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# Investment in Belarus

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KPMG in Belarus





# Preface

*Investment in Belarus* is one of a series of booklets published by KPMG to provide information to those considering investing or doing business in various countries.

This publication has been prepared by KPMG in Belarus to assist those contemplating investment or commencing operations in Belarus. KPMG in Belarus provides audit, tax and advisory services for local and multinational companies, government entities and inward investors.

The information in this booklet is of a general nature and should be used only as a guide for preliminary planning purposes. Because of the continually changing legislative environment in Belarus, the complexity of corporate, tax and social laws and regulations in the country and the steadily evolving nature of the economy, comprehensive professional advice and assistance should always be obtained before implementing any plan to invest in or immigrate to Belarus.

KPMG has been operating in Belarus since 2007 and has more than 40 staff who can provide assistance and would be pleased to provide more detailed information on matters discussed in this publication.

Every care has been taken to ensure that the information presented in this edition is correct and accurate as of July 2011.

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## In Belarus

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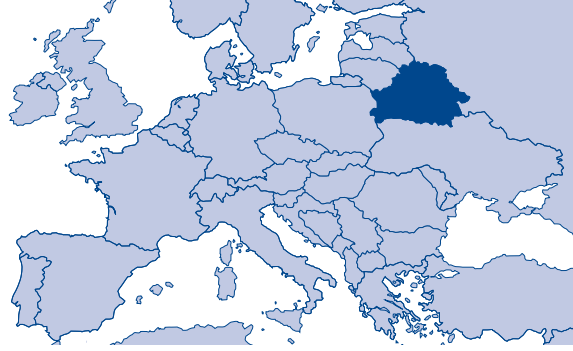
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## Chapter 1

# Country profile

### Geography and climate

The Republic of Belarus is a landlocked country in the heart of Eastern Europe on the watershed of the Baltic and Black Seas. Belarus offers a favourable geographical position as a transit country for natural resources and their derivatives, as a communication link and transport corridor between Western Europe, regions of Russia, and Asian countries.

Belarus covers a territory of 207,600 square kilometres. The country borders Russia, Poland, Ukraine, Lithuania and Latvia. In area size and population, it ranks respectively 13th and 16th among all European states and 6th and 5th among the countries of the former Soviet Union.

Belarus is divided into six regions, while each region contains districts (altogether 118), cities and towns and smaller municipalities. Minsk is the capital, the political, cultural and economic centre of the country. It is the largest and most populous city with 1.86 million inhabitants (as at 1 January 2011). Apart from Minsk, which is also the centre of the Minsk region, the other regional centres of Belarus are Gomel (population 491,790), Mogilev (360,918), Vitebsk (354,566), Grodno (338,287), and Brest (315,824). Altogether there are 13 cities with more than 100,000 inhabitants and 10 more cities with population of 50 -100,000 people.

Belarus has a relatively flat territory, 40 per cent of which is covered by forest. The terrain contains much marshland. One can find 20,800 streams having a total length of 90,600 kilometres and 10,800 lakes in Belarus.

Belarus has the third highest reserves of potassium salt (almost 10 per cent of the world's recoverable reserves) in the world, only being surpassed by Canada (37 per cent) and Russia (31 per cent). There are also significant groundwater deposits of high quality. The country has rich reserves of peat, which is used for fuel, fertiliser, and in the chemical industry. Explored mineral reserves satisfy long-term needs in practically all kinds of building materials (granite, dolomite, marl, chalk, sand, gravel, clay etc.).

At the same time, oil deposits are not significant and oil is extracted in small quantities (maximum 2 million tonnes per year, 1.7 million tonnes in 2010), which covers less than 10 per cent of the local refining capacity and less than a quarter of the local consumption. The share of locally sourced fuel resources in the total amount of boiler and furnace fuels was reported at 20.6 per cent in 2010. The Government's target is to bolster this share to 22.2 per cent in 2011 and has an aggressive plan to increase the share to 28 per cent in 2015, primarily through an increased use of local peat and wood waste.

The Belarusian climate is moderately continental, a transition from maritime to a continental climate with mild and humid winters, warm summers and damp autumns.

## Population and language

The population of Belarus was 9.48 million people as of 1 January 2011. The urban population constitutes 75.1 per cent. The average population density is 46 people per square kilometre, while the capital city accommodates about 6,000 inhabitants per square kilometre.

Ethnic Belarusians constitute 83.7 per cent of the total population (according to a census in 2009). The next largest ethnic groups are Russians making up 8.3 per cent, Poles at 3.1 per cent and Ukrainians comprising 1.7 per cent of the population.

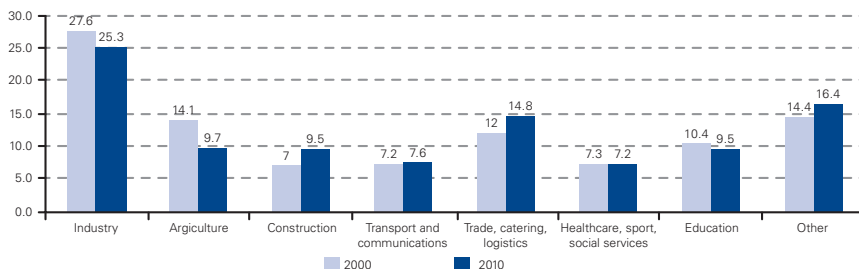
There are two official languages, Belarusian and Russian, although Russian bears greater influence.

The role of religion in Belarus is growing after the decades of suppression of religious expression in the Soviet Union. Estimates indicate that about half of the population is religious, although the share of the population actively practicing religion is believed to be lower. Russian Orthodox Christianity is the religion most commonly practised.

According to the UNDP's Human Development Report 2010 ([hdr.undp.org](http://hdr.undp.org)) Belarus ranks 61st among countries worldwide (1st among CIS countries) based on the Human Development Index, up from 68th in 2009, and is among countries with High Human Development. The report noted the relatively poor life expectancy in former Soviet Union countries, including Belarus, where the life expectancy at birth was 69.9 years in 2010.

Literacy is high with 99.7 per cent of the population able to read and write (UNDP's Human Development Report 2010, [hdr.undp.org](http://hdr.undp.org)). One hundred per cent of children are enrolled in primary and basic secondary education. Post-secondary specialised education is provided by 214 institutions around the country ([belstat.gov.by](http://belstat.gov.by)). Altogether there are 55 higher educational establishments. There are 467 students per 10,000 residents of Belarus, which is among the highest in Europe.

Like many other European countries, Belarus has negative rates of population growth (the difference in the actual population over two years) and natural growth (the difference between the birth and death rates). Although the population decline is generally low (in the last five years the compound annual growth rate was -0.6 per cent) and decelerating, there are concerns about the ageing of the population. At the beginning of 2011 the share of population over 65 years of age was 13.8 per cent, above the working age – 22.8 per cent. The working-age population (men aged 16-59 years, women 16-54 years) equals 5.8 million or 61.2 per cent. There is a declining trend of this indicator owing to an unfavourable balance of the youth population entering the working age and the senior population approaching retirement.

**GRAPH: Workforce allocation by sector of economy, per cent**

Source: National Statistics Committee

## History

While archaeological evidence points to settlement in today's Belarus at least 10,000 years ago, recorded history begins with settlement by Baltic and Slavic tribes in the 6th century A.D.

The emerging Belarusian state had distinctive features by the ninth century when it was absorbed by Kievan Rus'. Later, Belarus was an integral part of what was called Litva, which included today's Belarus as well as today's Lithuania. Belarus was the birthplace of the Grand Duchy of Lithuania. Belarusian was the state language of the Grand Duchy until 1697, in part owing to the strong flowering of Belarusian culture during the Renaissance through the works of leading Belarusian humanists such as Frantzyk Skaryna.

Belarus together with adjoining territories was annexed by the Russian empire at the end of the 18th century and remained part of it until 25 March 1918, when it first declared independence and the Belarusian People's Republic was formed. Soon after, the republic fell under the influence of the Bolsheviks and the Red Army and became the Byelorussian Soviet Socialist Republic in 1919 within the USSR. Suffering devastating population losses under the Soviet leader Joseph Stalin and the German Nazi occupation, including mass executions of 800,000 Jews, Belarus was retaken by the Soviets in 1944.

After seven decades as a constituent republic of the USSR, Belarus declared its independence from the Soviet Union on 25 August 1991. The dissolution of the Soviet Union and the formation of the Commonwealth of Independent States (CIS) were formally declared on 8 December 1991.

Belarus has retained closer political and economic ties to Russia than any of the other former Soviet republics. After some earlier integration initiatives in 1996 and 1998, Belarus and Russia signed a treaty on a two-state union ("the Union State") on 8 December 1999, envisioning greater political and economic integration. There were various legislative and executive institutions established for the Union State, however these institutions and the union itself rather reflect the political ties between the countries and people than playing an effective role in institutional building and administration of the union. The aggressive integration plans have been continuously revisited and revised. Integration within the Union State was further dampened in 2010 and 2011 owing to serious disputes between Russia and Belarus mainly in economic

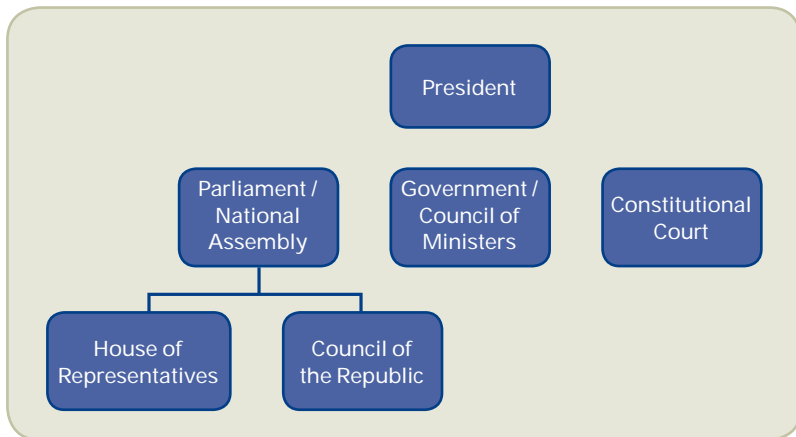
areas. Implementation of two-state and regional economic integration initiatives have effectively moved to the new integration mechanism, a Common Economic Area of Russia, Belarus and Kazakhstan.

### Political system

The Republic of Belarus is a unitary, democratic, social state based on the rule of law.

State system: Presidential Republic

The **Constitution**, adopted in March 1994 and subsequently amended at the national referenda in 1996 and 2004, provides significant power to the country's authorities, particularly to the President, to whom the country's government reports.



The President of the Republic of Belarus is the Head of State elected by popular vote for a five-year term. There is no limit to the number of presidential terms for the same person.

Alexandr Lukashenko (born on 30 August 1954) became the country's first president on his election in July 1994. Since then, he has been re-elected in 2001, 2006 and 2010. Among nine other candidates, the last elections were won by the incumbent President who received 79.67 per cent of the vote (the next candidate following him got 2.56 per cent of votes), though the conduct of the election, the post-election detention and the following conviction of opposition leaders and supporters received a controversial assessment by some countries, international institutions and observers.

The National Assembly acts as the parliament and is the representative and legislative body of the Republic of Belarus. Parliament consists of two chambers: the House of Representatives (110 deputies, elected through popular elections) and the Council of the Republic (64 members, of which eight are appointed by the President and the rest are elected by municipal authorities). The most recent elections were held on 28 September 2008, and the next parliamentary elections are scheduled to take place in 2012.

Executive power in the Republic of Belarus is exercised by the Council of Ministers of the Republic of Belarus, which is headed by the Prime Minister, reports to the President and is accountable to the Parliament of the Republic of Belarus.

Supervision of the constitutionality of enforceable enactments of the state is exercised by the Constitutional Court of the Republic of Belarus, which was established in 1994. The Court consists of 12 judges, of which six are appointed by the President (including the Chairman, whose appointment should be agreed by the Council of the Republic), while the other six are appointed by the Council of the Republic.

Source: <http://president.gov.by>

### Key economic indicators

Through 2008 the economic situation in Belarus was characterised by a dynamic economic growth. Increase in GDP (compound annual growth rate of GDP at constant prices over five years through 2008 was 9.95 per cent) has been accompanied by high growth rates of industrial production, construction and installation work and services to households. As a state-dominated economy Belarus, with only limited relationships with the world financial markets, has been less affected by the severe effects of the financial crisis. On the other hand, a sharp decline in both Russian economic subsidies and foreign trade with Russia resulting from the global crisis has had a significant impact on the Belarusian economy, albeit with some lag. As a result, in 2009 GDP growth was marginal at 0.2 per cent with a year on year drop of monthly GDP recorded in the 3rd quarter of 2009, while external financing, primarily from the IMF, allowed for keeping the economy stable. The gradual recovery following in 2010, an election year, was fuelled by a substantial increase of wages and the already high level of financing of government programmes. As a result the annual GDP grew by 7.6 per cent in real terms, which was at the cost of a further increase of the current account deficit and inflationary pressures.

Indicators	2005	2006	2007	2008	2009	2010
<b>Nominal GDP, USD b</b>	30.2	37.0	45.3	60.8	49.2	54.7
<b>Real GDP growth rate, %</b>	9.40%	10.00%	8.60%	10.20%	0.20%	7.60%
<b>GDP per capita (USD)</b>	3,090	3,798	4,667	6,327	5,177	5,766
<b>Industrial output growth, YoY, %</b>	10.50%	11.40%	8.70%	11.50%	-2.00%	11.30%
<b>Agricultural output growth, YoY, %</b>	1.70%	6.00%	4.40%	8.60%	1.30%	2.00%
<b>Retail turnover, USD b</b>	11.7	14.5	17.8	23.7	19.6	23.4

<b>Capital investments, USD b</b>	7.0	9.5	12.1	17.4	15.4	18.2
<b>% of GDP, %</b>	23.20%	25.70%	26.81%	28.66%	31.33%	33.27%
<b>Foreign trade turnover (excl. services), USD b</b>	32.7	42.1	53.0	72.0	49.9	60.1
<b>growth, YoY, %</b>	8.01%	28.75%	25.86%	35.84%	-30.69%	20.49%
<b>Export of goods, USD b</b>	16.0	19.7	24.3	32.6	21.3	25.2
<b>growth, YoY, %</b>	16.01%	23.50%	23.01%	34.17%	-34.59%	18.41%
<b>Import of goods, USD b</b>	16.7	22.4	28.7	39.4	28.6	34.9
<b>growth, YoY, %</b>	1.32%	33.77%	28.37%	37.25%	-27.46%	22.05%
<b>Trade balance, USD b</b>	-0.7	-2.6	-4.4	-6.8	-7.3	-9.6
<b>FDI inflows, USD b</b>	302.5	351.0	1,770.0	2,149.2	1,884.4	1,350.0
<b>Real wage growth, YoY, %</b>	20.90%	17.30%	10.00%	9.00%	0.10%	15.00%
<b>Real money income growth, %</b>	18.40%	17.80%	13.20%	11.80%	2.70%	15.20%
<b>Number of unemployed at period end</b>	67,900	52,000	44,100	37,300	40,300	33,100
<b>Percentage of economically active population</b>	1.50%	1.10%	1.00%	0.80%	0.90%	0.70%
<b>Annual growth in CPI, %</b>	8.00%	6.60%	12.10%	13.30%	10.10%	9.90%
<b>Total foreign debt, year end, USD b</b>	5.1282	6.8441	12.4935	15.1541	22.0603	28.5121
<b>Yearly average exchange rate, BYR/USD</b>	2,153.81	2,144.56	2,146.07	2,136.29	2,792.54	2,978.10

Fuelled by growth and demand promoting government programmes supported by generous credit financing, Belarusian's demand for non-food products and consumer services has also grown at an accelerated rate, including an increased interest in housing construction.

The prospects of the Belarusian economy depend significantly on external factors due to the heavy dependence on foreign trade and external financing. The most crucial internal growth drivers are determined by internal consumption and further development of opportunities for privatisation and liberalisation. The IMF, credit rating agencies and other experts believe that tightening fiscal and credit policies in 2011 is indispensable to keep the economy stable in the short term while structural reforms should ensure sustainable growth in the medium term.

### **The Belarusian economy in 2011**

In 2011 the Belarusian economy faced a currency crisis gradually transforming into an economic crisis as the Government and the monetary authorities are not seen as providing an adequate response for tackling the situation.

Prerequisites of the crisis have emerged long before 2011. Significant control and influence of the state on the economy has led to little restructuring of the latter in the recent years which would have been critical to respond to the increasing prices of energy resources on the world markets and cuts in energy subsidies from Russia. Moreover the authorities applied growth-promoting policies, expansionary credit practices and broadly applied generous financing of various state programmes, especially in the presidential election year 2010. This was coupled with a significant boost of wages, which comprise the greater portion of household income, and an increase in demand for value-added, primarily imported goods.

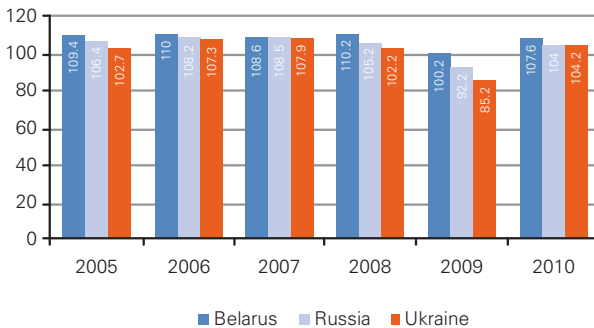
The crisis emerged from devaluation expectations through the end of 2010 as a result of diminishing foreign exchange reserves of the National Bank. The significant demand for hard currency by the population that followed was also fuelled by increased purchases of imported cars by population in the run up to the substantial growth of import duties starting 1 July 2011. A further significant increase of imported gas prices at the beginning of 2011 drained forex reserves. Certain restrictions on the forex market imposed by the National Bank at the beginning of 2011 fed the sentiment and in March 2011 the Belarusian economy faced a crisis on the foreign exchange market, starting with a deficit of hard currency for both the businesses and individuals which resulted in multiple exchange rates practices, significant inflation and consumer spending in April and May.

To tackle the situation the regulator introduced various restrictions on the local forex market and on 24 May, in an attempt to find a new equilibrium for exchange rates of the local currency the regulator devalued the currency to the basket of currencies by more than 50 per cent (56 per cent to USD). However, this is believed to be a late and inadequate response, as the National Bank's foreign reserves are not sufficient to provide effective support to the market demand of the hard currency even after the devaluation and multiple exchange rate practices continue. Further measures of the regulator are widely expected. To build the country's foreign exchange reserves the authorities are actively seeking external funding, which is most likely to come from the foreign anti-crisis facilities and massive privatisation that has been pledged for the next three years.

The results of the crisis have already made a significant effect on all sectors of the economy lacking funds in foreign currencies to pay for imported production inputs and goods. While the Government reported a growth of GDP by 11.1 per cent in January-June 2011 on an annual basis, CPI for the six months of the year grew by a record 36.2 per cent since December 2010 and 43.8 per cent since June 2010. May alone contributed a 13.1 per cent growth of CPI, the highest in the last eight years. In June CPI grew further 8.6 per cent. These latest data effectively revoke the original annual target of 7.5-8.5 per cent and the authorities' later indication that the annual CPI growth would be within a range of 33-39 per cent.

## Gross domestic product (GDP)

**GRAPH: Indices of GDP in Belarus, Ukraine and Russia in 2005-2010**

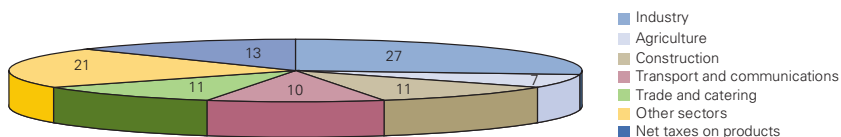


Source: National statistics authorities

Belarus has a substantial and relatively well-developed industrial base due to its history as an “assembly plant” in the former Soviet Union (49 per cent of GDP in 1990). The contribution of added value of industry in GDP still amounted to 26.8 per cent in 2010.

The Belarusian economy is dominated by state controlled sectors. Privatisation talks have been re-activated in 2009 and 2010, partly in response to IMF / World Bank recommendations, and again in 2011 as an attempt to tackle the crisis, although tangible steps have yet to be seen. The World Bank and other international institutions estimate the private sector’s contribution to GDP at 25-30 percent, although the official statistics account for 55.6 per cent of the labour force employed by companies with private and foreign ownership in 2010 (this share is overstated as it includes commercial companies with stakes in state ownership). About 10.4 per cent of all companies reported losses in 1Q 2011 (local GAAP), compared to 12 per cent in 1Q 2010, whose share mainly consists of industrial, construction and trade companies.

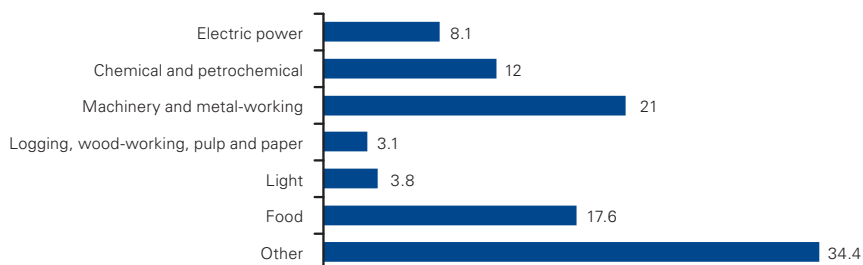
### GRAPH: Sectoral structure of GDP in 2010 (percentage of total)



Source: National Statistics Committee

Traditionally, metalworking and machinery constitute the largest part of industrial output (21 per cent in 2010). The share of food processing is growing and in 2010 it amounted to 17.6 per cent of the industrial output, up from 12.7 per cent in 2008. Fuels, fertilisers, and petrochemicals have also been among the main components of GDP, as have export products due to the stable demand on international markets. The chemical and petrochemical industries totalled 12 per cent of the total industrial output in 2010. Other historically important sectors of the economy include electric power, light industry and wood processing.

### GRAPH: Percentage contribution by sector to total industrial output in 2010



In addition, the country has a broad agricultural base. Today, Belarus is fully self-sufficient in agricultural production. Its production fully meets internal demand and also provides export opportunities. The Belarusian government substantially subsidises domestic farm producers and development of the sector is a top priority set by the President. With the end of the Soviet era, Belarus inherited huge meat and milk production and processing capacities as well as a good cattle and pig feeding base. However, many Belarusian food-processing companies are still in need of investment for reconstruction.

Much of Belarus' historical growth can be attributed to re-export / processing-export of lower-priced Russian oil at market prices and the subsidised price of natural gas supplied from Russia. These subsidies have been substantially cut. In December 2006, Belarus and Russian gas giant Gazprom signed a deal which would eventually end Russia's subsidies of gas for Belarus. Russia increased Belarusian natural gas prices from USD 47/thousand cubic meters (TCM) to USD 100/TCM in 2007 and planned to increase the price gradually to the global price by 2011. At the beginning of 2010 the price was about USD 170/TCM, and starting in 2011 – USD 223.15/TCM. Draft documents for the general meeting of "Gazprom" shareholders on 30 June 2011 assume that over 2012-2014 the price of gas for Belarus would not be higher than USD 250/TCM, which is somewhat lower than for the neighbouring countries. Additionally, through the period from 2007 through February 2010 Gazprom gradually acquired a 50 per cent stake in Beltransgaz, the Belarusian gas pipeline company. In 2011 Gazprom was offered the chance to acquire the remaining 50 per cent stake in "Beltransgaz" for the price applied to the first 50 per cent stake, however, the negotiations have come to standstill as the Belarusian authorities have linked the sale of the remaining stake to subsidies on gas supplies from Gazprom.

In 2007 Russia has also introduced an export duty on oil shipped to Belarus, which was set at a share of the standard export duty and was to increase gradually through 2009. Starting 1 January 2010 the export duty on Russia's oil to Belarus was set at 100 per cent of the standard duty, although the government of Belarus have negotiated a duty-free shipment of oil aimed to cover internal consumption in the amount of 6.3 million tonnes. Based on the agreement reached by Belarus, Russia and Kazakhstan as members of a customs union in December 2010, from 1 January 2011 Russia's export of oil and refined products is done with neither export duty nor quantitative restrictions applied. This was agreed in exchange for all revenues from Belarus' export of products refined from Russian oil being transferred to the state budget of Russia.

The government economic forecast, which was prepared at the end of 2010 and not yet officially revised, projected GDP to increase by 9-10 per cent in 2011. More cautious estimates of real GDP change in 2011 vary from 3.5 per cent (local researchers, April 2011), 4-5 per cent (Ministry of Finance, June 2011), 5 per cent (EBRD, July 2011) to 6.9 per cent (IMF, March 2011), although all the estimates are outdated given the fast developing crisis.

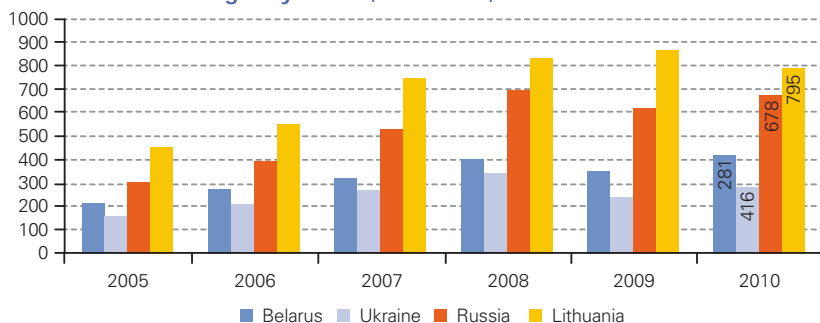
## Labour force

The labour force consists of about 4.7 million people, of whom 52.5 per cent are women. In 2010, about a quarter of the population was employed in the industrial sector. Another key sector employing 14.3 per cent of the population is the trade and catering sector. Agriculture, construction and education sectors employ about 9-10 per cent of the total population each.

The nominal gross average monthly pay in December 2010 totalled USD 530 for the country as a whole and about USD 700 in Minsk. In 2010, real wages increased by 15 per cent in comparison to the year 2009. The significant growth of wages in recent years (and especially in the presidential election year 2010) is a result of aggressive social targets set by the authorities, among which the wage was one of the key parameters, usually set in terms of USD. With the fast devaluation of the local currency in the first five months of 2011 this closely watched economic parameter was significantly impaired, at least by 36 per cent in USD terms (which reflects the effect of officially recognised devaluation effective from 24 May 2011).

Nevertheless, the wage level lags behind comparables for CEE countries and neighbouring countries including Russia. A relatively cheap labour force that is regarded as having relatively high levels of skills and training, along with a strong scientific infrastructure is considered to be one of the key resources in Belarus.

**GRAPH: Nominal wages dynamics, 2005-2010, USD**



Source: National Statistics Committee

## Price indices

In 2010, the consumer price index grew by 9.9 per cent, in line with the government target of 8-10 per cent. January, February and March 2011 saw monthly inflation of 1.4, 2.7 and 1.9 per cent, respectively, reflecting devaluation expectations and growing prices for imported energy, raw materials, and food. These levels were already challenging the Government's yearly target of 7.5-8.5 per cent. CPI growth in April hit a record high for the last eight years, 4.5 per cent, while the indicator in May was almost 3 times higher at 13.1 per cent, attributed to the significant official devaluation of the Belarusian ruble (by 56 per cent compared to USD 1) on 24 May 2011 and the continuing economic crisis. In June CPI grew 8.6 per cent, while a growth of the producer price index amounted 21.3 per cent creating a prerequisite for further consumer inflation. Attempts by the National bank to manage inflation, through a series of increases of the refinancing rate by a total of 9.5 per cent from the beginning of the year to 20 per cent starting 13 July 2011, have not yet yielded a sustainable result.

CPI growth in the first six months of 2011 totalled 36.2 per cent from December 2010, revoking the authorities' forecast for the year of 33-39 per cent done as recently as in May 2011.

	June 2011 in %			January-June 2011 in % January-June 2010
	May 2011	December	June 2010	
Consumer price index	108.6	136.2	143.8	122.1
Producer price index industrial for output	121.3	148.4	162.5	131.5
Price index for construction and assembly work	106.1	112.9	123.4	118.7
Freight tariff index	103.7	150.9	111.8	104.2
Telecommunication services to businesses	102.8	104.2	106.7	102.9

Source: National Statistics Committee

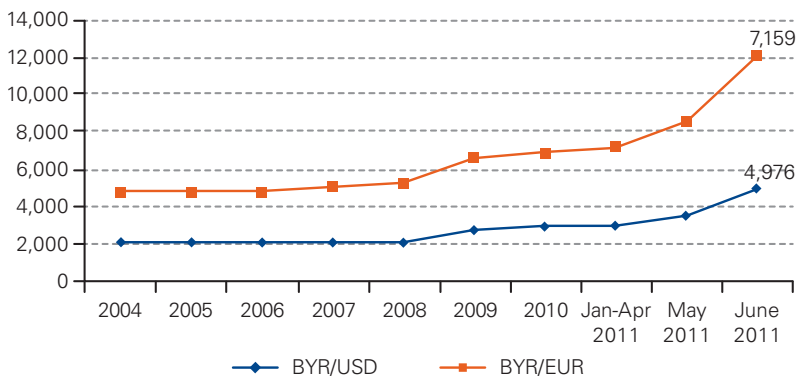
## Exchange rate

During the seven years through 31 December 2008 the Belarusian national currency exchange rate has remained stable. On 2 January 2009, the National Bank of Belarus devalued the Belarusian ruble by 20.45 per cent from 2,200 to 2,650 rubles per US dollar and pegged it to a “basket of currencies” including the US dollar, euro and Russian ruble, allowing the basket to vary within +/- 5 per cent. This basket of currencies generally reflects the current structure of Belarusian foreign trade. In June 2009 the National Bank of Belarus widened the trading band of the basket of currencies from +/- 5 per cent to +/- 10 per cent. The same corridor compared to the calculated exchange rate of the basket of currencies at the beginning of the year was set for 2010.

For 2011 the range was originally set at +/- 8 per cent but revised to +/- 12 per cent on 12 May 2011 to address the difficulties on the currency market. As the 2011 crisis evolved, the National Bank attempted to use various non-market mechanisms to control the exchange rate, demand and supply on the forex market, however, the markets of both intercompany and private transactions, though not transparent, indicated the local currency had already faced a speculative devaluation of two and more times of its value at the beginning of the year.

On 23 May 2011 the National Bank declared a significant devaluation of the Belarusian ruble starting 24 May, 54.4 per cent to the calculated value of the basket of currencies as of 23 May 2011. However, as the regulator does not provide forex liquidity to the market and hard currencies are still in severe deficit for both businesses and households, there are expectations of further devaluation, unless significant external funding is provided to support the National Bank’s market interventions.

### GRAPH: Average official exchange rate of the Belarusian ruble against USD and EUR (2004-2011)



The IMF stand-by loan totalling USD 3.46 billion, provided to Belarus in tranches over the period from January 2009 through March 2010, played a considerable role in ensuring the stability of the national currency.

In the second quarter of 2011, responding to the developing crisis which has already led to local currency depreciation, the authorities are actively seeking external funding to build the foreign exchange reserves, which is most likely to come from external sources and privatisation of state controlled businesses.

Following several rounds of negotiations between Belarus and Russia as the main decision-maker of the Eurasian anti-crisis fund, on 9 June 2011 an agreement was signed for a USD 3 billion 10-year loan to Belarus with a floating interest rate (estimated to be maximum 4.9 per cent) and a grace period of three years. The loan is to be provided in six tranches for USD 1.2, USD 0.8 and USD 1 billion over the three years, respectively, and provides that for the same three years the authorities of Belarus would implement agreed stabilisation measures, as well as raise about USD 7.5 billion through privatisation, as an additional source of external funding. The first tranche of the loan in the amount of USD 800 million was transferred in the second half of June. On 31 May 2011 the government and the National Bank of Belarus applied to the IMF for another stand-by loan, which the authorities assess to be in the broad range of USD 3.5 to 8 billion.

As part of the Union of Russia and Belarus, the countries have long been discussing adopting the Russian ruble as a single common currency. Historically the deadlines for the single currency adoption have not been met but this initiative is still a possibility, though more distant due to the ongoing crisis in 2011.

## Retail turnover

In recent years, the Belarusian retail market developed rapidly from a relatively low base, though the development slowed significantly in the 2009 crisis year. In 2010, the volume of retail turnover in Belarus was USD 23.4 billion, which is 17.1 per cent higher in real terms compared to 2009 and is almost the same in USD terms as in the pre-crisis 2008. In the first six months of 2011 the retail turnover grew a further 18.4 per cent in comparable prices to the same period of 2010, which may reflect a significantly increased consumer spending amid the expectations of continuing price increases. Despite high growth rates, Belarus lags behind CEE and other neighbouring countries with annual retail turnover per capita being less than USD 2,500, compared, for example, to about USD 3,800 in Russia. A major share of the retail turnover is generated by separate local operators. Large modern nationwide retail chains have started to emerge, operated by local retailers, and are attracting the interest of foreign players and investors. A notable share of total retail turnover still belongs to non-organised trade, e.g. open bazaars and stands. The retail infrastructure is underdeveloped with modern shopping centres lacking. Total shopping area per capita is among the lowest in the region (estimated at about 360 m<sup>2</sup> per 1,000 residents at the beginning of 2010), although significant new developments have been completed in 2010 and many are due to be completed in 2011. In the coming years the market is likely to be characterised by a focus on grocery retailing and the expansion of modern retail formats to smaller cities and regional areas of Belarus.

## Foreign trade

Belarus operates an open, export-oriented economy. Belarus is a part of several regional initiatives actively promoting economic and trade relationships between the members, namely a Union with Russia, the Commonwealth of Independent States (comprised of all former Soviet Union countries except the Baltic States and Georgia), the Eurasian Economic Community (Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Uzbekistan), and the Common Economic Space (Russia, Kazakhstan, Belarus).

In 2008, Russia, Belarus, and Kazakhstan announced plans to move ahead with the formation of a Customs Union, which came into existence on 1 January 2010. The harmonised Customs Code of the three states became effective from July 2010. Effective from 1 July 2011 the three states removed all internal customs borders between Belarus, Kazakhstan and Russia and moved the customs control to the union's borders with third countries.

Since 1993 Belarus has been granted observer status in the World Trade Organisation. So far, seven formal meetings of the Working Party consisting of 39 countries have taken place (the last in 2005). The last meeting commenced a review of the second edition of the Factual Summary, which was continued at informal meetings. No "Draft Report of the Working Party", the final document defining the obligations of Belarus as a WTO member, has been concluded. In 2009, the prime ministers of Russia, Belarus and Kazakhstan signed an agreement to jointly apply for WTO accession as the Customs Union of the three states, thus effectively renouncing each separate country's progress towards WTO accession. No official application to the WTO has yet been made by Belarus. Since June 2009, a Common Delegation of the three countries has participated in a series of consultations with WTO Member countries, the WTO Secretariat, where experts have discussed approaches on joining the WTO. In terms of bilateral negotiations with countries of the Working Party on market access, Belarus has so far sealed protocols with 10 WTO member countries.

The total foreign trade turnover in goods in 2010 was over USD 60 billion. This is up by more than 20 per cent compared to the crisis year of 2009, when foreign trade dropped by more than 30 per cent year-on-year as a result of reduced demand for the economy and lower average prices amid the global crisis. The recovered foreign trade turnover in 2010 was still below the volume reported in the pre-crisis year 2008.

Most of the growth of foreign trade turnover in 2010, namely 86.4 per cent of export growth and 65 per cent of import growth, is attributed to higher prices.

Russia is the main trading partner of Belarus with 46.4 per cent of total turnover in 2010 (38.9 per cent of export and 51.8 per cent of import). The EU follows as the second most important trade partner, making up about a quarter of foreign trade, namely 30.1 per cent of export and 21.6 per cent of import, though the share of export to the EU was significantly higher in 2007-2009 – about 44 per cent of total export turnover. Ukraine and China also have well established trade relations with Belarus, which has also begun to actively develop and deepen economic trade relations with the countries of Latin America and Asia. Year 2010 was marked by an emerging foreign trade partner, Venezuela, mainly as a distant and economically controversial alternative to Russia as a source of oil.

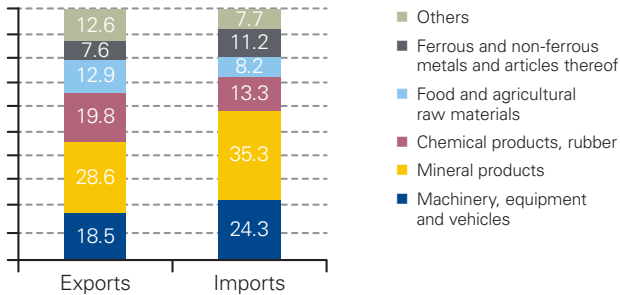
## Turnover trade in goods (USD b)

	2005	2006	2007	2008	2009	2010
Total turnover in goods	32.7	42.1	53.0	72.4	49.9	60.1
Exports of goods	16.0	19.7	24.3	33	21.3	25.2
Imports of goods	16.7	22.4	28.7	39.5	28.6	34.9
Balance	-0.7	-2.7	-4.4	-6.5	-7.3	-9.6
<b>CIS countries</b>						
% of total	55.7%	54.9%	57%	55.9%	55.2%	56.6%
Balance	-4.1	-5.9	-7.8	-11.6	-8.9	-7.0
<b>Of which Russia</b>						
Total turnover	15.8	19.9	26.1	34.2	23.4	27.9
% of CIS countries	86.8%	86.1%	86.4%	84.5%	85.1%	82.0%
Balance	-4.4	-6.2	-8.3	-13	-10.0	-8.2
<b>Non-CIS countries</b>						
% of total	44.3%	45%	43%	44.1%	44.8%	43.4%
Balance	3.3	3.3	3.4	5.1	1.6	-2.6

In 2010 ratios of export and import in goods to GDP, as calculated based on amounts in local currency, were 46 per cent and 64 per cent, respectively. The foreign trade deficit has been widening steadily in recent years, reaching minus 18 per cent of GDP in 2010 and putting a significant pressure on other components of the external account and sustainability of the economy as a whole. The main factor of the high deficit of foreign trade has traditionally been attributed to the trade of intermediate goods, e.g. energy resources, raw materials and components.

Major export and import items include mineral and chemical products, and machinery and equipment, altogether making up 66.9 per cent of exports and 72.9 per cent of imports.

**GRAPH: Commodity structure of exports and imports in 2010 (per cent of total):**



Source: National Statistics Committee

Belarus depends heavily on supplies of Russian natural resources and raw materials, and on exports to Russia of value-added products. The main export items from Belarus to the EU are mineral products, petrochemicals and fertilisers, ferrous metals, textiles and textile goods, wood and wood products.

Unlike foreign trade in goods, the same operations in services are characterised by positive indicators and developments. In 2010 the foreign trade in services generated USD 7.2 billion of turnover and an USD 1.7 billion positive balance between export and import. For the six years through 2010, the export and import of services increased by 2.2 and 2.5 times, respectively, with a drop observed only in 2009. A significant part of the foreign trade in services, namely 67.1 per cent of export and 49.1 per cent of import is comprised of transport services (2010).

In the period January – June 2011 the foreign trade turnover in goods increased by 57.3 per cent (to the levels of 2010), to USD 40.9 billion, with export growing faster than import: a 62.3 per cent growth of export compared to 53.6 per cent growth of import. In that six months the foreign trade deficit in goods amounted to USD 4.5 billion, about 26 per cent greater compared to the same period a year ago. Indicators of foreign trade in goods, particularly the monthly trade deficit in goods, had a positive trend in May 2011 although this is more a reflection of limitations imposed on the foreign currency markets affecting primarily importers and administrative measures to boost export. The foreign trade of services for January through April 2011 generated about USD 2.5 billion in turnover (22.4 per cent year-on-year growth) and a positive balance of USD 0.7 billion (11.2 per cent year-on-year growth).

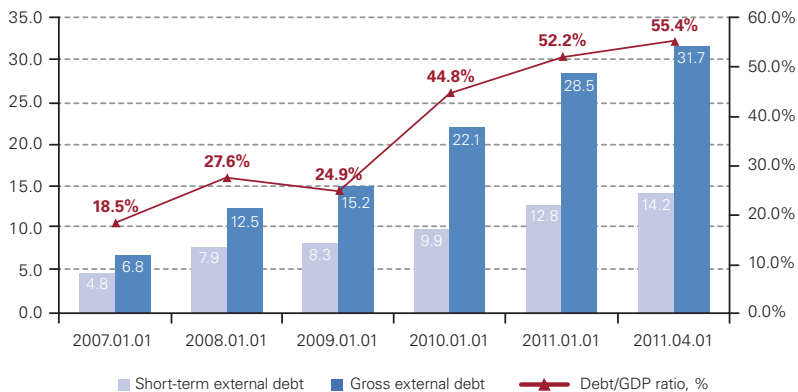
As the Belarusian authorities are struggling to tackle the crisis in 2011, they are aiming to significantly increase the export of goods and services in the 5-year period through 2015 and reach a positive balance of foreign trade in 2015.

## External debt

For the 4-year period through 2010, the gross external debt of Belarus increased more than four times to USD 28.5 billion as of 1 January 2011 (52.2 per cent of the annual GDP and 95.6 per cent to the export of goods and services). In the first quarter of 2011 the gross external debt increased by further USD 3.2 billion (by 11.3 per cent) to a total of USD 31.7 billion as of 1 April 2011. Of the debt amount, 55.1 per cent, namely USD 17.5 billion, constitutes long-term debt.

The major share of external debt is attributed to credit and loans (55.7 per cent of the total sum of external debt as at 1 April 2011). The other significant portion of external debt, 24.6 per cent, relates to trade financing.

### GRAPH: Foreign debt dynamics in Belarus 2007-2011, USD b



Source: National Bank of the Republic of Belarus

As at 1 April 2011, Belarus' external public debt stood at USD 12.7 billion (22.2 per cent of GDP), of which USD 11.0 billion was the debt of the government and USD 1.7 billion was the debt of monetary authorities. The external public debt showed a 35.6 per cent increase for the year 2010, and further 6.7 per cent in the first quarter of 2011.

Based on statistical data from the National Bank, the external debt of the government as of 1 January 2011 constituted 48.6 per cent in total government debt and 18.4 per cent of 2010 GDP. According to the Ministry of Finance as at 1 May 2011 external government debt was USD 10.8 billion, an increase by 11.8 per cent since the start of the year. The bulk of external government debt relates to loans from the IMF, Russia, and Eurobond investments.

The regulatory limit for direct external government borrowing for 2011 was set at USD 13 billion (23.8 per cent of 2010 GDP), with a further allowable maximum USD 5 billion of debt guaranteed by the Republic of Belarus.

In recent years external borrowing has been the main mechanism used to manage the growing pressures on the Belarusian economy. In November 2008, Belarus reached an agreement with Russia for a USD 2 billion stabilisation loan. In December 2008 Belarus received a state loan of USD 500 million from Venezuela for seven years. In 2009-2010 the IMF provided a stand-by loan to Belarus in the total amount of USD 3.46 billion to support the Government's programme of economic reforms in response to the world economic crisis. In June 2011 the authorities received USD 800 million from the Eurasian anti-crisis fund, with the first tranche of a USD 3 billion loan agreed to be disbursed over the period of three years.

The first placement of Belarus' Eurobonds was done in June 2010, when a total of USD 600 million in securities was placed with a 8.75 per cent coupon and repayment in 2015. This placement was extended with an extra USD 400 million issued to the markets in August 2010. The yield to maturity of the whole placement was at 8.251 per cent. The placement was done among investors from the United States (27 per cent), United Kingdom (20 per cent), Europe (28 per cent), Russia (22 per cent), and Asia (3 per cent). In January 2011, 7-year Eurobonds were placed at par with a coupon of 8.95 per cent for a total of USD 800 million, mainly among investors from the United Kingdom (30 per cent), United States (20 per cent) and Russia (14 per cent). The regulatory limit of Eurobonds placements in 2010-2011 is defined at USD 2 billion. However, the latest developments in the economy of Belarus make further placements in 2011 unfeasible and unlikely.

As the crisis has developed in 2011 the yield to maturity of Eurobonds has increased to over 10 per cent and reached values of 12 per cent and more in some periods in March and May 2011. In the second week of June 2011, after Belarus signed a stabilisation loan from the Eurasian anti-crisis fund, Eurobonds have been traded at the values assuming a yield to maturity of about 10 to 11 per cent.

In addition to Eurobonds in December 2010 Belarus placed government bonds denominated in Russian rubles on the Russian market for a total of RUR 7 billion. These were placed at par and have a maturity of two years and a coupon of 8.7 per cent.

## Infrastructure

The favourable geographic location of Belarus predetermines its role as a transit country. This potential is still not fully tapped. Its strategic position as a crossroads between Western Europe, regions of Russia and Asian countries, and on the watershed of the Black and Baltic Sea countries enables Belarus to become one of the major oil, gas and product pipelines, as well as a communication system and transport corridor. Key infrastructure points are:

- The length of its railways totals 5,503 km.
- The length of roadways totals 86,400 km.
- The length of the waterways totals 2,500 km but use is limited by their location on the perimeter of country and by their lack of depth).
- Pipelines: crude oil pipeline "Druzhba", oil products pipeline, gas transport pipelines "Beltransgaz" (owned and operated by Beltransgaz) and "Yamal-Europe" (owned by Gazprom and operated by Beltransgaz).

- Two national air-carriers: RUE Belavia is a passenger and cargo carrier and TransAVIAexports is a cargo carrier.
- Minsk International Airport is the main international airport in Belarus, located 42 km to the east of the capital Minsk. Minsk International Airport is capable of handling 5.8 million passengers per year and starting in the summer of 2011 has direct flights to 37 destinations. Almost 1.3 million passengers and more than 11,000 flights were handled in 2010, an increase of about 25 per cent and 18 per cent on 2009, respectively. In June 2011 the President approved an investment project for constructing an additional runway at the airport capable of accommodating A-380 jumbo jets, as well as a new modern international passenger terminal, which is to be implemented through 2014 (i.e. for the 2014 IIHF World Championship to be hosted by Belarus) and financed through Chinese export promotion facilities.

### **Transport corridors crossing the territory of Belarus**

*Pan-European transport corridor II* (Berlin – Warsaw– Minsk – Moscow – Nizhniy Novgorod)

*Pan-European transport corridor IX* (Finland – Lithuania – Russia – Belarus – Ukraine – Moldova – Romania – Bulgaria – Greece)

Belarus is a highly attractive place for investment in the development of warehouse and transport logistics. Due to its geographic location, this opportunity has been identified and the Government has accepted a logistics system development programme that runs until 2015. The most active participants so far are Russian, Belgian, and Lithuanian investors.

### **Belarusian nuclear power station**

The Belarusian authorities are actively pursuing the construction of the first national nuclear power station, with an installed capacity of up to 2,400 MW in the Grodno region, about 20 km from the border with Lithuania. The total costs of construction and infrastructure are estimated to reach USD 9 billion and will be largely financed by Russia, which will also be the general contractor and a provider of technology and equipment.

Currently preparatory works are in progress. The official commencing of construction is expected in September 2011. The first generating unit of the facility is due to be commissioned in 2017 with the second unit to follow in 2018.

Among new competing projects in the region are nuclear power plants to be constructed in Lithuania (1,700 MW, potentially to be doubled, construction to start in 2014, commissioning in 2020), Russia's Kaliningrad region (2,300 MW, first unit to be commissioned in 2016, the second in 2018) and Poland (3,000 MW, construction is to start in 2016, commissioning is expected in 2022).

## Belarus as a member of international organisations, funds and programmes (selected)

Name	Abbreviation	Year of accession
United Nations	UN	1945
European Economic Commission	UN EEC	1947
United Nations Conference on Trade and Development	UNCTAD	1962
United Nations Scientific Committee on the Effects of Atomic Radiation	UNSCEAR	2008 observer status
International Atomic Energy Agency	IAEA	1957
World Trade Organisation	WTO	1993 observer
World Customs Organisation	WCO	1993
Organisation for Cooperation of Railways		1993
International Organisation for Standardization	ISO	1993
<b>UN specialised agencies</b>		
World Health Organisation	WHO	1946, 1992
World Intellectual Property Organization	WIPO	1967
International Labour Organization	ILO	1954
United Nations Industrial Development Organization	UNIDO	1985
International Monetary Fund	IMF	1992
<b>• World Bank group:</b>		
International Bank for Reconstruction and Development	IBRD	1992
International Finance Corporation	IFC	1992

Multilateral Investment Guarantee Agency	MIGA	1992
International Centre for the Settlement of Investment Disputes	ICSID	1992
<b>Regional organisations</b>		
Organisation for Security and Cooperation in Europe	OSCE	1992
Council of Europe	CE	
European Bank of Reconstruction and Development	EBRD	1992
Council of Euro Atlantic Partnership	CEAP	1997
Council of the Baltic Sea States		2009, observer status
Shanghai Cooperation Organisation	SCO	2009, observer status
Organisation of the Black Sea Economic Cooperation	BSEC	2005, observer status

## Chapter 2

# Opportunities for international investors

### Highlights

- Stable political and social situation, low levels of crime and corruption
- High rate of economic development
- Significant progress in economic liberalisation and new initiatives towards boosting business activities
- Advantageous geographical location between the European Union and Russia
- Export oriented economy
- Customs union with Russia and Kazakhstan offers access to the vast and growing market of approximately 168 million people
- Transit opportunities including a developed transport infrastructure
- Growing local demand and consumption
- Newly opened privatisation initiatives resulting in emerging investment opportunities
- Various untapped sectors and niches
- Highly qualified and cost competitive work force
- Highly developed scientific and technical potential
- Developed investment infrastructure including six free economic zones, a high tech park, and a Foreign Investment Advisory Council under the Council of Ministers
- Safeguards provided by the Investment Code and numerous international treaties on preventing double taxation and investments protection
- The 2014 IIHF World Championship to be hosted by Minsk provides additional investment opportunities in real estate development, infrastructure, retail and catering and other sectors

### Foreign direct investment (FDI) overview

The National Statistical Committee of Belarus reported that in 2010 the country's economy (excluding the banking sector) attracted USD 9,085.5 million in foreign investments which is 2.3 per cent lower than in 2009. The amount included:

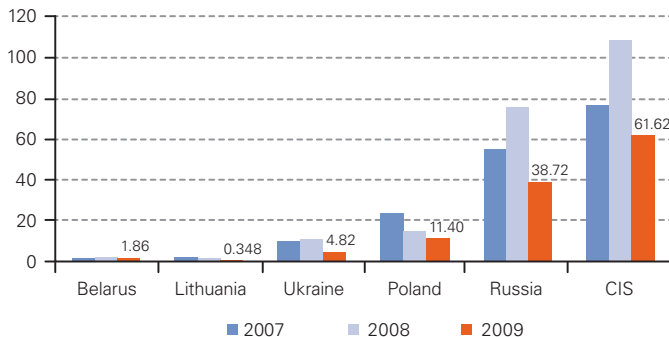
- USD 5,569.4 million in direct investments according to the methodology of the National Statistical Committee (which takes into account trade and other financing), up by 15.5 per cent from USD 4,821.1 million in 2009;

- USD 1.8 million in portfolio investments (USD 1.9 million in 2009);
- USD 3,514.2 million in other investments, primarily consisting of foreign loans, credits and leasing (USD 4,480.8 million in 2009).

A major share of foreign investments was recorded from Russia (72.1 per cent), Austria (10 per cent), the Netherlands (3.5 per cent), Cyprus (3.5 per cent) and the United Kingdom (3.1 per cent). Of all foreign investments, 53.2 per cent went to the transport sector, 22.8 per cent to industry, and 14.6 per cent to retail and catering.

Amounts of FDI into the Belarusian economy were relatively moderate through 2006. Cumulative FDI in 1990-2006 was USD 2,734 million resulting in FDI per capita being USD 461 in 2006 (UNCTADstat). Due to the Government's first steps towards liberalising the economy, e.g. the abolishment of the "golden share rule", and the promotion of investment opportunities, in 2007 the Belarusian economy received USD 1.79 billion of net FDI (National Bank of Belarus), five times higher than in 2006. In 2008, based on the methodology applied by the National Bank of Belarus, which is also used for international reporting and comparison, the country's economy received USD 2,150 million in FDI, the highest annual amount recorded so far. In 2010 FDI into Belarus amounted to USD 1,306.6 million, 26.7 per cent down from USD 1,782.2 million in 2009 and 39.2 per cent down from the pre-crisis year 2008.

**GRAPH: FDI inflow (selected years and countries), USD billion**



Source: UNCTADstat

In 2009 the cumulative FDI inflow per capita in Belarus was USD 878, compared to USD 1,138 in Ukraine, USD 1,792 in Russia, USD 4,210 in Lithuania, and USD 4,801 in Poland.

A significant proportion of the FDI inflows has been associated with landmark privatisation transactions, rather than a diversified mass investment flow into state controlled or private businesses. The sale of a 50 per cent stake of the national gas transportation company Beltransgaz to the Russian Gazprom brought USD 2.5 billion to the FDI stock. This transaction was effected through a series of USD 625 million payments over a period of four years through February 2010, each providing the bulk of FDI in each of the recent years, e.g. the last payment made up about 47.8 per cent of last year's FDI.

Gross FDI inflow in 2010 of USD 1,350 million (or 2.5 per cent of GDP) comprised of USD 856.9 million of equity investments (USD 1,404.8 million in 2009), USD 437.4 million reinvested earnings (USD 417.7 million in 2009) and USD 55.7 million of shareholders' debt financing (compared to USD 61.9 million in 2009).

A major source of FDI to Belarus in 2010 was Russia (USD 820.4 million or 60.8 per cent of gross FDI inflow), owing primarily to the last payment for the stake in Beltransgaz. Significant shares of FDI originated also from Germany, Switzerland, China and Iran. Sectors of transportation, construction and industry were among the primary targets. Equity injections totalling USD 111.3 million also went into the banking sector. Generally, to date, the interest of foreign investors has been focused mainly on the banking sector, transportation (including gas pipeline), mobile communications, commercial real estate development, food and beverage and retail.

### FDI transactions in 2009-2010 (selected)

Year	Target	Bidder	Country	Stake acquired	Deal value, USD m	Comment
2007-2010	Beltransgaz (gas pipeline)	Gazprom	Russia	50%	2,500 (625 each year)	Acquired in stages in 2007-2010
2009	BPS-Bank (banking)	Sberbank	Russia	93.27%	280.8	Followed by acquisition of a minority stake in 2010
2009	Tajfun (construction materials)	Atlas	Poland	51%	4	
2009	Gomel ice-cream plant	Ingman	Finland	60%	3.9	
2010	B&B Insurance Co (insurance)	AXA Group	France	80%	n/a	Deal completion not confirmed yet
2010	Velcom (mobile operator)	Telekom Austria	Austria	30%	459.2	Completed the 100% acquisition of the target
2010	Minsk watch plant ("Luch" brand)	Franck Muller International B.V.	Switzerland	52%	12.0	Privatisation deal
2010	Parex Leasing (leasing)	Rietumu Banka	Latvia	99.5%	n/a	

2010	Dominantfarm (wholesale of medicines)	Katren	Russia	51%	30.0	
2010	Sombelbank (banking)	Getin International SARL	Luxembourg	25%	12.2	Acquired by existing shareholder
2010	RRB-Bank (banking)	DEG	Germany	17%	2.8	Acquired by existing shareholder
2010	Lidskoe pivo (brewery)	Olvi plc	Finland	2.2%	0.4	Acquired by existing shareholder
2010	Olivaryja (brewery)	Carlsberg	Denmark	17%	11.72	Acquired by existing shareholder
2010	VDH (juices)	Danone-Unimilk	France, Russia	100%	n/a	
2010	Two dairies	Danone-Unimilk	France, Russia	51%	n/a	Joint ventures
2011	BPS-Leasing (leasing)	Sberbank Leasing	Russia	50%	n/a	
2011	VMG Industry (wood processing)	Vakaru medienos grupe, SBA	Lithuania	100%	n/a	Greenfield in Mogilev free economic zone
2010-2011	Sontsa (detergents, cosmetics)	Lebortovo Capital Partners Ltd.	Cyprus	100%	20	Greenfield

In 2011 the Government targeted net FDI inflow in the amount of USD 6.4 to 6.5 billion. This target was set in November 2010 and was revised in February 2011 when 5-year targets were set for 2011-2015, among which was the target of USD 7 – to 7.5 billion of annual FDI in 2015.

These challenging targets are under threat, as the Government and the National Bank struggle to fix the imbalances in the economy in the first half of 2011. Net FDI reported for the first quarter of the year were just USD 388,6 million, or about 6 per cent of the annual target, while the economy shows no signs of quick recovery. The inflow of investments has increased in the second quarter of 2011 resulting in net FDI for January through May 2011 being USD 743.1 million. Authorities are pursuing various privatisation initiatives, including IPO, although these are unlikely to bring significant inflows of FDI in the short term, unless some landmark transactions are closed, e.g. with respect to the remaining 50 per cent stake in Beltransgaz or a stake in the major potash fertilisers producer “Belaruskali”.

## Regulatory framework for investors in Belarus

The Investment Code of Belarus provides for general rights and obligations for investors. There is also a special regulation for activities within Free Economic Zones, the High-Tech Park, small towns and rural areas. Specific tax exemptions and other benefits can be provided depending on the investment's amount according to individual decisions of the President.

The Investment Code also establishes the institute of an Investment Agreement, i.e. a special arrangement between an investor and authorities providing special terms of implementation of an investment project.

The framework of Investment Agreement got further development with the adoption of the Presidential Ordinance No.10 "On creation of additional conditions for investment activity in Belarus" on 6 August 2009, amended on 6 June 2011 (whose latest amendments take effect in August 2011). The document provides investors with the possibility to enter into investment treaties in a simplified way and to get additional benefits compared to those otherwise applied.

The latest revision of the Ordinance, which takes effect from August 2011, provides for two levels of the Investment Agreement:

- to be signed with a state authority specifically designated by the Government to enter into such an agreement, in which case an investor gets all rights and benefits already prescribed by the laws. No business plan or special review of the investment project is required;
- to be signed with the Council of Ministers and coordinated with the President of Belarus. This type of Investment Agreement can provide additional rights and benefits for an investment project, not otherwise provided by the laws and the Ordinance. In this case the investment project should be supported by a detailed business plan and is subject to a comprehensive government review.

The following are the general benefits provided by the noted Ordinance for the Investment Agreements signed with the Republic of Belarus:

- construction works can be commissioned concurrently with design works and getting necessary approvals, namely prior to the final approvals of the design documentation and acquiring title documents for land plot leasing rights;
- a land plot for a project can be leased without an auction, otherwise required. The rental fee for the land plot cannot increase for the period of the investment project;
- design documentation developed according to international practices can be applied with minor adjustments required to accommodate positioning of the objects on site;
- the full amount of input VAT for developing and equipping the facilities is deductible;
- a general contractor can award contracts to subcontractors without reference to any procurement regulations.

The Ordinance provides that projects being implemented according to a signed Investment Agreement are exempt from the following payments:

- import customs duties and VAT of the equipment and spare parts for the investment project;
- reimbursement for losses of agricultural and (or) forestry production caused by using the land plot for the project;
- fees for the right to conclude land lease agreement;
- state fees for work permits and temporary residence permits for foreign citizens engaged in the project;
- land tax and rent payments for the land plots for the period of design and construction of facilities;
- deductions from special sectoral development funds;
- tax payments (VAT, corporate profit tax) arising from a fee-free transfer of a state property to the investor.

**Selected investment projects committed or being implemented by foreign investors in Belarus according to Investment Agreements signed with the authorities:**

The date of the agreement	Name of investor	Description of the project	Investments committed
2009	AOI NV (Belgium)	Development of a transport and logistics park "Airpark Minsk" at the National Airport Minsk	EUR 288.6 m
2009	Kejson (Iran)	Development of a multifunctional hotel and business complex "Magnit" in Minsk	EUR 250 m
2009	Didac (Iran)	Development of a multi-social, business and trade and service complex "Chervenskij" in Minsk	USD 162 m
2010	Enertrag AG (Germany)	Installation and commissioning of a wind farm in Dzerzhinsk region	EUR 360 m
2010	Kronospan Holding Limited (Austria)	Wood processing production	USD 150 m

2010	Lebortovo United Partners (Cyprus)	Development of a transport and logistics centre, storage terminal class A	n/a
2010	VitaPharma A.O. (Slovakia)	Production of pharmaceuticals	USD 46 m
2010	TDF Ecotech AG (Switzerland)	Construction of two biogas complexes in Nesvizh region	EUR 24 m
2010	Franck Muller (Switzerland)	Modernisation of a production of OJSC "Minski chasovoj zavod" (brand "Luch")	EUR 10 m
2011	Blue Eagle Private Equity (Netherlands)	Development of a hotel complex in Minsk	USD 60 m
2011	DAWG (Poland)	Development of a transport, trade and logistics center in Minsk region	EUR 40 m
2011	Uniform (Germany)	Yeast plant construction in Slutsk region	EUR 25 m
2011	Danone – Unimilk (France – Russia)	New milk production development	EUR 24 m

The Law on Privatisation, the new revision of which became effective on 1 January 2011, allows foreign investors to be directly involved in the process of privatisation. Compared to the earlier edition of the law, the process of privatisation has been streamlined, while the rules for setting the initial price of companies being offered for sale have been relaxed.

### Economy liberalisation initiatives

At the end of 2008 the government of Belarus initiated liberalisation initiatives to boost economic activity, including the development of entrepreneurship, and to raise the investment attractiveness of the country with the ultimate goal of having Belarus in the top 30 ranking of countries with the most favourable investment climate. The following implemented measures should be noted, although their effect has been overshadowed by the difficulties the Belarusian economy is facing, particularly in 2011:

## 1. Simplifying and easing taxation and reporting requirements

A number of taxes and duties have been decreased or abolished, as well as additional tax benefits have been introduced in specific sectors or areas of business activities. Starting in 2011, the number of required tax and various other reports has been significantly reduced.

## 2. Reducing the number of business activities subject to licensing

The Presidential Decree No. 450 signed in September 2010 and effective from 1 January 2011 has reduced by 16 the total number of activities subject to licensing requirements. The activities that do not longer require licences include tourism activities, auditing, retail (except fuel, alcohol, tobacco), certain design and construction works, interactive electronic games, and lottery. Further liberalisation steps in this area are expected as some activities continue to be subject to other regulations like certification, registrations, etc.

## 3. Liberalisation of pricing regulations

Presidential Decree No. 72, effective from 1 March 2011, has considerably reduced the state regulation of prices and tariffs, including abolishing the earlier required filing and justification of any price changes with the authorities. Certain commodities and tariffs, including basic food and products of monopolies, remain subject to the price control.

## 4. Liberalisation of labour remuneration practices

A number of measures to liberalise labour remuneration practices is provided according to Presidential Decree No. 181. Starting 1 June 2011, the earlier obligatorily applied Uniform Tariff System / Unified Wage Grid, a heritage of the Soviet economy, becomes optional for businesses. Accordingly, employers are free to set remuneration and bonuses without making cumbersome references to the regulatory defined wage / position matrixes.

## 5. Stimulating of business activity

On 31 December 2010, the President of Belarus signed a Directive No 4, "On the Development of Entrepreneurship Initiative and Stimulating Business Activity in the Republic of Belarus", aiming at further liberalisation of the economy and the promoting of business initiative. The Directive establishes conceptual goals and approaches in the following areas:

- development of fair competition between businesses;
- development of private property;
- removing excessive administrative barriers;
- harmonisation of the Belarusian tax system with systems applied in European countries;
- improving the infrastructure and system of financing small business;
- excluding excessive regulation of the labour market;
- development of state-private business partnership;
- simplification of business registration procedures.

Though the Directive itself does not have direct regulatory effect, it provides for much required political will for changing the attitude toward businesses and instructions to legislative bodies and authorities to make the appropriate revisions to the regulation and institutional framework to boost business activities.

## 6. New regulatory initiatives

The new draft of the Investment Code contains additional preferences and guarantees for investors to promote innovations and export. It is expected to be approved by the end of 2011.

A bill on public private partnership is being drafted. Apart from a general framework it will provide for formats of cooperation between the Government and private businesses, mechanisms of implementation, guarantees and risks of the parties involved, and procedures for resolving disputes.

## Outlook

Creating a favourable investment climate and attracting foreign direct investments have been declared in recent years to be the priority areas of the new economic liberalisation initiatives of the state. Significant steps in liberalising the economy and improving the investment climate have already put Belarus in third place of the top world reformers for the last five years according to the World Bank's "Doing Business 2011" report. The report assigned to Belarus 68th rank for the comprehensive criteria "ease of doing business", down from the 64 position assigned in "Doing Business 2010". Despite the decrease, the rating is still significantly higher than the 110 placement assigned by "Doing Business 2008", prior to commencement of liberalisation initiatives. It should be noted that "Doing Business 2011" was published in 2010 based on data then available. Later liberalisation initiatives, particularly in the tax environment, introduced in 2011, are not reflected in the ratings assigned.

Significant challenges the Belarusian economy is facing in 2011, on the one hand, will (and have already had) a material short-term negative effect on the performance of the economy and investor sentiments. On the other hand, as restructuring of the economy becomes most inevitable than ever to ensure its long-term competitiveness, the long awaited change in attitude towards the private sector, mass privatisation, and other steps are bound to open significant investment opportunities in the medium term. To this end, despite the poor historical progress in this area, the outlook for implementation of the Government's announced privatisation plan of 244 companies in the 2011-2013 period (including 180 companies in 2011) and streamlining of the privatisation process have become more certain, albeit delayed.

## Sovereign rating

Belarus was assigned its first sovereign credit ratings by Standard & Poor's and Moody's Investors' Service only in 2007.

On 26 January 2009 and on 30 June 2009, Standard & Poor's affirmed its 'B+' foreign currency and 'BB' local currency long-term sovereign ratings and 'B' short-term sovereign credit rating for the country. The outlook remained negative. The transfer and convertibility assessment remained at 'B+'.

There were no changes of sovereign credit rating for the Republic of Belarus during 2010, however, in response to the issues facing the economy of Belarus in 2011, on 15 March 2011 Standard & Poor's Ratings Services lowered its long-term foreign currency ratings on the Republic of Belarus to 'B' from 'B+' and its long-term local currency ratings to 'B+' from 'BB' with a negative outlook for both long-term ratings. The short-term local and foreign currency ratings were affirmed at 'B'. The transfer and convertibility assessment for Belarus has been changed to 'B'.

On 27 May 2011 Standard & Poor's Ratings Services further lowered its long-term local currency sovereign credit rating on Belarus to 'B' from 'B+' and placed it on CreditWatch with negative implications. At the same time, 'B' long-term foreign currency and 'B' short-term foreign and local currency sovereign credit ratings were placed on CreditWatch negative. The transfer and convertibility assessment for Belarus remained at 'B'.

On 29 March 2011 Moody's Investors Service has downgraded the government of Belarus' foreign and local currency bond ratings to B2 and has assigned a negative outlook to the ratings. In addition, Belarus' foreign currency bond ceiling has been lowered to B1 and the foreign currency bank deposit ceiling to B3. Belarus' local currency bond and deposit ceilings were lowered to Ba1.

On 21 July 2011 Moody's Investors Service has further downgraded the foreign and local currency government bond ratings of Belarus to B3, the country's foreign-currency bond ceiling to B3 and the foreign-currency bank deposit ceiling to Caa1. The local currency bond and bank deposit ceilings were downgraded to Ba3. This rating action was prompted by the limited external assistance received to bridge the country's balance-of-payments gap, the impact of foreign exchange shortages, the significant devaluation of the Belarusian currency and a likely growth downturn on the health of the banking system, as well as by continued concerns over the political and economic fallout of external liquidity constraints. All the ratings remain on review for further possible downgrade.

Originally, on 22 August 2007, Moody's Investor Service rated the country's bonds at B1.

## Chapter 3

# Business law

### How to invest

The Investment Code is the main legislative act in the sphere of investment activity.

According to the Investment Code, in the Republic of Belarus foreign investors are considered to be:

- foreign states and their administrative-territorial units represented by authorised agencies;
- international organisations;
- foreign legal entities;
- foreign organisations which are not legal entities and are created in accordance with the legislation of foreign states;
- foreign citizens;
- physical bodies (citizens of the Republic of Belarus and stateless persons), who constantly live outside of the Republic of Belarus).

Investment activity in Belarus is carried out in the following forms:

- creation of the legal entity;
- acquisition of property or property rights such as:
  - shares in statutory fund of the legal entity, including cases of the legal entity's statutory fund increase;
  - properties;
  - equity;
  - intellectual property rights;
  - concession;
  - equipment.

The most popular means for foreign investors to enter the Belarusian market is to either open a representative office or to establish a legal entity.

## Accreditation of representative offices of foreign organisations

Permission to open representative offices of foreign organisations in the Republic of Belarus is given by the Ministry of Foreign Affairs of the Republic of Belarus.

The opening and activity of foreign organisations' representative offices in Belarus is regulated by the Regulations N 929 approved by the Council of Ministers on 22 July 1997.

According to the Regulations, the activity of foreign organisations in Belarus through a branch of the organisation is prohibited. However, it is allowed to act through a representative office. By their functions representative offices are similar to branches in other countries. A representative office is not considered as a legal entity of the Republic of Belarus and has the right to do business on the territory of the Republic of Belarus only on behalf of the foreign organisation. A representative office represents and protects the interests of the organisation and performs other functions consistent with the legislation.

Representative offices of organisations can be opened for the representation of a commercial organisation (for example, to explore opportunities for investment in the Republic of Belarus; or to represent and protect the interests of a commercial organisation) or a non-profit organisation (e.g., for the means of environmental or animal protection; promoting activities in the fields of education, science, culture, art etc.).

Representative offices can be opened for a period as required by a foreign organisation with the possibility for extension. It is necessary to pay a state duty in the amount of 65 basic units (1 basic unit = BYR 35 000), approximately EUR 550 per each year of the representative office's activity in Belarus.

A representative office is considered to be created on the territory of the Republic of Belarus on the date the permit for its opening is received in the Ministry of Foreign Affairs.

The head of the representative office acts by proxy given by the foreign organisation. Semi-annually, (within the first 10 days of January and July) the head of the representative office must present a report on the activities of the representative office to the Ministry of Foreign Affairs.

The approximate time from the date of application to the obtaining of the permit to open a representative office is 10 days. Tax registration, opening of accounts, obtaining a stamp and other similar procedures take an additional two to three weeks.

## Corporate legal entities

Foreign investors are allowed to set up legal entities in any form provided for by the Belarusian legislation with any volume of foreign investment. The possible forms of legal entities are:

- unitary enterprise (UE);
- limited liability company;
- superadded liability company;

- closed joint-stock company;
- opened joint-stock company.

Belarusian law provides for two options for investors' participation in the establishment of a legal entity.

The first option allows any foreign investor to establish a legal entity equally with a Belarusian resident in any legal form with the minimum required amount of authorised capital. Below the legal requirements are provided for the aforementioned forms of legal entities and related peculiarities:

Form of legal entity	Shareholders min/max	Minimum amount of authorised capital *	Responsibility	Notes
UE	1/1	On decision of shareholders	The owner is not charged with the UE's responsibilities nor vice versa. The owner is only responsible to the extent of the value of one's contribution to the authorised capital. ***	The founder of an UE is the owner of its assets. An UE only has the right of economic management over its assets. It can dispose of assets only by authority of the owner.
LLC	2/50	On decision of shareholders	The shareholders are not charged with an LLC's responsibilities nor vice versa. The shareholders are only responsible to the extent of the value of their contributions to the authorised capital. ***	Authorised capital is divided into shares. The shares are not subject to any issue or registration. The LLC is the owner of its assets. The shareholders may at any time leave the LLC, sell or dispose of their shares.

SLC	2/50	On decision of shareholders	Shareholders are not charged with an SLC's responsibilities (except the added liability) nor vice versa. The shareholders only bear the risk of loss to the extent of the value of their contributions to the authorised capital. ***	The only difference between an SLC and an LLC is the additional liability of its shareholders. Shareholders of an SLC are jointly and severally liable for its responsibilities within the limits set up in its statutory documents, but not less than BYR 1,750,000. *
CJSC	2/50	BYR 3,500,000 **	Stockholders are not charged with an CJSC's responsibilities nor vice versa. The stockholders only bear the risk of loss to the extent of the value of shares belonging to them. ***	The authorised capital of a JSC is divided in shares. An issue of shares as well as a change of its nominal value or cancellation is subject to state registration. An OJSC's stockholders have a right to dispose of their shares without consent of other stockholders. An CJSC's stockholders may dispose of their shares with consent of other stockholders and/or to a closed group.
OJSC	2/ not limited	BYR 14,000,000 **	Stockholders are not charged with an OJSC's responsibilities nor vice versa. The stockholders only bear the risk of loss to the extent of the value of shares belonging to them. ***	

\* It's compulsory for all forms of legal entities (except those with the status of organisation with foreign investments) that the authorised capital must be paid in full before state registration.

\*\* As at 1 January 2011.

\*\*\* Exception applicable to any form of legal entity: if a bankruptcy of a legal entity is caused by its founders (shareholders) or other persons, who have rights to give obligatory instructions for the legal entity, such persons, in case of insufficiency of a legal entity's assets, are liable to subsidiary responsibility. It must be proved in court that exact acts of this person(s) caused the bankruptcy.

In the second option, the foreign investor can establish a legal entity, which will have the status of an organisation with foreign investments. It is **not a special form** of legal entity **but a status** that can be obtained by a legal entity with a foreign investor(s) as a shareholder(s). To obtain this status, the aggregate investment of foreign investors must not be less than USD 20,000.

A commercial organisation with foreign investments can be established in the form of:

- a commercial foreign enterprise (hereafter — foreign enterprise);
- a commercial joint venture (hereafter — joint venture).

The statutory fund of foreign enterprises and joint ventures, which has been declared in constitutional documents, should be formed not less than 50 per cent during the first year from the date of state registration of the enterprise by paying in not less than 50 per cent of every participant's share. The remaining 50 per cent must be paid in and the entire process completed within two years from the date of the registration. An exception: the statutory fund of the foreign enterprise or joint venture, which was established in the form of joint-stock company, must be formed in full before the state registration of the enterprise.

According to the Investment Code, the state guarantees to investors:

- right of property and other property rights, acquired legally, as well as protection of those rights;
- equal rights to all investors;
- stability of investor's rights to carry out and cease investment activity;
- free transfer of profits received in Belarus as a result of investment activity outside Belarus after the payment of all taxes and other obligatory charges established by the legislation of Belarus, as well as any gain from sale of vested assets as a result of termination of investment activity.

Investors may at their discretion dispose of profit (income) obtained as a result of investment activities, including reinvesting it in the Republic of Belarus.

Investments may not be nationalised or requisitioned without compensation. Nationalisation or requisitioning are only possible with timely and full compensation of the cost of nationalized/requisitioned investment assets and other damages that resulted from such nationalization/requisition.

For foreign investors in the Republic of Belarus, it is prohibited to invest into the following spheres:

- the defence and security support of the Republic of Belarus without special approval by the President of the Republic of Belarus;
- the production and sale of drugs, and potent and toxic substances according to a list provided by the Public Health Service of the Republic of Belarus.

Foreign investments in companies that hold a monopolistic position in the market of the Republic of Belarus are not allowed without the agreement of the Economy Ministry of the Republic of Belarus.

### **Incorporation and capital requirements**

In order to establish a company, certain documents must be prepared and specific actions must take place before the application for the state registration, such as:

1. A certificate on name agreement from the registration agency must be acquired. Belarusian legislation strictly regulates the naming process of companies and does not permit the registration of companies with the same or similar sounding names.
2. The location of the company must be determined.
3. A decision on the company's establishment, preparation and an affirmation of its charter must be made.
4. The statutory fund must be formed (except companies with the status of foreign investments).

Representatives may act on behalf of the founders, with authority granted by a correspondent warrant. As a rule, activities connected with the registration of the company are performed by the firm's legal advisers.

The registration of the company is carried out on the day of the appeal to the registration agency. The registration certificate is issued the following day. Within the next five working days, the tax registration of the company should be performed, a current account is set up, and the administrative authorities are appointed. Once these procedures have been completed, the organisation may commence operations.

Documents provided for state registration should be in Russian or Belarusian. Official documents in foreign languages should be authorised and translated into Russian or Belarusian.

The amount of the state registration fee does not depend on the business legal structure of the legal body to be established. The cost of the legal services depends on the complexity and the scope of the work.

The requirement for the minimum amount of the statutory fund is determined only for joint stock companies. The minimum amount of the statutory fund of other forms of companies is determined by their legal requirements. However, to obtain the status of organisation with foreign investments a legal entity's statutory fund should be the equivalent of not less than USD 20,000.

### **Management**

Governing structures vary depending on the form of the legal entity. The simplest governing body is the unitary enterprise (UE), which is established by a sole owner who has control over the UE and its assets and appoints a director who acts as the executive body of the UE.

The Law on Commercial Companies sets up the governing bodies for the most common form of legal entity in Belarus, which is a limited liability company (LLC), as well as for stock companies. Unlike an UE, these forms have more complicated structures of governing bodies. For example, in the LLC the main governing body is the general meeting of shareholders. It makes the most important decisions, some of which cannot be delegated to any other governing body. Different types of decisions need to be secured by a certain quorum to be approved by the general meeting. Also it is possible to create a Committee of Directors which is not an executive body and is appointed by the general meeting of shareholders. As to the executive body of an LLC, the law provides the option of choosing between individuals or a corporate body. The law strictly regulates the list of issues that either governing body can decide and separates their functions.

## Merger

Mergers are regulated under the Belarusian Civil Code in the Law on Commercial Companies, which provides for two types of mergers.

- Merger – when two or more legal entities that have terminated their activity join to create a new entity. The original organisations cease to exist and a third organisation is created that accepts all of the rights and obligations of the former legal entities.
- Annexation – the termination of activity of one or several legal entities as a result of the transfer of rights and obligations to another legal entity to which the association is carried out.

Founders (participants) of the legal entity, or their representative, who made the decision on the legal entity's reorganisation, are obliged to give written notice of the reorganisation to the creditors of the legal entity to be reorganised.

The creditors of the reorganised legal entity have the right to require the termination or pre-term satisfaction of any obligations the debtor of which is this legal entity, and the compensation of losses.

## Chapter 4

# Taxation

### General provisions

The tax legislation in Belarus is based on the following fundamental documents:

- General section of the Tax Code;
- Special section of the Tax Code;
- Statutory Budget for the current year<sup>1</sup>.

The General section of the Tax Code stipulates the basic taxation concepts and principles. The following taxes and duties are stipulated by the General section of the Tax Code:

- National taxes and duties:
  - Value Added Tax (VAT)
  - Excise Duty
  - Corporate Profit Tax (CPT)
  - Withholding tax on income of foreign legal entities not engaged in commercial activities in Belarus through a permanent establishment (WHT)
  - Personal Income Tax (PIT)
  - Real Estate Tax
  - Land Tax
  - Ecological Tax
  - tax for the extraction (removal) of natural resources
  - road toll on foreign registered vehicles
  - Offshore Due
  - Stamp Duty
  - Consular Fee
  - State Fee
  - Patent Fee
  - Customs duties and customs fees.

<sup>1</sup> Statutory Budget for the current year is issued on the annual basis.

- Local taxes and duties:
  - tax for the possession of dogs
  - resort levy
  - tax on gatherers.

The Special section of the Tax Code:

- stipulates the rules for accrual and payment of specific national and local taxes and duties;
- on the special tax regimes:
  - simplified taxation system
  - single tax on individual entrepreneurs
  - single tax on producers of agricultural products
  - tax on gambling
  - tax on income from lottery activity
  - tax on income of interactive electronic games
  - levy on craft activity
  - Levy on farm eco-tourism.
- determines the taxation of certain categories of tax payers:
  - taxation in free economic zones
  - taxation of farms
  - taxation of state organisations
  - taxation of Bar Associations.
- determines along with the presidential decree taxation in the so-called High Technology Park (HTP)
- establishes the rates of excise tax, land tax, environmental taxes, road tolls on foreign registered vehicles, consular fees, state fees, patent fees.

The Statutory Budget defines and regulates a list of budgetary funds and rules for the formation of budgetary funds as well as norms of deductions of taxes to local budgets and the national budget.

A two-tier taxation system is applied in Belarus. All taxes and duties are divided into "state taxes and duties" and "local taxes and duties". Specific regulations of some taxes provided for in the Tax Code are stipulated according to the annually issued local budgets.

Social Security Contribution payments are regulated by specific legislative acts.

## BUSINESS TAXATION

### Tax residency

Under the effective legislation (General Section of the Tax Code) **Belarusian Entities** are considered to be **tax residents** and therefore subject to the full range of taxes and duties imposed on income acquired from sources in Belarus and abroad, and taxes and duties imposed on assets located on the territory of Belarus and abroad. **Foreign entities** are not considered as tax residents and therefore are subject to taxes imposed on activities realised in Belarus, on income acquired and on assets on the territory of Belarus.

Entities located on the territory of Belarus are considered to be **Belarusian entities**; entities located in places other than Belarus are **foreign entities**.

**Location** is the place of state registration of the entity or, in the case of absence of state registration, is a place where the power of the superior executive body is realised. In the case of absence of a superior executive body a place is where the power of other executive bodies is realised (administration, management board or other bodies which perform operating financial control over the entity). In the event of absence of such bodies the location is where the decisions on initiation, liquidation, restructuring, changes in the founders' membership, and increase or decrease of the statutory fund amount is made, or the place where the main accounting documents are held, or the shareholder's, or manager's domicile.

### Permanent establishment

The permanent establishment (PE) includes the following:

- a separate business unit through which foreign entities business activities are realised, including:
  - the place of production and sale of products;
  - the place of the sale of goods, other commodities, property rights, place of service rendering and works performing, or other activities;
- exceptions include the storing, demonstration and supply of self-produced products without realisation on the territory of the Republic of Belarus through the Permanent Establishment: procurement of goods for foreign entities; collecting or distributing information for the benefit of a foreign organisation; other preparatory and auxiliary activities.
- an organisation or individual engaged in activities on behalf of a foreign organisation and (or) in its interests, and (or) using the authority of a foreign organisation to enter into contracts or agree on its essential terms. A foreign organisation is not seen as having a permanent establishment, if the organisation and implementation of activities on behalf of a foreign organisation and (or) in its interest a local organisation or person acting in the ordinary course of business.

The entities or individuals which are considered as a permanent establishment, through which the foreign entities perform their activities on the territory of Belarus, must register as tax payers according to the location or domicile respectively, and accrue and pay taxes on income from sources in Belarus due to the foreign entities.

Specific rules may be stipulated in international double-tax treaties (DTT). If the rules stipulated by the double tax treaties differ from those described in the National Laws, the rules under the double tax treaties are applied.

### Tax payers

Specific terms are regulated by the Tax Code under which entities and individuals that are obliged to pay taxes are considered as tax payers.

The term entity under the Tax Code includes:

- Belarusian legal entities
- Foreign and international legal and other entities
- Ordinary partnerships (as defined in Civil code)
- Economic groups.

Branches, representative offices, and other separate subdivisions of Belarusian legal entities which have a separate balance and bank account are required to calculate and pay taxes.

A partner who is accountable for the administration of business of the ordinary partnership or who is charged to receive revenue before distribution settles the tax liabilities of an ordinary partnership.

The head entity of the economic group or other member of the economic group that under legislation or contract is vested with the authority to run the economic group settles the tax liabilities of the economic group.

The term "individual" under the tax code includes:

- citizens of Belarus
- citizens or nationals of a foreign states
- individuals without nationality.

### Corporate profit tax (CPT)

**Tax payers** – The entities (for more details, refer to the paragraph on Tax payers).

**Tax base** – The corporate profit tax base is gross profits and dividends accrued by Belarusian organisations.

Gross profit for the purposes of this chapter is recognised:

- for Belarusian organisations – the amount of profits from the sale of goods (works, services), property rights and non-operating income, reduced by the amount of non-operating expenses;

- for foreign organisations operating in the Republic of Belarus through a permanent establishment – the sum of profits of a foreign organisation, obtained through a permanent establishment in the territory of the Republic of Belarus from the sale of goods (works, services), property rights and non-operating income, reduced by the amount of non-operating expenses.

The list of non-operating income and non-operating expenses as well as the list of not-deductible expenses for tax purposes is stipulated in the Tax Code. For example, there are limits for the salary amount, for business trip expenses and some others to be included in tax-deductible expenses.

Recognition of tax expenses is based on accounting data including relevant corrections.

Tax Code stipulates peculiarity of revenues and expenditures recognition by banks and insurance companies; peculiarities in the definition of gross profit by non-profit organisations, ordinary partnerships and business groups, and certain other categories of tax payers; peculiarities in the definition of gross profit from operations with securities.

According to Belarusian legislation the accounting policy of an entity may stipulate revenue recognition on either an accrual or cash basis.

**Tax rate** – The basic corporate profit tax (CPT) rate is 24 per cent of the tax base. Reduced rates are 12 per cent (applied for dividends; sales of shares; sales of self-produced high-tech goods, works and services); 10 per cent (for producers of laser and optical equipment; for residents of science and technology parks); 5 per cent (for registered members of Science and Technology Association established by the State University selling informational technologies and services).

For special economical zones the CPT rate may be reduced to 12 per cent (50 per cent of standard tax rate) if certain special requirements are met.

**Tax benefits** – The tax law stipulates a list of corporate profit tax benefits, the benefits application procedure and the conditions to be met. The most significant benefits are: the profit from production of baby food; livestock production, crop and fish farming; profit used to finance capital investments (not more than 50 per cent of gross profits) and some others specified by the Tax Code.

**Tax period** – The tax period is one calendar year. The tax period for profit from dividends accrued by Belarusian organisations is one calendar month.

The amount of tax due is stated in tax returns as a progressive total from the beginning of the year.

Tax returns are submitted on a yearly basis to the tax authorities by the 20th of March and the tax should be paid by 22 March of the year following the reporting year. Yearly tax returns should be submitted by representative offices of foreign companies and by foreign companies engaged in commercial activities in Belarus through a permanent establishment as well.

CPT payers should provide current tax payments quarterly in 2011 not later than 22 March, 22 June, 22 September and 22 December of the current fiscal period, and starting with the tax period in 2012 – not later than 22 April, 22 July and 22 October of the current fiscal period, on 22 January the year following the tax period.

A tax payer can apply one of the following methods of accruing and paying current CPT payments:

- one-fourth of the amount of CPT for the tax period immediately preceding the current tax period;
- one-fourth of the estimated amount of income tax in the current tax period, but not less than 80 per cent of the actual amount of CPT for the current tax period.

Tax payers created in the current tax period (except branches and representative offices of Belarusian legal entities and PE of foreign organisations) have a right not to accrue and pay current CPT payments.

Tax returns on the amount of profit from dividends are submitted on a monthly basis to the tax authorities by the 20th day and tax should be paid by the 22nd day of the month following the reporting month.

**“Loss carry back/forward”** rules are not applicable in Belarus.

**Transfer pricing regulations** have not yet been established in Belarus.

## **Withholding tax on the income of foreign legal entities not engaged in commercial activities in Belarus through a permanent establishment (WHT)**

### **Tax payers**

Foreign entities not engaged in commercial activities in Belarus through a permanent establishment but profiting from sources in the Republic of Belarus are considered to be tax payers. The tax on the income of foreign legal entities generated on the territory of Belarus is withheld by legal entities or individual entrepreneurs (the tax agents) who accrue or pay out the income of the foreign legal entity, out of the full amount of such income. In the case of non-cash income, tax is calculated on the basis of its cash equivalent.

### **Subject to taxation**

Incomes specified in the list derived from sources in Belarus (including advance payments) accrued or paid in favour of foreign legal entities, that are not engaged in commercial activity through a permanent establishment. Subject to taxation are income from transportation, forwarding and chartering; interest; royalty; dividends; agent's fees; penalties; R&D fees; disposal of real estate, entities and securities; disposal of shares and stakes in companies; consulting, accounting, auditing, marketing, legal, engineering fees; mediation services; management services; recruitment services, training, storage of property, insurance, advertising; installation, commissioning, testing and maintenance of equipment; cargo protection; providing access to the informational complex and some others including specified incomes paid/accrued by the foreign organisation to another one.

### **Tax rates**

The income of foreign legal entities not engaged in commercial activities in Belarus through a permanent establishment is subject to taxation at the following rates:

- 5 per cent rate is applied for dividends, interest, royalties and licenses from HTP residents;
- 6 per cent rate is applied for cross-border transportation, forwarding and chartering fees (including demurrage and other payments arising in transit);
- 10 per cent rate is applied for interest income retained from debt obligations of any type including: credit facilities, loans and income on interest (discount) securities;
- 12 per cent rate is applied for dividends and disposal of shares and stakes in companies;
- 15 per cent rate is applied for other income under the list stipulated by the Tax Code.

Belarus has ratified international double-tax treaties and international treaties on mutual investment protection with a number of countries (please see Appendix 1 and Appendix 2 respectively for more details). Double-tax treaties can stipulate rules and rates that may conflict with those of the Tax Code. In the event that the rules and rates stipulated by the double tax treaties differ from those described in the Tax Code, the rules and rates under double tax treaties are applied.

### **Tax period**

Tax returns are submitted on a monthly basis to the tax authorities by the 20th and the tax is to be paid by the 22nd day of the month following the reporting month.

### **Value added tax (VAT)**

#### **VAT payable**

Tax payers – organisations, individual entrepreneurs, trustee and individuals that under legislation are obliged to pay taxes (for more details, refer to Tax payers paragraph).

An individual entrepreneur is considered as a VAT payer on a voluntary basis or when the turnover for the previous three months exceeds the equivalent of EUR 40,000. Individuals are considered as VAT payers in compliance with Belarusian legislation and international treaties when they import goods into Belarus.

#### **Tax rates**

Taxation is subject to the following tax rates:

- The basic VAT rate is 20 per cent.
- The 0 per cent rate is applied to export sales of goods, work (services), sales of trucking, loading and re-loading services or other similar services directly related to the export sales, exports of transportation services (including transit transportation), exports of work (services) connected with the production of goods from customer supplied raw materials, works (services) on repair, modernisation and re-equipment of aircrafts and their engines, rolling stock units.
- The 10 per cent rate is applied to sales in the territory of Belarus of crop production (except flowers and ornamental plants) and livestock production (except fur farming),

fish and bee farming produced in Belarus; imports to the customs territory and sales in the territory of Belarus of goods for children and food according to a list defined by the president such as grain, milk, butter, fish, flesh and other products.

- The 0.5 per cent rate is applied to diamonds and other precious stones delivered from the Member States of the Customs Union (Russian Federation, Kazakhstan and Belarus) for production use.

### **Tax base**

The turnover from the sale of goods (work, services), property rights (including compensation-free transfers of goods (work, services, ownership rights) and cost of goods imported to the customs territory of Belarus are subject to taxation.

### **Determination of place**

Determination of the place of supply of goods (work, services) and ownership rights is regulated by the General Section of the Tax Code.

Belarus is considered as the place of the sale of goods when the goods are located on the territory of Belarus and are not dispatched nor transported, or the goods are located on the territory of Belarus at the moment when the dispatch or transportation starts.

Belarus is considered as the place of sale of work and services when:

- work and services are connected with immovable property (except aeroplanes, marine vessels and inland vessels, and space objects) located on the territory of Belarus (applicable to rent and lease services as well);
- work and services are connected with movable assets located on the territory of Belarus (including aeroplanes, marine vessels and inland vessels, space objects);
- work and services in the field of culture, art, education, tourism, physical education, sport and recreation;
- the buyer of work and services, with ownership rights, performs activities on the territory of Belarus or its location (for entities) or domicile (for individuals) is Belarus. This paragraph is applicable to the rendering of assurance services, consultation, legal, accounting, engineering, advertising, marketing and other services;
- the activities of the entities or individual entrepreneurs connected with the rendering of work, services and the sales of proprietary rights (except ownership rights) performed in the territory of Belarus. This paragraph relates to the rendering of goods, passengers, luggage transportation services, rent and leasing of transport (including transport with equipage).

When the sales of goods (work, services) or the proprietary rights are performed by foreign entities not engaged in commercial activities in Belarus through a permanent establishment (and therefore not registered on the territory of Belarus as tax payers), then VAT is withheld by the entities or individuals (registered as tax payers on the territory of Belarus) acquiring the goods (work, services) and proprietary rights.

**Determination of moment.** The date on which an output VAT liability is deemed to arise depends on whether the tax payer is on a cash or accruals basis for VAT, as per its accounting policy.

If the payer recognises revenue on an accruals basis (i.e. accounts for his profit when the goods or services have been dispatched or rendered to the customer despite the payments), a VAT liability will arise each time goods are dispatched, or made available to the customer. With respect to works and services, a VAT liability will arise when all of the work is completed and the results have been transferred to or accepted by the customer.

If the payer recognises revenue on a cash basis, a VAT liability will arise each time a payment is received from the customer, which relates to rendered goods or services but not later than 60 days after the goods or services were delivered.

There are detailed rules for determining what constitutes payment when consideration is received in non-monetary form; when goods or services are rendered for free; when goods or services are dispatched by foreign organisations on the territory of Belarus; on other disposal of goods, fixed assets, intangible assets, and construction in progress. If a barter deal takes place, a VAT liability arises on the date when the goods (services) to be bartered are supplied to the counterparty.

## Tax benefits

The list of turnovers from the sale of goods (works, services) in Belarus as well as the amounts of goods being imported into the customs territory of Belarus exempt from VAT is specified by applicable legislative acts.

Turnovers released from VAT:

- Property contributions to the statutory fund in accordance with the restrictions stipulated in the constituent documents;
- Operations with securities;
- Compensation-free and for compensation transfers of fixed and intangible assets within one proprietor;
- Work and services on housing construction according to the list under presidential decree;
- Other turnovers stipulated by the Tax Code.

## Tax period

The tax period for VAT is one calendar year. The reporting period for tax returns is chosen by the tax payer on a monthly basis or on a quarterly basis. Tax returns should be submitted to the tax authorities by the 20th and the tax is to be paid by the 22nd day of the month following the reporting period. The amount of tax due is stated in the tax returns as a progressive total from the beginning of the year. A specific VAT payment scheme (advanced payments) is not stipulated starting from 2011.

## VAT deductible

The total amount of VAT to be paid can be reduced by the amount of VAT paid to suppliers when acquiring goods, (work, services), fixed assets, proprietary rights and the amount of VAT paid when importing into the customs territory of Belarus of goods (works, services), fixed assets.

In case VAT deductions exceed VAT to be paid, the payer is not obliged to pay VAT, and the difference is carried over without penalty and deducted from the tax liability in the next period, or refunded to the payer.

## Excise duties

**Tax payers.** The entities, individual entrepreneurs, and individuals that under legislation are obliged to pay taxes (for more details refer to the “Tax payers” paragraph) that produce or import excisable goods to the customs territory of Belarus.

**Tax rates.** The rates of excise duties specified by the Tax Code, either in the form of a fixed amount for a physical unit of excisable goods (fixed rates) or as a percentage of their value (ad valorem rates).

**Objects to taxation.** Excise duty is payable on the production, delivering and import of excisable goods. Some excisable goods for sale should be marked with excise stamps (alcohol products).

**Tax base.** The tax base for delivery of produced excisable goods is determined as the following:

- The volume of delivered excisable goods in natural units in relation of which fixed rates are specified;
- The value of delivered excisable goods (determined as the sales price of goods reduced by the excise amount) in relation of which ad valorem tax rates are specified.

The tax base for goods imported into the customs territory of Belarus is determined as the following:

- The volume of excisable goods in natural units in relation of which fixed rates are specified;
- The customs value of excisable goods (increased by the amount of custom duties) in relation of which ad valorem tax rates are specified.

The following goods (products) are subject to excise duty:

1. Technical wood-hydrolysis alcohol;
2. Alcohol production: ethyl alcohol, alcohol drinks containing 7 percent or more of ethanol by volume;
3. Alcohol containing undrinkable solutions;
4. Beer and beer cocktails, cider;

5. Low-alcohol drinks containing from 1.2 to 7 per cent ethanol by volume; food products as solutions, emulsions, suspensions, containing alcohol and produced with the use of ethanol alcohol;
6. Tobacco products;
7. Automobile fuel, petrol or diesel (biodiesel) fuel, marine fuel and other fuel including gas fuel used as motor fuel, oil for diesel and/or carburettor (injector) engines;
8. Minibuses and passenger cars (including those modified into cargo carriers).

**Determination of moment.** The moment of sale is determined under the Tax code concerning excise duties:

- if the payer recognises revenue on an accruals basis – the date of excisable goods dispatch (shipment) from a warehouse;
- if the payer recognises revenue on a cash basis – the date when payment is received from the customer but not later than 60 days after the goods were delivered or dispatched;
- for excisable goods used for the production of non-excisable goods, the date when the goods were written off to production.

**Tax benefits.** The list of the goods being turned over, including the goods being imported into the customs territory of Belarus, that are excise-exempt is specified in the Tax Code, international treaties and in presidential legislative acts.

**Tax period.** The tax period for excise duties is one calendar month. Tax returns are submitted on a monthly basis to the tax authorities by the 20th day of the month and tax is to be paid by the 22nd day of the following month. A specific excise payment scheme (advanced payments) is not stipulated from 2011.

## Real estate tax

**Tax payers.** The organisations and the individuals that under the legislation are obliged to pay taxes (for more details refer to “Tax payers” paragraph).

### Tax payers’ recognition

- **Lease contracts.** Tax is calculated and paid by the lessee (user) based on the value of real estate located on the territory of Belarus.
- **Pipeline infrastructure.** In the case of taxes on the value of objects of major pipeline transport, oil pipe lines, gas pipelines, technical gas pipelines and pipe branches, stations, storages, installations and other taxable objects facilitating the operation of major pipeline transport, oil pipe lines, gas pipelines, technical gas pipelines and pipe branches located on the territory of Belarus, leased out or passed in other free or for pay use by foreign entities, then the tax is calculated and paid by that foreign entity.
- **Individuals.** If buildings and facilities are rented by an individual from an individual, then the tax is calculated and paid by the lessor.

- **Individual entrepreneurs.** If lessees are individual entrepreneurs, then the tax on the value of building and facilities leased by these individuals and under contracts not on the lessor balance is calculated and paid by the lessees.

**Tax rates.** The basic annual tax rate for legal entities is 1 per cent; however the tax rate can be increased up to 2 per cent for objects of unfinished construction that exceed the norms stipulated by legislation if a company engages in new construction projects. The tax rate for individuals and individual entrepreneurs is 0.1 per cent per annum.

Under the Tax Code, real estate tax rates can be increased or decreased by the local authorities up to two-fold for certain categories of tax payers. Local budgets stipulate the increase (or decrease) of rates by the implementing of indices. For example the territory of Minsk is divided into five zones with a specific index for each, from 1.7 to 2.0.

**Tax base.** The net book value of buildings, structures and unfinished construction that are owned or used by the tax payer as at the beginning of the year is the tax base for organisations. Valuation of the owned and situated buildings and structures in Belarus, performed according to an order stipulated by the president, is the tax base for individuals.

For real estate acquired during the year the tax base is calculated by multiplying the proportion of the number of full quarters being operating out of the year to the year end tax rate and the net book value of the acquired real estate as at the first day of the first month of the quarter that follows the quarter in which the acquisition was made.

For real estate disposed of during the year, the tax is not calculated and not paid from the quarter that follows the quarter when a disposal was made.

**Tax benefits.** The objects that are not subject to real estate tax are:

- Buildings and facilities of social and cultural assignment and of housing fund that belong to the local deputies' council and to the organisations;
- Buildings and the constructions recognised as historical and cultural values, included in the State list of historical and cultural values of the Republic of Belarus, under the list confirmed by the President of the Republic of Belarus;
- Buildings and facilities that bear conservation status;
- religious buildings;
- Buildings and facilities for the protection of the environment and nature (the list of buildings and facilities considered under this exemption is stipulated by the president);
- Buildings and facilities used for agricultural production;
- Buildings and constructions of the organisations within one year from the moment of their first commissioning;
- Other benefits stipulated by the Tax Code.

**Tax period.** The tax period is one calendar year. Tax returns are submitted on an annual basis to the tax authorities by 20 January of the reporting year. Payment of the real estate tax is made by the organisations quarterly not later than 22nd day of the first month of each quarter at a rate of the one-fourth annual sum of the tax.

## Land tax

**Tax payers.** Legal entities and individuals (including foreign legal entities and individuals) which were provided with the right of possession, right of use or the rights of ownership of a plot of land are considered as tax payers.

**Tax base.** Cadastral valuation of a plot of land at 1 January of the current year is recognised as the tax base.

**Tax rates.** Tax Code stipulates the tax rates for the plots of lands depending on their purposes of use (agricultural, human settlements, industrial, forest, water resources and others). The tax rate and tax amount are determined depending on the quality and location of the plot. The amount of tax to be paid is determined as an annually paid fixed amount for one hectare of land.

Under the Tax Code the land tax rates can be increased or decreased by the local authorities but not greater than two-fold for specific categories of tax payers. Some local budgets stipulate the increase of rates by the implementing of indices. For example the territory of Minsk is divided into five zones with a particular index for each, from 1.7 to 2.0.

## Tax benefits

The following land plots are exempt from taxation:

- Land plots provided to the entities engaged in construction and maintenance of hydroeconomic systems – for the period of realisation of construction and maintenance work;
- Land plots occupied by the sport facilities which are the main training centres for national Belarusian teams;
- Land plots provided to the entities for period of domestic building construction;
- Land plots occupied by the of renewable energy objects;
- Other benefits are stipulated by legislation.

**Tax period.** Tax returns containing the information on the amount of calculated tax or information on the amount of rentals for 1 January of the current year are submitted annually (not later than 20 February of the reporting year) by tax payers to the tax authorities. The tax is to be paid on the 22nd day of the second month of each quarter in the amount of one quarter of the annual payment.

## Other taxes

### State taxes and duties

**Offshore levy.** The following transactions are subject to taxation:

- transfer of funds by the residents of Belarus to non residents of Belarus registered in offshore zones, or to other persons under obligations to non residents mentioned above, or to accounts opened in the offshore zones;
- settlement of a non-cash obligation to a non resident of Belarus registered in an offshore zone;
- transfer of property rights or obligations due to a change of parties in obligation when they are a resident of Belarus and a non resident of Belarus registered in an offshore zone.

A 15 per cent rate is applied for taxation of the transactions mentioned above.

Transactions connected with the redemption by legal entities and individual entrepreneurs of loans and interest on loans granted by a non resident or other funds obtained from a non resident in accordance with legislation or agreement are exempt from offshore levy. Some other operations exempted from offshore levy are stipulated by the Tax Code or by presidential decree.

A list of offshore zones (Appendix 3) is stipulated by presidential decree.

**Ecological tax.** The following objects of taxation are stipulated by the Tax Code:

- contaminant release into the atmosphere
- waste water pollution
- storage and disposal of production residue (waste)
- import of ozone destroying (depleting) substances.

Ecological Tax rates are stipulated by the Tax Code.

## Other specifics of taxation

### Preferential tax treatments

**Unified tax on business entities subject to simplified taxation.** Under Belarusian legislation there is a list of conditions by which a tax payer can make use of a simplified taxation scheme. Entities with an average number of employees not greater than 100 with gross revenue (for nine months of the year previous to the year of the simplified taxation scheme application) not greater than **BYR 3,090,150,000 (approximately EUR 745,000)**.

There is a list of entities and individual entrepreneurs that are not allowed to make use of the simplified taxation scheme under the current legislation (producers of excisable goods; jewellery sellers; gambling and lottery business; partnerships; residents of FEZ and HTP; professionals of securities market; banking; insurance and others).

The users of the simplified taxation scheme are not released from the following taxes and duties:

- Taxes and duties imposed on goods imported to the customs territory or exported from the customs territory of Belarus
- National duties
- Offshore levy
- Stamp Duty
- Profit tax on operations with securities
- The profit tax on dividends and equal incomes
- Contributions to the Social Security Fund
- VAT (except for entities with less than an average of 15 employees and whose total progressive revenue amount is less than BYR 1,177,200,000 (approximately EUR 285,000))
- Real estate tax
- Land tax.

The tax base is gross revenue determined as the amount of revenue earned by entities and individual entrepreneurs during the taxable period from the sale of goods (work, services), ownership rights to intellectual property and non-operating income excluding VAT.

The tax base for entities with less than an average of five employees and whose progressive gross revenue total amount is less than BYR 1,177,200,000 (approximately EUR 285,000) is gross income determined as the difference between gross revenue and cost of sales.

The enterprises and individual entrepreneurs which are allowed to use the simplified system of taxation, apply the following rates to their gross revenue:

8 per cent – for organisations and individual entrepreneurs who do not pay VAT

6 per cent – for organisations and individual entrepreneurs who pay VAT

3 per cent – for organisations and individual entrepreneurs who export goods and services if an alternative rate isn't provided by the President of Belarus

15 per cent – for organisations and individuals which determine the tax base as gross income.

For entities located in rural areas, the following rates are applied:

5 per cent – for organisations and individual entrepreneurs who do not pay VAT

3 per cent – for organisations and individual entrepreneurs who pay VAT.

### Single tax on individual entrepreneurs

Under Belarusian legislation there is a list of activities (services provided to individuals according to the list stipulated in the tax code; some types of retail trade) when unified tax on individual entrepreneurs is applied.

**Single tax on agricultural producers.** The calculation and payment of a unified tax on agricultural producers replaces the duty to calculate and pay other taxes with the following exceptions:

- excise duties
- VAT
- dividend income
- state duties
- offshore levy
- Social Security fund contributions
- custom duties.

The entities for whom not less than 50 per cent of revenue is obtained from the sale of agricultural production, except for the sale of flowers and fur farming production, are eligible for the unified tax.

The single tax is calculated at 2 per cent rate of gross revenues from the sale of goods (work, services) and other property, and income earned on non-operating transactions.

**Tax on the gambling industry.** Gaming tables, slot machines, pari-mutuel counters, and bookmaker's counters are recognised as objects to taxation. The tax is calculated from the number of objects that exist at the beginning of the reporting month. Fixed rates of tax on the gambling industry are established by the legislation for each item of taxable object in euro per gambling unit.

**Tax on income generated by lottery sales and electronic interactive games.** Income derived from the organisation and performing of lotteries and electronic interactive games are exempt from taxation by the following taxes: corporate profit tax, VAT (except VAT paid when importing into the customs territory of Belarus). The taxes are paid at a rate of 8 per cent rate of the revenue minus a price pool.

**Taxation in free economic zones (FEZ).** Residents of six FEZs situated in Belarus are subject to corporate profit tax paid at a rate reduced by 50 per cent (but not greater than a 12 per cent tax rate), VAT, excises, real estate tax (except the tax on objects that are situated on the territory of an FEZ), ecological tax, land tax (or rent), offshore levy, state duty, patent fees, licence and registration fees, stamp duty, local taxes and duties, contributions to the Social Fund in accordance with the Tax Code, Customs Code, presidential decrees and the laws of the Republic of Belarus.

The residents of an FEZ are exempt from corporate profit tax from the selling of own manufactured goods, works and services for five years starting from the day when profits were declared for the first time.

The residents of an FEZ act as tax agents in accordance with the requirements of the Tax Code.

A specific tax regime is applied to the following transactions:

- Sales of goods (work, services) manufactured by the residents of an FEZ on its territory to foreign legal entities or individuals under agreements between them and with the export of goods for limits of territory of Belarus;
- Sales of substitutes of imported goods (work, services) produced by residents of an FEZ in Belarus. A list of goods is specified by legislation and approved by the president;
- Sales of goods (work, services) produced by the residents of an FEZ to other residents of an FEZ under contracts between them.

Taxation of residents of a High Technology Park (“HTP”). Residents of a HTP are exempt from VAT, Corporate profit tax, and real estate tax on the objects situated on the territory of an HTP, local taxes, contributions and obligatory payments to the Minsk local budget. Residents of a High Technology Park make payments at a rate of 1 per cent from revenue received from a previous quarter to the administration of an HTP. Withholding tax on the income of foreign legal entities not engaged in commercial activities in Belarus through a permanent establishment from the HTP residents in kind of dividends, interest, royalties and licenses is taxed at a 5 per cent rate unless a lower rate is specified by DTT. Dividends from an HTP resident to offshore zones are not subject to offshore levy. HTP residents have a right to carry out their activity only in the context of:

- analysis, design and software support of information systems
- activities of data processing
- R&D activities and the selling of their results.

**Taxation of commercial organisations situated in localities with populations under 50,000.** Commercial organisations established after 1 April 2008 situated and operating in localities with populations under 50,000, which are included in the list of settlements approved by the Council of Ministers and agreed with the president, are exempt from profit tax from the sale of goods (work, services) of own production for seven years starting from the date of registration, and are exempt from other taxes and dues (except for VAT, state duty, customs duties, ecological tax, taxes paid when acting as a tax agent) for five years starting from the date of registration.

**Taxation of organisations and individual entrepreneurs situated in rural areas.** Organisations and individual entrepreneurs situated (residing) in rural settlements are exempt from profit tax and real estate tax on the objects situated in those settlements for the period from 1 January 2008 to 31 December 2012, provided that goods are produced (work is performed, services are rendered) within the territory of the rural settlement. Such organisations and individual entrepreneurs enjoy other benefits stipulated by the legislation.

## INDIVIDUAL TAXATION

### Tax residency for individuals

Individuals who have been actually present on the territory of Belarus for a period of more than 183 days in a calendar year are considered to be residents for tax purposes.

The period of residency includes the time that the individual is actually physically located in Belarus as well as the time that the individual is outside of the territory of Belarus for the purposes of medical care, recreation, business, vacation and education. However, the following situations are exceptions:

- Individuals who enjoy diplomatic or consular status or family members of such individuals;
- Employees of international organisations, created under interstate agreements between Belarus and other countries, or family members of such individuals;
- Persons being situated on the territory of Belarus for recreation or medical care purposes only;
- Persons being situated on the territory of Belarus for the purposes of transit travelling from one foreign country to another through the territory of Belarus.

### Personal income tax

**Tax payers.** Individuals and legal entities acting as tax agents (who calculate, withhold and transfer personal income tax due from individuals) under legislation are obliged to pay taxes (for more details refer to the 'Tax payers' paragraph).

**Tax rates.** The following tax rates are applied for personal income taxation:

12 per cent – the basic rate (including dividend income);

15 per cent – applied to income acquired from the sale of goods, work, services and other assets for individual entrepreneurs. The rate is also applied for income drawn from commercial and public notary practice activities;

9 per cent – applied to the income of individuals (except for employees who provide maintenance and security services with respect to buildings, premises, and land plots) drawn from residents of a High Technology Park under labour contracts, as well as income earned by residents of a High Technology Park who are individual entrepreneurs.

**Tax base.** The tax base for personal income tax is the aggregate income of individuals received both in cash and in other forms in a calendar year. The tax base is calculated separately for all kinds of income that are taxed at different rates. For individuals that are not considered residents for tax purposes the tax base is income received from sources in Belarus.

**Tax exemptions.** Some types of income according to the list are exempt from PIT (social allowances, travelling expenses, etc.). The rules regarding tax-exempt income are specified by the applicable law and include confirmation requirements, e.g. the appropriate documenting of travel expenses and accommodation compensation during business trips.

In certain cases tax payers have the right to apply standard, social, property and professional tax exemptions.

**Tax period.** The tax period is a calendar year. The tax is paid by tax payers (individual entrepreneurs) or withheld by the tax agents (usually employers).

If there is no requirement to file an annual tax return, it is the responsibility of the employer (or other Belarusian source of income acting as the tax agent) to calculate, withhold and remit the personal income tax to the government on behalf of an employee. The legal entities that act as tax agents are obliged to withhold personal income tax on a monthly basis unless otherwise stipulated by the legislation.

Individuals who have obtained income from employers who are not tax agents, obtained income from foreign countries, or obtained income not taxed by tax agents are required to submit annual tax returns by 1 March of the following year. Annual tax returns should be submitted to the local tax authorities. In tax returns, tax payers must report all income received in the taxable year and specify every item, source, amount and date. The annual Belarusian tax liability is payable by 15 May of the year following the taxable year.

### Social security fund contributions (SSFC)

Social contributions are paid by employers; employees; individuals who pay SSFC independently [individual entrepreneurs; individuals that perform specific kinds of craft work (stipulated by law) without registration as individual entrepreneurs; individuals that perform public notary services, individuals that perform work under civil contracts; talents; individuals that work outside the territory of Belarus]. Foreign citizens who work in Belarus pay SSFC on voluntary basis.

The base for the social fund contributions is payroll in cash or in other forms (but not greater than four times the average salary of a Belarusian employee), based on total remuneration except for those types specifically stated as an exception on a list stipulated by the Government.

The following rates are applicable to calculating mandatory social insurance for retirement, disability (invalidity), and loss of breadwinner (pension insurance):

- For a majority of employers, a rate of 28 per cent is applied;
- 24 per cent for employers engaged in agricultural production provided that agricultural products constitute more than 50 per cent of output;
- 29 per cent for individuals who pay SSFC independently;
- 1 per cent for employees (whose contributions are withheld by the employers).

The obligatory insurance fee for pregnancy, temporary disability protection, death of an insured or a member of his family (*social insurance*) is 6 per cent for all employers and individuals who pay SSC independently.

### Employer's obligatory insurance payments against accidents at work and professional diseases

Obligatory insurance payments against accidents at work and professional diseases are specified by Belarusian legislation.

The base for obligatory insurance payments against accidents at work and professional diseases comprises payroll in cash or in other forms, based on the total remuneration except for those types specifically stated as an exception on a list stipulated by the government. The insurance payment's rate is 0.6 per cent (special coefficients from 0.5 to 1.5 are applied).

## Pricing

The goods, work and services' selling prices and tariffs are set on the basis of market conditions, planned cost, tax and non-tax payments and margin. Expenses are included in the planned cost of goods, work and services under the current legislation of Belarus. There is a list of expenses that under the current legislation can be included in the planned cost of goods, work and services only within the specified norms (for example, travelling expenses, fuel and others). Taxes and non-tax payments are included in the selling price under the current legislation of Belarus.

The markup on goods of social importance and other groups of goods (some food products, goods for children, pharmaceuticals) is regulated by the state and local governmental bodies.

Transfer pricing regulations have not yet been stipulated in Belarus.

## Salary

Under Belarusian legislation, there are a number of regulations and limits that must be taken into account when considering a salary amount. In addition there are several regulations that address the possibility of claiming the amount of bonuses and other additional payments as tax-deductible expenses.

Tax	Tax rates			
	2008	2009	2010	2011
Sales tax	5%, 15%	5%	abolished	
Services tax	5%, 10%	5%	5%	abolished
VAT	18%	18%	20%	20%
"Agriculture" turnover tax	2%	1%	abolished	
CPT	24%	24%	24%	24%
Local tax on profit after taxation	3%	3%	3%	abolished
SSC on employer	35%	34% *	34% *	34% *
SSC on employee	1%	1% *	1% *	1% *
PIT	9% to 30%, progressive scale	12%, flat	12%, flat	12%, flat

\* Ceiling applicable. Tax rate is applied to the lesser amounts of each employee's salary or four times the average salary in Belarus.

## Chapter 5

# Accounting and auditing

### Accounting and auditing in the bank system

#### Accounting

In 1998 The State Programme on Transition to the International Financial Reporting Standards (“IFRS”) was enacted by the Council of Ministers. During the last 10 years the National Bank of the Republic of Belarus encouraged and supported the transition of the Belarusian banks to IFRS by issuing National Financial Reporting Standards (“NFRS”) which can be regarded as summarised and simplified translations of the corresponding International Accounting Standards (“IAS”) and IFRSs as adopted by the International Accounting Standards Board. The NFRSs also delineate the methodological instructions and amend the accounting legislation.

By 31 December 2010 the National Bank has implemented nineteen NFRSs, which correspond to IFRSs and are the following:

NFRS 1 “Presentation of the Financial Statements”

NSFR 3-F “Business Combinations”

NSFR 5-F “Non-current Assets held for Sale and Discontinued Operations”

NFRS 7 “Cash Flow Statements”

NFRS 7-F “Financial Instruments: Disclosures”

NFRS 8 “Accounting Policies, Changes in Accounting Estimates and Errors”

NFRS 8-F “Operating Segments”

NFRS 10 “Events after the Balance Sheet Date”

NFRS 21 “The Effects of Changes in Foreign Exchange Rates”

NFRS 24 “Related Party Disclosures”

NFRS 27 “Consolidated and Separate Financial Statements”

NFRS 28 “Investments in Associates”

NFRS 29 “Financial Reporting in Hyperinflationary Economies”

NFRS 31 “Interests in Joint Ventures”

NFRS 32 “Financial Instruments: Presentations”

NFRS 33 “Earnings per Share”

NFRS 34 “Interim Financial Statements”

NFRS 37 “Provisions, Contingent Liabilities and Contingent Assets”

NFRS 39 “Financial Instruments: Recognition and Measurement”

Currently the application of the principles and standards being applied in the current legislation is incomplete mainly due to the dependence of financial accounting on tax accounting and the existence of issues under the control of regulatory authorities other than the National Bank (Ministry of Industry, Ministry of Taxes and Duties, etc.). The following are the most significant deviations from the principles of the IFRS:

- IAS 29 “Financial Reporting in Hyperinflationary Economies” was not applied regardless of the fact that the economy of the Republic of Belarus was considered hyperinflationary until 1 January 2006;
- Calculation of the amortised cost based on the effective interest rate;
- Impairment of non-financial assets is not considered and accounted for at each reporting date;
- Deferred taxation is not applied;
- Accounting of several types of transactions as well as the identification of related parties are performed not in accordance with the substance over form principle.

As compared to 2009, in 2010 the accrual basis of accounting for income was implemented.

The banks compile IFRS financial statements on the basis of the accounting records prepared in accordance with the Belarusian legislation by applying adjustments, reclassifications, and estimates to comply with the IFRS accounting records.

## **Auditing**

An annual audit of the financial statements prepared in accordance with the Belarusian legislation is mandatory for all Belarusian banks. The financial statements should be approved by the Annual General Shareholders’ Meeting and submitted to the National Bank no later than 1 April of the year following the reporting period.

According to the regulation of the National Bank, since 2008 Belarusian banks are obliged to compile and submit to the National Bank the full set of financial statements (the statement of financial position, of profit and loss and/or of comprehensive income, of cash flows, of changes in shareholders’ equity and corresponding notes) prepared in accordance with IFRS. The IFRS financial statements should be prepared annually for the period from 1 January to 31 December and submitted to the National Bank by 1 July of the year following the reporting period along with the Auditor’s opinion on the financial statements.

Only auditors and audit organisations approved by the National Bank can provide audit services for banks in respect of the financial statements prepared in accordance with the Belarusian legislation and IFRS. For the provision of audit services for banks in respect of the IFRS financial statements, the auditor should have a certificate/diploma

of the internationally recognised accounting or auditing body/organisation and the audit organisation should have at least three auditors with a certificate/diploma of the internationally recognised accounting or auditing body/organisation.

## Accounting and auditing in the non bank sector of economy

### Accounting

The accounting process is performed under the Belarusian accounting standards which are stipulated in the “Law concerning accounting principles”, “Standard chart of accounts” (separately for banks and for other organisations) and other regulating documents including: instructions on accounting of different kinds of assets and liabilities, specific transactions, specific kinds of activities.

The regulation of accounting and auditing matters is overseen by the Ministry of Finance for non-banking organisations and by the National Bank of the Republic of Belarus for banks.

The preparation of financial statements is regulated under the Belarusian standards of financial reporting which are stipulated by the “Rules on the Preparation of Financial Statements” (separately for banks and for other organisations).

There is a programme adopted by the government that specifies the gradual changeover towards the international financial reporting standards for organisations outside of the banking industry.

As it was mentioned above, the accounting process is performed under Belarusian accounting standards which differ from the international accounting principles (e.g. under the current legislation, the revenue recognition can be realised under accrual or cash basis).

### Auditing

The specifics and rules of audit activities are stipulated by the “Law concerning Audit Activities” (hereafter referred to as the “Law”) and “Rules concerning the Audit Activities” (hereafter referred to as the “Rules”).

There are several types of audit services that can be performed by the audit organisations:

- The audit of financial statements;
- The audit conducted under a special task;
- The conducting of audit related services (the list of audit related services is stipulated by the Law).

### **An annual audit of the financial statements is obligatory for the following entities:**

- Entities in the form of OJSC (open joint stock companies);
- Banks and non-banking financial organisations;
- Exchange markets;

- Companies with foreign investments;
- Insurance companies and insurance brokers;
- Residents of HTP (High Technologies Park);
- Entities conducting the guaranteed refund of individuals' bank deposits;
- Entities with more than EUR600,000 revenue for the year previous to the reporting.

Within 30 days of receiving the auditor's opinion, the entities must make corrections to the financial statements in connection with any irregularities and misstatements investigated by auditor.

**Audit conducted under a special audit task.** The special task is the other than audit of financial statement reliability task. The audit conducted under the special task designation can be of two types – obligatory and voluntary. There is a list of activities that can be performed within the scope of the audit conducted under the special task.

The special audit task may be applied for an audit of:

- the accuracy of transactions recording on the accounts;
- the target use of credits and investments;
- the investors' (initiator of investment project) financial statements;
- the financial statements of a securities issuer;
- the formation of a statutory fund, or the origination of monetary funds contributed to the statutory fund by the participants;
- the reliability of the tax return (for foreign companies acting through permanent establishment);
- the structure and value of an enterprise as an asset complex;
- the value of assets owned or controlled operationally by the audited entity;
- other indicators of financial and economic activities of the audited entities.

**The audit conducted under the special audit task must be performed for:**

- the document confirmation of a company with a foreign investments statutory fund formation;
- the document confirmation of a legal entity's (resident of FEZ) statutory fund formation;
- the confirmation (as established by legislation) of the origination of the monetary funds that are contributed to the start up statutory funds for insurance companies by the participants;
- the confirmation of the reliability of the 'acting through a permanent establishment' foreign company's tax return;
- the confirmation of an enterprise's value before sale;

- the confirmation of the investors' (initiators of investment project) financial statements;
- other audits conducted under the special audit task designation as specified by legislation.

### **Audit related services**

Under the Law, audit organisations are allowed to perform the following audit related services (considering the requirements of Independence policy):

- Preparation of the financial statements;
- Valuation of the companies' assets;
- Analyses of financial and economic activities;
- Preparation of the tax return on income and assets;
- Advisory services;
- Management advisory services, including advice on restructuring;
- Other services stipulated by Law.

Under the current legislation the expenses connected with the conduction of the obligatory audit and the audit under the international financial reporting standards are taxes deductible for the audited entities.



## Chapter 6

# Employment

### Employment contracts

According to the Labour Code of the Republic of Belarus (enacted in 1999), the employment contract is an agreement between an employee and employer (employers), according to which the employee undertakes to perform work on one or several professions, specialties or positions of the appropriate qualification in accordance with the manning table and to comply with the staff hand book. The employer undertakes to provide the employee with the work specified by the employment contract, with the working conditions under the Labour legislation, local regulatory legal acts and agreement of the parties, and to pay wages to the employee in a timely fashion.

Labour contracts may be negotiated for:

- 1) an indefinite term;
- 2) a fixed term of no more than five years; this type of contract is negotiated in cases when the employment relations cannot be determined for an indefinite term due to uncertainty regarding the impending job description or the terms of its implementation, also in cases specified by the Labour Code);

A contract, which is negotiated in the procedure and under the terms and conditions provided for by the Labour legislation, is a type of fixed-term employment contract. The contract is negotiated for a period no less than a year with the possibility of repeated extension within the determined period for the fixed-term contracts' 5-year limit.

- 3) a period of time for the implementation of a certain job (negotiated when it is impossible to determine exactly the completion time of the work);
- 4) a period of time for the performance of a temporarily absent employee's duties, whose workplace is reserved;
- 5) a period of time for the performance of seasonal jobs (negotiated when the work may be undertaken only during a certain season under natural and climatic conditions).

The employment contract (regardless of the terms of validity) is negotiated in written form and is drawn up in two copies and signed by both parties. By agreement of the parties, an employment contract may be negotiated with the condition of a probation period, which should not exceed three months.

According to the general rule, the negotiation of the employment contract is permitted with persons who have reached the age of 16.

The terms and conditions of the employment contract are determined by the mutual agreement of the parties. The Legislation provides for a set of information and conditions, which are obligatory for their inclusion in the employment contract. An employment contract may be changed only by mutual agreement.

Labour legislation addresses the likelihood of an employee performing a second job when off duty for the same or another employer according to the terms of an employment contract (moonlighting). According to the general rule for moonlighting, the agreement of the primary employer is not required.

## Remuneration

Salary is the compensation for labour that an employer must pay to an employee for the implemented work. The level of compensation depends on the labour's difficulty, quantity, quality, and working conditions as well as the employee's qualifications taking into account the actual working hours by period included in the working time.

According to the legislation from 1 January 2011, the minimum salary is the following:

Minimum monthly salary – BYR 460 000 (EUR 110);

Minimum hourly salary – BYR 2 710 (EUR 0.65).

There are no upper limits on employees' salary.

Every hour of extra time is paid:

- 1) for employees with piece-work payment – not less than double the piece-work rate;
- 2) for employees with remuneration for timework, and for those who receive position salaries – not less than double the tariff rate per hour (position salaries).

Each working hour during public holidays, red-letter days and weekends is paid at least at double the normal rate. For every working hour at night or on the night shift when the shift working system is used, there is an additional payment at the rate agreed to in the collective contract, but not less than 20 per cent of the employee's tariff rate per hour (position salary).

Salary is paid regularly at dates determined in the collective contract, agreement or employment contract, but at least twice a month.

When the terms of the salary payment coincides with weekends or public holidays and red-letter days, it must be paid the day preceding them.

Salary is paid in the currency of the Republic of Belarus.

If an employee agrees, then the monetary payment may be changed into a partially or completely non-cash remuneration (mixed payment form). Non-cash remuneration instead of monetary payment should be acceptable for personal consumption and profitable for the employee and his family.

If an employer fails to comply with the terms of the salary payment, he takes responsibility in amounts and procedures as determined by the labour legislation.

## Working time

The norm of the duration of working time, determined by the Labour Code of the Republic of Belarus, must not exceed 40 hours per week. For some categories of employees, and for those employees who work in harmful and/or dangerous working conditions, the legislation determines a shortened duration of working time.

The work duration in a working day that precedes a public holiday or a red-letter day, is shortened by one hour.

In the case of work at night, the determined duration of the work (shift) shortens by an hour with the corresponding shortening of the working week. Night work is considered to be from 10:00pm to 6:00am.

During hiring and afterwards under the agreement between an employee and an employer, a part-time working day or week may be determined. An agreement about part-time work may be negotiated for a definite or an indefinite period.

Overtime work is allowed only with the agreement of an employee, unless otherwise provided for by the Labour Code (e.g. the performance of work for catastrophe prevention, etc.), as well as the collective contract agreement.

Overtime work for every employee should not exceed four hours during two days running, nor 120 hours per year. An employer is obliged to keep exact records of the overtime work undertaken by every employee. The information concerning the over hours' quantity is presented to an employee on his request.

The duration of the basic leave cannot be less than 24 calendar days. In accordance with the legislation, an employer can determine additional leave (for work in harmful and/or dangerous working conditions, for continuous work experience, etc.).

Labour leave (basic and additional) for the first working year is granted not earlier than after six months of work.

According to the agreement between an employee and an employer, the labour leave may be divided into two parts, unless otherwise provided for by the collective contract or agreement. One part should be not less than 14 calendar days.

## Termination of employment

The employment contract negotiated for an indefinite period of time and the fixed-term employment contract may be dissolved at any time under the agreement of the employment contract parties.

An employee has the right to dissolve the employment contract negotiated for an indefinite period of time, after giving written notice one month in advance to the employer (at one's own wish).

The employment contract can be dissolved also:

- on the employee's demand or on the employer's initiative for causes provided for by the Labour Code of the Republic of Belarus;
- in connection with the transfer of an employee, with his agreement, to another employer or elective post;

- in connection with the refusal of an employee to work due to the transfer from one location to another together with the employer, the refusal to continue to work due to changes of key working conditions, as well as the refusal to continue to work due to a property owner change and reorganisation (merger, consolidation, division, separation, transformation) of the company;
- under circumstances that do not depend on the parties' will (call to military service; reinstatement in a job of the previous worker etc.).



## Chapter 7

# Real estate

### Registration

According to Belarusian law all immovables as well as accrual, transfer and termination of rights and encumbrances to immovables are subject to state registration in the National Cadastral Agency. Some transactions with real estate are also subject to state registration and take effect only after the registration. Information on registered real property is contained in the Unified State Register of Immovables, Rights and Transactions and can be obtained easily, as it is publicly available.

### Movable and immovable property

The definitions of movable and immovable property are contained in the Civil Code of the Republic of Belarus. According to the Code, immovables include plots of land, subsoil and everything that is firmly connected with the land, including forests, buildings and facilities.

Things that are not immovable, including money and securities, are deemed to be movable and, as a general rule, are not subject to state registration.

### Acquisition

Belarusian legislation has some restrictions on the acquisition of immovables by foreigners. It is prohibited for foreigners and foreign entities to own land plots; foreign entities are allowed to lease land plots only. An exception to the rule is the right of temporary use for foreign investors under the terms of concession agreements concluded with them. It is also significant that Belarusian legislation makes a distinction between residential and non-residential premises. Foreigners are allowed to own non-residential premises only, with one exception concerning the citizens of the Russian Federation who are allowed to own residential premises as well.

### Real estate contracts

Contracts for the sale and purchase of real estate are subject to state registration. Lease agreements must be executed in writing but do not need the state registration. The landlord must notify an appropriate territorial agency of the National Cadastral Agency within 10 days after signing a contract or modifying it. The minimum term of a lease contract is three years. Such contracts may be concluded for less than three years only by the approval of the lessee.

## Chapter 8

# Other legal considerations

### Bankruptcy

A court may declare a legal person with the status of a commercial organisation, with the exception of a fiscal enterprise, and a legal person operating in the form of a consumer cooperative or charitable or other fund, insolvent (bankrupt) if it cannot satisfy the demands of its creditors.

When the legal person is declared to be economically insolvent (i.e. bankrupt), the legal person is subject to reorganisation, or liquidation in the event that the continuation of activity is seen as unreasonable.

Cases of economic insolvency (bankruptcy) are within the jurisdiction of the Economic Court and are considered in the location of the insolvent entity.

In accordance with the Law of the Republic of Belarus "On Economic Insolvency (Bankruptcy)" (hereinafter "Law") the right to submit an application on bankruptcy of the insolvent to the economic court in connection with default of financial obligations is granted to the insolvent entity, the creditors (including the representative of the employees of the insolvent), the prosecutor, the authority of state management on bankruptcy affairs, other authorised state bodies, and also legal and natural persons in cases and in the order provided for by the legislation. The right to submit an application on the bankruptcy of the insolvent entity to the economic court in connection with a default on the commitment to pay obligatory payments is granted to the insolvent entity, the taxation authority and other authorised bodies.

A ground for a legal entity to submit the application on bankruptcy is its insolvency, if it is otherwise stable.

The insolvent entity has the right to submit the application of bankruptcy to the economic court if the current conditions prove that it will be incapable of carrying out the payment commitments and/or the commitments resulting from the work force and relations connected to it in the established term. According to the Law, the insolvent entity is obliged to submit the application of insolvency to the economic court in cases when:

- meeting the requirements of one creditor or several creditors leads to the impossibility to fulfil the insolvent's financial commitments in total to other creditors; or to the activity termination of the insolvent legal person;
- the authority, who according to the constituent documents of the insolvent legal person is authorised to make decisions on its liquidation decided to submit the application of the insolvency to the economic court;

- the authority, authorised by the property owner of the insolvent (unitary entity), made a decision to submit the application of insolvency to the economic court;
- there was a recognition of the circumstance provided for by the Law.

The main terms for the submission of the application of the solvent are provided for by the Law.

Authorised bodies have the right to submit the application of the creditor to the economic court on behalf of the Republic of Belarus and the administrative-territorial areas of the Republic of Belarus. Provisions of the Law concerning the creditors are applied to the tax and other authorised bodies, unless otherwise provided for by the Law.

Reasons to submit the application of the creditor can include:

- if the creditor has reliable data about the debtor's financial insolvency, if this insolvency has permanent character;
- the application of the compulsory execution towards the debtor, which was not implemented within a month due to the absence of the property or the revelation in the course of the compulsory execution, that the debtor does not possess the property, in a manner sufficient to be able to satisfy requirements placed on him;
- failure to fulfil the payment obligation by the debtor within the term determined by the creditor for the debt payment, after the date of expiration of which the creditor intends to submit the application of the creditor. In the event of a bankruptcy the following procedures of bankruptcy are applied:
  - protective period;
  - competitive procedure;
  - amicable settlement;
  - other procedures of bankruptcy provided by the Law.

Competitive procedure includes the following procedures:

- readjustment;
- liquidation procedure.

After the economic court's decision, the media publishes the information concerning the matter of bankruptcy under the terms and conditions determined by this decision, unless otherwise provided for by the legislation. According to the judicial act of the economic court, the press division of the Supreme Economic Court of the Republic of Belarus, or other press department determined in accordance with the legislation, as well as the republican mass media publish the data concerning the judicial proceedings on the matter of bankruptcy. All expenses are paid by the debtor and, and if there is a lack of funds, the expenses become the responsibility of the creditors who submitted the application of the creditor in the economic court, unless otherwise provided for by judicial acts.

## Arbitration

The International Court of Arbitration is a full-fledged member of the European Courts of Arbitration Group, a member of the global system of the International Courts of Arbitration (Arbitration Tribunals), which nowadays arbitrates the vast majority of international and some internal economical disputes. The state authorised it to execute justice, which means to investigate civil cases and pass judgement on them, which do not differ from judgments of state court in any substantive way. According to Article 4 of the Law of the Republic of Belarus "About International Court of Arbitration (Arbitration Tribunals)" dated 9 July 1999, if civil and legal disputes between any subjects of law arise during the carrying out of foreign trade and other types of international economic activities, these disputes may be referred to the International Arbitration Court as agreed by the parties, if at least one of them is located outside the Republic of Belarus. Other disputes of an economic nature may also be sent for settlement to the International Arbitration Court, if the contract between the parties stipulates this as a requirement for a dispute settlement and if this is not prohibited by the legislation of the Republic of Belarus. The legislation of the Republic of Belarus, international treaties of the Republic of Belarus, as well as specific arbitration regulations regulate the activities of the International Arbitration Court.

The permanent acting International Arbitration Court is a non-state, non-commercial organisation, carrying out its activities on a fee basis.

The permanent acting International Arbitration Court is a legal entity.

Interference by the State courts into activities of the permanent acting International Arbitration Court is not allowed, except for in cases stipulated by the legislation of the Republic of Belarus.

The permanent acting International Arbitration Court is established by a non-commercial organisation, the main purpose of which is to contribute to the facilitation of the foreign economic activities with the foreign legal entities and individual businessmen.



## Chapter 9

# Appendices

### Appendix 1.

**The Republic of Belarus has active international double tax treaties with the following countries:**

Armenia	Korean Democratic People's Republic	Slovakia
Austria	Republic of Korea	South Africa
Azerbaijan	Kuwait	Sweden
Bahrain	Kyrgyzstan	Switzerland
Belgium	Latvia	Syria
Bulgaria	Lebanon	Tajikistan
Croatia	Lithuania	Thailand
Cyprus	Macedonia	Czech Republic
Egypt	Moldova	Netherlands
Estonia	Mongolia	Russian Federation
Finland	Oman	Israel
Germany	Pakistan	United Arab Emirates
Hungary	China	Turkey
India	Poland	Turkmenistan
Iran	Qatar	Ukraine
Ireland	Romania	Uzbekistan
Italy	Saudi Arabia	Venezuela
Kazakhstan	Serbia	Vietnam

## International double tax treaties of the former Union of the Soviet Socialist Republics:

Denmark	Spain
France	The United Kingdom
Japan	The United States of America
Malaysia	

## Appendix 2.

### The list of offshore zones under Belarusian legislation:

Andorra	French Polynesia	Nauru
Anguilla	Gibraltar	Netherlands Antilles
Antigua and Barbuda	Grenada	Niue
Bahamas	Ingushetia, Nazran	Panama
Barbados	Jamaica	Puerto Rico
Belize	Kerguelen	Saint Christopher and Nevis
Bermuda	Labuan Island	Saint Lucia
British Virgin Islands	Liberia	Saint Vincent and the Grenadines
Brunei Darussalam	Liechtenstein	Samoa
Cayman Islands	Macao	Seychelles
Chagos Archipelago	Madeira	South Georgia and South Sandwich Islands
Cook Islands	Maldives	Sri Lanka
Costa Rica	Marshall Islands	Tonga
Delaware	Mauritius	Turks and Caicos Islands
Djibouti	Monaco	Vanuatu
Dominican Republic	Montenegro	Virgin Islands
Fiji Islands	Montserrat	Wyoming

### Appendix 3.

#### Main changes in Belarusian taxation from 2008 till 2011:

Tax	Tax rates			
	2008	2009	2010	2011
Sales tax	5%, 15%	5%	abolished	
Services tax	5%, 10%	5%	5%	abolished
VAT	18%	18%	20%	20%
"Agriculture" turnover tax	2%	1%	abolished	
CPT	24%	24%	24%	24%
Local tax on profit after taxation	3%	3%	3%	abolished
SSFC on employer	35%	34% *	34% *	34% *
SSFC on employee	1%	1% *	1% *	1% *
PIT	9% to 30%, progressive scale	12%, flat	12%, flat	12%, flat

\* Ceiling applicable. Tax rate is applied to the fewer amounts of each employee's salary or four times of the average salary in Belarus.

## Appendix 4.

### Useful links

President of the Republic of Belarus	<a href="http://www.president.gov.by">www.president.gov.by</a>
Council of Ministers of the Republic of Belarus	<a href="http://www.government.by">www.government.by</a>
National Bank of the Republic of Belarus	<a href="http://www.nbrb.by">www.nbrb.by</a>
Ministry of Economy of the Republic of Belarus	<a href="http://www.economy.gov.by">www.economy.gov.by</a>
Ministry of Finance of the Republic of Belarus	<a href="http://www.minfin.gov.by">www.minfin.gov.by</a>
Ministry of Trade of the Republic of Belarus	<a href="http://www.mintorg.gov.by">www.mintorg.gov.by</a>
Ministry of Foreign Affairs of the Republic of Belarus	<a href="http://www.mfa.gov.by">www.mfa.gov.by</a>
Ministry of Taxes and Duties of the Republic of Belarus	<a href="http://www.nalog.by">www.nalog.by</a>
Ministry of Industry of the Republic of Belarus	<a href="http://www.minprom.gov.by">www.minprom.gov.by</a>
Ministry of Interior Affairs of the Republic of Belarus	<a href="http://www.mvd.gov.by">www.mvd.gov.by</a>
Ministry of Justice of the Republic of Belarus	<a href="http://www.minjust.by">www.minjust.by</a>
Ministry of Information of the Republic of Belarus	<a href="http://www.mininform.gov.by">www.mininform.gov.by</a>
Ministry of Labour and Social Defence of the Republic of Belarus	<a href="http://www.mintrud.gov.by">www.mintrud.gov.by</a>
Ministry of Agriculture and Food of the Republic of Belarus	<a href="http://www.mshp.minsk.by">www.mshp.minsk.by</a>
Ministry of Defense of the Republic of Belarus	<a href="http://www.mod.mil.by">www.mod.mil.by</a>
Ministry of Energy of the Republic of Belarus	<a href="http://www.minenergo.gov.by">www.minenergo.gov.by</a>
Ministry of Public Health of the Republic of Belarus	<a href="http://www.minzdrav.by">www.minzdrav.by</a>

Ministry of Sports and Tourism of the Republic of Belarus	<a href="http://www.mst.by">www.mst.by</a>
Ministry of Culture of the Republic of Belarus	<a href="http://www.kultura.by">www.kultura.by</a>
National Statistical Committee of the Republic of Belarus	<a href="http://www.belstat.gov.by">www.belstat.gov.by</a>
Belarusian Currency and Stock Exchange	<a href="http://www.bcse.by">www.bcse.by</a>
State Authorities E-Portal	<a href="http://www.portal.gov.by">www.portal.gov.by</a>
National Investment Agency of the Republic of Belarus	<a href="http://www.invest.belarus.by">www.invest.belarus.by</a>
National Information Export Support Web-Site of the Republic of Belarus	<a href="http://www.export.by">www.export.by</a>
National Legal Internet Portal of the Republic of Belarus	<a href="http://www.law.by">www.law.by</a>
Business Portal of the Republic of Belarus (IFC)	<a href="http://www.belarus.bel.biz">www.belarus.bel.biz</a>
Minsk City Executive Committee	<a href="http://www.minsk.gov.by">www.minsk.gov.by</a>

## Appendix 5.

### KPMG in Belarus

KPMG in Belarus brings to its clients technical skills, solid practical experience and broad industry and sector knowledge which can help our clients operate efficiently and develop a competitive edge over their competitors.

Our resources enable us to provide a wide range of professional services to entities operating in various fields of economy and business.

We tailor our services to the needs and objectives of our clients, including those who are entering international markets.

The potential benefits of KPMG in Belarus include an in-depth understanding of the local business environment and an industry-specific focus, broad-based experience, multi-disciplinary professional engagement teams, well-established methodologies and access to the global resources of KPMG member firms.

### Our services

#### Audit

Audit related services:

- IFRS
- GAAP accounting

Financial Statement Audit

Statutory Audit

#### Tax

Foreign legal entities

Income Tax

Value-added tax (VAT)

Analysis of tax compliance

Taxation of foreign specialists' income

Expenses on remuneration and bonuses

#### Advisory services

Performance and Technology

- Business Performance Services
- IT Advisory

Risk and Compliance

- Financial Risk Management
- Internal Audit, Risk and Control Services

Transactions and Restructuring

- Corporate Finance
- Transaction Services





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