

IMPROVING REGULATION TO REDUCE CORRUPTION: THE ROLE OF THE RUSSIAN BUSINESS COMMUNITY



Moscow, Russia
September 24, 2010

EXECUTIVE SUMMARY

This document represents the results of a twelve-month project carried out by the Saratov Chamber of Commerce and Industry, in partnership with chambers of commerce and industry in seven Russian regions: Astrakhan, Volgograd, Kirov, Smolensk, Perm, Khabarovsk, and the city of Novorossiysk. This project was funded under the “Small and Medium-Sized Enterprise Policy Advocacy” program, implemented by the Center for International Private Enterprise (CIPE), supported by the U.S. Agency for International Development (USAID).

The goal of this project is to reduce corruption by improving regulations, and the implementation of laws, governing the provision of government and municipal services to businesses. The participating chambers conducted research to identify legal contradictions, loopholes and gaps, excessive bureaucratic discretion, and other problem areas in existing laws shaping the relationship between the state and entrepreneurs. As a result of this research, these chambers drafted specific recommendations to reform relevant laws.

The authors of this report recognize that corruption is an institutional problem. Thus, efforts to reduce corruption must focus on eliminating its institutional sources, by improving the regulations that govern business.

With the passage of various anti-corruption laws and increased efforts to improve the implementation of legislation, laws governing the provision of state services for business have become an important part of the Russian regulatory framework.

It is clear that businesses can operate profitably only if such services are provided effectively. Government agencies can provide services effectively when they operate under clear deadlines for making decisions, have a complete list of the documents required to obtain services, have clear criteria for denying requests, and so on. When government agencies fail to provide services effectively, legal mechanisms regulating interactions between the state and business are replaced by informal relationships, which leads to corruption, making business less profitable.

The following materials include summaries of:

1. A methodology to monitor the effectiveness of regulations and implementation of laws governing the provision of services to business. This methodology is a clear and simple tool that chambers of commerce, business associations, and other business-support organizations can use to improve the business climate, streamline regulations, improve the implementation of laws, and reduce corruption.
2. The results of a survey of over 450 business and legal experts from eight Russian regions regarding implementation of laws and corruption.
3. Specific recommendations, drafted by business leaders in eight regions, on improving laws governing state and municipal services for business. These recommendations can help the private sector and government agencies work together to implement concrete reforms in those regions. More importantly, these recommendations can serve as a model for how this anti-corruption approach can be expanded across the country. Sample flow charts, detailing various steps that entrepreneurs must take to receive particular services in the eight regions covered in this project, along with specific, concrete recommendations, are provided in a separate publication.

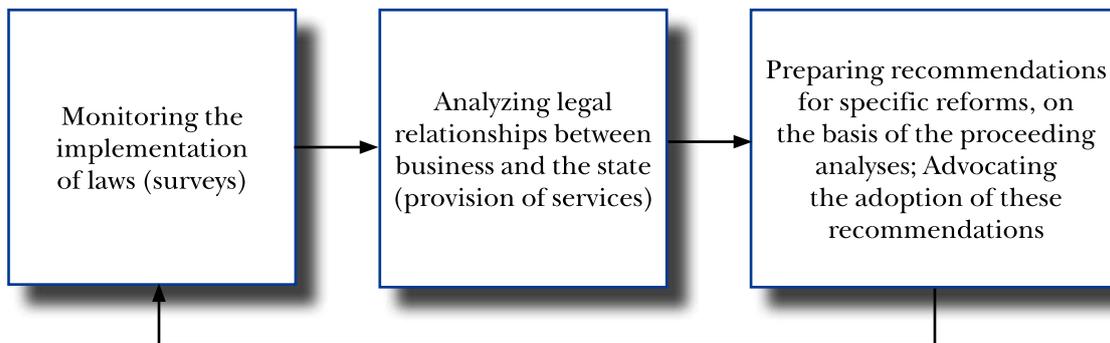
Overall Recommendations to Improve the Regulatory Framework:

1. Enact a Russian Federation Law on Administrative Regulation.
2. Adopt regulations requiring the maintenance of a single registry of state and municipal services.
3. Conduct annual monitoring of the effectiveness of laws regulating state and municipal services.
4. Government agencies and local governments should use the methodology developed under this project to analyze administrative regulations pertaining to business activity.
5. The Ministry of Justice should use the methodology developed under this project to monitor regional and local implementation of laws pertaining to business activity.
6. Incorporate the concept of “transparency of government agencies and local governments” into relevant Russian legislation.
7. Establish a procedure for legislative bodies to review regulations issued by agencies of the executive branch in order better to implement enacted laws.
8. Involve the academic community more actively in drafting regulations at the federal and regional levels.

METHODOLOGY

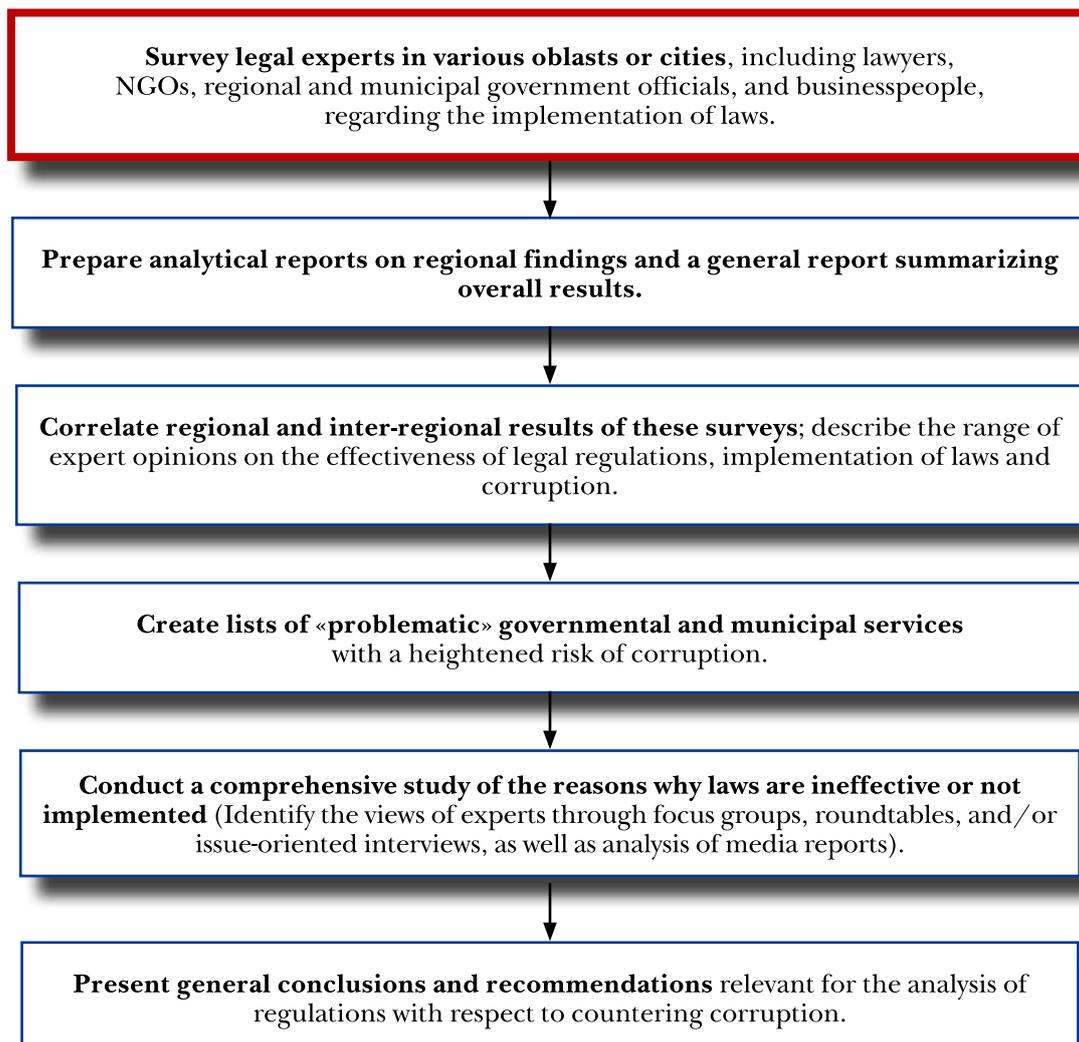
This methodology does not address individual problems in isolation. Rather, it is a comprehensive approach to improving business regulations. It entails an ongoing process of monitoring the quality of laws, analyzing relationships between business and the state, and developing recommendations to eliminate the root causes of corruption.

The methodology consists of three phases, where the final step generates recommendations, implementation of which can then, in turn, be monitored as follows:

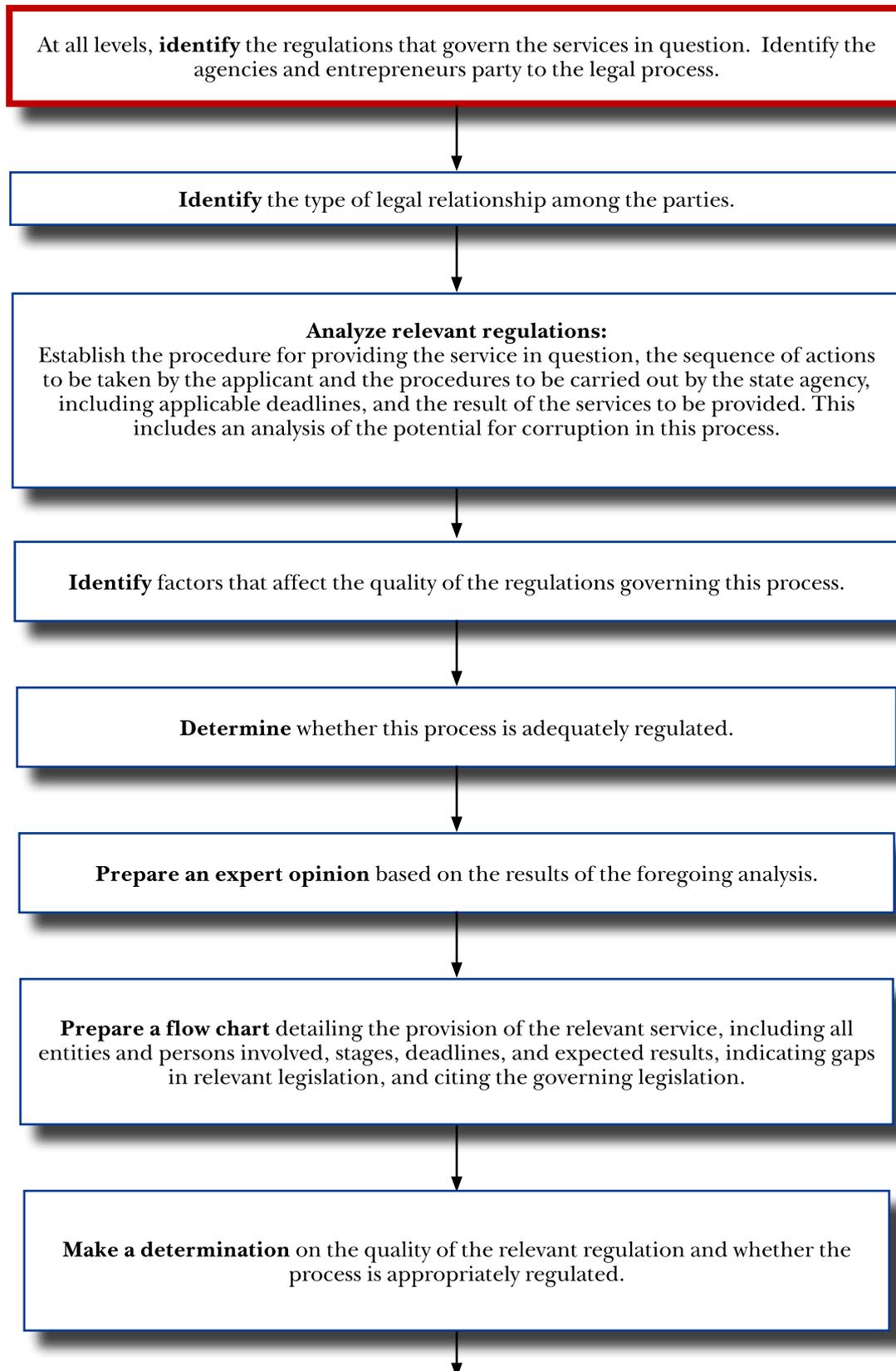


The specific steps can be summarized as follows:

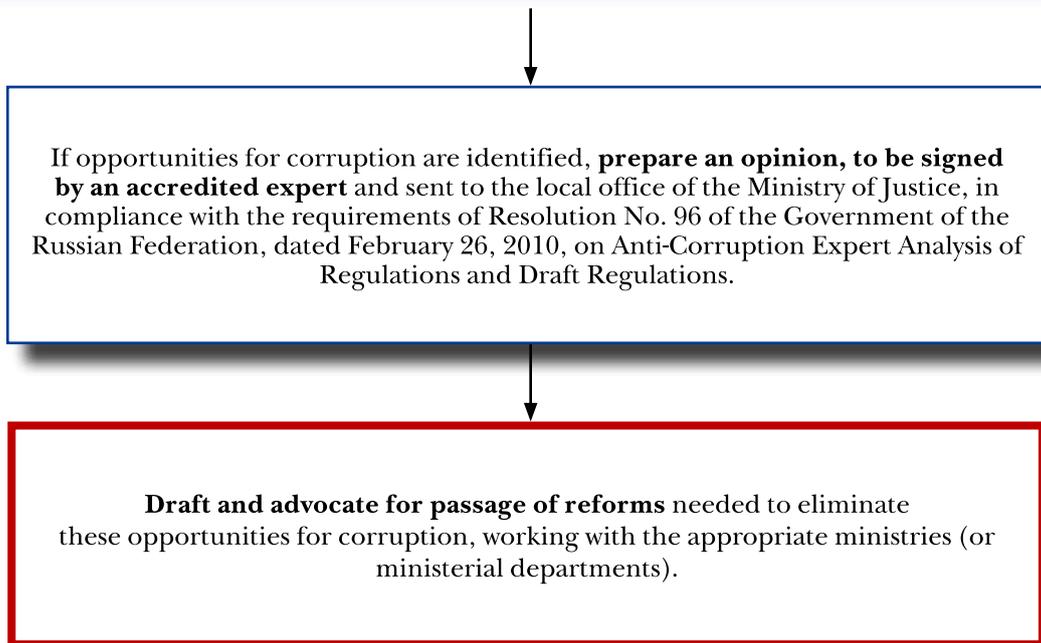
Monitoring Phase



Analyzing Legal Relationships (Provision of Services)



METHODOLOGY



Over 450 practicing attorneys and government agency officials in eight Russian regions were surveyed regarding the effectiveness of the relationship between the state and business, with respect to the provision of government services for business. The following diagrams and tables record their responses, as a percentage of the total surveyed.

These experts were asked their opinions on the following elements that characterize the effectiveness of government and municipal services:

Quality of legal regulation – Assessment of whether the regulations comply with legal drafting standards and meet other quality criteria established by this methodology, and affecting the ability of applicants to exercise their rights in the process of obtaining governmental or municipal services.

Time of performance – Assessment of whether the time allowed for governmental or municipal agencies to perform their functions and services is reasonably sufficient or excessively long.

Optimal procedure – Assessment of whether the complexity of the procedures for governmental functions and/or services is justified or excessive.

Effectiveness of regulation governing services – This is a qualitative factor, defining the extent to which existing regulations allow the applicant to achieve the result expected.

Effectiveness of implementation of laws governing services – Qualitative factor, assessing the process by which the applicant exercises his or her rights, based on the extent to which the service provided meets the applicant's expectations.

Level of corruption – Extent to which government officials use their positions to benefit unlawfully in the provision of services or performing their duties.

This study revealed general patterns found at the federal, regional, and municipal levels:

1. The effectiveness of legal regulation is inversely proportional to the level of corruption.
2. The effectiveness of implementation of laws is inversely proportional to the level of corruption.
3. In terms of effectiveness, implementation of laws lags behind legal regulation.
4. When the effectiveness of regulations governing provision various services is held constant, the level of corruption is higher when the effectiveness of implementation of the relevant laws is lower.

SURVEY RESULTS

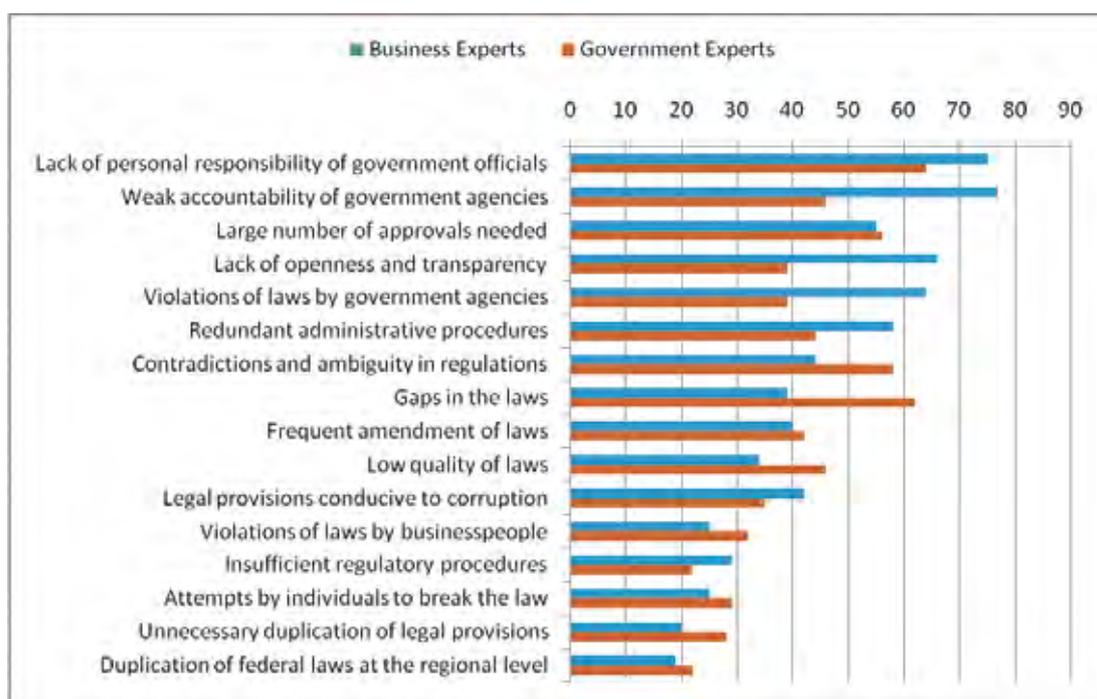
Which laws and regulations do you consider effective?



		Business experts	Government experts	Average %
1	Federal legislation	67	71	69
2	Regional legislation of your region	57	63	60
3	Regional administrative regulations governing government services	54	60	57
4	Laws governing municipal functions and services	48	57	52
5	Federal Law on Counteracting Corruption, dated December 27, 2008, No. 273-FZ	48	55	51
6	Regional law on counteracting corruption	40	49	44
7	Regional targeted program to counteract corruption	40	49	44
8	Anti-corruption programs of regional executive branch agencies	36	45	40

What are the main reasons why state and municipal services in your region are ineffective?

These diagrams and tables show responses as a percentage of the total number of persons surveyed

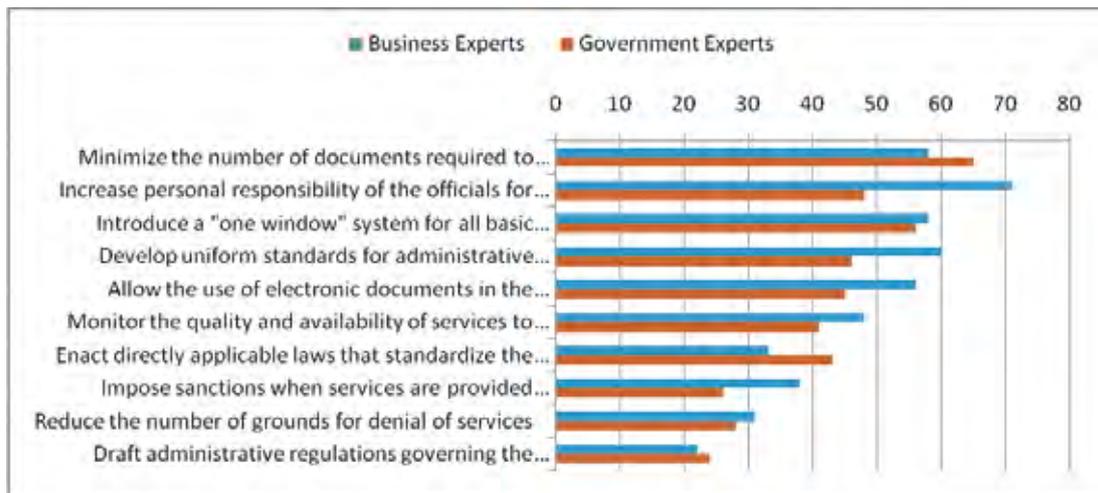


		Business experts	Government experts	Avg. %
1	Lack of personal responsibility of government officials	75	64	69
2	Weak accountability of government agencies	77	46	63
3	Large number of approvals needed	55	56	55
4	Lack of openness and transparency	66	39	54
5	Violations of laws by government agencies	64	39	53
6	Redundant administrative procedures	58	44	52
7	Contradictions and ambiguity in regulations	44	58	51
8	Gaps in the laws	39	62	50
9	Frequent amendment of laws	40	42	41
10	Low quality of laws	34	46	40
11	Legal provisions conducive to corruption	42	35	40
12	Violations of laws by businesspeople	25	32	29
13	Insufficient regulatory procedures	29	22	26
14	Attempts by individuals to break the law	25	29	27
15	Unnecessary duplication of legal provisions	20	28	23
16	Duplication of federal laws at the regional level	19	22	19

SURVEY RESULTS

How can the effectiveness of government and municipal services be improved?

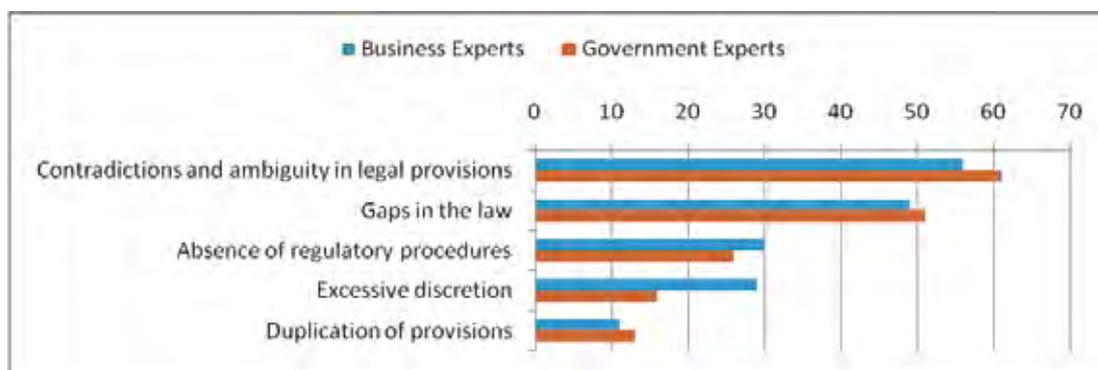
These diagrams and tables show responses as a percentage of the total number of persons surveyed



		Business experts	Government experts	Avg. %
1	Minimize the number of documents required to obtain services	58	65	61
2	Enhance the personal responsibility of officials for compliance with regulations	71	48	59
3	Introduce a "one window" system for all basic services	58	56	57
4	Develop uniform standards for administrative regulations governing the provision of services	60	46	53
5	Allow the use of electronic documents in the provision of services	56	45	50
6	Monitor the quality and availability of services to businesspeople and individuals	48	41	44
7	Enact directly applicable laws that standardize the application of regional rules	33	43	38
8	Impose sanctions when services are provided without regulations or fail to meet quality standards	38	26	32
9	Reduce the number of grounds for denial of services	31	28	29
10	Draft administrative regulations governing the provision of services by all government agencies	22	24	23

What problems with existing laws do you encounter most frequently?

These diagrams and tables show responses as a percentage of the total number of persons surveyed

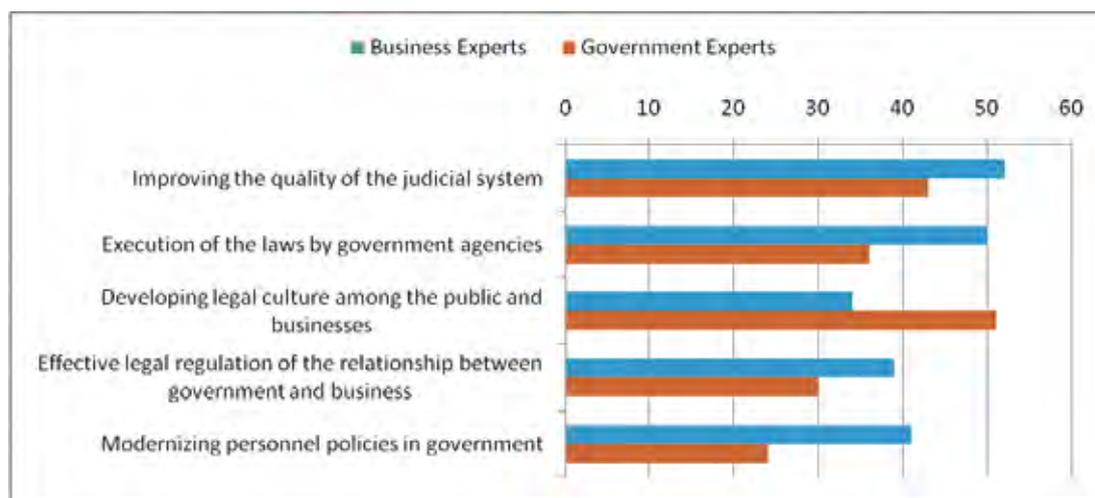


		Business experts	Government experts	Avg. %
1	Contradictions and ambiguity in legal provisions	56	61	58
2	Gaps in the law	49	51	50
3	Absence of regulatory procedures	30	26	28
4	Excessive discretion	29	16	23
5	Duplication of provisions	11	13	12

SURVEY RESULTS

What is the most important way to improve the relationship between business and government?

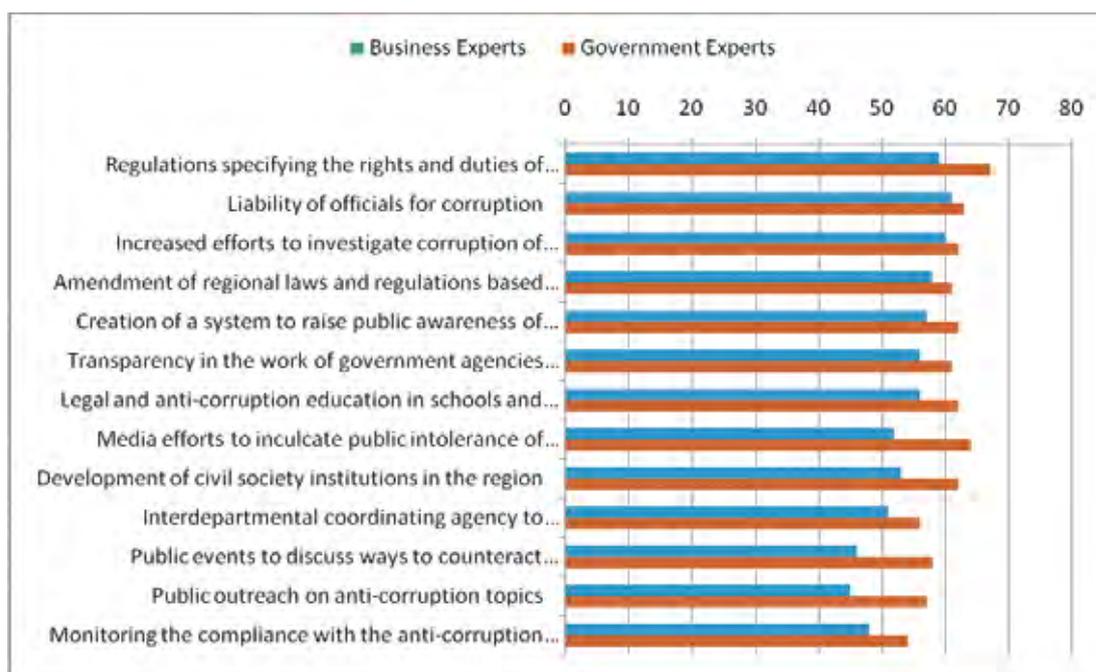
These diagrams and tables show responses as a percentage of the total number of persons surveyed



		Business experts	Government experts	Avg. %
1	Improving the quality of the judicial system	52	43	47
2	Execution of laws by government agencies	50	36	43
3	Developing the legal culture among the public and business	34	51	42
4	Effective legal regulation of the relationship between government and business	39	30	34
5	Modernizing personnel policies in government	41	24	32

What measures would counteract corruption effectively?

These diagrams and tables show responses as a percentage of the total number of persons surveyed



		Business experts	Government experts	Avg. %
1	Regulations specifying the rights and duties of officials	59	67	63
2	Liability of officials for corruption	61	63	62
3	Increased efforts to investigate corruption of government officials	60	62	61
4	Amendment of regional laws and regulations based on anti-corruption analysis	58	61	59
5	Creation of a system to raise public awareness of the law and enhance a "legal" culture	57	62	59
6	Transparency in the work of government agencies and officials	56	61	58
7	Legal and anti-corruption education in schools and universities	56	62	58
8	Media efforts to encourage public intolerance of corruption	52	64	57
9	Development of regional civil society institutions	53	62	57
10	Interdepartmental coordinating agency to counteract corruption in the region	51	56	53
11	Public events to discuss ways to counteract corruption	46	58	51
12	Public outreach on anti-corruption topics	45	57	50
13	Monitoring compliance with anti-corruption laws	48	54	50

