
Understanding EU-Belarus Relations

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Abstract: A redefinition of the Eastern Partnership beyond 2013 was urgently needed in order to make the EU a more competitive player vis-à-vis Russia and China in the region. Eastern partners which choose deeper economic integration with the EU must therefore be supported by enhanced cooperation, which would require further differentiation in approaches towards neighbours. It should also be supported by certain horizontal policies, strengthening the EU's multilateral cooperation and the fledgling European Union diplomacy in this region, assisted by better targeting policies at EaP societies.

Key words: partnership, energy, cooperation, multilateral relations, human rights, engagement

THE EUROPEAN UNION'S FOREIGN POLICY on the European continent has always shifted according to the economic or political context. Since the fall of the *Iron Curtain*, the EU has been aware of the need to connect with Eastern Europe, the Caucasus and possibly Central Asia. Subsequently, cooperation with the EU was conditional on gratification of human rights, democracy and rule of law. In many cases, these restrictions did not have the estimated effect, the modifications requested by the EU were not respected, some states being often more concerned with foreign policy with the great Russian neighbour, being incapable of, or not willing, to achieve or even simulate at least a new version of *finlandisation* between West and East. EU policies are intended to establish better links with more Eastern European countries. Maybe for economic, social or political reasons, these efforts have

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often tested the patience of the Russian Federation, that feeling cornered and without its classic spheres of influence, counterattacked, establishing its own program of cooperation with neighbouring states.

One of the best examples of such a state is Belarus, properly viewed as a *minor Russia*. Considered by many a shadowy state, it is accused as being the last dictatorship in Europe. The main problem of EU is that the state is strongly influenced by the Russian Federation, being a situation capable of explaining itself as a game of influence and power. In recent years, EU and Belarus have set some common working points, but the process of partnership and cooperation is cumbersome and unstable. In the current context of Europe's political, social and economic events, it is interesting to note how much EU can maintain a special and constant interest for a state like Belarus. This article attempts to capture the evolution of relations between EU and Belarus, to identify current problems and to analyse some general lines of future relations between the two entities. In this sense, I will consider in the first part of the article issues related to the legal relationship with economic implications by analysing the status of the concluded agreements, which are subsequently explained through human rights dialogues. I would first like to see the possibility of differentiating energy strategies/cooperation and democracy/human rights, but also to what extent EU regulations and policies have an impact on Belarusian domestic law.

Legal and contractual framework

Initially, the European Communities' policy towards Belarus was indistinguishable from its approach towards the other Western Newly Independent States (WNIS). This approach was based on the TCA (Trade and Cooperation Agreement) concluded between the European Economic Community and the Soviet Union in 1989 and which was also assimilated by the former Soviet states after the dissolution of the USSR. Since the TCA contains general provisions on recognition, equality, competition, etc. there was a need for new agreements containing complex and less general provisions. In 1993, for example, the young Belarusian state and the European Union began negotiations on the Partnership and Cooperation Agreement (PCA), signed two years later. Similarly to EU relations with Ukraine, policies originally aimed at freeing the WNIS from the remaining Soviet nuclear warheads. "On the Union's full agenda, relations with Belarus and the other WNIS were, however, overshadowed by EU's internal evolution and the gradual integration of East Central Europe into Western institutional structures"(Löwenhardt 2005: 27).

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Therefore, the first period was marked by relative disinterest and neglect from the side of the EU. When and if this indifference finally ended is disputed. While there are some signs that this lack of concern has continued to be a driving force behind EU policies, the advance of populist Alexander Lukashenka, who assumed the presidency after a landslide victory in 1994, is commonly regarded as a turning point towards a more concerned EU approach. The first key event that compressed directly on the relationship was the EU's response to the November 1996 referendum by which Lukashenka established his firm grip over the country. In its 1997 Council Conclusions, the Union failed to recognize the referendum, constitutional changes made by the president, as well as the new "puppet" parliament. In addition, it has devised a catalogue of measures to penalize the emerging dictatorship, including non-ratification of the PCA (Davidonis 2001), although ratified by Belarus. Nothing new here, but it was of critical importance in the case of Belarus since Brussels had no contractual basis and therefore no institutional framework for official dialogue with Minsk. Thus, following Lukashenka's 1996 constitutional coup, the EU has frozen multilateral relations with the top representatives of the Belarusian government by excluding Belarus from the European Neighbourhood Policy (ENP). This opened the door to individual free trade, unofficial negotiations and *ad hoc* coalition-building.

In this overall framework, the Eastern Partnership (EaP) was launched in Prague 2009 with the Eastern Dimension of the European Neighbourhood Policy, which included Republic of Armenia, Georgia, Republic of Azerbaijan, Republic of Belarus, Republic of Moldova, and Ukraine. The Partnership's main objective is to accelerate political association and further economic integration between the EU and the Eastern Neighbours, and to support their political and socio-economic reforms. "Belarusian" official response to the Eastern Partnership initiative can be described as "positively pragmatic." "Positive" in the sense that the initiative can improve relations, both political and economic, and "pragmatic" in the sense that cooperation with the EU is an invaluable tool for Belarus's economic development and for increasing its exports to EU markets "(Ulakhovich 2011: 82).

According to Belarusian experts (both government and independent), EaP was to bring some important and positive long-term effects through energy cooperation and a Memorandum of Understanding to create a *joint management and even ownership of pipelines*. These understandings will lead to a reduction in visa costs and bureaucracy in the future, a forthcoming economic integration with the EU and the adoption of a free trade zone agreement, thanks to the embracing of the *acquis communautaire* and the recognition of the ECJ decisions as binding. All this should be supported by a complex program of financial support. The doubts were related to the inability

to link the two economic systems, the inconsistency of the Belarusian administration with that of the EU, for which Belarus saw a pragmatic EaP in neutral areas such as investment, migration, border control and energy transit without the adoption of measures in the field of political liberalization"(Ulakhovich 2011: 82).

However, the accusations of the 2010 presidential election have unsettled the EU which has led to Belarus's exclusion from Eastern Europe Partnership, its involvement remaining in the form of multilateral cooperation platforms such as the Civil Society Forum. No other bilateral agreement remained in force between EU and Belarus in addition to the TCA, only some exchange letters on immunities and textile exports. All co-operation is the result of conclusions of the EU's Foreign Affairs Council, (EEAS 2017) and the dialogue is conducted through the ENPI (European Neighbourhood Policy Instrument) as an open but conditional mechanism (ENPI 2012/2013). Limited participation in the ENPI and the EaP also involves limited technical and financial assistance for the State of Belarus. Between 2010 and 2016 EU-Belarus relations have been almost non-existent (apart for some technical cooperation in the EaP multilateral format). Belarus is targeting a democracy-oriented agenda and needs the EU as a source of assistance, where democracy-promoting policies have been unsuccessful for years (Kaca 2013). That's why Belarus chose to adopt PCA in 2010 within the Concept of National Security of the Republic of Belarus. With this measure, Belarus has made it clear that it is open to an active and willing dialogue and through the PCA, once ratified, to adopt EU legislative measures. In 2011, The Council of EU authorized the European Commission to start negotiations on visa facilitation (FAC 2011) as seen in the note from General Secretariat of the Council to Coreper/Council 6424/11, 18 February 2011. Belarus's main interest in cooperating with the EU is mostly based on pragmatic economic and security reasons. It is the common ground in contrast to the view that energy strategies and financial benefits must come as a result of efforts to protect fundamental human rights, democracy and rule of law.

Human rights dialogues

An issue so sensitive and so important is that of human rights. Belarus is accused by many international human rights organizations of restrictions on freedom of expression, freedom of association, political arrests, death sentences, persecution and many other violations of international treaties. Ever since gaining independence from the Soviet Union in 1991, the state of Belarus has been urged by international organizations and non-governmental

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bodies to ensure the protection of human rights. However, the election of President Aliaksandr Lukashenka in 1994 tightened allegations of human rights violations during the last 20 years.

In a report from Amnesty International, it is clear that, from the very first months of Belarus's presidency, Lukashenka has restricted freedom of speech and imposed censorship. A report read in the plenary session of the 1994 parliamentary session in which a member of parliament accused corruption within the presidential entourage was forbidden for publication. Following gradually adopted measures, in 1995, there were riots of employees at the Minsk subway, which led to the suppression of protests and the dismissal of more than 50 people. Violent attitudes of the authorities also existed during the commemoration of 10 years of Chernobyl tragedy, as well as during civic manifestations of protest against a possible union with the Russian Federation. During these events, civilians were beaten and arrested; the opposition leader sent in exile, an independent newspaper was closed following a referendum for the death penalty that altered the constitution ([Freedom House 2016](#)).

In 1997 two journalists were arrested for violating state border proceedings, and in the years to come, former interior minister Yury Zakharenka, opposition supporter, went missing. Also Viktor Hanchar, the first vice chairman of the Supreme Council of Belarus of the 13th Convocation and chairman of the Central Electoral Commission, businessman Anatoly Krasouski and journalist Dmitry Zavadsky, all disappeared without a trace. The Council of Europe survey have concluded that these incidents were possible with the permission and collaboration of the Belarusian authorities. In 1999 a law was passed to ban the defamation and insulting of President Lukashenka, and between 2003 and 2007 about 700 civic organizations were closed and religious equality forbidden. After the 2004 elections, investigations continued for thousands of people "despoiled" and sentenced to imprisonment or expelled for protest or destabilization charges. In addition to online censorship, the ban on the right to expression, free association, the receipt and use of foreign funds, and hundreds of journalists or opponents were arrested at home, being forbidden to leave the country for these reasons. At each election, protesters were and still are, arrested and convicted ([Freedom House 2016](#)).

All these are accusations of Belarus in which the authorities undertake arbitrary deprivation of liberty, unlawful and politically motivated killings, torture and inhuman treatment, degrading detention conditions, arbitrary arrest and detention, denial of fair justice, censorship in any area, corruption and lack transparency, discrimination and trafficking in human beings, xenophobia, racism and social stigma, forced slavery and many others. These human rights violations have continued since independence. However, in

recent years it has been found that these violations only intensify during electoral campaigns and elections, while in the rest of the period the Belarusian authorities are trying to preserve at least the appearance of respecting such rights. Furthermore, cooperation with the EU is an important counterbalance in Belarus's multi-vector foreign policy. With regard to issues of democratization, the government's position is that this is an internal affair and cannot be subject to an intimidation by the European Union. "At the same time, during 2009, Belarusian officials repeatedly stated that they were ready to listen to the advice and recommendations of the EU on the development of democracy in the country. According to them, the Belarusian government has taken some positive steps, including the adoption of a new electoral code which, according to European experts, is more consistent with EU norms and standards in the field of electoral law (Ulakhovich 2011:82). This was also a motivation to pave the way for Human Rights Dialogues between the EU and Belarus.

Human Rights Dialogues (HRD) are consultations through which the EU seeks to promote respect for fundamental human rights, democracy and the rule of law in *third world* states or organizations (Majtényi 2017). The conclusions and the evolution of these dialogues are monitored through the European Instrument for Democracy and Human Rights (EIDHR), which allocates funds to third parties such as civil society organizations, public and private sector non-profit organizations, local, regional or national parliamentary bodies or natural persons (EIDHR 2017). These entities play an important role in monitoring and reporting all issues that are the subject of EIDHR activity.

For example, the FIDH-Human Rights Center Viasna in July 2015 considers that since the first HRD that took place in 2009, the human rights situation in Belarus has worsened. In the report was mentioned that violations of electoral rights after the 2010 elections against civil society and the opposition were intensified through arrests, political detentions, the ban on the right to freedom of expression and association, but also on other social rights. It is noted that the EU-Minks dialogue should impose political commitments, establish and ensure the involvement of independent civil society and create a legislative and institutional framework for the protection of human rights (FIDH 2015).

However, in June 2016 a new HRD at Minks took place. Issues related to electoral rights were mainly debated in view of the parliamentary elections in Belarus. The EU's appreciation was linked to the presence of several civic organizations with whom the main issue was the fight against domestic violence. The dialogue insisted on the development of national mechanisms for the protection of human rights both in discussions with representatives of the

authorities and of the opposition (EUEA 2016). The fourth round of Human Rights Dialogue took place in July 2017 in Brussels, which insisted on implementing a National Human Rights Action Plan that also includes UN mechanisms such as the Universal Periodic Review (EUEA 2017). The next meeting will be held in 2018.

In Human Rights Watch's 2017 annual report, it is claimed that many improvements are still needed in strengthening human rights. The death penalty is still in force, activists or journalists who are aware of some aspects are prosecuted, and freedom of expression and association is still forbidden. Moreover, authorities have extended the definition of "extremism" to the detriment of citizens (Human Rights Watch 2017). However, important steps have been taken, but many argue that in relation to Belarus, economic, energy and EaP policies should not be conditioned by human rights. In addition, voices from the region have been increasingly calling on the EU to drop the talk of values and focus on its political interests, to forget about full political liberalization and focus on trade with the East, irrespective of their human rights record. President Alyaksandr Lukashenka of Belarus has repeatedly urged the EU to focus on common interests such as securing the transit of Russian gas to the EU or managing migration into the EU (Kobzova 2012:2).

Two Agendas?

Given that little progress has been made in the last 25 years, it should call into question EU to reconsider its strategy towards Belarus. To do so, for the first time, the EU must understand that Belarus is a particular case compared to other Eastern European countries, such as Ukraine or the Republic of Moldova. Unlike the others, Belarus remains among the only European countries that have not shown interest in joining the European Union, a position that is still maintained. Most of the EU countries concerned with the fate of Belarus consider that Belarus indisputably belongs to Russia's sphere of interests. *"This stereotypical conception implies that for the sake of maintaining the geopolitical status quo they dismiss any attempt at enthrall Belarus from Russia's embrace"*. As far as they are concerned, EU policies on Belarus should acquire Moscow's prior approval or even be implemented through Russian mediation (Marin 2011:6). That's why the relationship with Belarus must be different, not a constraint but a smart engagement. And still, why should EU engage with Belarus? Determined by its own policies to promote fundamental principles of rule of law, democracy and human rights, the EU is being preoccupied with Belarus, as a neighbouring country.

Moreover, Belarus is a transit country for Eastern gas in programs such as Yamal or Baku Initiative.

A country that is characterized by its own president as authoritarian who promises a gradual democratization for the last 20 years, can no longer receive exactly the same sanctioning policies, but to identify the best solutions contextually. The sanctions do not help changing Belarus, which at any time can isolate itself under the protection of the Russian Federation ([Preiherman 2017](#)). The EU's aim is to make progress, not to make itself inaccessible. That is why a relaxed EU can be more efficient and non-conditioning economic agreements on human rights can lead to better results, perhaps by setting two different agendas that do not interfere so often. Bilateral relations are equally important for Belarus, especially from an economic point of view. Even if there is an unrelenting loyalty to the Russian Federation, there have been situations where Belarus saw itself second place in Russia's energy policies. It is worth mentioning that Russia has scrapped plans to build a Yamal-Europe II pipeline connecting Russia to Europe through Belarus despite Lukashenko's offer of a five-year transit waiver if Russia abandoned the idea of the trans-Baltic Nord Stream pipeline ([Dura, 2008: 3](#)).

EU&Belarus is a relationship that needs to be built up in small steps, but with many compromises, it can be achieved. Both sides are interested in improving bilateral relations. Thus, even though at the beginning EaP was of "no great importance (...)", according to Uladzimir Makei- Belarus Foreign Minister, recently it is clear from Belarus's attitude to make certain changes. The need for technical and financial support is obvious, and in the last two years the relationship with the EU has seen positive developments. Belarus participates pro-actively in EaP, with negotiations on a Mobility Partnership on visa and tangible steps on Human Rights Dialogues (HRD) according to Foreign Affairs Conclusions of 15th Feb 2016. Belarus has also had an initiative on HRD in 2015 with visible results in prison conditions. Nevertheless, some attempts to reform have led the EU and European Bank for Reconstruction and Development to remove certain sanctions ([Human Rights Watch 2017](#)). Unlike other periods, the EU found that improving bilateral relations has led to the lifting of restrictions, leading to Belarus's collaboration with international financial institutions, preparation for accession to the World Trade Organization, removal of textile quotas for exports. Also, in June 2017, Belarus joined the Eastern Europe Energy Efficiency and Environment Partnership (ESP), which supports loans for energy projects, making Belarus the most powerful Eastern Partner country in the Horizon 2020 program for research and innovation. In addition, the EU-Belarus Coordination Group was established as a policy group to oversee the further development of relations. EU helps Belarus prepare its WTO accession, and both sides have developed a

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Formal Dialogue on Trade and EU-Belarus Customs Dialogue. Belarus has adopted the National Action Plan on Human Rights as a tool for reforms, also a Mobility Partnership and an Erasmus +, a program for work and academic exchanges, volunteering and project-buildings. There are still two main themes on the EU agenda: the abolition of the death penalty and the issue of nuclear safety (EAP 2017).

However, these steps are negligible compared to what is needed, but they are better than nothing. The European Union, on one hand, does not want to kneel its values and wants its investment to be reflected. On the other hand, Belarus must be treated as a state with which a cumbersome and long-term strategy must be carried out, because it already has strong memberships and strong partnerships with the East. Belarus is currently an active member of most Eurasian integration projects: the Commonwealth of Independent States; the Russian-Belarusian Union State; the Eurasian Economic Community; the Common Security Treaty Organization, the Customs Union (CU) and the Common Economic Space (CES) of Belarus, Russia and Kazakhstan. The latter two seem to be the most ambitious ones with a planned Eurasian Economic Union (EAEU) to come.

It is worth mentioning that many of them are copying treaties and provisions of the EU Treaties, and perhaps in this way EU norms may indirectly become laws in Belarus. It has also been noticed that some EU provisions have been copied into Belarusian laws even though they do not have an explicit reference to EU law. Areas like environment, veterinary medicine, public health nutrition, and other general standards have been found in some adopted regulations, without these being considered as EU regulations or interpreted by courts and the Supreme Court of Belarus on the basis of EU principles (Karliuk 2014: 238-245).

With a strong and firm Kremlin, Belarus is not very involved in a close partnership with the EU, making the Eastern Partnership with an uncertain future in terms of links with Belarus. Maybe EU strategy is not appropriate, dialogue and diplomacy should take another approach, EU's PR is not appealing and satisfying for Minsk, or simply because *Moscow's gravity* is too strong.

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