

Conference Report

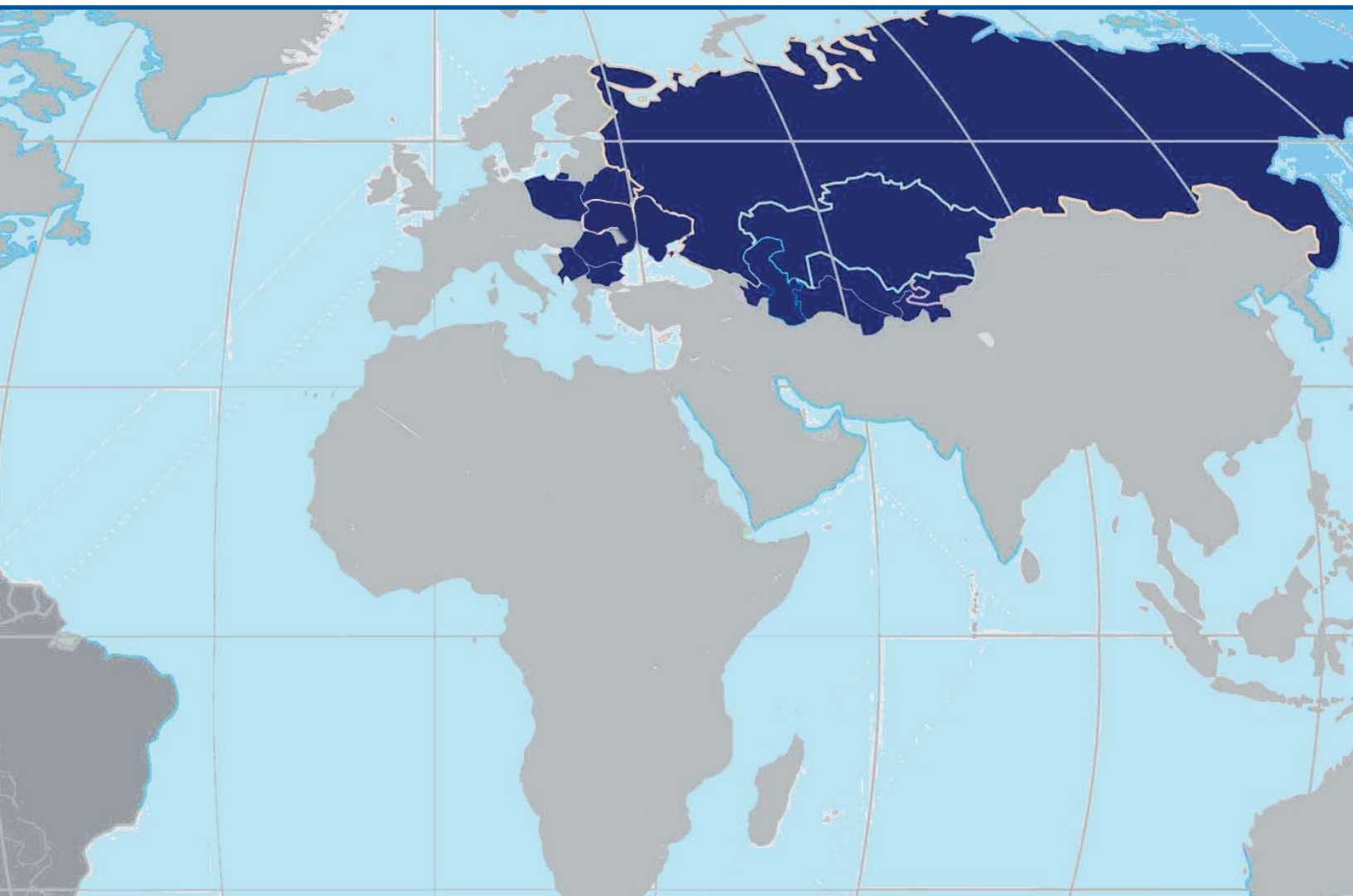
Business Leadership and Democratic Development

CIPE Regional Conference for Eastern Europe and Eurasia

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Institute of Competitive Society
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* On September 22, 2005, Yury Yekhanurov was appointed prime minister of Ukraine

Conference Overview

Over a decade after the collapse of the Soviet Union, Eurasia continues to present an extraordinarily complex reality that defies simple descriptions. The newly independent countries of the region have followed differing paths at differing paces to democratic and economic reform. Though none has fully succeeded in implementing rule-of-law democracy or establishing a market economy, several have made notable achievements. Given major obstacles to such reforms, the speed at which they have taken root in all of these countries has varied, hampered in some areas by a lack of governmental will and promoted in other areas by civil society and the private sector.

In supporting business advocacy programs throughout Europe and Eurasia for the last several years, CIPE has witnessed many successes by its partners in influencing policy reform. CIPE believes that its network of partners has a wealth of knowledge and experience that it can share with similar groups striving to promote policy change.

CIPE and its two Ukrainian partners – the Institute of Competitive Society (ICS) and the Ukrainian Center for Independent Political Research (UCIPR) – sponsored the conference “Business Leadership and Democratic Development” on September 26-28, 2004. The conference drew 70 of CIPE’s partners from 16 Eastern European and Eurasian countries.

The participants represented a broad range of development experiences, hailing from the more western former Soviet-bloc countries, such as Poland, which have undergone progressive transitions into market economies, to the Central Asian nations of Uzbekistan and Turkmenistan, which represent a far more difficult post-Soviet reality.

The conference itself took place during the run-up to Ukraine’s tumultuous presidential election, highlighting the powerful role played by civil society in mobilizing the public in support of democratic principles. CIPE’s partners hoped to create a cross-regional network to counteract a growing sense of isolation among some of the region’s civil society groups.

Mr. Yuri Yekhanurov, member of the Ukrainian parliament and former prime minister of Ukraine, was invited to open the discussions and give a brief overview of several issues concerning the work of Ukrainian business organizations, their influence on the legislative process, the dialogue between business and government, the difficult choice that faces Ukraine in the fall of 2004, the rules of play that are emerging, and what Ukraine might experience in the near future. Mr. Yekhanurov’s message for the audience summarized the overall goal of the CIPE regional conference: “Everyone says that only 6-7% of the population get involved in their community. All the rest just hammer away working for themselves. That is the reality. But 6-7% make policy. I hope very much that by studying the accumulated experience of all, we can help each other.”

CIPE Board Member Kenneth Sparks offered a case study of the Federal City Council’s work in Washington, D.C. to illustrate the benefits of private-public partnerships. Sparks, who has led the council for 30 years, offered examples of private sector initiatives that helped lower crime and improve living standards in the city.

CIPE has focused on bringing business advocacy experience to Belarus and Ukraine through a comparative analysis of the two countries’ governance systems and the degrees to which the business communities have influenced those systems.

As CIPE’s efforts during the past few years have produced a critical mass of experience among its partners in Europe and Eurasia, these organizations were invited to share their experiences at the conference. Participants had the opportunity to explore models for national, regional, and local business advocacy; all of these case studies were presented by the associations or organizations that implemented the projects. In-depth discussions followed the

presentations, as participants from different countries governed by different regimes discussed how these models might be applied in their respective economies.

In order to implement change, there is another important element besides best practices and models to follow, and that element is leadership. Bill Weber, vice-chairman of Leadership Forum International, gave an inspiring presentation about leaders and leadership that was very much appreciated by the audience.

One of the main barriers to sound economic development that was mentioned by almost every participant in the conference was corruption. Unless this issue is solved by the governments of the respective countries, it is very difficult to imagine consistent progress in applying democratic values or market economy principles. Business associations and the coalitions they have created are fighting these practices and trying to “clean up” their systems, since they believe this is one of the first steps that have to be taken. In this regard, Viktor Yambayev, chairman of the Almaty Association of Entrepreneurs, said: “We counted the number of barriers to entrepreneurship in Kazakhstan; out of 90, 60 are the result of pure corruption.” Devi Kechinashvili, president of the Partnership for Social Initiative, a Georgian think tank that is currently working to revamp Georgia’s tangled Tax and Administrative Codes to enable development of Georgia’s private sector, informed the audience that “there are still two Georgias: one official and one unofficial.”

At a press conference that concluded the conference, Vladimir Karyagin of the Minsk Association of Entrepreneurs and Employers said: “In Belarus, private initiatives are growing through the asphalt. Even though very few international NGOs work in Belarus and 17 local NGOs were closed this year, some of us that remain have formed a coalition and will push for reform step-by-step. We are looking to you for guidance and support.”

Opening Remarks by Yury Yekhanurov, Member of the Ukrainian Parliament¹

The development of business in Ukraine has been a complex process. A comparison with business associations in our neighboring countries allows us to say that the business community in Ukraine managed, finally, to organize itself by the early 1990s, which enabled it to exert a certain influence on the government. In fact, the activities of the first business associations, which were formed with significant participation by the government, led to the emergence of large organizations. At that time, we brought together many organizations in the Ukrainian Union of Industrialists and Entrepreneurs, which gave us the current president of Ukraine.²

The Ukrainian Union of Industrialists and Entrepreneurs has played its role, but the organization is now at a crossroads. Meanwhile, associations of small businesspeople have been eking out a modest existence for a long time. Imagine what it is like to try to survive when your only financing is membership dues from small businesses. I stand before you as the president of one of the small business associations that has survived. It was formed on June 14, 1990, when 193 people got together and decided to pool their efforts. But having traveled this difficult path, we can now claim to be true advocates of business interests.

For the first 10 years, we mostly complained about the things that stood in our way or hurt us. Each person would come to the podium, sometimes in this very hall, and describe abuses by bureaucrats. Then we came to understand that we had to get involved in the legislative process. In 1998, the voice of small business, represented by the Coordination and Expert Assessment Center of 12 Ukrainian business associations, was truly heard for the first time. We began talking about joint activities and reforming the laws of our country. Today this center has 65 members, and for the past three years it has been working actively with the Center for International Private Enterprise (CIPE).

The adoption of the Doctrine of Private Initiative was clear confirmation that the Ukrainian business community is beginning to recognize that it is a force that can work together and with legislators to effect change. The Doctrine of Private Initiative contains a list of high-priority laws; it has both a theoretical component and, more importantly, a list of practical actions to be taken by the Ukrainian business community. Whenever I speak to groups of Ukrainian businessmen, I report to them about how I, as a member of parliament, am working to accomplish the tasks set forth in this doctrine.

I am currently the chairman of the parliamentary Committee on Industrial Policy and Business. Thanks to the efforts of many different groups, we have succeeded in passing several laws that are among the best laws in Eastern Europe. I am referring first and foremost to the law on regulatory policy, which defines the rules of play and the relationship between business and government. This law also establishes the principle that the government's decision-making process must be transparent. The law took effect this year, but compliance still relies on the political goodwill of our rulers.

We have also passed a good law on business registration that has made it much easier to start a business. However, we need much more infrastructure to create a single registration system in Ukraine. The law took effect on July 1, and funds to implement the so-called "one-stop registration" system have been appropriated for the second half of the year. So the process of creating this system is underway.

The Ukrainian business community faces serious challenges today with respect to two laws. The most onerous of them is the Labor Code. The second law is the Law on Joint-Stock Companies. The Law on Joint-Stock Companies, which we have been working to adopt for

the past six years, is not moving through the legislative process because the privatization of large and attractive enterprises is not yet complete. Current and potential owners are blocking the adoption of this law, and the various interest groups in parliament have not yet managed to reach a compromise. Two weeks from now we will hold the next joint session of two parliamentary committees, with extensive input from the public. We will keep advocating for change and will continue trying to pass the new Law on Joint-Stock Companies.

However, our biggest headache today is the six volumes of the Labor Code. All of our labor relations are still based on the code of labor laws from the early 1970s, which is still in effect with various amendments. This law is based on socialist definitions of labor relationships and, naturally, gives great power to the labor unions. For this reason, our most contentious discussions now are with the labor unions. I say “our” because I represent the interests of employers. Our committee in the Supreme Council is the official representative of the interests of employers. The Committee on Social Policy represents the interests of employees and labor unions.

We have identified 12 issues on which we disagree. Not only have we had discussions in Ukraine; we have also traveled to Geneva, where we had four full days of talks at the International Labor Organization. This convinced us yet again that the role of the labor unions should be drastically altered. It is simply unthinkable, especially in small business, to require prior approval to fire an employee. We have courts for that. But there must be clear procedures, and these procedures must be followed. The procedure for firing employees has emerged as our main battle.

Today there are some companies with several labor unions and many with no unions. Nonetheless, the Ukrainian Federation of Labor Unions, a geriatric society of labor bosses of the 1980s, does not want to yield on anything. This is not a matter of principle. It’s about the fact that the Federation of Labor Unions is a superstructure with nothing underneath. With nothing left but the property belonging to the unions, the federation is trying to continue to represent the interests of employees at the national level. But we have enough votes to push through any draft we like.

Still, the most important issue for us in this discussion is the issue of social responsibility, and I am particularly pleased to talk about it. We have the votes to pass any draft, but the Ukrainian business community has matured to the point where it understands that if the pendulum swings too far in one direction, it could swing back just as far the other way. Therefore, the challenge we face is to find a golden mean that will be acceptable to our society. On the other hand, the law will be in effect for another 30 years. How can we send people into that future wrapped in a socialist overcoat? But we must strike a balance of interests. And we are working with businesspeople to find a solution to this problem.

The social responsibility of business is an issue of enormous significance. I hope our Russian colleagues won’t be offended, but social responsibility is not simply what the Kremlin commands: You must be socially responsible, and here is your quota of how socially responsible you are to be. No, it’s a very different issue. And if a Ukrainian business makes contributions to a small museum or group of artists, it does so voluntarily, without a quota. All kinds of things happen at the local level.

In order to avoid politicizing the issue of the Labor Code and to approach it from a purely pragmatic point of view, we decided to adopt a law in December, after the presidential election. We decided to continue the debate to the extent that this is possible in the heat of an election campaign. We are currently debating the 3rd and 6th volumes. I invite all of our colleagues to study our experience with the Labor Code. You will go through this too. We must avoid the sad experience of our counterparts in the Polish business community, who lost the battle there in the early 1990s due to the strong labor unions. Solidarity came

along and adopted laws unfavorable to Polish businessmen – not because of bureaucrats, but because of unions. I know that certain amendments have now been adopted. Poland is in the European Union, and things are easier for our Polish colleagues. But we have studied Poland's experience carefully. We do not want it to repeat itself in Ukraine.

When I was first vice-premier in Viktor Yushchenko's government, I was the chairman of the Business Council within the government committee. Every document issued by the government was reviewed by experts from the business community. Of every 10 government decrees, at least one was held up and usually not adopted as a result. There were debates on all controversial documents. Business had a voice. Unfortunately, the current government is not interested in this.

Under our current government, the business community has to watch every change in the laws very carefully. I should mention the excellent work we did together to repeal various additional fees for seals, holographic stamps, etc. It was only through the efforts of the organized business movement that we were able to prevent the bureaucrats from pushing these things through. The most recent example involves taxi drivers. People came to the parliament to argue against a law that would have eliminated the simplified taxation system for businesses that provide transportation services.

In 1998, the presidential directive on the simplified taxation system brought at least a million entrepreneurs, and maybe more, out of the shadow economy. Once these businesspeople have paid their quarterly taxes, they cannot be audited. It's a simplified system of reporting and payment. This is a school for entrepreneurs. Unfortunately, the current government is continuing its attacks on the simplified system. During the adoption of the budget for this year, there were six votes in a row in parliament. I am happy that we succeeded in maintaining the simplified system. The government was unable to amend the law. And then the president supported us, and we won an important victory. The protests by the taxi drivers who converged on Kyiv demonstrated that the entrepreneurial movement is strong today, and no one, especially on the eve of an election, wants to have a bad relationship with people who talk every day with several dozen passengers about what they think of the government.

The extent to which businesspeople should be involved in politics is always an issue in Ukraine. We have always said that business should be outside of politics. But the authorities force us to get involved. Today we can say with confidence that the business community will get many more people elected to local government in 2006 than in the previous election. People recognize that they need to influence events in their villages, cities, districts, and provinces. I am very hopeful that the election of 2006 will bring to parliament some real politicians who are capable of protecting the interests of entrepreneurs. Only big business is there now.

When we analyze the work of these legislators, we see that they generally argue for bills related to their area of business. There should be limits to this advocacy. Imagine our committee, which must bring everyone together and adopt balanced decisions. For example, one interest group petitions for certain decisions on scrap metal, a second group wants different decisions, and a third group has its own proposals. The issue is one of who can carry this diverse package through parliament. Our first meeting with the association of scrap metal collectors was very illustrative. They told us: We have everything under control in the Cabinet of Ministers, so you guys can take a walk; we're not going to work with you. However, it didn't work out for them. Ukraine passed an export duty of 30 euros per ton, and it's still in effect. So they pay it like good boys. All because there was no dialogue. Now dialogue is underway, and we will discuss it, think about it, and make some changes.

I believe the business community should think about enlisting people who will go into politics, get elected to local legislatures and to the national parliament, and represent small- and medium-sized business first and foremost.

We face another important challenge. Elections in Ukraine are the backdrop against which we are building our life today. Our entire future will be affected by them. Recently I spoke at an economic forum in Krynica, Poland. My speech was entitled “Ukraine between the Unified Economic Space (UES) and the European Union: A Pragmatic Approach.” I talked about how Ukraine, which is like a sandwich pressed between these two sides, can find its own way.

What is the Unified Economic Space? It consists of Kazakhstan, Russia, Belarus, and Ukraine. I will not describe the governments and regimes in these countries. They can be called by many names. That’s not what we want to do. We must have our own country with democratic traditions. Therefore, what we need from the UES is open borders for free trade. In this respect our most difficult relationship is with Russia. There are 327 exclusions to the document on open borders and free trade. But we understand this. They exist and will continue to exist because it is in Russia’s interest, which must be respected. The Russian government will never give anything away to Ukraine or another country at the expense of the Russian people.

People here were overjoyed, thinking that Russia was going to give us a billion ruble credit on all our oil and gas payments. But I put myself in the shoes of my counterpart in the Russian Duma: How can he go into an election campaign telling people how he gave a billion rubles to Ukraine? So they fool the people, as a famous satirist said, by eliminating VAT but adding tariffs. You have to pay the same amount in the end, just in a different way. But it gives the politicians a way to talk about our brotherly love. What love, what brotherhood? There should be a normal pragmatic arrangement. It should be beneficial to both sides.

I should say that such a pragmatic approach has become more prevalent over the past few years. I understand that we need raw materials from Russia and Kazakhstan. They also need our raw materials and semi-finished goods. We are fated to work together, but it must be mutually beneficial. And then we will always be good neighbors, regardless of what politicians we have and what they do.

A few words about the European Union. We were anxious about May 1, 2004. We were afraid that an iron curtain would descend and that Ukrainian business, especially small business, would be left with nothing. So far, the differences in prices have had the opposite effect. As I was returning from Krynica, people at the border told me how many people from Poland cross the border into Ukraine to buy vodka and fill their gas tanks. And how to modify an old Mercedes to hold more gasoline. People reacted quickly, and small business got to work.

But more importantly, exports to the countries of the European Union grew dramatically. This year we expect a 40% increase in exports to these countries. So we can say the Ukraine’s products are in demand in the EU. I am very happy that our exports to Russia and the other CIS countries are also increasing. Imports are down from both areas, however. So we are pursuing a normal economic policy in this regard. I believe that these borders present complex but surmountable obstacles for Ukrainian business.

I want you to understand that no matter how the elections turn out, there will be clear rules of the game in Ukraine. If Yushchenko wins the upcoming presidential election, the rules of the game will be absolutely understandable and generally accepted, the same rules that prevail in Europe and the world. Nothing unusual. We will have to synchronize our legislation accordingly. People will look and say, we have already passed so many laws, and we still need so many more. And if the other group wins, the guys who faint at the sight of eggs,³ there will also be clear rules of the game, but they won’t be the fair rules used in democratic and capitalist countries. I think that the privatization of Krivorozhstal, our giant steel plant, demonstrated this.

Let's look at the sequence of events. LLM, an Indian group based in the British Isles, offered \$1.5 billion. Mr. Mordashov of the Russian group Severstal offered \$1.2 billion. But the winner was the Ukrainian group, made up of two political and financial clans, which paid \$815 million. And now they will be happy to sell the plant to you for \$1.5 billion. Such will be the rules of the game if Yanukovich wins in November.

Each association seeks to reflect the interests of its particular area, industrial sector, or territory. It is very difficult to break through to the level of the challenges that we all have in common. I represent the union of small, medium-sized, and privatized enterprises in Ukraine, and this year, despite great difficulties, we have succeeded in forming the Ukrainian Association of Employers in accordance with the law. By working together in the Coordination Center, we had the opportunity to create an analytical center, the Institute of Competitive Society. Here we gather all the information that we need. It is a meeting place. It is a place where we can have discussions and roundtables. Everyone knows that it is a place where information can be sent and retrieved and where opinions can always be shared.

We have now begun working to create an information agency. The first stage is complete, and we are doing some reorganizing. But I think that the project will take off after the New Year. I want to tell you that we have created full-fledged representative offices in all the provincial capitals of Ukraine. By this past summer we were issuing 850 news stories, mainly business news, each day. But we have fewer subscribers than we need. Therefore, the economic component of the project needs to be refined. We are now doing some restructuring. This will be an information agency that will meet the information needs of the entire Ukrainian business community. We will know everything that happens in the country, including with whom one should do business. We may also have an English-language version in the future.

Everyone says that only 6-7% of the population get involved in their community. The rest just hammer away working for themselves. That is the reality. But that 6-7% make policy. I hope very much that by studying the accumulated experience of all, we can help each other.

I believe that today we need a second doctrine of private initiative to guide us after the presidential election. We will need to think about where to go, and with whom, in the next phase of our work. Because we have learned that it is not really about getting a law passed, it's about getting the law implemented. Our task in the next stage is to bring it to every enterprise and every local government.

¹On September 22, 2005, Yury Yekhanurov was appointed prime minister of Ukraine

²At the time this speech was given, Leonid Kuchma was president of Ukraine

³This is a reference to an egg-throwing incident involving [former] Ukrainian Prime Minister Viktor Yanukovich

Presentation of Ukraine and Belarus Comparative Analysis

Building Democratic Governance and Business Advocacy in Ukraine and Belarus³

Dr. Mieczyslaw Bak, Institute for Private Enterprise and Democracy, Warsaw, Poland

Civil Society and Business Associations

Civil society and business associations in Ukraine and Belarus differ in terms of the number of existing organizations, operating conditions, strategies, and leadership. However, there are similarities in the problems they seek to address, including the heavy administrative burden, the lack of transparency, discretion in administrative decision-making, and the negative perception of the private sector. The situation may improve in Ukraine after the 2004 presidential election, but changing the attitude of administrative agencies will remain a major challenge for the Ukrainian civil sector.

Ukraine

The Ukrainian civil sector consists of more than 40,000 organizations, with different levels of activity and varying organizational structures, maturity, involvement in advocacy, and financial self-sustainability. Of these thousands of registered organizations, only a few hundred have a stable position and are visible at the both the national and local levels. Grants from foreign donors are an important source of NGOs financing. Local sources of financing are available on a smaller scale.

The situation is different for business associations, where even the most active organizations receive only a small portion, if any, of their funding from foreign grants. However, business associations remain a relatively well-developed part of the civil sector. According to business leaders, about 40 associations are very active at the national and local levels.

NGO activities in Ukraine are negatively affected by a lack of regulations, which could facilitate the creation of self-sustaining NGOs. Donor organizations were involved in the elaboration of new laws on NGOs, resulting in four different drafts. Each draft was promoted by a different MP. According to NGO representatives, not all of the drafts met the expectations of the NGO community, and it was impossible to select one of them to promote. Since 1999, NGOs have been involved in discussions on developing a new NGO law. This discussion is coming to an end, and the existing draft meets NGO expectations. However, it is not clear when the new draft will be passed.

Belarus

There are about 100 business associations in Belarus, but only a few are active. This reflects the situation of the private sector, which is rather weak and contributes only about 30% of the GDP. In addition, private companies have limited access to potentially profitable activities, such as car insurance, manufacturing, and cash register repair. Associations operate in an environment with strong government influence on the functioning of private firms and arbitrary decision-making by public officials, who can close down a well-run company at any time.⁴ Laws are not obeyed; for example, a single telephone call from the administration can stop the registration of a company. Therefore, one of the business associations' main focuses is to protect their members against arbitrary decisions by government officials. This is done mainly by writing letters to public authorities setting forth complaints about actions taken against members. As part of the civil sector, business associations face project registration problems and the possibility that foreign grants will be taxed, as well as a prevailing negative attitude on the part of public officials.

Advocacy

In both countries, business associations stress that advocacy means the protection of both the group and individual interests of their members. While they distinguish public policy advocacy from intervention on behalf of the individual entrepreneur at the tax office, local administration, or health and fire inspectorates, some of the visited associations regard the latter as advocacy as well. Public policy advocacy makes up a significant part of the activities of all the civic groups visited. Those we visited demonstrated an understanding of the advocacy process, although they also said that such an understanding is not widespread among most Belarusian NGOs.

Ukraine

According to representatives of the associations visited in Ukraine, the most effective way to influence public policy is to establish a policy position and promote this position through a member of parliament. Most of the organizations are involved in reactive advocacy, offering their opinions on pending legislation and opposing legislation that could have a negative impact on business. The associations usually work on legislation during the parliamentary process; they do not try to influence pending legislation when laws are being drafted inside the government, because they say the Council of Ministers operates less transparently than the parliament. However, the situation varies depending on access to policymakers.

An effective technique used in Ukraine is to put pressure on individual MPs through the publication of her or his voting record or through the publication of negative information in an MP's constituent region. MPs' opinions are also shaped by so-called "citizens' arguments," one-page issue briefs distributed to all MPs. These materials can be effective, since MPs have limited access to expert analysis. Although the parliament's own Expert Assessment Center analyzes draft laws that have passed first reading, it is not equipped to provide opinions on the economic impact of various regulations. Most of the analyses are limited to evaluating whether regulations are in keeping with the constitution. Although the impact on the state budget should be examined, in most instances this component is missing or limited to the simple statement that there is no need for compensation in budgetary spending. This situation creates a demand for unbiased economic analysis.

In Ukraine, the effectiveness of advocacy efforts has been strengthened by a new law on regulatory policy. As a result of this law, civil society groups have obtained access to information about draft laws. However, not all public officials accept the implications of the law, and access is not a given in some administrative units.

Business association advocacy is coordinated by a Coordination Center established with the assistance of one of the MPs, Mr. Yekhanurov. The idea behind the Center was to establish an institution that could represent the interests of private companies, especially private employers, since the existing Federation of Ukrainian Employers (FUE) represents mostly large companies. The Center works to implement a strategy for the development of a business-friendly climate in Ukraine. This strategy (the "Doctrine of Private Initiative") was designed by two think tanks cooperating with the business sector: the Institute for Competitive Society and the Ukrainian Center for Independent Political Research – Economic Section. The Center's main success is the law on regulatory policy, which was enacted this year and significantly alters the position of civil society organizations in the legislative process.

The creation of a coalition and the growing demand for expert assessment and the professional elaboration of draft laws and legislative recommendations gave rise to the need for think tanks serving business associations. The growing demand for expert assessment was the main reason for establishing the Institute of Competitive Society (ICS). The problems facing

the business community are summarized by the business associations that are members of the coalition and are prioritized by the Coordination Center. The most important issues become the focus of analysis by the Institute, which then prepares recommendations.

Business associations also work with the other think tank – the Ukrainian Center for Independent Political Research (CIPR). This organization works in several fields, focusing especially on the implementation of democratic regulations with regard to human rights, fair elections, minorities, and internal mobility policy. In 1996, the CIPR created the Democracy Advocacy Group, which monitors human rights-related legislation and proposes amendments during parliamentary sessions. It also engages in proactive work, for example, by preparing policy papers on election laws. The projects supportive of business associations are carried out by the Economic Section. The CIPR helped devise the strategy (doctrine) of the Coordination Center and is currently responsible for PR activities. It publishes the journal “Priorities: Bulletin of the National Business Agenda.” The journal offers a forum for the discussion of economic reform.

Business associations are also influencing local regulations that are important to business development. An effective way of building access and relationships is to show the real situations and problems that business people face. This can help change the perception of businessmen and businesswomen as selfish and interested only in their own well-being and financial success. In Belaya Tserkov, this was accomplished by inviting local government officials to their businesses to discuss the daily barriers they encounter in running a business and investing earned profits. After that, local politicians became their allies in promoting business issues in the national parliament and supporting the positions of business associations.

Business associations are also interested in the development of local technical infrastructure. An effective technique applied involved sending 3,000 letters to the municipal authorities requesting reimbursement for the costs of repairing vehicles damaged by poor roads. Although the letter-writers did not receive compensation, the local authorities decided to spend more money on the roads. This example shows that Ukrainian associations are effective in building grassroots support by persuading friends, relatives, employees, and other members of the local community to adopt their views.

Belarus

In Belarus, two main approaches to influencing public policy were observed in the organizations visited. The first, represented by one of the leading think tanks, the Independent Institute for Socio-Economic and Political Studies (IISEPS), is focused on building public pressure and international pressure to promote democratic change, but without any elements of direct advocacy. According to this approach, positive changes can be achieved through pressure on the public authorities from the Council of Europe and the governments of the EU countries, and especially through growing pressure exerted by influential groups in Belarus, such as managers and academicians. Influencing public officials is impossible, because they have to follow strict rules and are punished for contacts with civic groups. Training programs and any form of influence on mid-level officials do not produce results, as public officials do not change their positions after such training but act the same as they did before the training. Influencing public opinion might be achieved through publication of the findings of public opinion polls. For example, the IISEPS, after the presidential election in 2001, published the results of a survey that showed a decline in support for Lukashenko. In response, Lukashenko dismissed several ministers in order to neutralize the negative rating.

Public opinion pressure is also exerted by articles in independent media. These articles show how democratic institutions should function and how economic reforms should be carried out. The dissemination of such articles promotes changes among voters. Pressure can

also be exerted through business associations. The IISEPS helped business associations obtain data on labor costs that were later used to oppose the government's approach to the regulation of wages paid by private companies.

The other option is focused on dialogue with the existing authorities. This option is represented by the Institute for Privatization and Management (IPM), which realized that part of the problem with regard to the negative perception of the civil sector was a confrontational position vis-à-vis the public authorities. NGOs were insisting that they were the only ones who knew what to do and that the public authorities should follow their recommendations. The IPM changed that approach and started a dialogue with mid-level public officials. It also built public support through articles, seminars, and roundtable discussions. In addition, it used some techniques of direct advocacy. For example, in 2003 the IPM identified a group of MPs who were looking for expert assessments. Under a project by the German Institute of Economic Research, it began providing MPs with policy papers, thus initiating a relationship and dialogue. The IPM was able to influence a law on bank deposit security. It also realized that mid-level officials with high professional skills at various ministries were open to technical advice. That group began attending seminars organized by the IPM. The seminars attracted up to 30 officials. According to IPM staff, this approach could develop the skills of public officials who might be needed after the fall of Lukashenko.

Dialogue with public officials helps to build ideological changes within the government. Three to four years ago, the private sector was treated as an enemy of the government. Now the government recognizes SMEs as an important sector of the economy. This change facilitated the development of a government program supporting small and medium-sized enterprises. Although there are very limited financial resources for implementing the program, the program itself demonstrates a change of approach to the private sector.

Belarusian associations are also using existing consultative bodies of the government, such as the Foreign Investment Board and the SME Board. This SME Board has been used to put on the public agenda the issue of simplified taxation for SMEs and SME access to financing. The Export Board has been used to address the problem of support for SME exports and the development of an export strategy for Belarus. The Entrepreneurship Board, under the presidential administration, has been used to present opinions on legislation critical to business.

Government-business interaction develops relationships. The president's administration asked the Minsk City Union of Entrepreneurs and Employers to analyze two presidential decrees, "On Individual Business Activity" and "On Company Registration." The union presented a liberal draft law on foreign trade that influenced the discussion of foreign trade legislation. One of the union's success stories is the rescinding of a decree on remuneration in private companies that would have introduced a higher minimum wage in private companies, comparable to that in public firms and institutions.

According to Belarusian business leaders, a segment of the administration is interested in effective legislation, and in some cases that segment has to oppose the opinion of hard-liners. In such instances it needs opinions to back up its position. The opinions of business associations can prove useful in such cases. In some situations a bill drafted by a business association might be presented to the parliament by the Council of Ministers.

Belarusian business associations try to understand the motivation of public officials and to develop arguments addressed to different interest groups. In some instances the discussion with public officials requires support from the media. Such was the case with regard to a decree on a customs union with Russia. Under the decree, a customs union would have been established in less than two weeks, without any possibility to prepare the Belarusian economy for the new situation. As a result, the Belarusian market would have been exposed to duty-free

Chinese goods, and Belarus would have lost thousands of jobs. A media campaign regarding the decree helped bring about the repeal of the decree, which ultimately was never signed. Work with the media also helped the Minsk Union promote regulations on supermarkets. The media were also very useful in promoting a ban on new licensing regulations, and they were also used to promote recommendations regarding tax laws. Under these recommendations, changes in tax legislation and other laws that could have a negative impact on companies must be made only prior to the beginning of the fiscal year.

Business associations use data to support their arguments. In 2002, the government proposed a regulation whereby goods costing more than \$200 could be purchased only by credit card. The Union of Entrepreneurs gathered data showing that the banks would not be able to issue a sufficient number of credit cards, and that most of the population was not eligible to obtain credit cards because it lacked the necessary income. The regulation would have hurt the home appliance and TV market. In response to the data presented, the regulation was dropped.

Despite numerous victories in influencing public policy, some organizations claim that “standard democratic methods do not work in Belarus.” This approach results in the development of radical methods. One radical group, Perspective, which represents small vendors, has said that analyses and the presentation of opinions are not important and that the crucial factor is demonstrations and mass protests. Public authorities ignore the opinion of business groups but respond to “people in the streets.” For example, the problem of mandatory cash registers for small traders was solved in a positive way after a street protest. Perspective tries to solve problems facing local vendors by sending organization leaders to communities where vendors have been hurt by local authorities. These leaders meet with local business people and encourage them to join the organization and to stage protests. Local members also raise funds to cover the costs of fines imposed on businesses. That way people are not afraid to protest.

Although think tanks and business associations in Belarus are actively involved in advocacy, they lack a systematic approach and understanding of the advocacy process. This is due partly to a lack of advocacy training. Think tanks work with business associations, but there is no coalition of business associations and no attempt to develop a national business agenda.

Obstacles to Democratic Governance

One of the main problems in both countries is the weak position of the private sector and civil society groups vis-à-vis the government administration. In Ukraine, despite the new law on regulatory policy, the impact of civil society groups is insufficient. The number of active associations is relatively small, and their activity relies on personal contacts with a limited number of policymakers. A positive approach to input from the civil sector is not widespread within the administration; according to a representative of one think tank, the authorities are not interested in effective legislation but in legislation that promotes the interests of individual companies or industries. The administration is unwilling to accept the implications of the law on regulatory policy, since that law forces transparency on public authorities and such transparency is still not widely accepted. Public officials do not risk any consequences if they fail to meet the requirements of the new law. In practice, access to draft laws is not assured, especially before they are forwarded to parliament. Civic groups have limited information about draft laws prepared by the government or by the president’s office.

Another obstacle is the passivity of the private sector in both countries. Suing the state administration might be effective, but only a relatively small number of entrepreneurs have taken an active position. Many of them do not believe that justice can be achieved through official channels. Moreover, small businesses do not have access to legal assistance, since hiring

a good lawyer is too expensive. This passive position strengthens the administration. Public officials bear no liability for decisions that might hurt the situation of entrepreneurs or even drive them to bankruptcy.

Democratic governance in both countries is also hampered by a negative perception of NGOs, which results in attempts to control civic organizations through complicated registration requirements. Pressure is also exerted on NGOs through the tax system and the social security system. Complicated and sometimes inconsistent regulations make compliance very difficult and enable officials to find practices that are not in line with regulations. This limits the independence of NGOs. In Belarus, NGOs and business associations need to register projects as humanitarian assistance or pay high taxes. A denial of registration results in financial losses and higher project costs.

The centralized budgets and lack of real administrative reform in the two countries are another significant obstacle. In Ukraine, small villages are not consolidated into communities that might become self sufficient in terms of revenue. In Belarus, local authorities are controlled by the president, so their ability to implement reforms and create proper conditions for business development at the local level is limited.

Governance is also hampered also by a lack of independent monitoring of public authorities. In Ukraine, two organizations monitor the use of public funds, the Auditing and Oversight Department of the Ministry of Finance, and the Accounting Chamber of the parliament. Both institutions focus on financial issues and, civil sector representatives say, do not examine other aspects of the operation of public institutions, such as privatization, the efficacy of public administration, and energy policy.

One of the problems facing Ukraine is the poor quality of laws and inconsistent regulations. Strong lobbying by large businesses (and sometimes individual businesses) for their specific interests results in the adoption of laws that protect those interests. These laws are passed without any analysis of how they will function and what impact they will have on other business entities. As a result, the laws are dysfunctional. The poor quality of laws also results in inconsistent regulations and in constant changes in the law. Entrepreneurs may comply with one law, but the tax authorities can use some other contradictory regulation as the basis for their position. In such cases an interpretation is provided by parliament, but this interpretation is not binding on tax offices. It is therefore necessary to appeal through the judicial system.

In Belarus, the main problem is the virtually unlimited power of the president. The lack of political will to transfer some power away from the president's office results in a weak civil sector and weak private companies vis-à-vis the state administration. The number of active civic groups is relatively small, and their ability to promote their recommendations is limited mostly to technical issues. For all practical purposes, there are no opportunities to address broad economic and democratic reforms. A positive approach to input from the civil sector is not widespread and is limited to the personal interests of public officials.

Significant obstacles arise from the position of the media. This applies especially to Belarus. Independent media in that country have very limited circulation, and there is no independent TV. Independent newspapers are subject to high registration fees and taxes. It is therefore difficult to use the media to build public support for policy recommendations.

Low input from the civil sector also results in poor laws and regulations. Therefore, a significant part of the activities of business associations is devoted to the protection of individual members and the discussion of individual instances of abuse of administrative power. These activities, which are necessary under Belarusian conditions, divert resources that could be used to promote effective legislation.

Recommendations

Ukraine

1. A key obstacle to democratic governance is the unprofessional and unethical attitude of many bureaucrats at all levels of government. It is recommended that this attitude be changed through the promotion of civil ethics. Civil servants should be held to a professional code of ethics. Salary increases for public employees should be combined with these activities. Funds for higher salaries could be obtained by surveying the relevance of all existing government positions and scaling down the number of public officers.
2. Government administration is also opposed to the provision of information, despite existing regulations. Transparency of public authorities should be promoted through joint projects between business associations and local authorities. Steps should be taken to identify local authorities that are supportive of investment and business activity and to propose that they implement transparent rules for administrative procedures related to investment and business location. Existing experience in selected Ukrainian locales could later be transferred to other towns and villages.
3. Weak democratic governance is also due to a lack of real administrative reform. Small villages without their own budgets are too small to be self-sustainable. Projects should be undertaken to advance administrative reform and to consolidate small villages into self-sustainable communities with defined tasks and designated revenue sources.
4. Democratic governance is also hampered by a lack of transparent procedures related to business location and the investment process. Business associations, in cooperation with public authorities, should prepare templates for administrative procedures, describing necessary steps and eliminating those not required by law. Each step should describe the procedure and its timeframe. Business associations should monitor the extent to which the timeframes are met. Over the long run, this issue could be addressed by passing a law requiring the elaboration of local urban planning and specifying what kind of investment is permitted in a given area. This would make it easier to obtain building permits.
5. Administrative supervision should be replaced by self-regulation within the business community. Business associations should identify government functions that they could take over, such as licensing or the operation of a business registry, and recommend the necessary changes in legal system.
6. Business associations should also review legislation to identify contradictory regulations and subsequently propose necessary changes to the legal system.

Belarus

1. The civil sector's main focus in Belarus should be on the policymaking process, but according to the visited organization, the discussion of the policy process itself is extremely difficult. Business associations should focus on countering the negative image of NGOs and business associations. Some publications should be devoted to the role of civil society in the legislative process and to the need for civil society participation in

developing effective legislation. This would help reform the policymaking process in Belarus in a more profound way.

2. The consultant observed a lack of understanding of the advocacy process. It is recommended that advocacy training be conducted for business associations. Training should provide an opportunity to discuss methods and techniques that are working in other countries and identify those that could work in Belarus.
3. Business associations should resume discussions of forming a coalition and creating a national business agenda. Previous attempts were unsuccessful, but without a coalition it will be difficult to represent the voice of a strong business sector. The government's recognition of the role of SMEs is a first step. Now the government must be convinced that SMEs cannot develop without strong representation during the legislative process. Projects submitted for funding by a coalition of business associations must be given priority by donors.
4. Dialogue with mid-level public officials should be continued. Although this dialogue may not result in immediate changes in the public policy process, it builds relationships with state officials and demonstrates the usefulness of the civil sector. In the long run, this dialogue prepares the administration for more profound democratic changes and economic reforms. It also facilitates the operation of companies.

³The two case studies that provided the basis for this comparative analysis can be found in the appendix of this report.

⁴The Minsk government, for example, voided a valid and signed contract without consulting the companies involved. Its official explanation was that there were insufficient funds in the city budget. Government authorities may also impose on a business a fine for a minor legal violation that exceeds the value of the entire company.

Successful Advocacy Initiatives

Delivering an Appropriate Framework for Regulatory Reform in Sofia and Advocating Its Implementation: Report on Good Governance in the Licensing, Registration, and Permit Regimes in Sofia

Ruslan Stefanov, Center for the Study of Democracy Sofia, Bulgaria

With CIPE funding, the Center for the Study of Democracy developed and implemented a project intended to foster enterprise and entrepreneurship through good governance at the local level, in Sofia Municipality.

The project objectives focused on the following areas: lowering the costs of doing business through improving administrative governance in Sofia Municipality, presenting an example of a successful process of building a local coalition, and contributing to the elimination of information asymmetry on local licensing and permit regimes (administration - private business).

CSD formed a task force of 40 persons representing major stakeholders in the process – private business associations, NGOs, the Sofia Municipality, and the 24 Sofia districts – to provide wide representation. Good local governance through better interaction between the mayor, the Municipal Council, NGOs, the business community, and the public was proposed and discussed. The project set up the legal prerequisites for institutionalized public-private partnerships of the Sofia Municipality and presented a leading example of how such a partnership can produce results.

The inauguration of the Sofia Economic Council was meant to ensure long-term alternative private solutions to issues of public concern in the capital city.

Working groups within the task force drafted a “Report on Good Governance of Business Regulations and Licensing in Sofia,” which included an evaluation of the current situation and proposed future changes. Eight hundred copies of the report were distributed to local administrations throughout the country, major public libraries, and the media.

The working groups submitted several draft ordinances to the Sofia City Council concerning the introduction of uniform nomenclature and licensing requirements for the most commonly applied regimes within the 24 Sofia districts, the abolishment of the commercial outlet registration permit, and democratic private sector participation in the decision-making process.

The senior municipal officers, including the mayor of Sofia, and members of the working groups took part in a study tour of the United States to examine the American experience with regard to good local governance.

One of the most prominent items in the new statutes was the introduction of additional information resources for citizens and businesses regarding the work of the council and the municipality. The council responded by establishing an official Sofia City Council website, <http://www.sofiacouncil.bg>.

In financial terms, the impact of the project can be evaluated as follows:

- Changing the commercial registration model: potential savings for businesses up to BGN 73 million (\$45.6 million), or 0.75% of the city’s GDP;
- Providing Sofia Municipality with a complete list of regulatory regimes and recommending changes to ensure compliance with the prescriptions of LRSAIE: potential savings of BGN 220.4 million (\$137.8 million), or 2.24% of the city’s GDP;

The diverse structure of the working group and the active involvement of its members in municipal matters kept the project closely connected to major municipal actors. This

combination of a solid structure and a productive relationship with municipal work, in combination with analytical work on the report, enabled the CSD to achieve high policy impact whenever a window of opportunity emerged.

Two important issues emerged as legacies of the project, which the CSD will seek to develop in the future:

- Strengthening the capacity of the Sofia Economic Council and developing an annual policy influence mechanism for the initiative. Seeing the process successfully through its first year will be considered the final progress marker of the project.
- Developing a coordination mechanism of central and local government activities for improving governance in the area of licensing, registration, and permit regimes.

Business Advocacy Program of the Coalition of Business Associations of Perm Province Yelena Mironova, Russia

The Coalition of Business Associations of the Perm Province is made up of seven business associations that came together to “ensure a favorable business climate in the province by pooling the efforts of local business associations.”

The goals of the Perm Coalition focus on supporting and protecting the rights and interests of the business community, developing the capacities of local associations, disseminating information and educating the public about entrepreneurship.

The Perm Coalition objectives target the creation of a legal framework in favor of business development; advocate for free access to resources (information, financing, access to capital, etc.); promote a positive public image for entrepreneurs and business community; and work to create a more ethical business environment.

The coalition undertook the following activities: it created and developed partnerships to have an impact on public policy; participated in the process of creating and amending legislation; conducted research and studies that demonstrate strong support for its point of view; offered consulting services to companies; and coordinated PR campaigns.

With CIPE support, the Coalition of Business Associations of the Perm Province implemented a project intended to strengthen the capacity of the coalition to support members’ interests. The project focused on improving members’ access to information, developing micro-credit programs, and improving the ability of the coalition to review current legislation and engage in direct advocacy, effectively support coalition members’ rights in civil courts, and create and promote a positive public image of the Perm business community and business associations.

As a result of the CIPE project, the members of the Coalition of Business Associations of the Perm Province were introduced to international best practices in supporting members’ interests and in effectively influencing public officials in order to advocate for legislative changes favorable to business transparency and predictability. The coalition members developed a strong partnership with civil society, the mass media, and international experts and developed criteria to evaluate the performance and effectiveness of the business associations’ activity.

A large segment of the Perm business community (20,000 businesspeople from 25 towns in the province) is expected to get involved in the project, analyze drafts for all business-related legislation, and produce three target regional studies.

By September 2004, the Coalition of Business Associations of Perm Province had organized 50 meetings with representatives of executive and legislative authorities, developed three or four pilot case studies, and created a database on reported court rulings.

As regards communicating the message and creating a positive image of the business community, the coalition engaged in 23 PR campaigns that were extensively covered in the

mass media. A regional public information center to increase awareness of business issues was created as part of the project.

As a result of the project, the coalition's members developed stronger capabilities to access capital, and local companies became more stable. The number of new companies increased, as did the quality of products and services offered by companies. A direct consequence of the project was the creation in Perm Province of new jobs that employ 0.5% to 1% of the local working-age citizens.

Strategies for Testing Effective Governance

Devi Kechinashvili, Partnership for Social Initiatives, Georgia

For the Georgian business community, good governance principles and practices are more rhetoric than practice. Although each Georgian administration has talked about the need for good governance practices, limited action and progress has been made in this regard. The main causes of this situation are the political structure, a reluctance to relinquish power and control, the burden of the legal and regulatory system on the business community, and a lack of knowledge about and experience with good governance practice.

The PSI assessed the applicability of two regulations: the Administrative Code and the Law on Control and Entrepreneurial Activity. It was determined that these two laws are observed by only 20% of the economy (this was called "official Georgia"), while 80% of businesses prefer to ignore most of the regulations (so-called "unofficial Georgia").

Using the Economic Development and Poverty Reduction Program process, the PSI decided to work on a strategic planning document on the promotion of economic development in Georgia. The PSI involved other relevant stakeholders in the process, such as the government, the business sector, civil society, the academic community, and donors. Public debates were held to discuss the project and devise a strategy.

The final document focused on needed reforms in strategic areas for the development of the business community in Georgia, such as tax and regulatory reform, social and labor policy, and the best use of donor funds. The document said explicitly that good governance practices cannot be separated from economic progress, and that reducing the informal sector would be the main driver of economic development.

The government did not understand that the reform process should be approached globally, as recommended in the report. The authorities chose to introduce reforms one by one, disregarding the good governance practices.

For example, the tax reform draft proposed by the PSI, which was supposed to change the approach to tax collection and tax administration, was disregarded by the authorities, especially the Ministry of Finance. Of great importance in this process was the fact that the business community decided to finance a task force under the PSI's leadership and the auspices of the Ministry of Economics to draft a new tax code. Although the final document was not what the business community proposed, the fact that the Ministry of Finance agreed to combine the two versions was an important step forward.

Another reform proposed by the PSI focused on the social-welfare system, which is responsible for consuming 40% of the Georgian budget. For several years, the PSI advocated changes in the social security system, especially the privatization of some of it. While the current system is fully supported by the state budget (40% of the state budget's total expenditure goes to social services), in the new system additional options (such as private pensions or private health care) would be available. The Ministry of Health and Social Services will change the system of providing social services, but the changes will most likely touch just the surface of the issues, while the governance problems of the system will remain the same.

Creating awareness in local communities about issues of public interest, such as public policies, is a core activity for the PSI. As part of the project, the PSI created and developed nine regional centers on government issues, providing information about central and local government. These regional centers are connected in the portal www.lgic.ge, so citizens and the business community can gain access to updated information.

The next step for the PSI is to expand the structure of these centers, so they can also provide information about the needs of the business community and about social issues. Besides providing knowledge and information, these regional centers are very important in that they increase transparency and accountability in governance.

Business Environment in Ukraine and Belarus: Post-Conference Update

Changes in the Ukrainian Business Climate Since January 2005

Dmitry Lyapin, Institute for Competitive Society, Ukraine

Among the major changes was the victory of a liberal-minded pro-democracy candidate, Viktor Yushchenko, in the 2004 presidential election. That victory was due exclusively to the active position taken by Ukrainian citizens who—largely spontaneously and without external pressure—came out onto city squares all over the country and demanded an end to foul play in the voting process. At this point it has been conceded by virtually all parties in Ukraine that the main force driving the November 2004 events was the small and medium-sized business (SME) sector. The leading role played by SMEs in the political events of late 2004 allows us to characterize Ukraine’s “orange revolution” as a bourgeois revolution.

Viktor Yushchenko’s election as president of Ukraine determined the composition of the new government (the cabinet of ministers). The head of the government is now Yulia Tymoshenko. Cabinet members were selected based on the coalition of political forces that opposed the rigging of the 2004 presidential election. To a significant degree, that coalition was an ad hoc grouping, with various members representing various political shadings—from the far right (national-bourgeois forces) to leftists (socialists). Governors in all the Ukrainian provinces were replaced on the same coalition basis.

On December 8, 2004, amendments were made to the Ukrainian constitution by the Parliament (or Verkhovna Rada). The Law on Constitutional Amendments “On Political Reform” provides for a transition from a presidential-parliamentary to a parliamentary-presidential form of government, the selection of government ministers by parliament (i.e., a coalition of parliamentary factions) and the extension of the parliament’s term of office to five years. The powers of parliament have been expanded to include the power to appoint the prime minister, the heads of the “power ministries” (security, military, and law-enforcement bodies), other cabinet posts, and the foreign minister from among candidates nominated by the president. These provisions redistribute the former powers of the president, the prime minister, and the speaker of parliament (the traditional top echelon of government authority in Ukraine) in favor of the prime minister.

The next regular parliamentary elections will be held in March of 2006. For the first time, elections to parliament and bodies of local government will be conducted solely on the basis of party lists. The election threshold for gaining seats in these bodies has been lowered to three percent of the vote. Since the presidential election, shifts have been occurring in political party membership. Whereas for the previous period under report, the leading political parties with relatively well-developed regional structures were the Social Democratic Party of Ukraine (United) [SDPU(u)], headed by then-presidential chief of staff Viktor Medvedchuk, and the Party of Regions, headed by then-prime minister Viktor Yanukovich. Today we can report that these parties have lost members and supporters, while the Block of Yulia Tymoshenko (BYT, headed by the prime minister) and the People’s Party (headed by the speaker of parliament, Vladimir Litvin) have been gaining them. Particularly noteworthy for Ukrainian party politics has been the creation of the pro-presidential People’s Union Our Ukraine party, whose fundamental goal is institutionalizing the civil initiative shown in the November events. Last fall, certain political analysts observed a growth in the membership of oppositionist parties (BYT, Our Ukraine), while currently the very opposite can be seen—a fall in the membership of the new oppositionist parties, the SDPU(u), and the Party of Regions, which may indicate a high degree of voter confidence in the party institutions of the current Ukrainian government.

No drastic changes were made in the civil society sector. However, it should be noted that many individuals from think tanks, business associations and other NGOs have been integrated into government (as mid-level officials), which has somewhat detracted from the capacity of the “third sector” to perform professional and critical analysis of government decision-making. Presumably, in over a year’s time, this lost capacity will be restored.

Under the new government, the business community has been severely tested by (a) revisions to the 2005 budget; (b) a steady drumbeat of calls from “high-ranking state officials” to reopen past privatization deals; and (c) the government’s “Stop Smuggling” program and the elimination of free economic zones.

a) Amendments to the budget (approved by parliament) enacted in March 2005 (Law of Ukraine No. 2505-IV) designed to enhance government revenues did serious damage to the former simplified system for taxing SMEs (that system was instituted in Ukraine in 2000 by presidential decree and can be altered only by tax laws—a category to which the budget law does not belong). Thus, it took the new government less than two months in office to do substantial harm to the business climate for SMEs and microbusinesses, which, as indicated above, were the main contributors to the victory of pro-democratic forces in the 2004 presidential election. That harm was reversed only in early July 2005, when parliament enacted further amendments to the budget law. Naturally, these amendments were the fruit of an advocacy campaign by SME operators. A noteworthy element of that campaign was Ukraine’s first mass public protests following the November events—a rally held May 17 by small business entrepreneurs whose slogan was “It’s Time to Respect Entrepreneurs!” A significant role in the preservation and restoration of the simplified tax regime for SMEs was played by the business associations of the Coordinating Expert Center of Entrepreneurial Societies of Ukraine and also by People’s Deputy Ksenia Liapina (Liapina was elected to parliament on the party list of the Our Ukraine Block of Viktor Yushchenko after most of the newly appointed ministers and province governors had officially laid down their parliamentary powers). These developments revealed the government’s lack of a consistent small-business policy and showed that the SME sector remains dynamic and capable of standing up for itself. As a result, the president, the prime minister, and the speaker of parliament have reached the right conclusions from this “political lesson,” and today all three pay careful attention to issues affecting small- and medium-sized businesses.

b) The steady drumbeat of calls from “high-ranking state officials” to reopen past privatization deals has the business community nervous over the prospect of weak protections for property rights. The fact that various government offices have issued uncoordinated calls to scrutinize the privatizations of various numbers of assets (from 30 to 3000 assets) has only added to the general nervousness of entrepreneurs. Although it would seem that these statements have applied primarily to scandalous privatizations of major industrial assets, the skittishness of business owners has nevertheless been exacerbated by statements and actions by regional government officials and agencies targeting both large enterprises and SMEs. At present, the uproar over this issue has largely subsided and been focused on a relatively small number of large businesses. But the potential danger remains, and accordingly a number of draft laws are now being considered that would protect businesses from the threat of nationalization or reprivatization (one such law stipulates that reprivatization procedures could be instituted only against enterprises with yearly turnovers exceeding \$200 million, and

only when proof exists of the illegality of their initial privatizations). The general problem nevertheless remains, since parliament has not yet reached its verdict. Further complicating matters is the fact that the new chairman of the State Property Fund, Valentina Semeniuk (whose responsibilities include administering the government's corporate rights) is a member of the Socialist Party of Ukraine and as such favors the socialist model of economic development. The president of Ukraine is currently taking a number of steps to prevent the notion of reopening past privatization deals from harming the business climate.

- c) The government's "Stop Smuggling" program, announced in February, was designed to reduce (or even eliminate) corruption in Ukraine's customs agencies. Initial implementation of the program (February-March) resulted in a serious reduction in commodities transactions, but the following phase (April-May) restored the status quo, albeit in the process increasing the volume of unofficial payments severalfold. Accordingly, at a meeting with top customs officials, President Yushchenko promised to dismiss the heads of most of the customs agencies, but this did not result in any appreciable improvements. It was the same with efforts to clean house in the free economic zones. Serious problems remain in the procedures for reimbursing value-added taxes (VAT). An internal scandal at the State Tax Administration involving top officials of Ukraine's chief tax agency has long since become an issue for the broader business community and required the personal intervention of the president (the scandal has not yet been resolved), and this, too, has done nothing to improve the general business climate.

At the same time a number of positive changes must be noted. There has been a reform of the business advisory body established under the Ukrainian government in the late 1990s. Earlier, the Cabinet of Ministers' Council of Entrepreneurs consisted of major property owners and businessmen and served as one of their official channels of influence over the government in the pursuit of their particular business interests. In the wake of public demonstrations by SME operators concerning amendments to the state budget, the prime minister appointed Ksenia Liapina on May 26, 2005, to head the council. Liapina pushed through a change in the makeup of the council; as a result, its members are now business associations. From our perspective, this change is a promising one, since business associations are by their nature oriented toward protecting the interests of their members rather than those of individually held enterprises. Today, the Cabinet of Ministers' Council of Entrepreneurs is essentially under the personal and direct patronage of the prime minister. The head of the council is able to participate directly in cabinet sessions. The business associations making up the council have an effective mechanism for bringing critical national business issues to the attention of the prime minister. Proposals by business associations for laws and regulations are drafted by the government's Council of Entrepreneurs and then considered by the Cabinet of Ministers on an equal footing with proposals by ministries and other government agencies. This provides new opportunities for business associations to exercise direct and effective influence on government decision-making.

Business has been given an additional positive signal in the attention being paid by the president and the government to regulatory policy (the general format of Ukraine's regulatory policy is entirely consistent with the recommendations of the Organisation for Economic Co-operation and Development [OECD] and is based on the principles of openness, transparency, effectiveness, and public accountability). The result was the president's signing of a decree implementing the regulatory policy enacted on June 1, 2005, a policy that was debated at

the Second Business and Government Forum on May 25, 2005, attended by the president and prime minister of Ukraine. Essentially, the decree established a legislative basis for the president's aim of eliminating the administrative and legal barriers to the development of business in Ukraine. Under this decree, working groups in which business associations are represented were established under Ukraine's ministries and provincial governments; these groups have reviewed legislation and regulations and recommended amending or repealing those that are inconsistent with the new regulatory policy. This increases business associations' influence on government agencies and also increases the responsibility borne by business for the nature of Ukraine's regulatory base. This process is ongoing; it should be possible to take stock of its initial results in early September; however, one can already note that governmental bodies remain as eager as ever to create the appearance of proper enforcement of legislation. Both the president and the prime minister devote personal attention to overseeing the proper enforcement of the provisions and intentions of the decree. At a recent cabinet session, the president issued a personal warning to government ministers that they would be held personally accountable for deficient enforcement of regulatory policy. At each cabinet session, the prime minister hears a monitoring report on enforcement of the presidential Decree. Also under development, with input from business associations, are changes in licensing procedures and fees for services by government agencies; these changes are intended to substantially reduce the costs for these services now borne by business.

If the present situation continues along favorable lines, these efforts should allow for serious improvements to the business climate.

Since January 2005, rosy expectations for a rapid and radical improvement in the Ukrainian business climate have not been realized. However, an ongoing dialogue between government and business is developing, and the country's top political leaders (the president and prime minister) are receptive to the views of the business community. Accordingly, the creation of a favorable business climate in Ukraine is emerging as an increasingly important and pressing task for Ukraine's business associations, which have gained new possibilities for pro-business reforms.

Belarusian Business and Political Climate in Late 2004-Early 2005

Vladimir Karyagin, Minsk Capital Association of Entrepreneurs and Employers, Belarus

The Political system

The main events that occurred in the government system during the review period were parliamentary elections and a nationwide referendum on amending the constitution, which were held on October 17, 2004.

The most recent parliamentary elections in Belarus set a record of sorts: for the first time in the country's post-Soviet history, 108 of 110 possible deputies to the parliament's lower house were elected in the first round. By comparison, in elections in the House of Representatives in 2001, only 41 people won in the first round. As for the makeup of the new parliament, neither the Council of the Republic (the upper chamber) nor the House of Representatives (the lower chamber) has a single representative of the opposition. Only 12 members of political parties are present in the lower chamber: the Liberal Democratic party (1 representative), the Communist Party of Belarussia (8), and the Agrarian Party (3), which support Belarus' governing regime. The rest of the deputies are independents. Nearly a third of the deputies to the second parliament (47 people) retained their seats. In the current parliament, the number of women-deputies increased from 12 to 31.

Elections to the Council of the Republic were postponed to November 18. Belarusian senators are elected by deputies to local-level councils, and one person ran for each seat. A

total of 56 so-called “government candidates” ran for office, and all of them became members of the Council of the Republic.

Experts say that the outcome of the parliamentary elections was predetermined by the low approval ratings of political parties and their weak structures and ideological foundations, as well as by the administrative and news media resources at the disposal of the authorities.

The referendum held concurrently with the elections asked the following question: “Do you permit the first president of the Republic of Belarus, A.G. Lukashenko, to participate in the Republic of Belarus presidential election as a candidate for president, and do you accept the following wording for part one of Article 81 of the Constitution of the Republic of Belarus: “The president shall be elected to a five-year term directly by the people of the Republic of Belarus on the basis of universal, free, equal, and direct suffrage with secret balloting?” For the referendum to serve as grounds for amending the constitution, 50% of the votes plus one of the total number of voters had to answer that question in the affirmative. The official voting results surprised even the country’s president: Of 6,307,395 people who took part in the voting, 87.97% voted “yes.” As the president put it, “That wasn’t even necessary.” Consequently, the incumbent president won the right to be elected not just to a third term, but to subsequent terms as well. It should be pointed out that initiating such a question is not permitted by the constitution. Meanwhile, according to the findings of independent studies, only 49% of the population eligible to vote voted “yes” in the referendum.

At present Belarusian political groups are preparing for a presidential election that will be held in July 2006. In particular, a national congress of democratic forces is supposed to be held in September 2005. Using straw-poll votes, provincial conferences of democratic groups have selected candidates from among whom the congress will elect a single candidate. Those on the list so far are Sergei Kalyakin, leader of the Party of Belarusian Communists; Anatoly Lebedko, leader of the United Civil Party; Stanislav Shushkevich, leader of the Belarusian Social Democratic Party; and public figure Aleksandr Milinkevich.

Aleksandr Bukhvostov, chairman of the congress organizing committee, said that in addition to electing a single candidate, the congress will adopt a policy statement or platform, and also make demands of the government and issue an appeal to the public. However, the venue for the congress is still up in the air. Meeting halls that can accommodate functions attended by more than 100 or 200 people are tightly controlled. The organizers have already contacted more than 200 facilities, but either no response has been forthcoming or the response has been negative. Having exhausted all options, the organizational committee had no choice but to appeal to President A.G. Lukashenko.

Development of Small and Medium-sized Enterprises (SME)

As of January 1, 2005, the republic had 316,014 independent small businesses, 26,200 private farms, and 186,000 sole proprietors, who are also classified as small business entities. Not just small businesses, but also large ones employing more than 250 people are operating in the private sector today. Small- and medium-sized enterprises are found in all economic sectors, and the largest number of them operates in trade and public catering, industry, and construction. If we combine industry, agriculture, transportation, communications, construction, and housing and municipal services – that is, sectors directly associated with production – we can conclude that among the countries of the Commonwealth of Independent States, Belarus has the smallest percentage of small businesses operating in the trade sector and the largest percentage operating in production. It can be said, then, that the development of small business in Belarus is of a production/investment nature.

According to estimates prepared by the International Finance Corporation (IFC), SMEs employ approximately 1 million people, or 25% of the country’s economically active

population. However, its contribution to the gross domestic product is not very large as yet, only about 9% (by comparison, the figure for Uzbekistan is 36.7% and for Sweden 57%).

According to the study *Business Environment in Belarus*, conducted by the International Finance Corporation in February-March 2005, businessmen have noted certain positive changes. For example, the number of inspections and audits has decreased (from 90% to 65.8%, although that figure is still high), and the number of licenses per business has dropped (to 1.9, compared to 3 in 2003). The level of unofficial payments in Belarus remains the lowest among the countries of the former Soviet Union (17%). Nevertheless, 54% of those surveyed said that business conditions have deteriorated (compared to 12% who disagreed with that view). The legislative framework for the operation of SME remains unstable. In 2004 alone, more than 2,000 revisions and amendments were made to legislation regulating the operation of small and medium-sized enterprises.

The process of meeting various administrative requirements – such as registration, obtaining certificates, licenses and permits – remains difficult, thereby discouraging economic initiative on the part of citizens. Registration based on the “one-window” principle, let alone registration based on a declarative approach, is still in the planning stages. The list of problems facing SMEs also includes complicated tax administration and contradictory regulations, and the matter of price liberalization has yet to be resolved.

As we know, business activity is stimulated not by slogans and exhortations, but by investment and lower costs. It would be quite possible for Belarus to employ many forms of government support, such as the practice of explicitly reserving quotas for government contracts and government purchases to SMEs. For example, a number of countries around the world reserve 20% to 40% of government contracts for small business, and even if large firms win tenders, they are required to hold their own tenders for subcontracting work by small businesses. This practice leads to the creation of not just trust but also cooperation among large, small-, and medium-sized enterprises, establishes production chains and small business clusters, and develops subcontracting relationships. The country could also provide government support by promoting exports, offering advanced training programs for enterprise executives and employees, buying technology and making it available to businesses, and providing patent protection and information support, such as the development of information resources for SMEs by the government in Moscow.

Not enough attention is being devoted to the problems of small and medium-sized business development in the government-run news media, which by virtue of various factors have the largest audience, even though promoting the SME issues among the public is a real way in which the government could support this sector.

The Republic of Belarus Ministry of Economics has drafted a Law on Support for Small and Medium-Sized Business. The bill is scheduled for consideration by the National Assembly's House of Representatives at its fall session. The document envisions new procedures for defining small businesses and for the first time includes a definition of medium-sized enterprises. To ensure the closest possible approximation of overall European standards in defining the terms “small business” and “medium-sized business,” and also to make Belarusian enterprises more competitive in European markets, a public organization, the Minsk Capital City Union of Entrepreneurs and Employers, has proposed that the SME classification generally employed in the European Union countries be used as a basis. In accordance with this system, “very small businesses have up to 10 employees and annual sales of up to 2 million euros; small businesses have from 11 to 50 employees and annual sales of up to 10 million euros; and medium-sized businesses have from 51 to 250 employees and annual sales of up to 50 million euros.” The bill also provides for various means and methods of supporting business.

Efforts are currently underway to draft a series of documents that are the subject of broad discussion in the business community. Specifically, steps are being taken to draft a Special Section of the Tax Code, a revised version of the Customs Code, and an Export Development Program to be conducted through 2010. These are lengthy documents that are 200 to 300 pages long, a factor that complicates their understanding and dissemination.

Business Associations

More than 80 business associations are active in the republic, but it must be said the cooperation among them is weak. The most effective cooperation this year took place on the part of the Minsk Capital City Union of Entrepreneurs and Employers, the M.S. Kunyavsky Belarusian Union of Entrepreneurs and Employers, the Belarusian Union of Entrepreneurs, the Belarusian Scientific-Industrial Association, and the Belarusian Confederation of Industrialists and Entrepreneurs. Leaders of the aforementioned business associations invite one another to attend their congresses, round-table discussions, and club meetings. An informal coalition of these organizations was formed in August 2004 for the purpose of jointly examining various draft laws. Meetings of the Consultative and Coordinating Conference of Business Communities (the CCC) are held by turns in the offices of those organizations, in accordance with approved rules of order. The government is represented in the CCC by the Republic of Belarus Ministry of Economics' Enterprise Support Department, and the President of the Republic of Belarus' Enterprise Development Council is represented in the conference by its chairman (who is appointed by the president), Belarusian Minister of Statistics and Analysis V.I. Zinovsky.

The union worked actively with government and administrative agencies in 2004-2005: A round-table discussion on the draft Special Section of the Tax Code was held on June 28, continuing efforts are being made to submit proposals and comments on the document, as well as on the draft Law on Support for Small and Medium-Sized Business and the draft Customs Code, and proposals for simplifying the taxation system and reducing paperwork have been presented. The union cooperates actively with the Ministries of Economics, Foreign Affairs, Industry, Justice, and Trade, with deputies to the Republic of Belarus National Assembly's House of Representatives and Council of the Republic, with the Republic Labor Arbitration Office, the State Standards Committee, and the Belarusian President's National Center for Legislative Activity, and with city authorities and other agencies.

The association has positioned itself not just as a public organization, but also as a business network, so a club-type system has been expanding within the union. An International Trading Club was created in June 2005; the club brings together trade and economic advisers from foreign embassies and representatives of business circles. The Capital City Business Club of Directors and Accountants continues to operate, and the Businesswomen's Press Club holds regular meetings.

The most active associations of businesspeople in the regions are: the Union of Brest Province Entrepreneurs, the Association of Employers and Entrepreneurs (Vitebsk Province), the Public Association of Entrepreneurs of Mogilev Province, the Unity Public Association for Promoting Private Business Development (Gomel), and a public organization called the Entrepreneurs' Club (Grodno). These associations, in conjunction with the Minsk Capital City Union of Entrepreneurs and Employers and several other organizations, will comprise the core of a coalition of organizations focused on developing SMEs and creating a National Platform of Belarusian Business. The Minsk Capital City Union of Entrepreneurs and Employers has held talks with each of the associations; moreover, these organizations already have experience working together within the framework of the International Finance Corporation and the Swedish International Development Cooperation Agency.

At the same time, despite certain successes, these business associations face a number of problems that significantly impede their development:

- 1) The government monopoly over the economy constitutes a violation of Article 13 of the Belarusian Constitution, which provides for the equality of all forms of ownership. Government-owned companies are given priority in the government procurement and receive tax preferences. If a government-owned enterprise places orders or works with a private company, the latter is usually subjected to audits and financial penalties.
- 2) Excessive government interference in business and massive red tape and documentation requirements that accompanies economic operations. Sometimes the cost of bills of lading and accompanying documentation is more than the value of the goods and services provided by an entrepreneur.
- 3) All risks associated with economic activity are borne exclusively by the entrepreneur himself or by the company director. No one in the government bureaucracy bears any liability for causing damages to a company or for lost benefit, much less for causing psychological damages.
- 4) The government provides more support to labor unions than to business and employers associations, a practice that distorts the principles of social partnership and violates the International Labor Organization convention.
- 5) The absence of civil society, efforts to reduce the role of independent public associations and business associations and to counter their influence on business, direct pressure and removal of their leaders, limited opportunities for the development of business associations, the use of so-called “business development councils” created with the participation of central and local authorities to oppose independent public and business association, and the division of entrepreneurs into “loyal” and “disloyal.” The conditions reached the point where a Law on Public Organizations and a Law on Chambers of Trade and Industry were adopted. Now candidates for executive positions in these organizations have to be approved by the president, and activities are financed in part from the federal budget and other government sources. Needless to say, the organizations have to coordinate their work with the government.
- 6) Independent business associations do not enjoy the same rights as employee associations, and they are supported solely by dues paid by individuals. As of July 1, with the adoption of Republic of Belarus Presidential Decree No. 300 of July 1, 2005, “On the Provision and Use of Non-repayable (Sponsorship) Assistance,” special-purpose contributions from enterprises, which used to be paid out of net profits, are prohibited. The result is a chronic shortage of funds to conduct training programs, obtain expert evaluations of draft laws, disseminate information, organize preventive and protective measures, and develop cooperation. The unions and associations have very little office equipment, since it is impossible to buy such equipment with their membership dues. Such business associations as the Minsk Capital City Union of Entrepreneurs and Employers, for example, are supported solely by the enthusiasm of their members and staffs.

Research Centers

The past year has been marked by mounting pressure exerted on civil society institutions, including research centers that have gone so far as to exhibit “free-thinking ways” or to take stands against official propaganda. The European Humanitarian University was shut down in the summer of 2004; later, in the spring of 2005, the Republican Public Association Independent Institute of Socioeconomic and Political Research (RPA IISPR) was forced to quit Belarus.

On April 15, 2005, the Republic of Belarus Supreme Court satisfied a Justice Ministry complaint seeking liquidation of the RPA IISPR, which had been found guilty of systematic violations of the law on four of the 10 counts listed in the ministry’s complaint.

Specifically, the organization was held liable for failing to be located at its legal address; for the fact that its full name was not being used in the news media (“IISPR” was being used instead of “RPA IISPR”); creating a working body that was not authorized by its charter (a supervisory council); and failing to furnish the Justice Ministry with copies of public opinion surveys conducted in July and November of 2004.

RPA IISPR officials refused to admit guilt on any of these counts. At the conclusion of the trial, RPA IISPR Director Oleg Manayev said that the trial had been politically motivated and was an element of the authorities’ preparations for the presidential election.

Manayev said that a blow was being struck first and foremost to independent analytical centers and media outlets, which are sources of alternative information vis-à-vis the information disseminated by the government.

At the present time, the most active centers and the ones that cooperate openly with business associations are the Strategy Analytical Center, the Institute of Privatization and Management and the Novak Axiometric Research Laboratory (information about these organizations’ activities can be provided separately, if necessary).

Attitude toward civil society organizations

Government and administrative authorities have been devoting heightened attention to public organizations lately. Methodical steps are being taken to deprive NGOs of sources of support. Republic of Belarus Presidential Decree No. 8, “On Certain Measures to Improve Procedures Governing the Receipt and Use of Grant-based Foreign Assistance,” adopted on March 12, 2001, established the main restrictions. Since then the decree has been revised on several occasions, and an enormous number of regulatory legal acts have been adopted in furtherance of it. All this has led only to ever-more formalization and restrictions on the receipt and use of grant-based foreign aid.

At the height of summer, the government presented public organizations with a gift in the form of four regulatory acts:

- 1) Republic of Belarus Presidential Decree No. 300 of July 1, 2005, “On the Provision and Use of Sponsorship Assistance,” which took effect on July 1, severely limits the ability to use sponsorship assistance. An exhaustive list of purposes for which sponsorship may be used does not include an enormous number of social projects for which such aid was provided in the past. The decree establishes several new types of legal offenses for which rather strict liability is prescribed for both the recipient and the party providing the assistance.
- 2) Presidential Decree No. 302, “On Certain Measures to Regulate the Activities of Foundations,” significantly alters terms governing the creation and operation of these

noncommercial organizations in Belarus. The registration procedures have become stricter, oversight of foundations' activities is intensified, and additional restrictions are imposed on their operation. All foundations have to undergo re-registration, are placed under the jurisdiction of the Ministry of Justice and are required to establish charter funds ranging from \$1,300 to \$13,000.

3) The Republic of Belarus Law "On Revising and Amending the Republic of Belarus Law on Public Associations." Most changes are made in the area of monitoring the activity of public organizations. The organizational structures of public associations, as well as unions of public associations, are made subject to oversight. The oversight agencies, in addition to justice authorities, also include local executive and administrative agencies that recorded or registered the organizational structures of a public association. The list of agencies that monitor the financial and economic activities of associations is also expanded.

Registration authorities are made responsible not only for oversight intended to ensure that public associations' activities are consistent with their charters, but also for oversight to verify that public associations' activities comply with the constitution and other legislative acts. This cannot be considered legal, because specialists working for the justice authorities cannot supplant the prosecutor's office as an agency of general oversight.

In accordance with the new version of the law, public associations are required to furnish information to a registration authority specified in the law (a full report on their activities and on the associations' members). Public associations and unions are also obliged to give the registration authority advance notice of the convening of the public associations'/unions' highest governing bodies, and also to give notice of any changes in the makeup of the organizations' elective bodies in regular reports.

At the regulatory level, the new version of the law increases opportunities for oversight and intervention by government authorities in the activities of public associations. At the same time, no provisions regarding the possibility of cooperation between public associations and the government are included in the law.

The new version of the law establishes a new type of penalty that may be imposed on a public association – suspension of the association's operation.

The grounds for liquidating public associations are broadened. With the adoption of the revised law, judicial authorities have legal grounds to liquidate a public association (or unions of such associations) for any infraction. A provision allowing the liquidation of an organization for committing a violation within one year of receiving a written warning has been stiffened considerably: Whereas the current wording prescribes liquidation for the commission only of a violation of the same kind, a provision proposed in the new version of the law allows any violation of legislation or of the charter to serve as such grounds. New grounds for liquidation also include violations by public associations or unions of legislatively established procedures for the use of grant-based foreign assistance, violations of size requirements, and failure to remedy violations that served as grounds for suspending a public association's operation.

The threat public association re-registration can also arise with the adoption of the new version of the law -the requirement that charters be brought into conformity with the law's new wording - even though the law does not directly contain such provisions. The new version of the law does, however, establish new requirements for the content of public associations' charters: the need to state the purpose of the association's activity in the charter, to set forth member registration procedures, to detail arrangements for managing the organization's activities, and so on.

The name of a public association, the organizational structures of such an association or a union of such associations may not include the words "Republic of Belarus," "Belarus," "Belarusian," "national" or "people's," unless stipulated otherwise by the president; the official names (full or abbreviated) of foreign states or states that existed in the past; or the name of a citizen unless that citizen or his/her heirs has provided a statement consenting to the use of the citizen's name.

As a result, instead of actively pursuing their goals, all public associations have to go through a series of re-registration hassles to replace their letterhead and seals, and to make revisions to lease agreements.

- 4) Decree No. 382 of August 17, 2005, "On Revising and Amending Republic of Belarus Presidential Decree No. 460 of October 22, 2003." Under the pretense of "fostering a proper environment for international technical assistance," this decree introduces an ever stricter procedure whereby information regarding grant-based assistance in the form of seminars, conferences, and other public discussions must be provided to the Republic of Belarus Council of Ministers' Commission on International Technical Cooperation. Information concerning seminars, conferences, and other public discussions must also be furnished to the Ministry of Economics, which in turn must report to the relevant province executive committee (or to the Minsk City Executive Committee) that such events are conducted in accordance with established procedure.

Appendix

Small- and Medium-Sized Enterprise Policy Advocacy Program in Ukraine; Dr. Mieczyslaw Bak, Institute for Private Enterprise and Democracy, Warsaw, Poland

System of Government

Ukraine has a republican style of government with a very strong executive branch. Under the Constitution, presidential elections are held every five years. In the 1999 general election, President Leonid Kuchma was reelected to a second term. The next presidential election is scheduled for October 2004. The president has the power to appoint the prime minister and deputy prime ministers; these appointments are later subject to approval by the parliament. Mr. Viktor Yanukovich has been Ukraine's prime minister since November 2002.

Legislative authority is vested in the Supreme Council (Verkhovna Rada), composed of a single chamber with 450 members. After regaining independence on August 24, 1991, Ukraine elected its parliament under a direct-election system that supported independent, non-partisan MPs. At that time, the term "party" had quite a negative connotation, since in the Soviet days there was only one – Communist – party. In that environment, policymakers were not interested in developing a party-based political structure. As the image of the term "party" began to evolve and take on more positive overtones, several parties began to emerge in 1994-1997. The People's Democratic Party (PDS) was formed, together with other parties, including the United Social Democrats and a reconstituted Communist Party. Changes in the party structure were reflected by changes in the election system, where the direct-election system was replaced by a mixed system. Since the 1998 election, 225 of the 450 MPs (50%) have been elected on a proportional basis, and other parties that receive 4+% of the vote are given a proportionate number of seats in the parliament.

A party known as Our Ukraine won the last election, garnering 24% of the vote. The Communist Party came in a strong second with 20%, and United Ukraine came in third with 12%. Today Ukrainian parties are still in transition. For example, after the last election United Ukraine split into several parties, including the Party of the Regions, the Agrarian Party, European Choice, People's Choice, the People's Democratic Party, and the Party of Working Ukrainian Industrialists and Entrepreneurs. European Choice later joined the Party of the Regions.

Civic groups cite only two contemporary parties in Ukraine with relatively developed regional structures: the United Social Democrats and the Party of the Regions. Forming a strong opposition to these parties is the Our Ukraine coalition, comprising about 20 small parties. The recent development of a party-based political system prompted the political leaders of Our Ukraine, as well as the Socialists and Communists, to call for a fully proportional representation system. Policymakers realized that the costs of reelection under the direct-election system were too high and began developing an improved party structure. Their efforts will culminate in a law that will be applied starting with the 2006 elections.

Most civil society groups expect the new election law to bring positive changes. They believe that it will be easier for the public to cast their votes based on platforms rather than individual personalities seeking office, and also to monitor the extent to which these platforms are implemented. They also believe that the new law will encourage MPs, whose current records have little relevance to the reelection process, to be more accountable for their decisions. The new law will make it easier to recall MPs. However, civil society groups realize that the new law also poses a number of challenges. One is that the new law may weaken the MPs' relationships with their constituents. Another is that it will be difficult to find good

candidates for local-level seats in province and district radas (local parliaments), as the party structure is not sufficiently developed.

Judiciary authority is vested in the Constitutional Court of Ukraine, whose main task is to assure the primacy of the constitution as the basic law and to ascertain whether legislative acts comply with the constitution. The Ukrainian Constitution was adopted on June 28, 1996. The Arbitration Court of Ukraine and the Supreme Court of Ukraine are composed of the following five chambers: the Chamber of Civil Cases, the Chamber of Criminal Cases, the Chamber of Administrative Cases, the Chamber of Economic Cases and the Military Chamber. Perceptions of the judicial system vary within civil society, but some people feel confident of the courts' ability to protect the rights of entrepreneurs vis-a-vis administrative structures.

Legislative Process

Four institutions in Ukraine have the right to initiate legislation: the president, MPs, the Council of Ministers and the National Bank. Draft laws are mostly prepared by the Council of Ministers. Individual MPs may also register a draft of a newly proposed law, but such a bill may wait years before legislative procedures start. Bills can be expedited through the process if they are signed by 151 MPs. The parliamentary process is similar to other European countries. A bill must pass first reading and is then sent to the relevant parliamentary commission, where the final version is shaped. It is then forwarded to the plenary session for second and third reading. Two hundred twenty-six votes are needed to pass a law. After a law is passed by parliament, it is forwarded to the president for signature. If the president vetoes the law, parliament may override the veto. Typically, however, a law that has not been signed by the president is not valid.

Civil Society and Business Associations

The Ukrainian civil sector consists of 40,000 nongovernmental organizations (NGOs). The NGOs have a wide range of activity and varying organizational structures, maturity, involvement in advocacy and financial sustainability. Only a few hundred NGOs have stable positions and visibility at both the national and local levels. Most NGO funding comes from foreign donors, even though local financing is available. According to the Europe XXI Foundation, the Law on Social Services allows NGOs to compete for state funds by performing social services. The law was based on a model of cooperation between the civil and public sectors that arose in Odessa. Some NGOs can receive grants from local government agencies in other cities, but the procedures for obtaining those grants are opaque. Business associations, however, regardless of how active they are, receive either a small amount of their funding from foreign sources or none at all.

Business associations remain a relatively well-developed sector of civil society. According to the director of New Formation, about 40 business associations are very active at the national and local level. Some of them, like the Union of Entrepreneurs of Small, Medium-Sized, and Privatized Enterprises of Ukraine, have been operating for 15 years and have 3,000 members. The union was established with significant input from Mr. Yury Yekhanurov, currently an MP. Yekhanurov keeps in close contact with the organization and supports its advocacy efforts. The union's annual budget of \$40,000 is comprised primarily of membership dues, which are paid by about 50% of the membership body. Non-paying members are retained by the organization in order to provide the union with more power. In its 15 years of operation, the union has received only three grants: two for technical equipment and one for the elaboration of a draft law on holograms. The union has a main office in Kyiv and offices in every region. There

are also 12 other business associations in addition to the union, such as associations of bakers and hairdressers. The scope of services of these associations includes public policy advocacy and protection of individual members vis-à-vis public administration. The associations also conduct training seminars; distribute information on business opportunities, new regulations, and bank offers; and offer networking opportunities. The union has agreements with selected universities and organizes internships for students. Agreements have also been signed with selected local authorities whereby these authorities facilitate access to meeting spaces in the regions or recognize leading business people with special certificates. In exchange, the union informs local authorities about economic developments and business-related issues. These agreements provide the union with access to local authorities.

Ukrainian small business is also represented by XXI Century, an association of small- and medium-sized enterprises. Established by the British Know-How Fund in 1996, it currently has about 100 members, whose dues constitute about 50% of the organization's budget. The remaining activities are financed by grants, including two small grants from the Kyiv government and foreign grants. XXI Century organizes training seminars, disseminates information on business financing, offers consulting services, and provides networking venues. It focuses mainly on protecting individual businesses vis-à-vis national and local government agencies. Its special "hot line" (financed by BIZPRO) offers all entrepreneurs, whether they are members or not, with legal advice on administrative penalties, problems with company registration, and information on how to fill out tax forms. This organization is also involved in public policy advocacy.

New Formation brings together medium-sized companies in the Kyiv region. Of its 40 members, only 20 pay dues. The others contribute in kind by providing printing services, catering events, providing office space, or preparing promotional materials. Members include MPs and members of the local parliament in Kyiv. New Formation offers a forum for the exchange of views, networking venues, access to business information, and protection of individual interests in regard to public administration. It encourages its members to support charitable projects and provides support to members who are interested in pursuing political careers in local parliaments or the national parliament. It has a well-developed relationship with government agencies, including tax offices, customs, and health inspectorates. This access allows it to arrange meetings with relevant public offices and obtain commentary on or interpretations of key regulations. New Formation uses member experiences to improve negotiations with administrative agencies on behalf of other members. If a member experiences problems with a custom office, for example, the association's director contacts other members to find out whether similar cases occurred in the past, what arguments were cited in talks with public officials, and how the issue was resolved. This is an important tool for protecting members' interests.

Business associations are active not just in Kyiv. A meeting with the League of Entrepreneurs of the Belaya Tserkov District showed that business associations exist and function actively in the regions. The league represents 88 companies, mostly medium in size. Small companies are represented by the Association of Small and Medium-Sized Companies, which has over 3,500 members. According to Ms. Ludmila Yacenko, membership dues are low (\$0.60 per month). Dues cover the association's basic operational costs, including staff salaries. The association does not have grants. Both organizations, the association and the league, work closely together. Their activities include consulting, networking, seminars, and advocacy.

In addition to general associations, there are a number of industry associations. The Ukrainian Tobacco Association, for example, represents nine companies, including four multinationals. While it relies primarily on membership dues from its nine members, the organization has a strong financial position and very extensive experience in representing

member interests. Its director, Ms. Valentyna Khomenko, said that the Tobacco Association has brought “a culture of lobbying” to Ukraine. The association monitors legislation, identifies interesting draft laws on the internet, and analyzes the potential impact of such laws on its members. Members decide by consensus whether a given issue should be promoted.

The aforementioned Europe XXI Foundation is actively involved in political education and the promotion of European integration in Ukraine. Its leaders monitor elections and mobilize constituencies. By organizing local seminars on election laws and spurring public interest in the election process, this organization focuses on changing voters’ tendency to elect representatives based on personality. Its activities also focus on educating voters about advocacy techniques and processes, showing how to monitor various issues, especially at the local level, and demonstrating how to draft and promote recommendations. On the national level, the foundation is involved in promoting laws in line with EU legislation.

NGO activities in Ukraine are negatively affected by a lack of regulations, which could facilitate the creation of self-sustaining NGOs. Donors helped draft new NGO laws, which resulted in four different drafts. Each draft was promoted by a different MP. According to NGO representatives, the process was flawed because not all of the drafts met the needs of the NGO community, and it was impossible to select one of them to promote; in other words, they came as a package. Since 1999, NGOs have been involved in discussions on developing a new NGO law. This discussion is coming to an end, and the existing draft meets NGOs’ expectations. However, it is not clear when the new draft will be passed.

Coordination Center

Business association advocacy is coordinated by a center established by Mr. Yekhanurov to represent the interests of private companies, especially private employers. The existing Federation of Ukrainian Employers (FUE) represents mostly large companies, whereas this organization represents small- and medium-sized enterprises. In December 1998, 12 organizations joined to form the coalition. Today the Coordination Center has 65 member organizations. In 2004, the coalition established the All-Ukrainian Association of Employers to represent the interests of private employers and small and medium-sized enterprises (SMEs).

The Coordination Center has been developing a strategy to improve Ukraine’s business climate. Called the “Doctrine of Private Initiative,” the strategy was designed by two think tanks, namely the Institute for Competitive Society (ICS) and the Ukrainian Center for Independent Political Research (UCIPR), which are described in detail later in this report. Both think tanks work closely with the private sector. The strategy’s main component is improving protection for property rights and strengthening the public-private sector relationship. In addition, the center recommends ways to improve the investment climate by amending the legal framework, such as the Law on Administrative Procedures, the Law on Joint-Stock Companies, and the Law on Simplified Taxation, Accounting, and Financial Reporting. By publishing and widely distributing a record of court decisions, the coalition of business associations advocates for greater transparency in the judicial system.

Think Tanks

Think tanks in Ukraine arose as a result of both the coalition’s development and a growing demand for the expert assessment and professional analysis of draft laws. According to Mr. Yekhanurov, the Institute for Competitive Society (ICS) was created specifically to address those needs. The ICS works closely with the business community, including business associations, coalitions of businesses, and the Coordination Center.

Another think tank, the Ukrainian Center for Independent Political Research (UCIPR), focuses on implementing laws specifically in the areas of human rights, fair elections, minorities' issues, and internal mobility regulations. In 1996, the UCIPR created the Democracy Advocacy Group to monitor and improve human rights-related legislation. Its activities to improve election laws include the publication of policy papers and recommendations for changes based on international experience. The center actively trains journalists and gives media outlets access to vital information. The center also works to improve the position of journalists and their access to information and monitors cases involving violations of journalists' rights, which is particularly important in light of recent attacks on journalists' rights.

The Humanitarian Center (HC), a small organization established in 2001, works closely with the Coordination Center. With only three staff members, the HC hires consultants and experts on a contract basis for specific projects. Focusing on employment problems, its main policy interest is the reduction of unemployment. Such activities as training seminars and roundtables are conducted through its regional partners nationwide. Financed mostly by grants from the Ukrainian Labor Ministry, the HC has also received a grant from the United Nations for an internal mobility-related project. The HC's modus operandi is to obtain draft legislation from MPs on issues such as labor, taxation, licensing, and franchising; to conduct analyses; and to recommend reforms. After forwarding each set of recommendations to the MPs, the HC announces the recommendations at a press conference and follows up with phone calls to specific MPs. In addition to monitoring the progress of its recommended changes, the HC promotes public understanding of the issues and tries to line up support for its recommendations.

Advocacy

Some business associations consider their efforts to protect members' interests as advocacy work. While they distinguish public policy advocacy from intervention on behalf of the individual entrepreneur at the tax office, local administration, or health and fire inspectorate, some associations regard the latter as advocacy as well. This approach was especially stressed by representatives of the Union of Entrepreneurs of Small, Medium-Sized and Privatized Enterprises of Ukraine, the XXI Century Association of Small- and Medium-sized Enterprises, and the League of Entrepreneurs of the Belaya Tserkov District. Perhaps the confusion is partly due to the translation of the term "advocacy," typically translated as "protection of interests."

While some NGOs conduct public policy advocacy as a significant part of their activities,⁵ many lack a strong understanding of this concept. Probably less than 100 NGOs have had significant advocacy experience, with mixed successes in influencing public policy. NGOs admit that business associations have a better understanding of advocacy than NGOs.

Civil society organizations agree that, if implemented consistently, a new law on regulatory policy will strengthen their advocacy efforts. The law provides for civil society organizations to have access to draft laws. However, some state agencies are failing to comply with the law and are denying NGOs access to draft legislation. Representatives of the aforementioned New Formation Business Association say that without good working relations with MPs, it is still difficult to obtain the texts of draft laws.

Access to MPs is indispensable to business associations in conducting advocacy. Business associations can influence public policy only by promoting their positions to individual MPs. Most NGOs perform "reactive advocacy," providing their input on pending legislation and opposing legislation that can have a negative impact on business. Typically, business associations are not involved in the drafting stages of legislation. If a working relationship with MPs is established, business associations provide feedback on laws initiated by the parliament, but

the Council of Ministers seldom offers NGOs a venue for their input. The level of business association involvement in parliamentary legislation varies and depends on the office-holder. For example, when Mr. Yekhanurov was in office, the Union of Entrepreneurs had more access to pending legislation.

During one parliamentary debate, business associations organized a demonstration in front of the parliament building. Almost 3,000 people gathered on behalf of businessmen in order to affirm their role in the policymaking process. This means of exerting influence proved effective when business associations were advocating for the simplified tax system.

Another effective technique is to put pressure on individual MPs by publishing his or her voting record and disseminating it directly to the member's constituent region. Issue briefs are also distributed to the MPs to educate them on civil society organizations' views on a range of issues, since MPs have limited access to expert analysis. Despite the fact that the parliament's own Expert Assessment Center analyzes draft laws, it is not equipped to offer constructive policy guidance on the economic impact of various regulations. Most of the analyses that MPs receive from the Expert Assessment Center are limited to evaluating whether regulations are in keeping with the constitution. They do not even offer any information regarding the impact of a pending regulation on the state budget. Unbiased economic analysis on behalf of NGOs, according to Mr. Yekhanurov, should focus on framing each issue within the broader context of national interests. For example, such analyses should also consider how each law will affect enterprises from the standpoint of labor, since the trade unions are rather weak.

One of the weak points of civic group advocacy efforts, according to Mr. Yekhanurov, is the practice of drafting the laws with the help of foreign donors and foreign experts who are not familiar with parliamentary procedures in Ukraine.

A less effective way of influencing legislation is public hearings. Public hearings resemble public relations events rather than venues for influencing policy. Written communications to MPs that include concrete recommendations regarding amendments to legislation are much more effective in providing input and monitoring progress.

At the local level, business association members have invited local government officials to their businesses to discuss the daily barriers they encounter. This practice was pioneered in the Belaya Tserkov District. Building personal bridges with local politicians has been helpful in erasing the stereotype of entrepreneurs as selfish. This has been an effective way to promote specific issues in the business reform agenda, such as VAT regulations.

Business associations are effective in promoting the importance of local infrastructure. The poor roads in Ukraine prompted business associations to mail 3,000 letters to local authorities requesting reimbursement for individual car damage caused by bad roads. While no one's expenses were reimbursed, the point was clearly made. Local authorities began to allocate more funds for road repair. This instance illustrates Ukrainian associations' effectiveness in building grassroots support by persuading friends, relatives, and neighbors to act.

Perception of Civil Society

In a meeting with representatives of the State Committee on Regulatory Policy, the representatives offered the Ukrainian government's perception of business associations and other NGOs. While the committee recognizes that civil society has a role in the legislative process, it considers only 15-20 NGOs as able to participate effectively. The committee's deputy chairman said that most NGO leaders seek personal gain, most often in terms of foreign grants. NGOs are aware that this is a common misperception within the government. Official propaganda describes NGOs as useless organizations, using donor funds for personal gain. NGOs admit that the negative misperception is partly a result of their own approach to public policy, which is often based on criticism rather than constructive recommendations.

The committee, which is probably more progressive in its acceptance of civil society's role in policymaking than most government agencies in Ukraine, has identified a visible group of civic organizations with which it can work constructively. The committee displays draft laws on its website and distributes the drafts to active NGOs. It also sends commentary on key draft laws to media outlets. Typically, the committee receives up to seven suggestions on each draft, which enables committee members to maintain a balance of interests in laws. For example, recently the committee used data from the Ministry of Industry to draft a law on wood furniture panels. The ministry's data showed that the law would reduce imports of these wood products, thereby increasing local employment in this sector. However, business associations offered statistics illustrating that many people would actually lose their jobs as a result of the law.

The committee is grateful to business associations for their help in maintaining a balance of interests during the preparation of the government's program on SME development. Focused on five main objectives - including business infrastructure, access to financing through credit guarantee schemes, investment grants for innovative companies, grants for civil sector organizations working in the area of SME development, and the establishment of an effective business registry - the program was designed with civil society input. As a result, the law was amended, and the program is expected to meet both short- and long-term objectives.

The meeting with the State Committee on Regulatory Policy and Entrepreneurship indicated the committee's willingness to entrust some of its current public tasks to a strong industry association. For example, an association could manage a business registry and issue licenses for a specific industry. Business associations could also participate in drafting laws and regulations, as well as providing feedback on already existing drafts.

Local governments' perception of business associations varies from town to town. These perceptions are based directly on the quality of NGO activities and on NGOs' interaction with the national authorities. It is clear that strong business associations can shape a more positive image of entrepreneurs in their own communities. A brief visit to Belaya Tserkov showed that business associations have the ability to improve the local business climate by limiting infringements on business by local government agencies. In cooperation with local tax authorities, business associations can drastically improve tax collection mechanisms by enforcing a self-regulatory system that limits contact between tax collectors and entrepreneurs, and thus limits corruption as well. Associations can shape a positive image of entrepreneurs by involving them in socially responsible activities. This example shows that the perception of business associations and civil society organizations can be improved through better working relationships with local authorities.

Role of Mass Media

While there is no official censorship of the Ukrainian media, journalists function under direct government control. Independent radio stations, such as Kontinent or Svoboda, have been temporarily closed down at times. TV channels that broadcast opposition views are not licensed to broadcast nationwide. One of the main problems facing the media is the so-called "tiemnik" issued by state authorities to publishers. The tiemnik "suggests" which information should be omitted and which should be presented in a negative light. Government agencies also distribute interviews that should be published and instructions on how these interviews should be interpreted on the air.

Another major problem is journalists' vulnerability under the law. Journalists can be easily fired or prosecuted without any legal protection if they do not comply with their employer's regulations. State authorities influence media owners by controlling various administrative mechanisms, such as the licensing system or tax regulations.

Despite these problems, civil society groups have observed positive trends in the media. There are a growing number of publishers that refuse to comply with the tiemnik. More and more publishers are interested in printing honest, reliable information in order to increase their readership. A growing economy means increased revenues from advertising, which may make the media business economically viable and thus less vulnerable to the authorities.

Information related to business development can be published without major problems. At a press conference, the UCIPR addressed the mandatory requirement for taxis to use cash registers and identified policies detrimental to SME development. Eight television stations covered the event, which was reported on evening news programs. This demonstrates that NGOs can publicize information that is not in direct conflict with the main political forces.

Corruption

Entrepreneurs are one of the main victims of corruption in Ukraine. Numerous controls, inspections, licensing requirements, and administrative procedures and requirements expose entrepreneurs to corruption. “Speed money” can expedite the process of obtaining an administrative decision. Bribes can halt administrative processes directed against entrepreneurs. Designated government agencies, such as health and fire inspectorates, are supposed to provide permits, but they prolong the procedure in order to extort bribes. Fortunately, business associations contend that rising competitiveness among businesses prevents entrepreneurs from spending precious funds on bribes. In addition, entrepreneurs’ growing awareness of their rights has led them to turn to the courts or business associations rather than pay bribes.

In addition to petty corruption, large-scale corruption is an obstacle to business development, particularly in the areas of privatization, large public procurement projects (especially in construction), energy sector projects, and real estate tenders. Some entrepreneurs believe that this sort of corruption should be considered more serious than petty corruption because petty corruption is perpetuated by low-salaried bureaucrats who want to feed their families. According to entrepreneurs who hold this opinion, large-scale corruption should be addressed before petty corruption. However, this is a minority opinion. The aforementioned New Formation argues that low-paid bureaucrats contribute to growing corruption and has lobbied for wage increases in the public sector. If salaries are increased to a living wage, public officials will no longer feel the need to take bribes to support their families.

Obstacles to Democratic Governance

One of the main problems in Ukraine is that civil society and the private sector are weak relative to the government bureaucracy. Despite the new law on regulatory policy, which gives more power to civic groups in the legislative process, these groups’ impact is insufficient. The few active civic groups rely on personal contacts with a limited number of policymakers in their activities. Limited constructive input to the legislative process from these civil society groups has fed bureaucrats’ reluctance to promote effective legislation rather than the interests of individual companies or industries. A new law requiring transparency in public administration has not been observed by most government agencies. Because of weak law enforcement, bureaucrats face little risk or consequences for failure to comply with the new law. Access to draft laws remains closed to civil society organizations.

Civil society can theoretically have policy input under several other Ukrainian laws as well. For example, citizens have the right to submit recommendations to the government and to receive feedback on whether the recommendations will be accepted. In practice, most citizens are not aware of this law, and those who feel that their recommendations will not change anything and therefore do not make them.

The overall negative perception of NGOs on the part of government is an obstacle to business development. In an attempt to tightly control NGO activities, the government requires NGOs to undergo complicated registration requirements. NGOs also experience pressure from the government through the tax and social security systems. Complicated and inconsistent regulations make compliance difficult, create fertile ground for bureaucrats to find fault with various documents, and breed corruption. This limits NGOs' independence.

A lack of administrative reform is an additional obstacle. This is particularly evident in the fact that small villages have not formed larger economic communities that are self-sustainable and not dependent on subsidies from the federal government.

The lack of an independent audit mechanism for government expenditures poses another problem. Two organizations monitor public expenditures in Ukraine: the Auditing and Oversight Department of the Department of the Ministry of Finance and the Accounting Chamber of the Parliament. Both institutions focus on financial issues, and civil society representatives say they fail to monitor other key aspects of public institutions, such as privatization, the effectiveness of public administration, and energy policy.

Poorly conceived and inconsistent legislation has been a big problem in Ukraine. If a business lobby or an individual company influences a specific law, the law will benefit only those entities. Laws are passed without independent analysis of long-term impact. As a result, many laws are dysfunctional. Laws change frequently and are often subject to interpretation, so the arbitrary application of laws is a problem. Cases often have to go to court to be resolved. Fortunately, it is possible for a businessman to win a suit against the tax authorities.

Passivity on the part of the private sector contributes to the poor business climate. Many entrepreneurs do not believe they can obtain justice through official channels, so few businessmen sue public agencies. Moreover, small businesses cannot afford to hire good attorneys. This passive position strengthens the administration. Public officials are seldom held accountable for violations that harm entrepreneurs or even cause bankruptcy.

Recommendations

1. A key obstacle to democratic governance is the unprofessional and unethical attitude of many bureaucrats at all levels of government. By developing a program to educate civil servants and hold them to a Code of Ethics, the attitude of bureaucrats can be changed. This can be implemented and monitored by the civil sector. Salary increases for public employees should be combined with these educational and ethics programs. Funds for higher salaries could be obtained by surveying the relevance of all existing government positions and scaling down the number of public officials.
2. Despite existing laws, government institutions do not provide information to civic groups. Transparency of public agencies should be promoted through joint projects between business associations and local authorities supportive of investment and business. Existing experience in selected Ukrainian locales should be transferred to other towns and villages.
3. Weak democratic governance is also due to a lack of real administrative reform. Small villages without their own budgets are too small to be self-sustainable. Projects should be undertaken to advance administrative reform and to consolidate small villages into self-sustainable economic communities.
4. A list of complete and detailed procedures relating to business and investment should be compiled to reduce the bureaucratic process of opening and running a business.

Business associations should cooperate with public administration to prepare templates for administrative procedures, describing necessary steps, and eliminating those not required by law. Each step should describe the procedure and its timeframe. Over time, these issues can be addressed by passing a law requiring the elaboration of local urban planning and specifying what kind of investment is permitted in a given area. This could make it easier to obtain building permits.

5. Administrative supervision should be replaced by self-regulation within the business community. Business associations could identify government functions to take responsibility for, such as licensing or the compilation and operation of a business registry, and recommend this change.
6. Business associations should also review legislation to identify contradictory regulations, and subsequently propose necessary changes to the legal system.

Small and Medium-Sized Enterprise Policy Advocacy Program in Belarus **Dr. Mieczyslaw Bak, Institute for Private Enterprise and Democracy, Warsaw, Poland**

System of Government in Belarus

Officially, Belarus has a republic style of government with strong executive and legislative powers vested in the president, who is elected in a general election to a 5-year term. The office has been held by Aleksandr Lukashenko since July 1994. In practice, Belarus has an authoritarian regime with most authority concentrated in Lukashenko's hands. He can schedule referendums and special elections, dissolve the chambers of parliament, and nominate the chairman of the National Bank. He can independently nominate and dismiss the chairman of the State Control Committee.

After winning the first election, Lukashenko held a constitutional referendum and in November 1996 extended his first term until 2001. In September 2001, he was reelected with 75% of the vote, defeating Vladimir Goncharik, with 15.4%, and Sergei Gaidukevich, with 2.5%. The next presidential election is scheduled for September 2006. The prime minister is Sergei Sidorsky, but his power is limited. The prime minister and deputy prime minister of Belarus are appointed by the president.

The president's influence on the judicial system is also very strong. Supreme Court and Supreme Economic Court judges are presidential appointees, as are half of the judges in the Constitutional Court. The remaining judges are appointed by the Chamber of Representatives. The president also nominates the prosecutor general.

The president's legislative power is also very strong. He issues decrees, edicts, and directives, creating a significant part of the regulatory infrastructure. Decrees are submitted for approval to the Chamber of Representatives and then to the Council of the Republic. The decrees are adopted when two-thirds of both parliamentary chambers approve them, which never happens. The constitutional process is disregarded and the decrees are considered enacted.

The president's strong position is not limited to the federal level. Although local councils are elected to four-year terms by local voters, the president nominates the chairmen of the local councils, as well as members of local administrations.

Legislative power rests with the bicameral parliament. The 110 members of the Chamber of Representatives (Palata Predstavitelei) are elected in national elections. The Council of the Republic (Sovet Respubliki) is composed of 64 members, of whom 56 are elected by regional councils and eight are presidential appointees. The Chamber of Representatives is

the lower chamber, and the Council of the Republic is the upper chamber. Both chambers are elected to four-year terms. Although Belarus has numerous political parties, most MPs do not declare an affiliation. Eighty-one of the 110 members of the Chamber of Representatives are not affiliated with political parties. In practice, these MPs are supporters of the president. Among the parties represented in parliament, the Communist Party of Belarus (KPB) and the Agrarian Party of Belarus lead, with six and five representatives respectively. A few MPs represent the Liberal Democratic Party, the Republican Party of Labor and Justice, and the Social Democratic Party of Popular Accord.

The international community questions Belarusian election results and processes. The president nominates the chairman of the Belarusian National Election Commission. Election commissions are invariably made up mostly of people designated by the president's administration. Commission members are responsible for the results, which have to be to the presidential administration's liking.

No opposition is represented in parliament, although opposition parties do exist. They include the United Civil Party (AGPB), founded by its two predecessors, the United Democratic Party and the Civil Party. In the 1995 parliamentary elections, the AGPB won 22 of 198 seats in the Supreme Council. While in power, the AGPB advocated a transition toward a free market and democracy, drafting most of the market-oriented legislation. AGPB members supported the impeachment of Lukashenko and the dissolution of parliament. Today the party claims 4,000 members in its seven regional branches, including Minsk. Mr. Anatoly Lebedko leads the AGPB.

Another opposition party is the Renaissance (Adradzenie) Belarusian Popular Front. This party advocates for economic reform based on privatization, less government control over the economy, and a restructuring of industry and agriculture. The party's chairman, Mr. Vincuk Viacorka, remains in exile. A faction of the party split off and established the Conservative Christian Party of BPF. On the 10th anniversary of Lukashenko's rule, a consultant observed a demonstration organized by the opposition on Yakub Kolas Square, which was not the officially permitted site for the gathering. Out of 100 participants, authorities immediately arrested 50. A simultaneous demonstration was organized in a legal location with the participation of a few hundred demonstrators. This shows that the opposition is not very strong.

Legislative Process

Under the constitution, the right of legislative initiative in Belarus may be exercised by the president, the bicameral parliament, the Council of Ministers, and an initiative group of at least 50,000 citizens who are eligible to vote. In the latter case, citizens proposing a bill must form a group and be registered by the Central Committee on Elections and Referendums. The initiative group may recommend a bill to the Chamber of Representatives. In practice, however, the registration of initiative groups is blocked by the absence of a registration mechanism; consequently, signatures collected to form a group are never approved, no group is ever registered, and no bills are ever submitted; the process simply cannot take place.

The president has the constitutional right to submit a draft bill to the Council of the Republic in urgent cases. Under these circumstances, both parliamentary chambers have 10 days to review the draft. In non-urgent cases, the draft is reviewed by the upper chamber first and then by the lower chamber.

Usually draft laws are prepared by the president's legislative office and sent directly or via the Council of Ministers to the parliament. The parliament seldom uses its own legislative initiative. After two readings in the lower chamber, the draft law is discussed by the parliamentary commissions, where only minor changes are made. Despite this brief process, think tanks in Belarus are optimistic about exerting some influence on parliament during these discussions.

This is particularly possible with regard to bills with a large technical component, such as the Law on Mortgage Lending or the Tax Code, when MPs are more independent.

After passing the lower chamber, the draft law goes to the Council of the Republic, where discussions must be held and decisions made within 20 days. Laws can constitutionally be adopted by majority vote of both chambers. After its adoption, a law is submitted to the president for signature. The president has 10 days to sign the law. If the president does not sign the law, it is returned to the Chamber of Representatives with his specific objections noted. The chamber has 30 days to consider the president's objections. Theoretically, the law can be adopted without incorporating the president's objections by $\frac{3}{4}$ of the members of the full chamber; in practice, however, this has never happened.

Civil Society and Business Associations

According to Mr. Aleksandr Potupa, president of the Belarusian Union of Entrepreneurs, there are about 100 business associations in Belarus, but only a few are active. Business associations, as a part of the civil sector, have difficulty registering their projects and may have to pay tax on foreign grants. A weak private sector contributes only about 30% of the GDP. Private firms can engage in a very limited scope of profitable activities, such as automobile insurance, manufacturing, and repair of cash registers. Business associations operate in an environment with strong government influence. Bureaucrats can close down a well-run company at their discretion. The rule of law is weak under a tightly controlled government environment. For example, state authorities may deny a company registration for reasons completely unrelated to business. Therefore, one of the main activities of business associations is to protect their members from arbitrary bureaucratic decisions. Associations cannot assist entrepreneurs until they become members.

The Belarusian Union of Entrepreneurs and Employers (BUEE) focuses on protecting its members. The organization sends letters to state officials with grievances related to administrative government actions that have harmed businesses. According to the organization's chairman, Mr. G. Badei, the union achieves positive outcomes in 60% of all cases. This may include a reduction in large fines or the lifting of a pricing or labor regulation.

According to Mr. Badei, the BUEE is the only association of businesses registered under a corporate name (as a "legal entity"). Other associations, he said, are registered under the individual names of their members ("physical persons"). Established in 1990, the union currently represents 200 members, most of which are large and medium-sized companies. The BUEE maintains members that do not pay dues in order to have a stronger capacity. Dues contribute 70% of the BUEE's budget; the rest comes from grants. Recently the BUEE received a CIPE grant to open regional branches, but the branches were not self-sustainable and they closed. Other CIPE-funded activities under the same grant were more successful, such as advocacy, work with mass media, and the publication of a quarterly journal. Under a Eurasia Foundation grant, the BUEE has developed consulting services, conducted quarterly monitoring of social and economic indicators, and identified barriers to business growth.

Another group with a similar name, the Belarusian Union of Entrepreneurs, also focuses on protecting its members. From its founding in 1988 until 1999, the union was able to accept businesses registered as companies ("legal entities") into its membership. In 1999, legislative changes forced it to re-register, and now the union can legally accept only "physical persons," which has significantly reduced the organization's budget. According to the president of the organization, Mr. Aleksandr Potupa, the union's activities take place nationwide through its 60 regional offices, including one in Minsk. Its nationwide presence helps attract members, which currently number about 700 owners and managers of small companies.

The union is also involved in advocacy. Before Lukashenko came to power, it worked closely with parliamentary commissions and was able to influence pending legislation. Currently it works mainly to protect businesses from arbitrary administrative decisions related to property confiscation. It has developed an economic reform agenda that could prove useful in a post-Lukashenko era.

Another organization, the Minsk City Union of Entrepreneurs and Employers, also places a strong emphasis on protecting member interests. According to its president, Mr. Vladimir Karyagin, “none of our members is in prison, despite all the dangers involved in doing business in Belarus.” The union provides its members with legal assistance through its contacts with government agencies and, in some instances, through personal relationships between its president and policymakers. In numerous instances, cases that it has helped defend in court have resulted in rulings in favor of the entrepreneurs. This does not mean that justice can be achieved through the court system. Mr. Karyagin described cases where court decisions were clearly influenced by policymakers.⁶ The Minsk city union also organizes seminars for entrepreneurs on how to deal with arbitrary decisions by government bureaucrats.

Advocacy remains one of the main activities of the Minsk City Union. The Union decides which issues to take up based on its members’ recommendations. Members gather in government-created working groups to decide on priorities. Union experts then analyze the recommendations, after which the Union’s board decides on the direction.

Founded in 1987, the Minsk City Union began by preparing cooperative regulations, which opened up the possibility for business to function independently of the state. Since then, the Minsk union has re-registered and re-organized three times; its operations are currently focused on Minsk. It has over 400 members, mostly medium-sized companies. In 1991 it created a business support fund, which was nationalized in 1998 and is now on the verge of bankruptcy. Its activities include organizing training sessions, seminars, trade missions, and fairs. The union has a close relationship with neighboring countries, which facilitates business contacts. Unlike any of the leaders of the previously described business associations, Mr. Karyagin is an entrepreneur.

The Perspective Association represents small trading businesses. According to Perspective’s president, Mr. Anatoly Shumshenko, the association mainly helps protect its members against arbitrary decisions by government officials. Registered in 2003, Perspective now has 5,000 members. Membership fluctuates constantly because businesses join when they need assistance and leave when their problems are solved. Membership dues help pay the expenses of the most active members, who after participating in a strike or demonstration may find their businesses fined by government officials. Because Mr. Shumshenko is not an entrepreneur himself, he can take on the state administration without fearing the threat that his company will be closed or subjected to stiff penalties. Perspective seems to take a more radical approach, since, according to its leader, “standard democratic methods of advocating for the interests of businessmen don’t work in Belarus.” Detailed advocacy techniques used by different civil sector groups are presented in the Advocacy section below.

Think Tanks

Two Belarusian think tanks are described in this report: the Institute for Privatization and Management (the IPM), and the Independent Institute for Socio-Economic and Political Studies. Since 1993, the IPM has operated a successful business school as a joint venture of the Central European University Fund (USA), the Capital Market and Privatization Development Fund (Poland), and the Belarusian Ministry of Privatization. Since its inception, the IPM has been involved in promoting economic reform, and its president, Mr. Pavel Daneiko, has served as an MP to the Supreme Soviet of Belarus, as a secretary of the Committee on Economic

Reform, and as an active member of United Civil Party. The institute's business school began its activities with programs on the restructuring and privatization of companies. At first, most students were managers and directors of state-owned firms, but in 1997 the IPM changed its strategy and started to work more with managers and owners of private firms. Today, 50% of its students represent private firms.

The IPM's Research Center, established in 1999, is its think tank. Headed by Igor Pelipas, the center has separate funding sources, which include grants and fees for consulting projects for such organizations as the World Bank and the Central Bank of Russia. With a staff of eight researchers and one coordinator, the center publishes macroeconomic forecasts and research results in the *Belarusian Economic Outlook* and in the *Belarusian Monthly Economic Review*.

Under a joint project with the German Institute of Economic Research, the center publishes policy papers. It has also prepared a concept of economic reform in Belarus. In the past, the center designed an economic program for Vladimir Goncharik, an opposition candidate in the last presidential election. Business associations use the findings of the center's research and analyses. For example, the Belarusian Union of Entrepreneurs and Employers used the Center's recommendations to improve SMEs' access to financing. Both the IPM and the Center engage the government in constructive dialogue rather than confront it.

Other think tanks criticize the IPM's approach to cooperation with government officials. The president of the Independent Institute for Socio-Economic and Political Studies, Professor Oleg Manayev, believes that the IPM's involvement at the level of official policy legitimizes Lukashenko's rule. Created in 1992 to promote democracy and economic reform in Belarus, the Institute focuses on research and public opinion polling. Since its inception, over 50 polls have surveyed at least 500 people; the survey findings are used in conducting advocacy activities. One of its polls is the "elite review," which asks 60 policymakers, businessmen, and journalists to tell about how they perceive the situation in Belarus. The Institute's monthly electronic bulletin "Info Focus" disseminates important documents to 200 university libraries, government agencies, and parliament members. The Institute works closely with the media to inform them about important issues concerning socio-economic reforms, using press releases that are distributed 3-4 times a week. Dr. Manayev regularly invites selected independent media publishers to lunch, a practice that can be more effective than press releases.

The institute's network of regional centers provides consulting services to businesses and PR support. The centers help combat the official media's propaganda against business and offer analysis of the legal and regulatory framework. The centers were established jointly with the Belarusian Union of Entrepreneurs and Employers with the help of a foreign grant. However, after the grant ended the centers could not sustain themselves and were closed down. The IPM cooperates on projects with other business associations. Its budget relies 90% on grants, 5% on publication revenue, and 5% on such services as research and consulting.

In 1997 the institute joined with 18 other organizations to create the Association of Public Think Tanks. This organization continues to organize quarterly meetings to discuss pending issues. 300 copies of its "Analytical Bulletin of Belarusian Think Tanks" are distributed upon publication, which is legally the largest number of copies that may be distributed without a license. The institute's approach is rather confrontational. According to Professor Manayev, a strategy of promoting change through mid-level officials is not effective.

Advocacy

Business associations espouse two separate approaches when influencing public policy. One involves shaping domestic and international public opinion to pressure the government into adopting democratic changes, but without any elements of direct advocacy. Professor Manayev supports this approach because he believes positive change can be achieved by

external pressure on the government from the Council of Europe and EU nation governments, combined with internal pressure from influential Belarusian groups, such as managers, and academics. Influencing public officials is impossible, since they must follow strict rules and are punished for contacts with civic groups. Training programs and any form of influence on mid-level officials are not effective, since such officials do not change their positions after such training and act as they did before the training.

Domestic public opinion can be shaped by the publication of opinion poll results. For example, the Independent Institute for Socio-Economic and Political Studies followed the 2001 presidential election by publishing poll results that clearly demonstrated a decrease in support for Lukashenko. Lukashenko reacted by dismissing several ministry officials to neutralize the negative rating. Polls can also influence relations with Russia, according to Manayev, in that Russia will see that Lukashenko is losing public support and will withdraw its backing for his regime.

Public pressure can also be exerted by independent media publications that describe how democratic institutions should function or how economic reforms should be carried out. Pressure can also emanate from the business community through associations. For example, Manayev's Institute helped business associations obtain data related to labor costs, which were later used in opposing the government's approach toward wage regulations for private firms.

The other approach is practiced by the aforementioned Institute for Privatization and Management. The IPM realized that a confrontational approach on the part of civil society creates a negative perception of the civic sector and can be a liability when advocating for reform. The IPM's director, Mr. Pavel Daneiko, said that when NGOs insist that they are the only ones who know what to do, public authorities simply dismiss them. The IPM changed that tactic by starting a dialogue with mid-level bureaucrats. The IPM also works to galvanize public opinion and pressure through publications, seminars, roundtables, and discussions. It also engages in direct advocacy. In 2003, the IPM identified a group of MPs who were in need of private sector expertise. Under a project funded by the German Institute of Economic Research, the IPM began giving MPs policy papers. This relationship served as a foundation for dialogue. The IPM was then able to influence a law on bank deposit security. The IPM realized that mid-level officials working at ministries have high professional skills and are open to technical advice. A group of 30 mid-level officials began attending IPM training and discussion sessions. The IPM is convinced that this approach of cultivating relations with public officials will be useful, particularly after the fall of Lukashenko.

Public-private dialogue helps ferment ideological changes within the government. Three to four years ago, the private sector was treated as an enemy of the government. Today, the government recognizes SMEs as an important sector of the economy. This change in attitude facilitated the development of a governmental program supporting small and medium-sized enterprises. Although funds for the program are limited, the program's existence illustrates the change in the government's attitude toward the private sector.

In attempting to prepare policy positions on public projects, business associations have found their work with the Council of Ministers to be the most productive. The Belarusian Union of Entrepreneurs and Employers worked closely with the Council of Ministers to reform licensing. When a presidential decree was issued requiring all firms to re-register, the process of issuing new licenses was very difficult. The union asked the Council of Ministers to extend existing licenses until the end of the transition period, and the Council of Ministers obliged. According to the union, work is most productive when conducted at the level of "technical discussions."

One of the positive ramifications of the change in the licensing law was that the Minsk Association began to build a dialogue with the public sector by organizing a roundtable on

licensing with the Ministry of Economics. It was the first of a series of meetings between the ministry and the association's experts and facilitated the extension of existing licenses and the stability of licensing regulations for companies. Now only a court can take away a license.

Associations also use government agencies as venues to participate in the policy process. For example, the Belarusian Union of Entrepreneurs and Employers participates in meetings of the Foreign Investment Board and the SME Board. The SME Board develops a public agenda for SME issues, such as simplified taxation for SMEs and access to financing. The Belarusian Union also participates in discussions by the Export Board, which supports SME export strategy and development. The Minsk City Association of Entrepreneurs and Employers participates in meetings of the Entrepreneurship Board under the presidential administration. In these venues, the associations are able to influence public policy by providing input on legislation critical to business.

Access to information on pending legislation is difficult to obtain. The Union solved this problem by obtaining a schedule of lawmaking activity prepared by the Ministry of Economics and approved by the president. The Belarusian Union of Entrepreneurs accesses draft laws and regulations through the Council of Ministers via its "private contacts."

Since cultivating a dialogue with government representatives, business associations have gained some authority. The president's administration asked the union to analyze two presidential decrees, "On Individual Business Activity" and "On Company Registration." The union also presented a draft law on foreign trade that influenced a discussion on foreign trade legislation. One of the union's success stories is the rescinding of a decree that would have forced private firms to pay the same wages as state-owned companies. Some business association leaders, such as Mr. Badei, believe that there are reformers in the government who sometimes need civil sector support to confront the hard-liners.

According to Mr. Potupa, there are three groups of public officials interested in what business associations have to say:

1. Free market proponents who like to use business association opinions that support their positions even if the business associations are not viewed favorably by the government;
2. "Shepherds," who are bribed by certain companies and are thus interested only in protecting those companies' interests; and
3. "Careerists," who are interested in climbing the career ladder and will use any arguments provided by business associations to help improve legislation.

Media outreach also helped the Minsk Association of Entrepreneurs promote regulations on supermarkets. The media were useful in promoting a ban on new licensing regulations. The media were also used to promote tax-related recommendations.

A December 1, 2002 regulation prohibited entrepreneurs from buying foreign currency in cash and taking it abroad – for example, in order to buy goods in Russia. The Union of Entrepreneurs proposed that entrepreneurs deposit cash in the Central Bank and later withdraw the funds for use abroad. The proposal was accepted.

Sometimes recommendations are only partially adopted. In 2002, the Union asked the Constitutional Court to strike down a law requiring the use of cash registers and ledgers by all firms. The court ruled that the regulation was unconstitutional and advised that it be repealed. The president's administration, however, did not comply, so the Union began negotiating with it on this issue until finally the law was rescinded.

Business associations that use research data to support their arguments are achieving effective results. In 2002, the government directed that merchandise valued at more than \$200 could be purchased only by credit card. The Union of Entrepreneurs conducted research and gathered data to show that banks would be unable to issue enough credit cards, and that most of the population did not even meet the requirements to obtain a credit card. In response, the regulation was abandoned.

Despite numerous victories in influencing public policy, organizations still claim that “standard democratic methods do not work in Belarus.” One of the more confrontational groups mentioned previously, Perspective, representing small vendors, prefers to bypass analyses and recommendations and to rely solely on declarations and mass protests to advocate its position. In Perspective’s opinion, public authorities ignore business groups’ opinions, but they do react to “people in the streets.” For example, the problem of mandatory cash registers for small vendors was resolved positively only after a street protest. Perspective addresses the problems of small vendors by sending its representatives to communities where the rights of local vendors have been violated by local authorities. The representatives meet with local businessmen and encourage them to join the organization and stage protests. Local members gather financial resources to cover fines imposed on businesses after they protest. With such safeguards in place, people are not afraid to protest

When Perspective was first founded, its members gathered 16,000 signatures and submitted petitions to reverse four presidential decrees that harmed SMEs. They also organized meetings with MPs. However, that approach proved ineffective, and Perspective changed its methods. Today it uses contacts with mid-level officials to obtain information about pending regulations that may harm SMEs and then organizes street protests.

Although think tanks and business associations in Belarus are actively involved in advocacy, they lack a systematic approach to and understanding of the advocacy process. This is partly due to a lack of training in advocacy. Think tanks work with business associations, but there is no coalition of business associations and no attempt to develop a national business agenda. According to Mr. Badei, the Belarusian Union of Entrepreneurs and Employers tried to create a coalition of business associations and to coordinate advocacy activity, but they could not agree on a joint legislative agenda.

Perception of the Civil Sector

Civil society contends that Lukashenko is limiting its growth because he believes that civil society will limit his power. The president and his allies are clearly not oriented toward cooperating with NGOs, but rather on controlling and limiting their activities. Instead of dealing with the civil sector, the state authorities prefer to “deal directly with society,” which in practice means that society and its different interest groups are not represented in the policymaking process. The activities of the civil sector are tightly controlled. In 1999, NGOs had to re-register, which resulted in the closing down of about 10% of the more active and independent organizations when their registration was denied. Nonetheless, about 2,500 organizations survived the re-registration process.

The Belarusian government controls the flow of all foreign assistance to NGOs. Projects funded by foreign donors must be registered as humanitarian assistance projects with the Council of Ministers. The government may refuse to recognize a project as a humanitarian assistance project, in which case the organization has to pay a 24% tax, plus an additional 5% fee, essentially giving 1/3 of the grant to the government. For example, for the past two years all Eurasia Foundation grants have not been recognized as humanitarian assistance grants and have been subject to the 29% tax. All the activities and programs of each foreign-funded project must be registered.

Role of Media

Independent media outlets exist in Belarus but have very limited circulation, and there is constant pressure on independent journalists, who may be prosecuted for “writing false reports about the president.” Distribution of the independent press is also hampered by postage licensing procedures. Belpochta monopolizes all mail services and does not issue distribution licenses to independent newspapers. Independent media have many disadvantages compared to the official media. For example, official media outlets pay no rent for office space. The independent media have high costs and may be closed down at any time on a minor technicality.

All television is government-run. A presidential decree recognizes television as a government institution and provides its staff with privileges. As a result, television follows the government line. The media engage in so-called “double-think,” where privately they may support democratic ideas but publicly they support Lukashenko.

Nonetheless, some business-related topics may be presented on television. For example, the Minsk City Association of Entrepreneurs and Employers organized a televised roundtable on SME development. Later, television coverage based on the event offered viewers positive, non-partisan information about the discussion at the roundtable.

Corruption

Administrative control, a lack of transparency, and unclear regulations expose entrepreneurs in Belarus to corruption. Bribes serve as “speed money” to expedite administrative decisions or to rescind tax fines on a business. While one business leader, Mr. Vladimir Karyagin, believes that corruption “is lower than in Poland,” other business leaders believe that the government likes the extra income that bribes provide and protects those who give bribes. Thanks to associations’ efforts to protect their members, a number of problems are being solved in the courts rather than with bribes. Petty corruption in Belarus is comparable to that in Ukraine.

The situation is different where high-level corruption is concerned. Due to the lack of a group of privileged politicians and wealthy businessmen who profited from major privatizations and large public procurement projects, the scope of big corruption cases is limited.

Obstacles to Democratic Governance

The main problem in Belarus is the practically unlimited power of the president. It should be mentioned that in 1994 Lukashenko’s interest in continuing the reform process waned as he realized that democratic reforms would reduce, not increase, his power. The 1996 constitution scaled back the civil sector’s role in the policy process.

The government’s unwillingness to transfer some of its activities from the president’s office to the civil sector has resulted in a weak civil society relative to the government. The number of active civic groups is relatively low, and their ability to promote their recommendations is limited to technical issues. There are few opportunities to address broad economic and democratic reform. Few officials seek private sector input, and those who do usually do so for personal interests. Very few officials are interested in drafting good and effective legislation.

A lack of real administrative reform is another major obstacle. The president controls local authorities, so their ability to implement reform at the local level is limited.

Low civil society input into the legislative process results in poor-quality laws. Most business association activities focus on protecting the rights of individual members and discussing individual cases of official power abuse. These activities, which are necessary under Belarusian conditions, consume resources that could be used to promote effective legislation.

A passive private sector also poses a major obstacle. Suing the state administration could prove effective, but few entrepreneurs take an active role. Many do not believe that justice can be achieved through official channels when they see the government's strong influence on many court decisions. Public officials are rarely held accountable for violating entrepreneurs' rights or for causing enterprises to go bankrupt.

Recommendations

1. The civil sector's main focus should be on the policymaking process, but even discussion of the policy process is extremely difficult for associations. Business associations should focus on countering the negative image of NGOs and business associations. Some publications should be devoted to the role of the civil sector in the legislative process and to the need for civic sector participation in developing effective legislation.
2. A general lack of understanding of the advocacy process should be remedied with advocacy training sessions for business associations. Training could also provide an opportunity to discuss methods and techniques that are working in other countries and identify those that could work in Belarus.
3. Business associations should resume discussions about forming a coalition and creating a national business agenda. The government's recognition of the critical role of SMEs is an important first step. Now the government must be convinced that SMEs cannot develop without strong representation during the legislative process. Projects submitted for funding by a coalition of business associations must be given priority.
4. Dialogue between business associations and mid-level public officials should be continued. Although this dialogue may not result in significant changes in the public policy process, it strengthens relations with state officials and demonstrates the usefulness of civil society. In the long run, this dialogue prepares the administration for more profound democratic changes and economic reforms. It also facilitates the operation of companies.

⁵Due to limited time in Ukraine, the consultant met representatives from three think tanks, the Europe XXI Foundation, and five business associations.

⁶For example, a court ordered a company to return real estate that it had purchased because, the court claimed, certain administrative formalities had been omitted at the time of purchase. However, the purchase had been made several years earlier, and the company had made substantial renovations to the building. The association's assistance helped reverse the court's decision.