



Repräsentanz der Deutschen  
Wirtschaft in Belarus  
Представительство немецкой  
экономики в Республике Беларусь



## Joint report

# Improving the Business Climate – Boosting Private Investment

## Proposals from German business in Belarus

German Economic Team Belarus  
German-Belarusian Economic Club  
Representative Office of German  
Economy in Belarus  
German Eastern Business Association

Berlin/Minsk,  
September 2019



## **About the German Economic Team Belarus (GET Belarus)**

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The main purpose of GET Belarus is to conduct a dialogue on economic policy issues with the government, civil society, and international organizations. Experts of German Economic Team have experience in policy advice in several transition economies, including Ukraine, Russia, and Moldova. In Belarus, the German Economic Team provides information and analytical support to the National Bank, the Ministry of Finance, the Ministry of Economy, the Ministry of Foreign Affairs, and other institutions involved in the process of formation and implementation of economic policy.

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## **About the German-Belarusian Economic Club (DBWC)**

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The German-Belarusian Economic Club (DBWC) was founded in 1994 and is currently the biggest western business community in Belarus with more than 50 German companies as members. DBWC's mission is to represent the interests of the club members towards governmental authorities, to work on business climate improvement for German companies and to promote dialog and business relationships between club members. Furthermore, jointly with the Representative Office of German Economy in Belarus (RDW) and under patronage of the German Embassy, the club acts as a representative of the German economic society in Belarus.

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## **About the Representative Office of German Economy in Belarus (RDW)**

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The Representative Office of German Economy in Belarus began its activities in 1995 as the contact bureau of the federal state of North Rhine-Westphalia - the Representative Office of the Bonn/Rhine-Sieg Chamber of Commerce and Industry. In 2000, by decision of the Federal Ministry for Economic Affairs and Energy (BMWi) and the Association of German Chambers of Commerce and Industry (DIHK), it was transformed into the Representative Office of German Economy. Thus, it's a part of the worldwide network of the German Chambers of Commerce abroad (AHKs) at 140 locations in 92 countries. The goal of the activities of the RDW is the effective development and support of trade and economic relations between German and Belarusian enterprises.

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## **About the German Eastern Business Association (OAOEV)**

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The German Eastern Business Association (OAOEV) is the major regional initiative of the German economy for 29 countries in Central Europe, Eastern and Southeastern Europe, in the South Caucasus and in Central Asia. The OAOEV supports its members in their projects, arranges contacts and answers questions about market entry. In close cooperation with the federal government and the governments of the partner countries, they work to reduce trade barriers and improve economic conditions in the region. OAOEV was created in May 2018 through the merger of the Committee on Eastern European Economic Relations (founded in 1952) and the Eastern Europe Business Association of Germany (founded in 1989). It is supported by six central associations of German business and has around 350 member companies.

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## 1. Introduction

After facing a recession in 2015/16, the Belarusian economy displayed a steady recovery over the recent years. In 2018, real GDP growth peaked at 3% – the highest growth rate since 2012. Moreover, macroeconomic stability further improved through a significant reduction of inflation, combined with a conservative fiscal policy stance. Despite all positive developments, mid-term forecasts for economic growth remain capped at around 2%. Such a growth trajectory would not allow to catch up to more developed economies and thus signals that the current economic model is facing its limits.

Achieving higher and sustainable economic growth goes hand in hand with strengthening the private sector. Against this background, improving the business environment and thus unlocking private investment are key prerequisites for further development. Belarus has already achieved a significant progress in this area: the “Doing Business 2019” report of the World Bank attest Belarus rank 37 out of the 190 surveyed countries.

While Belarus already offers a number of very favourable conditions inside Free Economic Zones (FEZ), the High-Tech Park (IT hub) and the Great Stone Park (logistic hub), the long-term goal should be making doing business easy across all sectors of the economy. Here, attracting additional foreign direct investment (FDI) is of particular importance, as foreign companies are known to create significant positive spill-over effects on domestic business. In recent years, however, FDI inflows are struggling to pick up after the sharp slowdown during the 2015/16 recession.

Hence, the aim of this study is to support the Belarusian government in its effort to further improve the business environment and attract FDI. Strategic priorities in this area are to be outlined in a comprehensive investment attraction strategy until 2035, which is scheduled for adoption in 2019. In this regard, German companies are among the most active foreign investors in Belarus – very often with a long-term commitment. Their views on how to improve the business climate are collected in this study, which identifies concrete proposals for boosting private investment.

This joint report was prepared in close cooperation between the German Economic Team Belarus and the main associations representing German business in Belarus: the German-Belarusian Business Club, the Representative Office of German Economy in Belarus and the German Eastern Business Association. This made it possible to include proposals from a wide range of German firms active across different sectors of the economy.

## **2. Methodological approach**

This study contains reform proposals from German and Germany-related businesses in Belarus. It is characterised by a bottom-up approach and based on a questionnaire prepared by the German Economic Team Belarus. This questionnaire on problems and hindrances and proposals to resolve these issues was completed by a large number of company members and affiliates of the three partnering business associations. The proposals then underwent an extensive review and checking process between the team of authors from GET Belarus, external experts with specific expertise and the partner associations. The review process was centred on ensuring that the proposals are consistent with a general reform direction towards transparent, competitive markets, are consistent with pre-existing contractual obligations of Belarus such as its membership in the Eurasian Economic Union (EAEU) and contribute to equitable, sustainable growth.

The main aim of the study was to generate proposals for reform that businesses themselves desire and that are relatively easy to implement. The focus was not, as is the case with many other studies, to identify the most important reforms for Belarus. Our explicit objective was to include smaller, incremental reforms that are easy to implement and will lead to noticeable improvements for businesses in Belarus, resulting in increased activity and investment by incumbent and new investors.

A necessary restriction of our approach is that the recommendations reflect the needs of incumbent companies and in particular profile of companies that are members of and/or affiliated to the three German or Germany-related business associations in Belarus, the German-Belarusian Business Club, the German Eastern Business Association and the Representative Office of German Economy in Belarus. However, as several of these companies are Belarusian companies with business interest in Germany, the study does not only reflect the interest of foreign companies. Also, the advantage of the wide range of partners collaborating on this study was that we received reform proposals from small to large companies and from a wide variety of sectors. Although our reform proposals stem from investors already present in Belarus, they will often highlight the same issues that deter potential investors. Furthermore, implementation of the proposals will enable existing investors to invest more and expand their business activity in Belarus.

The reform proposals are categorised as follows: First, we present proposals in the legal sphere, starting with proposals regarding the legal and judicial system, focused on legal interactions of businesses with the state and the judicial system, such as enforcement of fines or transparency of legal decisions in chapter 3. This is followed by specific proposals in the area of labour and immigration law in chapter 4 and on the regulation of companies (on the regulations of the permitted activities/structures of companies and the regulation of interactions between companies) in chapter 5. Proposals on the regulations of investment and investment law are collected in chapter 6. We then turn to proposals on the area of

trade (including customs issues and harmonisation within the EAEU) in chapter 7 and present proposals on the tax system in chapter 8. To complete our survey of proposals, several proposals that are relatively specific to individual sectors of the economy are presented in chapter 9. In the final chapter 10, we draw up a list of “quick wins”, characterised by a great ease of implementation and having a solid predicted impact, which could be a suitable starting point for the implementation of these recommendations by government.

### 3. Reform proposals regarding the judicial system

In this chapter, we present five reform proposals concerning the judicial system of Belarus: The functioning of courts and the transparency of their decision-making as well as the enforcement of legal rights - of private (i.e. company) vs private actors, private actors vs the state and of the state vs private actors.

**Table 1: Reform proposals regarding the judicial system**

Number	Title
Jud-1	Introducing a code for the work of state authorities
Jud-2	Creating a database of judicial decisions
Jud-3	Ensuring adequate interest rates on delayed payments
Jud-4	Abolishing excessive account blocking during tax disputes
Jud-5	Improving the compensation of legal costs in court cases

*Source: Own display based on reviewed and analysed responses from company survey*

#### Jud-1 Introducing a code for the work of state authorities

**Responsible institutions:**

Ministry of Justice

**Problem for companies:**

Perhaps the most problematic feature of the Belarusian business environment is the fact that companies are not aware of their legal and constitutional rights in their superior/subordinate relationships with the state and often find themselves unable to enforce those rights before the state. Amongst other reasons this is caused by various different procedures being in force. Almost every state body has its own structure of administrative procedures – e.g. for the issuance of a permit or in cases of interventions. In consequence, most state bodies have their own rules for procedures in their competency and no common

minimum standard for procedures exists. This leads to a highly fragmented landscape of different procedures, leading to uncertainties and high legal risks for companies in all their interactions with the state as not all appeals procedures etc. work equally well.

**Suggested reform measures:**

We recommend elaborating and introducing a code for the work of state authorities that clearly stipulates minimum standards for procedures (e.g. mandatory hearings of involved parties, rules on involved actors in procedures, information rights concerning documentation relevant for a case etc.) as well as unified appeals procedures in superior/subordinate relationship for claims by companies and natural persons against the state, following international best practice such as the recent development of such a body of law for Kazakhstan by the German IRZ. This could be supplemented by an Administrative court procedures code and the introduction of a separate jurisdiction.

**Effect on Belarus:**

This would lead to a major improvement of the legal environment for companies and improve investment and business climate in one of the most important areas of present deficiencies.

Jud-2

Creating a database of judicial decisions

**Responsible institutions:**

Ministry of Justice

**Problem for companies:**

No unified database of court decisions exists in Belarus, except a limited database of supreme court decisions. Hence, companies are often unable or challenged when attempting to inform themselves about matters of interpretation and application of legal rules by courts. This intensifies legal uncertainty and decision-making by companies and can also lead to mistakes and accidental violations of legal rules and their interpretations by courts.

**Suggested reform measures:**

We recommend the creation of an electronic, easy to access and searchable database of all court decisions. This should include each court decision with the full reasoning of the judges, suitably anonymised in order to protect the privacy of the involved parties.

**Effect on Belarus:**

Better understanding and predictability of court decisions and legal interpretation would afford companies more safety in taking business decisions and hence improve the investment and business climate.

**Jud-3****Ensuring adequate interest rates on delayed payments****Responsible institutions:**

Ministry of Justice, Ministry of Finance, Ministry of Economy

**Problem for companies:**

One major risk in B2B transactions in Belarus as anywhere in the world is that the recipient of goods or services enters a state of insolvency or pre-insolvency before paying the provider of the received goods or services. In Belarus, it is rather common especially for state companies to enter a state of pre-insolvency, implying a deferment of all liabilities by 5 years and subsequent repayment of their debt over 7 years. For these cases as for all other payments of arrears, no payment of interest on the debt is foreseen by law or enforced by courts, as interest is an undefined notion. This causes major inflation-related losses to claimants.

**Suggested reform measures:**

We recommend amending the economic process code by a clear and simple definition of how interest rates on arrears are to be calculated, based on the Policy Rate of the National Bank of Belarus.

**Effect on Belarus:**

Reducing the risk of losses in B2B transactions due to (pre-)insolvency of the counterparty will facilitate business activity and enable companies to invest in growing their business in Belarus.

**Jud-4****Abolishing excessive account blocking during tax disputes****Responsible institutions:**

Ministry of Finance, Ministry of Economy

**Problem for companies:**

Tax authorities may block business bank accounts of companies when they find that companies have not or underpaid taxes, rendering companies unable to continue their business activities until the amount is paid and the account unblocked. Usually, companies are given 10 days to pay tax debts when claimed by the tax authorities before a block is put in place.

This full stoppage of business activities due to account blocking is excessive, especially when the disagreements are concerning relatively minor amounts.

**Suggested reform measures:**

A proportionality rule for tax enforcement should be instituted. Account blocks should only affect the sums in question to allow companies to continue their business activity without jeopardising the satisfaction of the government's claim on their taxes.

**Effect on Belarus:**

Reduction of a major risk to business and reduction of the risk of fiscal repression by government (extorting higher tax payments above the legal standards by threatening to block the account) will directly and substantially improve companies' willingness to conduct business and invest in Belarus.

**Jud-5                      Improving the compensation of legal costs in court cases**

**Responsible institutions:**

Ministry of Justice, Ministry of Economy

**Problem for companies:**

After winning a court case, the winning party can claim the reimbursement of legal costs from the losing party. However, the decision on what are "justified legal expenses" rests with the judge. Frequently, only very limited costs below reasonable rates of private lawyers are deemed to be justified. This is due to a "free of charge" fiction: Legal advice is formally free of charge in Belarus – but only if it is taken from public lawyers paid by the state. This practice implies that using the services of privately operating law firms and lawyers, who are often more qualified with specific expertise for specialist cases, comes with the risk of not getting legal costs reimbursed even if the case is won. This reduces the attractiveness of attempting to enforce one's rights in court cases and hampers companies seeking good quality legal advice.

**Suggested reform measures:**

The government should introduce a legal act regulating reasonable legal fees that can be reimbursed to the winners of a court case by the losing party. These fees should be a combination of the value of the case (which is already calculated as the base for the costs of the court) and a reasonable fees table for legal services, recognised by the government, perhaps modeled after the German law regulating legal fees (Rechtsanwaltsvergütungsgesetz, RVG).

**Effect on Belarus:**

Lower costs of enforcement of valid legal claims will contribute to business and investment climate.

#### 4. Reform proposals in the area of labour and immigration law

This section combines reform proposals aimed at facilitating the dealing with the most important factor of production for companies in Belarus, labour. It includes both a major proposal on an urgently necessary complete renewal of the post-Soviet labour code, which does not serve the interests of companies nor workers as well as three proposals concerning rules pertaining to immigration and work issues of foreigners – a crucial topic especially for foreign or FDI-financed companies. Bringing in managers and key staff from abroad can be instrumental in spurring the productivity both of these companies as well as, in the longer run, of the country as a whole.

**Table 2: Reform proposals in the area of labour and immigration law**

Number	Title
Lab-1	Introducing a new labour code
Lab -2	Extending the maximum duration of work permits
Lab -3	Facilitating immigration and work permit rules for business owners and directors
Lab -4	Adjusting social insurance rules for foreigners

*Source: Own display based on reviewed and analysed responses from company survey*

##### **Lab-1 Introducing a new labour code**

###### **Responsible institutions:**

Ministry of Economy, Ministry of Labour and Social Protection

###### **Problem for companies:**

Belarusian labour law is largely still a relic from the Soviet era and creates a host of problems for employers and employees alike. For example, the very short notification period of 1 month for cancelling an employment contract both by employer or employee can cause grave problems. An employee can quit his job and, using remaining vacation days, might not work a single day afterwards, implying that no proper handover to information and knowledge to a successor can be ensured. Also, labour law does not contain instruments to ensure that sensitive information held by key employees is not given to competitors (no-competition clauses). There is no legal way to prevent employees from moving to a direct competitor and using the knowledge from their previous employer to the detriment of the old employer in the new position. Furthermore, the calculation of vacation entitlements for employees is relatively difficult and in calendar days rather than, as is internationally common, work days and unnecessary “attestations” (checks of the competence of employees) have to be made by companies every three years for each employee.

**Suggested reform measures:**

An entirely new labour code for Belarus should be elaborated that reconciles the interests of employees and employers in a modern economic environment. The labour code should allow for transparent and easy calculations and implementations of working time and vacation, ensure the flexible possibility to call in overtime from employees within reasonable limits, stipulate reasonable and symmetric notice periods (usually 3 months) for regular contract terminations by employees or employers and should contain the possibility to institute no-competition clauses and other safeguards against conflicts of interest and the disclosure of sensitive information by (former) employees with access to sensitive information.

**Effect on Belarus:**

A full reform and modernisation of labour law would be a massive improvement of the business environment in Belarus, strongly contributing to investment of companies and the creation of new jobs.

**Lab-2                      Extending the maximum duration of work permits****Responsible institutions:**

Ministry of Economy, Ministry of Labour and Social Protection, Ministry of the Interior

**Problem for companies:**

The application and registration procedure for foreigners working in Belarus is long-winded and complex. Foreigners need three different permissions: A work permit, a residence permit and a visa. The applications procedures for these documents require a lengthy list of documents, 2-4 months processing time and several personal visits to the authorities. Most documents are only valid for one year, after which they must be renewed. Companies and their foreign employees must hence undergo a lengthy and time-consuming procedure of applying for prolongation of the permits and visa every year and work contracts with international staff can effectively only be concluded for one year fixed-term.

**Suggested reform measures:**

The maximum duration and application process for work and residence permits as well as visas should be synchronised and consolidated as a “one stop shop” in one state institution. The maximum duration of permits and visas should be extended to at least two, possibly more, years to reduce the bureaucratic burden on companies (as it was already extended to 2 years for highly qualified employees). In addition, the procedure should be simplified to require fewer documents and personal visits to authorities.

**Effect on Belarus:**

Reduction of the bureaucratic burden for employing foreigners will improve the willingness of companies to invest. Facilitating the work of skilled foreigners in Belarus will contribute to the productivity of companies and the economy.

**Lab-3 Facilitating immigration and work permit rules for business owners and directors****Responsible institutions:**

Ministry of Economy, Ministry of Labour and Social Protection, Ministry of the Interior

**Problem for companies:**

Owners of property and businesses in Belarus can either enter Belarus on the visa-free regime or business visas, limited to 90 days of presence in Belarus per year, or require a work permit for longer durations of stay. Especially for owners who are not directors of their respective businesses, business visas are the preferred form for entering Belarus as the application process is easier, but the 90 days limitation is often too strict. Also, when a Belarusian company is bought or founded by a foreign investor, a foreign director can only be employed at the company after a Belarusian interim director has applied for a work permit for the foreign director, taking 3-4 months. This makes it lengthy, difficult and risky for foreign investors especially to purchase a company in Belarus since they can only fully take control over it after a few months.

**Suggested reform measures:**

It should be considered to extend the maximum number of days in Belarus to up to 180 days per calendar year without a temporary residence permit, especially for owners/co-owners of property and businesses in Belarus. This corresponds to the regime already practised e.g. for citizens of Lithuania and Latvia due to bilateral treaties. Moreover, such extension has been already implemented into the local laws with respect to foreign shareholders of residents of the Belarusian HTP and the “Great Stone” Industrial Park. It should also be considered whether owners of businesses could be permitted visa-free entry up to 180 days to Belarus. If shares in a Belarusian company are held by a foreign investor, no work permit should be required for one foreign director of the respective company.

**Effect on Belarus:**

Increased willingness of foreigners to invest in Belarus as it will become easier to inspect and adjust in person the running of the business.

**Responsible institutions:**

Ministry of Economy, Ministry of Labour and Social Protection

**Problem for companies:**

Foreigners have to pay twice for social insurance in Belarus. By default, employers pay contributions for the health insurance of their employees in Belarus. Nevertheless, some local authorities demand an additional insurance provided by Belgosstrakh in order to issue a residence permit, although the additional insurance does not cover substantial additional services. Furthermore, foreigners are refused to be serviced by the “free” health system and/or have to pay significantly higher tariffs. Foreigners also have to pay into the pension fund even if they will never have a chance to benefit from it. The current insurance system presents a strong disincentive for foreigners to work in Belarus.

**Suggested reform measures:**

In the minimum case, foreigners should not have to purchase additional insurance in order to get a residence permit and have the same access to the health system as Belarusian citizens paying the same insurance. This would stop discrimination against foreigners in the health insurance. In addition, it should be contemplated to allow foreigners to fully “opt out” of social insurance (health and pension), foregoing any claims on public health insurance and a public pension in return for not having to pay social contributions, hence requiring them to fully insure themselves for health and pensions purposes. If foreigners have to pay into the pension fund, they should be allowed to be paid out by the pension fund in case they leave Belarus.

**Effect on Belarus:**

This would increase the attractiveness of Belarus as a place to work for foreigners. Attracting more skilled foreigners will improve the productiveness of the Belarusian economy through knowledge spillovers; furthermore, companies will be more willing to invest if they can more easily attract necessary specialists that they could not find on the domestic labour market.

## 5. Reform proposals on the legal regulation of companies

This section on company regulation covers all reform proposals directed at the regulations of the possible activities and organisational forms of companies (with the exception of labour-law related issues covered in the previous section). Hence, the following proposals are mainly directed at removing unnecessary or non-transparent restrictions on companies by the state. This is clearly differentiated from section 3, where improvements in the judicial system and penal law were suggested. In contrast, we here focus on allowing companies to conduct business efficiently, while safeguarding legitimate interests of the state and business counterparties.

**Table 3: Reform proposals on the legal regulation of companies**

Number	Title
Reg-1	Clarifying the rules on power of attorney
Reg-2	Creating a transparent tax registration of permanent establishments
Reg-3	Permitting third party indemnification for all companies
Reg-4	Reducing abuse risks in company reorganisations
Reg-5	Permitting two-level single shareholders constructions
Reg-6	Permitting debt-equity swaps

Source: Own display based on reviewed and analysed responses from company survey

### Reg-1 Clarifying the rules on power of attorney

#### Responsible institutions:

Ministry of Economy

#### Problem for companies:

Courts in Belarus employ a very strict interpretation of power of attorney: A contract signed by a person not having formal power of attorney by the company can be nullified. This leads not only to problems from simple oversights such as the company having forgotten to prolong the power of attorney (which can be given for at most 3 years) for the respective individual, but also to abuse when individuals sign a contract in order to have it nullified later (e.g. after the counterparty has provided services but before it is paid).

#### Suggested reform measures:

Ideally, courts should be obliged to consider not only the formal aspect of whether an individual had power of attorney on the respective day, but also the affected interests of both parties in order to determine whether a contract should be nullified or not in order to prevent abusive business behaviour using this formal trick. As a minimum, an online, real-time

register of authorised signatories for companies, along with their competences, should be established. Companies are required to maintain their entries such that whoever is listed in the register will be recognised by partners and courts alike as having power of attorney at that time. Also, it should be considered to make it possible to give power of attorney without the present time limit of three years (hence until revocation).

**Effect on Belarus:**

Reduction of business risks from abuse of formal tricks by malicious counterparties will lead to an improvement of business climate and increased willingness of companies to conduct business in Belarus and with Belarusian counterparties.

**Reg-2                      Creating a transparent tax registration of permanent establishments**

**Responsible institutions:**

Ministry of Finance, Ministry of Economy, Ministry for Taxes and Duties

**Problem for companies:**

When permanent establishments of foreign companies are registered with the state, the tax authorities register them with a specific status. This status determines what activities the permanent establishment may undertake. However, the details of this status are not known to the company. The status shows up as a letter in the certificates from the tax authorities, but the meanings of the letters are not published. Hence, when an extension of activities is envisaged, the company does not know, whether it needs to register a new permanent establishment / re-register the existing one or whether the activities are permitted under the present status.

**Suggested reform measures:**

We suggest that a list of the possible registration statuses, along with the list or explanation of permitted activities under the respective status, is published by the tax authorities (who are in charge of registrations of permanent establishments).

**Effect on Belarus:**

This reform will reduce difficulties in conducting business in Belarus and will facilitate the scaling-up of activities of foreign companies operating with permanent establishments in Belarus.

**Reg-3****Permitting third party indemnification for all companies****Responsible institutions:**

Ministry of Economy

**Problem for companies:**

At present, third-party indemnification agreements (permitting the indemnification of one business by another business for third-party claims against the former business) are only allowed for members of the Belarus High Technologies Park (HTP). These agreements allow a better risk control, ensuring that a company can divest by mutual agreement a risk to another company if the latter is better placed to control this risk.

**Suggested reform measures:**

As third-party indemnification agreements have proved usable and effective in the HTP member companies, we recommend that they should now be permitted for all companies in Belarus.

**Effect on Belarus:**

This reform will improve the risk management capacities of companies, reducing uncontrollable risks for them and hence improving the business and investment climate.

**Reg-4****Reducing abuse risks in company reorganisations****Responsible institutions:**

Ministry of Economy

**Problem for companies:**

Under present Belarusian law, the interests of lenders or other parties with a claim against a company are inadequately protected in case of reorganisation of the respective company. Among other possible avenues of abusing a company reorganisation, claimants are at risk of their claims not being honoured if the assets and liabilities of a company are being unfairly distributed in a reorganisation (splitting into two legal entities) and if the separation balance sheet does not allow determining the legal successor of the legal entity's obligation.

**Suggested reform measures:**

This problem can be remedied in two ways: Firstly, by requiring by law that companies (both predecessor and newly created companies) resulting from a reorganisation are jointly liable for preexisting claims against any of them or, secondly, by requiring that debtors are informed before a reorganisation and can request additional security for their claims before assenting to the reorganisation (German model).

**Effect on Belarus:**

This reform would further reduce unnecessary risks for businesses operating in Belarus or with Belarusian counterparts, hence contributing to business and investment climate.

**Reg-5      Permitting two-level single shareholders constructions****Responsible institutions:**

Ministry of Economy

**Problem for companies:**

Two-level constructions of companies with a single shareholder are not permitted in Belarus. However, this sort of construction would be quite useful for foreign companies with a single shareholder (such as German one-person GmbHs (LLCs)) who would like to open a Belarusian subsidiary. There is no good reason for not permitting this type of construction.

**Suggested reform measures:**

Permitting two-level company constructions with a single shareholder, at least if the mother company is a foreign company.

**Effect on Belarus:**

Facilitation of opening subsidiaries in Belarus will contribute to increasing investment from foreign companies.

**Reg-6      Permitting debt-equity swaps****Responsible institutions:**

Ministry of Finance, Ministry of Economy

**Problem for companies:**

Debt-equity swaps (exchanging a debt claim against a company for a share in the company) are not permitted in Belarus. However, these swaps can be beneficial to all involved parties, especially if they help preventing the company going insolvent. They can help both protecting the continued operation of the company and ensuring that the claimant, who has agreed to a debt-equity swap, will receive more from his claim than in case of insolvency of the company. For residents of the High-Tech Park, debt-equity swaps are already permitted.

**Suggested reform measures:**

Permitting debt-equity swaps, provided that both the company and the claimant agree to the swap.

**Effect on Belarus:**

This reform will contribute to better availability and costs of financing for companies, as well as reducing avoidable insolvencies of companies.

**6. Reform proposals in the area of investment regulation**

Five proposals by companies are directed towards the highly important investment regulation in Belarus, especially the law “On Investments” that regulates the conditions under which an investment by a foreign company is permitted and investment agreements between the state and an investor, providing investors with public land and special conditions in return for the investor agreeing to fulfil conditions such as scope of activities and magnitude of investment as specified in the respective agreement. This area clearly is of great importance for increasing the investment of foreign companies in Belarus as it affects the very start of the investment process.

**Table 4: Reform proposals in the area of investment regulation**

Number	Title
Inv-1	Introducing a waiver of state immunity in investment disputes
Inv-2	Including a stabilisation clause in the law “On Investments”
Inv-3	Protecting investors in case of nationalization or requisitioning of property
Inv-4	Allowing investors to unilaterally terminate investment agreements
Inv-5	Simplifying the conclusion of additional agreements to an investment agreement

*Source: Own display based on reviewed and analysed responses from company survey*

<b>Inv-1</b>	<b>Introducing a waiver of state immunity in investment disputes</b>
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**Responsible institutions:**

Ministry of Economy

**Problem for companies:**

Under current law, the Republic of Belarus has immunity in disputes with investors as no waiver of state immunity exists in the law “On Investments”. In effect, this creates highly unequal relations between investors and the state. For example, investors have no certainty if rulings of international arbitration courts in investment disputes can be enforced in Bela-

rus. State immunity waivers can be included in individual investment agreements but are at risk from being declared void by local courts. In result, investors are only very incompletely protected against breaches of contracts by the state.

**Suggested reform measures:**

A waiver of state immunity should be introduced in the law "On Investments" such that investors have all rights to put forward claims against the state in arbitration courts and to enforce claims in Belarus.

**Effect on Belarus:**

This would be a very major step to improve investment climate as it remedies a key deficiency in the legal environment for investors in Belarus, with high risks to any investment in case of state actions.

Inv-2

Including a stabilisation clause in the law "On Investments"

**Responsible institutions:**

Ministry of Economy

**Problem for companies:**

A "stabilisation clause" in investment law protects investors against unfavourable changes in the legislative environment, either exempting them from new rules or giving them a claim for compensation against the state. This clause, which is a common element of investment protection law globally, is not included in the "Law on Investments" of Belarus and hence most investors in Belarus are not protected against such changes. However, the clause was included in the agreement on the Great Stone Industrial Park (approved by the Edict of the President No. 166 dated 12.05.2017), as well as in the CIS Treaty on Cooperation in the Sphere of Investment Activity (concluded on 24.12.1993), implying that it is feasible to include in general Belarusian investment law.

**Suggested reform measures:**

We suggest including a stabilisation clause applying to all new investments in the law "On Investments", guaranteeing investors the legal conditions at the time of their original investment decision and giving them an enforceable claim to compensation if this guarantee is not honoured.

**Effect on Belarus:**

This would be a significant improvement of regulatory certainty for investors and remedy a key disadvantage of Belarus in competing for foreign investment.

**Inv-3****Protecting investors in case of nationalization or requisitioning of property****Responsible institutions:**

Ministry of Economy

**Problem for companies:**

No procedure exists for compensation of investors in case of nationalisation or requisitioning of their property by the state. In past, this procedure was generally regulated by Art. 12 of the Investment Code. Now, the law "On Investments" guarantees compensation, but does not specify a procedure. Hence, in case of nationalisation or requisitioning, investors are effectively without guarantee of a fair compensation. Furthermore, investors cannot insure themselves with an insurance company against such events as they cannot transfer their rights to compensation, leading to extensive risks for any investment in Belarus.

**Suggested reform measures:**

We recommend passing the existing draft amendment to the Law of the Republic of Belarus "On Investments" from 12.07.2013. It is crucial that investors are guaranteed an adequate compensation in case of nationalisation or requisitioning of their property, commensurate to either a fairly calculated market value of the property or the cost of investment plus appropriate interest. Furthermore, the law should be amended to allow the transfer of rights to compensation from an investor to an insurance company.

**Effect on Belarus:**

Implementing this reform would further contribute to reducing the high risks from state intervention that all investments in Belarus are currently subject to and would hence greatly increase the attractiveness of investing in Belarus.

**Inv-4****Allowing investors to unilaterally terminate investment agreements****Responsible institutions:**

Ministry of Economy, President of the Republic of Belarus

**Problem for companies:**

Under present law, only the government may unilaterally terminate an investment agreement if the investor is in breach of the contract. However, if the government fails to fully honour the commitments it has entered into with the investment agreement, the investor cannot terminate the agreement. This is especially risky if the non-fulfilment of obligations by the state brings the investor into a situation where the investor again can no longer fulfil its obligations and risks being fined by the state.

**Suggested reform measures:**

We recommend the introduction to the law “On Investments” (or in Decree #10 regulating investment agreements) of a provision on unilateral termination of investment agreements by the investor in case of non-fulfilment or improper fulfilment of the obligations by the state.

**Effect on Belarus:**

Improved legal protection for investors will increase investment by foreigners and foreign companies.

**Inv-5****Simplifying the conclusion of additional agreements to an investment agreement****Responsible institutions:**

Ministry of Economy, President of the Republic of Belarus

**Problem for companies:**

Concluding additional agreements to an existing investment agreement requires the same, difficult procedure, as concluding the agreement itself. Although the financial status of the investor and the investment plan is already known to the regulator, the investor has to hand in all documents that were needed for the core investment agreement, including audit or due diligence reports. This hampers an effective and cooperative steering of investment projects in their realisation stage.

**Suggested reform measures:**

A simplified procedure should be introduced in Decree #10 for amendments to investment agreements that does not require the submission of information already known to the regulator, such as financial status of the investor.

**Effect on Belarus:**

This reform would facilitate the steering of investment processes, leading to more cooperative interaction between investor and regulator, hence reducing the likelihood of coming into breaches of agreements. In result, this will make investors more willing to invest in Belarus.

## 7. Reform proposals in the sphere of trade

Four reform proposals are directed at improving and facilitating the conduct of goods and services trade with and from Belarus. This includes trade documentation and customs issues as well as issues related to divergences in product standards between Belarus and other members of the Eurasian Economic Union.

**Table 5: Reform proposals in the sphere of trade**

Number	Title
Tra-1	Harmonising technical regulations and certification within the EAEU
Tra-2	Permitting electronic document flow for within-EAEU trade
Tra-3	Accepting invoices for customs clearance of goods
Tra-4	Decreasing paperwork for goods storage at logistic terminals

*Source: Own display based on reviewed and analysed responses from company survey*

### **Tra-1 Harmonising technical regulations and certification within the EAEU**

#### **Responsible institutions:**

Ministry of Economy, Ministry of Energy, Ministry of Architecture and Construction, Eurasian Economic Commission

#### **Problem for companies:**

The harmonisation of technical regulation, product standards and mutual recognition of certifications within the Eurasian Economic Union remains very limited. For example, energy efficiency certification for industrial goods and equipment is not harmonised within the Eurasian Economic Union. Any piece of equipment certified in Russia needs to undergo the full and long certification process if it is to be exported to and used in Belarus. Also, in the area of building materials different standards apply (e.e. GOST in Russia, GOST and STB in Belarus), government requirements and test methods differ.

#### **Suggested reform measures:**

Belarus should push for an accelerated harmonisation of technical regulations/product standards and certification methods, along with mutual recognition of certifications within the EAEU.

#### **Effect on Belarus:**

This would contribute substantially to making the EAEU a more attractive economic area, moving it closer to a single market. Belarus would benefit in multiple ways, from increased intra-EAEU trade and from increased investment using Belarus as a hub for EAEU business due to its reliable business environment.

**Responsible institutions:**

Ministry of Finance, Customs Authorities

**Problem for companies:**

Even when trading with countries that also are members of the Eurasian Economic Union (EAEU), Belarusian authorities, especially customs, still require a significant number of documents in paper form and with signatures. For normal business processes, many of these documents, such as invoices would normally only be sent electronically. The requirement of signed paper documents creates a significant bureaucratic burden on goods trade in the EAEU.

**Suggested reform measures:**

We recommend a full review of the required documentation for trade procedures. Documents should be accepted in electronic form, corresponding to normal business practices, to the furthest extent possible without jeopardising customs enforcement.

**Effect on Belarus:**

Strengthening of trade with EAEU partners as well as increased investment into production facilities in Belarus as an export platform for trading with Russia and other EAEU members.

**Responsible institutions:**

Customs Authorities/ Minsk Regional Customs (MRC)

**Problem for companies:**

Proving the value of a cargo and getting cargoes released by customs is excessively difficult in Belarus. In order to prove the value, an entire file of documents containing information on the transaction between the manufacturer of the goods, potentially an intermediary trader in Belarus and the final customer must be supplied and, if in a foreign language, officially translated. Furthermore, to release a cargo from the customs control zone, the shipper must pay a high deposit to MRC.

**Suggested reform measures:**

Customs should be required to, as a general practice, accept prices stated on invoices, at least from countries, where the informal economy size is small, such as EU countries. For other countries, required documentation should be restricted to usual shipping documents, including e.g. the shipper declaration. Anti-fraud checks and mechanisms can and should

operate in parallel, but should not conflict with a lean and speedy clearance process for shipments that do not raise issues.

**Effect on Belarus:**

Trade will be facilitated and business climate will be improved as imports into Belarus will be cleared quicker and with less bureaucratic burden.

**Tra-4                      Decreasing paperwork for goods storage at logistic terminals**

**Responsible institutions:**

Ministry of Transport

**Problem for companies:**

Forwarding companies require complicated paperwork if goods are stored at logistics terminals/warehouses before being transported to their final destinations. Such temporary storage is normal when grouping/collecting goods from different owners for efficient transport (e.g. export of groupage shipments from Belarus or intra-EAEU groupage traffic). In Belarus, separate TTN-1 forms, requiring signatures of cargo owners, shippers etc. are required for each transaction of the cargo when temporarily storing cargoes at a logistics terminal/warehouse. This is also due to Belarus not having a definition of “cross dock” terminals, where such temporary storage is normally possible only using the CMR (“Convention relative au contrat de transport international de marchandises par route”, i.e. the standard cargo papers) papers.

**Suggested reform measures:**

Belarus should introduce a definition of “cross dock terminal”, a logistics terminal dedicated for simple storing and grouping of cargoes using no additional documentation other than CMR papers.

**Effect on Belarus:**

Implementing this reform proposal will make logistics for goods trade with Belarus quicker and cheaper. This could also unlock investment related to using Belarus as a regional logistics hub, e.g. for EU-EAEU trade.

## 8. Reform proposals on tax and accounting issues

Tax and accounting rules are a typical area in which state regulations can be problematic for business operations. We make six reform proposals on how to improve the tax system and accounting rules for businesses without harming the legitimate objectives (taxation and enforcement) of the state.

**Table 6: Reform proposals on tax and accounting issues**

Number	Title
Tax-1	Abolishing the taxation of unrealised profits from exchange rate adjustments
Tax-2	Reducing the paper documentation requirement in accounting
Tax-3	Abolishing the freeze on VAT refunds for shipments
Tax-4	Introducing further deductions in the Corporate Profit Tax
Tax-5	Consulting business stakeholders before changing accounting rules
Tax-6	Improving the tax treatment of permanent establishments

*Source: Own display based on reviewed and analysed responses from company survey*

<b>Tax-1</b>	<b>Abolishing the taxation of unrealised profits from exchange rate adjustments</b>
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### **Responsible institutions:**

Ministry of Finance, Ministry of Taxes and Duties, Ministry of Economy

### **Problem for companies:**

Under present law, companies need to pay Corporate Profit Tax on any exchange rate profits. This also concerns unrealised profits on assets accounted for in foreign currencies, e.g. on foreign currency accounts or assets in Belarus financed from abroad (e.g. construction projects) and hence accounted for in another currency. As exchange rate fluctuations are happening all the time, this creates a lot of cash-flow without any real changes of value, creating risks for companies' liquidity situations without a real need for this.

### **Suggested reform measures:**

We recommend amending the Tax Code of the Republic of Belarus in order to ensure that foreign exchange gains only become taxable at the moment of realisation.

### **Effect on Belarus:**

This would be a significant improvement of tax rules for foreign companies that always deal with foreign currency holdings and assets accounted in foreign currency. Apart from simpli-

fyng the tax work of companies, it will furthermore improve the liquidity situation, especially for smaller companies.

## **Tax-2      Reducing the paper documentation requirement in accounting**

### **Responsible institutions:**

Ministry of Finance, Ministry of Taxes and Duties, Ministry of Economy

### **Problem for companies:**

Under Belarusian accounting rules, each and every accounting transaction must be documented on paper, usually requiring several signatures or seals should be affixed. If these conditions are not met, penalties are possible. This presents a significant hindrance to modern business practices, in which many transactions are conducted electronically. It would be sufficient to document most transactions by an agreement or contract in E-mail format along with a proof of payment.

### **Suggested reform measures:**

Belarus should revise its accounting regulations, along with the documentation requirements for taxation, to cancel outdated requirements of paper documents and signatures, taking into account best practices from countries that have already implemented such reforms.

### **Effect on Belarus:**

Implementation of this reform would reduce transaction/overhead costs and the bureaucratic burden for companies.

## **Tax-3      Abolishing the freeze on VAT refunds for shipments**

### **Responsible institutions:**

Ministry of Finance, Ministry of Taxes and Duties, Ministry of Economy

### **Problem for companies:**

VAT refunds (i.e. netting the already paid import VAT with VAT on the final sale) for shipments to Belarusian companies, which are then sold on the Belarusian markets, are subject to a 60 day freeze, even if the VAT on the sale of the final good and all applicable customs have been paid. This reduces the liquidity of companies dealing with imported goods without any good tax enforcement reason.

### **Suggested reform measures:**

VAT refunds to an importer should be available as soon as customs have been paid. There is no reason to further delay the refund as the Belarusian state is well equipped to combat tax

fraud. If additional security is sought by the state, the refund could be made only after the importer has sold the good and VAT has been paid for the final sale. This would fully ensure that the state has received its VAT dues and corresponds to the model recently introduced and successfully practised in Ukraine, which has however seen far more serious VAT fraud than ever happened in Belarus.

**Effect on Belarus:**

Improvement of the liquidity situation of importers would help them to grow their business in Belarus. Better availability of imported (investment) goods may further contribute to raising the productiveness of the Belarusian economy.

**Tax-4**

**Introducing further deductions in the Corporate Profit Tax**

**Responsible institutions:**

Ministry of Finance, Ministry of Taxes and Duties, Ministry of Economy

**Problem for companies:**

Under current Corporate Profit Tax (CPT) rules, some expenses that conceptually should be deductible cannot be deducted as costs from the taxable profit of companies. These include, firstly, the cost of additional labour leave stipulated by Decree 29, which is an obligation of companies to their employees when concluding an employment contract. Secondly, sponsorship of educational efforts such as skills workshops or contests for students, are not deductible at present although being a relatively clear cost and worthwhile to incentivise.

**Suggested reform measures:**

We recommend amending the CPT legislation in order to ensure that the costs of additional labour leave and costs for educational assistance efforts can be deducted by companies in the calculation of their CPT burden.

**Effect on Belarus:**

Fairer and more adequate tax rules not only increase the profitability of companies in Belarus but also contribute to the perception of the country having reasonable legislation, hence improving business climate. Furthermore, the deductibility of educational assistance efforts may lead to an increase of company sponsorships of measures raising the skill base of Belarusian students.

**Responsible institutions:**

Ministry of Finance, Ministry of Taxes and Duties, Ministry of Economy

**Problem for companies:**

It is a frequent problem that changes in accounting and CPT rules are made by state institutions without prior consultation of affected businesses, leading to problems that were neither foreseen nor intended. Although stakeholders are sometimes consulted, no regular and mandatory procedure for this exists, leading to lack of consultation when it would have been strongly advisable. An example of this is edition 176 of the travel regulations that have, among other problems, created incentives for employees to book cheap accommodation, “lose” the invoice and get compensated by employers at high standard hotel rates.

**Suggested reform measures:**

A regular and mandatory procedure for amending and changing procedures and regulations affecting businesses should be instituted that requires prior consultation with stakeholders as well as a notice period of at least 6 months between publication of the changes and them coming into force. This would permit identification of potential problems before changes come into force as well as time for businesses to adequately prepare for changes.

**Effect on Belarus:**

Significant improvement of business and investment climate through a better and more constructive regulatory cooperation between government and companies and through a better functioning regulatory framework.

**Responsible institutions:**

Ministry of Finance, Ministry of Taxes and Duties, Ministry of Economy

**Problem for companies:**

Several tax rules on permanent establishments of foreign companies in Belarus cause problems in running such businesses in Belarus. Firstly, VAT refunds are paid only when a permanent establishment is finally de-registered, at the end of the project. Given the current inflation rates, this implies significant inflation-related losses for multi-year projects. Secondly, some costs of permanent establishments, especially overhead costs, cannot be carried forward to the year in which the project is paid for by the customer and CPT is paid. Both these issues increase the effective tax burden for permanent establishments in Belarus, making this form of operation more expensive than necessary.

**Suggested reform measures:**

VAT refunds on inputs to the operation of a permanent establishment should preferably be paid out immediately, as is internationally common. As a second best, they should be paid only after applicable VAT on the sale of the final good or service has been received, with interest corresponding to the Policy Rate of the National Bank of Belarus added to compensate for inflation-related losses. Overhead costs of operation in Belarus should be deductible from the CPT burden of permanent establishments. Costs from the use of services of the mother company should however not be made tax deductible to prevent tax optimisation.

**Effect on Belarus:**

Improved liquidity and reduced costs of operating permanent establishments in Belarus will contribute to cheaper costs of investment (e.g. construction projects) in Belarus.

## 9. Sector-specific reform proposals

In this final section of proposals, we list four proposals that are specific to the regulation of an individual sector of the Belarusian economy, including the agricultural, housing and facility services and financial sectors.

**Table 7: Sector-specific reform proposals**

Number	Title
Sec-1	Improving tenders in the housing, facility and waste services market
Sec-2	Simplifying the regulation of waste management
Sec-3	Abolishing the need for National Bank permission to open foreign bank accounts
Sec-4	Replacing the state tender procedure for crop protection products
Sec-5	Improving taxation rules for syndicate loans

*Source: Own display based on reviewed and analysed responses from company survey*

### **Sec-1 Improving tenders in the housing, facility and waste services market**

#### **Responsible institutions:**

Ministry of Housing and Communal Services, Ministry of Economy

#### **Problem for companies:**

Tender procedures for (technical) housing, facility and waste services in state-owned housing, accounting for 80-90% of the housing market in Belarus, remain inadequate. Municipal housing authorities are required to tender these services, but tender procedures are insufficient. Tenders often favour local companies with connections to the housing authorities and companies focusing on cheap prices at the expense of service quality, leading to quality issues and long-term losses as building quality decays.

#### **Suggested reform measures:**

Tender procedures should be streamlined by the responsible ministry, with clear guidelines and recommended standards for ensuring service quality and monitoring of quality by service providers. Problematic instruments such as price caps – often favouring service under-provision when the price is too low to commercially make proper operations viable – should be abandoned. The ministry should set up instruments to ensure that municipal housing authorities follow best practice in tender procedures in order to promote a level playing field between competing companies in this market.

**Effect on Belarus:**

Implementing this reform would improve the quality of housing in Belarus and reduce the service costs of public housing to the government or the tenants.

**Sec-2 Simplifying the regulation of waste management****Responsible institutions:**

Ministry of Housing and Communal Services, Ministry of Natural Resources and Environmental Protection, Ministry of Economy

**Problem for companies:**

Currently the regulation of the waste management sector is undertaken by two different ministries: The Ministry of Housing and Communal Services for state-owned housing and the Ministry of Natural Resources and Environmental Protection for company waste and all other waste generated outside state-owned housing. This leads to difficulties with different standards for essentially the same issues and incompatibilities between regulations.

**Suggested reform measures:**

We recommend bundling responsibility for the waste management sector in the Ministry of Natural Resources and Environmental Protection in order to ensure the consistency and transparency of regulations in this sector.

**Effect on Belarus:**

Better and more understandable regulation in this sector will lead to increased investment in this sector by foreign and domestic companies, improving the quality and price-effectiveness of waste management services in Belarus.

**Sec-3 Abolishing the need for National Bank permission to open foreign bank accounts****Responsible institutions:**

Ministry of Finance, National Bank of Belarus

**Problem for companies:**

Companies require a permission from the National Bank of Belarus to open a foreign bank account. This anti-fraud measure on the one hand complicates foreign business activity for companies, on the other hand it is inconsequential as companies can conduct far riskier (from an anti-fraud perspective) foreign transactions to third parties do not require any permission and natural persons already may open foreign bank accounts without needing permission.

**Suggested reform measures:**

The requirement of permission by the National Bank should be abolished in favour of companies being obliged to declare foreign bank accounts to the National Bank or tax authorities.

**Effect on Belarus:**

As accounts in other countries are often important for conducting business abroad, as well as for companies with FDI, implementing this proposal will facilitate the internationalisation of the Belarusian economy as well as aid attraction of foreign investment.

**Sec-4 Replacing the state tender procedure for crop protection products****Responsible institutions:**

Ministry of Agriculture and Food, Ministry of Economy

**Problem for companies:**

A state tender procedure to regulate the procurement of crop protection products (CPPs) for state farms, which make up around 90% of agricultural land in Belarus, exists and was used in 2017 and 2018. In 2019, no tender took place, but the procedure remains valid. The procedure, a result of the presidential decree "About increasing effectiveness of state budget funds spending", is highly problematic: As CPPs must be pre-produced well in advance of the agricultural season and are specific to each country's market, winning companies of lots of the tender usually cannot satisfy the demand with their production.

Once the winners are out of stock, it is relatively difficult for farms to purchase CPPs from the runners-up on the tender list. On the side of CPP producers, the procedure leads to decreased investment/pre-production of CPPs for the Belarusian market (as a company not winning the tender has little chances to sell these products). This leads to several problems for Belarus, especially loss of agricultural productivity due to inadequate supply of custom-made CPPs.

**Suggested reform measures:**

We recommend replacing the tender procedure by a monitoring of prices and quality of CPPs by the government. In order to keep the costs low for what is essentially public procurement of CPPs for state farms, the government could set price bands for CPP purchases of state farms that reflect the lowest prices of CPPs of adequate quality. Alternatively, the government could procure CPPs in several lots through negotiation with procedures, recognising that CPPs must be pre-produced and that no single supplier will or should supply the entire market.

**Effect on Belarus:**

Implementing this recommendation would ensure that sufficient CPPs are available each year for the market of Belarusian state farms at reasonable prices, raising agricultural productivity and output without damaging the profitability of state farms.

## **Sec-5                      Improving taxation rules for syndicate loans**

### **Responsible institutions:**

Ministry of Finance, Ministry of Taxes and Duties, Ministry of Economy

### **Problem for companies:**

Banks in Belarus have to pay withholding tax on the interest from international loans. This tax varies from country to country due to different double tax agreements. This creates some problems for syndicate loans, which are given by a consortium of banks, usually from different countries, normally to finance a larger credit to another bank. Before 2017, syndicate loans were exempted from this tax. Having to pay this tax now creates large difficulties with regard to calculating the tax load (concerning syndicate partners from different countries with different applicable tax rates) and clarifying this with the tax authorities. As a result, almost no syndicate loans, despite being a highly appropriate form of financing for banks, are given to Belarus.

### **Suggested reform measures:**

We recommend facilitating the taxation rules under the withholding tax for syndicate loans. The syndicate leader should be obliged to calculate, collect and pay the tax for the syndicate. The tax burden should be calculated according to the relevant tax rates applying to each syndicate member, weighted by their shares in the total loan. Syndicates should be free to decide how this tax burden is dealt with internally – all members paying the same share of the total tax or according to the tax rates applying for their respective home country in the relevant double tax agreement.

### **Effect on Belarus:**

Improved availability of syndicate loans in Belarus and hence better and cheaper access to financing for the financial sector and its clients in Belarus.

## 10. “Quick wins”: A top-ten list of priority reforms

In our view, all reforms proposed in this paper should be implemented. All reforms proposed in this paper have been checked by the German Economic Team and affiliated experts to ensure that they will benefit Belarus as a whole. Most proposals would not create any “losers” but only winners as regulations become better and more transparent, redundant procedures abolished and institutions modernised. The playing field for companies in Belarus will become more level, business climate will improve, competition and investment in Belarus will increase.

However, some proposals stand out in our view by being particularly suitable for an accelerated implementation. These proposals are characterised by being at the same time fairly simple and easy to implement, while having quite considerable impact on improving the business climate when implemented. This list is presented below.

**Table 8: Top-ten priority reform to generate “quick wins”**

Priority	Number	Title
1	Tax-3	Abolishing the freeze on VAT refunds for shipments
2	Tra-3	Accepting invoices for customs clearance of goods
3	Jud-4	Abolishing excessive account blocking during tax disputes
4	Tax-1	Abolishing the taxation of unrealised profits from exchange rate adjustments
5	Jud-2	Creating a database of judicial decisions
6	Reg-1	Clarifying the rules on power of attorney
7	Lab -2	Extending the maximum duration of work permits
8	Sec-3	Abolishing the need for National Bank permission to open foreign bank accounts
9	Reg-2	Creating a transparent tax registration of permanent establishments
10	Inv-5	Simplifying the conclusion of additional agreements to an investment agreement

*Source: Own display based on reviewed and analysed responses from company survey*

The first four proposals in our top-ten list aim directly at lessening the administrative burden for companies doing business in Belarus. For example, the VAT freeze on imports affects many companies, squeezing them of liquidity, while Belarus does not have substantial VAT enforcement problems that would require such harsh measures. Similarly, easing the procedure of account blocking in case of disputes regarding tax underpayments would bring

Belarus much more in line with international norms for company-state interactions. Accepting invoices for customs clearance will speed up customs clearances and remove a notorious nuisance for trade. Simplifying the CPT treatment of unrealised profits will leave tax revenues unchanged in the medium term, while making tax statements easier and tax cashflows more predictable.

Several of the further proposals relate to more transparency of the legal system: A database of judicial decisions will contribute to more predictability of legal situations, whilst clarified rules on power of attorney, along with a registry of individuals carrying this power, will reduce abuse and other legal risks attached to signing contracts.

Finally, the last four proposals in this list concern the ease of employing foreigners in Belarus – very important especially for foreign investors – the ease of conducting international business, which often requires opening bank accounts abroad, the possibility and predictability to broaden the business activity of permanent establishments and, finally, the modification of already started investment agreements.

In sum, all these proposals are easy to implement and would positively affect a wide range of businesses. Nevertheless, this top-ten list only lists proposals that should be implemented rather quickly: It does not imply that the proposals not listed here are any less important. In fact, proposals such as developing a new labour code and a code of work for state authorities probably would have more impact than the proposals listed here, but require a lengthier process of fully developing and consulting the precise solutions.

## **11. Possible next steps**

Having identified a total of 35 proposals in our joint report, the next step should be the review and implementation of these proposals by the Belarusian government. We see three main areas in which the German-Belarusian partner institutions who were involved in the preparation of this study can contribute to the implementation phase:

1. Transposing proposals into policy and law: The German Economic Team Belarus, together with its partners - the German-Belarusian Business Club, the Representative Office of German Economy in Belarus and the German Eastern Business Association - are ready to support Belarusian policy makers with more detailed advice on how individual proposals can be incorporated into Belarusian law.
2. Monitoring of implementation progress: Keeping track of the progress made is also an important task. The German Economic Team Belarus, again in close cooperation with its partners, can take the lead in monitoring the implementation process of the outlined proposals.
3. Communication of progress: The regular meetings of the German-Belarusian Bilateral Working Group on Trade and Investment offer a suitable platform to present short updates on success stories of the current implementation progress, as it was specifically created to facilitate investment activity between the two countries.