (June 1999).

The ICT related investment projects are basically carried out at the enterprises of communication branch.

Only the incomes, obtained at the telecommunication enterprises, are considered to be investments in the sphere of fixed telecommunications. Belonging to the state, such enterprises allocate 19% of the amount of their monthly capital stock depreciation to the Centralized Innovation Fund per month. This fund is used for further financing of the majority of yearly projects in the field of telecommunications, including construction and re-equipment of automatic exchanges, modernization of telecommunication primary networks, data transfer etc.

The second source of investments is enterprises’ disposable internal funds. This source of financing is much more moderate, as compared to the first one, and it is mainly spent on current problems, associated with technical maintenance of networks and means of telecommunication.

The third source is foreign investments in the field of telecommunications. They are mostly devoted to the development of mobile communication networks. All three mobile communication operators, presented in Belarus, are joint stock companies, which significantly rest upon foreign investments. The achievements of other sectors of telecommunication industry are modest. Except for “Business Network” joint venture and joint undertaking together with Alkatel (for the creation of large automatic exchange), there are practically no other foreign direct investments.

Nowadays the next projects are in the process of implementation (Table 5.8):

Table 5.8

№	Project name, financing sources	Years	Volumes of investments (thousand USD)	
			Total	Year 2003
1	Creation of a cellular GSM radio telephone communication network (the second operator – MTS JSLC)	2002-2012	215000	30000
2	Creation of a cellular GSM radio telephone communication network (the first operator - Mobile Digital Communication JVC)	1999-2008	150000	20000
3	Construction of TV networks, granting radio and TV services (credits, foreign investor funding, direct investments)	1996-2004	4800	800

Foreign investments into ICTs are very limited due to high economic risks, weak financial activity, and high interest rates.

Table 5.9

5.2.3. Foreign direct investment to ICT sector

No	Variable (only 1 option out of 4 was possible)	Belarus, %
1	There is little or no foreign direct investment	33
2	Foreign direct investment is allowed in network sectors under certain conditions	45
3	Foreign direct investment in the ICT sector is encouraged with some restrictions remaining	22
4	Foreign investment in the ICT sector is encouraged and subject to few or no restrictions	0

Conclusion *. Thus, it may be stated, that we observe the following situation in the field of telecommunications: a complete monopoly of Beltelecom RSA in the international and local telephone call market, with the said company possessing also a major share of the Internet access at local market. It is noteworthy, that although Beltelecom RSA does not provide mobile wireless services, it is actually a joint owner of all Belarusian cellular operators, viz MTS (51 %), Velcom (31 %), and BelCell (earlier 50 %, now about 33 %) by means of its enterprises and facilities. All this allows to conclude a complete monopolization in the Belarusian telecommunications sector, with no competitiveness involved and the Ministry of Communications reluctant to carry out a policy of market liberalization.

The current situation may be cured only through persistent market liberalization, which should be implemented stage-by-stages. Re-structuring and reorganization of Ministry of Communications should be carried out, first of all, in order to create a truly independent governmental regulatory body, as it has been made in other developed countries, including Russian Federation. By independence in this case is understood a complete independence of a governmental regulatory body from the entities, which it supervising, so that the said body would have no motives to perform exclusively in the interests of separate entities. A governmental regulatory body should implement a policy, intended to serve for the interests of the country's citizens and all members of the telecommunications market, maintain its demonopolization and competitiveness development. In order to ensure independence of a governmental regulatory body it is firstly required to work out the procedure for putting Beltelecom RSA out of the structure of Ministry of Communications. The relations between Beltelecom and the ministry should be reduced only to pure managerial functions in the industry performed by the latter. On its part, the Ministry should take concrete steps towards market liberalization. It should include measures for the reduction of license pressure, elimination of unjustifiable prohibitions on construction of alternate external communication lines, use of new technologies, etc.

It is essential to privatize Beltelecom RSA at the second stage. The highest authorities has to interfere in this process, because if this problem is to be decided as it was before, i.e. by the Ministry of Communications alone, the privatization of Beltelecom RSA will not be commenced even by 2007, the events of 1999 may serve as an example.

Summary. The estimated average Network Policy Index is 1.91 (Tab. 5.10). It means actually that the country has not achieved the 2nd level of development according to ICT indices.

Table 5.10

Total Estimation by Network Policy Component Index

No	Index	Belarus
5.1	Liberalization of the telecommunications sector	1.93
5.2	ICT trade policy	1.89
Total Estimation by Component Index		1.91

* based on the report "The telecommunication market of Belarus: the state and prospects of liberalization" presented by Vladimir Novosyad, Deputy of the House of Representatives of the

National Assembly of the Republic of Belarus at the 5th Belarusian Internet Forum by`2003, 21-22 March 2003, Minsk [18];

** based on the report “The analysis of the legislation of the Republic of Belarus in the field of telecommunications” presented by Andrey Nareiko, Deputy of the House of Representatives of the National Assembly of the Republic of Belarus at the 10th International Congress on Telecommunications, Information and Banking Technologies TIBO’2003, 01-04 April, Minsk [19].