



## Doing Business in Belarus

2014 edition

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- Intellectual property
- Customs Law
- Currency Regulation and Foreign Trade
- Commercial Disputes
- Administrative Disputes
- Mediation
- Antimonopoly Law
- Tax Consulting
- Support of corporate procedures
- M&A, Due Diligence
- Investment Project Support
- Employment Law
- Intellectual property and IT technologies

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# 1. About Belarus

## 1.1. General information



**Official name:** Republic of Belarus.

**Short name:** Belarus.

**Area:** 207 600 km<sup>2</sup> (84th in the world).

**Geographical position:** located in Eastern Europe, borders with Russia, Ukraine, Poland, Lithuania and Latvia.

**Official languages:** Belarusian, Russian.

**National currency:** Belarusian ruble (BYR).

**Population:** 9 467 800 persons (as of December 1, 2013). Urban population – 76,3%.

**Ethnic composition:** Belarusians – 83,4%, Russians – 8,2%, Poles – 3,1%, Ukrainians – 1,7%, Jews – 0,13%, other nationalities – 3,5% (census 2009).

**Capital:** Minsk (1 920 200 persons as of December 1, 2013).

**Regions and regional centres (as of December 1, 2013):**

- Brest region – 1 388 800 persons (Brest – 330 700);
- Vitebsk region – 1 202 300 persons (Vitebsk – 369 700);
- Gomel region – 1 425 500 persons (Gomel – 521 300);
- Grodno region – 1 055 000 persons (Grodno – 355 700);
- Mogilev region – 1 073 100 persons (Mogilev – 370 500);
- Minsk region – 1 402 900 persons.

Population	9,46 million
Workforce	4 523 073 persons
Unemployment rate	0.5%
Average salary	572,9 USD per month

**Natural resources:**

Potassium salt, wood, peat, granite, dolomite, limestone, clay, sand, small deposits of oil and natural gas.

**Transport corridors:**

The territory of Belarus is crossed by two Pan-European transport corridors which are indicated in the international classification with numbers 2 (West-East) and 9 (North-South) with branch line 9b.

- Transport corridor No 2 Berlin — Warsaw — Minsk — Moscow — Nizhny Novgorod, stretches through Germany, Poland, Belarus and Russia.
- Transport corridor No 9 stretches through Finland, Russia, Belarus, Ukraine, Moldavia, Romania, Bulgaria and Greece.

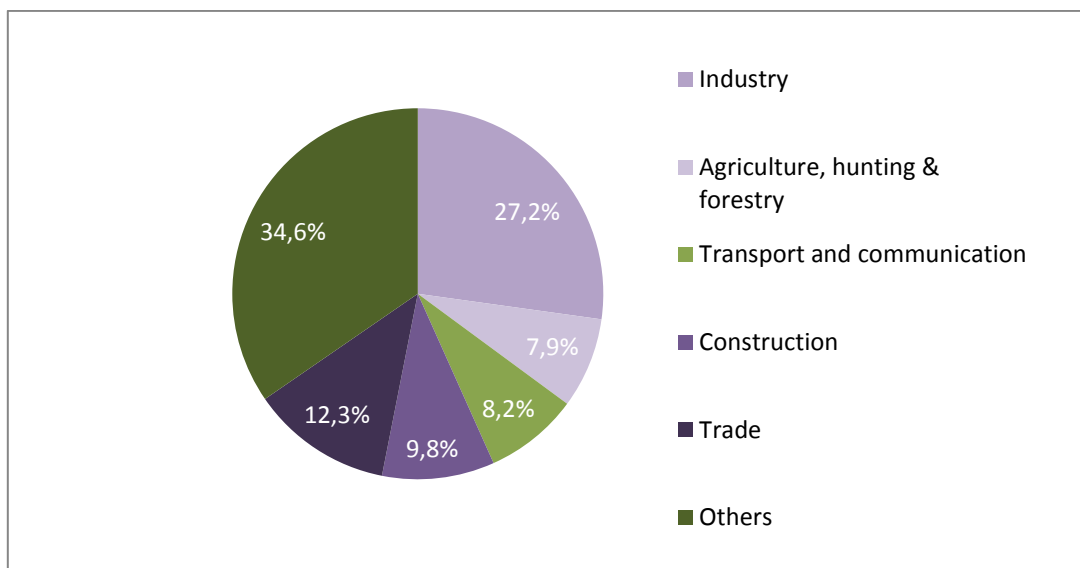
**1.2. Economy**

Economy in Belarus is formed on the basis of a socially oriented market model. Centralized distribution and planning, except for national measures, is absent.

The country has a developed power industry, engineering industry, agriculture, chemical and timber industry, construction and manufacture of building materials, mining industry.

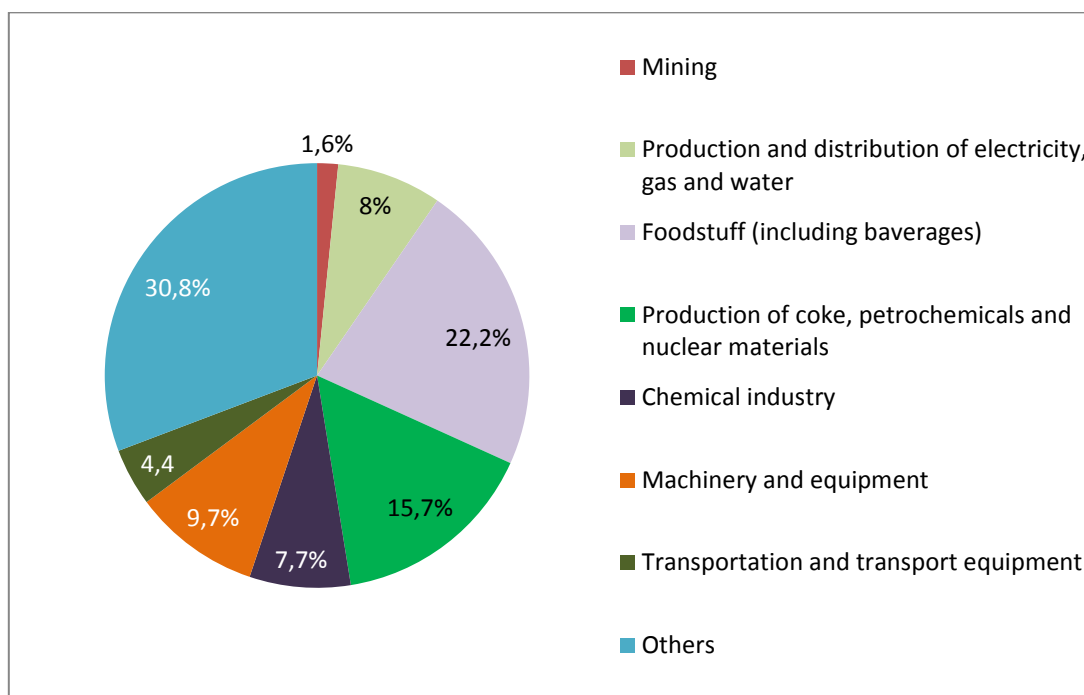
GDP ≈ \$63 billion

**GDP structure (%)**



(information source: <http://www.economy.gov.by>)

## Main industries

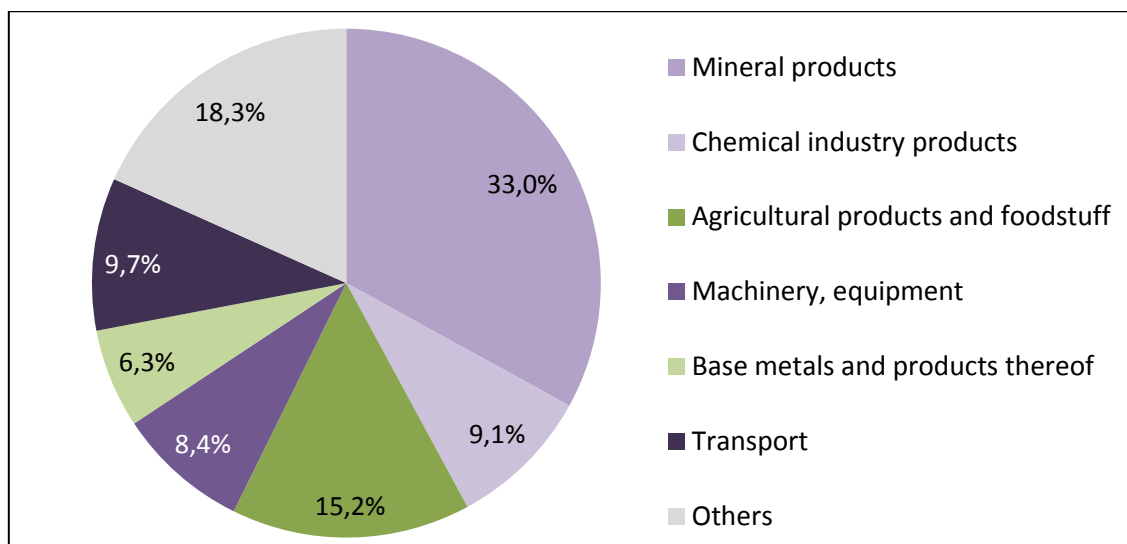


(information source: <http://www.economy.gov.by>)

Main export articles are oil products, potash fertilizers, food products, machinery products, chemical industry products and metallurgy products.

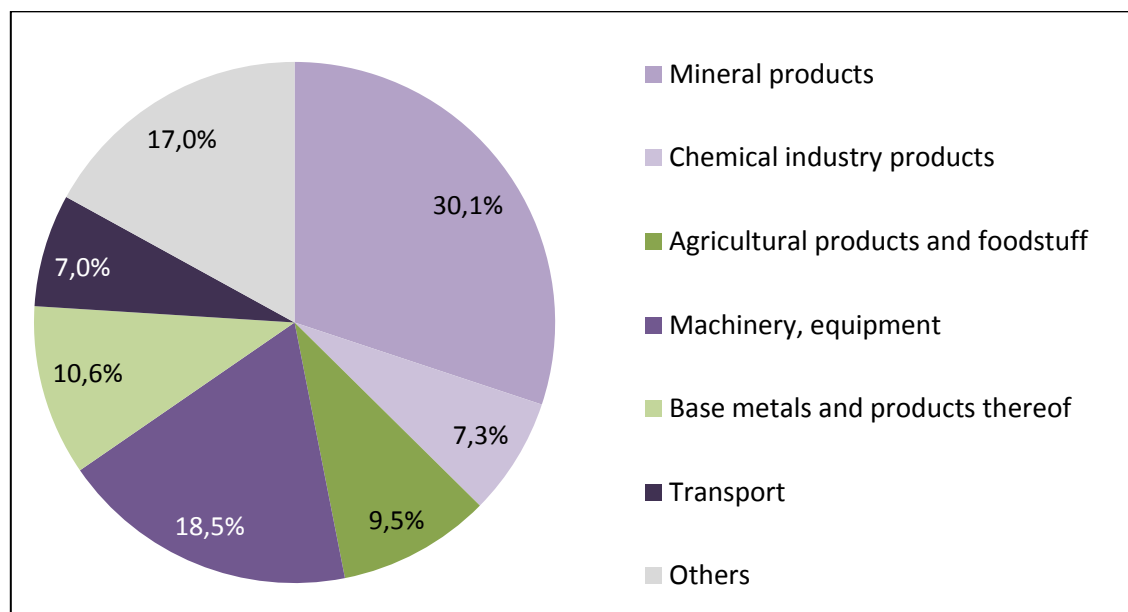
Main import positions are oil, natural gas, ferrous metals, machinery and equipment.

## Export 2013



(information source: <http://www.economy.gov.by>)

## Import 2013



(information source: <http://www.economy.gov.by>)

## Key indicators

GDP	71,4 billion USD	Foreign direct investments	1,8 billion USD
Real GDP growth	0,9%	Doing Business 2013 IFC and World Bank research	63 <sup>th</sup> place of 189
GDP per capita	7 561,6 USD	Credit rating Moody's	B3
Inflation rate	16.5%	Credit rating Standard & Poor's	B
Export value	40 billion USD	Legatum Prosperity Index 2013	58 <sup>th</sup> place of 142
Import value	41 billion USD	Global Services 100	13 <sup>th</sup> place of 20 countries - leaders in the sphere of IT-outsourcing and high-tech services
Profit tax*	18%	Human development index	0.793 (50 из 186)
VAT*	20%	Literacy rate	100%
Income tax*	12%	* Special regimes apply for residents of Free Economic Zones, High Technology Park and rural areas	

## 2. Business Environment

### 2.1. Business Entities

There are no specific requirements for foreigners wishing to establish a business in Belarus. Investors, whether Belarusian or foreign, benefit from equal legal treatment and have the same right to conduct business operations in Belarus by incorporating separate legal entities. The procedure requires the fulfillment of certain legal formalities (registration in The Unified State Register of Legal entities and individual entrepreneurs.)

Companies are required to have their own name, authorized fund (the formation of which, unless otherwise is provided by the legislation, is allowed for one year from the date of the state registration of a legal entity, as well as the minimal amount of which is established for several forms of entities by law), management, registered offices and bank accounts.

Companies established in Belarus are subject to the Belarusian law, but agreements concluded by Belarusian companies can be governed by the law chosen by the parties.

The Belarusian legislation allows and defines the following legal forms of business entities:

- **Individual entrepreneur;**
- **Peasant (farm) economy;**
- **Production cooperative;**
- **Unitary enterprise;**
- **General Partnership;**
- **Special Partnership;**
- **Additional-liability company;**
- **Limited-liability company;**
- **Open joint-stock company;**
- **Closed joint-stock company.**

Other forms of doing business are representative offices and branches of foreign companies.

Attention should be paid to the fact that such distinction concerns the status only, as a set of the law rules determining the peculiarities of creation and activity of the legal entity but not the organizational legal form.

Most businesses in Belarus are legal entities, organized in forms of private unitary enterprise, limited-liability company, additional-liability company, closed joint-stock company, and open joint-stock company, as the above-mentioned forms are the most convenient to perform business activities.

#### 2.1.1. Private unitary enterprise

Private unitary enterprise is a commercial organization not endowed with the right of ownership to property consolidated to it by the owner. The founder is the owner of the property of the private unitary enterprise. One individual or one legal entity can be a founder of the private unitary enterprise. It is allowed the establishment of a private unitary enterprise by the spouses. For the unitary enterprise set up by an individual it is allowed to use the word "private" in its name.



The founding document of private unitary enterprise is the Charter. The main body of private unitary enterprise is director, which is appointed by the owner. The owner of the unitary enterprise can be a director at the same time.

Powers of the director of the private unitary enterprise can be transferred under contract to another commercial organization (the management organization) or to an individual entrepreneur (managing director) under the decision of the owner.

Belarusian legislation does not provide minimal amount of share capital for private unitary enterprise. The size of share capital is determined by the owner himself.

A unitary enterprise shall be liable for its obligations with all of the property belonging to it and shall not be liable for obligation of its founder. The owner of the private enterprise has got subsidiary liability for obligations of enterprise if the economic insolvency (bankruptcy) of enterprise has been caused by him (her).

### **2.1.2. Limited-liability company**

A Limited Liability Company is a company with a number of shareholders not less than two and no more than fifty, whose authorized fund is divided into shares of certain sizes that are stated in the founding documents.

Belarusian legislation does not provide minimal amount of the authorized fund for the Limited Liability Company; the size of authorized fund is determined by the founders themselves.

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

Organizational structure of the Limited Liability Company includes:

- Shareholders General Meeting.

Shareholders General Meeting is the supreme authority of the Limited Liability Company that decides the most important questions of the company's activity.

- Board of Directors or Supervisory Board.

The Board of Directors (Supervisory Board) is formed in case its formation is provided for by the company's Charter.

- Executive authority – Directorate or Director.

Powers of the executive authority can be transferred under agreement to another commercial organization (the management organization) or to individual entrepreneur (managing director) under the decision of Shareholders General Meeting of the company.

- Inspector or Inspection Commission – the control authority of the company.

### **2.1.3. Additional-liability company**

Additional Liability Company is a business entity with the number of shareholders not less than two and no more than fifty, which authorized fund is divided into shares of certain sizes that are stated in the founding documents. With regard to the Additional Liability Company, the same rules and regulations provided for by the legislation for Limited Liability Company (the founding document, the number of participants, the size of authorized fund, organizational structure, etc.) are applied.

The only difference between the Additional Liability Company and the Limited Liability Company is that the shareholders of Additional Liability Company jointly bear subsidiary responsibility for the obligations of the Additional Liability Company with their property within the limits determined by the charter of the company, but not less than the amount provided for by the legislative acts, in proportion to the contributions of participants in the

authorized fund of the Additional Liability Company. The Charter of the Additional Liability Company may provide for a different procedure for distribution of additional responsibility among its participants.

At present, the minimum size of the subsidiary responsibility of the Additional Liability Company shall be not less than the amount equivalent to 50 basic units.

The size of the basic unit is provided for by the legislation of the Republic of Belarus. From the first of October the basic unit amounts to 130 000 rubbles, which is approximately 10 Euro.

#### **2.1.4. Closed joint-stock company**

The number of shareholders in the Closed Joint Stock Company cannot be less than two and more than fifty.

Minimal allowed size of authorized fund for the Closed Joint Stock Company is 100 base units.

Authorized fund is divided into a number of stocks having the same nominal value.

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

The organization structure of the Closed Joint Stock Company includes the same elements as the Limited Liability Company.

Shareholders are not liable for its obligations and bear the risk of losses associated with its activities of society within the limits of the value of their stocks.

A shareholder may alienate its own shares only with the consent of other shareholders and/or to a limited number of individuals. Closed Joint Stock Company is not entitled to carry out an open subscription for stocks issued by it or otherwise offer for the purchase to unlimited number of persons.

#### **2.1.5. Open joint-stock company**

The number of shareholders in the open joint-stock company shall be no less than two. The maximum number of shareholders is not limited.

The minimum size of the authorized fund for open joint-stock companies is 400 basic units.

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

Founding document of the open joint-stock company is the Charter.

The organizational structure of the open joint-stock company includes the same all elements as the organizational structure of a limited-liability company. However, formation of the Board of Directors (Supervisory Board) in the open joint-stock company is obligatory, if the number of shareholders of such open joint-stock company is more than 50.

Shareholders are not liable for the obligations of the open joint-stock company and bear the risk of losses associated with the activity of the company within the value of their shares.

Shareholder may dispose of its shares to the unlimited number of persons without the consent of other shareholders.

Open joint-stock company has the right to conduct an open subscription of the shares issued by it and free sale of them on the conditions prescribed by the legislation.

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

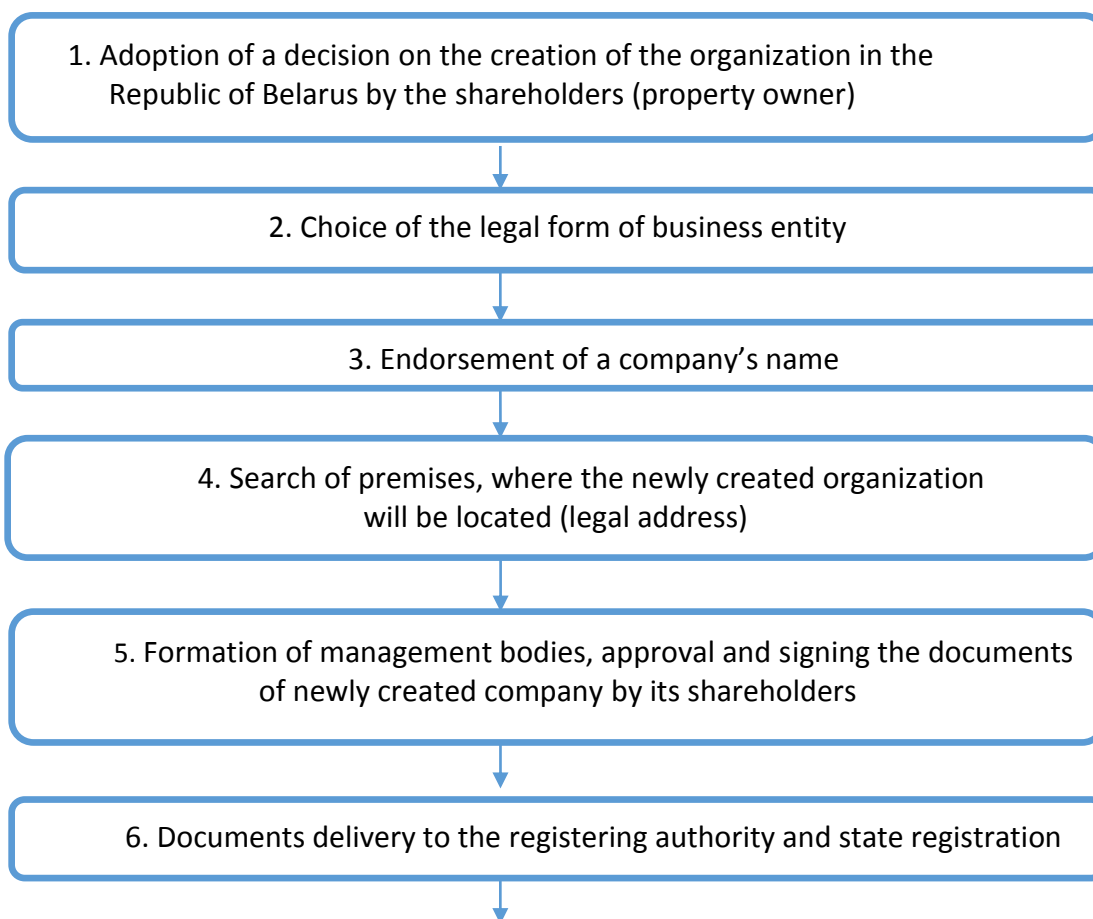
A representative office of a foreign company is its detached division of this foreign organization located in the territory Republic of Belarus, carrying out protection and representation of interests of the foreign organization and other functions that are not contrary to the legislation.

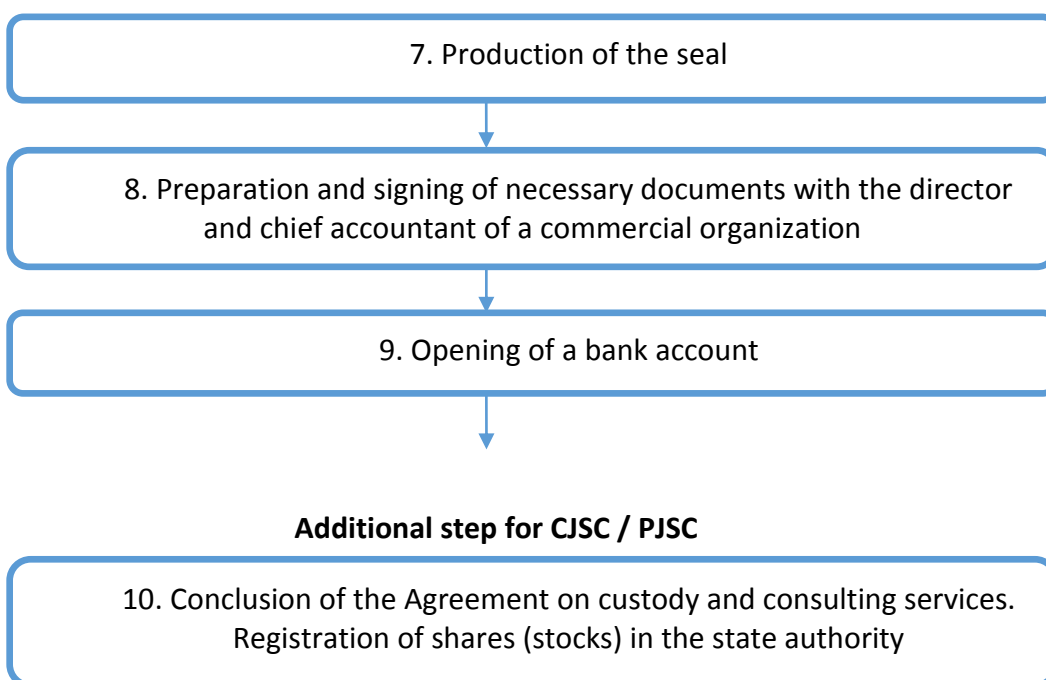
A branch of a foreign company is its detached division located on the territory of Belarus that can exercise all or part of its functions, including the functions of representation.

The property of the representative offices or branches of the legal person is accounted separately to the balance of the legal person, which has created these representative offices or branches.

Belarusian legislation does not allow foreign business entities to establish branches, that is why foreign organizations have the right to establish detached divisions only in the form of representative offices.

### 2.1.7. The procedure of business creation in the Republic of Belarus





### 2.1.8. Expenses on registration of commercial organizations and representative offices

Registration of commercial organization		Registration of Representative Office	
Action	Cost	Action	Cost
Legalization, translation of an extract from the Commercial Register of the foreign state into Russian and notarization of the translator's signature (if the incorporator is non-resident)	1 page of translation into Russian is 6-12 Euro depending on the language. Notarization of the translator's signature - 7 Euro.	Notarization of the provisions of Representative Office (4 copies)	45 Euro per 1.
Translation of the personal identification document into Russian and notarization of the translator's signature	1 page of translation into Russian is 6-12 Euro depending on the language. Notarization of the translator's signature is 7 Euro.	Legalization, translation of an extract from the Commercial Register of the foreign state into Russian and notarization of the translator's signature (2 copies)	1 page of translation into Russian is 6-12 Euro depending on the language. Notarization of a signature of the translator is 7 Euro.
Translation of the power of attorney	1 page of translation into	Legalization, translation of	1 page translation into Russian is 6-12

into Russian and notarization of the translator's signature (In case of transfer of powers)	Russian is 6-12 Euro depending on the language. Notarization of the translator's signature is 7 Euro.	founding documents of a foreign organization into Russian and notarization of the translator's signature (2 copies)	Euro depending on the language. Notarization of the translator's signature is 7 Euro.
Formation of the authorized capital of the commercial organization	The minimum authorized capital is not established. Exceptions: CJSC – 1000 Euro; JJSC – 4000 Euro.	The state duty for the permission on opening of a Representative Office	650 Euro.
The state duty for the state registration of the organization	40 Euro	Legalization, translation of the power of attorney in the name of the head of the Representative Office into Russian, the translator's signature notarization (2 copies)	1 page of translation into Russian is 6-12 Euro depending on the language. Notarization of the translator's signature is 7 Euro.
Making a seal	20 Euro	Legalization, translation into Russian of the power of attorney in the name of the person authorized to carry out activities concerning the opening of the Representative Office, notarization of the translator's signature (2 copies)	1 page of translation into Russian is 6-12 Euro depending on the language. Notarization of the translator's signature is 7 Euro.
		Making a seal	20 Euro

### 2.1.9. Business reorganization and liquidation

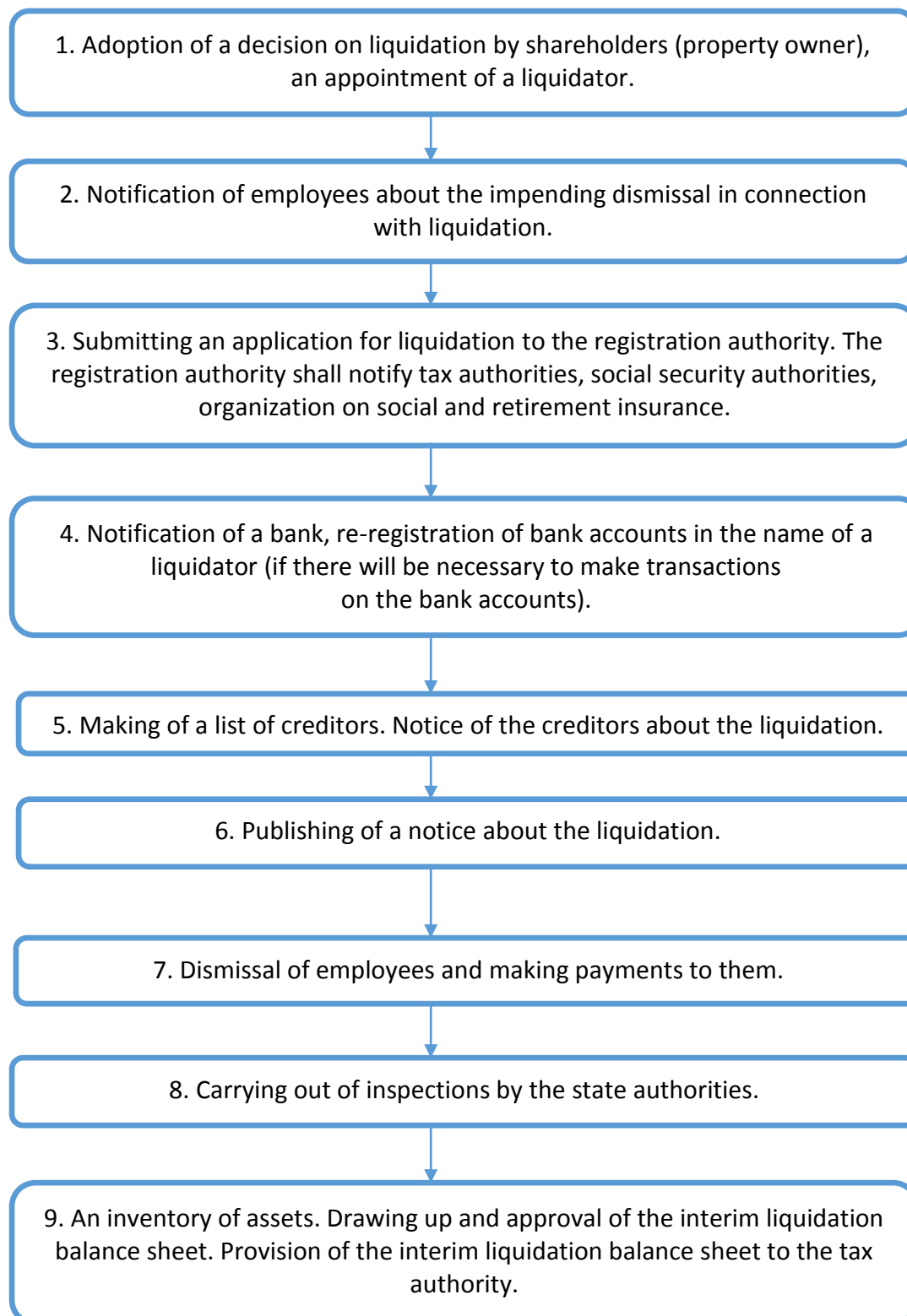
Liquidation of a company may be carried out voluntarily by the decision of the owner of the company (founders, shareholders) or in other cases as prescribed by law (by economic court or by state registering authority).

The owner (founders, shareholders) or body of a company empowered by the Charter takes a decision on liquidation of a company, appoints the liquidation commission (appoints the liquidator), who are responsible for the implementation of all the formalities associated with the liquidation process and establish the procedure and terms of the liquidation.

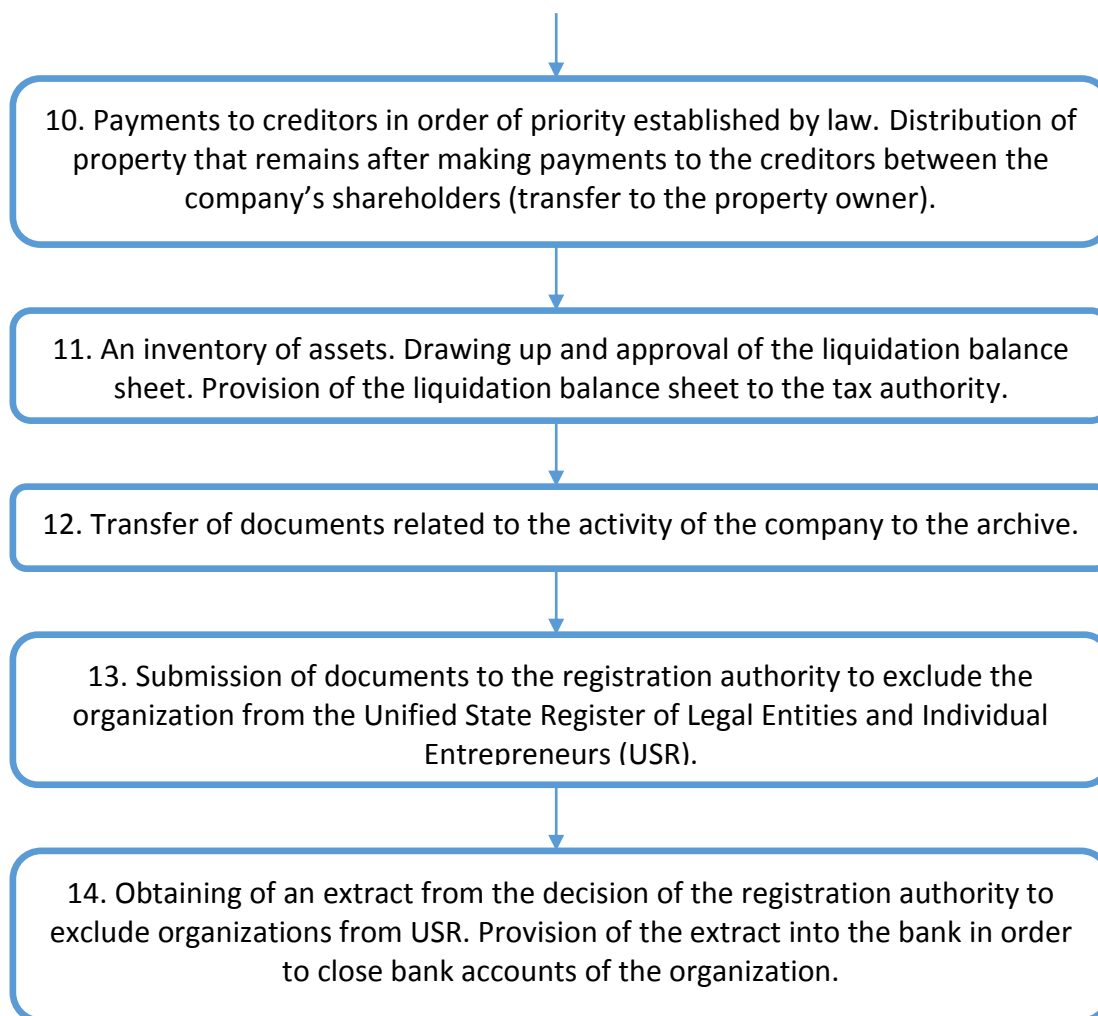
It should be noted that the maximum term in which a business entity can stay in liquidation process is 9 months from the date of the making decision on the liquidation with a right to extend this term to 12 months.

Business reorganization in Belarus is regulated by the Belarusian legislation and can be realized in the form of consolidation, merger, division, separation and transformation.

### Liquidation of business entities in the Republic of Belarus







## 2.2. Ways of Doing Business by Foreign Organizations and Individuals in Belarus

Foreign individuals and legal entities can choose one of two following ways of doing business in Belarus:

1. Establishment of a legal entity in one of the above listed forms. The contribution to the statutory fund of a commercial organization which is founded by a foreign investor may be made in foreign currency.
2. Doing business through permanent representative office in the territory of the Republic of Belarus.

### 2.2.1. Doing business through permanent representative office in Belarus

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

- solitary subdivision of the foreign organization, with accreditation in the Ministry of Foreign Affairs of the Republic of Belarus;

- agent (organization or individual, operating on behalf and/or in favor of the foreign organization).

### 2.2.2. Establishment of the representative office in Belarus

Representative offices of foreign legal entities and other organizations are established and operate in Belarus in accordance with the permission, given by the Ministry of Foreign Affairs of the Republic of Belarus.

Such representative office is not recognized as legal entity by the Belarusian law.

**Representative office of foreign noncommercial organization** can be opened only for the implementation for and on behalf of the foreign organization of:

- social support and protection of citizens, including an improvement of financial position of poor, social rehabilitation of the unemployed, the disabled and other persons who because of their physical or mental abilities or other circumstances are not able to exercise their rights and legitimate interests;

- preparation of population for the prevention of accidents, industrial accidents, a dangerous situation which has man-made nature, natural hazard, natural or other disasters, social, ethnic and religious conflicts and provision of support in dealing with its consequences, as well as to the victims of repression, refugees and internally displaced persons;

- assistance in:

- peace, friendship and harmony among nations, prevention of social, ethnic and religious conflicts;
- strengthen the prestige of the family in the society;
- protection of motherhood, fatherhood and childhood;
- activities in the field of education, science, culture, art, education, personal development;
- activity in the prevention and protection of public health, as well as the promotion of healthy lifestyles, improving the morale of the citizens;
- activities in the sphere of physical culture and sports;

- environmental and animal protection;

- protection and maintenance of buildings, structures, and other objects and areas of historical, cultural, religious or environmental value, and burial places;

- other socially useful activity.

In order to promote international cooperation in the field of education, including the conclusion of agreements on cooperation between organizations of system of education of the Republic of Belarus and foreign educational organizations, to study an experience of system of education of the Republic of Belarus, to facilitate the exchange of experience and information in the field of education and science, realization of advertising and information work in covering the educational activities of foreign educational organizations can be opened **representative offices of foreign educational organizations**.

**Representative office of foreign commercial organization** can be opened, unless otherwise stipulated by international treaties of the Republic of Belarus, or legislative acts of the Republic of Belarus, only in the aims of realization of preparatory and auxiliary nature activity for and on behalf of the foreign organization, including:

- furthering of implementation of international treaties of the Republic of Belarus on cooperation in economy, trade, finance, science and technology, transport, seek opportunities for its further development and improvement of such cooperation, an

establishment and expansion of the exchange of economic, commercial, scientific and technical information;

- research of commodity markets of the Republic of Belarus;
- explore opportunities for investment in the territory of the Republic of Belarus;
- creation of commercial organizations with foreign investors;
- realization of tickets and seat reservation of air, rail, road and sea transport;
- other socially useful activity.

### **2.2.3. Doing business through the agent**

Another way of doing business by foreign organizations in Belarus is operating through the agent – a Belarusian organization or individual entrepreneur under the agency contract.

Agent is a legal entity or individual, operating on behalf and/or in favor of foreign organization and/or authorized to conclude contracts or negotiate on essential terms of contracts.

According to the Tax Code of the Republic of Belarus, doing business through the agent is considered as operating through permanent representative office for the purposes of taxation. That is why a foreign organization, operating through the agent, is obliged to pay tax on profit, gained in Belarus. Taxes of a foreign organization are to be paid by the agent at place of its tax registration.

Doing business through the agent is an alternative to the establishment of the representative office with accreditation in the Ministry of Foreign Affairs.

If the agent operates in the frameworks of its ordinary course of business (independent agent or agent with independent status), it is not recognized as permanent representative offices for the purposes of taxation. The agent acts in the frameworks of ordinary course of business if it operates independently without instructions and control, made by a foreign organization and if business risk for the results of its activity lies on the agent and not on the foreign organization which it represents. In such case a foreign organization does not pay the tax on profit, but pays tax on income of foreign organizations that does not carry out activity by through the permanent representative office.

According to Belarusian legislation it is required to obtain special permissions (licenses) in order to perform certain types of activities. Foreign organizations can obtain license to perform certain types of activities only if they have a permanent representative office with accreditation in the Ministry of Foreign Affairs. So, it is impossible to perform licensed activities by the agent because of this rule.

Provisions, stipulating exclusivity of relations under the agency contract with participation of a Belarusian person, are unlawful according to the Belarusian legislation. The contract conditions, providing refusal of contracts with other suppliers or purchasers do not correspond to Belarusian legislation and may be invalidated under the Belarusian law.

## **2.3. Labour Relations and Working Conditions**

### **2.3.1. Information on the labour market**

According to the official statistics, in January-October 2013 the employed population size was 4 526,1 thousand people, which is 1,2% less than in January-October 2012.

The number of the unemployed, registered in the bodies of labour, employment and social protection of the population by the end of December 2013 was 20,9 thousand people, which is 16% less than by the end of December 2012. The level of the registered unemployment for the end of November 2013 was 0.5% of the economically active population.

### **2.3.2. Legal regulation of labour and related to them relations**

This sphere of relations is primarily regulated by the Labour Code of the Republic of Belarus. Moreover, there are many other acts of legislation that settle more specific issues.

According to the Labour Code, an employment contract should be concluded in the written form. The obligatory conditions that must be included in the provisions of the contract are also stipulated by the Labour Code.

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

### **2.3.3. Schedule of work and rest**

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

The schedule of work of the employees is developed on the basis of the schedule of work, applicable by the employer.

The schedule of work is determined by the internal work order regulations or by the work schedule (shift schedule).

Standard working time cannot be more than 40 hours per week. For certain categories of employees the reduced working time is established. Working week is with 5 or 6 working days with common weekend on Sunday. The normal working day is eight hours with a one-hour lunch break. There are specific norms that regulate night work, work in weekends and holidays, labour of juveniles etc.

Employers are obliged to provide the employees' guarantees for work in weekends and holidays, for work during the night time as well as guarantees and compensations, provided for by the labour legislation. Any overtime work should be paid extra.

Employees are entitled for labour and social holidays providing the presence of the grounds, stipulated by the Labour Code of the Republic of Belarus, during which the average salary, so called "vacation allowance", is saved for the employee and is calculated according to the order, established by the Government of the Republic of Belarus or by the empowered body.

The minimum period of annual holiday is 24 days.

In addition, there are public holidays that are non-working:

- 1 January – New Year
- 7 January – Orthodox Christmas
- 8 March – Women's Day
- according to Orthodox calendar – Radunitsa
- 1 May – Day of work
- 9 May – Victory Day
- 3 July – Independence Day
- 7 November – Day of October Revolution

– 25 December – Catholic Christmas.

#### **2.3.4. Payment for labour**

Commercial organizations and individual entrepreneurs are free to determine themselves the wages payment conditions, taking into account the complexity of work, skills of workers, working conditions and so on. At the same time the Unified Wage Scale of the Republic of Belarus may be applied in the establishment of wages payment conditions, though its application is not obligatory. Therefore the entities of entrepreneurial activities have the right to choose any system of wages payment for employees, both with the application of the Unified Wage Scale and without it. In commercial organizations the wages are usually paid for employees on the basis of the local normative legal acts, adopted by such organizations.

The minimal amount of wages is determined by the state (1 660 000 Belarusian rubles as for 01.01.2014)<sup>1</sup>, however, the maximal amount of wages are not limited. Wage payments are included in the cost of production and sales of goods (works, services) and are also counted in the price formation and taxation.

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

According to article 1 of the Labour Code of the Republic of Belarus, local normative legal acts are collective contracts, agreements, internal labour regulations and other normative acts of the specific employer, adopted according to the established procedure and regulating labor and related to them relations. Thus, it can be concluded that local normative legal acts regulate relations among employees and between employees and an employer.

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

- 1) rules for internal labor order, collective contracts, agreements, internal labour regulations and other local normative legal acts;
- 2) schedules of positions and salaries;
- 3) employment position descriptions;
- 4) working schedules (shift schedules);
- 5) schedules of holidays.

The Regulations No 140 of the Ministry of Labour and Social Protection of the Republic of Belarus as of 28.12.2011 “On the establishment of the list of the obligatory documents on labour protection”, define the list of documents on labor protection, maintenance of which is obligatory for the entities of small businesses irrespective of types of activities, carried out. These documents include:

- 1) local normative legal act on the appointment of designated persons, responsible for the organization of the labor protection;
- 2) list of professions and positions that undergo training and check of knowledge on the labor protection issues, that is approved by the head of the organization;
- 3) order on creation of the commission of the organization for conducting the check of knowledge of the employees in the labor protection issues (if such a commission can be

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<sup>1</sup> At the date of 01.02.2014, the official rate of the Belarusian ruble for the EURO is 13,050 Belarusian rubles.

created in the organization) and the minutes of the knowledge check on the labor protection issues;

4) list of regulations on labor protection for professions and types of works and their registration log;

5) instructions on occupational safety, that should be approved by the head of the organization;

6) registration logs of conducting the instructions on labor protection;

7) list of professions and positions that require obligatory preliminary (during the hiring) and periodic medical examinations, and documents proving that employees have undergone medical examinations.

The Labour Code establishes that local normative legal acts should not worsen the conditions of employees in comparison with labour and other legislation of the Republic of Belarus, regulating the corresponding relations in the social-labor sphere.

## 2.4. Labor migration

### 2.4.1. Entry into the territory of the Republic of Belarus

As a general rule, the entry of foreigners into the territory of Belarus for the purpose of work can be realized only after obtaining visas of the Republic of Belarus.

Currently there is no requirement for obtaining visas for citizens of Armenia, Azerbaijan, Kazakhstan, Kyrgyzstan, Russian Federation, Moldova, Uzbekistan, Tajikistan, and Ukraine

Venezuelan citizens with valid official passports can enter, exit, stay in the Republic of Belarus or be in transit through the territory of the Republic of Belarus without the necessity to obtain visas, provided that their stay doesn't exceed ninety (90) days from the date of their entry..

There are following types of visas in Belarus:

1. **B (transit visa)** – Transit visa is issued for a single, double and multiple transit passage through the territory of the Republic of Belarus till the end of the declared time that cannot be more than one year and is valid within 2 days from the date of entry of the foreigner into the territory of the Republic of Belarus.

2. **C (short-term visa)** – Short-term visa is issued for single, double and multiple entry into the territory of the Republic of Belarus till the end of the declared time that cannot be more than 90 days for certain purposes including labor activity.

3. **D (long-term visa)** – Long-term visa is issued for one year with the right to stay in the territory of the Republic of Belarus for up to 90 days for certain purposes.

As a general rule, short-term visa C (with the right to be employed) is required for persons willing to enter the country for the purpose of work on the basis of the labor contract.

In addition, in some cases, foreigners can obtain long-term visa type D, for example, to maintain business relations on the basis of agreement between the Belarusian legal entity and a foreigner or foreign organization where he works, which confirms the presence of stable business relationship, or documents of the Belarusian legal entity (including statutory), confirming that the foreigner is a director or founder of a commercial organization with foreign investments. Long-term visa type D may be also obtained by foreign nationals working in the staff of a representative office of a foreign organization. Visas described above are issued by diplomatic missions and consular offices of the Republic of Belarus.



Citizens of states where there are no diplomatic missions and consular offices of the Republic of Belarus apply for visa to the General Consular Department of the Ministry of Foreign Affairs of the Republic of Belarus and bodies of border guard of the Republic of Belarus.

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

All the foreigners staying in Belarus must **register** in the domiciliary body of internal affairs **within 5 days** except for weekends, holidays and days that are declared non-working by the President of the Republic of Belarus.

International agreements of the Republic of Belarus can provide longer terms of stay in the Republic of Belarus without registration in the domiciliary body for certain categories of foreigners.

For example, the citizens of Lithuania, Latvia, Russian Federation and Ukraine can stay in the territory of the Republic of Belarus without registration for 30 days from the day of entry. In case of stay in the territory of Belarus for more than 30 days they are bound to register in the domiciliary body in general order.

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

All foreigners in the territory of Belarus who do not have permission for the temporal or permanent residence are subject to the rules of the **regime of temporary stay**. The **term of temporary stay** of a foreigner in the territory of the Republic of Belarus depends on the visa issued to him (her) and cannot **exceed 90 days in a year**.

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

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

**The permission for temporary residence** is issued to foreigners who entered Belarus for certain purposes, including labor, business and other activities. Decision on granting of such a permission is made by the body of internal affairs at domiciliary place of a foreigner.

**Multiple entry-exit visas:** foreigners who obtained permissions for temporary residence can get entry-exit visa, including multiple one. Such a visa is issued by the citizenship and migration office of the internal affairs bodies for the term up to one year but not longer than the term of the permission for temporary residence.

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

#### 2.4.3. Permission for labour activity

Foreigners who don't have the permission for permanent residence in the territory of the Republic of Belarus have the right for labor activity providing the presence the special permission for the right to be engaged in labor activity and conclusion of labor contract.

Labor contract concluded with a foreign citizen who does not have permission for permanent residence in the Republic of Belarus, shall contain additional conditions defining the order, conditions of termination, amendment and prolongation of the labor contract,

and also conditions of transfer to the Republic of Belarus, nutrition, living, medical service. Contract is concluded in the written form in Russian and/or Belarusian language, and also in native language or other language known to the foreigner.

The term of labor contract cannot exceed the duration of the special permit.

Special permit is granted to a foreigner upon the request of the employer by citizenship and migration subdivisions of internal affairs bodies of the Republic of Belarus for the term of **one year**.

There is no need to receive special permission for labor activity in the Republic of Belarus for foreigners who:

1. Have permissions for permanent residence in the Republic of Belarus;
2. Are being employed in other order, provided for by the international agreement of the Republic of Belarus (for example, citizens of Russian Federation that are excluded from the regulation on attraction and usage of foreign labour force);
3. Work in representative offices of foreign organizations in the Republic of Belarus – within a quota specified in the permission on the Representative Office opening.

Foreign citizens who do not have permission for permanent residence in the Republic of Belarus can seek employment by themselves or with the assistance of legal entities, individual entrepreneurs and foreign organizations that render recruitment services. However, citizens of Belarus and foreign citizens, permanently residing in Belarus, have the priority right of employment.

Belarusian organizations that employ more than 10 foreigners who have no permissions for permanent residence in the Republic of Belarus, must receive permission for employment of foreign labor force.

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

There is administrative responsibility in the Republic of Belarus for violation of the legislation that regulates the issues connected with attracting foreign workers, in particular regarding:

- managers of legal entities and individual entrepreneurs who attract foreign labor force, violating the established order – a warning or a fine in the amount of up to 20 basic units;
- managers of legal entities and individual entrepreneurs, who involve foreigners for work purposes and who do not ensure their timely registration, receipt of the permits for temporary residence in the Republic of Belarus, exit of such individuals from the Republic of Belarus after the expiration of their terms for the stay – a warning or a fine in the amount of up to 20 basic units;
- foreign citizens who violated the order of staying in the territory of the Republic of Belarus, including those who break the established order of the registration – a warning with deportation or without deportation or a fine in the amount of up to twenty basic units with or without deportation;
- foreigners working without special permits for labor activity in the Republic of Belarus - a warning or a fine in the amount of up to 20 basic units with or without deportation.

#### **2.5. Licensing**

In order to carry out certain types of activities obtaining special permission (license) is required.

At the moment, licensed types of activities are as follows:

1. Advocacy activity;
2. Banking activity;
3. Veterinary activity;
4. Activity in the field of automobile transport;
5. Activity in the field of broadcasting;
6. Activity in the field of usage of atomic energy and sources of ionizing radiation;
7. Activity in the field of industrial safety;
8. Activity in the field of telecommunication;
9. Gambling activity;
10. Activity on the procurement (purchase) of junk and refuses of ferrous and non-ferrous metals;
11. Activity on providing fire security;
12. Activity on rendering of psychological aid;
13. Activity on design and production of strict security forms and special materials of its protection from forgery;
14. Activity on technical and cryptographic security of information;
15. Activity connected with influence on environment;
16. Activity connected with precious metals and precious stones;
17. Activity connected with cryptographic security of information and means of surreptitious obtaining of information;
18. Activity connected with transaction of narcotic substances, psychotropic drugs and its precursors;
19. Activity connected with health improvement of children abroad;
20. Activity connected with carrying out of control of radioactive contamination;
21. Activity connected with employment of citizens abroad, gathering and distribution (including worldwide computer net Internet) of data on individuals with purpose of their acquaintance;
22. Activity connected with production of military purpose;
23. Activity connected with manufacture of alcohol, non-food alcohol-containing production, non-food ethanol and tobacco production;
24. Activity connected with production of aluminum, lead, zinc, stannic, copper and cast of finished and semi-finished products from aluminum and non-ferrum heavy metals;
25. Activity connected with duty weapons and civilian weapons and its ammunition, collecting and exhibition of weapons and ammunition;
26. Medical activity;
27. Educational activity;
28. Legal services rendering;
29. Wholesale and retail trade of oil products;
30. Wholesale trade and storage of alcohol, non-food alcohol-containing production, non-food ethanol and tobacco production;
31. Security guard activity;
32. Polygraphic activity;
33. Professional and exchange activities with securities;
34. Retail trade of alcohol drinks and (or) tobacco production;
35. Insurance activity;
36. Pharmaceutical activity;
37. Forensic expert activity.

Licenses are issued to legal entities and entrepreneurs of the Republic of Belarus, foreign legal entities and organizations created according to legislation of foreign states subject to presence of representative office on the territory of the Republic of Belarus established in order provided for by legislation, and also to individuals (for carrying out advocacy activity and collecting and exhibition of weapons and ammunition).

To obtain a license one should submit to state licensing authority an application with assistant documents and pay state fee that is as a general rule is amounted to 8 basic units.

Application is reviewed by licensing body within 15 working days from the day of receipt of documents, this term can be prolonged for a period of evaluation and (or) examination of compliance of capabilities of license candidate with license requirements and conditions no longer than 10 days.

License is granted for a term no less than 5 and no more than 10 years. License is valid on the whole territory of the Republic of Belarus or its part defined in license, if the legislation provides that license on certain type of activity is valid on the territory of the Republic of Belarus defined in it (e.g., activity in the field of telecommunication). Type of activity on which license is issued can be carried out only holder of license without transfer of right of carrying it out to other legal entity or individual. Separate subdivisions including branches carry out licensed type of activity on the base of license issued to legal entity.

Information about the subjects who have licenses is included in the register of licenses, which is held by the licensing authorities. The information from the register of licenses, as a general rule, is open and can be provided on request of the applicant.

Entrepreneurial activity carried out without license when obtaining license is compulsory or with a violation of rules and conditions of carrying out of types of activities defined by license is a ground for bringing to administrative liability and connected with receiving profit on a large scale to criminal liability.

## 3. Investment

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

Before 2014 the Investment Code of the Republic of Belarus was the main regulatory legal act that regulated investment, however at present this Code is considered invalid due to entry into legal force of the Law of the Republic of Belarus “On investments” dtd.12.07.2013 and the Law of the Republic of Belarus “On concessions” dtd. 12.07.2013.

### 3.1. General conditions for investment

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

- movable and immovable property, including stocks, shares in the share capital, shares in the assets of the commercial organization established in the territory of the Republic of Belarus, monetary funds, including moneys raised, including loans and credits);
- rights to claim with their cost estimate;
- other objects of civil rights with an assessment of their value, except for such types of objects of civil rights, the availability of which is not allowed (objects taken out from circulation).

According to the Law on Investments there are following ways of investing in the Republic of Belarus:

1. creation of a commercial organization;
2. acquisition, creation, including through the construction of real estate, except for the purchase or construction by Belarusian citizens, foreign citizens and persons without citizenship, of houses, accommodation for residence of these citizens of the Republic of Belarus, foreign citizens and persons without citizenship and (or) members of their families;
3. acquisition of rights to intellectual property;
4. acquisition of stocks or shares in the share capital, shares in the property of a commercial organization, including cases of increase of the authorized capital of a commercial organization;
5. on the basis of the concession;
6. otherwise, except for cases prohibited by legislation of the Republic of Belarus.

### 3.2. Investors’ rights and obligations

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

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

- recognition of exclusive rights to intellectual property;
- the right to grant land plots for use, lease, into ownership in accordance with the laws of the Republic of Belarus on land use and protection;
- the right to create a commercial organization in the territory of the Republic of Belarus with any amount of investments, in any legal forms provided for by legislation of the Republic of Belarus;
- the right to make both a monetary contribution in the authorized capital in foreign currency and (or) Belarusian rubles and non-monetary contribution, which has its cost estimate, in accordance with procedure stipulated by legislation of the Republic of Belarus;
- the right to privileges and preferences established in accordance with the laws of the Republic of Belarus and (or) international legal acts binding upon the Republic of Belarus;
- the right to enter into an agreement(-s) with the Republic of Belarus (for more detailed information about this right please see cl. 3.3);
- the right to attract foreign citizens and stateless persons for labour activities in the Republic of Belarus.

Investors are obliged to:

- comply with the Constitution of the Republic of Belarus and legislative acts of the Republic of Belarus adopted in accordance with it;
- not take actions that constitute unfair competition as well as actions (inaction) aimed at prevention, elimination or restriction of competition, causing harm to rights, liberties, legal interests of other persons;
- perform other obligations established by legislation of the Republic of Belarus.

### **3.3. The right to conclude agreement (agreements) with the Republic of Belarus**

For the purpose of creation of additional conditions for providing investments the investor (-s) has (have) the right to conclude an agreement(-s) with the Republic of Belarus connected with provision of investments according to the order and conditions stipulated by legislation of the Republic of Belarus.

The investment agreement with the Republic of Belarus is concluded on the basis of the decision of the state body or another state organization specified in accordance with legal acts of the Republic of Belarus.

The investment agreement with the Republic of Belarus shall define:

- object, amount, terms and conditions of providing investments;
- rights and obligations of the investor (investors) and the Republic of Belarus;
- liability of the parties to the agreement for non-fulfillment of its provisions;
- other conditions stipulated in accordance with legal acts of the Republic of Belarus.

### **3.4. Guarantees of investor's rights**

The Law on Investments guarantees:

- protection from uncompensated nationalization and requisition;
- unrestricted transfer of compensation outside the territory of the Republic of Belarus that was received as a result of nationalization possible only in cases of natural disasters, accidents, epidemics, epizootic diseases and other cases of emergency in the interest of the society at discretion of state bodies;



- the right of the investor, whose property was placed in requisition, to judicially claim the return of his preserved property, if circumstances in connection with which the requisition was performed are not valid anymore.

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

a) monetary funds, received by foreign investors after partial or full termination of investing in the territory of the Republic of Belarus, including monetary funds received by foreign investors in the result of investments alienation as well as property created in the result of performing investments, other objects of civil rights;

b) monetary funds due to payment of wages to foreign citizens and stateless persons performing labour activities under the labour contract;

c) monetary funds due to foreign investors according to the judicial decision.

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

### **3.5. Guarantees and privileges for investors that concluded the investment agreement**

1. **Guarantee of damage compensation to the investor**, caused by illegal actions (omissions) of state bodies and authorities of executive committees.

#### **2. Investors have the right to:**

– construction of objects, provided for by the investment project, together with development, expertise and approval according to the established order of the required documentation for each stage of the construction with simultaneous engineering of further stages of such construction;

– provision of a land plot without tender on a leasehold basis for construction of objects, provided for by the investment project with preparation of all necessary documents, concerning land plot allotment simultaneously with carrying out construction works;

– build the objects provided for by the investment project with the right to remove objects of flora without making compensation payments of the cost of the removed objects of flora;

– deduct in full of the VAT amounts (except for tax amounts that are not to be deducted according to legislation) paid at acquisition (import into the territory of the Republic of Belarus) of all goods, works, services, the property rights used for designing, construction (reconstruction), equipping of the objects provided for by the investment project, irrespective of the VAT amounts estimated on the basis of goods (works, services), property rights realization;

– select without carrying out tenders the general design organization, general contractor, subcontractors, construction organizations and other subjects for the construction of objects under the investment project as well as for their repairs, reconstruction and restoration.

#### **3. Investors are exempt from:**

– payment for the right to conclude a contract for the lease of a land plot;

– payment of the land tax or lease payment for state owned land plots provided for the construction of objects specified by the investment project for the term of designing and

construction of such objects till December 31st of the year following the year when the construction of the mentioned objects was completed;

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

- payments into innovative funds for the period of the investment agreement validity;

- payments of import duties (taking into account international obligations of the Republic Belarus) and VAT in case of import into the customs territory of the Republic of Belarus of technological facilities and their spare parts for the objects connected with realization of the investment project;

- payment of state duty for issuing permissions for attracting foreign labour force into the Republic of Belarus, special permits for the right to be involved in labour activities in the Republic of Belarus, and foreign citizens and stateless individuals attracted by the investor and (or) organization created by this investor or with his share according to the established procedure in the Republic of Belarus for implementation of the investment project are exempt from state duty for issuing permissions for temporary residence in the Republic of Belarus;

- VAT and the profit tax, obligation to pay which arises in connection with gratuitous transfer of permanent structures (buildings, constructions), isolated premises, permanent structures under construction and other permanent assets transferred for implementation of the investment project to the ownership of the investor and (or) organization created by this investor or with his share according to the established procedure in the Republic of Belarus.

### 3.6. Investments on the basis of concessions

Investment in respect to subsoil, water, forests, land and facilities that are owned only by the state or activity over which there is exclusive right of the state may be carried out on the basis of a concession by means of the concession contract conclusion.

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

Concession objects are provided into concession, as a general rule, in four stages:

1. formation, approval, publication in print mass media and publication in global computer network Internet of the lists of concession objects of the Republic of Belarus and concession objects of administrative-territorial units, determining according to them the type of the concession contract and the way of choosing the concessionary;

2. determining the concession authority, development, agreement and approval of concessional offers;

3. organization and conducting a competition (auction), deciding on the concessionary;

4. conclusion of the concession contract.

Concession contract can be concluded for the period up to ninety nine years unless in respect to certain concession objects the shortest term is established by legislative acts.

For providing the concession object into use in accordance with the concession contract the investor pays a single payment:

- to the republican budget – for the concession objects of the Republic of Belarus, for the concession objects, information about which constitute state secrets, and for the concession objects that are strategically important for the Republic of Belarus;

- to the corresponding local budget- for the concession objects of administrative-territorial units.

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

- offered by the single participant of the competition, whose offers correspond to the conditions of the competition, in case the competition is recognized as failed;
- initial payment amount, increased by five percent, in case the competition is recognized failed and there is consent of the single participant of the auction to the conclusion of the concession contract with him under the conditions offered to him;
- established by the President of the Republic of Belarus, in case of the concession contract conclusion without holding a competition (auction);
- established by the agreement of the parties, but not less than the initial amount of the single payment, in case of a new concession contract conclusion by the President of the Republic of Belarus after the expiration of the maximum validity term of the concession contract.

### **3.7. Disputes resolution between an investor and the Republic of Belarus**

According to the Law on investments disputes between an investor and the Republic of Belarus that arise at the time of making investments are subject to pre-court resolution by means of negotiations unless otherwise established by legislative acts of the Republic of Belarus.

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

If disputes not relating to the exclusive jurisdiction of courts in the Republic of Belarus arisen between a foreign investor and the Republic of Belarus have not been resolved in a pre-court procedure by means of negotiations during three months from the date of receipt of a written offer on their resolution in a pre-court procedure, then such disputes regarding the choice of the investor may be also resolved:

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

In case the international treaty of the Republic of Belarus and (or) the contract concluded between an investor and the Republic of Belarus stipulate otherwise regarding settlement of disputes between the investor and the Republic of Belarus that arise at the time of making investments, then the provisions of this international treaty of the Republic of Belarus and (or) the contract concluded between an investor and the Republic of Belarus.

### **3.8. Investment agent**

Investment agent status appeared in legislation of the Republic of Belarus in 2009.

**Investment agent** – a person authorized to represent interests of the Republic of Belarus on issues of bringing investments into the Republic of Belarus. Creation of the investment agent status is aimed at improvement of work on attracting investments into national economy of the Republic of Belarus.

Residents of the Republic of Belarus, both legal entities and individuals, as well as nonresidents, including foreign citizens that are not individual entrepreneurs may become investment agents.

Authorities of the investment agent are performed for the purpose of development of administrative-territorial units and branches of economy of the Republic of Belarus as well as for realization of investment projects.

Legal entities and citizens claiming the receipt of authorities of the investment agent shall submit to the state body (in case of attracting investments into development of the corresponding branch) or to the executive committee (in case of attracting investments into development of administrative-territorial unit) the following documents:

- application;
- copy of the certificate of state registration;
- information about the applicant;
- contract for delegation of authorities.

In case the state body or executive committee approve of the applicant, the contract for representation of interests of the Republic of Belarus on issues of attracting investments is concluded with the applicant.

Within the scope of representation of interests of the Republic of Belarus, the investment agent can perform such actions as to hold negotiations with potential investors, develop a mechanism for implementation of the investment project, draft documents supporting agreements with potential investors. In order to implement these actions the investment agent may provide future investors with consulting, legal and other services.

### **3.9. External guarantees of investments in Belarus**

#### **Multilateral Investment Guarantee Agency**

In order to create conditions corresponding to international standards for insurance against risks of foreign investors in the territory of our country, attraction of foreign financial resources without providing guarantees of the Government of the Republic of Belarus to foreign investors and, correspondingly, without increase of the state external debt amount of the Republic, the Government took some measures aimed at inclusion of the Republic of Belarus into members of Multilateral Investment Guarantee Agency (hereinafter – MIGA).

At present all the procedures required for affiliation of the Republic to MIGA which is the establishment of the Group of organizations of the World Bank and therefore allows investors to insure the ongoing projects against political and non-commercial risks. Corrections to the Convention on the establishment of MIGA have been validated. The Agreements on legal protection of the guaranteed foreign investments and on use of local currency are concluded between the Government of the Republic of Belarus and MIGA.

At present both Agreements are validated.

Thus, the Republic of Belarus has fulfilled all necessary procedures in order to ensure its international obligations and membership in MIGA.

## **Agreements on assistance in realization (encouragement) and protection of investments**

In order to create favourable conditions for investments made by investors of a state in the territory of the other state, acknowledging that mutual assistance in realization and protection of such investments facilitates development of business initiative and prosperity growth of both states, the Republic of Belarus has signed about 60 agreements on assistance in realization (encouragement) and mutual protection of investments.

In particular, the Agreements provide for the following guarantees:

- National treatment (each party treats investors of the other party's state in a not less favourable way than the one that the party grants in similar situations to investors of its own state, etc.);
- most favoured treatment (each party treats investors of the other party's state in a not less favourable way than the one that the party grants in similar situations to investors of any third state, etc.);
- minimum standards (each party treats investments of investors from the other party's state according to the international law, including fair and equal treatment, protection and safety, etc.);
- expropriation and compensation (neither Party may expropriate or nationalize investments both directly and indirectly by means of measures similar to expropriation or nationalization, for other purposes than: for the public benefit; on nondiscriminatory basis; according to the appropriate legal procedure; and on conditions of compensation payment, etc.);
- other guarantees.

## 4. Privatization

Belarusian legislation is aimed to improve legal and economic relations in the field of state property privatization and transformation of state-owned unitary enterprises into joint stock companies. That is made in order to create the conditions for attracting investment and development of an efficient economy.

### 4.1. The concept of privatization

In accordance with the current legislation, privatization of state property (hereinafter – privatization) means selling privatization objects to subjects of privatization on the terms and conditions provided by legislation.

Privatization objects are:

- enterprises as property complexes of state unitary enterprises;
- shares (stocks in authorized funds) of companies which are in the ownership of the Republic of Belarus or in the ownership of administrative and territorial units.

Subjects of privatization are: individuals and legal entities, as well as foreign states, their administrative and territorial units, international organizations and foreign organizations that are not legal entities.

Privatization is implemented through the sale of:

- shares (stocks in authorized funds) at an auction;
- shares (stocks in authorized funds) by a competitive bidding;
- enterprises as property complexes at an auction;
- enterprises as property complexes by a competitive bidding;
- shares of an open joint-stock company according to the results of trust management.

Sale of a privatization object without holding an auction (competitive bidding) is carried out in the event of the sale of shares of an open joint-stock company according to the results of trust management and in other cases established by the President of the Republic of Belarus.

### 4.2. The procedure of privatization

Privatization is carried out on the basis of privatization body's decision. The privatization body shall prepare a draft decision on privatization of enterprise as a property complex or shares (stocks in authorized funds) which are the state property.

After decision the privatization body carries out the publication about the auction (competitive bidding) for the sale of an object of privatization.

The obligation to organize auction (competitive bidding) is under privatization bodies, which in the frame of its duties install auction (competitive bidding) rules, accept applications for participation in the auction (competitive bidding), create a commission on conducting the auction (competitive bidding) on the sale of the objects of privatization. The participant, which or who is considered as winner by commission, draws up a protocol on results of the auction (competitive bidding) on the sale of the object of privatization

Sale of the privatization objects is carried out at the open auctions (competitive biddings) only for monetary funds.



#### **4.2.1. Features of selling shares (stocks in authorized funds) and enterprises as property complexes at auction**

Sale of shares (stakes in authorized funds) and enterprises as property complexes at the auction is carried out when the buyer is not required to fulfill any conditions.

Sale of shares of closed joint stock companies, stakes in authorized funds of other economic companies shall be carried out according to established rules of obligatory giving of proposal for purchase to other participants, those economic companies, third persons in accordance with the normative acts.

The initial sale price of an enterprise as property complex which has a number of employees less than 100 persons, whose outstanding financial liabilities on the date of determining the estimated cost of the enterprise as a property complex are equal to the balance cost of assets or exceeds this cost, when it is sold through a competitive bidding the estimated cost is to be one base unit on the date of holding the competitive bidding, established in accordance with acts of legislation.

The enterprise as property complex is transferred to the customer after the state registration of sale's contract under the transfer act. State registration of the transfer of the ownership of the enterprise as property complex is carried out after the full payment of the object of the privatization by the buyer in accordance with the contract of sale. The ownership of the enterprise as property complex is transferred to the buyer from the moment of state registration of the transfer of the ownership.

Buyers should know that the punishment for the breach of the payment period is tough: fine in the amount of 10 percent of the purchase price for the privatization object and a penalty interest in the amount of 1/360 of the refinancing rate of the National Bank, established on date of remittance of funds (making payments), on the unpaid sum for each day of delay.

#### **4.2.2. Features of selling shares (stocks in authorized funds) and enterprises as property complexes at competitive bidding**

Sale of shares (stocks in authorized funds) is carried out at a competitive bidding, when the purchaser is required to fulfill certain conditions set forth in the decision on privatization.

Sale of shares of closed joint stock companies, stakes in authorized funds of other economic companies shall be carried out according to established rules of obligatory giving of the purchase offer to other participants, those economic companies, third persons in accordance with the normative acts.

The following conditions can be stated in the decision on privatization through sales of shares (stocks in authorized funds) at a competitive bidding:

- amount, time constraints and spheres of investment;
- preservation and (or) creation of a certain number of jobs within a certain period;
- preservation of the sphere of business activity of the business entity within a certain period;
- preservation and funding for a certain period of social facilities that the economic company have in the ownership or under a contract of gratuitous use;
- other conditions.

The following conditions can be stated in the decision on privatization through the sale of enterprises as property complexes at a competitive bidding:



- amount, time constraints and spheres of investment;
- preservation and (or) creation of a certain number of jobs within a certain period;
- retraining and (or) advanced training of employees;
- preservation within a certain period of the range of manufactured products (types of works, services);
  - preservation within a certain time of the sphere of business activity of the state unitary enterprise;
  - other conditions.

In the event of sale of an enterprise as property complex at a competitive bidding with the establishment of an initial sale price equal to one base amount, the owner of the privatized enterprises as property complex is required to repay the indebtedness on financial obligations of the state unitary enterprise the property complex of which he has acquired, to keep a certain amount of jobs, to ensure operational and commercial activities of the enterprise and meet the other conditions of the contract of sale.

#### **4.2.3. Features of selling shares of open joint stock company according to the Results of trust management**

Sale of part of shares (no more than 10 percent of the authorized fund) owned by the Republic of Belarus or administrative and territorial unit of open joint-stock companies, the debt on financial obligations of which within two years preceding the date of the decision on privatization is equal to book value assets or more for two years preceding the date of taking the decision on privatization, mainly (at least 14 months) are equal to balance sheet value of assets or exceeds its assets, can be carried out according to the results of trust management of shares of unprofitable open joint stock company.

Shares of unprofitable open joint-stock companies owned by the Republic of Belarus or an administrative and territorial unit may be transferred into trust management with the right to buy out those shares according to the results of trust management to the subjects of privatization – professional securities market participant (banks, other financial organizations).

Privatization body accepts applications for participation in competitive bidding, sets up a contest commission to conduct the competitive bidding. The contest commission determines the participant, who has won competitive bidding, and draws up minutes on the results of the competitive bidding.

The competitive bidding is considered invalid if:

- application Form in the competitive bidding is filed only by one party;
- no applications for participation in the competitive bidding were filed;
- only one participant or none of the participants appeared at the competitive bidding.

A competitive bidding is considered to have no result if among the applications filed by the participants of the competitive bidding under the terms of the competitive bidding none of the proposals of the participants of the competitive bidding corresponds to those terms.

The winner of the competitive bidding is deemed to be the participant whose all offers, according to the conclusion of the commission on conducting the competitive bidding, correspond to the terms of the competitive bidding or contain better terms in comparison with the terms of the competitive bidding.

The participant, who has won the competitive bidding, and the contest commission shall sign protocol on the results of the competitive bidding on the day of the competitive bidding.

The procedure for conducting the competitive bidding on the transfer of the shares of unprofitable open joint-stock companies into the trust management with the right to buy out a part of those shares according to the results of the trust management and for concluding the contract on trust management of shares with the right to buy out a part of those shares according to the results of the trust management (hereinafter – contract of trust management with right to buy out) as well as for control over its fulfillment is determined by the Council of Ministers of the Republic of Belarus (the head of executive branch) with regard to the requirements of legislative acts.

The subject of the privatization that concluded a contract of trust management with the right to buy out, after the termination of the trust management and in case he fulfilled all conditions of the contract of trust management with the right to buy out, has a right to purchase a part of the shares transferred to him, in the ownership under a contract of sale subject to conditions specified in the contract of trust management with the right to buy out. Sale price of shares of unprofitable open joint-stock companies is determined by their nominal value in accordance with the charters of those companies on the date of the conclusion of the contract of trust management with right to buy out.

In the case of breach of the contract of trust management with right to buy out the subject of privatization has no right to repurchase the shares of unprofitable open joint stock company and bears the liability provided by the contract of trust management with the right to buy out.

### **4.3. Transformation of the state unitary enterprises into the open joint stock companies**

Decisions on the transformation of the state unitary enterprises into the open joint stock companies are made in accordance with the approved plans on transformation of the state unitary enterprises into the open joint stock companies:

- concerning the republican unitary enterprises employing 1,000 people or more – by The Property State Committee of the Republic of Belarus;
- concerning the republican unitary enterprises employing less than 1,000 people – by The National cadastral Agency and its subordinate organizations;
- concerning municipal unitary enterprises – by the appropriate local executive and administrative authorities.

The founders of the open joint stock companies created in the process of transformation of state unitary enterprises are the privatization bodies. Other subjects of privatization who have made monetary and/or non-monetary contributions to the authorized funds of the open joint-stock companies can be additional participants.

The choice of other founders other than the state is to be made by the privatization body by holding a competitive bidding, and in case the competitive bidding has been recognized to have failed – by the direct negotiations of the privatization body with the single participant of the competition.

Works on transformation of the state unitary enterprise into open joint-stock company are performed by the commission for transformation. The commission for transformation includes representatives of the collective of workers of the state unitary enterprises and representatives of the state body, state organization, local administrative and executive

body to which the state unitary enterprise being transformed is subordinated (makes part of).

The amount of authorized fund of the open joint-stock company is determined based on the balance sheet value of assets and liabilities of the state unitary enterprise or several state unitary enterprises on January, 1st of the year in which the transformation is being conducted, under the procedure established by the republican body of state administration for managing state property, and in the event of participation of the founder other than the state, also based on the value of the contribution of such a founder, determined in accordance with acts of legislation, and may not be below the minimum size established by legislative acts.

The sectoral commission negotiates the project of the transformation of the state unitary enterprise into the open joint stock company, prepares the conclusion on the possibility of establishing of the open joint stock company.

Based on the conclusion of the sectoral commission, the privatization body makes a decision on the establishment of an open joint stock company in the course of transformation of the state unitary enterprise, or in the course of transformation of a few state unitary enterprises.

## 5. Construction and real estate

### 5.1. Real estate

A general notion of real estate is given by Civil Code of the Republic of Belarus, according to which to real estate (real property) shall be relegated land plots, subsoil plots, solitary water objects, and all that is firmly connected with the land, as well as the enterprises as property complexes, and those what can be attributed to the real estate under the laws of the Republic of Belarus. The main feature of real estate is the fact of impossibility to move such objects without incommensurate damage to their purpose.

### 5.2. State registration of real estate, rights and deals with it

The real estate, rights and deals with it are subject to the state registration real estate (hereinafter – state registration) in cases provided by the legislative acts.

State registration is a legal act of state admission and confirmation of a fact connected with creation, changing, disappearance of real estate, rights to it and encumbrances on it, as well as transactions with it.

There is a Common state register of real estate, rights to it and deals with it which contains information and documents regarding registered objects of real estate in the Republic of Belarus.

State registration is necessary in cases of:

- occurrence, changing, termination of rights to real estate including parts in rights, except parts in right of common ownership of common household and limitations (encumbrances) on rights over real estate according to the above-mentioned law and other legislative acts;
- creation, changing, disappearance of real estate;
- transaction with real estate which is subject to state registration according to legislative acts of the Republic of Belarus;

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

- land plots – a part of the land surface having their boarder and purpose and firmly connected with constructions (buildings, structures) located on it;
- constructions (buildings, structures) - any objects built on or under land intended for long-term use, the creation of which is recognized as completed in accordance with laws of the Republic of Belarus and the purpose, location, dimensions of which are described in the documents of the Common state register of real estate.
- incomplete conserved constructions – a conserved construction object , creation of which as construction is permitted in accordance with legislation of the Republic of Belarus, but not accomplished.
- isolated premises (including inhabited) - the inner space of a construction (building, structure) separated from other related parts of the construction by bridgings, walls, division walls, having an independent entrance from auxiliary premise (entrance hall, corridor, walkway, stairway, pace, elevator hall etc.) or from public area (area around the house, street etc.) directly or from other premises or territory by using servitude, the purpose, location in the construction, the area of which is described in the documents of the Common state register of real estate;

- parking place – a stall intended for placing a vehicle, which is a part of a construction belonging to a legal entity or an individual and registered as an object of real estate.
- enterprise as a property complex used in the entrepreneurial activity. The enterprise includes all types of property intended for its activity, including land plots, buildings, structures, equipment, inventory, raw material, production, claims, debts, as well as trade name, trademark, service mark and other exclusive rights.

Thus, real estate not included in the above-mentioned list and obligatory state registration of which is not provided by legislative acts (laws, decrees, edicts) is not subject to state registration.

The legal significance of the state registration is that it is only since the moment of its realization:

- real estate is recognized as created, changed, eliminated;
- right, limitation (encumbrance) of a right to real estate arises, is being transferred and is terminated;
- transaction is recognized as concluded.

As a general rule according to Civil Code transactions with real estate are subject to state registration. Non-observance of the obligation to provide state registration of a transaction leads to its nullity, so no rights and obligations arise from such a transaction and the parties have to return all received in such a transaction.

There are exceptions from this rule provided by the legislation of the Republic of Belarus: lease and sublease contracts, the contracts of uncompensated use of real estate (construction (building, structure), isolated premises, parking place) regardless the term of lease, sublease, uncompensated use as well as agreements intended to change or terminate above-mentioned contracts; rights to real estate arising from above-mentioned contracts are not subject to state registration.

These contracts are considered as concluded from the date of its signing by parties.

The procedure of state registration is carried out by territorial organizations on the registration of real estate subordinated to the Property State Committee of the Republic of Belarus (The National cadastral Agency and its subordinate organizations). Time-limits of administrative procedures as well as fees connected with state registration are established by legislation.

### **5.3. Land plots**

Land plot is one of types of real estate which are subject to state registration as a general rule.

According to legislation of the Republic of Belarus legal entities can own land plots on following titles: ownership, permanent or temporary use, lease. One of the main principles in land laws is a principle of purpose use. Consequences of non-compliance with this rule are that a title for a land plot (including ownership) may be terminated.

The use of land plots is paid in the Republic of Belarus. The forms of payment for a land plot are land tax or rent.

For the use of a land plot privately owned, permanently or temporarily used, land tax is to be paid according to the legislation.

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

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

### 5.3.1. Ownership

Land plots can be privately owned by private legal entities of the Republic of Belarus, foreign states, international organizations.

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

The disposal of a land plot privately owned is implemented on the basis of a civil law transaction.

### 5.3.2. Permanent use

Permanent use is one of the forms of a land plot use without predetermined term which terminates in cases provided by legislation.

Commercial private legal entities can use under permanent use title land plots which had been transferred to them before Land Code entered in force, or if the title for permanent use of a land plot was transferred to them from other legal entities, as well as if a land plot was transferred:

- for maintenance of objects of real estate owned by state;
- for construction of apartment dwelling buildings (except dwelling buildings of higher comfort according to the criteria stipulated by legislative acts); maintenance of apartment dwelling buildings; construction and (or) maintenance of garages and parking lots;
- for construction and (or) maintenance of transport and engineering infrastructure and roadside service.

### 5.3.3. Lease

Land plots can be granted on lease to legal entities of the Republic of Belarus as well as to foreign legal entities, their representative offices, foreign states, diplomatic missions and consular posts of foreign states, international organizations and their representative offices.

The lease of privately owned land plots is carried out on the basis of a civil law transaction.

Land plots owned by the state can be granted on lease at an auction as a general rule. But there is a list of cases stipulated by legislation in which land plots can be granted on lease without an auction. For example land plots can be granted on lease without an auction to an investor for realization of projects provided by investment agreement with the Republic of Belarus, to organizations for objects construction of engineering and transport infrastructure, construction of roadside service objects, to residents of free economic zones, special tourist and recreational parks - for construction and maintenance of real estate in these areas, parks.

Time-terms and other conditions of a land plot lease are determined by the lease contract. But the time-term of lease of a land plot allocated for agriculture should be not less than ten years, the time-term of lease of a land plot owned by the state and allocated for construction and (or) maintenance of capital buildings should be not less than the time-term of the construction works and (or) operation of these capital buildings. In any case the time-term of the land plot lease should not exceed ninety nine years.

## 5.4. Construction

Construction of buildings and structures is carried out on the basis of authorization. Local Executive Committees, its departments, specialized municipal unitary organizations on the stakeholders' applications prepare and give out building documents, depending on the type and place of construction. The following building documents are obligatory:

- Local Executive Committees's decision on permission to carry out design and exploration works and construction of the object;
- architectural planning task;
- opinions of coordinating organizations;
- technical conditions on engineering support of the object.

Availability of permits is a necessary condition for customer to enter into a contract for development of project documentation and construction contract.

Under the general rule, project documentation is subject to mandatory state expertise, which is carried out by specialized state enterprise - the republican unitary enterprise "Glavgosstroyexpertiza" or their subsidiaries on a payment basis. Project documentation for which positive opinions of state expertise is received can be approved by construction customer and can be transferred for work.

There are special requirements provided by legislation for the process of determination of contractor for the object's construction. For objects not financed from the state budget or non-budget funds and funds attracted under the guarantee of state agencies, the conduction of contract auctions is obligatory if the cost of construction exceeds 100 000 base units (1 base unit is 130 000 BYR). In such cases a contractor for construction of an object is determined only as a result of an auction. The cases when financing of the construction is fully financed by foreign investors are exempt from this rule.



## 6. Pharmaceutical activities

Pharmaceutical activities relate to spheres that are regulated sufficiently detailed by legislation of the Republic of Belarus. There are the following components of the pharmaceutical activities:

- industrial production of medicines;
- wholesale trade in medicines;
- pharmacy manufacture of medicines;
- retail trade in medicines.

In addition to these components the issues of storage, transportation, medical use, disposal, advertising of medicines, pricing of medicines are also regulated.

### 6.1. Licensing of pharmaceutical activities

Licensing authority is the Ministry of Health.

Licenses are issued for a period of 10 years with the possibility of extension. In case the name, location of the licensee's place of activity and (or) the types of works (services), as well as other information specified in the license are changed, it's necessary to make changes in the license.

Licensing requirements and conditions apply to the following criteria:

- education, skills and experience of the manager and personnel;
- availability of premises, equipment and vehicles that are needed for activities and that meet their business requirements, which is supported by technical documentation and by the opinion of a state body;
- nomenclature of medicines claimed for production that is coordinated with state authorities.

### 6.2. Registration of medicines

Legislation of the Republic of Belarus prohibits the import, sale and medical use of medicines that are not registered in Belarus. The registration procedure includes several stages:

1. preparation and submission of the registration dossier, which includes the established documents. There are certain requirements to the content and execution of documents established by the Ministry of Health;
2. conclusion of a contract for the provision of services for organizing and conducting of works for the state registration (re-registration) of medicinal products;
3. examination of the registration dossier, and the term for its carrying out shall not exceed 30 days from the date of the contract;
4. testing;
5. conduct of testing of control methods over the quality of medicines;
6. inspection of industrial production of medicines to check the compliance with the requirements of Good Manufacturing Practice approved by the Ministry of Health;
7. adoption by the Ministry of Health of the decision on state registration (denial of state registration) of medicinal products;

8. in case the Ministry of Health makes a decision on the state registration of medicinal products – entry of information about them into the State register, execution and issuance of the registration certificate.

In specific cases some of the prescribed procedures may not be required.

### **6.3. Pricing in medicines**

Legislation of the Republic of Belarus establishes the limits of wholesale and trade (used in the retail trade) markups that must be met by distributors and retailers. The amount of the markup depends on the base cost (price of the Belarusian manufacturer or price of the imported goods with due account of customs duties, taxes and transportation costs), and this increases the base cost. Wholesale markups are installed within 2 - 11%, trade markups - 2 - 30%.

### **6.4. Advertising of medicines**

In addition to the general requirements for advertising of any goods there are certain restrictions and prohibitions on advertising of medicines.

So, as a general rule, advertising of medicines is allowed only if the advertiser has agreement from the Ministry of Health of the Republic of Belarus.

Placement (distribution) of advertising of medicines, which are dispensed only on prescription, is allowed only in specialized print media, as well as in places of medical or pharmaceutical exhibitions, seminars, conferences and other similar events.

Advertising of medicines that are not registered in the Republic of Belarus is prohibited.

There are also certain requirements for the content of advertising materials.

It should be noted that legislation also regulates in detail other issues related to the handling of medicines: storage, transportation, disposal and etc. It's noteworthy that there are certain measures on protection of the Belarusian (Russian) medicine manufacturers. This is done by establishing a list of Belarusian-made (Russian-made) medicines mandatory for availability in pharmacies of all forms of ownership.

## 7. Finance and Banking System

### 7.1. Payments and Financial Statements

As a general rule payments between legal entities and individual entrepreneurs in Belarus are carried out on a cashless basis. Nevertheless, some transactions between legal entities and their separate parts and individual entrepreneurs (hereinafter – business entities) are permitted in cash.

Cash transactions are carried out for the obligations arising from civil-law relations including by depositing money directly to banks and charging this payment in the current (settlement) bank account. The total amount of cash settlements cannot exceed 300 basic units (at the date of 01.01.2014 base unit is about 10 euro) in a day.

Except bank cash registers the receiving of cash from business entities in the amount of not more than 300 basic units is carried out by:

- business entities engaged in the exhibition industry – for their services (except areas lease payments);
- business entities performing wholesale trade through stores-warehouses and business entities performing retail trade – for the goods purchased from them;
- bodies, which control the markets, – for their services in accordance with rules of trade in the markets of the Republic of Belarus (except for the rental of retail space);
- business entities selling fuel and providing services directly related to international road transport – for fuel and services (transport washing, minor forced repair of transport, documents execution for carriage of dangerous goods, parking lots, telephone and fax, terminal services (connection with border control of transport and cargo), escorting of cargo (in exception cases).

Cash payments to the budget and state budget funds are made without size limits.

Some legal entities and individual entrepreneurs are not allowed to make cash transactions. They are:

- legal entities and individual entrepreneurs engaged in alcoholic, inedible alcohol-containing products, inedible ethyl alcohol, tobacco raw material, tobacco wholesale trade;
- legal entities in state of liquidation, as well as individual entrepreneurs with regard to which there is a decision on termination of their activity, legal entities and individual entrepreneurs with regard to which bankruptcy proceedings has been started.

The sources for the cash payments are:

- cash received from the current (settlement) bank accounts, card accounts;
- cash received into the cash registers of legal entities and individual entrepreneurs in the form of repayment of previously issued for payments cash;
- revenue;
- personal money of the employees of legal entities that are used in the interests of legal entities, their separate divisions, individual entrepreneurs.

#### 7.1.1. The procedure of using the cash

Cash of legal entities, branches and individual entrepreneurs, who have opened operating bank account (hereinafter – business entities), is subject to mandatory transferring and keeping in appropriate accounts in the banks.

Business entities must deliver cash through their authorized persons:

- to banks;

- to collecting agents;
- to the organizations of the Ministry of Communications and Informatization of the Republic of Belarus.

Business entities determine the procedure and the deadlines for delivering of the revenue themselves in the written order of the chief executive of the business entity.

Business entities may spend the cash from the revenue to meet their needs arising during their activity (including for the payments into the budget, state funds), in the order and amount, specified in the legislation for the implementation of future expenses (subject to the existence of such amounts). For example, for using cash from the revenue for travel expenses the business entities should take into account the norms of reimbursement of travel expenses, established by the Belarusian legislation.

Cash can also be received by the business entities in the serving banks for the purposes, established by law, and must be spent for the purposes indicated in the receipt, according to which this cash was received.

### **7.1.2. Financial statements**

Annual financial accounting reports of business entities are the primary source of information about the results of their economical activity and their financial condition. It allows to find out about the income and expenditures incurred by organizations, contribute to the prevention of negative results of the economic activities of the organization and reveal reserves for its financial stability.

These reports are of interest not only to these business entities and their parent organizations, but also to external users: controlling state bodies, banks, credit organizations, counterparties and etc., because they provide information about the presence and movement of assets and liabilities, as well as about the use of materials, labor and financial resources in accordance with approved standards.

The Ministry of Finance of the Republic of Belarus is the governmental body that provides method guidance of accounting reports and determines composition of annual financial accounting reports, i.e. in what order it should be compiled and in what way it should be presented to the interested persons.

An organization prepares the accounts for the period of month, quarter and year. In this case, monthly and quarterly financial accounting reports are the intermediate reports.

Nowadays, annual financial accounting reports of Belarusian legal entities include the following documents:

1. balance sheet;
2. profit and loss report;
3. statement of capital changes;
4. statement of cash flow.

Organization's financial accounting reports for the month consist of balance sheet.

Organization's financial accounting reports is composed with considering of activity indicators of its branches, representative offices and other separate units, including those with separate balance.

Some business entities have the right not to exercise bookkeeping and accounting and keep records in a special book (ledger) for recording income and expenses. Such entities include organizations with number of employees up to 15 inclusive (average for period since the beginning of the year of the reporting period) and individual entrepreneurs, the amount of gross revenue which cumulatively from the beginning of the year does not

exceed 4 100 000 000 Belarusian rubles, if they have applied the simplified system of taxation, except:

- republican and municipal unitary enterprises which possess their property on the right of economic management;
- economic companies with respect to which the state lawfully may determine the decisions made by these economic companies.

Organizations must represent the annual accounting not later than 31 March of the year following the reporting year.

Mandatory publication of annual accounting reports is provided by the laws of Belarus for the following subjects:

- open joint-stock companies;
- banks, banks holdings companies;
- insurance companies;
- insurance brokers.

Other organizations can publish their annual accounts at will.

For the infringement of the procedure of making financial accounting reports there is an administrative liability in the form of warning or fine ranging from 4 to 20 basic units (at the date of 01.01.2014 base unit is about 10 euro).

Currently the first steps to the international financial reporting standards (hereinafter IFRS) introduction has already taken in the Republic of Belarus. From 2016 public-interest organization - open joint stock companies, which are the founders of the unitary enterprises and (or) the main business companies in respect of the subsidiary, banks and nonbank credit and financial organizations, insurance organizations - will be obliged to prepare annual accounting in accordance with IFRS.

## 7.2. Pricing

The main legal act that regulates relationships in the field of pricing in the Republic of Belarus is the law of the Republic of Belarus of May 10, 1999 No 255-3 “On pricing”.

As a general rule in Belarus there are free prices (tariffs) used in respect of goods (works, services).

The exception to this rule is regulation of prices (tariffs) in respect of:

- goods (works, services) of monopolistic economic entities;
- certain goods (works, services), a specific list of which is established by Presidential Edict of February 25, 2011 No 72 “About some measures of regulating prices (tariffs) in the Republic of Belarus” (public facilities for citizens, paid medical services, medicines produced by organizations from the Republic of Belarus, petrol, gas, alcohol, carriage and transportation services, paid educational services, socially important goods, precious stones and metals and others).

As for regulated goods (works, services) republican state administration bodies, regional and Minsk city executive and administrative bodies within the powers granted to them by law shall effect (administrative) regulation of prices (tariffs) by setting:

- fixed prices (tariffs);
- limited prices (tariffs);
- limits of trade allowances (discounts) to the prices;
- limited cost-effectiveness standards used to determine the amount of profit to be included in the regulated price (tariff);
- procedures for determining and applying the prices (tariffs);

- declaration of prices (tariffs).

### **7.3. Banking system**

The number of legal acts is dedicated to regulation of the Banking system of Belarus. The main legal act in this field is the Banking Code of the Republic of Belarus. According to the provisions of the Code, the Banking system of Belarus consists of:

- the National Bank of the Republic of Belarus (it is the central bank of the Republic of Belarus, which regulates credit relations and currency, determines the procedure of payments and has the exclusive right of money emission);
- other banks (31 banks are registered as of January 1, 2014, except for the National Bank);
- non-banking credit and financial institutions.

Non-banking credit and financial institutions unlike the banks do not have the right to exercise the following banking operations:

- funds raising from legal entities and (or) individuals to the accounts and (or) to the deposits;
- placement of attracted funds on its own behalf and for its account on the terms of repayment and maturity;
- opening and maintaining of bank accounts of individuals and (or) legal entities.

#### **7.3.1. Banking Principles**

The main principles of banking activities include the following:

1. obligatory licensing of banks and non-banking credit and financial institutions engaged in banking activities (hereinafter – Banking License);
2. independence of banks and non-banking credit and financial institutions in their activities and non-interference of government authorities, except for occasions, provided by laws of the Republic of Belarus;
3. division of liabilities among banks, non-banking credit and financial institutions and the state;
4. compliance with safety functioning standards introduced by the National Bank of the Republic of Belarus (hereinafter – the National Bank) to ensure stability and soundness of the banking system in the Republic of Belarus.
5. the right of individuals and legal entities to choose banks and non-banking credit and financial institutions at their discretion;
6. guarantees of confidentiality of clients transactions, accounts and deposits;
7. guarantee of recovery of funds placed by bank depositors.

#### **7.3.2. Bank authorized fund**

A bank authorized fund shall be formed by contributions (assets) of its founders (shareholders). The authorized fund of bank comprises the minimum amount of the bank assets to safeguard the interests of its creditors.

A minimum amount of the bank authorized fund is determined by the National Bank upon approval of the President of the Republic of Belarus. Under resolution of the Council of the Board of the National Bank of the Republic of Belarus of May 28, 2012 No 249 “About a minimum amount of the bank authorized fund”, as of January 1, 2013, a



minimum amount of the bank authorized fund is to be established in Belarusian rubles in the amount equivalent to **25 000 000 Euros**.

On establishing a bank the minimum amount of its authorized fund shall be formed solely by means of cash contributions from its founders. Formation of an authorized fund shall be formed solely by means of own funds of the bank shareholders, and an increase of the authorized fund can be made by means of own funds of the bank shareholders (owner of assets), of other persons, and/or sources of own funds of the bank.

Own funds of shareholders (owner of assets), other persons comprise legitimately acquired financial resources or other assets owed by the named persons by virtue of ownership or other proprietary rights. Sources of the bank own funds are the retained earnings of the bank or the funds, established from the bank profits, in cases if such funds were not used.

The property that is used in banking activity and that is related to fixed assets, except the unfinished construction objects, could be used as a non-monetary contribution to the bank authorized fund.

Monetary contributions to the bank authorized fund shall be made to a temporary account opened by the bank founders or by the bank in case of its authorized fund increase at the National Bank or other bank as agreed with the National Bank. In case of opening the temporary account at the other bank, monetary contributions are made to this temporary account through the correspondent account of this bank, opened in the National Bank of the Republic of Belarus.

Opening of the temporary account is not obligatory in cases of:

- adoption of a legal act of the Republic of Belarus, that provides introduction of monetary contributions to bank authorized funds;
- authorized fund increase at the expense of sources of the own funds of the bank;
- authorized fund increase at the expense of credits (loans), which were placed at this bank earlier and are accepted as subordinated credits (loans) under the Belarusian legislation.

### **7.3.3. Terms and conditions for obtaining a Banking License**

According to Belarusian legislation banking is a licensed activity. Banking Licenses, including the list of banking operations which the bank is entitled to exercise, are issued by the National Bank.

The Bank is obliged to apply to the National Bank for receipt of a license to exercise banking activities within ten months from the date of state registration.

To obtain a banking license the Bank must comply with the licensing requirements which are established by the National Bank.

Decision on the issue of license (refusal to issuance), on introduction of changes and (or) additions (refusal to introduction) to the list of banking operations specified in the license issued to the bank is made by the National Bank within a period not exceeding two months from the date of submission to the National Bank of documents required to obtain a license, for introduction of changes and (or) additions to the list of banking operations specified in such license.

Founders of the bank may apply to the National Bank for receipt of a license at the same time together with the request of the state registration of the bank on condition of implementation of license requirements. The period of making a decision on the issue of license may be extended to three months by the National Bank.



If the bank does not receive a license within twelve months from the date of its registration, such bank is subject to liquidation by the decision of its shareholders or bank authority authorized by the statute, or by the court at the suit of the National Bank.

The bank must have a stable financial position over the last two years or since obtaining a license, if the license has been obtained less than 2 years ago, to obtain the right to exercise banking operations of funds raising of individuals to the accounts and (or) to the deposits, opening and maintaining of bank accounts of individuals. It is imperative that the bank's regulatory capital is in the amount of 25 million euro (50 million euro if the banking license has been obtained less than 2 years ago) as of the first month of submitting the documents to the National Bank for introduction of changes and (or) additions to the list of banking operations which the bank is entitled to exercise.

#### **7.3.4. Additional requirements as to organizations and activity of banks with foreign investments**

The limit (quota) for foreign capital participation in the banking system of the Republic of Belarus is set by the National Bank upon the approval of the President of the Republic of Belarus. As of January 1, 2014 the limit (quota) is set at no more than 50 percent. The said quota shall be calculated as the ratio of total non-resident capital in aggregate authorized funds of banks with foreign investment and subsidiaries of foreign banks, and the total authorized fund of banks registered in the Republic of Belarus.

The National Bank shall stop registration of banks with foreign investment once foreign capital participation in the banking system of the Republic of Belarus reaches the established limit (quota).

Banks with foreign investment shall be obliged to submit advance applications to the National Bank for authorization of increases in the bank authorized fund using non-resident resources and (or) disposal of shares to non-residents. Applications shall be considered by the National Bank within thirty days from the date of submission.

Transactions involving disposal of shares to non-residents that are concluded without authorization of the National Bank shall be deemed void.

The National Bank shall be entitled to forbid any increase in the authorized fund of a bank using non-resident resources and (or) any disposal of shares to non-residents where such actions would result in the limit (quota) for foreign capital participation in the banking system of the Republic of Belarus being exceeded.

The Government of the Republic of Belarus on the proposal of the National Bank shall be entitled to introduce restrictions on banking operations for banks with foreign investment if the respective foreign states operate similar restrictions on the activities of banks with investment by Belarusian citizens and (or) legal entities.

#### **7.3.5. Representative office of a foreign bank**

Foreign banks are entitled to open representative offices in the Republic of Belarus.

8 representative office of a foreign bank are registered as of January 1, 2014 in the Republic of Belarus.

A representative office of a foreign bank is not regarded as a legal entity and carries out its activity basing on the Regulation approved by the parent bank by which it was established.

A representative office of a foreign bank shall not be entitled to carry out banking operations and other activities, except for protection and representation of interests of the parent bank by which it was established, including consulting and (or) information services.

The decision on authorization of opening of a foreign bank representative office or denial of such authorization shall be made by the Board of the National Bank within two months from the date of submission of the documents.

Denial of application for opening a representative office of a foreign bank may be passed due to the following:

- The information provided is incorrect;
- The Regulation on the representative office does not comply with the legislation of the Republic of Belarus.

Representative offices of foreign banks in the Republic of Belarus shall be established for a maximum term of three years. The operating term of a foreign bank representative office may be extended by the Deputy Chairman of the Board of Director's decision at the request of the respective foreign bank provided that the foreign bank applies to the National Bank not later than one month before the expiry of the permit to establish a representative office. Decision on prolongation of the operating term of a foreign bank representative office is made within a period not exceeding one month from the date of submission of such petition.

If such request is not submitted within the specified term, the representative office record is excluded from the register of foreign bank representative offices, and the National Bank notifies the foreign bank of the case within five days.

## 8. Currency Control

### 8.1. General information

The law of the Republic of Belarus of July 22, 2003 No 226-3 “About currency regulation and currency control” is the main legal act, that regulates activity of state bodies, which are authorized to exercise the currency control in the Republic of Belarus, and also circulation of currency values, the scope of rights and duties of participants of currency operations, etc.

The Currency Control Law divides currency transactions between residents and non-residents into two types as follows:

**1. Current currency operations** (which are treated with fewer restrictions);

**2. Currency operations associated with movements of capital** (the residents as a general rule require a permission of the National Bank of the Republic of Belarus).

Current currency operations are carried out between Belarusian residents and foreigners without restrictions, except currency operations on a deed of gift (particularly donation), which require a permission of the National Bank of the Republic of Belarus.

The legislation provides a closed list of **current operations**:

**1.** Transfers of foreign currency to and from the Republic of Belarus *for making settlements for the export and/or import of goods* (except the export and import of money, securities and real estate), *works, services and results of intellectual activities*;

**2.** Transfer of foreign currency *for making settlements for leasing*;

**3.** Transfers to and from the Republic of Belarus *of dividends and other income, arising from investments*;

**4. Non-trading transfers** to and from the Republic of Belarus such as:

- transfer and receipt of cash for payment of wages and salaries, scholarships, pensions, alimony payments, state benefits, allowances and compensation, as well as disbursements for damages;

- transfer of cash to pay an employee’s business trip outside the Republic of Belarus;

- transfer and receipt of cash connected with the acceptance of inheritance;

- transfer and receipt of cash relating to the burial of a deceased person, including grants and financial assistance for burial, transportation and other expenses;

- the reception of monetary compensation by victims of political repression, members of their families and heirs;

- transfer of cash for maintaining diplomatic missions and consular institutions of the Republic of Belarus abroad;

- receipt of cash by courts, the international arbitration court, law enforcement bodies, offices of notary public, the notarial bureaus, in connection with their activity, and also by state bodies or other organizations in the process of fulfillment of notarial actions by their public officials;

- transfer and receipt of cash under the judgment decisions and rulings of the court and other law-enforcement bodies;

- transfer, connected with registration, entrance, membership fees to funds, religious or international organizations, as implementing other charges in connection with participation in international organizations;

- transfer and receipt of Belarusian rubles, foreign currency, transfer and receipt of other currency values on deeds of gift (including donations), contracts of granting of the non-paid (sponsor's) help in accordance with the laws of the Republic of Belarus;
  - getting of currency values by residents from non-residents for storage;
  - transfers related to payment of taxes and other compulsory payments to the budget, which are established by the legislation of the Republic of Belarus or foreign states, as well as their return;
  - transfers related to payment of dues and other payments to patent authorities;
  - transfers and getting of currency values connected to participation in conferences, seminars, sport events, exhibitions, fairs;
  - transfers related to the return of cash transferred erroneously and (or) excessively;
  - other currency transactions enumerated in a list established by the President of the Republic of Belarus or on behalf of the Council of Ministers as well as international treaties of the Republic of Belarus.

Currency operations **associated with movements of capital** are those, which are not considered as current currency operations. These are:

- acquisition of stocks, spread out among founders, as well as acquisition of a share in a statutory fund or property of non-residents;
  - acquisition of securities, emitted by non-residents, from non-residents, except acquisition of stocks, spread out among founders;
  - acquisition of property, situated outside the Republic of Belarus and considered as real estate under the Belarusian law;
    - placements of money in banks of non-residents or money transfer to non-residents (except non-resident banks) under the terms of trust management;
    - providing loans;
    - receipt of financial credits and/or loans under certain circumstances, particularly when rate of interest exceeds 14 percent per annum;
    - settlements on obligations of a resident (except bank), which is a guarantor, surety for a non-resident according to a guarantee or surety contract, concluded by them;
    - settlements on obligations of a resident (except bank) to non-residents (except bank) according to a debt transfer agreement or an assignment of claim agreement.

Currency operations by residents associated with movements of capital require permissions of the National Bank of the Republic of Belarus, if other rules are not stipulated by the Law or by the President of the Republic of Belarus. It is not required to obtain permission of the National Bank to carry out these currency transactions by non-residents.

## 8.2. Implementation of Foreign-Trade Operations

Export and import transactions are traditionally subject to special oversight by the public authorities. Today according to the Edict of the President of the Republic of Belarus of March 27, 2008 No 178, for each foreign trade contract, providing compensatory transfer of goods, total value of which, taking into account all appendixes and amendments to the contract, is **3000 Euro in equivalent or more**, a resident is obliged to **register the transaction** in its servicing bank before fulfilling his obligations to non-residents. Registration takes place as of the date of submission of the document by which

the foreign-trade contract is executed. The fee for registration of the transaction is not charged by banks.

The Edict provides for time-frames of completion of foreign-trade operations which as a general rule are:

- **for export** – within 90 calendar days (within 120 calendar days under a commission agreement) from the date of shipping (transmission of proprietary information, exclusive rights to the results of intellectual activities), execution of works, provision of services;
- **for import** – within 60 calendar days from the date of the payment.

Completion of foreign-trade operations means, in particular, cash inflow for the transferred goods according to the foreign trade contract for export, and receipt of goods according to the foreign trade contract for import (legislation also provides for other methods of completion of foreign-trade operations).

Under the Belarusian legislation **advance payments** for import by Belarusian residents in favor of non-residents require **a permission of the National Bank of the Republic of Belarus**. To get the permission the importer has to submit a petition of the Council of Ministers substantiating the necessity of obtaining this permission and a copy of relevant foreign-trade agreement.

The permission of the National Bank of the Republic of Belarus **is not required** for advance payments from accounts opened in banks of Belarus in following cases:

1. When importers use a **payment by a letter of credit**.
2. When advance payments are made by the **following residents of Belarus**:
  - *residents with special permits (licenses) for carrying passengers and freight* – on costs associated with transportation of cargo and passengers, as well as payment of taxes and charges, passing through the territory of foreign states;
  - *forwarding organizations* – for the costs associated with imports of services undertaken by railway, air and sea transport.
3. When advance payments that are made by residents of Belarus **at the expense of revenue available in foreign currency**. In particular, revenue is cash in foreign currency received from legal entities and individuals under agreements including:
  - with non-resident legal entities and individuals engaged in entrepreneurial activity on a reimbursable basis: the transfer of goods, proprietary information, exclusive rights of intellectual property, property rent, works and services;
  - from the banks of Belarus, the non-resident banks, other foreign credit institutions: financing (factoring) on monetary obligations arising from the transactions mentioned above, or registration (purchase) of securities, performing the function of settlement documents for such transactions;
  - with individuals: realization of goods (works, services) for foreign currency in Belarus and abroad;
    - with the closed Joint Stock Company "Belarusian Oil Company" ("Белорусская нефтяная компания") - realization of oil products;
    - with the closed Joint Stock Company "Belarusian Potash Company" ("Белорусская калийная компания")- realization of potash;
  - with resident legal entities (commissioners) - reimbursable transfer of goods for export sales by a consignor.
  - with non-resident legal entities (consignors) - transfer of monetary means to a commissioner for execution of the consignor's order;

- with resident legal entities - carrying out settlements in foreign currencies (except the bank loans) in cases when the use of foreign currency for such transactions is permitted by the law.

4. When advance payments are made by residents of the Republic of Belarus **at the expense of foreign currency received under loan agreements** (credit agreements) concluded **with non-residents**.

5. When advance payments are made by residents of Belarus **at the expense of funds in foreign currency** acquired after November 15, 2008 as:

- contributions to an authorized fund;
- foreign donations;
- dividends and other investment income;
- interest on the loan agreements concluded with non-residents;
- interest for the allocation of foreign currency bank accounts;
- interest on debt obligations of banks of Belarus.

When advance payments are made by residents of Belarus to non-residents registered in the **Russian Federation** or the **Republic of Kazakhstan** on foreign trade agreements providing for the import of goods, works and services.

## 9. The Tax System

### 9.1. General information

The Tax Code of the Republic of Belarus, which is made up from the Primary part and Special Part, is the main document that defines the structure of the tax system in the country.

The Primary Part formulates the notions of tax obligation, taxpayers, and an object of taxation. It also contains regulations regarding tax accounting and control, and describes the procedure of appeal of decisions made by tax authorities. The Tax Code was adopted on January 1, 2004.

The Special Part of the Tax Code, that came into legal force on January 1, 2010, regulates particular taxes and duties, defines taxpayers, objects of taxation, rates, procedure of tax calculation and payments of respective taxes and duties.

According to the Tax Code of the Republic of Belarus, tax payments are subdivided into republican taxes, duties (tariffs) and local taxes and duties.

**Republican taxes include the following:**

- value added tax;
- profit tax;
- excise duties;
- tax on income of foreign organizations, which do not operate through a permanent representative office in Belarus;
- income tax on individuals;
- property taxes;
- land tax;
- ecological tax;
- tax on extraction (subtraction) of natural resources;
- duty for passage of automobile vehicles of foreign states on public roads of the Republic of Belarus;
- off-shore duty;
- stamp duty;
- consular fees;
- state duty;
- patent fees;
- custom tariffs and duties.

**Local taxes and duties include the following:**

- dog owners tax;
- resort levy;
- levy for packer shippers.

**There are also other types of payments:**

- dues to the Social Welfare Fund for social needs;
- dues paid by employers for obligatory insurance of employees against professional illnesses and accidents at production facilities.



## 9.2. Taxation of Business Entities

Together with general taxation system there are specific regimes of taxation, which provide a number of benefits, reduced tax rates, a complete or partial deferral of some taxes or even full exemption.

### 9.2.1. The general system of taxation: primary payments

**1. Excise duties** are used for the following types of goods:

- spirit;
- alcoholic products;
- non-food alcohol-containing production;
- beer, beer cocktail;
- low alcoholic beverage with overall volume part of alcohol from 1.2 to 7 %, wines with overall volume part of alcohol from 1.2 to 7 %;
- tobacco;
- gasoline;
- diesel fuel and diesel fuel with methyl esters of greasy acid;
- boat fuel;
- liquefied hydrocarbon gas and natural compressed fuel gas, used as automotive fuel;
- diesel motor oil and/or carburetor (injector) engine oil;
- food alcohol-containing production;
- ciders.

Excise rates for goods can be set in absolute amounts on a physical unit of measurement of the goods (fixed (specific) rate) or in percentage points from the cost of goods (added value rates).

**2. The value added tax (VAT) is included into the price of products and services.**

Major VAT rates:

- 0 %;
- 9.09 %;
- 10 %;
- 16.67 %;
- 20 %.

**0 % on the sale of:**

- goods placed under the customs procedure for export and exported (without obligation to re-import into the territory of Belarus) to the states-members of the Customs Union;
- activities (services) connected with accompanying, loading, transfer and other similar activities directly connected with the selling of exported goods, which are placed under the customs procedure of export, as well as goods exported (without obligation to re-import into the territory of the Republic of Belarus) in the states - members of the Customs Union;
- exported transport services including transit transportation, and also exported work (services) to produce goods from take-back feedstock;
- repair works (modernization, re-equipment) of aircraft and their engines, units of trains, performed for foreign organizations or individuals;

- goods of own production to owner of duty-free shop for their subsequent implementation in duty-free shops;

- goods in retail trade through shops to individuals who do not have permanent residence in the country - a member of the Customs Union, in case of export of goods by foreign persons outside the customs territory of the Customs Union within three months from the date of purchase of the goods. Foreign persons while purchasing goods, value of which according to the payment document that confirms the payment of goods, exceeds the amount of 800,000 Belarusian rubles (including VAT) during one day at the payer's store who concluded with an organization that has the right for a refund of VAT to foreigners, the contract for services to return the VAT to foreigners, are entitled to get the refund of the amount of VAT in case of export of such goods from the customs territory of the Customs Union within three months from the date of their purchase.

**9.09 % or 16,67 %:**

– on sales of goods (works, services) at administered retail prices with due account for the VAT.

**10 %:**

– on sale of goods of Belarusian origin from crop production (with the exception of floriculture, growth of ornamental plants), bee-farming, livestock breeding, (with the exception of fur farming), fishery;

– on importation and (or) sale in the territory of the Republic of Belarus of foodstuffs and goods for children that are included in the list approved by the President of the Republic of Belarus;

– on sale of goods of own manufacture by residents of free economic zone in the territory of the Republic of Belarus which were manufactured by them on the territory of the free economic zone and are import substitution according to the list of import substitution goods, defined by the Government of the Republic of Belarus in coordination with the President of the Republic of Belarus;

**20 %** on the sale of property rights, as well as the sale of goods (works, services) not mentioned above, with the exception of the ones, exempted from taxation and not recognized as subject to VAT.

The sum of VAT, subject to be paid to the state budget, is defined as difference between general sum of tax, calculated at the end of the reporting period and the sums of tax reductions. The calculated sum of VAT is determined on an accrual basis since the beginning of the tax period at the end of each reporting period.

As a general rule, VAT deductions are made on an accrual basis in limits of sums of VAT, calculated after realization of the goods (works, services), proprietary interests. The main exception to this rule are the paid amounts of VAT on goods (works, services) subject to taxation at the rate of 0% and 10%. The deduction of such amounts of VAT is made in full regardless of the calculated amount of VAT.

Tax period of VAT is a calendar year.

Reporting period of VAT is a calendar month or a calendar quarter by choice of a taxpayer.

Taxpayers submit tax declaration (calculation) to the tax bodies not later than on the 20<sup>th</sup> date of the month, following the expired reporting period.

Payment of VAT is made not later than on the 22<sup>nd</sup> date of the month, following the expired reporting period.

### **3. Profit tax.**

The objects subject to profit tax are gross profit as well as dividends and similar incomes, gained by Belarusian organizations.

Gross profit for Belarusian organizations is the sum of profit from realization of goods (works, services), proprietary interests and non-realization incomes, decreased by the sum of non-realization expenses.

Proceeds from the sale of goods are determined on the basis of transaction price and the tax authorities have the right to calculate profit tax on the basis of market price. This provision shall be applied to foreign-trade transactions, also with an interdependent person when the cost of the transaction (transaction with one person) is more than 60 billion Belarusian rubles, as well as to real estate transactions, when the market price decreases by more than 20%. Main rate of the profit tax is 18%

The tax rate on dividends is **12 %**.

Tax period of profit tax is a calendar year.

Reporting period of profit tax is a calendar quarter. Reporting period of profit tax on the dividends accrued by Belarussian organizations is a calendar month.

Profit tax for the reporting period shall be calculated cumulatively from the beginning of the tax period as the tax base, reduced on the amount of profit exempted from taxation, as well as on the amount of losses carried by profit of the accounting period, and the tax rate. Tax return of profit tax on the basis of past reporting period must be submitted to the tax authorities no later than the 20th of the month following expired reporting period, regardless of objects of taxation presence or absence.

Profit tax payment should be made during the tax period on the basis of past reporting period no later than the 22th of the month following expired reporting period.

Profit tax payment for the fourth quarter of 2014 should be made no later than December, 22 in the amount of 2/3 of tax profit sum calculated on the basis of the tax profit amount for the third quarter of 2014, followed by recalculation as a whole for the year 2014 and calculating the amount of tax profit to surcharge or reduction no later than January, 22 of the year 2015.

#### **4. Profit tax of foreign organizations which do not operate in Belarus by virtue of the permanent representative office.**

Taxpayers of the profit tax of foreign organizations which do not operate in Belarus by virtue of the permanent representative office are recognized as foreign and international organizations, including non-legal bodies not operating in the Belarus by virtue of the permanent representative office, but to produce income from sources in the Republic of Belarus.

The object of taxation is the following income received by taxpayer from sources in Belarus:

- conveyance fee, freight (including demurrage and other payments arising from the transportation) in connection with the carrying out of international carriage (except for the payment of tickets for passengers in international traffic, the carriage fees and freight in connection with international carriage of goods by sea), as well as for the provision of freight forwarding services (except services of forwarding activities in the organization of international carriage of goods by sea);
- income from debt instruments of any kind, including:
  - income on credits and loans;
  - income from securities, which terms of issue is intended to gain profits in the form of interests (discount);

- income from the use of temporary available funds in bank accounts in Belarus;
  - royalty;
  - dividends and similar income;
  - income from the sale of goods in the territory of the Republic of Belarus under the contracts, commission and other similar civil-law contracts;
    - income from holding and (or) participation in concert and entertainment events, including attractions, zoos, circus programs in Belarus;
    - income in the form of penalties (fines) and other types of sanctions for breach of contract;
    - income from research, development work, development of design and technological documentation for the prototype (experimental batch) of products, from the manufacture and testing of prototypes (experimental batch) products, pre-project work and project work (preparation of feasibility studies, engineering efforts and other similar works);
    - income from the performance of innovative work, including research and developmental work, development of design and technological documentation for prototypes (experimental batch) of goods, manufacturing and testing of prototypes (experimental batch) of goods, design and project work (preparation of feasibility studies, engineering design and other similar work);
    - income from the guarantee and/or surety;
    - income from the provision of disk space and/or a communication channel for placing information on the server and services for its maintenance;
    - income from the alienation of:
      - real estate situated in Belarus;
      - enterprise (or part thereof) as a property complex located in the territory of Belarus, owner of which is a foreign organization;
      - securities in the territory of Belarus (except for stocks) and/or their redemption;
      - shares in the authorized fund (stocks) of organizations in Belarus, or their parts;
      - income from services:
        - consulting, accounting, auditing, marketing, legal, engineering;
        - trust management of real estate situated in the territory of Belarus;
        - courier;
        - mediation;
        - management;
        - recruitment and/or selection of personnel, including physical bodies, to carry out their professional activities;
          - in education;
        - training;
        - possession of property;
        - insurance;
        - advertising (except for income paid to foreign organizations associated with the participation of Belarusian organizations and Belarusian entrepreneurs in exhibitions and fairs in foreign countries, irrespective of whether the income payment is made directly by the participant of exhibitions and fairs, or through another organization or an entrepreneur);
        - installation, commissioning, testing, maintenance, measurement, testing lines, machinery, equipment, devices, appliances, buildings and intangible assets in the territory

of Belarus (except for income derived from training, consultation and/or services in installation, commissioning, testing, measuring and testing lines, machinery, equipment, appliances, fixtures and facilities, which are indispensable for the foreign trade contract for their purchase in property (for temporary use));

– maintenance and protection of freights (excluding revenues from services on obligatory maintenance and protection of freights, stipulated by the legislation of the state through which territory the freight is being moved, rendered by the foreign state organizations, the legislation of which establishes requirements for such obligatory maintenance and protection);

- income from real estate situated in the territory of Belarus, handed into trust management;

- income from the processing of data including data processing activities with the user's software or own software (the full data processing, data preparation and data entry, automated data processing), hosting services (storage of Web pages, enabling them to modify and placement on the Internet for public access), services for the sale of computer time as well as income from activities with database including database development, data storage, access to databases, services of search portals and search engines in the Internet (except for the income received by foreign organizations in the Republic of Belarus from services rendered of an automated system of interbank payments, international payment systems, international telecommunication systems of information transmission for payments and (or) making payments).

The tax base of profit tax is defined as total sum of income, for certain types of income the costs, proved by documents are allowed to be deducted.

The rates of profit tax depend on the type of income and may amount to 5%, 6%, 10%, 12% and 15%.

The tax period of profit tax is a calendar month, when the date of the obligation to pay profit tax takes place.

The tax declaration (calculation) of profit tax is submitted by a legal entity of Belarus, a foreign organization or individual entrepreneur, that accrue and/or pay income of a foreign organization which does not operate in Belarus through the permanent representative office, to tax bodies at the place of registration of these legal entities, foreign organizations, or individual entrepreneurs not later than on the 20<sup>th</sup> of the month following the tax period.

Profit tax is to be paid not later than on the 22<sup>nd</sup> of the month following the tax period.

## **5. Real estate tax.**

The objects of taxation by real estate tax for organizations are permanent structures (buildings and structures) including the above norm unaccomplished construction parking places, objects that are subject of state registration and are on the balance of organizations-taxpayers, before their state registration, as well as objects which are state property transferred to the joint stock companies established during the transformation process of rental enterprises, collective (people's) enterprises, state and state unitary enterprises.

Taxable amount of real estate tax is defined by organizations on the basis of buildings, structures, their parts and parking places, existing on the 1<sup>st</sup> of January of the calendar year based on residuary value and value of permanent structures (buildings, structures) of the above norm unaccomplished construction.

As a general rule, annual tax rate of real estate tax for organizations is 1 %. Local authorities may establish multiplying factors to the rate of tax. The annual tax rate of 2 % is established for the objects of the above norm unaccomplished construction.

Tax period of real estate tax is one calendar year.

The tax return is filed with (to) the tax authorities not later than March 20 of the year.

Real estate tax is paid by organizations of their choice once a year in the amount of annual sum of the tax not later than on March, 22 of the tax period or every three months not later than on the 22<sup>th</sup> day of the third month of each quarter in the amount of one-fourth of the annual amount of tax.

## **6. Ecological tax.**

Ecological tax is levied from entities that exploit natural resources and entities the activities of which pollute the environment. The law stipulates a number of rates for the ecological tax. Depending on the particular subject of taxation there are fixed rates for emissions of pollutants into the air and wastewater discharges, storage and disposal of industrial wastes, import of ozone-destroying substances to the territory of Belarus, including those contained in the products.

Tax period of ecological tax, except for the ecological tax for import of ozone-destroying substances to the territory of Belarus, is one calendar quarter. Payment of the ecological tax for the importation into the territory of the Republic of Belarus of ozone-destroying substances is made prior to the import into the Republic of Belarus of ozone-destroying substances, including the ones contained in the products.

Each quarter tax payers submit the tax declaration (calculation) to the tax bodies not later than on the 20<sup>th</sup> of the month, following the expired tax period.

Ecological tax is to be paid each quarter not later than 22<sup>nd</sup> of month, following expired tax period.

The amount of the environmental tax may be calculated on the basis of the amounts of emissions of pollutants into the atmospheric air, wastewater discharges, storage of pollutants specified in the permits for emissions of pollutants into the air, special wateruse, storage or integrated environmental permits and the corresponding rates of ecological tax. In this case, the tax declarations (calculations) are to be submitted not later than on April, 20 of the calendar year on the basis of the annual amount, and the payment of the ecological tax is made on the tax payer's option once a year in the amount of the calculated amount for the year not later than on April, 22 of the calendar year or every quarter not later than on the 22<sup>th</sup> of the month, following the accounting quarter in the amount of one-fourth of the calculated amount of the environmental tax.

Such taxpayers provide additional payments of the ecological tax not later than on February, 20 of the year following the expired year, on the basis of actual annual emissions of pollutants into the atmosphere, wastewater discharges, storage and disposal of wastes, and not later than on February, 22 of the year following the expired year. In case when the mentioned volumes do not exceed the established annual limits, the overpaid amounts of the environmental tax are to be earned forward or returned to the payers.

## **7. Tax for the extraction (removal) of natural resources.**

The tax base is defined as the actual volume of extracted (withdrawn) natural resources. A list of such natural resources is determined by the Tax Code of the Republic of Belarus and includes extraction of:

- forming, glass-making and mortar sand;



- sand-gravel mixtures;
- building and facing stone;
- surface and underground water;
- waters, polymetallic water concentrate, mineralized water which is extracted to maintain the pressure in oil recovery;
- ground for land structures;
- clay, sand clay, clay loam and bergmeal;
- bentonitic clay;
- potassium salt (in terms of potassium oxide) and halite;
- oil;
- chalk-stone, malm, limestone and dolomite;
- plaster-stone (anhydrite);
- ironstone;
- peat with humidity of 40%;
- sapropel with humidity of 60%;
- bog oak;
- amber;
- gold;
- grapevine snail;
- chironomid larvae;
- green frog (pond, edible, lake);
- adder;
- brown coal (in terms of standard fuel);
- oil shale (in terms of standard fuel).

Tax rates are established in Belarusian rubles to the volume of production (withdrawal) of natural resources (except for potassium salt and oil).

The tax period of tax for the extraction of natural resources, except for the tax for the extraction (removal) of natural resources regarding oil and potassium salt is a calendar quarter.

The tax period of tax for the extraction (removal) of natural resources regarding oil and potassium salt is a calendar month.

Tax declarations (calculations) for the tax for the extraction (removal) of natural resources must be submitted to the tax office not later than on the 20th of the month following the expired tax period. Payment is made every quarter not later than on the 22th of the month, following the expired tax period.

The amount of the tax for the extraction (removal) of natural resources, except for the tax for the extraction (removal) of natural resources regarding oil and potassium salt may be calculated by payers on the basis of the volumes of extraction (removal) of natural resources specified in the documents on the basis of which they are extracted (removed) and the corresponding tax rates for the extraction (removal) of natural resources. In this case, the tax declarations (calculations) must be submitted not later than on April, 20 of the calendar year.

The tax is paid at the end of the tax period, not later than on the 22th of the month, following the accounting quarter, in the amount of one-fourth of the calculated tax amount for the extraction (removal) of natural resources. At the end of the year, based on the actual volume of extraction (removal) of natural resources, recalculation of the amount of



tax which should be paid is held and the tax declarations (calculations) are to be submitted not later than on the 20th of February, following the expired year.

## **8. Land tax**

Land tax is levied from land plots, located in the territory of Belarus:

– belonging to individuals under the right of ownership, lifetime inheritable possession or temporary use as well as inherited;

– belonging to organizations under the right of ownership, permanent or temporary use.

Taxable amount of land tax is generally defined in the amount of cadaster value of a land plot.

Tax rate of land tax depends on the function of the land plot. Local councils of deputies have the right to increase (decrease) the rate of land tax to certain categories of taxpayers but not more than in a double amount.

Tax period of land tax is a calendar year.

Tax payers-organizations submit to the tax authorities declarations (calculations) on land tax annually, not later than on February, 20 of the current year and on new land allocation or on the termination of the right of permanent, temporary use or private property right for a land plot (except for land plots, in respect of which the decision that is the basis for the creation or transfer of the right for a land plot, is taken by the authorized state body, or the right to use the land is terminated in December of the current year) not later than on the 20th of the month following the month in which the decision that is the basis for the creation or transfer of the right for a land plot is taken by a state body, or the right to use it is terminated.

Land tax is paid by organizations:

- According to a general rule, on the choice of the organization without changes during the tax period once a year, in the amount of the calculated amount for a year - not later than on February, 22 of this year, or every quarter not later than on the 22th of the second month of each quarter - in the amount of one-fourth of the annual amount of land tax;

- for agricultural land – on the choice of the organization without changes in the tax period once a year, in the amount of the calculated amount for a year not later than on April, 15 of the current year, or not later than on April 15, July 15, September 15, November 15 - at the rate of one-fourth of the annual amount of the land tax;

- for the land granted to taxpayers from (after) January 1 of the current year, and in case of loss of the right for benefits for the calculation of land tax in the process of the transition of organizations from special taxation to the general taxation regime, in the process of the payment of the land tax for land plots under the objects of above norm unaccomplished construction, in case of providing by organizations and individual entrepreneurs for rent, other onerous or gratuitous use of land, capital (buildings and structures), their parts, car places, located on land plots, which are exempt from land tax, as well as permanent structures (buildings and structures), their parts, car places of state-financed organizations the payment of land tax is made not later than by the date, corresponding with the nearest legal term of payment after the submission of the tax return (declaration) for the land tax, and for the land plots on which the decision, that is the basis for the creation or transfer of the right for a land plot, is taken by the authorized state body - in November of the current year - not later than on December 22.

Land tax for rented land plots is levied in the amount, defined by legislation, according to the procedure similar to the calculation of the land tax.

## **9. Obligatory insurance payments to the National Social Security Fund and Pension Fund. Insurance fees for obligatory insurance against occupational diseases and accidents at production facilities.**

The amounts of obligatory insurance payments for retirement, disability, loss of breadwinner insurances (pension insurance) is 28 % for employers.

The amount of obligatory fees of insurance in case of temporary incapacity for work, pregnancy and childbirth, care for children under 3 years, granting of one day-off in a month for a mother (father, guardian), bringing up the child with disabilities in the age of under 18 years, death of insured person or a member of his (her) family (social insurance) for employers, natural persons independently paying obligatory insurance payments (except for the citizens working outside Belarus), Belgosstrakh (for persons who receive additional payments to a monthly average wage or receive disability benefit) is 6 %.

Payments of obligatory insurance fees to the National Social Security Fund and Pension Fund are made by payers by a single payment.

The objects for the calculation of obligatory insurance fees to the National Social Security Fund are all monetary and/or natural payments, calculated in favour of working citizens on the basis of all grounds, irrespectively of the sources of financing (hereinafter – payments), including remuneration under civil-law contracts except for those provided for by a list of payments, which are not subject to insurance fees to the Fund, approved by the Counsel of Ministers of the Republic of Belarus. Payments cannot exceed the amount of four average wages in the Republic of Belarus for the month, preceding the month for which obligatory insurance fees are paid.

Insurance fees of obligatory insurance against occupational diseases and accidents at production facilities are calculated on the basis of payments that are subject to the obligatory insurance for natural persons under labour and civil-law contracts. The insurance rate is established in the amount of 0,6 % for all organizations (except for the state-financed ones) with the possibility of benefits, discounts (increases) to the established rate.

## **10. Income tax of individuals.**

The object of taxation of income tax of individuals is income, earned by taxpayers from the sources in Belarus as well as abroad.

Organizations that hire employees on the basis of labour contract or civil-law contract, fulfill obligations of tax agents and withhold the taxes from incomes of citizens and transfer them to the state budget. The most widespread source of income of natural persons, paid by organizations, is remuneration for labour or other duties, including monetary remuneration and other allowances. Belarusian legislation provides for various deductions, reducing the taxable income of individuals.

General rate of income tax is 12 %.

The income tax rate is set at 9% of the income received by:

- individuals (other than employees performing maintenance and security of buildings, land) from the residents of the High-Tech Park (HTP) on the basis of labor agreements (contracts);
- individual entrepreneurs - residents of the HTP;
- individuals involved in the implementation of the registered business project in the field of new and high technology, from non-residents of HTP on the basis of labor agreements;

- individuals in the form of wages received on the basis of labor agreements (contracts) from the joint venture, and (or) the residents of the Chinese-Belarusian Industrial Park.

The income tax rate is set at 15% in respect of the income, received by Belarusian individual entrepreneurs (notaries, solicitors) from business (notary, individually conducted advocacy) activities.

Organizations – tax agents are obliged to withhold the calculated sum of income tax from individuals directly from the income of the payer at the moment of their actual payment.

Tax agent has to withhold the calculated sum of income tax from individuals. Such a withholding is produced from any monetary assets paid to a taxpayer by a tax agent. Withholding is to be made at the moment of payment to a taxpayer or to third parties on behalf of him (her).

The tax period of the income tax from individuals is a calendar year. Accounting periods of the income tax from individuals for individual entrepreneurs (private notaries, advocates) are three, six and nine months of the calendar year and a calendar year.

### **9.3. Special Tax Regimes**

Belarusian legislation provides the following special tax regimes for business entities:

- Simplified tax system;
- Single tax from individual entrepreneurs and other individuals;
- Single tax for producers of agricultural products;
- Tax for gambling business;
- Tax on income from lottery activity;
- Tax on income from electronic interactive games;
- Charge for craft activities;
- Charge for rendering the service in the field of rural tourism;
- Single tax on imputed income.

#### **9.3.1. Simplified tax system**

The scope of the system is activity of small enterprises with the level of income no higher than the size, stated by the legislation. Organizations, willing to apply a simplified tax system are required to satisfy the following criteria: simultaneous observance of average number of workers and a total gain within first nine months of the year previous to the year from which the system is applied: number of workers shall be not more than 100 people, individual entrepreneurs and notaries performing notarial activities in a notary's office, advocates (further for this tax regime - individual entrepreneurs) , the amount of their gross proceeds for the nine month on an accrual basis makes no more than 9 000 000 000 belarusian rubles.

Under the simplified tax system a vast number of taxes are replaced by one tax with a simplified procedure of calculation. However, the simplified tax system doesn't replace the obligation to pay import and export payments, stamp, consular and off-shore duties, state and patent fees, social insurance payments, income tax on income from securities, dividends, shares in business entities, the difference between the estimated and the residual value of property transferred as an equity contribution, tax for the extraction (removal) of natural resources, environmental tax for the disposal of industrial wastes at landfills (if the payer initially was not the income owner) and also property taxes under

stipulated circumstances. In particular land tax is paid if the aggregate land space exceeds 0,5 hectare, and real estate tax is paid if the aggregate real estate space exceeds 1 500 square metres or if the real estate is given in tenancy.

The simplified tax system cannot be applied by organizations and individual entrepreneurs with regard to certain types of activity:

- Production of excisable goods (produce of alcohol, tobacco production and others);
- Sale of jewellery;
  - realization of property rights to the means of individualization of parties to a civil transactions, of goods, works or services;
- Performing:
  - o Lottery activity;
  - o Professional activity on securities market;
  - o Activity within the ordinary partnership (the group);
  - o Activity as a resident of free economic zones, the special tourist and recreational park "August Channel", the Park of High Technologies, the Chinese-Belarusian Industrial Park;
  - o Activities for the organization and holding of interactive electronic games;
- Organizations that carry out:
  - o Real estate activity;
  - o Insurance business (insurance companies including mutual insurance companies, insurance associations;
  - o Banking (banks);
  - o Activity in the gambling;
  - o insurance agency business;
- Organizations that produce agricultural products in the Republic of Belarus and pay a single tax for agricultural producers;
  - Individual entrepreneurs in part of activities which shall be paid with a single tax from entrepreneurs and other persons.

If gross proceeds for calendar year on an accrual basis exceed 12 000 000 000 belarusian rubles and (or) the number of employees is more than 100 then an organization is obliged to apply the generally established tax system.

Currently business entities can use the following variants of the simplified tax system:

– tax at a rate of 5 % – for legal entities and individual entrepreneurs, which do not pay VAT. This rate can be applied and VAT can be not paid by individual entrepreneurs and organizations which have not more than 50 employees in case their gross profit doesn't exceed 8 200 000 000 Belarusian rubles;

– tax at a rate of 3 % – for legal entities and individual entrepreneurs, which do pay VAT.

Also the rate of 3% is applied by the retailing organizations and individual entrepreneurs, which do not pay VAT, if the average number of employees from the beginning of the year till the reporting period including is not more than 15 people and the gross proceeds are not more than 4 100 000 000 Belarusian rubles.

Business entities with less than 15 people and a gross revenue up to 4.1 billion of Belarusian rubles, paying tax in accordance with the simplified tax system are exempt from accounting recording and reporting and make recording in the book (ledger) of incomes and expenses of legal entities and individual entrepreneurs, using the simplified tax system.

A tax period of tax under the simplified tax system is a calendar year.

A reporting period of tax under the simplified tax system is recognized as:

- a calendar month – for entities applying the simplified tax system with payment of VAT monthly;
- a calendar quarter – for entities applying the simplified tax system without payment of VAT or with payment of VAT quarterly.

A tax declaration is submitted no later than the 20<sup>th</sup> day of the month following the expired tax period.

Tax under the simplified tax system is paid no later than the 22<sup>th</sup> day of the month following the expired tax period.

### **9.3.2. The single tax from individual entrepreneurs and other individuals**

Payers of the single tax from individual entrepreneurs and other individuals (hereinafter in this paragraph referred to as a single tax) are individual entrepreneurs and individuals not involved in entrepreneurial activities.

The payers are exempt from the following taxes:

- income tax on income earned by them in carrying out the activities, which are the subject of the single tax;
- value added tax, except for the value added tax levied on import of goods into the territory of the Republic of Belarus;
- ecological tax;
- tax for extraction (removal) of natural resources;
- local taxes and fees being paid for the activities, which are the subject of the single tax.

Payment of the single tax is a mandatory regime of taxation for individual entrepreneurs and individuals performing certain activities, providing certain types of work and services. Individuals performing in the group or the ordinary partnership do not use the single tax regime.

The tax base is determined by single tax payers on the basis of ongoing activities and (or) the number of shops and other commercial facilities, retail spaces on the market, public catering establishments, service facilities, the proceeds from the sale of goods (works, services).

Activities for which individuals pay a single tax are the following: services for growing agricultural products; providing services for crushing grain; livestock grazing; tutoring; household cleaning; caring for children and adults; services performed by domestic workers: washing and ironing of bed linen and other things; walking pets and care for them; buying food; cooking; washing dishes; the payment from the person served for the use of living quarters and utilities; weddings music service; anniversaries and other celebrations service; the activities of independent actors, entertainers, musicians; master of ceremonies services; photography, production of photographs; activity involving congratulation on different holidays; sale of kittens and puppies on condition of keeping a pet (cat, dog); keeping services, care and training of domestic animals except for farm animals; providing secretarial services and translation services; provision of services provided by means of automatic devices for measuring the weight, growth; repair and alteration of knitwear, furs, apparel and headwear.

The list of activities for which individual entrepreneurs pay a single tax is broader and is defined in Article 296 of the Tax Code of the Republic of Belarus and include food and

nonfoods retail trade (without limitation of square of selling space (place) and it's number), catering and provision of other services to consumers.

The tax period of the single tax is a calendar year.

The reporting period of the single tax is a calendar month, when the activities are performed.

The single tax is paid by individual entrepreneurs generally - at the place of tax registration each month no later than the 1<sup>th</sup> of the month of activities; by individuals not engaged in business activities – at the place of tax registration or at the place of sale of goods (works, services) before the sale of goods (works, services). The basic single tax rate for the reporting month is set in a fixed amount in Belarusian rubles, depending on the type and location of the activity, and makes between 60 thousand rubles to 9620 thousand rubles.

If proceeds from the sale of goods (works, services) 30 times exceed amount of the single tax for corresponding reporting period then addition payment of the single tax is calculated by individual entrepreneurs at a rate of eight (8) percent of the amount of such excess.

### **9.3.3. Single tax for producers of agricultural products**

The single tax for producers of agricultural products is set at a rate of 1 % of gross proceeds.

A term "producers of agricultural products" includes organizations and their branches, who gain not less than 50% of their proceeds from selling of products of plant growing (except floriculture, growing of decorative plants), primary treatment of flax, apiculture, animal husbandry and fish breeding.

Payment of the single tax replaces payments of all taxes, duties, and other obligatory payments to state budget and non-budgetary funds, land rents, royalties in the innovation funds, which are formed in accordance with the legislation; except excises; VAT; tax, charges (duties) on goods imported (exported) into the territory of the Republic of Belarus; state dues; patent fees; consular fees; offshore duty; stamp duty; fees for travel of foreign states motor vehicles on public roads of the Republic of Belarus; the income tax on dividends and similar income; obligatory insurance payments to Social Welfare Fund of the Ministry of Labour and Social Security.

The tax period of the single tax is a calendar year. The reporting period of the single tax can be a calendar month or a calendar quarter depending on the VAT payment scheme.

### **9.3.4. Tax on gambling business**

The activities in the gambling business is carried out exclusively by legal entities of the Republic of Belarus.

Organizations are exempt from VAT (except VAT at import) and profit tax in the sum of income received from gambling business. As for activities which do not relate to gambling, organizations pay taxes according to the common rules.

The objects of tax on gambling business are: gambling tables; slot machines; bookmaker office counters; totalizator counters; positive margin between the amount of accepted bets in gambings and the amount of paid wins (returning of unplayed bets).

These first four objects are registered in the tax office in witness whereof the payer certificate is issued.



The tax rates on gambling installed on the unit object of taxation are in the following amounts:

- 48 459 300 BYR - Game table;
- 1 845 600 BYR - Slot machine;
- 9 934 500 BYR - Cash sweepstakes;
- 4 967 300 BYR - Cash bookmaker.

The tax rate on positive margin between amount of accepted stakes in gamblings and the amount paid wins (unplayed return stakes) is 4%.

The amount of tax on gambling business is calculated as the product of the tax base and tax rate determined for corresponding object of taxation for tax on gambling business at the location of the object.

The tax period of tax on gambling is a calendar month. Payment of tax on gambling is made no later than the 22th of the month following the expired tax period.

### **9.3.5. Tax on income from lottery activity**

Tax payers are organizations, which organize lotteries. Only state, state bodies, local executive committees, state legal entities can be organizers of lotteries on the territory of the Republic of Belarus.

Payers are exempt from VAT and profit tax in the sum of incomes earned from organization of lotteries. Other incomes are taxable according to the common rules.

The rate of tax is 8 % of income from lottery activity per month.

### **9.3.6. Tax on income from organization of electronic interactive games**

Tax on income from organization of electronic interactive games is paid by a legal entity that organizes electronic interactive games and replaces VAT and profit tax.

The rate of tax is 8% of income from lottery activity per month.

### **9.3.7. Charge for craft activities**

The object of taxation is craft activities of different types, implemented by individuals. The list of such activities is determined by the President of the Republic of Belarus.

The rate of the Charge (regardless of the number of these activities which are carried out) shall be equal to one base unit per calendar year. The base unit is determined on the date of payment. On January 15, 2013 the amount of the base unit is 100 000 Belarusian rubles. But if the revenue gained from such activities is declared in the amount that 100 times exceeds the amount of the base unit, the extra charge should be paid at the rate of 10% from the amount of such excess.

The tax period for the Charge for craft activities is a calendar year.

The charge is paid before the beginning of the craft activities.

For every following year the charge is paid no later than the 28<sup>th</sup> of the last month in a current calendar year in which craft activities are carried out.

### **9.3.8. Charge for rendering the service in the field of rural tourism**

The object of this taxation is rendering services in the field of rural tourism. Such activities include non-business activities of individuals, private (peasant) farms, which provide living quarters (before ten) to accommodate tourists; ensure tourists with food (mainly using their own production), organize the cognitive, sporting and cultural



entertainment tours and programs, provide other services relating to the reception, accommodation, transport and other services for tourists.

Payers in the part of income derived from implementation of service activities in the field of rural tourism are exempted from payment of taxes, dues (duties).

The rate of duty (regardless of number of ongoing activities to provide services in the field of rural tourism) shall be equal to one base unit per calendar year. The base unit is determined on the date of payment. On January 15, 2013 the amount of the base unit is 100 000 Belarusian rubles. But if the revenue gained from such activities is declared in amount that 100 times exceeds the amount of the base unit, the extra charge should be paid at the rate of 10% from the amount of such excess.

Tax collection period is a calendar year.

Payment of the fee is made before commencement of the services provision in the field of rural tourism. If a taxpayer plans to provide these services next year he has to pay the charge before December, 28 of the ongoing year.

### **9.3.9. Single tax on imputed income**

Payers of this tax are the legal entities of the Republic of Belarus which carry out activities on providing services for maintenance and (or) repairing of vehicles and their components, and have the number of employees no more than 15 people.

The object of taxation is the income from providing services on maintenance and repair. The tax rate is set at 5%.

The income from providing services on maintenance and repair is the margin between the sum of imputed income and the revenue from providing services on maintenance and repair in the amount higher than imputed income.

Imputed income for each month is calculated as the product of the basic profitability per employee and the average number of employees in the organization. Basic profitability per employee per month is 26 million rubles. Regional (Minsk city) councils of deputies have the right to increase (decrease) this rate, but not more than twice (half).

## **9.4. Taxation for certain categories of taxpayers**

In addition to special tax regimes in the legislation of the Republic of Belarus taxation for certain categories of taxpayers is defined.

### **9.4.1. Taxation in free economic zones**

Currently in Belarus there are six free economic zones: «Minsk», «Brest», «Gomel-Raton», «Mogilev», «Grodnoinvest», «Vitebsk».

In order to become a resident of a free economic zone, it is necessary to satisfy the following requirements:

- place of business – the territory of a free economic zone;
- conclusion of contract with free economic zone administration, concerning the terms of activities within the free economic zone;
- range of investments not less than 1 000 000 Euros.

Taxation in free economic zones is specified by granting a list of privileges and benefits (exemption from payments of import custom duties, some other payments, and reduced tax rates).

Tax privileges for FEZ residents are not applied to banks and insurance organizations, public catering, gambling activity, activity in electronic interactive games, trading and trade-purchasing activities, stock operations; selling of goods (works, services), which are totally or partly produced with the help of fixed assets, which are owned by the FEZ resident and (or) with the help of labour of the FEZ resident employees outside the FEZ territory.

The benefits of this regime apply to the following sales of free economic zones residents:

- of goods (works, services) of own production, produced by these residents in the territory of a free economic zone for non-residents out of the Republic of Belarus;
- of import-substitution goods of own production, produced by these residents in the territory of a free economic zone, on the territory of the Republic of Belarus;
- of goods (works, services) of own production, produced by these residents in the territory of the free economic zones for other residents of the free economic zones.

**Tax privileges of residents:**

- rate of the profit tax is reduced by 50 % (but no more than 12 %);
- profit of free economic zone residents, gained from realization of the goods (works, services) of their own production, is exempt from taxes during 5 years starting from declaration of profit;
- exemption from real estate tax for taxation objects , located on the territory of free economic zones, irrespectively of their designated function;
- payment of VAT at the rate of 10% from realization of the goods of own production, which are manufactured in the territory of Belarus and are recognized as import-substituting production.
- exemption from land tax for land within the boundaries of free economic zones to residents of free economic zones registered as such from January 1, 2012 for projects construction - for the period of design and construction of these projects, but not more than five years from the date of this registration.

**Custom privileges:**

A free custom zone can be established in the territory of a FEZ. The goods are located and used in the territory of a free custom zone without payment of import custom duties, taxes and without fulfillment of prohibitions and restrictions for these goods.

If the goods recognized as goods of the Customs Union are transported from the territory of a free custom zone to the rest territory of the Customs Union the exemption from import custom duties, VAT and excise duties is applied.

#### **9.4.2 Taxation of High Technologies Park residents**

The High Technologies Park was created in order to develop high-tech production in Belarus. The main direction of activity of High Technologies Park residents is elaboration of software and informational systems.

The regime is applied by organization and individual entrepreneurs, which are registered as High Technologies Park residents and which carry out certain types of activity, connected with software, data processing with fundamental and applicable researches, experimental works in the sphere of natural and technical sciences.

Tax privileges of High Technologies Park residents:

1. Exemption from:

- Profit tax (except tax on profit paid as a tax agent);

– VAT on turnovers from realization of the goods (works, services, proprietary interests for the objects of intellectual property);

– Land tax from land plots in limits of the High Technologies Park for the period of construction of buildings, designated to business activity of High Technologies Park residents, but no longer than for three years;

– Real estate tax on buildings and facilities of High Technologies Park residents, situated in the territory of the High Technologies Park (excluding leased fixed assets and objects of unaccomplished construction);

– Off-shore duty in case of payment (transfer) of dividends to founders (shareholders).

2. Obligatory insurance fees are not compounded on income of employees of High Technology Park residents, that exceeds the amount of one month average wage in the Republic of Belarus.

3. Income of individuals, earned during a calendar year under labour contracts, as well as income of individual entrepreneurs – High Technologies Park residents, are taxable at a rate of 9 %.

4. Reduced tax of 5 % for foreign organizations, which do not operate through a permanent representative office in Belarus, is applied for income from dividends, interest (coupon) income from debt, royalties, license agreements, if the source of this income is High Technologies Park residents.

Customs privileges:

– exemption from custom duties and VAT in case of import of the goods to the custom territory of Belarus for the purposes of business activity. In order to use this privilege the residents have to obtain the resolution of the Park administration about the purposes of usage of these goods.

#### **9.4.3. Taxation of Chinese-Belarusian Industrial Park**

The Chinese-Belarusian Industrial Park was created in accordance with Edict of the President of the Republic of Belarus dated June 5, 2012 No 253.

The Chinese-Belarusian Industrial Park (hereinafter - Park), a special economic area, is located in the territory of 8048 hectares which have a specific legal status on assignment of tax privileges on a systematic base for a period of 50 years and was created for involvement of national and foreign investments for development and organization of high-tech and competitive works in the spheres of electronics, fine chemistry, biotechnology, engineering industry and new materials.

Park residents are presented by legal entities created in the territory of the Republic of Belarus with the location at the park territory or being created (reorganized) directly in the park, including commercial organizations with foreign investments (hereinafter – legal entities), and those who implement (are planning to implement) in the park territory investment projects which meet the following requirements:

– an investment project presupposes business activity implementation by a legal entity in the park territory according to main activities in the park which include production creation and development in the spheres of electronics, fine chemistry, biotechnology, engineering industry and new materials;

– declared investment volume for investment project implementation equals to no less than 5 mln. US dollars.

### **Tax privileges of Park residents:**

1. Park residents are absolved from the following taxes for a period of 10 years after the date of their registration:

- Profit tax as to profit from realization of domestic manufacture goods (works, services), which have been produced in the Park;
- Real estate tax on buildings and constructions (including above-standard constructions in progress), parking spaces which are situated in the Park territory regardless of using direction;
- Land tax from land plots in the Park territory.

2. After 10 calendar years following the year of their registration as a Park resident within the next 10 calendar years they pay profit tax, land tax, real estate tax at the rate reduced to 50 percent.

3. Within 5 calendar years, beginning with the first year in which there was a gross profit of Park residents, the 0% rate is applied for the profit tax and the tax on income of foreign organizations, which do not operate through a permanent representative office in Belarus, dividends and similar income are accrued to their founders (participants, shareholders and owners) by Park residents.

4. Prior to January 1, 2027 the tax rate on income of foreign organizations, which do not operate through a permanent representative office in Belarus, of royalties accrued by Park residents to foreign organizations, which do not operate through a permanent representative office in Belarus in the form of rewards for information concerning industrial, commercial or scientific experience (including know-how), license fees, patents, drawings, utility model, scheme, formula, design or process, is 5 percent.

5. Up to 2027 income of individuals, earned under labour contracts, are taxable at a rate of 9 percent.

6. Park residents are exempt from VAT and profit tax payment obligation which arises in connection with donation of capital structures (buildings), isolated premises, facilities construction in progress and other fixed assets, located in the Park and transferred to construction (reconstruction) of buildings and structures in their property.

### **Another preferences and benefits of Park residents:**

1. Park residents are exempt from:

- payment of state fees for issuance, renewal of permits for involvement of foreign workers into the Republic of Belarus, special permits for work in the Republic of Belarus of foreign citizens and stateless persons, who are involved for the construction of the Park, as well as the implementation of investment projects within the boundaries of this Park;
- compensation for loss of agricultural and (or) forestry production, caused by withdrawal or temporary occupation of agricultural land and forest land, located within the boundaries of the Park;
- compulsory sale proceeds in foreign currency on the domestic market of the Republic of Belarus before January 1, 2027;
- payment of contributions to the innovation funds when running in the Park boundary of the design and construction of the Park, as well as other works related to the design and construction of such facilities.

2. Foreign citizens and stateless persons are exempt from payment of the fee for issuing temporary residence permits in the Republic of Belarus.

3. Obligatory insurance fees are not compounded on income of employees of Park residents, which exceeds the amount of one month average wage in the Republic of Belarus.

4. Park residents and their employees which are foreign citizens temporarily residing (staying) in the Republic of Belarus and mobilized for implementation of investment projects in the Park territory, are exempt from the mandatory insurance premiums from payments to their advantage.

5. Park residents have a right to deduct the full amount of VAT paid on purchasing (importing to the territory of the Republic of Belarus) goods (works, services), property rights used for the design, construction and equipping of buildings, which are located in the Park but not later than 31 December of the year following the year of placing into operation of such buildings and structures.

6. Park residents are exempted from customs duties and VAT on goods imported into the customs territory of the Republic of Belarus for usage in the Park boundary for implementation of investment projects if the residents have the resolution of the Park administration about the purposes of usage of these goods.

Establishment of new taxes, fees and charges does not lead to accrual of obligation of Park residents to pay that taxes, fees and charges on activities exercised on the territory of the Park.

Foreign investors and participants of construction - non-residents of the Republic of Belarus shall be guaranteed after payment of taxes and other obligatory payments to a free transfer from the Republic of Belarus of profits obtained in the territory of the Republic of Belarus as a result of investment activities in the Park.

#### **9.4.4. Taxation in middle, small towns and in a countryside**

Commercial organizations and individual entrepreneurs (hereinafter – business entities) established and carrying out activities for the production of goods (works, services) in the territory of Belarus in middle, small towns and in a countryside (hereinafter – countryside) are subject to the special tax regime.

The special regime does not apply to banks, non-bank financial organizations, investment funds, insurance companies and professional participants of stock exchange, residents of Free Economic Zones and the High Technologies Park, the special tourist-recreational park “Avgustovsky channel”, the China-Belarus Industrial Park, ordinary partnerships and business groups, business entities, which carry out: real estate activity, gambling activity, lottery activity, activity in electronic interactive games, production and sale of excisable goods, jewelry, production of securities, money, coins, stamps etc.

**Specifics of taxation and other benefits:** business entities are exempt for 7 years from:

- profit tax, income tax with regard to the goods of its own production;
- payment of the state due for getting licenses;
- other taxes and duties (except VAT, excises, stamp, off-shore and government duties, custom duties, land tax, ecological tax, taxes that are paid by tax agents);
- compulsory sale of foreign currency, gotten under the deals with non-residents of the Republic of Belarus from realization of the goods (works, services) of own production, including income from lease of property.

**Specifics of taxation and other benefits for entities, which branches are established in the territory of a countryside:** exempting for 7 years from:

- profit tax, with regard to the profit of its branches;

- property tax from the value of objects which stay on the balance of the branch established in a countryside;
- payments into the innovative fund, calculated from the cost of the goods (works, services), produced in a countryside;
- compulsory sale of foreign currency, gotten under the deals with non-residents of the Republic of Belarus from realization of the goods (works, services) of own production.

Preferential taxation does not apply to:

- individual entrepreneurs who pay single tax;
- organizations which produce the agricultural goods and pay single tax for producers of agriculture goods;
- business entities which use the simplified tax system;
- organizations which provide services in the field of rural tourism and pay for rendering the service in the field of rural tourism;
- organizations which apply other special tax regimes established by law.

Additional advantages of the taxation in a countryside is **exemption from import customs duties** on some goods imported in order to contribute to the authorized fund of legal entities subject to this special regime.

## 9.5. Taxation of Individuals

Individuals who are not involved into entrepreneurial activities pay the following taxes in Belarus:

- income tax on individuals;
- land tax;
- real estate tax.

The primary tax is income tax. It is paid on incomes from labour activity, works (services) provided under civil law contracts; royalties; on incomes in the form of interest payments and dividends; on incomes from the alienation of real estate, securities, shares of company stock; and on other incomes.

Calculation of the income tax is carried out according to a flat rate.

The rate of 15 % applies to income of belarusian individual entrepreneurs, notaries and advocates which operate individually.

The rate of 9 % is used for the following incomes:

- income received by individuals (with the exception of workers who service and guard buildings and territories) working for residents of the High Technologies Park under labour contracts;
- individual entrepreneurs that are residents of the High Technologies Park;
- individuals working under labour contracts within the frameworks of a business project in the field of innovative technologies initiated by non-residents of the High Technologies Park;
- income received by individuals for their work under labour contracts from a joint company and (or) residents of the Chinese-Belarusian Industrial Park before January, 1 of 2027.

In all other cases the tax is calculated at the rate of 12 %.



## 9.6. Agreements on Avoidance of Double Taxation

In order to avoid double taxation the Republic of Belarus signed a vast number of bilateral agreements with other states. Currently there are 67 such agreements with different countries (including Austria, Armenia, Azerbaijan, Bahrain, Bangladesh, Belgium, Bulgaria, Great Britain, Hungary, Venezuela, Vietnam, Denmark, Egypt, Israel, India, Iran, Ireland, Spain, Indonesia, Italy, Kazakhstan, Qatar, Cyprus, China, Democratic People's Republic of Korea, Kuwait, Kyrgyzstan, Laos, Latvia, Lebanon, Libya, Lithuania, Macedonia, Malaysia, Moldova, Mongolia, Netherlands, United Arab Emirates, Oman, Pakistan, Poland, Romania, Russia, Saudi Arabia, Singapore, Slovakia, Slovenia, Syria, USA, Tajikistan, Thailand, Turkey, Turkmenistan, Uzbekistan, Ukraine, Finland, France, Germany, Croatia, Switzerland, Sweden, Czech Republic, Estonia, Serbia, South Africa, Japan).

### 9.6.1. Rates of tax on profits in the form of dividends in agreements on avoidance of double taxation

No	Types of international agreements on avoidance of double taxation	States	Tax rates	Conditions of tax rates application
1	Tax is paid <b>only in the state that is a location of a dividend beneficiary.</b>	Great Britain*		
2	Rate of tax levied in the <b>state that is a location of a payer of dividends</b> is differentiated depending on many factors and can be more or less than 12% rate, provided for by the Belarusian legislation.	Austria* Belgium* Hungary* Venezuela* Italy* Korea* Macedonia* Finland* Croatia* Switzerland* Serbia* SAR*	Up to 5%	With a <b>not less than 25 %</b> share in the authorized fund.
		Armenia*	Up to 15%	In all other cases.
			Up to 10%	With a <b>not less than 30 %</b> share in the authorized fund.
		India* Iran* Pakistan* Slovakia* Turkey*	Up to 10%	With a <b>not less than 25 %</b> share in the authorized fund.
			Up to 15%	In all other cases.
	Cyprus*	Up to 5%	With a <b>not less than 200 000 Euros</b> share in the authorized fund.	
		Up to 10%	With a <b>not less than 25 %</b> share in the authorized fund.	
		Up to 15%	In all other cases.	
	Netherlands*	Up to 5%	With a <b>not less than 25 %</b> share in the authorized fund.	
		Up to 15%	In all other cases.	



			Only in state that is location of dividend beneficiary.	With a share of <b>not less than 50%</b> with a cost of <b>not less than 250 000 Euros</b> .
		<b>UAE*</b>	<b>Up to 5%</b>	With a <b>not less than 100 000 Euros</b> share in the authorized fund.
			<b>Up to 10%</b>	In all other cases.
		<b>Poland*</b>	<b>Up to 10%</b>	With a <b>not less than 30 %</b> share in the authorized fund.
			Up to 15%	In all other cases.
		<b>Germany*</b>	Up to 5%	With a share of <b>not less than 20%</b> with a cost of <b>not less than 81 806.70 Euros</b> .
			Up to 15%	In all other cases.
		<b>Sweden*</b>	Only in the state that is a location of a dividend beneficiary.	With 100% share in the authorized fund, but only with regard to profit, from which dividends are paid, that is received from industrial or manufacturing activity, or rural, forest and fish industry or tourism (including restaurants and hotels). However, such exemption is not applied, when profit, from which dividends are paid, is exempted from tax in another state.
			<b>Up to 5%</b>	With a <b>not less than 30 %</b> share in the authorized fund.
			<b>Up to 10%</b>	In all other cases.
		<b>Ireland*</b>	Up to 5%	With a <b>not less than 25 %</b> share in the authorized fund.
			Up to 10%	In all other cases.
<b>3</b>	Rate of tax levied in the state that is the location of a dividends payer, shall not exceed <b>5%</b> .	<b>Bahrain*</b> <b>Qatar*</b> <b>Kuwait*</b> <b>Oman*</b> <b>Saudi Arabia*</b> <b>Slovenia*</b>	Up to 5%	
<b>4</b>	Rate of tax levied in the state that is the location of a dividends payer, shall not exceed <b>7.5%</b> .	<b>Lebanon*</b>	Up to 7.5%	
<b>5</b>	Rate of tax levied in the state that is the location of a dividends payer, shall not exceed <b>10%</b> .	<b>Bulgaria*</b> <b>Israel*</b> <b>China*</b> <b>DPRK*</b>	Up to 10%	

		Latvia* Lithuania* Mongolia* Romania* Thailand* Czech Republic* Estonia*		
6	Rate of tax levied in the state that is the location of a dividends payer, shall not exceed <b>15%</b> , that is more than tax rate of 12%, provided for by Belarusian legislation.	Azerbaijan* Vietnam* Denmark Egypt* Kazakhstan* Kirgizstan* Malaysia Moldova* Russia Syria* Tajikistan* Turkmenistan* Uzbekistan* Ukraine* Japan*	Up to 15%	
7	Rate of tax levied in the state that is the location of a dividends payer, shall not exceed <b>18%</b> .	Spain	Up to 18%	
8	Tax is paid only in the <b>state that is the location of a dividends payer.</b>	France	Up to 15%	
9	The agreement hasn't entered into force yet, but according to them			
	The rate of tax levied in the state that is a location of a payer of dividends is differentiated depending on many factors and cannot be more or less than 12% provided for by Belarusian legislation.	Libya*	Up to 5%	With a not less than 25 % share in the authorized fund.
			Up to 10%	In all other cases.
		Bangladesh	Up to 10%	If a beneficial owner of the dividends is a company which holds not less than 10 % capital of a company paying dividends.
			Up to 12%	In all other cases.
	The rate of tax levied in the state that is the location of a dividends payer, shall not exceed 5%.	Singapore*	Up to 5%	
The rate of tax levied in the state that is the location of a dividends payer, shall not exceed 10%.	Indonesia*	Up to 10%		
	Laos*	5 %	If a beneficial owner of the dividends is a company which holds not less than 20 % capital of a company paying dividends.	
10%		In all other cases.		

«\*» means that in order to apply for rules on place of payment and tax rate provided for by the corresponding agreement, a dividends beneficiary should be a true owner of dividends.

### 9.6.2. Rates of tax on profits in the form of interests in agreements on avoidance of double taxation

No	Types of international agreements on avoidance of double taxation	States	Tax rates	Conditions of tax rates application
1	Tax is paid <b>only in the state of the permanent location of an interests beneficiary.</b>	Great Britain Denmark Spain	Is defined in accordance with the legislation of the state of the permanent location of an interests beneficiary.	
2	Rate of tax levied in the <b>state that is location of payer of interests</b> is differentiated depending on many factors and cannot be more than 10% provided for by Belarusian legislation.	Switzerland*	Up to 5%	With any types of loans provided by bank.
			Up to 8%	In all other cases.
		SAR*	Up to 5%	If an interests beneficiary is a bank or any financial institution that is a resident of SAR.
			Up to 10%	In all other cases.
3	Rate of tax <b>levied in the state that is the location of an interests payer, shall not exceed 5%.</b>	Austria* Bahrain* Hungary* Venezuela* Iran* Qatar* Cyprus* Kuwait* Lebanon* Netherlands* UAE* Oman* Saudi Arabia* Slovenia* Finland* Germany* Sweden* Czech Republic* Ireland*	Up to 5%	
4	Rate of tax <b>levied in the state that is the location of an interests payer, shall not exceed 8%.</b>	Serbia* Italy*	Up to 8%	
5	Rate of tax <b>levied in the state that is the location of an interests payer, shall not exceed 10%.</b>	Azerbaijan* Armenia* Belgium* Bulgaria* Vietnam* Egypt* Israel*		

	Rate of tax levied in the state that is the location of an interests payer, shall not exceed 10%.	<p>India*</p> <p>Kazakhstan*</p> <p>China*</p> <p>DPRK*</p> <p>Korea*</p> <p>Kyrgyzstan*</p> <p>Latvia*</p> <p>Lithuania*</p> <p>Macedonia*</p> <p>Moldova*</p> <p>Mongolia*</p> <p>Pakistan*</p> <p>Poland*</p> <p>Russia*</p> <p>Romania*</p> <p>Slovakia*</p> <p>Syria*</p> <p>Tajikistan*</p> <p>Thailand*</p> <p>Turkmenistan*</p> <p>Turkey*</p> <p>Uzbekistan*</p> <p>Ukraine*</p> <p>Croatia*</p> <p>Estonia*</p> <p>Japan*</p>	<p>Up to 10%</p> <p>Up to 10%</p>	
6	Rate of tax levied in the state that is the location of an interests payer, shall not exceed 15%.	Malaysia*	Up to 15%	
7	Tax is paid only in the state that is the location of an interests payer.	France	Up to 10%	Except for interests on bank credits and loans and interests on commercial loans, that are taxed in the state that is the location of an interests beneficiary with tax rates provided for in this state.
8	The agreement hasn't entered into force yet, but according to them			
	Rate of tax levied in the state that is the location of an interests payer, shall not exceed 5%.	Libya* Singapore*	Up to 5%	
	Rate of tax levied in the state that is the location of an interests payer, shall not exceed 8%.	Laos*	Up to 8%	
	Rate of tax levied in the state that is the location of an interests payer, shall not exceed 10%.	Indonesia*	Up to 10%	
	Rate of tax levied in the state that is the location of an interests payer, shall not exceed 7,5%	Bangladesh *	Up to 7,5 %	

«\*» means that in order to apply for rules on place of payment and tax rate provided for by the corresponding agreement, an interests beneficiary should be a true owner of interests.

### 9.6.3. Rates of tax on profits in the form of royalty in agreements on avoidance of double taxation

No	Types of international agreements on avoidance of double taxation	States	Tax rates	Conditions of tax rates application
1	Tax is paid only in the <b>state that is the location of a royalty beneficiary.</b>	Great Britain* Denmark (P) Poland* France (PEC) USA (PEC)		
2	Rate of tax levied in the <b>state that is the location of a payer of royalty</b> is differentiated depending on many factors and cannot be more than 15% rate, provided for by Belarusian legislation.	Venezuela*	Up to 5%	When using or granting a right on usage of any copyright on a product of science, any software, trademark or for usage or granting a right on usage of all types of equipment and vehicles.
			Up to 10%	In all other cases.
		Israel*	Up to 5%	When granting or using any copyright on a product of literature, science and art (except for video films) or when using or granting a right on usage of industrial, commercial or scientific equipment or vehicles.
			Up to 10%	In all other cases.
	Malaysia*	Up to 10%	When using or granting a right of usage of any patent, trademark, blueprint or model, plan, secret formulae or process, or copyright on science product, or for usage or granting a right of usage of industrial, trade or science equipment, or for information on industrial, trade or science experience.	
	Netherlands*	Up to 15%	When using or granting a right of usage of cinematographic films or tapes for radio broadcasting and television, any copyright on a product of literature or art.	
		Up to 3%	When using or granting a right of	

<p>Rate of tax levied in the <b>state that is the location of a payer of royalty</b> is differentiated depending on many factors and cannot be more than 15% rate, provided for by Belarusian legislation.</p>			usage of any patent, trademark, blueprint or model, plan, secret formulae or process, or copyright on science product, or for information on industrial, trade or science experience.	
			<b>Up to 5%</b>	When using or granting a right of usage of any industrial, trade or science equipment, including road vehicles.
			<b>Up to 10%</b>	When using or granting a right of usage of cinematographic films or tapes for radio broadcasting and television, any copyright on a product of literature, science or art.
	UAE*		<b>Up to 5%</b>	When using or granting a right of usage of any copyright on products of science, any patent, trademark, blueprint or model, plan, secret formulae or process, or for usage or granting a right of usage of industrial, trade or science equipment, or for information on industrial, trade or science experience.
			<b>Up to 10%</b>	When using or granting a right of usage of cinematographic films or tapes for radio broadcasting and television, any copyright on a product of literature or art.
	Slovakia*		<b>Up to 5%</b>	When granting a right of usage of any copyright on products of literature, science and art, including video films or films or tapes and other means of image or sound transition.
			<b>Up to 10%</b>	When using or granting a right of usage of any patent, trademark, blueprint or model, plan, secret

				formulae or process, or for information on industrial, trade or science experience or vehicles.
		<b>Germany*</b>	<b>Up to 3%</b>	When using or granting a right of usage of copyright on a product of science, patent, trademark, design or model, plan, secret formulae or process, or for information on industrial, trade or science experience.
			<b>Up to 5%</b>	When using or granting a right of usage of copyright on products of literature or art, including video films and films or tapes for radio broadcasting and television, or for usage of any types of equipment and vehicles.
		<b>Switzerland*</b>	<b>Up to 3%</b>	When using or granting a right of usage of any patent, secret formulae or process, or for information on industrial, trade or science experience.
			<b>Up to 5%</b>	When using or granting a right of usage of any industrial, trade or science equipment, including vehicles.
			<b>Up to 10%</b>	In all other cases.
		<b>Sweden*</b>	<b>Up to 3%</b>	When using or granting a right of usage of any patent, secret formulae or process, or for information on industrial, trade or science experience.
			<b>Up to 5%</b>	When using or granting a right of usage of any industrial, trade or science equipment.
			<b>Up to 10%</b>	In all other cases.
		<b>SAR*</b>	<b>Up to 5%</b>	When using or granting a right of usage of any industrial, trade or science equipment, including vehicles.
		<b>SAR*</b>	<b>Up to 5%</b>	



			<b>Up to 10%</b>	In all other cases.
			Only in state of location of royalty beneficiary.	When using or granting a right of usage of any copyright on products of literature, art or science, including cinematographic films and films or tapes for radio broadcasting or television.
		<b>Japan*</b>	<b>Up to 10%</b>	When using or granting a right of usage of any patent, trademark, blueprint or model, plan, secret formulae or process, or for granting a right of usage of industrial, trade or science equipment, or for information on industrial, trade or science experience.
<b>3</b>	<b>Rate of tax levied in the state that is the location of a payer of royalty cannot be more than 5%.</b>	<b>Austria*</b> <b>Bahrain*</b> <b>Belgium*(S)</b> <b>Hungary*</b> <b>Iran*</b> <b>Qatar*</b> <b>Cyprus*</b> <b>Korea*</b> <b>Lebanon*</b> <b>Ireland*</b> <b>Slovenia*</b> <b>Finland*</b>	<b>Up to 5%</b>	
		<b>Spain*</b>		Exception: profits from usage or granting a right of usage of copyrights on literature, dramaturgic and musical products (except for profits from video films and any means of play of image or sound, used for radio broadcasting or television), are levied by tax only in the state of the location of a royalty beneficiary.
<b>4</b>	<b>Rate of tax levied in the state that is the location of a payer of royalty cannot be more than 6%.</b>	<b>Italy*</b>	<b>Up to 6%</b>	
<b>5</b>	<b>Rate of tax levied in the state that is the location of a payer of royalty cannot be more than 10%.</b>	<b>Azerbaijan*(CP)</b> <b>Armenia*</b> <b>Bulgaria*</b> <b>China*</b>		

		DPRK* Kuwait* Latvia* Lithuania* Macedonia* Mongolia* Oman*(S) Russia* Turkey* Croatia*(S) Czech Republic* Estonia* Serbia* Saudi Arabia*	Up to 10%	
6	Rate of tax levied in the state that is the location of a payer of royalty cannot be more than 15%.	Vietnam* Egypt* India* Kazakhstan* China* Kirgizstan*(CP) Moldova* Pakistan* Romania* Tajikistan* Thailand* Turkmenistan* (CP) Uzbekistan*(CP) Ukraine*	Up to 15%	
7	Rate of tax levied in the state that is the location of a payer of royalty cannot be more than 18%.	Syria*	Up to 18%	
8	The agreement hasn't entered into force yet, but according to them			
	Rate of tax levied in the state that is the location of an interests payer, shall not exceed 5%.	Libya* Singapore* Laos*	Up to 5%	
	Rate of tax levied in the state that is the location of an interests payer, shall not exceed 10%	Bangladesh * Indonesia*	Up to 10%	

«\*» means that in order to apply for rules on place of payment and tax rate provided for by the corresponding agreement, a royalty beneficiary should be a true owner of royalty.

Used abbreviations:

«P» – program;

«PEC» – program for electronic computer;

«S» – software;

«CP» – computer program.

## 10. Insurance Market

### 10.1. Forms of Insurance

There is voluntary and mandatory insurance.

Voluntary insurance shall be carried out through entering into an insurance contract by and between the insured and the insurer in compliance with the legislation. The terms on which such voluntary insurance contract is concluded shall be specified in the Rules of the respective type of insurance which are to be approved by such insurer or by the insurers association and agreed with the Ministry of Finance of the Republic of Belarus. The validity period of any voluntary life insurance or additional pension insurance contracts may not be less than three years.

Mandatory insurance is effected by any state-owned insurance organizations and/or by any other insurance organizations, provided more than 50 % of shares (common or other voting shares) in an authorized fund is owned by the Republic of Belarus and/or its territorial administrative units, unless otherwise is specified by the acts of the President of the Republic of Belarus.

The Government shall guarantee insurance payments under any type of insurance with regard to life insurance, any kinds of mandatory insurance, provided insurance contracts have been concluded with the State insurance organizations.

### 10.2. Objects of insurance

The insurance objects are property interests that do not contradict the legislation and are connected with:

- infliction of any damage to health or life of the insured or any other individual mentioned in the insurance contract (personal insurance other than life insurance);

- reaching of a certain age by individuals, or occurrence of any other insured circumstance provided for in the insurance contract (personal insurance with regard to the life insurance);

- loss (destruction) of any property owned, used or disposed of by the insured or any other beneficiary mentioned in the insurance contract; or infliction of any damage to their property rights, including losses incurred from entrepreneurship as a result of failure to fulfill or improper fulfillment by the contractors of a business entity of their respective obligations, or as a result of changing conditions of such entrepreneurship beyond reasonable control of the entrepreneur (property insurance);

- liability for the obligations arising in case of any damage to life, health, or property of any other persons inflicted by the insured or by any other persons on whom such responsibility may be imposed; or liability under the insurance contract (liability insurance).

Objects of mandatory insurance in Belarus are:

- buildings that belong to individuals;
- liability of vehicle owners;
- carrier liability to passengers;
- health and lives of foreign citizens and stateless persons temporarily staying or temporarily residing in Belarus;
- liability of commercial organizations engaged in real estate activities;

- property interests of the insured connected with the loss of crops, livestock and poultry;
- liability of time (crisis) managers in a process of an economic insolvency case (bankruptcy);
- lives and health against industrial accidents and occupational diseases;
- objects of mandatory state insurance at the expense of the state budget;
- other objects of mandatory insurance determined by acts of the President of the Republic of Belarus or by laws.

### **10.3. Insurers**

The notion “Insurers” means any commercial organization established for carrying out of insurance activities that has obtained special permits (licenses) to conduct insurance activities (hereinafter the insurers or insurance organizations).

Activities of any insurance organizations, insurance brokers established outside Belarus within the territory of Belarus without state registration at the Ministry of Finance of the Republic of Belarus (hereinafter referred to as “the Ministry of Finance”) and obtaining a special permit (license) for carrying out of insurance activities are illegal and prohibited.

The exception is insurance of the property interests of commercial organizations established after April 1, 2008 (except for those established as a result of reorganization) which reside and carry out their activity in areas with population lower than 50 thousand people at the output of goods (works, services) of own production and their realization have the right to insure their property interests in insurance organizations, insurance brokers established outside Belarus.

In this situation there are also some exceptions. In particular, the banks and non-bank financial institutions, residents of free economic zones and residents of HTP Belarus may not insure their property interests in insurance companies, insurance brokers, established outside the Republic of Belarus.

Legal entities of Belarus, as well as foreign legal entities that carry out their activities in the territory of Belarus, citizens of Belarus and persons without citizenship who permanently reside in Belarus, shall insure their property interests in Belarus only with the commercial organizations that have been established for the purpose of carrying out insurance activities and have obtained special permits (licenses) for carrying out insurance activities in Belarus.

The Republic of Belarus and its territorial administrative units, state bodies, state legal persons, and legal persons, decisions of which may be determined by the state due to holding of the controlling block of shares or in another way according to the legislation, shall insure their property interests, except for life insurance, in Belarus and only in the insurance organizations – state legal persons or legal persons, more than 50 % of the authorized fund (ordinary or other voting shares) of which belong to the State and/or its territorial administrative units, unless otherwise is specified by the President of the Republic of Belarus.

Foreign citizens who are temporarily staying in Belarus, and persons without citizenship who temporarily stay or temporarily reside in the territory of Belarus have the right to insure their property interests in Belarus with Belarusian commercial organizations that have been established for the purpose of carrying out insurance activities and have obtained special permits (licenses) for carrying out insurance activities in Belarus, provided

that their obligation to be insured with mentioned organizations is not stipulated by this Edict.

#### **10.4. State registration**

Insurance organizations and insurance brokers are registered in the Ministry of Finance.

An insurance organization that is a subsidiary (affiliate) to a foreign investor has the right to exercise insurance activities in the Republic of Belarus, if the foreign investor is an insurance organization for not less than 10 years engaged in insurance activities in accordance with the law of the appropriate state.

Quota of the share of foreign insurers in the authorized fund of the insurance organizations of the Republic of Belarus is set up by the Council of Ministers by agreement with the President and it is 30 %.

If such quota is exceeded, the Ministry of Finance stops registration of insurance organizations with foreign investments and/or issuing licenses for insurance activities to such organizations.

Professional requirements to a nominee to the post of CEO, deputy CEO and chief accountant of the insurance organization, insurance brokers, and also the managing personnel of subdivisions of the insurance organization, insurance brokers are determined by the Ministry of Finance.

#### **10.5. Authorized fund**

The minimal amount of an authorized fund is determined by the amount equivalent to:

- For an insurer not providing life insurance – 1 000 000 Euros;
- For an insurer providing life insurance – 2 000 000 Euros;
- For an insurer providing only reinsurance – 5 000 000 Euros.

The authorized fund of the insurance organization should be paid in full by its founders prior to the date of its state registration.

The minimal amount of the authorized fund should be contributed in foreign currency and/or Belarusian rubles at the National Bank exchange rate determined for the corresponding currency to Euro as of the date of the relevant decision of founders, shareholders and asset owners. The share of the authorized fund exceeding its minimal amount may be contributed by the insurer founders in non-monetary form as stipulated by relevant legislation and organizational documents of the organization.

Contribution by foreign investors of their shares (stock) in the authorized fund of insurers and insurance brokers should be done in monetary funds only. After state registration an insurer shall at all times have funds available in banks of the Republic of Belarus in the amount of the minimum required authorized fund. Contributed assets shall belong to the founders (shareholders) by virtue of ownership (be in their commercial operation or executive management), required and usable for the insurer operations.

Shareholder's contributions to the authorized fund (shares in the authorized fund), except for contribution (share) of the Republic of Belarus and/or its administrative and territorial units to the charter fund of an insurance organization, established in a form of a joint stock company, limited liability company and additional liability company should not exceed 35 % of the authorized fund.

## 10.6. Activities of insurers

Insurers may only be engaged in insurance and investment activities and activities on assessment of an insurance risk and the amount of loss, assessment and examination of movable and real property with regard to insurance and issue of reports on its condition, activities on providing services of technical, medical and financial nature to another insurer and insured (insured, suffered or other person claiming for insurance compensation) with the purpose of fulfilling agreements entered into with them on insurance, on providing services to the other insurance company in identifying the reason, nature of the loss in case of occurrence of the insured event.

Insurers providing life insurance cannot be engaged in any other type of insurance.

Insurance companies of Belarus are obliged to:

– insure the risk of fulfillment of 10 % of its obligations under voluntary insurance agreements other than life insurance, exceeding the legally established standard of liability with subsequent annual increases of insurance liabilities at 10 % only in an insurance organization created by the Council of Ministers of the Republic of Belarus in the form of a public entity to carry out an insurance activity solely on reinsurance (hereinafter – Reinsurance Organization), in the manner specified by the law, on the basis of concluded reinsurance contracts;

– notify reinsurance organization about concluded with other insurance organizations reinsurance contracts in the manner specified by the Ministry of Finance.

Insurance companies that are subsidiaries or dependent economic entities with respect to foreign investors, cannot exercise life insurance, compulsory insurance in the Republic of Belarus, including mandatory state insurance, property insurance related to implementation of supply, provision of services or the performance of contract work for governmental needs, as well as insurance of property interests of the Republic of Belarus and its administrative-territorial item.

**Intermediary insurance activity** is an insurance activity by insurance agents and insurance brokers.

Insurance companies may not act as insurance agents or brokers.

Any individual, except for individual entrepreneurs, and organizations other than the insurance ones may act as insurance agents.

An insurance agent is an individual that does not have the status of an individual entrepreneur and carries out activities on the basis of a labour contract or any other civil contract, insurance intermediation in the field of insurance concerned with life insurance – in the name of several insurance organizations, and in the field of insurance concerned with any other types of insurance – in the name of only one insurance organization. An individual performing an intermediary insurance activity should have at least general secondary education.

An insurance agent is an organization that carries out insurance intermediation in the name of any insurance organization on the basis of a civil contract. Should such an organization be a state-owned legal person, or a state bank, or a bank authorized to service the State programs, or a Republican State-owned organization, it shall be entitled to carry out insurance intermediation as for all types of voluntary and mandatory insurance. Any other organizations shall only be entitled to carry out insurance intermediation in the field of voluntary insurance.

An insurance agent acts within the powers given by the insurer and performs intermediate insurance activity on his behalf. The rights and obligations arising from acts committed by an insurance agent are acquired by the insurer.

Insurance agents are required to pass the insurance premiums they received to the insurer or to transfer them to his bank account.

The only object of the insurance broker activity is the insurance intermediation.

An insurance broker is not entitled to carry out:

- activity by order of insurance companies established outside the Republic of Belarus;
- other activity, except insurance intermediation;
- intermediation activity with regard to types of mandatory insurance, reinsurance of the types of mandatory insurance;
- intermediation activity with regard to types of voluntary insurance, not specified in its special permit (license) for carrying on insurance business.

Intermediate activity related to execution of insurance agreements on behalf of foreign insurers in the Republic of Belarus on behalf of insurance organizations established outside the Republic is prohibited.

### **10.7. Restrictions imposed on insurance activities**

The activities performed on mandatory insurance are subject to the following restrictions:

- Mandatory insurance shall be effected by any State insurance organizations and/or by any other insurance organizations, provided more than **50 %** of shares (common or other voting shares) in the authorized fund thereof is owned by the Republic of Belarus and/or its territorial administrative units, save otherwise is specified by the acts of the President of the Republic of Belarus;

- “Belgosstrakh”, Republican Unitary Insurance Company, shall be the only insurer for such types of mandatory insurance as mandatory insurance of any buildings owned by individuals, mandatory insurance of liability of any commercial organizations involved in relating activity, for any damage inflicted in the course of carrying out these activities, mandatory insurance of agricultural products, mandatory insurance against accidents at work and occupational diseases.

### **10.8. Features of ensuring the financial stability of insurers**

An insurance organization forms reserves from the received insurance premiums to ensure fulfillment of its engagements:

- in the types of insurance connected to life insurance (mathematical reserves),
- in the types of insurance other than life insurance (technical provisions);
- in the mandatory insurance against industrial accidents and occupational diseases, mandatory insurance with state support of crop, livestock and poultry (a special insurance pool).

An insurance organization invests and allocates funds of insurance reserves in the manner determined by the Council of Ministers with the consent of the President of the Republic of Belarus.

Insurance reserve funds are not subject to withdrawal from the insurance company, have intended purpose, are used only for insurance payments and are not included into the value of the property of the organization, which is due on the share of the shareholder in



the authorized fund. Property acquired through such means is a subject to separate accounting.

Means of these reserves should be invested and placed on the terms of repayment, profitability, liquidity and diversification.

Solvency of insurance companies to ensure the fulfillment of their obligations under insurance, including coinsurance and reinsurance, is assessed according to criteria of solvency determined by the Ministry of Finance.

The insurer, who has accepted the obligations that exceed its ability to pay, is obliged to conclude a contract of reinsurance of the insurance risk which was accepted according to the contract of insurance.

# 11. Monopolistic Activity and Illicit Competition

## 11.1. Monopolistic Activity: General Information

In 2014 monopolistic activity is regulated by two laws:

Till July 1, 2014 – by the Law of the Republic of Belarus as of December 10, 1992 “On counteraction to monopolistic activity and development of competition” (hereinafter referred to as “the Law, 1992”);

From July 1, 2014 the Law of the Republic of Belarus as of December 12, 2013 “On counteraction to monopolistic activity and development of competition” (hereinafter referred to as “the Law, 2013”) will come into force.

Monopolistic activity is defined as actions (inaction) of business entities, state bodies, aimed at non-admission, limitation or elimination of competition (the Law, 2013).

Till July 1, 2014 there are 3 types of monopolies allowed in Belarus: state monopoly, natural monopoly and special monopoly.

State monopoly is a system of social relations according to which state bodies or organizations have the exceptional right to carry out certain types of activities (including business activities).

The following types of activities are **natural monopolies** in Belarus:

- transportation of petrol and oil products through main pipelines;
- transportation of gas through main and distribution pipelines;
- transfer and distribution of electric and thermal energy;
- centralized water supply and water disposal;
- electrical communication and postal services;
- railroad services;
- services of transport terminals and airports;
- exploitation and services of airlines, management of air traffic.

**Special monopoly** is a system of social relations in the goods market with no or limited competition.

From July 1, 2014 special monopoly cannot be established in the Republic of Belarus.

Realization of antimonopoly policy in the Republic of Belarus is conducted by the antimonopoly body – the Department of price policy of the Ministry of Economy.

Antimonopoly control in Belarus includes the following types of activities:

- approval for registration of holding companies, unions, associations and other alliances of business entities;
- control over transactions with stocks, shares in authorized funds of business entities,
- reorganization and liquidation of business entities;
- control over the activities of economic entities with dominant position.

### 11.1.1. Antimonopoly control for creation and reorganization of holding companies

As a general rule, creation, reorganization of holding companies, associations, unions and other alliances of business entities are to be effected upon approval of the antimonopoly body.

Creation and reorganization of holding companies are regulated by the Edict of the President of the Republic of Belarus No 660 “On some issues related to creation and activity of holding companies”. In accordance with the Edict in order to register a holding company a management company of such holding (owner or authorized representative) must obtain the approval of the antimonopoly body before creation of holding. Thus, it is impossible to create a holding in the Republic of Belarus without the approval issued by the antimonopoly body.

However, from July 1, 2014 the approval of the antimonopoly body to create a holding company is required only if balance sheet value of the assets of one of the founders of created associations of economic entities defined on the basis of the financial statements for the last reporting date, is more than 100 000 base units or the volume revenue generated by one of the founders of associations of economic entities from the sale of goods in the reporting year preceding the year of creation, is more than 200 000 base units or if one of these entities is included in the State Register of economic entities with a dominant position in the goods markets or the State Register of Natural monopolies.

After having considered the application of a management company the antimonopoly body has the right to:

- either approve creation (reorganization) of a holding company, or
- make a reasonable decision declining the approval, if creation (reorganization) of a holding company may lead to appearance or strengthening of a dominating position in a goods market and/or limitation of competition, as well as if during the application process the antimonopoly body discovers the fact that the information submitted is inaccurate and/or incomplete.

From July 01, 2014 the antimonopoly body may approve creation of the holding company if a dominant position of economic entities is established or strengthened in the commodity market and (or) if competition is excluded, limited or eliminated. To do this, the economic entities have to prove that their actions have or may have the effect of:

- improvement of production (sale) of goods or stimulation of a technical (economic) progress or increasing the competitiveness of goods manufactured in the Republic of Belarus in the global commodity market;
- consumers receiving commensurate advantages (benefits), acquired by the persons due to such activities.

The approval or reasonable refusal is to be made within 30-days period from the application receipt and is deemed to be valid during 1 year after issuing.

### **11.1.2. Antimonopoly control for transactions with stock (shares)**

Till July 01, 2014 the following transactions with stocks (shares) require the approval of the antimonopoly body:

- a business entity covering more than 30 % of certain goods market purchases the shares in the authorized fund of another business entity dealing with the same goods;
- a business entity covering more than 30 % of certain goods market enters into transactions with stocks of another business entity dealing with the same goods;
- any legal entity or individual, foreign state, international organization purchases more than 25 % of stocks (shares) in an authorized fund of a business entity, as well as makes a transaction giving to such persons the decision-making power with regard to any business entity having a dominant position in a goods market;

– a legal entity or an individual, the groups of thereof, as well as a foreign state, international organization or the bodies thereof acquire control over the business activity of a business entity or carry out functions of its management body (so-called “acquisition of control”).

In this case the approval of the antimonopoly body is required only in a situation where two criteria are observed in the aggregate:

1) acquisition of more than 20% of stocks or shares in the authorized fund of a legal entity (under a share purchase agreement, trust agreement, joint venture agreement, agency),

2) if balance sheet value of assets of such legal entity exceeds 100 000 base units as of the last reporting date or a range of revenues generated from marketing products (works, services) exceeds 200 000 base units following the results of a fiscal year.

From July 1, 2014 the following financial criterion remains: the consent of the antimonopoly body is required, if balance sheet value of assets of such legal entity exceeds 100 000 base units as of the last reporting date or a range of revenues generated from marketing products (works, services) exceeds 200 000 base units following the results of a fiscal year.

Apart from the financial criterion, the consent of the antimonopoly body is determined by making a transaction, the result of which becomes:

1) acquisition of the rights to dispose of a package:

- 25% and more of shares (stakes) if the purchaser was not a participant of an economic entity before or had a package of 25% or less;

- more than 50% of shares (stakes), if previously the purchaser had a package of 25-50% of shares (stakes) in the share capital of the subject of transaction.

2) acquisition of shares (stakes in the authorized capital) of other entity in a particular product market by an economic entity with a dominant position in the same product market.

3) acquisition by an economic entity of 25% or more of shares (stakes in the authorized fund) of an economic entity with a dominant position in the market, as well as other transactions giving to such economic entity the decision-making power in regard to an economic entity having the dominant position on a goods market.

Normally, it takes 30 days to obtain the decision. As in the case with a holding company the decision may be either positive or negative. Negative one is issued if a transaction may result in appearance or strengthening of a dominant position of a business entity on a goods market and/or limitation of competition.

From July 01, 2014 the antimonopoly body may approve the transactions with stocks (shares) when they entail strengthening of a dominant position if such transactions have or may have the effect of:

- improvement of production (sale) of goods or stimulation of a technical (economic) progress or increasing the competitiveness of goods manufactured in the Republic of Belarus in the global commodity market;

- consumers receiving commensurate advantages (benefits), acquired by the persons due to such activities.

### **11.1.3. Non-compliance with the obligation to obtain the approval**

#### **Civil law consequences**

In accordance with Clause 12 (6) of the Law a transaction made in breach of the Law which has resulted in appearance or strengthening of a dominant position of a business entity in a goods market and/or limitation of competition may be invalidated by an action of the antimonopoly body or any interested party in judicial proceedings.

Non-compliance with this obligation itself will not cause invalidation. The essential condition is the fact that a transaction has resulted in appearance or strengthening of a dominant position of a business entity on a goods market and/or limitation of competition. However this must be proved in court.

#### **Administrative liability**

Administrative liability is prescribed for an officer of a legal entity. According to Clause 1.3. of the Edict of the President of the Republic of Belarus as of February 27, 2012 No 114 «On some measures on enforcement of state antimonopoly regulation» (hereinafter referred to as “Edict No 144 ”) the liability is a fine in the amount from 20 (173 Euros) to 100 base units (865 Euros).

#### **Criminal liability**

Non-compliance with the requirement of the Law falls within the scope of criminal liability in the case if within 1 year after an administrative punishment an officer of a legal entity has committed the same offense. Under Clause 244 of the Criminal Code of the Republic of Belarus the punishment for such a crime is up to 2 years of imprisonment.

### **11.1.4. Anti-monopoly control over the activities of economic entities with dominant position**

If the position of a business entity in the market or several business entities recognized as a dominant position, the volume of production and product quality, price levels and other indicators of activity of such business entity (entities) fall under special state control aimed to identify whether there is abuse of such dominant position.

Control of production volume and quality of goods is carried out by competition authorities on the basis of statistical reports provided by corresponding business entities.

The activities of companies holding a dominant position in the market of the Republic of Belarus are controlled through audits conducted by antitrust authorities.

Monitoring of the level of prices and rates of economic entities with a dominant position in the markets of the Republic of Belarus is carried out by setting threshold levels of profitability and declaration of prices.

Clause 1.2. of Edict No 114 provides administrative liability for the cases where business entities with a dominant position commit the acts of abuse of their dominant position. Liability for the officials is established in the amount up to 100 basic units (1 000 Euros), for individual entrepreneurs (hereinafter - IE)- up to 200 basic units (2 Euros), for the legal entity – up to 10% of the sum of revenues from sales of goods (works, services) for the calendar year previous that year in which the administrative offense has been identified, or for a part of a calendar year previous to the date of identification of an administrative offense in which the administrative offense has been identified if the offender did not carry

out activities for realization of these goods (works, services) in a previous calendar year, but not less than 500 basic units (5 000 Euros).

## **11.2. Illicit Competition**

According to the Belarusian legislation illicit competition is any action aimed at limitation or elimination of competition by violation of a right to free competition of other business entities, as well as violation of consumer rights and interests.

The forms of illicit competition can be such actions as illegal using of a company name, trade mark and service trademark, illegal copying of goods exterior of other business entity, distribution of inaccurate or distorted information about activities and goods of a competitor in mass media and others.

Illicit competition in Belarus is prohibited. The legislation of the Republic of Belarus provides for a judicial and administrative procedure of defense from illicit competition as well as civil, administrative and criminal sanctions for illicit competition.

Particularly, according to Clause 1.4. of Edict No 114 illicit competition is punished by a fine in the amount of 100 basic units (1 000 Euros) for the officials, 200 basic units (2 000 Euros) for IE, for the legal entity – up to 10% of the sum of revenues from sales of goods (works, services) for the calendar year previous to that year in which the administrative offense has been identified, or for a part of a calendar year previous to the date of identification of an administrative offense in which the administrative offense has been identified, if the offender did not carry out activities for realization of these goods (works, services) in a previous calendar year, but not less than 400 basic units (3457 Euros).

## **11.3. Common principles and rules of competition in the Eurasian Economic Community**

In the frameworks of the CES the Russian Federation, the Republic of Belarus and the Republic of Kazakhstan have entered into the Agreement on common principles and rules on competition as of December 12, 2010. To find more information about the provisions of this Agreement please refer to subsection 11.2.3 of Section 11 “Common economic Space”.

## 12. Customs Regulation

### 12.1. General Information about the Customs Union

The Customs Union is the international organization based on the “Eurasian economic community” established by three member-states: the Republic of Belarus, the Russian Federation, the Republic of Kazakhstan for the purpose of trade and economic integration aimed to create a common customs territory and unified trade regulations with third countries.

The Customs Union is based on the Treaty on the Creation of Common Customs Territory and Formation of the Customs union dated October 6, 2006.

#### **Basic principles of the Customs Union:**

1. free transition within the territory of the Customs Union of:
  - the goods originated from the territory of the member-states of the Customs Union;
  - the goods released for domestic consumption within any member-state of the Customs Union.
2. The regulation of customs legal relations on the level of supranational legislation.
3. The priority of the union legislation before the national legislation.
4. The elaboration of uniform rules and procedures of the goods’ customs processing, imported into the territory of the Customs Union, and measures of tariff and non-tariff regulation.

Superior body of the Customs Union is the Interstate Council of Eurasian economic community (hereinafter – the «Interstate Council»), based on two levels – the level of Head of State and the level of Head of Government.

The uniform standing regulated body of the Customs Union is the Eurasian Economic Commission (hereinafter – ECC), created in accordance with the Agreement «On Eurasian Economic Commission» (hereinafter – ECC) of November 18, 2011.

Judicial functions of the Customs union are carried out by the Court of the “Eurasian Economic Community”. In connection with forming of Customs Union the Eurasian Economic Community Court has the authority to consider cases about accordance between Customs Union legal acts and International agreements that form the Customs Union agreements base, about challenging a decisions and actions (inactions) of Customs Union authorities. The Eurasian EC Court has the authority to judge cases between ECC and Customs Union member states, cases for petitions of Customs Union member-states and Eurasian Economic Community states, cases for petitions of Custom Union agencies and Eurasian Economic Community agencies, cases for petitions of entities and other cases according to the agreement of Customs Union and Eurasian Economic Community. Since January 1, 2012 Eurasian EC Court has thwarted start working with headquarters in Minsk.

The normative base of the Customs Union consists of:

- the international agreements signed by the member-states of the Customs Union.
- the resolutions of the Interstate Council and the ECC adopted pursuant relevant agreements.

The issues which are not regulated by international agreements of the Customs Union, resolutions of the Interstate Council and the ECC, fall within the scope of legislation of the Republic of Belarus.



## 12.2. Tariff Regulation in the Customs Union

Tariff regulation upon import of the goods is carried out in accordance with the Agreement on uniform customs tariff regulation dated January 25, 2008 that provides formation of Uniform Customs Tariff (hereinafter – the «UCT») to be applied by member-states of the Customs Union.

UCT is a list of rates of customs duties to be used with respect to the goods imported from third countries, systemized in accordance with the Uniform Goods Nomenclature of Foreign-economic activity of the Customs Union.

### Import customs duties

The rates of import duties from UCT to be applied by each member-state depending on the state of origin of imported goods and conditions of importation thereof unless otherwise is set out in the uniform customs tariff.

The sums of import customs duties paid out are apportioned pursuant to the normative established by the Treaty on determination and application of procedure regarding enrollment and apportioning of import customs duties (other customs duties, taxes and levies, having equivalent application) as of 20 May, 2010:

- Belarus – 4.70 %;
- Kazakhstan – 7.33 %;
- Russian Federation – 87.97 %.

### Export custom duties

The Agreement on export customs duties in respect of third countries dated January 25, 2008 between member-states of the Customs Union regulates export custom duties.

In accordance with Clause 6 Article 84 of the Customs Code of the Customs Union procedure regarding payment of export customs duties shall be governed by a separate international treaty of the Customs Union member-states. As of today such international treaty has not yet been signed.

But in relations between the Russian Federation and the Republic of Belarus it is applied the Treaty on procedure of payment and enrolment of export duties (other customs duties, taxes and levies, having equivalent application) upon export from the territory of the Republic of Belarus out of the customs territory of the Customs Union of oil and certain types of the goods, produced from oil as of December 12, 2010 as amended by the Protocol of March 15, 2012. According to the said treaty the Republic of Belarus and the Russian Federation do not apply in mutual trade export duties in respect of oil and oil products. Export duties with respect to such goods upon their export from the territory of the Customs Union through the territory of the Republic of Belarus shall be payable at the rates, equal to those applicable in the Russian Federation as of the date of registration of a declaration for the exported goods by the Belarusian Customs bodies. The said bilateral treaty is effective until the trilateral agreement between the Republic of Belarus, the Russian Federation and the Republic of Kazakhstan has entered into force, but in any case no later than December 31, 2013.

However, Russian government approved a draft protocol to the Agreement of payment and enrolment of export duties upon export from the territory of the Republic of Belarus out of the customs territory of the Customs Union of oil and certain types of the goods, produced from oil that extends its . Draft Protocol provides for the extension of the agreement on tariffs for 2014. A draft the Protocol provides the extension of the agreement on tariffs for 2014.

### **12.3. Tariff Preferences Applied by the Member States of the Customs Union**

The rates of customs duties under UCT are uniform and may not be changed depending on persons transferring the goods through customs border, types of transactions or other circumstances, except as provided in the Agreement on Uniform Customs and Tariff Regulation.

The member-states of Customs Union can apply tariff preferences only if this is prescribed by the international agreements of Customs Union or decisions of Head of State or ECC. Granting preferences in *ex parte* manner is not allowed.

Specific grounds for granting tariff preferences are set out in the Agreement on Uniform Customs and Tariff Regulation as well as in the decisions of Head of State and ECC.

#### **Basic principles of tariff preferences:**

1. to be applied regardless of the state of origin of the goods;
2. cannot be individual.

Exceptions are only provided in the International agreements on free trade zone in force entered into by Customs Union members before January 1, 2010 until unification or termination of relevant agreements.

Among International agreements on free trade zone entered by the Republic of Belarus before January 1, 2010 there is the Agreement between the Government of the Republic of Belarus and the Government of the Republic of Serbia on Free Trade between the Republic of Belarus and the Republic of Georgia dated March 31, 2009.

### **12.4. Uniform Measures of Non-Tariff Regulation in the Frameworks of the Customs Union**

Non-tariff measures – are a set of measures to regulate foreign trade, carried out by the introduction of quantitative and other economic restrictions.

The following measures of non-tariff regulations are allowed within the customs territory of Customs Union:

- quantitative restrictions of export and/or import (quota);
- foreign-trade licensing;
- exclusive right to export and/or import;
- supervision for export and/or import.
- temporary export ban (in exceptional cases for the duration no longer than 6 months);
- measures, concerning foreign trade and initiated on the basis of national interests.

#### **12.4.1. Quantitative restrictions of export and/or import (quotas)**

Within the territory of the Customs Union may be applies quantitative restrictions of export and import quotes.

The decision on quotas to be taken by the ECC. ECC apportions quotes among member-states of Customs Union and determines a method of apportion of quota shares among the subjects of foreign economic activity of Customs Union. If necessary, ECC apportions the volume of import quota among third countries.

The Goods with respect to which export quotas may be applied must be included in the list of essential Goods for the internal market of the Customs Union. Such a list is set out by

the decision of the ECC # 168 “On ensuring the functioning of a unified system of tariff regulation of the Customs Union of Belarus, Kazakhstan and the Russian Federation”.

Export and import quotas are established for indefinite period of time.

Quantitative restrictions do not apply to:

- import of the goods, originated from third country or export of the goods, designated to the territory of any third countries;
- trade of the goods in the frameworks of international treaties on free trade zones.

#### **12.4.2. Exclusive right to export and/or import**

In accordance with the decision of ECC the list of the goods to be exported or imported on the basis of exclusive right as well as organisations that are given exclusive right to export (import) certain types of goods is subject to publication.

At the moment, in the Belarus the exclusive right to import alcoholics, fish processing products, raw tobacco and tobacco products.

The exclusive right of the state is provided for regarding export of potassium fertilizers.

#### **12.4.3. Foreign-trade licensing**

Licences are required in order to export and import the goods stated in the Uniform list of the goods subject to ban and restrictions upon trade with third countries. Issuing licenses are regulated in accordance with the Treaty on rules of licensing in foreign-trade of the goods of June 6, 2009.

Types of licenses:

##### **- One-time licence**

The term of validity is no longer than 1 year after commencement (can be limited by the expiry date of the document, which was the basis for the licenses).

##### **- General licence**

The term of validity is no longer than 1 year after commencement.

##### **- Exclusive licence**

The term of validity is determined by the decision of ECC in each specific case.

Exclusive right of the state on the basis of licenses are granted with respect to import of alcoholics, fish, seafood and their products after processing, raw tobacco and tobacco products.

### **12.5. Indirect Taxation**

Indirect taxation in the Customs Union is regulated under the Treaty on the Principles of Levying of Indirect Taxes upon Import and Export of the Goods, Supply of Works, Services in Customs Union dated January 25, 2008 (hereinafter – the Treaty on indirect taxation) as well as the Covenants on procedure of levying indirect taxes and mechanisms for their payment upon export and import of the goods in the Customs Union and upon performance of work, providing services in the Customs Union of December 11, 2009.

Bilateral agreements between the member-states of the Customs Union on indirect taxation apply only inasmuch as their provisions are compatible with the Treaty on indirect taxation).

### **12.5.1. Indirect taxation upon export of the goods**

Upon export of the goods zero rate of VAT and/or exemption from payment of excises are applied on condition if there is evidence of export.

The term for verification of relevance of zero rate is 180 calendar days from the date of delivery (shipping) of the goods.

### **12.5.2. The principles of indirect taxation upon import of the goods**

Upon import of the goods in the territory of a member-state of the Customs Union from the territory of another member-state of the Customs Union indirect taxes are levied by the tax authorities of importer. If in accordance with the laws of member-state's jurisdiction no taxes are charged upon import of the goods than no taxes to be payable.

The rates of taxes are determined in accordance with the legislation of importing country.

### **12.5.3. Indirect taxation upon carrying out of works, providing services**

The taxes are to be levied within the member-state of the Customs Union that is considered as place of carrying out of works, providing services.

Upon carrying out of works, providing services the tax base, tax rates, procedure of tax levying as well as exemption are stated according to the laws of the member-state of the Customs Union, the territory of which is considered as place of supply.

## **12.6. Supervision for Security and Quality of the Goods in the Frameworks of the Customs Union**

Supervision for security and quality of the goods within the territory of the Customs Union means registration, testing, and confirmation of conformity (declaration, certification of the products), examination, registration of security of the products, veterinary control, quarantine control and phytosanitary control.

### **12.6.1. Certification (declaration of conformity)**

In the frameworks of the Customs Union all member-states mutually recognise the results of certification (declaration of conformity). But in order for member-states to recognize certification (declaration) of the goods there are the requirements to be met:

- the same requirements of technical regulatory acts in respect to specific goods within three member-states of the Customs Union;
- testing of the products by certified laboratory in one of 3 member-states of the Customs Union;
- certification (declaration of conformity) – in certified body if one of 3 member-states of the Customs Union;
- single CU certificate.

There is no mandatory rule saying where to pass through testing or make certification. For example, Belarusian producer may pass through certification in the Russian Federation or Kazakhstan and then use the certificate within the Republic of Belarus.

Single Customs Union certificate (declaration of conformity) is valid within the whole customs territory of the Customs Union and is recognised without re-issuance or compliance with any additional procedures. Single CU certificate is issued not only with

regard to the goods produced in the Customs Union but also with regard to the goods to be imported from third countries. However this is not applicable to imported goods subject to confirmation of conformity as declaration of conformity is not allowed, only certification.

Unfortunately today single CU certification does not cover all types of the goods. Currently the Customs Union is in process of unification of technical regulatory acts – Technical Rules aimed to establish the common uniform requirements for all member-states of the Customs Union.

As of January 15, 2012 the ECC has adopted 34 Customs Union Technical Rules:

- On the safety of meat and meat products;
- On the safety of milk and milk products;
- On the safety equipment of high pressure;
- On safety of railway rolling stock;
- On safety of high-speed railway transport;
- On safety of railway transport infrastructure;
- On safety of low voltage equipment;
- On safety of packages;
- On safety of fireworks;
- On safety of products, intended for children and adolescents;
- On safety of toys;
- On safety of perfumes and cosmetics;
- On safety of machines and equipment;
- Safety of lift;
- On safety of equipment for work in explosive environments;
- On requirements to automobile and aviation gasoline, diesel and marine fuel, jet fuel and heating oil;
- Safety of motor road;
- On safety of gas-fired mechanisms (instruments);
- On safety of corn;
- On safety of wheel (tire) transport (carrier vehicle);
- Technical order on fat-and-oil production;
- On safety of food production;
- Food Production marking( Marking of food production);
- On safety of light industry production;
- On safety of body armor facilities;
- Technical order on juice production (from) of fruits and vegetables;
- Electromagnetic compatibility of technical facilities (tools);
- On the safety of agricultural and forestry tractors and trailers;
- On requirements for oils and special fluids;
- Safety food additives, flavorings , and processing aids;
- On the security of explosives based on them;
- On the safety of certain types of specialized food products , including dietary medical and dietary preventive nutrition;
- On the safety of small vessels;
- On the safety of furniture products.

### **12.6.2. Registration of security of the goods**

Import and circulation of particular goods within the Customs Union are made only on the basis of the document confirming state registration of security in respect of the goods. That covers such products as foodstuff, child products, chemical, biologic raw materials and other products, directly connected with human body.

In accordance with the Agreement on sanitary measures in the Customs Union of December 11, 2009 all member-states mutually recognize the documents of state registration, confirming security of the goods if:

- the goods are stated in the Uniform List of the products subject to registration within the Customs Union;
- the documents certify compliance of the goods with the Uniform Requirements of the Customs Union;
- the documents are issued in certified laboratory or certified body of any member-state of the Customs Union;
- CU single document is issued in respect to such goods.

### **12.6.3. Veterinary control**

The decision of the ECC dated June 18, 2010 # 317 approves the Uniform List of controllable goods of animal origin as well as uniform requirements for all three member-states of the Customs Union.

Importation of controllable goods must be followed by relevant permit of body of the Customs Union (issued for one year term and volume stated in the permit) and veterinary certificate issued by a competent body of the exporter.

Circulation of controllable goods within the Customs Union is made on the basis of single certificate, issued within the Customs Union.

### **12.6.4. Quarantine and phytosanitary control**

With regard to vegetable products such as fruits, vegetables, flowers and other products, transport boxes, package, soil, organisms in the Customs Union there also the Uniform List of controllable products and single requirements to relevant goods. Imported goods shall comply with phytosanitary requirements of that member-state of the Customs Union where the point of destination of controllable products is located and be followed by phytosanitary certificate.

## **12.7. Customs Measures Protecting the Intellectual Property Objects**

In the frameworks of the Customs Union there is single customs register of IP objects of three member-states of the Customs Union (hereinafter – the «Single Register») aimed at common protection of IP objects within the Customs Union. The Single Register does not replace national registers, which are considered valid each in respect of relevant country.

As of today national registers of each member-state:

- Belarus: 171 objects (as of January 15, 2014);
- Russian Federation: above 1350 objects;
- Kazakhstan: above 850 objects.

In order to include IP objects in the Single Register it is necessary to submit the application followed with a list of required documents. One application is to be submitted



in respect to one IP object. The Intellectual Property Objects are added in the Single Register free of charge.

The application may be submitted by proprietor, several proprietors (including if different proprietors in different countries have the title over the same IP – in case if there is their common consent), representative, having permanent representative office in the territory of the Customs Union under the power of attorney valid within the whole territory of the Customs Union (a proprietor can serve as the representative).

The Intellectual Property objects are added in the Single Register for the duration not longer than 2 years. This term can be extended unlimited number of times on base of titleholder's (his attorney) application but each time not longer than for 2 years. The intellectual property object can be added in the Single Register United for no longer than the term of intellectual property object's legal protection in Customs Union member state in which the term is expired earlier.

**Consequences of listing IP object in the Single Register:**

If during customs processing customs authorities discover a breach they are obliged to:

- suspend release into free circulation for up to 10 days (may be prolonged one more time for extra 10 days);
- notify within 1 day the declaring and proprietor of such suspension as well as of the reasons and terms thereof;
- then whether arrest (confiscate) or cancel the resolution on suspension.

If there is no breach found the proprietor will indemnify the damage to a declarant

Based on information as of January 15, 2014 there has not been any IP object registered so far.

## **12.8. Treaty on the Functioning of the Customs Union within the Framework of the Multilateral Trade System**

Taking into consideration the fact that the Russian Federation officially became a member of the World Trade Organization (hereinafter - the WTO) on August 22, 2012, the Treaty on the Functioning of the Customs Union within the Framework of the Multilateral Trade System, signed on May 19, 2011 in Minsk, became especially relevant.

Under Section 1 of the Treaty, from the date of accession by any Party to the WTO, the provisions of WTO Agreements, as they defined in the Report of Accession of the Party to the WTO (including the commitments undertaken by the Party as a condition of its accession to the WTO and corresponding to legal relations, which are generally regulated by the bodies of the Customs Union, and also to legal relations, which are regulated by international agreements of the Customs Union) become part of the legal system of the Customs Union.

From the date of accession by the Party to the WTO rates of the Common Customs Tariff of the Customs Union will not exceed the rates of import tariff, provided by the List of concessions and commitments on market access of goods, which is annexed to the Report of Accession of the Party to the WTO. The number of provisions of the Treaty determines the procedure of regulating the rates of import duties in the Customs Union in case of discrepancy with the rates of the WTO, and also establishes the necessity of harmonizing the Union's regulatory framework with acts of WTO.



## 13. Common Economic Space

### 13.1. General information about the Common Economic Space (CES)

The Common economic space (hereinafter, CES) is the space consisting of territories of the Parties (the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation) on which the same mechanisms of economy adjustment based on market principles and application of harmonized rules of law function, a uniform infrastructure exists and agreed tax, monetary-and-credit, currency-and-finance, trading and customs policy, providing free movement of goods, services, the capital and labor force, is conducted.

The institutional structure of the Common Economic Space and the Customs Union is unified. Please refer to Section 11.1. "Common information about the Customs Union".

From January 1, 2015 on the base of CES and the CU is planned to establish the Eurasian Economic Union.

### 13.2. Legal and regulatory framework of the Common Economic Space

The following main basic agreements constitute contractual and legal framework of the Common Economic Space:

Name of agreement	The agreement date	Place of conclusion	Law of the Republic of Belarus on Ratification
<b>Section I. Economic Policy</b>			
the Agreement on coordinated macroeconomic policy	09.12.2010	Moscow	28.12.2010 № 205-3
the Agreement on common principles and rules on regulation of activity of natural monopolies	09.12.2010	Moscow	28.12.2010 № 206-3
the Agreement on common principles and rules on competition	09.12.2010	Moscow	28.12.2010 № 207-3
the Agreement on common rules on granting of industrial subsidies	09.12.2010	Moscow	28.12.2010 № 208-3
the Agreement on common rules on state support of agriculture	09.12.2010	Moscow	28.12.2010 № 216-3
the Agreement on the state (municipal) procurement	09.12.2010	Moscow	28.12.2010 № 211-3
the Agreement on trade in services and investment in the CES member states	09.12.2010	Moscow	28.12.2010 № 209-3
the Agreement on common principles of regulation in the field of protection and defence of intellectual property rights	09.12.2010	Moscow	28.12.2010 № 217-3
<b>Section II. Free Movement of Capital; Monetary Policy</b>			
the Agreement on creation of conditions on financial markets to ensure free movement of capital	09.12.2010	Moscow	28.12.2010 № 213-3

the Agreement on the agreed principles of monetary policy in participating States of the Common Economic Space	09.12.2010	Moscow	28.12.2010 № 212-3
Section III. POWER INDUSTRY, Transport, TELECommunication			
the Agreement on the organization, management, operation and development of common markets of crude oil and petroleum in the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation	09.12.2010	Moscow	28.12.2010 № 221-3
the Agreement on ensuring access to the services of natural monopolies in the power industry sector, including the basics of pricing and tariff policy in the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation	19.11.2010	St. Petersburg	28.12.2010 № 214-3
the Agreement on rules on access to services of natural monopolies subjects in the sector of gas transportation through gas transportation systems, including the basics of pricing and tariff policy	09.12.2010	Moscow	28.12.2010 № 210-3
the Agreement on regulation of access to railway transportation services, including basics of tariff policy	09.12.2010	Moscow	28.12.2010 № 215-3
Section IV. Free movement of workers			
Agreement on cooperation against illegal migration from third countries	19.11.2010	St. Petersburg	28.12.2010 № 219-3
Agreement on legal status of migrant workers and their family members	19.11.2010	St. Petersburg	28.12.2010 № 220-3
Section V. TECHNICAL REGULATION			
Agreement on common principles and rules on technical regulation in the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation	18.11.2010	St. Petersburg	28.12.2010 № 218-3

While analyzing and using the Agreements forming the legal framework of the Common Economic Space in the work it should be considered that despite entry into force of the Agreements some provisions stipulated by these Agreements enter into force later (up to 2017), others require adoption of domestic instruments for realization.

### 13.2.1 The Agreement on Coordinated Macroeconomic Policy

The Agreement<sup>2</sup> on coordinated macroeconomic policy was signed in Moscow on December 9, 2010 and ratified by the Law of the Republic of Belarus of December 28, 2010 № 205-3.

The Agreement defines objectives, principles, guidelines for carrying out of coherent macroeconomic policy, an order of its coordination, a list of indicators of economic development and integration cooperation of the parties, as well as stages of negotiation.

Agreement includes the following basic principles of coordinated macroeconomic policy:

- ensuring sustainable economic growth;
- compliance with the balanced macroeconomic indicators established by the Agreement.

<sup>2</sup> hereinafter terms "Agreement", "Document" are understood as the Agreement of the Uniform economic space, specified in the section title if other are not separately stipulated

These principles are aimed at creation of favourable conditions for increase of the internal stability of the economy of the Parties and sustainability as well as the deepening of integration within the Common Economic Space.

The Agreement provided for negotiation by the parties for a three-year period of interval quantitative values of external parameters, used in the development of official forecasts of social economic development of the parties, namely, the price of crude oil of mark Brent, the pace of global economy development and the rate of national currency of the parties to the U.S. dollar and (or) euro.

The Agreement also stipulates that economic policy is formed by the parties within the framework of the quantitative parameters determining the sustainability of economic development: the annual state budget deficit should not exceed 3 percent of GDP, public debt should not exceed 50 percent of GDP and inflation rate should not exceed inflation rate of the member state of the Common Economic Space which has the lowest prices on more than 5 percentage points.

Despite establishment of quantitative parameters determining the sustainability of economic development obligatory for the parties, the Agreement does not provide for responsibility for the failure to comply with them. Besides, the Agreement stipulates that in exceptional circumstances and taking into account a relevant situation, the parties may soften substantively the quantitative values of macroeconomic indicators determining the sustainability of economic development.

For carrying out of macroeconomic policy these quantitative parameters entered into force on January 1, 2013. Coordination of realization of agreed macroeconomic policy is entrusted to the Eurasian Economic Commission.

On May 29, 2013 by the decision of the Supreme Eurasian Economic Council Basic guidelines on macroeconomic policy of the member states of the CU and the CES in 2013-2014 were approved. The guidelines were worked out in accordance with The Agreement on Coordinated Macroeconomic Policy and determine short- and medium-term targets which are aimed to solve the most vexed problems and to minimize the impact of negative factors on sustainable economic development of the member states of the CU and the CES.

In the medium term the following basic guidelines on the macroeconomic policy of the member states are defined:

- maintaining of the macroeconomic stability;
- creation of conditions for sustainable economic growth;
- development of the credit and financial system.

### **13.2.2. The Agreement on common principles and rules on regulation of activity of natural monopolies subjects**

The Agreement on common principles and rules on regulation of natural monopolies was signed in Moscow on December 9, 2010 and ratified by the Law of the Republic of Belarus of December 28, 2010 № 205-3.

For the purposes of the Agreement natural monopolies are conditions of the services market in which creation of competitive environment to satisfy the demand for a particular type of services is impossible or economically unreasonable because of technological peculiarities of production and delivery of these services.

In the Parties states areas of natural monopolies are divided into 2 groups. Annex 1 sets out the areas of natural monopolies, regulation of which shall be fulfilled in accordance with the Agreement. With regard to the areas of natural monopolies set out in

Annex 2 of the Agreement, the requirements of the national legislation of the Parties are applied.

The areas of natural monopolies to which the Agreement shall be applied in accordance with Annex 1 are:

	In the Republic of Belarus	In The Republic of Kazakhstan	In the Russian Federation
1	transportation of crude oil and petroleum through oil-trunk pipelines	crude oil and (or) petroleum transportation services through oil-trunk pipelines	transportation of crude oil and petroleum through oil-trunk pipelines
2	transmission and distribution of electric power	transmission and (or) distribution of electric power services	services on transmission of electric power
3		services on the technical dispatching of grid output and electric power consumption; services on organization of balancing of the production-consumption of electric energy	services on operational dispatch management in the electric power industry
4	services rendered by the railway transport communications providing the movement of public transport, traffic control, rail traffic	railway network services	rail traffic

With regard to the Republic of Belarus in Annex 2 of the Agreement the following areas of natural monopolies, regulation of which is carried out in accordance with national legislation of the Republic of Belarus, were included:

1. transportation of gas through transmission and distribution pipelines;
2. services of transport terminals, airports; maintenance and operation of the airways, air traffic control;
3. telecommunication and postal services of general use;
4. transmission and distribution of thermal energy;
5. centralized water supply and sewerage.

The Agreement sets out the principles of regulation of the activity of natural monopolies, which also include observance of the balance of interests of customers and subjects of natural monopolies; subsequent reduction of the areas of natural monopolies; application of flexible tariff (price) regulation with regard to the subjects of natural monopolies; reduction of the barriers on entry to domestic markets, including by ensuring an access to the services provided by the subjects of natural monopolies; obligation of the subjects of natural monopolies to conclude contracts on rendering of services with customers, etc.

The Agreement specifies that the tariff regulation of natural monopolies services is included in the scope of national regulation of natural monopolies (as listed in Annex 1 and Annex 2). Article 5 of the Agreement establishes that the tariff regulation may be realized via:

- 1) establishment by the national authority in relation to the subjects of natural monopolies of tariffs (prices) for regulated services, including their limits based on the methodology approved by the national authority;
- 2) establishment (approval) by the national authority of methodology by which a subject of natural monopoly shall establish and apply their own tariffs (prices).

Despite the attribution of the issues concerning price determination for the services rendered by a subject of natural monopolies to regulation by national legislation, the

Agreement established the techniques of the tariff regulation as well as the issues that should be considered when setting tariffs (prices).

Except the tariff regulation the national authorities also regulate an access to the services of natural monopolies subjects including establishment of pay amount (prices, tariffs and charges) for activation (connection) to the services of the subjects of natural monopolies; protection of the interests of the natural monopolies customers; control of the activities of the subjects of natural monopolies.

The Agreement is basic, its provisions are expanded in separate sectoral (industry) agreements, in particular in the agreements on railway transport, common market of oil, power industry.

In aim to realize statements of Article 8 of the Agreement the order of negotiation of reports, materials, information and other documents concerning the spheres of natural monopolies between the Commission and the member states was stated by the decision of the Council of the Commission No 73 dated 24/10/2013.

### **13.2.3. The Agreement on common principles and rules of competition**

The Agreement on common principles and rules of competition was signed in Moscow on December 9, 2010 and ratified by the Law of the Republic of Belarus of December 28, 2010 № 207-3.

The purpose of the Agreement is formation of common competition policy by the parties to ensure the movement of goods, services, and capital, freedom of economic activity and effective functioning of the goods markets within the common customs territory of the member states, harmonization of the parties legislation on competition policy and on prevention of actions that can have a negative impact on mutual trade of the parties.

The Agreement applies to the relations connected with realization of the competition policy in the territories of the parties and to the relations involving business entities of the parties that have or may have a negative impact on the competition in the transboundary markets in the territory of two or more member states of the CES. The criteria for inclusion of a market to the transboundary market are determined by the decision of the Supreme Eurasian Economic Council No 29 dated 19/12/2012.

The Agreement establishes the common principles and rules on competition, however, it provides for that the Member States of CES are entitled to stipulate in their legislation additional requirements and restrictions with regard to the common principles and rules of competition.

The following common principles of competition are set and defined in the Agreement: equality in application of provisions of the competition law; inadmissibility of the anti-competitive actions of state authorities; ensuring the effective control over economic concentration; effective administration; effectiveness of the sanctions for anti-competitive actions; information transparency; effective cooperation.

The common rules on the competition effective in the territory of the parties are the following: prohibition on the agreements limiting competition of business entities (subjects of the market), prohibition on abuse of dominant position, and prohibition on unfair competition.

The Agreement establishes the penalties for violation of competition rules in the amount from 12,000 to 500,000 Russian rubles. The penalty shall be transferred to the budget of the Party in which territory breaching business entity (the subject of the market)

is registered . Cases concerning violation of competition rules that have or may have a negative impact on the competition on the transboundary markets in the territory of two and more parties are brought and considered by the Customs Union Commission.

Implementation of the agreement includes the following stages:

**The first stage.** Creation of the necessary regulatory framework in the field of the competition by making the relevant decisions by the Customs Union Commission (within 12 months from the date of entry into force of the Agreement).

**The second stage.** harmonization of national legislation of the parties (within 18 months from the date of entry into force of the Agreement). Within this stage in the Republic of Belarus changes to the legislation on monopolies and promotion of competition in terms of bringing it into conformity with the Agreement should be adopted, as well as transfer to the Customs Union Commission of the power to control transboundary violations and the application of liability to the business entities of the Republic of Belarus.

**The third stage.** Transfer to the Customs Union Commission of the power to control transboundary violations (within 20-24 months from the date of entry into force of the Agreement depending on the violation). Due to the fact of the abolition of the Customs Union Commission listed above powers are exercised by the Eurasian Economic Commission.

In furtherance of the Agreement the Model Law on Protection of Competition was approved by the decision of the Supreme Eurasian Economic Council No 50 dated 24/10/2013.

#### **13.2.4. The Agreement on common rules on granting of industrial subsidies**

The Agreement on common rules on granting of industrial subsidies was signed in Moscow on December 9, 2010 and ratified by the Law of the Republic of Belarus of December 28, 2010 № 208-3.

Agreement establishes the common rules on granting subsidies on production, distribution and consumption of goods and the dispute resolution procedure between the state which has granted a subsidy and the aggrieved party.

In accordance with the Agreement subsidies are classified into three categories: acceptable, prohibited and specific. The document allows to provide subsidies which do not distort Member States mutual trade. Subsidies leading to damage to sectors of national economy of other countries (tax and customs privileges, benefits in manufacturing and transportation of goods, other measures that resulted in the displacement of similar goods from the market, fall or rise in prices) are prohibited.

Pursuant to the Agreement, the competent authority of CES Member States (according to decision of the Council of Ministers as of June 17, 2011 № 796, in the Republic of Belarus, it is the Ministry of Economics) can conduct an investigation on compliance of subsidies with the rules provided for. If the competent authority determines that another state provides a specific subsidy, which is detrimental to the sector of national economy, it can submit to the breaching country a statement on the introduction of a compensatory measure.

Statement on the application of a compensatory measure may be satisfied voluntary by the party which received the statement during the period of consideration of the application, or on the results of dispute resolution.

The compensatory measure is the sum of a granted subsidy and the interest accrued on this sum for the whole period of use. The interest rate of the compensatory measure is



equal to the one and a half rate of refinance existing at the time of granting subsidy and set up by the Central (National) Bank of the state which has provided the subsidy.

On January 1, 2017 provision of special subsidies will be possible only if they comply with the Eurasian Economic Commission. Up to this time parties should inform each other annually a month before the next year coming about all subsidies that are planned to be provided from budgets of all levels.

### **13.2.5. The Agreement on common rules of state support of agriculture**

The Agreement on common rules on state support of agriculture was signed in Moscow on December 9, 2010 and ratified by the Law of the Republic of Belarus of December 28, 2010 № 216-3.

The measures of state support for agriculture in the Agreement are classified into measures not having a distorting effect on mutual trade between the parties in agricultural goods, measures having such an effect, and measures having such effect to the maximum extent.

The Agreement provided for that the measures with no distorting effect on trade may be used by the parties without restrictions. Measures providing the most distortive effect on trade should not be used. The level of measures that have distortive effect on trade and calculated as a percentage of the volume of the state support of agriculture to the gross value of agricultural goods produced in the whole, and defined as the permitted volume, shall not exceed 10%.

Because of the fact that in 2010 with the adoption of the Agreement the level of support of agriculture in the Republic of Belarus amounted to 18% of the gross value of agricultural goods produced (in Kazakhstan – 5.4%, Russia – 6%), an exception from the common rules was made for the Republic of Belarus and it was granted a transitional period until 2016, during which the Republic of Belarus undertakes to reduce the permitted volume as follows:

- in 2011 – 16 percent;
- in 2012 – 15 percent;
- in 2013 - 14 percent;
- in 2014 – 13 percent;
- in 2015 – 12 percent;
- in 2016 – 10 percent.

After joining of any of the parties to the World Trade Organization the level of the measures should be set up within the obligations of this state in the WTO.

In accordance with the Agreement, the parties undertake to inform each other in writing of any programs of state support of agriculture planned in the year following.

In case of violation by one of the parties of the provisions of the Agreement on the application of the measures that have distortive effect on trade in excess of the allowed volume, such party shall immediately cease the provision of such measures, and pay compensation in the rate of the volume of support measures to the other parties.

By the decision of the Supreme Eurasian Economic Council No 35 dated 29/05/2013 the Concept of coordinated agricultural policy of member states of the CU and the CES was approved. The main statements of the Concept should be included in the Draft of the Treaty on the Eurasian Economic Union till May 1, 2014. The Concept assumes:

- development of recommendations to improve the effectiveness of state support of agriculture.



- accounting of the coordinated indicators of the development of agroindustrial complexes of the member states and accounting of the forecasts of supply and demand in determining the amount and priorities of the state support;
- creation of the unified methodology to calculate indicators of the state support of agroindustrial complexes to enable a cross-country comparison of levels of this support;
- preparation of the recommendations to improve the effectiveness of the state support of agriculture.

### 13.2.6. The Agreement on the state (municipal) procurement

The Agreement on the state (municipal) procurement was signed in Moscow on December 9, 2010 and ratified by the Law of the Republic of Belarus of December 28, 2010 № 211-3.

The Agreement establishes the requirements for public procurement. The main requirements are: regulation of relations in the field of procurement exclusively in the legislation of the Member State; provision of the national treatment and the most favoured nation treatment; ensuring the informational openness and transparency of the procurement, including by creation an Internet portal by each Party; establishment of a liability for violation of the national legislation on procurement.

The document provides for realization of the procurement by an open tender and an auction, and, in cases, if it is stipulated by the national legislation of the Party, by the request of price bids (quotation request), exchange trading and procurement from a single source or from a single supplier (performer, contractor) as well.

The Agreement provides for the possibility to set up requirements for suppliers and potential suppliers by the national legislation. However, these requirements should not contradict the provisions of the Agreement. Participation of the individual potential suppliers in the procurement may be limited in cases provided for the national legislation, and on the basis of the information included in the suppliers blacklist (this blacklist contains an information about potential suppliers evaded the conclusion of the contract on procurement, and the suppliers, improperly fulfilled their obligations under the procurement contracts concluded with them).

The Agreement detailed requirements for the procedures of each of the procurement methods, as well as an information to be contained in the procurement contract.

There are three stages of the realization of the Agreement:

**The first stage.** Up to January 1, 2012 (for the Russian Federation and the Republic of Belarus): harmonization of the national legislation into conformity with the Agreement and implementation of the informational systems supporting the process of procurement in the electronic form, the imposition of national treatment for the Russian Federation and the Republic of Belarus;

**The second stage.** Up to July 1, 2012 (for the Republic of Kazakhstan): harmonization of the national legislation into conformity with the Agreement and implementation of the informational systems supporting the process of procurement in the electronic form;

**The third stage.** Up to January 1, 2014: imposition of national treatment to all Member States.

To realize this Agreement in Republic of Belarus the Law on public procurement of goods (works, services) No 419-3 dated 13/07/2012 and Act of the Cabinet Council No 778 dated 22/08/2012 were adopted. Web-site [www.icetrade.by](http://www.icetrade.by) is an official site for public procurement in the Republic of Belarus to host the information on public procurement and

legislative acts regulating this sphere. Operator of the site is the National Centre for Marketing and Price.

In the course of implementation of this Agreement the Republic of Belarus will need to adjust the legislative acts in the field of public procurement, as well as create and implement informational systems that ensure the procurement process in an electronic form.

### **13.2.7. The Agreement on trade in services and investment in the CES member states**

The Agreement on trade in services and investment in the CES member states was signed in Moscow on December 9, 2010 and ratified by the Law of the Republic of Belarus of December 28, 2010 № 209-3.

According to this document, each Party shall grant national treatment to the persons of any other Party with regard to participation in privatization and in the trade in services (with exception of opening of banks, postal services, motor transport, inland water transport, pipeline transport services).

Most favoured nation treatment is granted with regard to establishment of enterprises and the trade in services (with exception of the audio-visual services, air, maritime and motor transport services).

With respect to the licensing, the Agreement establishes the requirements of the publication of the names of authorities, which are responsible for issuing licenses, the requirements of establishment of all licensing requirements in legal acts, and the obligation to issue a license or give a written denial within 30 days from the date of receipt of the application.

Each party entrusted with a duty to abolish the existing restrictions and do not to impose new restrictions on transfers and payments in connection with establishment and activity of the enterprises, as well as in trade in services. The exceptions to this rule are specified in Article 22 of the Agreement, which stipulates that in case of deterioration of the balance of payments, a substantial reduction in gold and foreign currency reserves, sharp fluctuations of the national currency rate or in case of the threat of such fluctuations, a Party may impose restrictions with regard to the transfer of payments. In addition, these restrictions must not create discrimination between the Parties, cause unnecessary damage to the commercial, economic and financial interests of any other Party and must not be more burdensome than necessary to overcome the circumstances, and also must comply with Articles of the Agreement of the International Monetary Fund on July 22, 1944, and shall be eliminated step-by-step as the circumstances served to their implementation disappear.

### **13.2.8. The Agreement on common principles of regulation in the field of protection and defence of intellectual property rights**

The Agreement on common principles of regulation in the field of protection and defence of intellectual property rights was signed in Moscow on December 9, 2010 and ratified by the Law of the Republic of Belarus on December 28, 2010 № 211-3.

The Agreement stipulates unification of protection and defence of intellectual property within the Common Economic Space, and would help to the domestic subjects of the

scientific and technical, commercial, industrial and sociocultural spheres to obtain equal conditions of access to the markets of the member states of the Agreement.

The Agreement sets national treatment on protection and defence of intellectual property rights for other individuals and legal entities of the Parties.

With regard to the copyright and related rights the Agreement makes reference to the different treaties, in particular to the Berne Convention for the Protection of Literary and Artistic Works as of 1971, the World Intellectual Property Organization Copyright Treaty and the World Intellectual Property Organization Performances and Phonograms Treaty.

According to the Agreement, Parties introduce a regional principle of exhaustion of the exclusive rights to the trademark, under which the use of the trademark in relation to the goods, that have been lawfully put into civil turnover in the territory of the states - members of the CES by the right possessor or by the other persons with his consent, does not violate the exclusive trademark rights (in the current legislation the principle of exhaustion of the exclusive rights to the trademark is limited by the territory of the Republic of Belarus).

The Agreement does not alter validity of registration of a trademark prescribed in the Republic of Belarus. Period of validity of the initial registration of a trademark may be prolonged an unlimited number of times on the basis of the trademark owner application submitted within the last year of its operation, each time for at least 10 years.

With regard to patents it is provided that validity of the exclusive rights to an invention, useful model, industrial design and the patent certifying this right is not less than 20 years for inventions, not less than 5 years for useful models and industrial designs.

The document provides for establishment of a permanent Coordinating Council on Intellectual Property of the Common Economic Space. Coordinating Council is created in order to implement functions of coordination and informational and technical cooperation in the field of protection and defence of intellectual property between the agencies of the Parties.

In order to fulfil its obligations under the Agreement the Republic of Belarus joined the Singapore Treaty on Trademark Law (2006). The Republic of Belarus should also join the Patent Law Treaty (2000) as well as to bring its national legislation in accordance with the Agreement.

There was prepared the Draft of the Treaty on trademarks, service marks and appellations of origin on the territory of the state members of the CU and the CES. At the moment the Draft is approved by the Commission and passed internal procedures necessary for its adoption.

### **13.2.9. The Agreement on creation of conditions on financial markets for free movement of capital**

The Agreement on creation of conditions on financial markets for free movement of capital was signed in Moscow on December 9, 2010 and ratified by the Law of the Republic of Belarus of December 28, 2010 № 213-3.

The Agreement is aimed to ensure free movement of capital, development of mutually beneficial cooperation in the financial sector, and harmonization of the legislation of the CES Member States in the banking sector, the foreign exchange market, the securities market, and in the insurance industry.

regulation of relations between the states - members of the Agreement in the financial sector is assumed to be realized via harmonization of the parties legislation, organization of

information exchange between the parties' competent authorities on issues of regulation and development of the financial sphere, via coordination of positions on settlement of risks in the financial market in accordance with international standards, via creation of an effective infrastructure for conversion operations with national currencies of the parties, via creation of the common requirements for protection of the rights and interests of the consumers of the insurance services, via coordination of the common principles for determining the business solvency and financial stability of the insurance (reinsurance) organizations.

Harmonization of the positions of the CES Member States on the issues of unification of the licensing requirements for the financial market participants, supervisory requirements, and procedure for exercising supervision over financial market participants is assumed to be carried out.

To achieve these goals it is supposed to conclude the relevant international treaties.

The implementation of the Agreement will be exercised in two stages:

The first stage includes organization of exchange of information between the competent authorities of the Parties.

The second stage (up to December 31, 2013) provides for harmonization of national legislation of the Parties in conservation of international rules and standards, including harmonization of licensing requirements for financial market participants, supervisory requirements and procedure for exercising supervision over financial market participants, as well as ensuring placement and circulation of securities of issuers of the Parties throughout the territory of the Common Economic Space, provided registration of emission (issue) of securities by the regulatory authority of the state of registration of the issuer.

By the decision of the College of the Commission No 123 dated 4/06/2013 the Draft of the Agreement on the requirements on acting on the financial markets of the member states of the CES. The Draft determines direction, order and terms of harmonization of the member states' legislation in financial sphere.

By 2015 is planned to create a supranational institute in order to regulate member states' financial market.

### **13.2.10. The Agreement on the agreed principles of monetary policy**

The Agreement on the agreed principles of monetary policy was signed in Moscow on December 9, 2010 and ratified by the Law of the Republic of Belarus of December 28, 2010 № 212-3.

The Agreement defines the principles on which the states - members of the CES, in order to enhance the role of their national currencies in the foreign trade and investment transactions and mutual convertibility of these currencies, will implement monetary policy.

The Agreement provides for phased harmonization and convergence of approaches to formation and implementation of the monetary policy, creation of the institutional and legal conditions for development of the integration processes in the monetary field, implementation of the economic policies aimed at enhancing credibility of the Member States national currencies.

In order to conduct the agreed monetary policy, Parties shall take measures for the coordination of exchange rate policy of national currencies; creation and ensuring an environment of mutual direct quotations of the Parties national currencies; prevention a multiplicity of the official exchange rates; establishment of the rates of national currencies by the central (national) banks of the Member States on the basis of a course that emerged

in the stock market or on the basis of the cross rates of national currency against the U.S. dollar.

Furthermore, the Agreement provides the Parties with the right, in exceptional cases (if the situation cannot be solved by other measures of the economic policy), to introduce the currency restrictions for a period which does not exceed one year. Negative developments in the balance of payments and exchange rate swings in the national currency are not the only examples of the exceptional cases.

### **13.2.11. The Agreement on organization, management, operation and development of common markets of crude oil and petroleum in the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation**

The Agreement on organization, management, operation and development of common markets of crude oil and petroleum in the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation was signed in Moscow on December 9, 2010 and ratified by the Law of the Republic of Belarus of December 28, 2010 № 221-3.

The purpose of the Agreement is to determine the basic principles and activities aimed at establishing of the common markets of crude oil and petroleum of the Member States of the CES, as well as development of competition in these markets.

The basic principles of relations between the CES Member States are listed in Article 2 of the Agreement, including the principle of non-application in the mutual trade of quantitative restrictions and export customs duties (other duties, taxes and charges having equivalent value) by the Parties.

The Procedure for payment of export customs duties on crude oil and petroleum, when they are exported outside the common customs territory of the Customs Union, is governed by separate agreements, including the bilateral treaties of Member States of the Common Economic Space.

Article 3 of the Agreement stipulates implementation of a package of measures on formation of the common markets of crude oil and petroleum of the CES.

Article 4 establishes that within the existing technical feasibilities, Parties of the Agreement provide the guaranteed possibility of transportation of crude oil and petroleum by the existing transportation system in the territory of the CES Member States and the national conditions on access to the crude oil and petroleum transportation systems for the CES Member States business entities.

Volumes and directions of transportation of crude oil produced in the territory of one of the Member States of the CES over the territory of another Member State are defined annually by protocols between the competent authorities of the Parties.

Within the framework of the Agreement, Parties have provided the necessity to effect unification of norms and standards for crude oil and petroleum up to January 1, 2013.

### **13.2.12. The Agreement on ensuring access to the services of natural monopolies in the power industry sector, including the basics of pricing and tariff policy**

The Agreement on ensuring access to the services of natural monopolies in the power industry sector, including the basics of pricing and tariff policy was signed in St. Petersburg on November 19, 2010 and ratified by the Law of the Republic of Belarus of December 28, 2010 № 214-3.

The Agreement defines the principles of cooperation between the Parties in realization of the interstate transmission of electric energy (power).

In accordance with the Agreement, the Member States of the CES, within the technical feasibility, ensure free access to the services of natural monopolies in the power industry sector, provided the priority use of these services to support the internal needs of the Parties.

States Members of the CES ensure the transit of electric energy under the concluded contracts, provided the priority support of internal balances of power (capacity) of the national power grid within the existing technical feasibility, without differences in its origin, destination or its owner.

Within the available technical feasibility Parties shall ensure non-discriminatory access to the services of the natural monopoly entities in the power industry sector, provided the priority use of indicated services to support the internal balances of power (capacity) of the national energy systems of the Parties.

The Agreement presumes application of a common Methodology of implementation of interstate transmission of electric energy (power) between the Member States of the CES, which establishes the procedure for determining the technical feasibilities and the volume of the interstate transmission of electric energy (power), as well as the agreed approaches to pricing for services connected with the interstate transmission of electric energy (power).

### **13.2.13. The Agreement on rules on access to services of natural monopolies in the sector of gas transportation through gas transportation systems, including the basics of pricing and tariff policy**

Agreement on rules on access to services of natural monopolies in the sector of gas transportation through gas transportation systems, including the basics of pricing and tariff policy was signed in Moscow on December 9, 2010 and ratified by the Law of the Republic of Belarus of December 28, 2010 № 210-3.

The Agreement is aimed to establish the rules of access to services of natural monopoly entities in the field of transportation of gas through the gas transportation systems, including the basics of pricing and tariff policy which are used for satisfaction of the needs of the Member States of the CES. Separately specified, that the Agreement does not apply to the gas originating from the territory of states that are not parties of the CES, as well as on the relationships connected with the gas transportation inside and outside the territory of the CES.

The main principles of the relationships between the states – members of the CES are stated in Section 3 of the Agreement, including the principle of non-applying import and export customs duties by the Parties (other duties, which have an equal meaning).

Under Section 5, the Parties must transact to equal market prices on gas in the territory of states – members of the Common economic space no later than January 1, 2013.

The Agreement sets a free access of legal entities of other Parties to gas transmission systems, which are situated in the territories of the Parties, for the gas transport, that is intended for internal use. To realise this provision the Parties have to perform a set of measures, including the transaction to equal market prices on gas.



### **13.2.14. The Agreement on regulation of access to railway transportation services, including basics of tariff policy**

Agreement on regulation of access to railway transportation services, including basics of tariff policy was signed in Moscow on December 9, 2010 and ratified by the Law of the Republic of Belarus of December 28, 2010 № 215-3.

The purpose of the Agreement is provision of the balance sheet of interests of subjects of natural monopolies in the sphere of railway transportation and also interests of users of railway transportation services in CES.

Under the Agreement, since January 1, 2013 during transportations of cargoes inside the CES, and also during transportations of cargoes into the territory of the CES or from territory of the CES the internal tariffs of each state-participant CES are applied.

With a view of provision of equal tariff conditions for all commodity producers in the territory of the CES the Agreement fixes the obligation of the parties on carrying out of unification till January 1, 2013 of tariffs by message kinds (except transit). From January 1, 2013 in Republic of Belarus new tariffs on the railway transportation in internal communication stated by the act of the Ministry of Economy (No 111 dated 17/12/2012) are applied.

Besides, the Agreement fixes general principles of tariffs forming. The method of economically reasonable costs will be applied as a basic method of tariff setting on railway transportation. Since 2013 there is provided a possibility of establishment by authorized bodies of the states of the Parties of extremely minimum and extremely maximum tariffs for transportations of cargoes by railway.

Within the limits of the specified maximum permissible parameters the organizations of railway transportation have the right to determine independently specific rates of tariffs depending on a conjuncture of the demand, shown volumes of transportations, being guided thus by a technique established by the authorized body of the state of the corresponding Party.

The control of change in a passenger-fare level in a price band is performed by the Commission of the Customs union.

Since January 1, 2013 the current system of establishment of the exclusive tariffs ceased to exist. However the Agreement provides preserving of an acting order tariff setting for transportations of cargoes in transit through territory of the CES. Obligations of the parties on granting since January 1, 2015 of equal access to an infrastructure for carriers of the States of CES are fixed in the Agreement.

Common rules of access to an infrastructure, proceeding from technology of work of the railway transportation, considering principles of equality of requirements to the carriers, established by the national legal system of the states of the parties; granting the access within handling capacity of an infrastructure, proceeding from technical and technological possibilities; carrying out of a uniform price (tariff) policy concerning carriers, etc. should be developed for this purpose till 2013.

In the framework of the realization of the Agreement following agreements were prepared and approved by the decision of the College of the Commission:

- Agreement on Rules of the Eurasian Economic Commission's consideration on applications of the consumers on protection of their violated rights and interests by means of actions of the railway operators in case of changing tariffs on railway transportation services in the freightage (approved by the decision of the Commission dated 12/06/2012 No 118);



- Agreement on common rules on establishing of exclusive tariffs on the railway transportation services in the freightage (approved by the decision of the Commission dated 12/06/2012 No 119);

- Agreement on Rules of access to railway infrastructure's services in the framework of the CES and Rules of provision of railway infrastructure's services within the CES (approved by the decision of the Commission dated 25/12/2012 No 300).

### **13.2.15. The Agreement on cooperation against illegal migration from third countries**

The Agreement on cooperation against illegal migration from third countries was signed in St. Petersburg on November 19, 2010 and ratified by the Law of the Republic of Belarus of December 28, 2010 № 219-3.

There are no imperative provisions concerning counteraction of illegal labor migration in the Agreement. It only determines directions and forms of co-operation of the Parties on counteraction of illegal labor migration from the third states.

Cooperation of the Parties is performed in the forms of exchange of legal acts, experience, information concerning counteraction of illegal labor migration; carrying out of training, seminars and training courses; the organization and special operations on counteraction of illegal labor migration, and also by conclusion of readmission agreements.

The resolution of the Council of Ministers of the Republic of Belarus on March 31, 2011 № 408 specifies the Ministry of Internal Affairs, the Ministry of Labour and Social Protection, the State Border Committee, the Committee for State Security as authorized bodies on realization of the Agreement in the Republic of Belarus.

### **13.2.16. The Agreement on legal status of migrant workers and their family members**

The Agreement on legal status of migrant workers and their family members was signed in St. Petersburg on November 19, 2010 and ratified by the Law of the Republic of Belarus of December 28, 2010 № 220-3.

The agreement regulates the status of a specified category – of the citizens of one of the state –member of the CES, lawfully being and working on territory of other country CES.

The document gives the right to the employer to involve migrants in labor activity without reception of the corresponding permission. Migrants can work in the states-members of the CES without established quotas and without work permit reception.

At the same time restrictions for employment of migrants with a view of homeland security provision are established.

The measures accepted by the states to provide social protection from unemployment, aren't considered as discrimination in relation to foreign citizens.

The document provides exemption of the worker-migrant and members of his family from registration within 30 days from the date of entrance in the state territory where he/she finds a job. Term of temporary stay of a worker-migrant and members of his family in the CES state-member is determined as equal to period of validity of the employment contract with the employer.

In case of dismissal after 90 calendar days the Agreement gives to a worker the right within 15 days to conclude a new employment contract, including conclusion of contracts

with other employers, in order and on the conditions provided by the legislation of the state in which a worker finds a job.

The national legal system of each of the parties regulates establishment of the list of documents required for employment, pre schedule termination of the contract, taxation of incomes of employment, a social assistance (social insurance), except provision of pensions.

resolution of the Council of Ministers of the Republic of Belarus on March 31, 2011 № 407 specifies the Ministry of Internal Affairs, the Ministry of Labour and Social Protection, the Ministry of Education, the Ministry of Health, the Ministry of Taxes and Tax Collection as authorized bodies on realization of the Agreement in the Republic of Belarus.

### **13.2.17. The Agreement on common principles and rules of technical regulation in the Republic of Belarus, Republic of Kazakhstan and Russian Federation.**

The Agreement on common principles and rules of technical regulation in the Republic of Belarus, Republic of Kazakhstan and Russian Federation was signed in St. Petersburg on November 18, 2010 and was ratified by Law of the Republic of Belarus of December 28, 2010 № 218-3.

The Agreement states that the Customs Union Technical Rules have a direct effect in the customs territory of the Customs Union (territory of the Republic of Belarus, Republic of Kazakhstan and Russian Federation).

To see the list of adopted Technical Rules as of 01.01.2014 please refer to Section 11.6.1. "Certification (declaration of conformity)".

In development of this Agreement the Common list of products for which mandatory requirements are established in the Customs Union (CES) was adopted by Decision of Commission of Customs Union of January 28, 2011 № 526. Parties are not allowed to establish mandatory requirements in their legislation for products not included in the Common list.

Article 6 of the Agreement provides that for the purposes of assessment (confirmation) of conformity with the Customs Union Technical Rules international and regional standards may apply, and in their absence (prior to the adoption of regional standards) - the national (state) standards of the Parties.

Products in respect of which the Customs Union Technical Rules have been adopted are to be released into circulation in the customs territory of the Customs Union only upon condition if they have passed through necessary assessment procedures (confirmation) of conformity established by the Customs Union Technical Rule (Technical Rules).

### **13.2.18. The Agreement of states - members of the Customs Union on elimination of technical barriers in trade with the states - members of the Commonwealth of Independent States, which are not the states - members of the Customs Union**

On December 17, 2012 the members of the Customs Union signed the agreement of states - members of the Customs Union on elimination of technical barriers in trade with the states - members of the Commonwealth of Independent States, which are not the states - members of the Customs Union. According to Section 1, the technical barriers are the differences between the requirements of the technical regulations, standards and

conformity assessment procedures of the CIS and the requirements of such technical regulations of the states - members of the Customs Union.

The Agreement determines the procedure of elimination of technical barriers, conditions, which must be met for implementation of this procedure. According to Section 2 of the Agreement, any state - member of the Commonwealth of Independent States, which is not the member of the Customs Union, has a right to send a request for elimination of technical barriers in trade in respect of certain types of products to the Eurasian Economic Commission. Under the request the Commission establishes the list of technical regulations of the Customs Union, which apply to products that are defined in the request, and also the list of Commission decisions, which are necessary for application of technical regulations, and bring them to the attention of the state, which is interested in the elimination. The condition for the elimination of technical barriers in trade in respect of certain types of products is application of the technical regulations of the Customs Union and the relevant decisions of the Commission by the concerned state.

The state control (supervision) over the compliance with requirements of the technical regulations of the Customs Union is carried out in accordance with the legislation of the concerned State. In case of detection of goods which do not meet requirements of technical regulations of the Customs Union, or in case of detection in the territory of the concerned state of goods, which must get conformity assessment or if such goods are being imported or are in circulation in the territory of the state without getting conformity assessment and (or) without marking by a single sign of goods on the market of the state - member of the Customs Union, the competent authorities of the concerned state take measures to prevent the circulation of such goods in the territory of the country, its import to the territory of the Customs Union, to remove it from circulation in accordance with the laws of that state. The authorities of the concerned state also must inform the Commission and send a notice to an integrated information system of foreign and mutual trade of the Customs Union.

## 14. Intellectual property

At the moment in Belarus protection is granted to the following objects of intellectual property:

### 14.1. Objects of Copyright and Related Rights

The mentioned objects include any works of science, literature and art, that are the result of creative activity, regardless of the purpose and dignity of the works, and how they are expressed (copyrights), as well as performances, phonograms and broadcasting or cable organizations transfer (objects of related rights).

The copyrights have the largest amount of legal protection.

The period of legal protection of copyright and related rights begins with creation of the object and does not require any formalities observation. Moral rights of the author (copyright, the right to name, right to inviolability of the work, the right of disclosure, the right to recall) are protected indefinitely. Property rights of the author are protected during his lifetime and within 50 years after his death.

The property rights of the author may be transferred to third parties by the assignment of rights, as well as on the basis of an exclusive or nonexclusive license.

The holder of property rights is entitled to prohibit or authorize the following actions concerning the object:

- reproduction in any form;
- distribution of originals or copies of the object and its renting;
- public performance of objects;
- public presentation or any other form of showing to the public;
- translation into other languages;
- modifications or other conversion;
- import of copies of the subject;
- showing live;
- transmission by cable;
- other possible actions.

The remedies of civil legal protection of copyright and related rights in the event of their violations are:

– removal of material objects with the help of which exclusive rights have been violated, and material objects created in the result of such violation. Counterfeit copies of works, recorded performances, phonograms, broadcasting or cable organizations transfer have to be confiscated by the court;

– compulsory publication of the violation with information about the actual owner of the violated right;

– recovery of damages, including lost profits;

– compensation in the amount from 10 to 50 thousand base units (on January 21, 2014 the amount of the base units is approximately 10 Euro) instead of damages or collection of income, taking into account the gravity of the offense

– other remedies, provided by the law.

In addition, the legislation provides administrative or criminal liability for certain types of violations of copyright or related rights.

## 14.2. Industrial Property Objects

### 14.2.1. Inventions, utility models, industrial designs

Invention in any field of technology gets the legal protection if it is new, relates to a product or a process, involves an inventive step and is industrially applicable.

A useful model, which has the legal protection is a technical solution relating to the devices that is new and industrially applicable.

An industrial design is understood in law as an artistic or art-design solution for the product that defines its look and is new and original.

Legal protection of inventions, utility models and industrial designs shall be certified with a patent. A patent is valid from the date of application to the National Centre of Intellectual Property (hereinafter – NCIP):

- in respect of inventions – during 20 years, renewable for not more than 5 years;
- for a utility model – within 5 years, renewable for not more than 3 years;
- with regard to an industrial design – within 10 years, renewable for not more than 5 years.

Attribution of authorship, compulsion to co-authorship, illegal disclosure of the essence of the invention, utility model and industrial design before submitting the application concerning them without the permission of the author, as well as violation of the exclusive rights of patent holders entail civil, administrative or criminal liability.

Civil remedies of protection of violated rights are:

- suppression of unlawful acts violating copyrights and threatening to their violation;
- recovery of damages;
- obligatory publication of the violation with information about the actual owner;
- removal of material objects with the help of which exclusive rights have been violated, and material objects created in the result of such violation;
- other remedies, provided by the law.

### 14.2.2. Means of individualization

Means of individualization which have the legal protection in the Republic of Belarus are trademarks (service marks), trade names, geographical indications.

A trademark (a service mark) is a designation that distinguishes the goods or services of one person from the goods or services of others.

A brand name refers to the name of a legal entity used for individualization for civil law purposes.

A geographical indication is a recognized designation that identifies goods as originating from the country or the region or locality in that territory, where a certain quality, reputation or other characteristics of the goods are to a large extent linked to its geographical origin.

To obtain legal protection all of the above means of identification must be registered with the NCIP with the subsequent issuance of a certificate of registration.

The Republic of Belarus is a party to the Madrid WIPO Agreement "On International Registration of Marks" (along with the Protocol Relating to the Madrid Agreement on International Registration of Marks (signed in Madrid on June 28, 1989), so it is possible to get legal protection for a trademark in the territory of the Republic of Belarus through

registration in the WIPO under the Madrid system with extension of rights to the territory of Belarus.

Within the framework of the Customs Union the unified trademark registration system has not been created yet. To obtain legal trademark protection in the territory of the Republic of Belarus, the Russian Federation and the Republic of Kazakhstan an economic entity should register the trademark in each of these states, or use the WIPO international registration with extension of registration data to the above countries.

The term for legal protection of trademarks (service marks) and geographical indications is 10 years, renewable for another 10 years for an unlimited number of times.

The term for legal protection of brand names is in effect until a legal entity is liquidated or changes its corporate name.

The ways to protect the rights for the means of individualization are:

- suppression of unlawful acts violating the law and posing a threat to their violation;
- reimbursement for damages;
- removal of the unlawfully used symbols from the product or its packaging and/or destruction of images of the notation;
- seizure or destruction of goods with regard to which the notation was illegally used;
- penalty in favor of the aggrieved party in the value of the goods in respect of which the designation was illegally used.

Disputes which relate to protection of intellectual property are considered by the Judicial Board for Intellectual Property of the High Court of the Republic of Belarus.

The above-mentioned objects of intellectual property are the most common and most often require protection against unauthorized use. However, in addition to these objects legal protection in Belarus also covers selection achievements, integrated circuits, undisclosed information, including production secrets (know-how).

## 15. Consumer Rights Protection and Advertising

Consumer rights in Belarus are protected by the Consumer Rights Protection Law of 09.01.2002. This law stipulates main obligations of a seller (manufacturer) and main rights of a consumer regarding information about the goods (works, services) and their quality, as well as seller's (manufacturer's) liability towards a consumer, procedure and mechanisms of consumer rights protection.

### 15.1. Information about the Goods and about the Seller (Manufacturer)

A seller (manufacturer) is obliged to provide a consumer with full and accurate information about itself and about the goods (works, services).

Information about the seller (manufacturer) includes:

- firm name of an organization;
- location and working hours of an organization;
- name of branches, a representative office (if any);
- information about a special permission (license) to perform respective types of activities (number, issued body, term of validity), if relevant.

Information about the goods (works, services) includes:

- name of goods (works, services);
- types and features of proposed works (services);
- quantity and completeness of goods;
- price and terms of payment for the goods (works, services);
- date of manufacture (service life, shelf life, shelf life of products, results of operations);
- general consumer characteristics of goods (results of works, services);
- terms and conditions of effective and safe use;
- reference to main legal documents which state requirements to the quality of goods (works, services);
- warranty period if such period is defined;
- trait identification code if obligatory marking of the goods is provided by the legislation;
- information about the conformity of goods (works, services) which are subject to obligatory confirmation of quality.

For some categories of goods additional information is to be defined.

Information must be communicated to consumers in the Belarusian or Russian language clearly and legibly in the documentation accompanying the goods (works, services), on consumer packaging (packing), the label, in catalogs, brochures, advertisements or other information sources, including global computer network. Using a foreign language is permitted only at the request of the consumer.

### 15.2. Duties of the manufacturer (seller or performer)

A manufacturer (performer) shall establish the period during which he is obliged to provide a consumer using the goods for their intended purpose with lifetime of the durable goods, including complementary parts and components of the basic goods, which after a certain period may pose a risk to life, health, heredity, property of the consumer and the



environment. The list of such goods is set by the Government of the Republic of Belarus. In particular this list includes: vehicles, electrical appliances, audio visual goods, communication equipment and other goods.

For food, perfume, cosmetics, pharmaceuticals and similar products (results of works) which consumer characteristics may eventually go back, the manufacturer (executor) should set the period of validity and (or) keeping period, during which a product is considered suitable for an intended purpose, retains its characteristics.

In cases, defined by legislation, the manufacturer must also make a mark on the goods (the result of the work, service) about length of warranty during which the goods (the result of works, services) must be up to quality. In this case the length of warranty for goods produced outside the Republic of Belarus shall not be less than the length of warranty under the legislation of the Republic of Belarus for similar goods produced in Belarus.

The manufacturer (executor) must make possible the repair and service of the goods, production and supply of spare parts to trade and repair organizations to the necessary extent and assortment during the term of production of goods (carrying out works) and after phasing them out – within the lifetime of the goods (the result of works), and in absence of such a term – within the period of ten years from the date of selling the goods (result of works) to consumers. The possibility of repairing and servicing the goods (except real estate) is provided by the seller within the length of warranty, and if the length of warranty is not set or is less than two years - within two years from the date of selling goods to consumers, unless longer terms are not set by the law and (or) agreement.

A seller (manufacturer) is obliged to provide safety of goods (result of work) within a set of their service life or shelf life or, absent such term, within ten years from the date of sale.

Sale without documents certifying the conformity and (or) without hygienic registration is prohibited regarding such goods as: household appliances, electronic equipment, lighting products, playground equipment, communications equipment, furniture, products for construction, food products, alcoholic beverages, services and works, and others.

### **15.3. Liability of a Seller**

The seller is liable for damages caused to consumers by defective goods, including compensation of emotional distress.

Upon discovery of defects (non-conformity of goods) consumer may require:

- replacement of a defective product with a product of appropriate quality;
- commensurate reduction of a purchase price;
- free elimination of defects;
- compensation of defects incurred by independent elimination of defects;
- termination of the sales contract and refund of money.

A consumer within 14 days after the receipt of the nonfood goods of appropriate quality may return or change it for a similar product different in size, form, dimension, style, color or completeness, in such a case a difference in price (if any) is to be paid to the seller.

In order to use such a right, a customer needs to observe the following conditions:

- the goods should not be used;
- the consumer qualities need to be conserved;
- a consumer needs to have proofs that the goods have been bought from the seller to whom such a request is addressed.

Certain goods cannot be changed or returned. The list of such goods is set by the Government of the Republic of Belarus.

#### 15.4. Advertising

Advertising of goods produced in the Republic of Belarus, which were placed (distributed) in the area, shall be made only with involvement of the Republic of Belarus and (or) of the citizens of the Republic of Belarus, unless otherwise provided by legislation.

Advertising in the territory of the Republic of Belarus shall be placed (spread) in Belarusian and (or) Russian. This provision does not apply to ads placed (distributed) on the radio, television or print media, operating exclusively in foreign languages, advertising of registered trademarks, and (or) service marks, and advertising containing common foreign terms and symbols included in the application in the original writing and do not have numbers on Belarusian and (or) Russian, or an invitation to work or school officials who are fluent in foreign languages.

Advertising must not encourage, promote violence and cruelty or encourage violence, cruelty, dangerous behavior that could damage the health of citizens, the property of the state, organizations, or individuals, or endanger their safety, and other actions that violate the law. Advertising must not encourage a promise or guarantee either express assumption of future performance (return) of the advertised activity. Using the information in the advertisement on the effectiveness (profitability) of the advertised activities in the previous period is allowed if the advertiser statistical reports or balance sheet, which confirmed the accuracy of the audit firm (auditor - independent entrepreneur).

The legislation of the Republic of Belarus provides obligatory requirements and restrictions concerning:

- advertising of certain goods or services (medical products, products to be used for medical purposes, cosmetic products, alcoholic beverages, beer, tobacco, etc);
- advertising locations (for example, the restriction on advertising in the areas of state bodies);
- means of advertising (mass media, television, billboards, etc);
- contents of advertisements (for example, required information about medical products).

The following types of advertising require advance approval from state bodies:

- external advertising – regional Executive Committees (Minsk City Executive Committee);
- advertising with using of transport – regional Executive Committee (Minsk City Executive Committee, and according to the general rule with the subdivision of the State Automobile Inspection of the Ministry of Internal Affairs of the Republic of Belarus);
- advertising of medical products, methods in the sphere of medical care, medical techniques and medical equipment and items used for medical purposes, – the Ministry of Health of the Republic of Belarus;
- advertising of services, concerning job placement and education of Belarusian citizens abroad – the Ministry of Internal Affairs.

Such forms of inappropriate advertising as unfair, misleading, unethical, hidden advertising are prohibited under legislation of Belarus.

Decisions on the issue of inappropriate advertising are made by the Ministry of Trade of the Republic of Belarus, as well as by local executive and administrative bodies (except the decision to recognize the unfair advertising). The decision about recognition of an

advertisement as inappropriate can contain a requirement to make a counter advertisement. A counter advertisement in such a case is to be made by the advertiser at its own expense and in terms, stated in the decision.

## 16. Telecommunications, Data Transmission and Internet

Currently, there is a tendency of improvement of regulatory system in the provision of telecommunications services, data transmission and Internet use in Belarus.

Telecommunications services can be provided by:

- **using telecommunications networks;**
- **using the radio frequency spectrum.**

Unified Telecommunications Network of Belarus consists of the following categories of telecommunication networks situated in the territory Belarus:

- public telecommunications network;
- dedicated telecommunications network;
- technological telecommunication network;
- telecommunications networks for special purposes.

The right of radio spectrum using is provided by the allocation of radio frequency bands, radio channel or radio frequencies and/or assignment (purpose) of radio frequency or radio frequency channel under the **appropriate resolution**.

Maintenance service activities in the field of public telecommunications (provision of international, intercity and local telephone connection, leased telecommunications, data transmission services on IP-based, IP-TV service, mobile telecommunication services, cellular mobile telecommunications services, TV and sound programs, fixed and mobile satellite telecommunications) requires obtaining **the license**.

In addition, in Belarus since the February 1, 2010 issues concerning the functioning of **the national segment of the Internet**, which is a set of information networks, systems and resources having Internet connection, located on the territory of the Republic of Belarus and/or using hierarchical names of the national segment of the Internet, have settled by the special act.

On the modern stage of development of network technology can be organized using a wired (cable) and wireless (cordless) compounds. Services on fixed broadband access to the Internet are one of the fastest growing. In order to improve the quality of services to consumers for access to the Internet the external gateway for access to the Internet for a total capacity of 450 Gbit/s is constantly expanding.

At the beginning of 2014 there were 177 licensees who had a license with the right to the provision of data transmission services. Data transmission services for a wide range of subscribers is provided by more than 60 telecommunications operators.

Creating of unified cellular mobile telecommunication network on LTE technology was launched in 2013. The network is planned as infrastructure for provision of telecommunications services by telecommunications operators, primarily for provision of wireless broadband Internet access, on the basis of agreements with the organization that is the customer of specified network operation.

At present using of the Internet includes the following features:

– Business entities carrying out activities using the Internet, must use only information networks, systems and resources of **the national segment of the Internet, placed on the territory of Belarus** (hosting services should be provided on the territory of Belarus and the server must be physically located on its territory).

– Providers (Internet service providers) have to **identify subscriber devices** (e.g., modems) while providing Internet services, and places of collective use of Internet

services (computer clubs, Internet cafes, etc.) also must make **user authentication**. In addition, providers and Internet services collective using stations should keep information about provided Internet services for a year.

– There is a **procedure of registration** of information networks, systems and resources of the national segment of the Internet, located on the territory of the Republic of Belarus by providers.

– Providers must at the request of users of Internet services to provide services of limitation of users access to information, the content of which is aimed at carrying out extremist activity; illegal trafficking of arms, of ammunition, of explosives, of explosive substances, of radioactive substances, of toxic substances, of strong substances, of poisonous substances, of toxic substances, of drugs psychotropic substances and their precursors and analogs; facilitation of illegal migration and human trafficking, distribution of pornographic materials; propaganda of violence, cruelty and other acts prohibited by law.

Legislation of Belarus establish liability by fines for non-fulfillment of the above obligations. The maximum fine for these offenses is 30 base units, which is equivalent to 290 Euro.

Also in 2010, in the foundations for centralized management of data networks in the country have been made, in particular, the creation of a **Unified republican data network (hereinafter – ERSPD)**.

Data network of state administration bodies, local executive and administrative bodies, other state agencies and other government organizations, as well as business entities in respect of which the Republic of Belarus or administrative-territorial unit has the stocks (the shares in statutory funds) and may determine decisions made by these business entities, are included in ERSPD.

Legal entities of non-state ownership, except those in respect of which the Republic of Belarus or administrative-territorial unit has the stocks (the shares in statutory funds) and may determine decisions made by these business entities, and individual entrepreneurs attach existing data network to ERSPD voluntarily.

Design and construction of the newly created and (or) the reconstructed fiber communication lines for data networking, except technological telecommunication networks, shall be subject to subsequent accession to ERSPD.

Telecommunications operators use ERSPD on terms of equal access.

To ensure the functioning and management of ERSPD (including the accession data networks) Republican Unitary Enterprise “National Center for the exchange of traffic” (hereinafter – NTSOT) was created.

Data network of legal entities and individual entrepreneurs join ERSPD through NTSOT in the established order.

The use of infrastructure ERSPD by telecommunications operators, government agencies and organizations, other legal entities and entrepreneurs, as well as a pass interconnect traffic, including international traffic, permit is done through NTSOT or national telecommunication operator "Beltelecom".

## 17. Court system

In late 2013 - early 2014 the court system of the Republic of Belarus overcame through structural changes.

If previously the court system consisted of the Constitutional Court, general courts and economic courts, since January 1, 2014 general and economic courts have merged into a single system of courts of general jurisdiction with the Supreme Court at the head.

Economic courts continue functioning as courts of certain specialization within general jurisdiction courts system. The Supreme Economic Court joined the Supreme Court and there was established the Judicial Chamber for Economic Cases within the Supreme Court.

Thus, since January 1, 2014 the court system of the Republic of Belarus consists of the Constitutional Court and the courts of general jurisdiction.

### 17.1. The Constitutional Court

#### 17.1.1. Competence

The Constitutional Court exercises the following powers:

- verifies the conformity of legal acts with the Constitution of the Republic of Belarus, international legal acts ratified by the Republic of Belarus, laws of the Republic of Belarus, decrees and edicts of the President of the Republic of Belarus;

- provides a mandatory preliminary control of laws for their conformity with the Constitution of the Republic of Belarus, international legal acts ratified by the Republic of Belarus;

- on the proposal of the President of the Republic of Belarus decides on the conformity of international legal acts, which have not come into force, with the Constitution of the Republic of Belarus;

- on the proposal of the Presidium of the National Assembly of the Republic of Belarus decides about the facts of systematic or gross violations of local Councils of Deputies legislative requirements;

- on the proposal of the President of the Republic of Belarus officially interprets decrees and edicts of the President of the Republic of Belarus concerning constitutional rights, freedoms and duties of citizens;

- on the proposal of the President of the Republic of Belarus, the House of Representatives of the National Assembly of the Republic of Belarus, the Council of the Republic of Belarus of the National Assembly of the Republic of Belarus, the Council of Ministers of the Republic of Belarus expounds its position on the documents adopted (issued) by foreign states, international organizations and (or) their bodies, which affect the interests of the Republic of Belarus in terms of compliance with generally recognized principles and norms of international law;

- on the proposal of the President of the Republic of Belarus conducts a check of constitutionality of the legislation directions, determined by the Head of the State, enforcement practice of courts, enforcement agencies and public authorities;

- decides on elimination of gaps in laws, on exclusion of a conflict in laws and legal uncertainty;

- adopts annual messages to the President of the Republic of Belarus and the chambers of the National Assembly of the Republic of Belarus on the constitutional legality in the Republic of Belarus.

### **17.1.2. Procedure of verification of the conformity of legal acts with the Constitution of the Republic of Belarus**

Only certain entities have the right to appeal to the Constitutional Court with a proposal of verification. They are:

- the President of the Republic of Belarus;
- the House of Representatives of the National Assembly;
- the Council of the Republic of the National Assembly;
- the Supreme Court of the Republic of Belarus;
- the Council of Ministers of the Republic of Belarus.

All other subjects are entitled to address to the above-mentioned bodies and persons only with the initiative to verify the conformity of legal acts.

Verification of the legal acts conformity is carried out, as a rule, in an open court session by the collegiate Constitutional Court on the basis of principles of adversarial process, equality of parties, presumption of constitutionality of acts.

Upon the results of verification of the legal acts conformity the Constitutional Court issues the conclusion, which has supreme legal force and direct action and comes into force since its adoption.

## **17.2. Courts of general jurisdiction**

The system of courts of general jurisdiction consists of:

- district (city) and military courts;
- regional and Minsk city courts, regional economic courts and the Minsk City Economic Court, as well as the Belarusian military court;
- the Supreme Court of the Republic of Belarus.

### **17.2.1. Competence**

District (city), regional and Minsk city courts consider:

- criminal cases;
- civil cases arising from civil, family, labor, housing, land and other relations provided that at least one of the parties is an individual;
- cases involving legal entities only if it is stipulated by laws of the Republic of Belarus, decrees and edicts of the President of the Republic of Belarus.

Cases involving creation, legal protection and use of intellectual property regardless of the parties are considered only by intellectual property judicial board of the Supreme Court of the Republic of Belarus.

Military courts and the Belarusian military court consider civil cases arising from military service relationship, as well as criminal cases of all crimes committed by servicemen.

However since July, 1 2014 military courts and Belarusian military court will be abolished and all their authorities will be transferred to district (city), regional and Minsk city courts.

Regional economic courts and the Minsk City Economic Court consider:



- cases on economic (business) disputes between legal persons, individual entrepreneurs;
- cases related to realization of entrepreneurial and other economic (business) activities;
- cases on appealing against non-normative legal acts and actions (inactivity) of a state body, which infringe the rights and legitimate interests of the applicant in the sphere of entrepreneurial and other economic activities;
- cases on recognition and enforcement of decisions of foreign courts and foreign arbitral awards on the disputes concerning entrepreneurial and other economic activities;
- cases with participation of the Republic of Belarus, administrative and territorial units of the Republic of Belarus, state bodies, bodies of local government and self-government, organizations, which are not legal persons, officials and citizens only in cases stipulated by laws of the Republic of Belarus, decrees and edicts of the President of the Republic of Belarus.

### **17.3. Economic Courts**

As specialized economic courts, which were included into the system of courts of general jurisdiction, have remained their competence, economic courts will continue to adjudicate business (economic) disputes.

#### **17.3.1. Jurisdiction of Economic Courts**

The cases shall be considered on the first instance by the economic courts of the regions and the Minsk City Economic Court.

Specified cases shall be considered on the first instance by the Supreme Court of the Republic of Belarus (the cases related to state secrets, disputes between the Republic of Belarus and administrative and territorial units of the Republic of Belarus, etc.)

The Supreme Court of the Republic of Belarus shall have the right to accept to proceedings and to consider any case.

#### **17.3.2. Terms**

Considering of cases in the court of the first instance consists of two main stages:

- preparation of a case for proceedings (as a rule shall be completed by holding the preparatory judicial session not later than 15 working days from the date of arrival of the application to the economic court);
- proceedings.

As a rule the case shall be considered by the economic court of the first instance within no more than two months from the date of adoption of the ruling of the economic court on appointment of the case to proceedings.

The term of specified cases considering (disputes over state property, connected with state registration and liquidation of legal entities and individual entrepreneurs; disputes on the release of property from seizure) is one month from the date of adoption of the ruling of the economic court on appointment of the case to proceedings.

The term of consideration of cases on certain kinds of proceedings (cases on appealing against non-normative legal acts, actions (inactivity) of a state body, cases on recognition and enforcement of decisions of foreign courts and foreign arbitral awards) is one month from the date of arrival of the application (complaint) to the economic court.

The case with participation of foreign persons located outside the Republic of Belarus shall be considered within the term of no more than seven months, unless otherwise specified by an international treaty of the Republic of Belarus.

The cases with participation of foreign persons, if these persons or bodies of their management, branches, representative offices or their representatives, authorized to conduct the case, reside or live in the territory of the Republic of Belarus, shall be considered in the general terms.

In exceptional cases, taking into account special complexity of the case, the term of the case consideration can be extended by the chairperson of the economic court or his or her deputy up to four months, and the cases with participation of foreign persons located outside the Republic of Belarus – up to one year.

### **17.3.3. Writ proceedings in economic courts**

The writ proceedings means adoption by the economic court of a ruling on an injunction (court order) without consideration and summon of the parties on such demands that are:

- uncontroversial;
- that are recognized (not contested) by the debtor but not satisfied yet;
- with the amount up to 100 base units.

The cases in the order of writ proceedings shall be considered within twenty days from the date of arrival of the application on institution of writ proceedings to the economic court.

### **17.3.4. Proceedings on appeal against judicial decisions**

The judicial decisions of the economic courts may be appealed in the appeal and cassation instance, in order of supervision.

#### **Appeal instance**

The judicial decisions of the economic court of the first instance that have not come into force may be appealed in the appeal instance.

Petitions for appeal shall be considered by the economic court of the appeal instance of the economic court of the region and the Minsk City Economic Court.

A petition for appeal can be submitted within 15 working days after the economic court of the first instance has accepted the appealed judicial decision.

The petition for appeal shall be considered within 15 working days from the date of its arrival at the economic court.

In exceptional cases, with account of special complexity of the case, the term for consideration of the petition for appeal can be prolonged by the chairperson of the economic court or his or her deputy, but by no more than 15 working days.

A resolution of the economic court of the appeal comes into force upon its adoption.

#### **Cassation instance**

The judicial decisions of the economic court of the first and appeal instances that have come into force may be appealed in the cassation instance.

The economic court of the cassation instance is the Judicial Chamber for Economic Cases of the Supreme Court of the Republic of Belarus.

A cassation appeal can be submitted within one month from the date of coming into force of the appealed judicial decision.

The cassation appeal shall be considered within one month from the date of arrival of the case to the cassation instance.

### Order of supervision

Judicial decisions of the economic courts that have come into force may be reconsidered in the order of supervision only upon the protest of the officials which have the right to move the protests.

The following persons shall have the right to move the protests in the order of supervision:

- the Chairperson of the Supreme Court of the Republic of Belarus and his deputies;
- the General Public Prosecutor of the Republic of Belarus and his deputies.

The economic court of the supervising instance shall be:

– the Presidium of the Supreme Court of the Republic of Belarus – with regard to the judicial decisions adopted by the economic courts of the first, appeal and cassation instances;

– the Plenum of the Supreme Court of the Republic of Belarus – with regard to the decisions of the Presidium of the Supreme Court of the Republic of Belarus.

The appeal in exercise of supervision on the judicial decision may be submitted within one year from the date of entry of the judicial decision into legal force.

The appeal in exercise of supervision shall be considered by the official within two months from the date of its arrival.

The protests shall be considered:

- within no more than two months – by the Presidium of the Supreme Court of the Republic of Belarus,
- within no more than three months – by the Plenum of the Supreme Court of the Republic of Belarus.

### 17.3.5. Rates of the state fee

Rates of the state fee for consideration of cases in the economic courts are established by the Special Part of the Tax Code of the Republic of Belarus. Their amount depends on a type (property or non-property) and a sum of the claim and other circumstances:

Type of the claim		Rates of the state fee
<b>Claim of ownership with the amount:</b>	up to 100 base units	15 base units
	from 100 to 1 000 base units	5 % of the amount of the claim, but no less than 15 base units
	from 1 000 to 10 000 base units	5 % of 1 000 base units + 3 % of the amount exceeding 1 000 base units
	over 10 000 base units	1% of the amount of the claim, but no less than the amount established in the previous treatment form
<b>Non-property claim submitted by:</b>	legal entities to the Supreme Court of the Republic of Belarus	20 base units for each request (act)
	legal entities to other economic courts	10 base units for each request (act)
	individual entrepreneurs and	5 base units

	individuals	for each request (act)
<b>An application for writ proceedings with the amount:</b>	up to 100 base units	2 base units
	over 100 base units	5 base units
<b>Appeals:</b>	to appeal instance	40 % of the rate established for non-property claim (application, appeal); 40 % of the rate calculated on the basis of the disputed amount - for the claim of ownership
	to cassation instance	80 % of the rate established for non-property claim (application, appeal);
	in order of supervision	80 % of the rate calculated on the basis of the disputed amount - for the claim of ownership

The basic unit is established by the legislation of the Republic of Belarus and since October 1, 2013 has been fixed at the rate of 130 000 Belarusian rubles (BYR), which is approximately equal to 10 Euro.

## 18. Contact details of the Government bodies

### 18.1. The Ministries of the Republic of Belarus

#### **Ministry of Architecture and Construction**

Address 220048, Minsk, Myasnikova st., 39  
Phone/fax 227-26-42 / 200-74-24  
227-19-34  
Website <http://www.mas.by>  
E-mail [min@mas.by](mailto:min@mas.by)

#### **Ministry of Health**

Address 220048, Minsk, Myasnikova st., 39  
Phone/fax 222-60-33 / 222-46-27  
Website <http://minzdrav.by>  
E-mail [mzrb@belcmt.by](mailto:mzrb@belcmt.by)

#### **Ministry of Foreign Affairs**

Address 220030, Minsk, Lenina st., 19  
Phone/fax 327-29-22 / 210-42-50  
Website <http://www.mfa.gov.by>  
E-mail [mail@mfabelar.gov.by](mailto:mail@mfabelar.gov.by)

#### **Ministry of Taxes and Duties**

Address 220010, Minsk, Sovietskaya st., 9  
Phone/fax 229-79-72, 229-79-36, 229-79-29  
Website <http://nalog.gov.by>

#### **Ministry of Natural Resources and Environmental Protection**

Address 220048, Minsk, Kollektornaya st., 10  
Phone/fax 200-66-91 / 200-55-83  
Website <http://www.minpriroda.gov.by>  
E-mail [minproos@mail.belpak.by](mailto:minproos@mail.belpak.by)

#### **Ministry of Industry**

Address 220033, Minsk, Partizansky Ave., 2/4  
Phone/fax 224-95-95 / 224-87-84  
Website <http://www.minprom.gov.by>  
E-mail [minprom4@minprom.gov.by](mailto:minprom4@minprom.gov.by)

#### **Ministry of Communications and Information**

Address 220050, Minsk, Nezavisimosti Ave., 10  
Phone/fax 287-87-06 / 327-21-57  
Website <http://www.mpt.gov.by>  
E-mail [mpt@mpt.gov.by](mailto:mpt@mpt.gov.by)

#### **Ministry of Agriculture and Food**

Address 220050, Minsk, Kirova st., 15  
Phone/fax 327-37-51 / 327-42-96  
Website <http://mshp.minsk.by>  
E-mail [kanc@mshp.minsk.by](mailto:kanc@mshp.minsk.by)

### **Ministry of trade**

Address 220050, Minsk, Kirova, 8/1  
Phone/fax 327-61-21 / 227-24-80  
Website <http://www.mintorg.gov.by>  
E-mail [mintorgbr@mail.belpak.by](mailto:mintorgbr@mail.belpak.by)

### **Ministry of Transport and Communications**

Address 220029, Minsk, Checherina st., 21  
Phone/fax 334-11-52 / 292-83-91  
Website <http://www.mintrans.gov.by>  
E-mail [mail@mintrans.mtk.by](mailto:mail@mintrans.mtk.by)

### **Ministry of Finance**

Address 220010, Minsk, Sovetskaya st., 7  
Phone/fax 222-61-37 / 222-45-93  
Website <http://www.minfin.gov.by>  
E-mail [minfin@minfin.gov.by](mailto:minfin@minfin.gov.by)

### **Ministry of Economy**

Address 220050, Minsk, Bersona st., 14  
Phone/fax 200-87-67 / 200-37-77  
Website <http://www.economy.gov.by>  
E-mail [minec@economy.gov.by](mailto:minec@economy.gov.by)

### **Ministry of Energy**

Address 220030, Minsk, K.Marksa st., 14  
Phone/fax 218-21-02 / 218-24-68  
Website <http://www.minenergo.gov.by>  
E-mail [minsecretary@min.energo.net.by](mailto:minsecretary@min.energo.net.by)

## **18.2. State Committees of the Republic of Belarus**

### **State Committee on Property**

Address 220005, Minsk, per. Krasnozvezdny, 12  
Phone/fax 288-10-19 / 288-27-25  
Website <http://www.gki.gov.by>  
E-mail [info@gki.gov.by](mailto:info@gki.gov.by)

### **State Committee for Science and Technology**

Address 220072, Minsk, Akademicheskaya st., 1  
Phone/fax 284-07-60 / 284-02-79  
Website <http://gknt.org.by>  
E-mail [gknt@gknt.org.by](mailto:gknt@gknt.org.by)

### **State Committee for Standardization**

Address 220053, Minsk, Starovilensky trakt, 93  
Phone/fax 233-52-13 / 233-25-88  
Website <http://gosstandart.gov.by>  
E-mail [belst@anitex.by](mailto:belst@anitex.by)

### **State Customs Committee**

Address 220007, Minsk, Mogilevskaya st., 45/1  
Phone/fax 218-91-04, 218-90-00 / 218-91-97

Website <http://www.customs.gov.by>  
E-mail [odo@gtk.belpak.minsk.by](mailto:odo@gtk.belpak.minsk.by)

### 18.3. Bodies of local government

#### **Brest Regional Executive Committee**

Address 224005, Brest, Lenina st., 11  
Phone/fax 8 (0162) 21-22-37 / 21-22-11  
Website <http://www.brest-region.by>  
E-mail [contact@brest-region.by](mailto:contact@brest-region.by)

#### **Vitebsk Regional Executive Committee**

Address 210010, Vitebsk, Gogol st., 6  
Phone/fax 8 (0212) 36-37-73  
Website <http://www.vitebsk-region.gov.by>  
E-mail [vitolisp@vitebsk.by](mailto:vitolisp@vitebsk.by)

#### **Gomel Regional Executive Committee**

Address 246050, Gomel, Lenina Ave., 2  
Phone/fax 8 (0232) 74-42-68 / 74-51-19  
Website <http://www.gomel-region.by>  
E-mail [oblisp-uip@mail.gomel.by](mailto:oblisp-uip@mail.gomel.by)

#### **Grodno Regional Executive Committee**

Address 230023, Grodno, Ozheshko st., 3  
Phone/fax 8 (0152) 72-31-90 / 73-05-20  
Website <http://www.region.grodno.by>  
E-mail [Groblisp@mail.grodno.by](mailto:Groblisp@mail.grodno.by)

#### **Minsk Regional Executive Committee**

Address 220030, Minsk, Engelsa st., 4  
Phone/fax 500-41-44 / 227-24-15  
Website <http://www.minsk-region.gov.by>

#### **Minsk City Executive Committee**

Address 220050, Minsk, Nezavisimosti st., 8  
Phone/fax 218-00-01 / 227-68-66  
Website <http://www.minsk.gov.by>

#### **Mogilev Regional Executive Committee**

Address 212030, Mogilev, Pervomaiskaya st., 71  
Phone/fax 8 (0222) 32-80-59 / 22-05-11  
Website <http://region.mogilev.by>