

New Framework toward Normalisation of Relations between the European Union and Belarus

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Introduction

On 13 October 2008, the Council of the European Union suspended for six months its visa sanctions against almost all senior Belarusian officials, including President Aliaksandr Lukashenka. The list of high-ranking officials banned from entering the bloc was compiled in 2004-06 in response to election fraud and political repressions in the country. In fall 2008, the EU presented to the Belarusian government a list of measures to be taken in order to avoid the renewal of the sanctions. These measures were announced by Helga Schmid, Director of the Policy Unit of the EU Council, and Hugues Mingarelli, the European Commission's Deputy Director General for External Relations, during their respective visits to Minsk.

Brussels' decision to temporarily lift the sanctions has been made in somewhat contentious circumstances. On the one hand, the Belarusian government fulfilled several conditions set out by the EU, the most important of which being the release of political prisoners. On the other hand, the Council's conclusions were made in the immediate aftermath of the September 28 parliamentary election, which, despite some minor 'improvements', fell short of OSCE commitments for democratic elections.

Many analysts point out that the recent developments in EU-Belarus relations conform to a plan and strategy of the Belarusian government that would resist making considerable concessions. In their view, this has been the result of the absence on the side of the EU of concrete criteria for measuring progress in Belarus. An analysis of recent developments in the country's internal situation, nonetheless, suggests that there is genuine motivation on the part of the Belarusian government to record positive progress in its dialogue with the West. The EU should use this new motivation (which could be explained by the economic crisis and Russia's weakened economy – traditional market or Belarusian goods) to advance and deepen reforms by increasing its attention to Belarus.

At the same time the introduction of the Eastern Partnership (EaP) initiative by the European Commission has added a new political momentum for EU-Belarus relations. The EaP not only sets the stage for normalisation of the working-level contacts but also suggests the country's gradual inclusion into the European political and economic space. It is nonetheless clear that there is a need for a "bridging plan of action" which the EU could offer to Belarus before the latter meets the criteria required for its full participation in the EaP.

Plan of Actions: Possible Framework

The question of whether the current EU-Belarus dialogue must be regulated by a written document with concrete conditions or if it should be carried out in a consecutive manner, depending on the steps taken by each participant, has both practical and political components.

A plan of actions offered to Belarus could serve as a contract between the two sides with clearly defined commitments and obligations. In this case, the EU will require progress from the government of Belarus based on substantial and measurable criteria. At the same time, it takes up the responsibility to secure certain interests of the country and its population, as well as the ruling elites, and opens for Belarus the prospect of joining the all-European processes.

The strategic aim of the contract is to make Belarus part of European and regional processes and institutions and to render the democratisation process in the country irreversible. Thus, a plan of actions could serve as an instrument for (1) normalising the bilateral relations, (2) facilitating stabilisation of the social and economic situation in the country, and (3) speeding up the process of Belarus' re-integration into the European family of democratic nations.

In order to reach the above mentioned goals, the plan of actions put forward by the European Union should contain the following features:

- Include clearly defined short- and long-term components;
- Identify concrete criteria that needs to be respected by the Belarusian side in its endeavours to liberalise the political and social life in the country;
- Define the benefits that Belarus will receive for every EU demand that it complies with.

Short-term Plan of Action

With regard to a short-term agenda, a number of criteria have been developed to help define EU requirements for a six-month period. In light of these criteria, the EU, in our opinion, should require the Belarusian Government to demonstrate progress in the following areas:

1. Reform of Belarus' electoral legislation to:
 - a. Provide guaranteed representation of opposition members on election commissions at all levels;
 - b. Ensure the transparency and accountability of the vote count through guaranteed participation of independent observers in the vote counting process;
 - c. Reform the early voting procedure by introducing a mechanism that would make tampering with the ballot boxes impossible, thereby ensuring the integrity of the vote.
2. Providing equal rights to all media outlets by
 - a. Lifting a ban on dissemination of independent print media through state-owned distribution networks of "Sayuzdruk" (system of kiosks) and the Belarusian state postal service "Belposhta";
 - b. Simplifying the procedure for obtaining accreditation to all journalists, including official representatives of foreign media outlets;
 - c. Guaranteeing equal conditions for work, particularly in economic terms (i.e. cost of publishing, renting premises, distribution, etc) for both state and non-state print media;
 - d. Abolishing articles 367, 368, 369, 369-1 of the Criminal Code, which are often misused to persecute journalists for their professional activity.
3. Guaranteeing freedom of association and assembly by
 - a. Abolishing Article 193-1 of the Criminal Code providing for criminal responsibility for activity on behalf of unregistered public associations, political parties, religious organisations, and foundations;

- b. Improving the conditions for renting offices by public organisations, and liberalising the procedure of registering their addresses;¹
 - c. Removing legal and administrative barriers for humanitarian and educational contacts of Belarusian children and youth with the outside world.²
4. Guaranteeing political rights and freedoms by
- a. Discontinuing the practice of politically motivated dismissals from jobs and universities.
 - b. Stopping persecution for avoiding military service against students expelled from universities for their civic stance and thereby obliged to continue their studies abroad
5. Guaranteeing that Belarus remains a country without political prisoners.

In addition, the Belarusian government should consider to fulfil another EU key criterion for normalization, that is, to abolish death penalty or to introduce permanent moratorium on its application.

There is not much time left until April 2009 and, even with political will, the implementation of legislative changes may, for technical reasons, not be possible. Furthermore, if confronted with too many requirements, the Belarusian authorities may claim that the EU deliberately sets conditions that are impossible to fulfil. It would therefore be feasible to extend the short-term period and to suspend the visa ban for another six months, i.e. until October 2009. This time should be used by the Belarusian authorities to demonstrate substantial progress in the above-mentioned areas. This progress should be based on institutional reforms.

At the same time, the EU may make clear that the invitation to the Eastern Partnership forum in May is conditional upon the Belarusian government's immediate suspension of violence against participants of opposition protests and granting amnesty to participants of entrepreneurs protests who were issued compulsory labour sentences in May 2008.

In October 2009, the EU may announce a series of steps that would be a response to Belarus' fulfilment of the short-term conditions. Besides the lifting of the travel ban on a permanent basis, the EU could propose the following measures:

- a. initiating the process of Belarus' return to the Generalised System of Preferences
- b. guaranteeing the EU support for Belarus' accession to the World Trade Organisation
- c. reducing the cost of Schengen visas for the Belarusians to 35 Euros
- d. encouraging international financial institutions, where possible, to provide Belarus with financial aid
- e. encouraging EU individual member states to provide Belarus with credits to stabilise its economy
- f. Belarus should then be proposed a long-term plan of actions for the normalisation of Belarus-EU relations

Long-term Plan of Actions

Should Belarus fulfil the short-term conditions by October 2009, the EU could embark on the realisation of its own part of a short-term plan. If Belarus fulfils the requirements only partially, the EU could proceed with the implementation of some of the measures. For instance, the EU could address the question of visa fees and provide support to Belarus' accession to the WTO. Other points should remain on the list until Belarus fulfils all the short-term requirements.

¹ Abolishing the ban on the use of private apartments as the address for registration of non-profit associations; and reconsidering Presidential Decree No 533 of 23 October 2007 regulating the use of facilities by non-governmental organisations and political parties

² Stopping persecution for participation in student exchange, work and study programmes, etc.

Upon completion of the implementation of the short-term conditions, Belarus could be proposed a long-term plan that would provide programme for the next three years. More ambitious than any previous document, the long-term plan of actions should demand not simply the fulfilment of specific conditions but the carrying out of systematic measures revealing Belarus' readiness and willingness to participate in all-European integration processes. The implementation of the long-term plan would therefore bring with it the potential to move beyond normalisation in EU-Belarus relations to a certain degree of integration. The long-term plan of actions should focus on the following issues:

- Conducting future elections in line with OSCE commitments
- Bringing the country's legal framework in line with the standards of the Council of Europe that would convince the organisation to reopen communication channels with Belarus
- Initiating talks on the ratification of the Partnership and Co-operation Agreement
- Ratification of the European Convention on Human Rights and recognition of the jurisdiction of the European Court of Human Rights in Strasbourg

Implementation of the long-term strategy of rapprochement proposed by the EU should open for Belarus the following prospects:

- The signing of EU-Belarus Action Plan in the framework of the ENP
- Assistance from existing sources will be complemented in the future by support from the European Neighbourhood Instrument
- A possible stake in the EU's Internal Market, as envisaged by the ENP
- Inclusion in the Eastern Partnership initiative
- Enhanced co-operation in the energy sector
- Participation of Belarusian institutions of higher education in European exchange programmes (Erasmus and others)
- Facilitation and liberalisation of the process of obtaining Schengen visas for the citizens of Belarus, the reduction of visa fees, and the initiation of talks on a visa-free regime
- Intensification of regional co-operation.

What needs to be done now?

To make the plan of actions a feasible prospect and a workable project, the EU has to undertake the following actions:

1. To approve (formally or informally) the plan of actions for the normalisation of EU-Belarus relations with concrete steps and benchmarks of its implementation.
2. To reinforce the EC delegation in Belarus by increasing the number of staff and to grant the EC Minsk team with more responsibility on the implementation of the plan
3. To reinforce the EC team in Brussels working on Belarus
4. To actively engage in public dialogue and information campaign, explaining to the Belarusian public and key interest groups, through the media, exchanges, conferences and seminars, the specifics of the offer, and its benefits, to Belarus.
5. To maintain transparency in the dialogue with the Belarusian authorities and ensure participation of civil society in the dialogue.