

Political and Legal Determinants of Economic Cooperation between Belarus and Poland

Piotr MISZTAL

Department of Economics and Finance, Faculty of Law and Social Sciences
The Jan Kochanowski University of Kielce, Kielce, Poland
pmisztal@ujk.edu.pl

Vasili KULAKOU

Department of Economics and Finance, Faculty of Law and Social Sciences
The Jan Kochanowski University of Kielce, Kielce, Poland
vasili5424999@gmail.com

Article's history:

Received 5th of May, 2022; Received in revised form 10th of June, 2022; Accepted 24th of June, 2022;
Published 30th of June, 2022. All rights reserved to the Publishing House.

Suggested citation:

Misztal, P., and Kulakou, V. 2022, Political and Legal Determinants of Economic Cooperation between Belarus and Poland. *Journal of Applied Economic Sciences*, Volume XVII, Summer, 2(76): 122 – 133.

Abstract:

The legal and political sphere consists of legislative regulations, resulting from the policy of the state in which the businesses operate. The aim of the study is to verify the research hypothesis according to which political and legal factors significantly determine the mutual economic cooperation between Belarus and Poland in the period 2016 - 2020/21. The article places particular emphasis on the analysis of political and legal factors on the side of Belarus, due to the current political and legal crises. Against this background, the analogous political and legal set-ups in Poland are also presented. The analysis took into account, in particular: political stability, democratic nature of the state policy, level of corruption of public authorities, membership in international organizations, stability of legislative structure, the independence and efficiency of the judiciary.

The results of the conducted research indicate that the nature of Belarusian-Polish relations is significantly influenced by the political situation in Belarus and the authoritarian way of appeasing power by the president of this country. Without fundamental changes in the internal situation in Belarus, it is difficult to expect spectacular breakthroughs and changes in Belarus' relations with Poland.

Keywords: political factors; legal conditions; institutional circumstances; economic cooperation; Belarus; Poland.

JEL Classification: D72; D73; F51; K11; K15; K25.

Introduction

International relations between Belarus and Poland, officially confirmed on March 2, 1992. Poland was one of the first countries to recognize the independence of Belarus. Currently, diplomatic relations between the two countries are very uncertain. The problem of the Polish minority in Belarus with over 400,000 people and the fight against the democratic opposition has a negative impact on relations between the two countries. The political and legal crisis that began in Belarus after the presidential elections in 2020 was significantly aggravated first by the migration crisis in 2021, and then by the country's position in the Russian invasion of Ukraine in 2022. This has significantly limited economic cooperation both with Poland and with other Western countries.

In order to overcome the consequences of the current crisis, restore and further develop bilateral cooperation between the countries, it is important to understand what exactly caused the current situation. In view of the fact that a stable political environment and independent legal system are the foundation for the development of international cooperation and attraction of foreign investment, their study seems extremely important at this time.

1. Methodology

The methodology of the research is grounded on the dialectical approach to the phenomena studied. Applying the system analysis method allowed to comprehensively study the political and legal environment and its influence on bilateral Polish-Belarusian economic cooperation. The method of comparative analysis made it possible to identify main trends in the shift of the most pivotal indicators characterizing the political and legal situation in both countries. The statistical analysis of the studied issues was carried out using for this purpose available international rankings and relevant statistical data from national and international databases.

2. Interpretation of Results

2.1. Political Factors

According to official information, The Republic of Belarus is a unitary democratic and rule-of-law state, which exercises supreme control and absolute authority over its territory and implements its domestic and foreign policies in an independent manner (President of the Republic of Belarus Official portal).

The political and legal system in the country was formed under the significant influence of the legacy of the command-administrative approach inherent in the Soviet Union, in particular, this applies to the type of political leadership and interdependence of various structures. For post-Soviet countries, it is a standard option when a president with extended powers is at the head of the state.

Stable Political Environment

Political stability is a variable of great importance in a country's investment climate generation. There are many approaches to the definition of this term in the literature. Based on the definition of stability as a situation in which something is not likely to move or change, proposed in the Cambridge Dictionary (Cambridge Dictionary), after studying the history of modern Belarus, the political system of the country can be called "stable".

This is supported by the absence of any significant changes in the state structure after the 1996 referendum, as well as in the political line being pursued. The 2004 referendum, after which Alexander Lukashenko received the right to be elected for the post of President of the Republic of Belarus for an unlimited number of terms, led to the fact that for more than 26 years one person has been ruling the country. Within the framework of our research, political stability should be understood as a predictable political environment, capable of attracting investment, both internal and from the rest of the world (Radu 2015).

The indicator of the stability of the political situation is Political stability index (PSI). In the period from 2016 to 2020, the value of this indicator for the Republic of Belarus ranged from -0,73 to 0,36 (Figure 1).

Figure 1. Dynamics of the Political Stability Index in Belarus, 2016-2020



Source: Prepared by the authors based on Political stability – Country rankings (2021)

The events that took place in the republic at the end of 2020 related to the presidential elections had a very negative impact on level of political stability and the relations of Belarus with the countries of the European Union and a number of other democratic states. As a result, the democratic world, including Poland, refused to recognize the elections and the legitimacy of the Belarusian president. This led to a dramatic drop in the political stability index to -0.73 in 2020.

In such an environment, politics is formed under the significant influence of the Russian Federation and its interests in the international arena. This situation allows us to predict a significant deterioration in the position of Belarus in the international rating of political stability as well as decline in the Political stability index. For comparison, Poland is a republic and a parliamentary democratic state with cabinet system. The regulations of functioning of the country are based on the Constitution, which is the highest legislative act. Poland has a legal system in which the basic form of making is statute.

The Political Stabilization Index in Poland in the period 2016-2020 ranged from 0,49 in 2018 to 0,57 in 2015 (Figure 2).

Figure 2. Dynamics of the Political stability index in Poland, 2016-2020



Source: Prepared by the authors based on Political stability – Country rankings

Despite the emerging upward trend, it should be noted that there were fluctuations in the PSI index during the study period, which may indicate deterioration in political stability in Poland and an increase in the likelihood of social unrest and violent demonstrations in Poland.

Democratic Nature of the State Policy

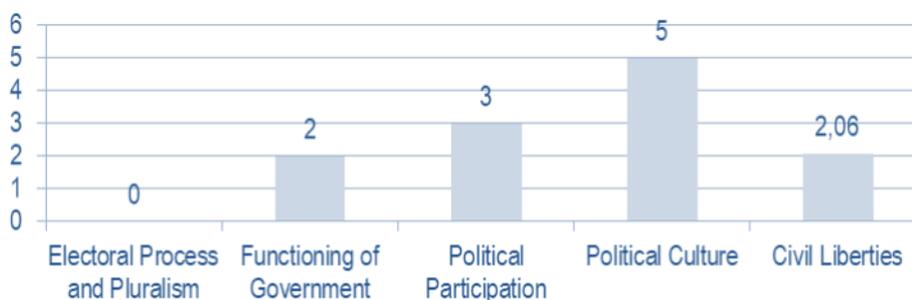
Despite the proclaimed principle of the rule of law, the rights and freedoms of citizens enshrined in the constitution, the political system of Belarus in reality does not meet the accepted common European principles of democracy.

To explain the Belarusian version of "political stability" and "democratic society", it is advisable to consider the approach proposed by the American political scientist John Jaworsky, which introduces a distinction between minimal and democratic stability (Jaworsky 1995). The minimum level of political stability means that there are no civil wars or other forms of armed conflicts on the territory of the state. Democratic stability is characterized by the ability of democratic structures to respond quickly to changing public attitudes to ensure the achievement of civil peace and civil harmony.

Stability from this point of view is considered as a function of democracy, which includes, among others, the participation of citizens in government through the institutions of civil society. To measure the level of democracy within the state and the possibility of comparing countries, the British research center Economist Intelligence Unit has developed the Democracy Index, based on a combination of expert assessments and results of public opinion polls from the respective countries.

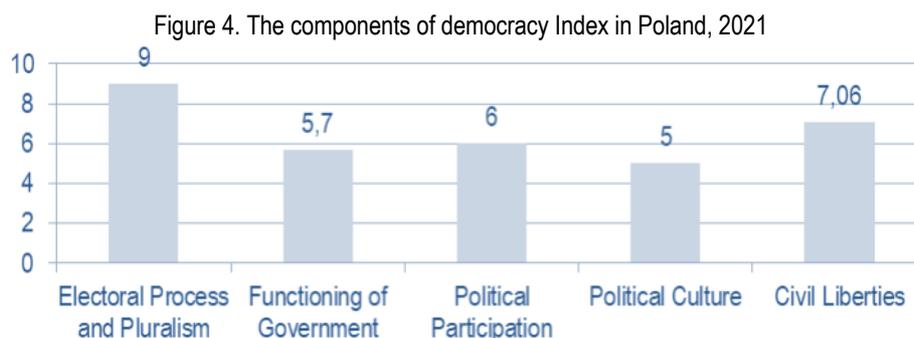
In conformity with the index the Republic of Belarus is a country with authoritarian regime. In 2021, Belarus ranked 150th among 167 countries with an index of 2,59 (Democracy Countries 2022). In this context, it is advisable to consider the individual components of the index (Figure 3).

Figure 3. The components of Democracy Index in Belarus, 2021



Source: Prepared by the author based on Democracy Countries (2022)

The maximum possible value of both the index itself and its elements is 10.0. The data shown in the figure affirms that Belarusian citizens actually lack both civil liberties and political choice. Based on the conducted research, we can conclude that there is minimal political stability in the Republic of Belarus. At the same time, there is no any democratic nature of the state policy. For comparison, in 2021 Poland took the 50th place in the democracy ranking, reaching an average score of 6,85, which places this country among the so-called "Flawed democracy." (Figure 4).



Source: prepared by the author based on Democracy Countries (2022)

Thus, Poland is treated as a country where elections are conducted in a fair and free manner, and despite problems (e.g., violations of media freedom), basic civil liberties are respected. However, these countries' democracies have significant weaknesses. For example, problems with the functioning of the government, poorly developed political culture or low involvement of the society in political life are noticed

Level of Corruption of Public Authorities

Officially, the fight against corruption in Belarus is designated as one of the most important tasks of the state. The country has ratified such basic international acts as: Criminal Law Convention on Corruption; United Nations Convention against Transnational Organized Crime; United Nations Convention against Corruption (UNCAC); Civil Law Convention on Corruption.

At the domestic level, the basic document on the basis of which the anti-corruption system is built is the Law of the Republic of Belarus "On Combating Corruption" adopted on July 15, 2015.

In the fight against this type of criminal activity, the bodies of the prosecutor's office, internal affairs and state security are involved. The General Prosecutor's Office of the Republic of Belarus has been appointed responsible for organizing the control of corruption. We can say that Belarus has a comprehensive, coordinated and consistent state policy in the field of combating corruption, based on the planning and coordination of the activities of state bodies and other involved organizations. For international comparison, the Corruption Perceptions Index (CPI) published by Transparency International is often used. This index reflects the perception of the level of corruption by experts and business representatives (Figure 5).

Figure 5. Dynamics of the Corruption Perceptions Index in Belarus, 2016-2021



Source: Prepared by the author based on Corruption Perceptions Index (2022)

It should be noted that in recent years, the Republic of Belarus till 2021 has been constantly improving its position in the ranking of countries on the Corruption Perceptions Index. For five years, from 2015 to 2020, Belarus improved its rating from 32 to 47 points out of 100 possible. Unfortunately, the current crisis has thrown the country back by 6 points. So, business perception of the level of corruption continues to remain at a fairly high level.

Poland has also made significant progress in the fight against corruption in recent years. They were the result of a combination of law enforcement activities and political will. A Polish Anti-Corruption Bureau has been established, and reports of corruption are now much less common. The public's willingness to tackle this problem has also reduced the potential for corruption. The law gives the person receiving the bribe exemption from prosecution if he reports it to the authorities and helps to prosecute the bribe holder (Figure 6).

Figure 6. Dynamics of the Corruption Perceptions Index in Poland, 2016-2021



Source: Prepared by the author based on Corruption Perceptions Index (2021)

In the period 2016-2021, Poland worsened its position in the Corruption Perceptions Index ranking. In the studied period, Poland's score in the ranking fell from 62 in 2016 to 56 in 2021, which indicated a growing perception of corruption in this country. As a result, Poland's position in the ranking fell from 29th place in 2016 to 42nd place in 2021 among 180 countries surveyed.

Level of development of foreign economic relations

According to information published on the official website of the president, the foreign policy of Belarus is guided by the principles of equality of states, non-use of force or the threat of force, inviolability of borders, peaceful settlement of disputes, non-interference in internal affairs and other universally recognized principles and norms of international law (President of the Republic of Belarus Official portal).

To date, the Republic of Belarus has established diplomatic relations with 183 states of the world. Based on the need to solve specific problems in the foreign policy and foreign economic areas, the network of Belarusian foreign missions is constantly being modernized in order to increase its efficiency. As of January 1, 2021, this network consisted of 70 diplomatic missions: 58 embassies, 2 permanent missions, 9 general consulates and 1 consulate. Taking into account the accreditation of combined duties ambassadors, Belarus is represented in 114 countries (Ministry of Foreign Affairs).

The country also has a very wide range of foreign trade relations (about 200 states). However, despite such a wide range of international cooperation, we note a high concentration of the country's export-import flows. The 5 largest foreign partners account for more than 70% of the total volume of Belarusian foreign trade (about 48% the Russian Federation). Thus, all other trade relations with about 195 countries cover less than 30% of the republic's foreign trade turnover (Ministry of Foreign Affairs). With all the emerging disagreements and temporary bans on the import of products of individual enterprises, the Russian market remains the main consumer of both food and non-food Belarusian products. Definitely, this has a significant impact on the foreign policy of the Republic of Belarus, in which it orients towards its eastern neighbor.

As noted above, the political and legal crisis that began in the country after the 2020 presidential elections has significantly complicated relations with Western countries. The European Union, the United States of America and a number of other states declared elections invalid. As a result, personal sanctions were imposed against officials (including the President) responsible for election fraud and disproportionate violence against protesters. In addition, a number of Belarusian enterprises were also subject to economic sanctions.

Separately, it is worth to note the complication of relations with neighboring countries – Poland, Lithuania and Latvia. These countries supported the Belarusian opposition and opened the borders for citizens affected by the actions of the Lukashenka regime, providing an opportunity to obtain humanitarian visas.

In relation to the Republic of Poland, in the first half of March, the above-mentioned complications took a new turn, which may develop into a very serious destructive diplomatic confrontation.

On March 9, 2021, the Ministry of Foreign Affairs of Belarus handed over to the Polish side a note in which the Consul of the Consulate General of the Republic of Poland in Brest was asked to leave the territory of the Republic of Belarus. This decision was justified by the participation of the consul in an unofficial event dedicated to the "day of the damned soldiers", held on February 28 (Ministry of Foreign Affairs). In response to these actions, the Polish Foreign Ministry decided to expel one of the employees of the Belarusian Embassy in Warsaw.

On March 11, 2021, the Polish side was informed of the decision on the inexpediency of the presence of the head and consul of the Polish Consulate General in Grodno on the territory of Belarus and handed a note with a

proposal to these persons to leave the territory of the Republic of Belarus within 48 hours. The reason for this decision was the asymmetric and destructive, in the opinion of the Belarusian authorities, response of Poland to the decision against the consul of the Consulate General of Poland in Brest (Ministry of Foreign Affairs).

The facts show that over the past year the Republic of Belarus has significantly worsened (destabilized) its position in the international arena, effectively losing the opportunity to build up foreign economic relations in the western direction. The way out of this situation is seen in overcoming the political crisis and taking the path of forming a democratic society.

Membership in International Organizations and Regional Political and Economic Unions

In the modern world, the activities of international organizations and associations cover almost all forms of multilateral cooperation and partnership of States and are the basis for successful socio-economic development. For a potential investor, the country's membership in such organizations and associations, as well as the ratification of international treaties and conventions, are an indicator of compliance with the norms of international law on the territory of the state.

According to the strategy announced by the Ministry of Foreign Affairs, one of the priorities of the foreign policy of the Republic of Belarus is multilateral diplomacy and effective participation in the activities of international and regional organizations and associations.

The Republic of Belarus is a member of the United Nations (UN) (since 1945), and is a part of a number of specialized UN agencies, including World Health Organization (WHO), International Labour Organization (ILO), United Nations Industrial Development Organization (UNIDO), Food and Agriculture Organization of the United Nations (FAO) *etc.* (Ministry of Foreign Affairs). In the political context, the main efforts are aimed at creating, through the UN mechanisms, favorable external conditions that ensure the national security, sovereignty and territorial integrity of the Republic of Belarus, and serve the formation of the country's international authority.

The solution of economic problems is facilitated by the participation of Belarus in the activities of a number of specialized organizations of the UN system, such as: United Nations Development Programme (UNDP), United Nations Conference on Trade and Development (UNCTAD), International Monetary Fund (IMF), World Bank Group (excluding International Development Association), United Nations Economic Commission for Europe *etc.*

Belarus is a member of three regional integration groups formed in the post-Soviet space: Commonwealth of Independent States (CIS); Union State of Russia and Belarus; Eurasian Economic Union (EAEU). It should be noted here that recently two of the three (CIS and Union State) associations are rather formal in nature, in fact, not performing the functions originally assigned to them.

An important component of the Belarusian state's foreign policy is participation in regional security processes. First of all, this refers to the country's membership in the Collective Security Treaty Organization (CSTO). Belarus considers the CSTO as an organization capable of protecting the national interests of its member states. In addition, the country is a member of the Organization for Security and Cooperation in Europe (OSCE) and takes an active part in the development of the most important documents and decisions of the OSCE, contributing to the development of a pan-European dialogue on security issues.

The analysis allows us to conclude that Belarus is a member of majority of the most significant international organizations and associations, which has a positive effect on its international rating. On the negative side is the fact that despite the record length of time during which the country's accession to the World Trade Organization is being negotiated (since 1993, when the application for entry to the General Agreement on Tariffs and Trade was first submitted), the enlistment process is still not completed.

As in the case of Belarus, the external aspect influencing the political security of Poland, according to Poles, is membership in international organizations. It seems that among the numerous international economic and financial organizations, the European Union, the International Monetary Fund, the World Bank Group, the General Agreement on Tariffs and Trade / World Trade Organization and the Organization for Economic Cooperation and Development exert the greatest influence on the shape of Polish economic policy.

The main statutory goal of the International Monetary Fund, of which Poland has been a member since 1986, is the supervision of compliance with certain rules of conduct in the countries belonging to the organization, concerning, mainly monetary policy, international payments and currency convertibility. This function is treated as an instrument of promoting economic policy leading to sustainable economic growth. The IMF's practical contribution to the economic policy coordination process lies both in its global perspective, which helps to examine the interactions of policies internationally, and in the development of key economic indicators and alternative medium-term economic scenarios.

WTO members also have to conform to a certain extent their trade policy with the rules adopted by the organization. This also applies to Poland, which has been a member of the GATT since 1967, and the WTO since July 1, 1995. However, these limitations offer some tangible benefits. First of all, they make access to foreign markets more secure and reduce the risk of concluding commercial transactions. The system of multilateral, uniform standards facilitate the development of trade to a greater extent than bilateral agreements with various scope of concessions and obligations. Of course, it should be remembered that Poland's trade policy is primarily subordinated to the common trade policy of the EU.

The OECD also deals with the analysis of the interdependence between international trade on the one hand and environmental protection, investment, competition, employment, wage and transfer policies on the other, and tries to develop "rules of the game" in international economic relations. Poland was officially admitted to the OECD in 1996. After the Czech Republic and Hungary, it was the third CEE country in this organization. The conditions for accepting the countries of this region included the requirement to transform the centrally planned economy into a market economy with a predominance of private property, with legal and economic institutions that favor competition and liberalize trade in factors of production and foreign trade. Poland's admission to the OECD was a signal that the Polish economy became more stable and credible, which indirectly contributed to the stimulation of foreign investments in Poland, easier access to loans, and wider opening of OECD countries' markets to Polish products.

The analysis shows that political factors may contain weaknesses in general positive trends. As for Belarus the positive points, definitely, include a decrease in the level of corruption expectations on the part of experts and business. However, despite the obvious progress, the situation in the country continues to be difficult.

A similar situation is observed with the participation of Belarus in international and regional organizations and associations. Being a member of many of them, the country, however, has not completed the process of accession to the WTO, the main regulator of international trade relations. It is obvious that this fact does not play in favor of the Republic of Belarus when investors make decisions.

2.2. Legal System

Clear regulations of economic activity are essential for common collaboration between the government and the private sector. There must be a level playing field and platforms for beneficial negotiation between government and private companies. Enterprises do not arise and do not develop where the government does not guarantee market participants basic "public goods" – such as clear legal regulations, which are implemented by honest and well-educated judges, and a transparent public procurement system. At the same time, trust cannot be built without adequate instruments to fight against corruption, *i.e.*, various abuses by public officials for private gain. In short, investments need an effective legal system.

Supremacy of Law

The supremacy of law is the basic principle of international law and national constitutions that modern democracies governed by. Article 7 of the Constitution of the Republic of Belarus establishes the principle of the rule of law, according to which the state, all its bodies and officials are obliged to act within the framework of the Constitution of the Republic of Belarus and legislative acts adopted in accordance with it (Constitution 2004).

However, in the course of investigating the nature of state policy in Belarus, it was revealed that, in fact, a personalistic autocracy operates in the country (Democracy Index 2021 = 2.59). We observe a situation where the European state is inferior in democracy to Sudan and not much ahead of Iran. As international practice shows, under this regime the rule of law rarely prevails. It is interpreted, amended, and bent in ways that benefit the incumbent ruler.

The World Justice Project Rule of Law Index is the world's leading source for original, independent data on the rule of law. Covering 128 countries and jurisdictions, the Index relies on national surveys of more than 130,000 households and 4,000 legal practitioners and experts to measure how the rule of law is experienced and perceived worldwide. Since the World Justice Project (WJP) began measuring the rule of law in the country, Belarus has slipped in its global rankings, from 50th place out of 102 countries in 2016 to 97th place out of 139 countries in 2021. On both global and regional scales, it ranks very low on such elements as constraints on government powers (136/139), open government (130/139), and fundamental rights (116/139). Corresponding to WJP's survey-based data, Belarus rates particularly poorly for respect for lawful transition of power, civic participation, freedom of expression, and respect for due process (The World Justice Project).

Although Belarus has approved and formally applied most of the key universal human rights mechanisms, including the International Covenant on Civil and Political Rights, the human rights violations committed before,

during, and after the presidential election 2020 are exceptional in their scale (Status of ratification). Most non-governmental experts, both in the international and Belarusian independent media, characterize the current state of the law system in the country as a "legal default". We can conclude that, despite the ratification of most of the key universal human rights instruments, as well as the principle of the rule of law enshrined in national legal acts, neither one nor the other is being implemented in practice.

Existence of Legal Platform for Investment Activities/Availability of Investment Guarantee and Protection Mechanisms

On the territory of the Republic of Belarus, investment activity is regulated by the norms of national and international legislation. The priority of generally recognized principles of international law is recognized. The Law of the Republic of Belarus "On Investments" establishes the legal basis and the main principles of investment in the territory of Belarus. It is aimed at attracting investment in the country's economy, ensuring guarantees, rights and legitimate interests of investors, as well as their equal protection. In accordance with article 5 of the law, investment activity in the country is based on the following principles:

- *rule of law – investors*, as well as the state, its bodies and officials, act within the frames of the Constitution of the Republic of Belarus and the legislative acts of the Republic of Belarus adopted in accordance with it;
- *investors equality* – investors are equal before the law and enjoy their rights without discrimination;
- *integrity and reasonableness of the investments* – investors make investments in good faith and reasonably without causing harm to another person, the environment, historical and cultural values, infringement of the rights and legally protected interests of others or abuse of rights in other forms;
- *principle of non-arbitrary interference in private affairs* – interference in private affairs is not allowed, except in cases when such interference is carried out on the basis of legislative acts of the Republic of Belarus in the interests of national security, public order, protection of morals, public health, rights and freedoms of other persons;
- *principle of ensuring the restoration of violated rights and legitimate interests, their judicial protection* – investors are guaranteed the protection of their rights and legitimate interests in court and in other ways provided for by the legislation of the Republic of Belarus, including international treaties of the Republic of Belarus (Law of the Republic 2013).

Also, the legislation guarantees a foreign investor the opportunity to transfer outside the Republic of Belarus profits (incomes) and other lawfully received funds related to the implementation of investments, after paying taxes, dues (duties) and other mandatory payments established by the legislation of the Republic of Belarus.

An additional method of state support and regulation of investment activities is an investment agreement. This tool allows the investor to establish additional guarantees for the protection of his capital and at the same time receive preferential conditions and preferences for the implementation of an investment project, including those not established by legislative acts.

Speaking of international legal acts, it is necessary to highlight the country's membership in the Multilateral Investment Guarantee Agency (MIGA), which allows investors to insure implemented projects against political and non-commercial risks. In addition, the Republic of Belarus has signed agreements on the promotion and mutual protection of investments with 66 countries, including the United States, 20 countries of the European Union, among them the Republic of Poland. These agreements provide for guarantees of national treatment, most-favored-nation treatment, expropriation and compensation, and other guarantees for foreign capital.

The analysis shows that the Republic of Belarus has done significant work to create a solid legal framework for investment activities. The main law enshrines the right of investors to access dispute settlement mechanisms, both at the national and international levels. However, despite this, capital owners should take into account the peculiarities of the modern Belarusian legal system and the high probability of interference from the state, to which this system is completely subordinate.

Poland also has a non-discriminatory legal system accessible to foreign investors that protects and facilitates the acquisition and disposal of all property rights, including land, buildings and mortgages. However, foreigners (both individual and institutional) must get a permit to acquire property. Many investors, both foreign and domestic, criticize that the judiciary is slow to rule on property rights matters. According to the Polish Civil Code, the real estate purchase contract must be concluded in the form of a notarial deed. Foreign companies and individuals can rent real estate in Poland without the need to obtain a permit (Investor's guide – Poland 2017).

Stability of legislative structure

The key to the sustainable development of the state and the maintenance of a favorable investment climate is the existence of a stable legal system that allows businesses to function effectively for the longest possible time under the same legal conditions. Potential investors highly appreciate the opportunity to carry out entrepreneurial activities in conditions of stable legislation.

Legislative power in the Republic of Belarus is exercised by a bicameral Parliament: the lower house – the House of Representatives; the upper – the Council of the Republic. The right of legislative initiative belongs to the President, deputies of the House of Representatives, the Council of the Republic, the Government, as well as citizens with the right to vote, in the number of at least 50 thousand people and is implemented in the House of Representatives (President of the Republic of Belarus Official portal).

Since 1998, Belarus has introduced annual planning for the preparation of draft laws, which acts as a deterrent for spontaneous, non-systemic adoption of legislative acts. Annual preparation plans are developed by the National Centre of Legislation and Legal Research (NCLLR) on the basis of proposals received from various structures and departments. Further, they are evaluated for compliance with real socio-economic and public needs. In the case of success, NCLLR submits them in accordance with the established procedure for the approval of the President of the Republic of Belarus (Stability of legislation 2012).

In an interview with BELTA, the director of NCLLR, V. D. Ipatov, noted that the requirement for the stability of the legal system does not meet the numerous amendments introduces to legislative acts within a fairly short period of time, despite the restrictions set out in the law on making changes to a regulatory legal act earlier than a year after its adoption. One of the reasons for this situation can be called the acceleration of the rhythm of social and economic life in the world, which imposes qualitatively new requirements for lawmaking. This is also influenced by objective reasons related to the need to bring legislation in line with newly adopted acts of greater legal force and international treaties in order to remove contradictions and ensure consistency.

The sphere of lawmaking in the country has entered a new stage of its development with the entry into force of the Law of the Republic of Belarus “On Normative Legal Acts” on February 1, 2019.

The law provides for measures aimed at solving the most important tasks, such as: maintaining the stability of the legal regulation of public relations, ensuring its consistency and complexity, as well as the compactness of national legislation. This should be facilitated by optimizing the rule-making process at all stages of its implementation: from the planning of rule-making activities to the official publication and entry into force of a normative legal act. This means that proposals for adjusting regulatory legal acts should be accumulated and combined within the framework of complex changes (Law of the Republic 2018). Thus, both the number of the normative legal acts themselves and the cases of their amendment are significantly reduced.

It should be recognized that much has been done in the Republic of Belarus to ensure the stability of the legislation. However, it cannot be said that this problem has been solved. As proof of this, we can cite a number of significant changes introduced at the beginning of 2021 to tax, administrative and other regulatory acts initiated by the state and which came as a surprise to the general public.

Independent, Impartial and Efficient National Justice System

An effective and independent justice system is a key aspect of the rule of law. Officially, judicial power in the Republic of Belarus belongs only to courts formed in accordance with the established procedure, and is exercised independently of the legislative and executive powers.

The judicial system in the Republic of Belarus is determined by the Law of the Republic of Belarus of January 8, 2014 “On Constitutional court proceedings» and The Code of the Republic of Belarus on the Judicial System and the Status of Judges (Code of the Republic 2006). The right to apply for judicial protection is guaranteed by “article 60 of the Constitution of the Republic of Belarus, according to which everyone is guaranteed the protection of his rights and freedoms” by a competent, independent and impartial court within the time limits set by law (Constitution 2004). The World Justice Project (WJP) experts assess civil and criminal justice systems as part of the preparation of the Rule of Law Index report. Among other issues they consider an improper government influence. It measures whether the justice system is independent from government or political influence (Table 1).

Table 1. Dynamics of comparative indicators of the independence of the judicial system of the Republic of Belarus

| Indicators | 2016 | | 2017-2018 | | 2019 | | 2020 | | 2021 | |
|-------------------------------|-------|--------|-----------|---------|-------|---------|-------|---------|-------|---------|
| | Value | Place | Value | Place | Value | Place | Value | Place | Value | Place |
| Civil Justice | | | | | | | | | | |
| Overall rating | 0,65 | 30/113 | 0,59 | 39/113 | 0,6 | 43/126 | 0,6 | 44/128 | 0,57 | 52/139 |
| Improper government influence | 0,34 | 93/113 | 0,28 | 102/113 | 0,28 | 114/126 | 0,27 | 115/128 | 0,21 | 133/139 |
| Criminal Justice | | | | | | | | | | |
| Overall rating | 0,51 | 49/113 | 0,5 | 51/113 | 0,48 | 54/126 | 0,47 | 55/128 | 0,43 | 74/139 |
| Improper government influence | 0,28 | 84/113 | 0,1 | 110/113 | 0,15 | 117/126 | 0,13 | 123/128 | 0,07 | 136/139 |

Source: Prepared by the author based on The World Justice Project (2021)

The data given in Table 2 indicate that the judicial system of the Republic of Belarus is under significant influence of the state. Herewith, the positions of Belarus in the world ranking have significantly deteriorated recently. It should also be noted that in terms of improper government influence, the country has the lowest rating among all the examined components. In this situation, ones cannot talk about o impartial and efficient national justice system. Despite the very low assessment of the independence of the judicial system of the Republic of Belarus by the WJP experts, there is every reason to assume that the current political and legal crisis will only worsen the situation. Similar drops in the independence of the judicial system took place in Poland (Table 2).

Table 2. Dynamics of comparative indicators of the independence of the judicial system of Poland

| Indicators | 2016 | | 2017-2018 | | 2019 | | 2020 | | 2021 | |
|-------------------------------|-------|--------|-----------|--------|-------|--------|-------|--------|-------|--------|
| | Value | Place | Value | Place | Value | Place | Value | Place | Value | Place |
| Civil Justice | | | | | | | | | | |
| Overall rating | 0,66 | 27/113 | 0,64 | 30/113 | 0,64 | 31/126 | 0,63 | 34/128 | 0,61 | 44/139 |
| Improper government influence | 0,70 | 32/113 | 0,59 | 46/113 | 0,50 | 58/126 | 0,48 | 69/128 | 0,47 | 74/139 |
| Criminal Justice | | | | | | | | | | |
| Overall rating | 0,69 | 20/113 | 0,62 | 26/113 | 0,61 | 25/126 | 0,60 | 26/128 | 0,58 | 34/139 |
| Improper government influence | 0,80 | 20/113 | 0,59 | 47/113 | 0,50 | 58/126 | 0,44 | 62/128 | 0,45 | 66/139 |

Source: Prepared by the author based on The World Justice Project (2021)

According to the WJP Rule of Law Index, Poland declined in overall rule of law performance in examined period, continuing a negative slide toward weakening rule of law. The highest levels of decline over the examined years were seen in the areas of constraints on government powers. It should be also noted, that similar situation took place in civil justice as well as criminal justice.

Protection of Property and Land Rights

In accordance with the legislation of the Republic of Belarus, the right of ownership refers to property rights. This is a set of legal norms that fix the fact that a particular thing belongs to an individual or legal entity.

Constitutional law establishes the general provisions of property relations, proclaims their defense and protection by the state. Article 44 of the Constitution of the Republic of Belarus guarantees everyone the right to property and its inviolability (Constitution 2004). Without the guarantees of inviolability and protection of property rights established by law, the very existence and proclamation of them would be insignificant. Property rights, which have a key position in the civil law system, are most fully protected by the norms of legislation.

The protection and defense of property rights is regulated by civil, administrative, land, marriage and family law and other branches of law, in ways inherent in each of them. Protection of property relations is carried out by civil law by establishing the grounds for the emergence and termination of such relations, their regulation in a normal state by the entire system of norms of this branch of law. In case of violation of the rights arising from such relations, the norms of civil law provide for civil law methods of their protection.

Land law is a part of the legal system of the Republic of Belarus and is closely interrelated with other branches of law. Land matters in the country are regulated by the Constitution of the Republic of Belarus, acts of the President of the Republic of Belarus, the Land Code of the Republic of Belarus, as well as other acts of

legislation adopted in accordance with them. Article 2 of the Land Code says that the norms of civil and other legislation regulating land relations apply to these relations, unless otherwise provided by legislation on the protection and use of land. If an international treaty of the Republic of Belarus establishes rules other than those contained in the Code, then the rules of the international treaty are applied (Land Code 2012).

The enumeration of normative acts regulating property rights and land rights and ensuring their protection in the Republic of Belarus is very wide and covers most areas of possible contradictions between business entities. This legislative platform is an indicator of the availability of certain guarantees for the owners of capital. However, given the specifics of the current legal system in the country, when taking investment decisions, it makes sense to conduct a more detailed expert assessment of the situation.

In turn, "with accordance to the Economic Freedom Act of July 2, 2004 foreign persons (natural and legal) from the European Union and Member States of the European Free Trade Association belonging to the European Economic Area, as well as those from states not belonging to the European Economic Area, but who are entitled to establish and conduct business under treaties signed by these states with the European Union and its Member States, may establish and conduct business in Poland under the same rules as those applying to Polish citizens. Foreign persons not listed above may establish and conduct business only in the form of a limited partnership, limited joint stock partnership, limited liability company and joint stock company" (Real Estate Law in Poland 2015).

Intellectual Property Rights

Legislation in the field of intellectual property in the Republic of Belarus is a multi-level system based on the norms of the Civil Code and laws on the legal protection of intellectual property objects. This system provides for two main types of intellectual property objects: objects of copyright and related rights and objects of industrial property. The legislation of the Republic of Belarus in the field of industrial property regulates relations arising in connection with the creation and use of industrial property objects, which include inventions, utility models, industrial designs, selection achievements (plant varieties and animal breeds), production secrets (know-how), trademarks and service marks *etc.* Relations arising in connection with the creation and use of works of science, literature and art (objects of copyright), as well as performances, phonograms, productions, broadcasts (objects of related rights) are regulated by the legislation of the Republic of Belarus in the field of copyright and related rights (Protection and management of intellectual property).

In accordance with the legal norms, the protection of intellectual property rights can be carried out in court; law enforcement authorities; customs; the Ministry of Antimonopoly Regulation and Trade; the Appeal Council under the National Intellectual Property Center. The initiative in this area lies with the rights holder. State bodies in rare cases carry out independent actions. The protection of intellectual property objects without the initiative of the owner occurs only when violations may threaten the life or health of citizens, for example, counterfeit alcohol or medicines. In all other cases, the protection must be initiated by the rights holder himself.

The Republic of Belarus actively participates in international cooperation and, within the framework of fulfilling its obligations arising from the relevant international agreements, ensures the implementation of international standards in the field of intellectual property. The country is a party to international treaties operating under the auspices of the World Intellectual Property Organization, as well as a member of the Eurasian Patent Organization (EAPO). As a negative point in the development of this branch of law, we should mention the fact that Belarus is not a member of the World Trade Organization, and therefore is not bound by the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

The above facts indicate that the system for the protection of intellectual property rights has been formed and is functioning in the Republic of Belarus. However, despite all the achievements, it is necessary to further harmonize national legislation in accordance with generally recognized international standards.

"Intellectual Property Rights are protected in Poland under the Act on Industrial Property Rights and the Act on Copyrights and related Rights. The office responsible for examining and registering applications in Poland is the Patent Office of the Republic of Poland. Protection granted by the European Patent Office based in Munich also extends to Poland. In turn, the protection of trademarks and industrial designs in European countries is granted by the European Union Intellectual Property Office" (Intellectual Property Protection in Poland 2011).

The research shows that the legal system of the Republic of Belarus has many positive aspects, in particular, in the development of a legislative platform for investment activities, protection of property and intellectual rights. At the same time, non-compliance with the fundamental principles of the rule of law and the independence of the judicial system casts great doubt on the possibility of the practical realization of the rights enshrined in normative acts.

Conclusion

The nature of Belarusian-Polish relations is significantly influenced by the political situation in Belarus and the authoritarian way of appeasing power by the president of this country. Without fundamental changes in the internal situation in Belarus, it is difficult to expect spectacular breakthroughs and changes in economic relations between Belarus and Poland. It seems that it would be also advisable to devote more attention to Belarus in Polish foreign policy than before. In a situation where political relations between Poland and Belarus at the inter-state level, for many years now it has been called stagnation, the areas on which efforts to intensify mutual cooperation should be focused are the economic, cultural, scientific and social spheres. Examples of positive actions taken by Poland towards Belarus include providing Belarusians with the widest possible access to information by supporting the media independent of the Belarusian authorities, offering assistance to victims of political repression, financial support and strengthening the security of Belarusian opponents, and granting various types of scholarships Belarusian students and scientists, or the facilitation of visa procedures.

References

- [1] Jaworsky, J. 1995. *Ukraine: Stability and Instability*, McNair Paper 42.
- [2] Radu, M. 2015. Political stability – a condition for sustainable growth in Romania? *Procedia Economics and Finance*, 30: 751-757. DOI:[10.1016/S2212-5671\(15\)01324-6](https://doi.org/10.1016/S2212-5671(15)01324-6)
- *** Cambridge Dictionary: Stability 2021. <https://dictionary.cambridge.org/> (accessed February 2, 2021)
- *** Code of the Republic of Belarus on the Judicial System and the Status of Judges 2006. <https://pravo.by/> (accessed February 16, 2022)
- *** Constitution of the Republic of Belarus 2004. <https://pravo.by/> (accessed February 14, 2022).
- *** Corruption perceptions index 2021. <https://www.transparency.org/en/cpi/> (accessed June 3, 2022).
- *** Democracy Countries 2022. World Population Review. <https://worldpopulationreview.com/country-rankings/democracy-countries> (accessed June 2, 2022)
- *** Intellectual Property Protection in Poland. 2011. The General Overview, Salans IP Lawyers, Warsaw, <https://www.paih.gov.pl> (accessed March 2, 2021)
- *** Investor's guide – Poland. 2017. How to do business, PAIH, Warsaw, PAIH | How to do business in Poland. https://www.paih.gov.pl/publications/how_to_do_business_in_Poland (accessed March 18, 2021)
- *** Land Code of the Republic of Belarus 2012. <http://www.economy.gov.by> (accessed March 3, 2022)
- *** Law of the Republic of Belarus "On Investments" 2013. <https://pravo.by/> (accessed June 25, 2021)
- *** Law of the Republic of Belarus "On Normative Legal Acts" 2018. <https://pravo.by/> (accessed June 2, 2021)
- *** Ministry of Foreign Affairs of the Republic of Belarus 2022. <https://mfa.gov.by/en/> (accessed March 25, 2021)
- *** Political stability – Country rankings 2022. https://www.theglobaleconomy.com/rankings/wb_political_stability/ (accessed June 2, 2022)
- *** President of the Republic of Belarus Official portal 2021. <https://president.gov.by/en> (accessed March 25, 2021)
- *** Protection and management of intellectual property 2021. <https://nasb.gov.by/> (accessed March 3, 2022)
- *** Real Estate Law in Poland for Foreign Investors 2015. Żyglicka i Wspólnicy, Warsaw, October. <https://www.kpr.pl> (accessed March 18, 2021)
- *** Stability of legislation is the key to successful development of society 2012. BelTA. <https://www.belta.by/> (accessed February 26, 2021)
- *** Status of ratification of universal human rights treaties per country 2021. <https://indicators.ohchr.org/> (accessed June 2, 2022)
- *** The World Justice Project Rule of Law Index 2021. <https://worldjusticeproject.org/sites/default/files/documents/WJP-INDEX-21.pdf> (accessed June 2, 2022)