EU-BELARUS RELATIONS: COPING WITH THE REALITY OF THE EURASIAN ECONOMIC UNION

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Introduction
The aim of this contribution is to analyse how recent developments in the process of Eurasian economic integration affect the bilateral relationship between the European Union (EU) and Belarus. After a brief overview of the gradual development of EU-Belarus relations, specific attention is devoted to recent evolutions on the way to the creation of a Eurasian Economic Union. It is argued that this new reality significantly affects the prospect for closer EU-Belarus relations and requires a further revision of the EU’s policy vis-à-vis Belarus.

EU-Belarus relations: In search of an adequate model for cooperation
The EU’s relations with Belarus are characterised by a constant adaptation to changing political circumstances [1]. In the first years after the dissolution of the Soviet Union Belarus was part of the EU’s overall strategy to the so-called Newly Independent States (NIS) that emerged after the dissolution of the Soviet Union. However, the plan to conclude a bilateral Partnership and Cooperation Agreement (PCA) never materialized. The EU initiated a policy of isolation of the official government together with tacit support for opposition forces. Because the policy of isolation did not bring about the expected change, the Commission and the EU Member States redirected their policy towards Belarus in the course of 1999. Rather than only focusing on the implementation of sanctions, the EU offered the prospect of closer relations as leverage to the gradual improvement of democratic standards. This so-called ‘step-by-step’ or ‘benchmarks’ approach implied that clearly identified steps towards democratization by Belarus would be paralleled at each stage by a gradual resumption of dialogue with the Belarusian government and broader
assistance, ending with full normalization of relations. The EU’s eastward enlargement added a new dimension to this approach.

Belarus presented the EU with an important policy dilemma, which was clearly expressed in the Commission’s preparatory documents on the establishment of a European Neighbourhood Policy (ENP):

“The EU faces a choice in Belarus: either to leave things to drift — a policy for which the people of Belarus may pay dear and one which prevents the EU from pursuing increased cooperation on issues of mutual interest — or to engage, and risk sending a signal of support for policies which do not conform to EU values” [2].

Arguably, the initiation of a European Neighbourhood Policy did not change the fundamental principles of the EU’s approach vis-à-vis Belarus but rather envisaged a reinforcement of existing policies. This implies frequent critical statements on the regime’s actions, restricted contacts with the authorities, the offer of normalised relations in case of democratic reforms and increased support for civil society initiatives.

The inclusion of Belarus in the Eastern Partnership (EaP), established as a special regional dimension of the ENP, is the latest attempt to reinvigorate the difficult EU-Belarus relationship. This new policy framework, formally launched in May 2009, essentially aims at political association, economic integration and legislative approximation between the EU and its East European neighbours (with the exclusion of Russia, which prefers to develop a separate, so-called Strategic Partnership with the EU) [3]. At the centre of the EaP is the ambition to conclude new bilateral association agreements, including provisions on the establishment of Deep and Comprehensive Free Trade Areas (DCFTAs). In addition, initiatives stimulating the facilitation of mobility and increased sectoral cooperation in areas such as energy and aviation are part of the offer.

From the outset, it was clear that Belarus would occupy a rather peculiar position with this new framework. As clearly expressed in the European Commission’s preparatory documents, “the level of Belarus’ participation in the Eastern Partnership will depend on the overall development of EU-Belarus relations” [4]. In the given political circumstances, this means that the EU remains committed to a so-called “policy of critical engagement”. This includes cooperation through the multilateral track of the EaP, technical dialogues on specific issues of common interest such as migration and the fight against organised crime as well as support to the civil society and the Belarusian population at large [5]. Concrete results of this policy are the launch of a European Dialogue on Modernisation in March 2012 and the start of negotiations on visa facilitation and readmission agreements in January 2014. Without underestimating the significance of these initiatives, the domestic political situation in Belarus as well as the increased economic integration between Belarus, Russia and Kazakhstan in the context of the Eurasian Economic Community and the emerging European Economic Union significantly restrict the options for further engagement in the framework of the EaP.

The Eastern Partnership and Eurasian economic integration: a question of legal and political incompatibilities?

Since the establishment of the Commonwealth of Independent States (CIS) in the early 1990s, many ambitious initiatives have been launched to foster economic integration in the
post-Soviet space [6]. Of particular importance is the creation of a customs union between Russia, Belarus and Kazakhstan in the period between 2007 and 2010. In 2011, Vladimir Putin launched the idea to develop the Belarusian-Kazakh-Russian customs union into a full-fledged Eurasian Union, modeled upon the EU and covering all countries of the former Soviet Union. In his view, the future Eurasian Union will then enter into negotiations with the EU to set up “a harmonised community of economies stretching from Lisbon to Vladivostok, a free trade zone and even more sophisticated integration patterns” [7].

This project may sound attractive but cannot conceal a number of practical problems. Even though the EU formally supports the process of regional cooperation between the countries of the former Soviet Union, a level of trade integration leading to a common customs territory precludes the prospects for bilateral trade liberalisation in the relations between the EU and the participating countries. The only alternative option is to enter into a free trade arrangement with the customs union as a whole but this is not a very attractive option for the EU taking into account the economic and political situation in Russia, Belarus and Kazakhstan. Entering into free trade negotiations with the regimes of Putin, Nazarbayev and Lukashenko would be contradictory to the conditionality approach underlying the EU’s external action. Moreover, Belarus and Kazakhstan are not members of the World Trade Organisation (WTO), which has always been a precondition for the Union to even contemplate the start of free trade negotiations.

In other words, there are some legal and political incompatibilities between the process of Eurasian economic integration and the Eastern Partnership. The latter is based upon the deepening of bilateral trade relations on the basis new Association Agreements and DCFTAs. In the longer term, the aim is to develop a Neighbourhood Economic Community, i.e. a free trade area encompassing the EU Member States and its neighbours based upon a common regulatory framework defined by EU standards and norms [8]. The Eurasian Economic Union, on the other hand, aims to extend the common customs territory between Russia, Belarus and Kazakhstan before entering, at a later stage, free trade talks with the EU. In the short term, this raises difficult policy choices for the countries in between because entering into a DCFTA arrangement with the EU is irreconcilable with the common customs policy of the Eurasian Economic Union. The crisis in Ukraine clearly illustrates the high stakes of this confrontation between the two regional integration processes in the post-Soviet space [9].

The way forward: looking for pragmatic solutions

Whereas the participation of Belarus in the Eurasian Economic Union precludes the future development of a bilateral free trade arrangement with the EU, this does not imply that the EU and Belarus are doomed to confrontation. In an increasingly interdependent economic reality, a certain level of legislative approximation is unavoidable. In the case of EU-Belarus relations, this is often the result of what Maksim Karliuk describes as ‘backdoor approximation’ [10]. This means that some degree of legislative approximation of Belarusian legislation with the EU acquis takes place through convergence with the rule of other trading partners, in the first place Russia. A common denominator in this respect is the application of WTO commitments as a result of Russia’s accession to this organisation in 2010. Hence, the further development of the legal framework of EU-Belarus rela-
tions largely depends upon respect for the principles of international trade law as laid down in the framework of the WTO and this irrespective of Belarus’ future membership of this organisation.

In addition, the new Treaty on the establishment of the Eurasian Economic Union, which was signed in May 2014 and is expected to enter into force in the beginning of 2015, raises a new challenge for the EU. So far, the EU has consistently refused to recognise the Eurasian customs union as a partner for negotiations. This position was clearly expressed by Commissioner Malmström, speaking in the European Parliament in December 2012, when she unequivocally declared that “the EU is not prepared at this time to step into any legal contractual relationship with the Customs Union” [11]. It is questionable whether this strategy can be upheld when the Eurasian economic integration progresses. Together with the increasingly difficult political situation in the shared neighbourhood of former Soviet republics, this new reality requires a further revision of the EaP, in particular as far as relations with Belarus are concerned.

REFERENCES

Правовым феноменом международного уровня стало активное развертывание во второй половине XX в. интеграционных процессов, результатом которых стало возникновение новых по своим качественным параметрам и правовым характеристикам образований, способных оказывать все возрастающее воздействие на ход мировых событий и эволюцию права. К числу таких интеграционных образований относятся Европейские сообщества и созданный затем на их основе Европейский Союз.

В мировой истории не так много примеров добровольных и взаимовыгодных союзов, заключенных между государствами или какими-либо корпорациями. Тем интереснее и полезнее как для осмысления, так и для извлечения поучительных уроков в наши дни становятся столь редкие образцы долгосрочных и прочных объединений, где все действия сторон были подчинены идеям сотрудничества и развития.

Европейская интеграция является наглядным примером такой интеграции, которая имеет несколько аспектов: экономический, политический, военный. Как отмечается в литературе, она стала активно развиваться с начала 50-х гг. XX в. В апреле 1948 г. была создана Организация европейского экономического сотрудничества, дополненная в сентябре 1950 г. Европейским платежным союзом, который в 1961 г. заменила Организация экономического сотрудничества и развития [1, с. 46].

Уникальность данной формы интеграции проявляется прежде всего в своем образе западноевропейской цивилизации. Уже в ходе формирования и развития феодального общества были созданы условия для медленного, но неуклонного экономического роста и прогресса общественных отношений. Свой вклад в объединительные процессы внесли и средневековые города, в которых царил «дух свободы».

Средневековые города были катализатором социально-политических процессов, протекающих в обществе. Примером своеобразных интеграционных процессов, протекающих в средневековой Европе, как представляется, стало создание союзов городов. Например, вокруг города Любека в XII в. стал складываться союз городов, получивший название Ганза и определивший в будущем развитие торговли и политики не только в Германии, но и по всей Европе. Ганзейский союз успешно просуществовал около четырех столетий.