

NEW LEGAL ACTS PACKAGE ON ENCOURAGING PRIVATE SECTOR DEVELOPMENT VS NEEDS OF BELARUSIAN BUSINESS: RESULTS OF THE SMALL AND MEDIUM ENTERPRISES SURVEYS*

Irina Tochitskaya, Gleb Shymanovich**

Abstract

The paper compares the assessment of the business environment drawn from SME surveys with progress in the Doing Business ranking and the measures envisaged by the new package of the normative legal acts on encouraging the development of the private sector in Belarus. The analysis revealed that the surveyed small and medium sized enterprises as a whole positively assessed the changes in the conditions of business registration, obtaining permits, and the implementation of administrative procedures. This corresponds to the results of the Doing business study, which finds that there was a significant reduction in administrative costs for business in Belarus. However, in other aspects of regulatory environment, there are differences in the estimates were done by surveyed SMEs and Doing Business reports. Thus, the business rather negatively assessed changes in the level of taxation, credit availability, and trade across the border, while the World Bank records certain improvements. Perhaps this is due to the fact that these improvements did not lead to a reduction in the tax burden for SMEs and did not making it easier to obtain loans. In addition, the negative perception by SME of business environment in the surveys was due to the deterioration in estimates of the such parameters as "lease terms", "tax burden" and "protection of property rights." They are not covered by the Doing Business ranking, but they have a significant impact on enterprises' sustainability. The comparison of barriers that should be removed by the package of normative legal acts on encourage the development of entrepreneurship, with those indicated by SMEs in surveys, revealed that some barriers identified by business will be further reduced (i.e. administrative barriers). However, very sensitive obstacles related to lease of property, tax burden, poorly functioning institutes and restriction of competition would not be affected by the package of normative legal acts on encouraging the development of the private sector in Belarus.

Content

1. Introduction.....	2
2. SMEs surveys vs Doing Business ranking	2
3. Liberalization of business climate: envisaged measures	8
4. Most significant external barriers to doing business: perception of small and medium enterprises. 11	
5. Conclusions.....	14
Literature.....	16
Annex.....	18

IPM Research Centre Policy Discussion Paper PDP/18/01



50 b Zakharava Street, 220088, Minsk, Belarus
tel./fax: +375 (17) 210 0105
website: <http://research.by/>
e-mail: research@research.by



The publication is prepared under the support
of the British Embassy in Minsk.

© 2018 IPM Research Centre

The content of this publication is the sole responsibility of the authors and can in no way be taken to reflect the views of IPM Research Centre or other institutions the authors may be affiliated to.

* Publication is prepared within the project "Supporting Economic Reforms in Belarus via Strengthening Economic Research Capacities of the Government".

** Dr. Irina Tochitskaya – Academic Director of IPM Research Centre, e-mail: tochitskaya@research.by; Gleb Shymanovich – economist of IPM Research Centre, e-mail: shymanovich@research.by.

1. Introduction

Since 2008–2009, in Belarus a special emphasis in the Government economic policy has been made on the development of small and medium-sized businesses, which was supposed to contribute to economic growth and job creation. Improvement of a business climate and support of an entrepreneurship were not only declared as a national economic priority, but formulated as objectives in the Government's program documents. For example, there were targets to get to the top 30 countries for ease of doing business (World Bank Ease of Doing Business Index), to increase the share of small and medium-sized enterprises in GDP to 30%. The National Strategy for Sustainable Social and Economic Development of Belarus for the period till 2020 set an even more ambitious goal, i.e. to increase the share of SMEs in GDP to 50%.

The legal basis for the promotion of SME development was created by the Edict of the President of the Republic of Belarus "On Certain Measures of State Support to Small Entrepreneurship" of May 21, 2009 No. 255, the Law of the Republic of Belarus "On Support of Small and Medium Enterprises" on July 1, 2010 No. 148-3, state programs of support for small and medium-sized entrepreneurship, the latter of which covers the period 2016–2020. These regulatory documents, in particular, provided for the establishment of a financial support mechanism for small and medium-sized businesses, as well as for improving the business support infrastructure. In addition, the state took measures to create more favorable conditions for conducting business activity.

However, despite the ongoing work and a significant improvement in ease of doing business ranking by moving from 110th position in the World Bank's Doing Business 2008 to 38th place in World Bank Doing Business 2018, Belarus has not been able to achieve tangible results either in terms of the contribution of SMEs to GDP, or in the expansion of employment. In 2017, in order to give a new impetus to the development of entrepreneurship, a package of draft normative acts was prepared to further liberalize the business climate and remove barriers to SMEs growth., One of the basic documents of this package is the Decree of the President of the Republic of Belarus No. 7 *On Entrepreneurship Development* that was signed on November 23, 2017. Its provisions should enter into force in 2018.

This paper aims to compare the results of the SMEs surveys conducted by IPM Research Centre regarding the importance of external barriers to business development in Belarus with the measures envisaged by the package of legal acts on the liberalization of entrepreneurial activity and the Presidential Decree No. 7. This will give an opportunity to get an idea of how much these documents will solve the problems that SMEs annually indicated as significant obstacles to running their business.

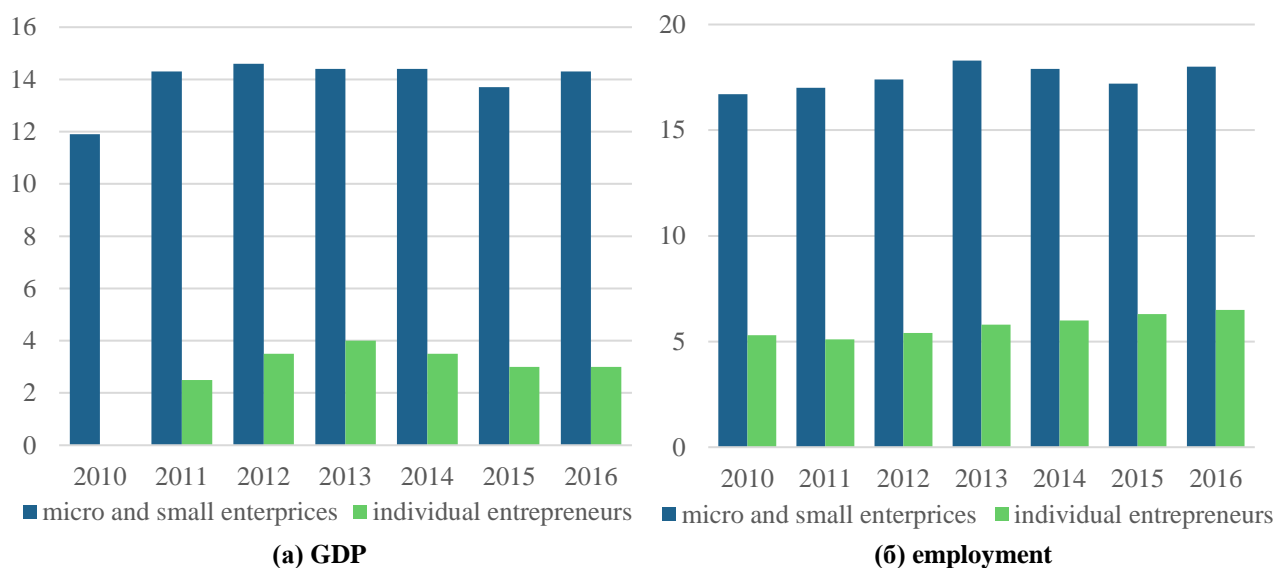
The paper is organized as follows: the second section compares the assessment of business environment drawn from SMEs surveys with progress in the Doing Business ranking. The third section analyses the main provisions of Presidential Decree No. 7 and a number of provisions of normative legal acts from the package of regulatory documents on the liberalization of entrepreneurial activity. The fourth section examines which of the barriers indicated by SMEs in the surveys are covered by the package of documents on the liberalization of entrepreneurial activity. The last section contains the main conclusions.

2. SMEs surveys vs Doing Business ranking

Small and medium-sized businesses and individual entrepreneurs are traditionally considered as an important sector of any country's economy. For example, in the OECD the share of SMEs in total number of enterprises amounted to 99%, their contribution to value added and employment accounted for 50-60% and 70% respectively (OECD, 2016). They are also one of the main catalysts for economic growth and job creation. According to the European Commission, in the EU the contribution of SMEs to increase in value added in 2015–2016 amounted to 94% (contribution of small and micro enterprises was 78%), and to increase in employment account for 67% (of which 44% are small and micro (Muller et al., 2017)).

According to official statistics, in emerging markets, the contribution of SMEs to GDP and employment is lower (33% 45% respectively (OECD, 2017)). However, this is often explained by the existence of a shadow economy. The share of small and medium-sized businesses in GDP and employment with an adjustment to shadow economy amounted to 50% (OECD, 2017).

In 2010–2016, despite the improvement of the position in the Doing Business ranking and the legislative measures taken in Belarus to support small and medium-sized enterprises, there was no noticeable increase in importance of this sector for the country's economy. The share of SMEs in GDP and in value added in 2016 was 23.5% and 27.5% respectively, increasing insignificantly compared to 2010 (by 4.6 and 5.7 percentage points, respectively). The share of SMEs in the average number of employees also remained practically unchanged during the period under review and did not exceed 32–32.8%. These indicators were much lower than those of Central and Eastern Europe (CEE). For example, in Poland and the Czech Republic, the contribution of small and medium-sized businesses to value added was 53-54%, and in Latvia and Lithuania it accounted for 70%. These enterprises also capture 68 - 79% of total employment (Muller et al., 2017).



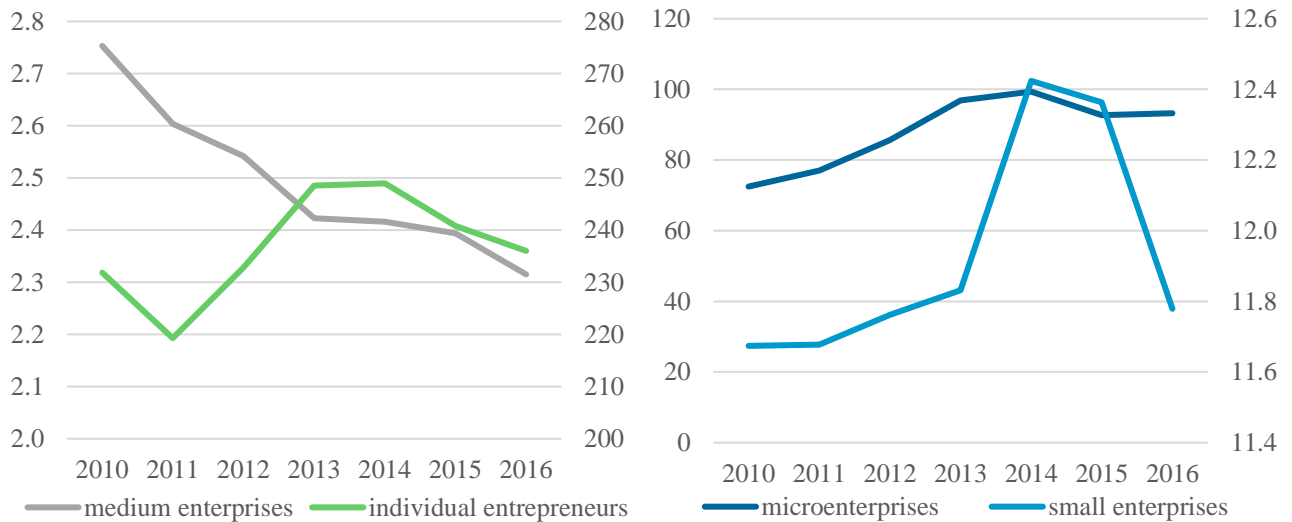
Source: Belstat

Figure 1. Contribution of micro and small enterprises and individual entrepreneurs to GDP and employment (average number of employees), %

Taking into account that in Belarus 36% of medium-sized enterprises are agricultural and many state support measures/programmes were targeted at small businesses, the analysis of its contribution to GDP and employment is of particular interest. As can be seen from Fig. 1, after the growth in 2010–2012, the share of small and microenterprises in GDP and value added decreased slightly. In 2016, it amounted to 14.3% and 16.3%, respectively, and was significantly lower than in the Central and Eastern European countries. The contribution to employment of micro and small companies in Belarus also almost did not grow and amounted to 18% in 2016. For comparison, in Poland, 40.7% of total number of employees worked at such enterprises, in the Czech Republic – 48%, in Lithuania – 53.3% (Muller et al., 2017). However, it should be noted that the contribution of the small and microenterprises sector to the main Belarus’ macroeconomic indicators significantly increased in 2016, as it recovered faster than the rest of the economy after the recession of 2015–2016 (Shymanovich, 2017a).

The dynamics of the number of SMEs was different to enterprises sizes classes (Fig. 2). The number of medium-sized enterprises was steadily declining, and in 2016 it decreased by 16% in comparison with 2010. The small, microenterprises and individual entrepreneurs were also influenced by the recession in the economy of Belarus (2015–2016). However, even during the period of economic growth of 2010–2014, the number of small enterprises increased at a very moderate pace (by 6% in 2014 compared to 2010), and then began to decline and practically returned to the level of 2010.

Microenterprises were the only one size class of SMEs demonstrating a stable positive dynamic, because they probably better and faster adapted to changing economic situation. Their number grew by 37.1% over 4 years (2010–2014). After declining by 6.7% in 2015 (yoy), it began to recover gradually, and in 2016 the number of microenterprises was by 28.7% higher than in 2010. The number of individual entrepreneurs has been growing steadily until 2015 (by 7.4% compared to 2010), and then began to shrink, and in 2016 it was only 1.8% higher than in 2010.

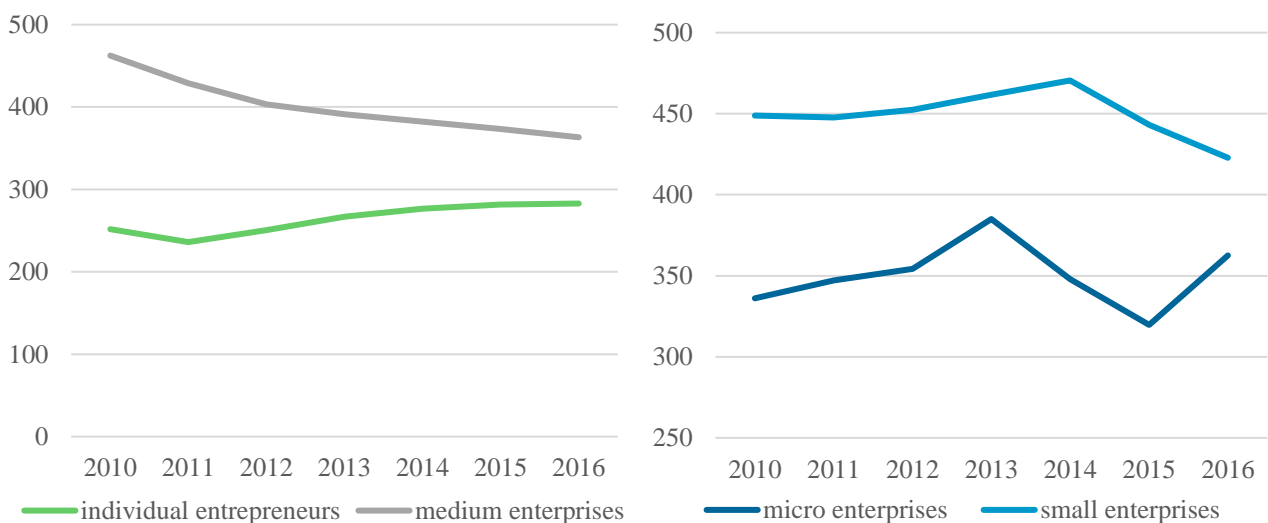


Note. On the right axis: individual entrepreneurs, small enterprises
 Source: Belstat.

Figure 2. Number of SMEs and individual entrepreneurs, thousands

Moreover, there were no signs that SMEs in Belarus went through growth stages. In particular, as can be seen from Fig. 2, there was no shift from one size class (development stage) to another, i.e. from microenterprises to small ones and from them to medium. In other words. the growth of the number of microenterprises did not lead to an increase in the number of small enterprises, and the number of medium-sized enterprises declined. The shift in the stages of life-cycle is caused by a combination of internal and external factors, which include the enabling business environment.

The SMEs employment dynamics was different for enterprise size classes (Fig. 3). The most significant decrease has been noted in employment at medium-sized enterprises, where the number of employees decline by 21.4% in 2016 compared to 2010. For small businesses, the number of employees reduced by 5.8% for the same period, however in 2010–2014, there was a slight increase in employed (by 4.8%), which was then completely offset by its downturn in 2015–2016.



Source: Belstat.

Figure 3. Average number of employees, thousands

Microenterprises and individual entrepreneurs turned out to be more adaptive in terms of change in employment in response to economic situation in Belarusian economy. The number of employees working at microenterprises reached its peak in 2013, then followed by its decline that continued till 2015. However, in 2016, the number of employees at microenterprises began to increase again with the growth rate amounted to 13.8% in annual terms. The number of individual entrepreneurs also grew until 2014, and then began to decline and in 2016 almost returned to the level of 2010. At the same time, they steadily have increased recruitment of individuals under labor and civil-labor contracts since 2014 and did not stop it even in the recession years of 2015–2016. It was due to adoption of the Decree of the President of the Republic of Belarus of May 16, 2014 No. 222 "On the regulation of entrepreneurial activities and the sale of goods by private entrepreneurs and other individuals" that allowed entrepreneurs to hire up to three employees, irrespective of the kinship. As a result, in 2014 hiring of workers by individual entrepreneurs increased by 50% compared to previous year, and in 2016 it was 2.3 times more than in 2010.

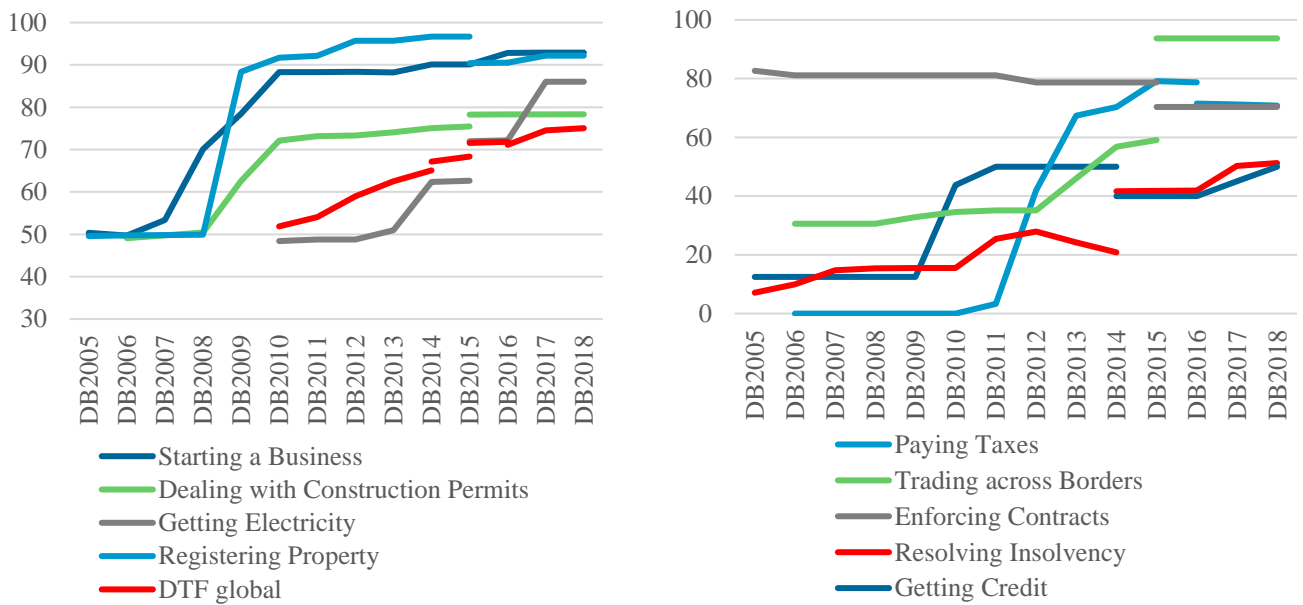
The absence of shift from one SMEs size class (development stage) to another and only modest growth of the share of this sector in the economy of Belarus contradicts to the fact that business environment underwent significant reforms. Belarus improved its position in the Doing Business rating from the 110th place according to the World Bank report of 2008 to 38th place according to the report of 2018. Most of the improvement was registered in 2008–2013. Positive changes were observed within bureaucratic regulations of doing business. In particular, numerous changes occurred within procedures of registering business and property. The World Bank also registered significant number of measures aimed at reducing time spent on tax reporting and amount of tax payments, as well as creating conditions for simplified access to credit (see Table 1). However, effect from these measures on actual business environment was not uniformly significant. The World Bank evaluates it through comparison with the best practices worldwide. In case of bureaucratic barriers to starting business, the gap between conditions observed in Belarus and the best world practices is very narrow. Favorable conditions for starting a business were guaranteed in Belarus by actions undertaken already in 2008–2009 (Figure 4). Tax system, in its turn, came closer to the frontier only in the last 5 years, while conditions of getting credit are still far beyond optimal.

Table 1. Changes in business environment registered by the World Bank within annual Doing Business reports

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Number of improvements
Protecting Minority Investors	+				+					+		3
Starting a Business	+	+	+			-	+		+			5
Trading across Borders		+	+	+								3
Paying Taxes		+	+	+	+	+		+				6
Getting Credit		+		+						+	+	4
Registering Property		+	+		+		+		+	+		6
Dealing with Construction Permits		+	+									2
Resolving Insolvency				+		+	+					3
Enforcing Contracts					-							0
Getting Electricity							+			+		2
Number of improvements	2	6	5	3	3	2	4	1	2	4	1	

Note. «+» corresponds to the improvement in conditions of doing business, while «-» relates to deterioration. Presented data illustrates only direction of change, and not its scale. For example, improvements in terms of getting credit were related not to broadened possibilities for loan attraction by SMEs, but to better access to credit information (2009), facilitating the use of the pledge (2011), and creating credit bureau (2017).

Source: World Bank.



Note. 100% corresponds to the frontier, i.e. the best practice. Step shifts illustrate changes in methodology of the Distance to Frontier indicator by separate spheres of doing business. Two values of the indicator are presented for each year, the new methodology was adopted.

Source: World Bank.

Figure 4. Distance to Frontier indicator of Doing Business rating, %

The World Bank also stresses effectiveness of several measures taken to simplify dealing with construction permits and getting access to electricity networks, which are also largely related to guaranteeing favorable conditions for starting a business. On contrary, small number of measures and their low effectiveness in terms of improving business environment up to the best practices was observed for spheres determining sustainability of business. No meaningful improvements took place within enforcing contract and resolving insolvency procedures, as well as terms of foreign trade (see Table 1 and Figure 4).

Hence, improvements in business environment were limited to certain spheres of entrepreneurial activity. It implies that even measures of deep liberalization may not contribute to business development due to prevalence of few barriers, which, however, are still insurmountable for small and medium enterprises. Macroeconomic data, as wells as results of business surveys support this statement.

IPM Research Centre has conducted surveys of private small and medium enterprises for more than 15 years¹, studying among other issues external barriers to their development. However regular changes in methodology of research and survey questions themselves complicate estimation of long and comparable time series representing perception of business environment by small and medium private enterprises. Fully comparable results can be obtained only for questions “How, in your opinion, did business conditions change during the last year?” for 2010–2017 and “How did changes in the business environment (specified by a dozen of spheres of doing business) affect your business activity over the last year?” for 2010–2014. This time span coincides with the period of active changes in legislation regulating entrepreneurial activity. Hence, available survey results may cast light over effectiveness of the liberalization measures from point of view of business community.

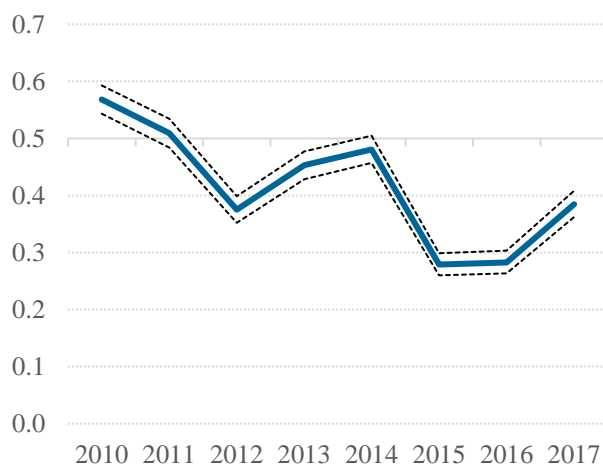
As response scale of selected questions underwent several changes, all replies were harmonized to the scale of 0 to 1, where 0 corresponded to significant deterioration, 0.5 – no changes, and 1 – significant improvement.

Survey results suggest that attitude of small and medium enterprises towards changes in business climate were rather negative (Figure 5a) with exclusion of 2010, when business felt effect of active

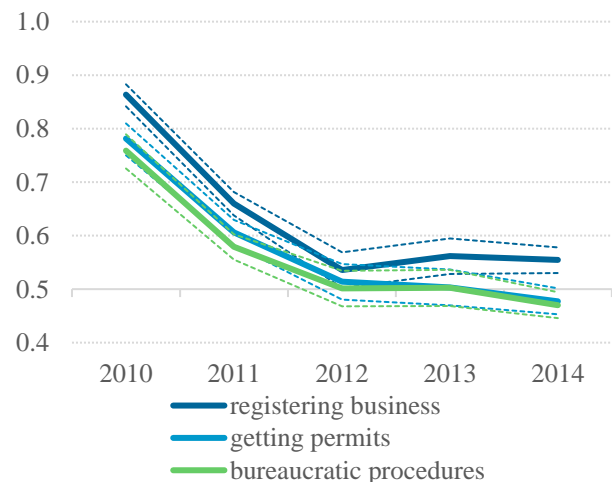
¹ See <http://www.research.by/publications/surveys-of-business/>.

liberalization of 2008–2009. In general, negative perception of changes in conditions of doing business may be explained by the fact that respondents understood under “business conditions” not only state regulations of entrepreneurial activity, but also overall macroeconomic environment, which was not favorable most of the time (Shymanovich, 2017b). Besides, it is obvious that representatives of small and medium private business felt that simplification of business procedures was partial and liberalization did not reach all spheres of doing business.

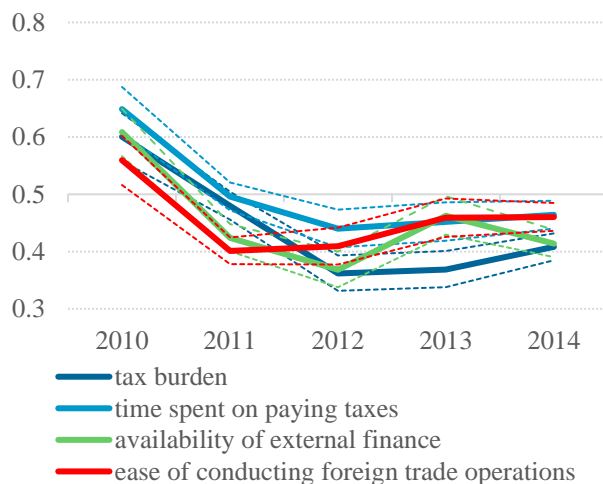
Surveyed enterprises were positive about changes in legislation related to business registration, obtaining all kinds of permits, and fulfilling administrative procedures (Figure 5b). It corresponds to the results of the World Bank research, stressing significant reduction of bureaucratic burden over private business. However, perception of changes in some other aspects of doing business by surveyed enterprises and experts of the World Bank differed. Representatives of private business were largely negative about changes in tax burden, accessibility of credit, complexity of foreign trade operations (Figure 5c), while the World Bank was able to register certain improvements in the related aspects of doing business. Still, these improvements did not contribute to the reduction of gap between conditions of doing business in Belarus and best practices observed worldwide, which may explain why business community did not praise them. Besides, business survey revealed significant deterioration of rental terms (of real estate), system of penalties, and property rights protection (Figure 5d). These negative trends determined overall negative perception of changes in conditions of doing business in Belarus. Rental terms, penalties and inspections, protection of property rights influence sustainability of business. As a result, overall assessment of changes in business environment by surveyed enterprises, which usually had a long record of activities in Belarus, happened to be more sensitive to these issues rather than ones related to business registration.



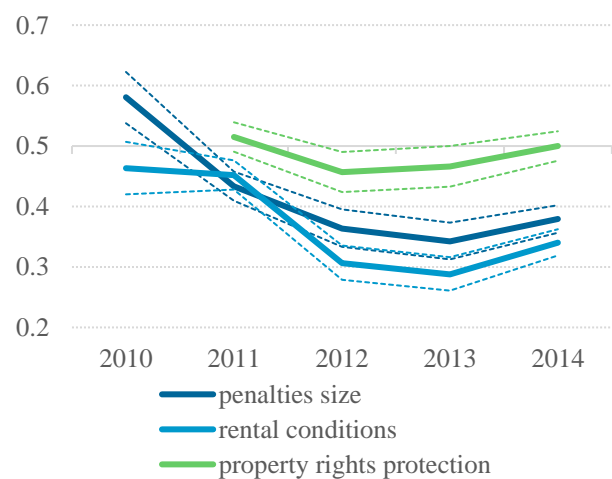
(a) changes of doing business conditions, average score



(b) Spheres, where SME reported improvements



(c) Spheres, where SME did not report improvements, despite increase of Doing Business ranking



(d) Spheres, where SME did not report improvements, which does not contradict Doing Business ranking

Note. The dotted lines in the figures represent the 5% confidence interval. Inasmuch as the scale applied to the question regarding changes in business environment has been modified from year to year, it has been normalized to assure comparability of results. The final score range is from 0 to 1, where 0 is "significantly decreased", 1 is "significantly increased", and 0.5 is "did not change." Normalization was performed in accordance with the following formula:

$$x'_i = \frac{1}{1 + e^{-\frac{x_i - \bar{x}}{\sigma}}},$$

where \bar{x} is the scale mode, and σ is standard deviation.

Source: own estimates based on the IMP Research Centre data.

Figure. 5. Changes of doing business environment in Belarus in perception of small and medium enterprises

3. Liberalization of business climate: envisaged measures

In 2017, the Government elaborated a package of regulations designed to further liberalize business climate and stimulate entrepreneurial activity. It covers a wide range of issues related to improvement of control and supervisory activities, optimization of licensing procedures, creation of a legal framework for carrying out tax advisory activities. The regulations also aimed to ease of doing business in trade, catering, consumer services, agro-tourism, and some other activities. One of the main documents in this package is the Decree of the President of the Republic of Belarus No. 7 "On Entrepreneurship Development" adopted in November 2017. It establishes the main principles of interaction of government agencies with SMEs and individual entrepreneurs:

- declarative principle of business registration and the notification procedure for a starting up business in certain type of activities;
- need to obtain a license only for activities involving potentially high risks of harm;
- presumption of good faith of economic entities;
- self-regulation of business and minimization of interference of state bodies in an economic activity;
- prevention of offenses, and not to bringing to prosecution should be a priority in a work of monitoring and supervisory bodies;
- personal liability of CEO/director for organizing enterprise activity;
- commensuration of punishment and consequences of harm;
- use of information technologies in the interaction of business and officials;
- openness and accessibility of regulatory legal acts, including those governing the procedure and conditions for conducting of economic activities.

Adoption of this document requires a large-scale revision of the legislation in order to bring it in line with the provisions of the Decree № 7.

Declarative principle of business registration

The declarative principle of state registration presupposes the establishment of a list of 19 types of activity, which covers the spheres in which 95% of SMEs are operated. The list must enter into force three months after the publication of the Decree. Business entities falling under the list will send notifications to local executive body using the form approved by the Council of Ministers. The day after sending the notification, they will be able to start economic activities.² The notification principle also is applied in the case of termination, suspension or resumption of activities that are on the list. The Decree also establishes that seals may not be used when carrying out business activities.

² In the food production, it is necessary within a month from the day the notification is sent to apply to the bodies that exercise state supervision over the receipt of a sanitary and hygienic certificate that is issued upon the results of the examination.

Self-regulation of business and minimization of interference of state bodies in an economic activity

According to the Decree, the Council of Ministers of the Republic of Belarus has to elaborate and post on the Internet methodological recommendations "on the implementation by business entities of the most common types of economic activity for small and medium-sized businesses"³.

One of the most significant barriers to doing business is the procedures of technical regulation. Therefore, in the Decree they are systematized and simplified. Business entities will only have to comply with the specifically adopted for them general requirements⁴ for fire safety, sanitation and epidemiology, environmental protection, veterinary, as well as those relating to the maintenance and operation of permanent buildings and isolated premises. Other requirements from the above-mentioned areas of technical regulation, prescribed in normative acts, can be apply at SMEs discretion. Technical regulations, mandatory for implementation by the legal entities, are subject to compulsory legal examination and publication on the National Legal Internet Portal of the Republic of Belarus.⁵ State standards and technical codes of established practice will be mandatory for compliance only when there is reference to them in technical regulations and regulatory acts of the Republic of Belarus or if business entities decide to use them voluntarily. The Decree also envisage that business entities, when they elaborate requirement regarding product/services specification (changes in them), have a right not to accord them with state bodies. Business entities may also independently determine the period of validity of technical specification operation.

According to SMEs' surveys, administrative procedures are also a significant obstacle to doing business. In this regard, Decree No. 7 establishes that in a six-month period, a single list of administrative procedures to be implemented by state bodies should be developed.⁶ It also provides for the maximum simplification and cancellation of the procedures related to development of technical design documentation; receipt of resolutions and certificates, and etc. in trade, catering and consumer services; organization and holding of exhibitions and fairs, production and circulation of goods, transport activities, construction. For example, transport activities can be conducted without the registration of travel lists, and when transporting waste without issuing a co-passport. The enterprises of consumer services and trade can independently determine the time of their work. This also applies to public catering, which according to Decree № 7 could not be divided into types and classes. Catering establishments can also independently develop an assortment list. However, for trade, this possibility with regard to assortment lists was not provided for. It enables the Ministry of Antimonopoly Regulation and Trade and local authorities to influence the composition of list.

Significant reduction in administrative procedures is envisaged in construction. In particular, it is stipulated that technical modernization and overhaul can be carried out based on project documentation after notification of state construction supervision bodies and without obtaining permit documentation from local executive and regulatory bodies. The procedures of the state ecological and sanitary-hygienic expertise with regard to technical design documentation and several building sites have been simplified. Requirements on procurement for construction should not be applied when carrying out purchases without attracting public funds. It is also envisaged that before January 1, 2020, the Draft Code of the Republic of Belarus on architectural, town-planning and construction activities should be developed and submitted to the House of Representatives, aimed at further improving and simplifying requirements for architectural, town-planning and construction activities, minimizing administrative procedures and interference of state bodies in construction.

³ http://president.gov.by/ru/official_documents_ru/view/dekret-7-ot-23-nojabrja-2017-g-17533/.

⁴ Are given in the Annexes to the Decree of the President of the Republic of Belarus No. 7 "On Entrepreneurship Development".

⁵ The technical regulations of the Customs Union and the Eurasian Economic Union take precedence over the technical legal acts of the Republic of Belarus.

⁶ Draft of Edict of the President of the Republic of Belarus.

Taxation

Issues related to taxation are traditionally mentioned by SME's as one of the most sensitive barrier to doing business. Decree No. 7 " On Entrepreneurship Development " introduced a moratorium on raising tax rates until 2020 and imposing new taxes and duties (duties). However, at the same time, the tax rates established in Belarusian rubles can be increased in order to adjust them to the inflation rate.

A period of taxes, fees and mandatory payments collection to the state budget and extra-budgetary funds is limited to a period of five years from the date of payment period's expiration⁷. The terms for recording the amounts of underpayments and overpayments to the budget have also been reduced. Internet shops are given the opportunity to apply a simplified taxation system. The Council of Ministers of Belarus within a six-month period from the date of adoption of Decree No. 7 should develop proposals to simplify tax administration and reduce a tax burden for business entities, which create new jobs, conduct activities in small urban settlements and rural areas, reinvest their profits in a development of production.

Personal liability of CEO/director for organizing enterprise activity

An important provision of Decree No. 7 is the restriction of the possibility of charging subsidiary liability. According to a survey conducted by IPM Research Centre, 10.4% of respondents considered it as an obstacle to the enterprise' development (Urban, 2017). Accountability for subsidiary responsibility of an owner of a legal entity, which is economically insolvent, or its CEO/director will be possible only in case of deliberate bankruptcy.

At the same time, the Decree personalizes the liability of the CEO/director of a legal entity for the proper organization of its activities and establishes the administrative responsibility for causing harm to public or public interests, the environment, life, health, rights and legitimate interests of citizens. In particular, if such harm is caused by not taking measures on proper organization of enterprise's activities, a fine may be imposed on CEO/director in the amount ranging from ten to two hundred basic units. It should be noted that such provision of the Decree caused an ambiguous reaction due to a certain blurring of wording and a large scale of fine. In particular, the Business Union of Entrepreneurs and Employers named after Professor M.S.Kunyavsky issued a special press release with the request to clarify this provision.⁸ It notes that the terms "proper organization of activities" and "failure to take the necessary measures" are ambiguous. Therefore, it is unclear how the controlling bodies will treat them and set an amount of fine. The Business Union pointed out that the Procedural-Executive Code of Administrative Offences of the Republic of Belarus stipulates that officials of 73 bodies, organizations, inspections, as well as other persons have a right to draw up a protocol on such administrative offences (Article 3.30).

Commensuration of punishment and consequences of harm

According to Decree, particular attention should be paid to the issue of commensuration of punishment and consequences of harm. Decree envisages that the Law on Amending the Criminal Code of the Republic of Belarus, which is currently being drafted, should provide decriminalization of a number of economic offenses, and in particular "maximum refusal of punishment in the form of deprivation of liberty for committing economic crimes."

In addition, on December 14, 2017, the House of Representatives amended the Procedural-Executive Code of Administrative Offences of the Republic of Belarus. Amendments to this Code stipulates a reduction in the number of articles that provide confiscation of property; a decrease in an amount of fines for entrepreneurs in case of violation of the law and a wider application of such sanctions as an issuing of a warning.

⁷ except for the cases stipulated in the legislation, and when tax declarations will be submitted with amends and (or) additions.

⁸ <http://bspn.by/novosti/4387-bspn-prosit-raz-yasnit-normu-dekreta-7-ob-usilenii-otvetstvennosti-direktora>.

Control and supervisory activities: priority to prevention of offenses

The package of the normative legal acts on encouraging the development of the private sector in Belarus includes the Decree of the President of the Republic of Belarus of October 16, 2017 "On Improving Control (Supervisory) Activities"⁹. It envisages optimization of the control bodies, as a result, a third of such bodies will lose a power to conduct checks. In addition, the scope of their activity will be almost halved. The administrative control will be reoriented to conducting analysis (audit) and taking measures to improve an efficiency of enterprise.

The state control will be carried out in the form of selective or unplanned inspections, technical (technological) and preventive measures (monitoring, explanatory work, informing). Planned inspections, which were previously carried out even if the entity has no violations, are replaced by selective inspections, which are possible only if there are grounds (based on the risk assessment system). There cannot be several selective inspections of the same legal entity during a calendar year, and within three years it cannot be checked by the same controlling body, as well as by its higher authority or structural subdivisions. When conducting unscheduled inspections, only the facts that caused this check will be studied.

A focus of control activity should be shifted from inspections to preventive work and technical activities. Their efforts will be made on elimination of identified violations, rather on application of administrative liability measures to business entities. Controllers will also bear administrative responsibility (in the form of a fine of up to 30 basic units) for committing gross violations during inspections.

4. Most significant external barriers to doing business: perception of small and medium enterprises

Possible effect of planned changes in legislation on development of small and medium business can be assessed based on analysis of how these changes correspond to the barriers that are viewed by business community as important. Starting from 2015, IPM Research Centre surveyed small and medium enterprises on external factors impeding their development, proposing to choose from the list of 22 barriers five most important. Analyzed barriers represent:

- administrative and legislative barriers,
- barriers related to state regulations,
- access to production factors and influence of macroeconomic environment,
- openness of competition in the markets,
- level institutional development,
- quality of human capital (Urban, 2015).

Survey results suggest the sharpest external barriers for small and medium enterprises are administrative and legislative ones (Table 2). In 2015–2017, the most significant barrier were high tax rates. Decree 7 “On development of entrepreneurship” provides for moratorium on tax rates increase and introduction of new taxes and levies until 2020. It also obliges the Council of Ministers to develop measures simplifying tax administration for business and reducing tax burden for enterprises generating new jobs. These provisions may lower perception of tax system as an impediment to business development, addressing problem of regular changes in legislation and burden of tax accounting. However, the key factor that makes tax system a barrier for small and medium business in Belarus is the tax burden, i.e. volume of paid taxes and contributions. According to the Doing Business report of 2018, total tax burden equal to 59.2% of profit in Belarus is much higher than average one in the region of Europe and Central Asia (33.1%).¹⁰

⁹ http://president.gov.by/ru/official_documents_ru/view/ukaz-376-ot-16-oktjabrja-2017-g-17324/.

¹⁰ <http://russian.doingbusiness.org/data/exploreconomies/belarus#paying-taxes>.

Table 2. Ranking of external barriers for business development according to their importance revealed by the surveys of SMEs

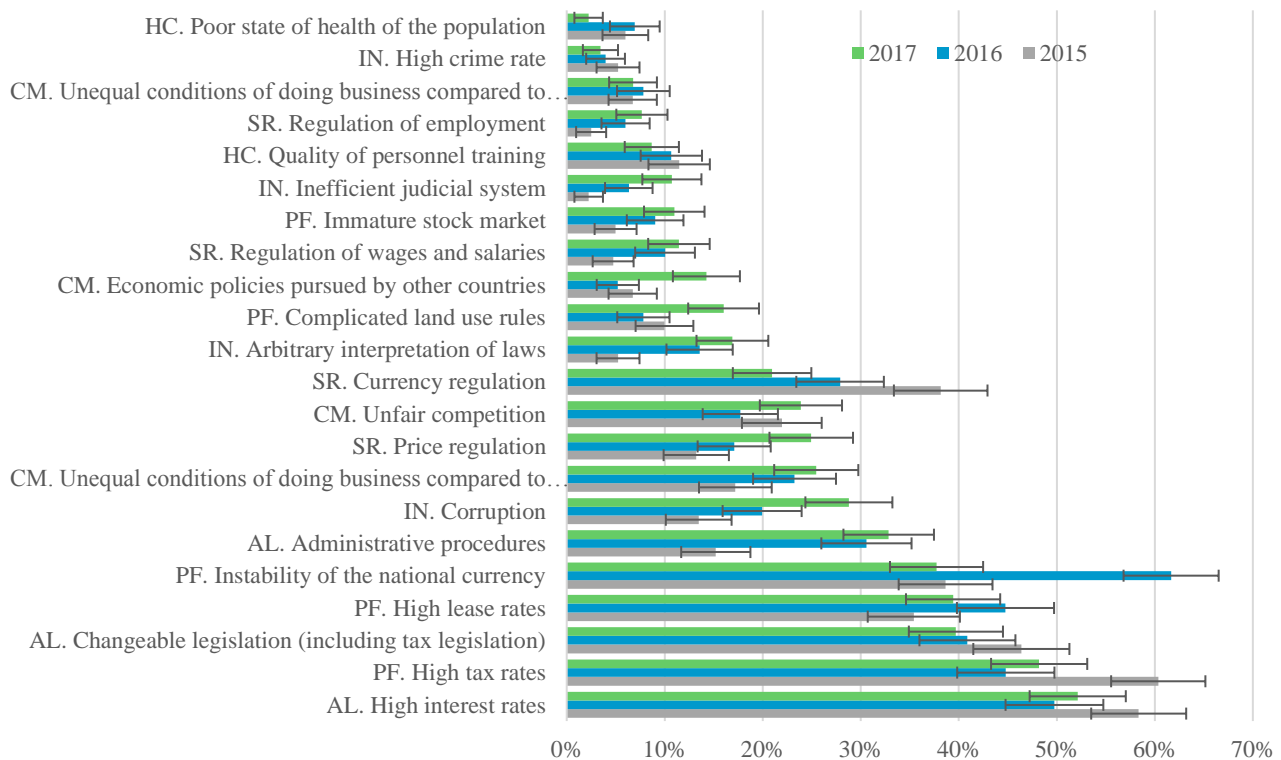
Type of barriers	Barrier	2015	2016	2017	total
Administrative and legal barriers (AL)	High tax rates	2	2	1	1
	Changeable legislation (including tax legislation)	3	5	3	4
	Burdensome administrative procedures (licences, certificates, inspection and other)	9	6	6	6
Production factors and macroeconomic environment (PF)	High interest rates	1	3	2	2
	Instability of the national currency (high inflation, unpredictable changes in exchange rate)	4	1	5	3
	High rental rates	6	4	4	5
	Complicated land use rules, ban on land purchase	13	16	13	13
	Immature stock market	19	15	16	17
Competition (CM)	Unequal conditions of doing business compared to state-owned enterprises	8	8	8	8
	Unfair competition	7	10	10	10
	Economic policies pursued by other countries	14	21	14	15
	Unequal conditions of doing business compared to foreign companies	15	17	20	18
State regulations (SR)	Foreign currency regulation	5	7	11	7
	Price regulation	11	11	9	11
	Regulation of wages and salaries	20	14	15	16
	Regulation of employment (hiring and firing procedures)	21	20	19	21
Institutes (IN)	Corruption	10	9	7	9
	Arbitrary interpretation of laws by officials	17	12	12	12
	Inefficient judicial system (courts are not independent, contracts enforcement is complicated, rights of investors are not protected)	22	19	17	20
	High crime rate	18	22	21	22
Human capital (HC)	Quality of personnel training	12	13	18	14
	Poor state of health of the population	16	18	22	19

Note. Rank of a separate barrier was determined based on the share of respondents chosen this barrier as one of the most important within the survey. Total place of a separate barrier was calculated based on their ranking by sum of the places within three annual surveys. The groups (types) of barriers are ranked according to average total place of the barriers, constituting each group.

Source: own estimates based on data of IPM Research Centre.

Among other key administrative barriers, business also regularly mentioned changeable legislation and burdensome bureaucratic procedures, which include licencing, application for certificates, and going through inspection. Abolishment of these barriers is one of the priorities of the new legislation package, and Decree 7 in particular, aimed at liberalization of entrepreneurial activity. Declarative principle of business registration, minimization of state interventions into economic activities, simplification of procedures of technical regulations, reduction of number of economic activities that demand licencing and certification are examples of the provisions that should guarantee alleviation of administrative barriers. However, effectiveness of anticipated measures will depend on further stability and predictability of legislation, and unambiguity of its interpretation.

Another group of barriers that are perceived as very sharp by small and medium enterprises are those related to accessibility of production factors, which may be determined by both state regulations and overall macroeconomic conditions. Tight monetary and fiscal policy of the recent years significantly de-escalated the problem of inflation and unpredictable fluctuation of exchange rate (see Figure 6). This problem was mentioned among the most significant barriers to business development by 38.7% of respondents in 2017 compared to 61.7% in 2016. Low inflation rates expected in the upcoming years will also contribute to improved access to bank loans. Meanwhile, significant barrier, originated from state regulation rather than macroeconomic policy, is access to rental real estate. Announced changes in legislation may only partially solve this problem for micro business, broadening possibilities for working at home. There are no provisions that provide direct solution for the problem of high rental rates for small and medium business.



Note. Line segments in the figures represent the 5% confidence interval. Full names of the barriers see in Table 2.
 Source: own estimates based on data of IPM Research Centre.

Figure 6. Share of respondents by barrier, which chose it as one of the most important five

Survey results also revealed significant change in distribution of frequencies with which respondents chose important barriers in 2016 and 2017. The sharpness of all types of barriers in perception of small and medium enterprises equalized at large extent.¹¹ Consequently, share of respondents that stress importance of excessive state regulation, weakly performing institutions, and unfair competition as impediments for business development grew significantly (see Figure 6). The last two barriers are not addressed by the package of new legislation on entrepreneurial development. It implies that future actions of the government should be targeted at creation of level playing field for all kind of businesses irrespective to their ownership and effectively functioning legal environment.

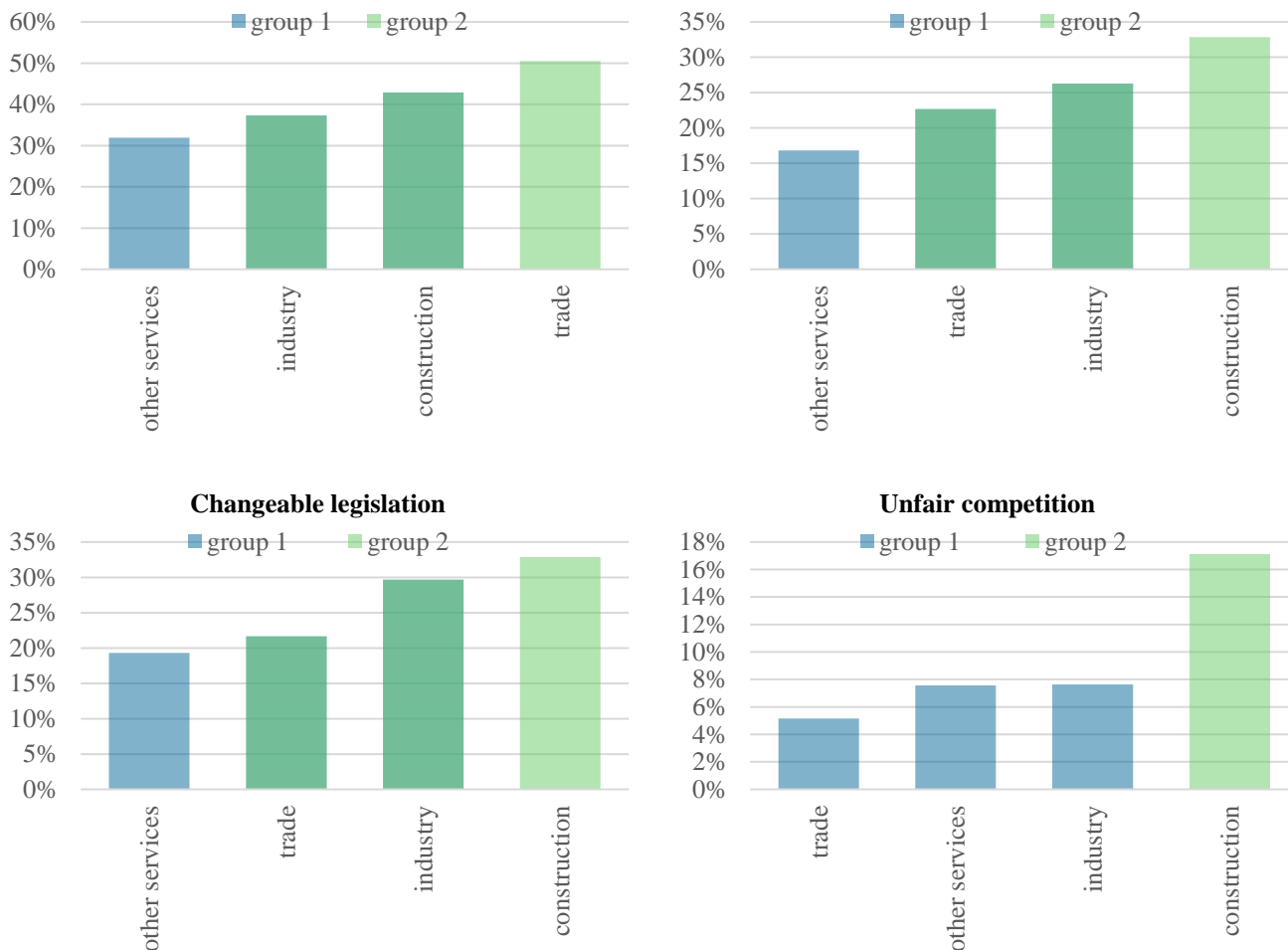
Survey results also show, that perception of the barriers does not depend on the sector the enterprise represents. It implies that existing barriers affect uniformly all economic activities (see Annex A). Only changeable legislation, unfair competition, unequal conditions of doing business compared to state-owned enterprises, quality of personnel training seem to have different influence over small and medium enterprises from different sectors of economy. For instance, trade business is exposed to the risks related to changeable legislation at greater extent than other enterprises (see Figure 7a). Partially it can be attributed to high regulatory burden in trade sector. Meanwhile, provisions of the Decree 7 suppose that reduction of the scale of state regulation in trade sector will be not that substantial as in other sectors of economy, including catering. Hence, this barrier to trade business development will remain relatively sharp even after adoption of the package of new legislation.

Problem of unfair competition and unequal conditions of doing business compared to the state-owned enterprises is the most acute for private small and medium enterprises from construction sector. Proposed liberalization measures envisage reduction of administrative burden in the sector, which should partly eliminate conditions that induce unequal competition. However, there are no direct measures

¹¹ Standard deviation of frequencies of choice (measured in per cents) of separate barriers fell from 17.1 in 2016 to 14.6 in 2017.

aimed at solution of this problem. Besides, construction sector also complains about quality of personnel training provided by education institutions. It may be related to the shortage of labour supply rooted in high labour mobility in construction sector.

The less affected sector by these barriers is a service sector (other services). In the survey sample, this sector is represented by enterprises from financial and IT sector, that have special regulation regimes.



Unequal conditions of doing business compared to state-owned enterprises

Poor quality of personnel training

Note. In contract to *F*-test, Duncan test revealed difference in frequency of choice of “Unequal conditions of doing business compared to state-owned enterprises” as one of five most important barriers to business development according to economic sector of the respondent.

Source: own estimates based on data of IPM Research Centre.

Figure 7. Grouping by type of economic activity: results of posteriori Duncan test within one-factor ANOVA analysis on equality of the frequency of choice of barriers as important ones

5. Conclusions

Since 2008, a special emphasis in Government economic policy has been placed on the development of small and medium-sized enterprises and on improvement of the country's position in the Doing Business ranking. However, despite the impressive move in this ranking, where Belarus took 38th place according to the Doing Business report of 2018, there has been no noticeable increase in contribution of SME sector to Belarusian economy. The share of SMEs in GDP and value added in 2016 accounted for 23.5% and 27.5%, respectively, and increased insignificantly compared to 2010 (by 4.6 and 5.7 percentage points, respectively). The share of SMEs in employment also remained practically unchanged over the period under review and amounted to 32-32.8%. These indicators were

much lower than those of Central and Eastern Europe (CEE). In addition, there were no any signs of a shift from one SME development stage to another in Belarus, i.e. from microenterprises to small ones and from them to medium. One of the factors that determines such shift is enabling business environment. The data of Belstat shows, the growth of the number of microenterprises did not lead to an increase in the number of small enterprises, and the number of medium-sized enterprises declined.

There were some factors contributed to such a weak correlation between improvement in Doing Business ranking and the role of SMEs in the Belarussian economy. First, according to the World Bank, the main improvement in the business climate occurred in Belarus in 2008–2013, and the changes affected primarily the areas related to the procedures for starting a business and registering property. The effect of these measures on the actual conditions of doing business can be analyzed, inter alia, by comparison of the country's Doing Business indicators with the best practices existing in the world (distance to frontier). It should be noted that Belarus with regard to administrative barriers to setting up business is very close to best performed countries. However, all improvements related to that indicator were implemented in 2008–2009. Second, a significant number of measures were taken to reduce the time spent on preparation, filing and paying taxes, as well as decrease the number of payments and create conditions conducive to getting credits. However, the Belarus' taxation system has reduced the distance to frontier only during the last five years, and the ranking of the indicator "getting credits" is still low. Third, the few measures spotted by the World Bank, which were adopted to simplify the receipt of construction permits and to obtain electricity connection, could also be attributed to the creation of favorable conditions for starting a business, rather than for doing it. Fourth, a small number of adopted measures and their low efficiency in terms of bringing business conditions in Belarus closer to international standards were observed for the spheres that determine the sustainability of SMEs development. There were no significant improvements in the procedures for enforcing contracts, resolving insolvency, trading across the border. Therefore, improvements that have occurred in the conditions of doing business in Belarus, eliminated only certain types of barriers. This implies the risk that broad measures to liberalize the business climate may not be effective enough due to existence of some barriers, even if there are few, that may be very sensitive to business.

SMEs surveys conducted by IPM Research Centre allow to analyze how business assessed the Government measures to liberalize the business climate. The enterprises as a whole had a positive attitude to changes in the conditions of business registration, obtaining permits, and making of administrative procedures. This corresponds to the results of the World Bank study, which testifies to a significant reduction in administrative costs for business in Belarus. However, in other aspects, there are differences in the estimates of measures that have been implemented. Thus, business rather negatively assessed such indicators as taxation, access to finance, trade across the border, while the World Bank noted certain progress. Perhaps this is due to the fact that these improvements of regulatory environment did not lead to a reduction in the tax burden for SMEs and did not facilitate access to loans, which is hampered, inter alia, by high interest rates. In addition, business pointed out a significant deterioration of such components of business climate as terms of lease, an amount of fines and protection of property rights. These negative assessments largely predetermined the negative perception of changes in the business environment. Leases, fines and protection of property rights are directly related to the sustainability of SMEs, so they are much more sensitive for surveyed enterprises, which often are very experienced, than the conditions for starting up a business.

To give a new impetus to the development of SMEs in 2017, the Government developed a package of normative legal acts with the aim to encourage entrepreneurship and stimulate business activity. One of the main documents in this package is the Decree of the President of the Republic of Belarus No. 7 "On Entrepreneurship Development" and the Decree of the President of the Republic of Belarus of October 16, 2017 "On Improving Control (Supervisory) Activities" adopted in November 2017.

The comparison of barriers indicated by SMEs in surveys, with those that should be removed by measures envisaged in package of normative documents, allows to assess the possible impact of the changes in legislation on the development of small and medium-sized businesses.

The survey's results show that small and medium enterprises consider a group of administrative and legislative barriers as biggest obstacles to business development. The most significant barrier in this group in 2015–2017 was high tax burden. Decree No. 7 "On Entrepreneurship Development" introduced a moratorium on raising tax rates until 2020 and imposing new taxes. It is also stipulated that the Council of Ministers of Belarus within a six-month period from the date of adoption of Decree No. 7 should develop proposals to simplify tax administration and reduce the tax burden for business entities, which create new jobs, conduct activities in small urban settlements and rural areas, reinvest their profits in a development of production. These measures will, to some extent, reduce the SMEs perception of taxes' payment as a barrier to business development, alleviating the problem of frequent tax changes and the onerousness of tax payment procedures. However, indicating payment of taxes as an obstacle to entrepreneurship, SMEs implied primarily a tax burden, i.e. the amount of taxes and compulsory contributions. According to Doing Business 2018, total tax rate in Belarus (% of profit) is significantly higher than those in Europe and Central Asia.

SMEs traditionally have indicated frequent changes in legislation and burdensome administrative procedures, including licensing, inspection and certification, among the main barriers. The package of documents on encouraging entrepreneurship and stimulation of business activity, and, in particular, the Decree of the President of the Republic of Belarus No. 7 should eliminate these barriers. The declarative principle of business registration, minimization of state interference in enterprises' performance, simplification of technical regulation procedures, reduction of activities requiring mandatory licensing and certification should be beneficial for SMEs sector development. At the same time, the effectiveness of the envisaged measures will largely depend on implementation of regulatory changes and unambiguousness of normative acts' interpretation.

The second most important group of barriers for SMEs development, according to survey, is limited access to factors of production. On the one hand, their accessibility is influenced by the macroeconomic environment, which is improved due to a significant fall in inflation rate and stabilization of exchange rate. If inflation remains low in the future, it is also likely to ease a problem of access to bank loans. On the other hand, the availability of factors of production is determined by state regulation of business, at which, for example, depends a commercial real estate lease. SMEs indicated lease terms as one of the most significant barriers to doing business. The expected changes in the legislation only partially solve this problem for micro-businesses due to expansion of opportunities for work at home. However, lease terms still remain among top challenges for small and medium-sized businesses.

The results of SMEs surveys show a significant change in the distribution of answers about the significance of barriers in 2017 in comparison with 2016. There was a rise in the number of respondents who noted increased negative impact on their enterprises of excessive state regulation, and in addition barriers related to poorly functioning institutions and restricting competition. The last two types of barriers are not tackled by the package of normative acts on encouraging business. Therefore, ensuring equal competitive conditions for enterprises, irrespective of the form of ownership, and establishment of well-functioning legal environment should be the subject of special attention of the Government in order to improve the business climate and stimulate the development of SMEs.

Literature

- Urban D. (2015). Vnutrennie bar'ery razvitiya chastnogo biznesa v Belarusi [Internal barriers to private sector development in Belarus], IPM Research Centre Working paper, WP/15/02 (available only in [Russian](#)).
- Urban D. (2017). Osobennosti vliyaniya pravovj I sudebnoj sistemy na vedenie biznesa v Belarusi [Impact of legal and judicial system on doing business in Belarus], IPM Research Centre Policy Discussion paper, PDP/17/04 (available only in [Russian](#)).

Shymanovich G. (2017a). Razvitie sektora malogo i srednego biznesa v Belarusi v 2016 [Small and medium-sized business sector development in Belarus in 2016], IPM Research Centre Policy Discussion paper, PDP/17/01 (available only in [Russian](#)).

Shymanovich G. (2017b). Vliyanie vneshnej sredy na razvitie malogo i srednego biznesa v Belarusi [External environmental impact on development of small and medium-sized business in Belarus], IPM Research Centre Policy Discussion paper, PDP/17/02 (available only in [Russian](#)).

OECD (2016). *Entrepreneurship at a Glance 2016*, OECD Publishing, Paris.

OECD (2017). *Enhancing the Contributions of SMEs in a Global and Digitalised Economy*, OECD Publishing, Paris.

Muller, P. et al (2017). *Annual Report on European SMEs 2016/2017 & Focus on self-employment*, European Commission.

Annex: Tests on equality of the shares of respondents, which chose a barrier as one of the most important five, by economic activity in 2017

	F-test (Welch)*	Kruskal-Wallis criteria
Foreign currency regulation	1.765 [0.155]*	4.953 [0.175]
High lease and rental rates	1.148 [0.331]*	3.208 [0.361]
High crime rate	2.441 [0.064]	7.244 [0.065]
High interest rates	1.353 [0.257]	4.047 [0.256]
High tax rates	1.610 [0.186]	4.808 [0.186]
Changeable legislation (including tax legislation)	2.759 [0.043]*	8.282 [0.041]
Corruption	0.886 [0.449]*	2.821 [0.420]
Complicated land use rules, ban on land purchase	0.633 [0.594]	1.905 [0.592]
Unfair competition	2.292 [0.079]*	6.830 [0.078]
Unequal conditions of doing business compared to state-owned enterprises	2.041 [0.109]*	6.225 [0.101]
Unequal conditions of doing business compared to foreign companies	3.282 [0.022]*	8.021 [0.046]
Immature stock market	0.190 [0.903]	0.573 [0.903]
Instability of the national currency (high inflation, unpredictable changes in exchange rate)	0.461 [0.710]	1.388 [0.708]
Inefficient judicial system (courts are not independent, contracts enforcement is complicated, rights of investors are not protected)	0.338 [0.798]	1.020 [0.797]
Quality of personnel training	1.853 [0.139]*	8.192 [0.042]
Burdensome administrative procedures (licencies, certificates, inspection and other)	1.501 [0.216]*	4.430 [0.219]
Poor state of health of the population	1.283 [0.280]	3.840 [0.279]
Arbitrary interpretation of laws by officials	0.321 [0.810]	0.969 [0.809]
Regulation of employment (hiring and firing procedures)	1.231 [0.300]*	3.220 [0.359]
Regulation of wages and salaries	1.337 [0.263]*	4.928 [0.177]
Price regulation	1.611 [0.188]*	3.828 [0.281]
Economic policies pursued by other countries	0.740 [0.529]*	2.160 [0.540]

Source. Sectors were aggregated into industry, construction, trade and other services. F-test determining equality of intra-group and inter-group variances is a part of one-factor ANOVA analysis. The Levene test examines the equality of variances hypothesis. If the Levene test rejected the equality of variances hypothesis, then the robust Welch test was used for the purposes of one-way analysis of variances. Related barriers are marked by *. In case of Kruskal-Wallis test – nonparametric test for equality of response distributions depending on the sector of economy – χ^2 statistics is presented. The figure in square brackets is the *p*-value. Barriers for which share of responses by economic sector are unequal are marked with gray shading (5% significance) and light gray shading (10% significance).

Source: own calculations based on IPM Research Centre data.