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**Visa Policy as an Instrument of EU External
Governance?
The Case of Belarus**

Aliona Kadlubovich

**Europa-Kolleg Hamburg
Institute for European Integration**

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Visa Policy as an Instrument of EU External Governance? The Case of Belarus

Aliona Kadlubovich*

Abstract

The thesis investigates how visa regime simplification can be used by the EU as an instrument of external governance in its relations with Belarus. It was concluded that in general visa liberalization with the resulting increase in the level of people-to-people contacts can serve as a useful tool to achieve the announced goals. However, in the case of Belarus it cannot be used by the EU as a positive incentive within the frameworks of external governance. On the contrary, it represents a value to be promoted, which makes the use of this instrument subject to certain limitations. Taking into consideration the inability of the EU to adopt unilateral measures as well as difficulties in negotiations and practical implementation of relevant agreements with the official Minsk measures aimed at maximum simplification of visa issuance process under the existing rules and procedures are of special importance.

key words: EU-Belarus relations, visa regime simplification, external governance, people-to-people contacts

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List of abbreviations

BFPI	Belarusian foreign policy index
CEPA	Centre for European Analysis
CIS	Commonwealth of Independent States
CSO	Civil Society Organisation
DG RELEX	Directorate-General for External Relations
EaP	Eastern Partnership
EIDHR	European Instrument for Democracy and Human Rights
ENP	European Neighbourhood Policy
ENPI	European Neighbourhood Policy Instrument
ETOA	European Tour Operators Association
EU	European Union
GSP	Generalised System of Preferences
IISEPS	Independent Institute of Socio-Economic and Political Studies
ILO	International Labour Organisation
IMF	International Monetary Fund
LSC	Local Schengen Cooperation
MEP	Member of European Parliament
OSCE	Organisation for Security and Cooperation in Europe
PCA	Partnership and Cooperation Agreement
TACIS	Technical Assistance to the Commonwealth of Independent States
WTO	World Trade Organisation
WTTC	World Travel and Tourism Council

Introduction

In the light of Eastern enlargement and launching of European neighbourhood policy with the official goal of fostering stability and prosperity in the neighbourhood by spreading European rules and values of democracy, rule of law, human rights and market economy (European Commission 2003, European Commission 2004), the concept of external governance attracted substantial attention as a potential mechanism for the EU to achieve its goals in relations with its new neighbours (Lavenex 2004, 2008; Kohler-Koch and Rittberger 2006, Raik 2006, Lavenex and Schimmelfennig 2010).

Even though the addressees of European Neighbourhood Policy (ENP) had no accession perspectives, its toolkit mainly consisted of political conditionality methods which had earlier proved to be a successful way for spreading European norms only if implemented in combination with offering the prospect of EU membership for the country in question (Mattli and Plümper 2002, Landaburu 2006, Schimmelfennig and Sedelmeier 2004). The selection of instruments without taking into account the specific characteristics of the new neighbours and Eurocentric approach of the EU to dealing with them predetermined the low degree of ENP and Eastern Partnership (EaP) legitimacy and efficiency (Smith 2005, Kelly 2006, Boonstra and Shapovalova 2010, Tonra 2010, Balfour 2011, Korosteleva 2012), whereby failure to promote change and democratic reforms in Belarus, depicted as the last dictatorship in Europe, was presented as the most prominent example thereof (Marples 2005, Jarabik and Silitski 2008).

Several studies (Viera and Bosse 2008, Vanderhill 2008, Dura 2008, Bosse 2009, Bosse 2011, Portela 2011, Korosteleva 2012) identified the factors which limited the possibilities of EU external governance in Belarus. It was underlined that its failure was mainly due to the lack of political or economic leverage over the country and its strong dependence on Russia as well resistance of the authorities to any significant market-oriented and democratic change which would significantly undermine their positions. It was argued that the strong grip on power of the regime is based on state-owned economy, anti-western propaganda and appeals to the soviet past (e.g. commitment collectivism, negative attitude to doing business of the people, etc.) (Leshenko 2008, Finkel and Brudny 2012) which was possible due to scarce knowledge as well as weak public support of the EU and the values and rules it promotes (Vanderhill 2008). Such a situation was explained to be stemming from the dominant position of state-controlled media as well as low level of cross-border mobility between Belarus in EU due to strict visa requirements (Bosse and Korosteleva-Polglase 2009).

Because of that limitations putting pressure on the official Minsk using “hard power” tools, such as travel bans and limited asset freezes, in order to promote democratic change in Belarus, brought no results for the EU. After the crack-down of opposition demonstration in December 2010 it became clear that its previous attempts of bargaining and softening the position were also inefficient for the purposes of external governance, whereby short improvement in EU-Belarus relations in 2008-2010 represented only a temporary “tactical adaptation of the regime” (Fischer 2009, p. 17) to the geopolitical and economic pressure.

Due to such developments the previously neglected instrument of simplification of visa regime attracted special attention in Brussels. The need for intensification of people-to-people contacts was emphasized by the EU (Council of the EU 2011), and in February 2011 the Commission proposed Belarus to sign visa facilitation and readmission agreements. However, it has not been accepted by the official Minsk¹ for the formal reason of being concerned about the impact of readmission agreements, which once again demonstrated the low possibility of

¹ As of the moment of submission of the master thesis

the EU to influence Belarus.

In light thereof non-governmental organizations (such as Dortmund International Centre for Education and Exchange (Germany) and charity organization Stichting Rusland Kinderhelp (Netherlands)) as well as Belarusian opposition called for unilateral simplification of visa regime and argued that this is one of the few (and also relatively cheap and relatively easy to implement in practice) ways for the EU to influence the process of democratisation in Belarus (CEPA and Freedom House 2011, Korotenkova 2013). Despite these potential advantages, very little has been achieved in this direction so far.

Therefore, the objective of the master thesis is to investigate whether visa regime simplification can be used by the EU as an instrument of external governance in the case of Belarus, and, if so, how it can or cannot be implemented taking into account existing legal, political, economic and cultural limitations.

The master thesis relies on case study methodology and is based on the analysis of official EU documents (e.g. European Commission 2003, European Commission 2004, European Commission 2007b, European Parliament and the Council 2009), theoretical contributions (e.g. Lavenex 2004, Schimmelfennig and Sedelmeier 2005, Lavenex 2008, Barbe et al 2009, Youngs 2009, Lavenex and Schimmelfennig 2010, Schimmelfennig and Thomas 2011, Thomas 2011) and empirical studies on EU external governance in Belarus (Vanderhill 2008, Dura 2008, Viera and Bosse 2008, Bosse 2009, Bosse and Korosteleva-Polglase 2009, Fischer 2009, Korosteleva 2009, Bosse 2011, Portela 2011, Dargenfield 2012, Korosteleva 2012), studies concentrating on the effects of changes in visa policy (e.g. Stringler 2004, Melyantsov and Silitsky 2008, Trauner and Kruse 2008, Bertoncini and Kreilinger 2012, DG RELEX 2012, Jaroszewicz 2012, Eliseev 2012a, Eliseev 2013, Finotello and Sciortino 2013) as well as data of sociological research in Belarus (e.g. BISS and Novak 2010, IISEPS 2009, IISEPS 2011).

The thesis is structured as follows. The first part presents theoretical backgrounds of the research question, particularly, the concept of external governance and its limitations; definition, directions and functions of visa policy as well as its general applicability for the purposes of external governance. The second part consists of determination of Belarus-specific limitations to EU external governance. In the third part the author presents the analysis of whether visa regime simplification is a suitable instrument to be resorted to by the EU to overcome these limitations as well as of the steps the EU can take in order to make use of this instrument taking into consideration the existing limitations.

Part 1. Theoretical aspects

1.1 External governance

As early as in the Treaty of Maastricht the EU has determined developing and consolidating democracy, the rule of law, respect of human rights and fundamental freedoms as its foreign political goals (Article 130u). These general aims were further developed in the Treaty of Lisbon where the EU stipulated the aim of developing “a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterized by close and peaceful relations based on cooperation” (Article 8(1) TEU).

From this perspective the concept of external governance, defined as “selective extension of EU norms, rules and policies to the neighbourhood while precluding the opening of membership” (Lavenex 2004, p. 694), received substantial attention in the light of eastern enlargement of the EU, when the latter was attempting to present itself as a “civilizing”, “ethical”, “normative” and “transformative” power (Aggestam 2008, Sjursen 2006, Mayer and Vogt 2006, Manners 2002) on the international arena and, as a security community (Deutsch, cited in Lavenex 2004, p. 681), was looking for a solution to the challenge of providing security as well as control over policy developments in its new neighbourhood without further enlargement (Lavenex 2004, p. 685).

In general, external governance represents “a system of rules which exceeds the voluntarism implicit in the terms of cooperation” (Lavenex 2004, p. 682) and therefore serves as a framework for spreading of certain values and norms. However, depending on the structure, the following forms of external governance can be identified:

- *Hierarchical* mode of governance is possible in case of asymmetrical relations based on strong interdependence, subordination and supremacy of one of the parties which, relying on strong leverage over the other party and the threat of sanctions and other unilateral measures as enforcement tool, imposes non-negotiable legally binding rules, whereby the dependent party has little room to negotiate on its commitments.
- *Market* mode of governance is characterised by relatively horizontal and non-exclusive relations organised mainly on ad-hoc and decentralised basis where the content of interaction is not predetermined and is subject to negotiations. Common rules are agreed on bilateral basis and compliance with the norms required by one party is ensured by offering positive incentives to the others, e.g. by means of bargaining.
- In order to be able to implement these two modes of governance the party willing to spread its rules and norms should possess substantial leverage, either negative or positive, over the other. If this is not the case, *network* mode of governance is resorted to, whereby partners, moderately dependent of each other, are formally equal, not always in terms of power, but institutionally, and none of them can bind the other with some rules without its consent. Influence is exerted through network building (both with high and low level public authorities as well as private actors) with subsequent learning and communication enhancing the legitimacy and acceptability of one of the partner’s rules. For this mode of governance to be implementable, it is necessary that both parties are interested in cooperation and are able to do so. For example, in case of cooperation with low level authorities or private actors certain degree of decentralization, resources and empowerment of civil society are required (according to Kohler-Koch and Rittberger 2006, Lavenex et al. 2009).

Selection of the appropriate mode of governance and its subsequent effectiveness, measured by assessing the rule selection (e.g. whether 3rd country accepts EU rules or requests their modification), rule adoption and rule implementation (Lavenex et al. 2009, p.

10), depend on limitations to its implementation which are imposed not only by the EU, but created by both interacting parties (Barth 1969, Newman and Paasi 1998). Lavenex et al. (2009) identify three groups of such factors.

Institutional limits include organization and structure of the process of cooperation, (in)ability of the EU to include a third country in a specific policy framework, e.g. the degree of cohesion, clarity and consistency in decision-making (Smith and Webber 2008), legitimacy of the norm to be spread (Kohler-Koch and Rittberger, 2006).

The main *power-related* limitation to external governance is EU negotiation power, e.g. its ability to create effective positive (rewards in the form of aid or other advantages) and negative (sanctions) incentives and by doing so change the balance of costs and benefits of acceptance/non-acceptance of EU rules and consequences thereof for the neighbouring country. This group of factors also includes geopolitical limitations, e.g. the influence and interests of other actors on the international arena (Smith 1996, p.15).

Third group of factors includes limitations stemming from *domestic situation* of the partner country, such as form of government, type of state-society relations, degree of transparency and communication, presence of political struggle, both internal and external, public support of the external actor and its rules which also predetermine the cost and benefits of adoption of certain rules (Bogutscaia et al. 2006). For example, authoritative regimes are very unlikely to accept rules and norms, including democratic, that might threaten their ruling positions and do so only in case it is politically necessary for purely rational, self-interested reasons (Schimmelfennig et al. 2003). External influence is expected to be more effective in case there is some political struggle in the domestic country, whereby one of the elite groups is willing to get support from the outside (e.g. from the external governance provider) in order to strengthen its position against its rival (O'Donnell and Schmitter 1986). What is more, high degree of public support to the external actor, which also results in greater credibility and legitimacy of its criticism towards domestic government among the population, influences the costs-benefit ratio of non-compliance for the elites and therefore increases the likelihood of compliance (Vanderhill 2008).

Therefore, in the end it is the characteristics of an individual neighbouring country that determine which mode of governance, which instruments and which rules can be effectively adopted (Barbe et al. 2009, Youngs 2009) since external influence can only be effective in case it is “compatible with domestic conditions” (Zaborowsky 2005, p. 29).

From this perspective, the selection of instruments to be applied in relations with a certain partner is a crucial determinant of subsequent success of external governance. As underlined by K. Smith (2005), political conditionality is not very efficient for the EU for the purpose of promotion change and democratic reforms in neighbouring countries that have no accession perspective. What is more, taking into consideration the substantial economic, military, political and cultural influence of Russia in EU eastern neighbourhood (Dimitrova and Dragneva 2009), it was argued that the EU has neither significant leverage nor credible incentives in the region: “They always want more than the EU can offer... they will never be satisfied” (Senior diplomat, Permanent Representation, 2009, cited in Korosteleva 2012, p. 36). That represents a significant challenge for the EU in terms of selection of instruments for achievement of its foreign political goals in the Eastern neighbourhood.

2.1 Visa policy as an instrument of external governance

An alternative to “hard governance” methods, which bring almost no results in case leverage over the partner in question is missing, is to resort to soft power instruments to create

norms and values which put certain limits on the actions of the other party (Friis and Murphy 1999, p. 214).

One of them is visa policy, defined as the use of visa issuance or denial at an individual, group or interstate level in order to influence another state's policies (Stringer 2004, p. 656). This instrument is especially relevant in the modern globalized world where the demand for the movement of people is becoming more and more intense due to technological progress providing increased opportunities as well as need for communication and where the use of hard power, especially military force, is to a significantly degree limited by international law (Fritts 1983, p. 5).

In general, visas, one of the identification technologies used by the states, represent an instrument to prevent the entrance of unwanted/unneeded aliens into the country (Guild 2005, p. 16). From this perspective, by means of introducing/restricting the visa regime and subsequent limitation of cross-border movement the issuing country can achieve a number of goals, such as control of the level of (il)legal migration, protection against threats to public policy, public health, social stability or underlining the state of relations between the parties (WTTC 2012, pp. 8-9).

In the latter case visa policy is often used in the form of retaliation or political sanctions, either broad-band, e.g. visa restrictions applied without distinction to all nationals of the country, or targeted, e.g. selective travel bans used to underline discontent with and put pressure on individual politicians or groups of society in order to force them change position on a particular issue (Cortright and Ahmed 1998). When applied in the first form, visa restrictions are often ineffective or even harmful, since they only exert pressure on innocent civilians who quite often have no control over the actions of the authorities. When used in the form of targeted travel bans, visa restrictions make it possible to avoid damage to the general population, however, they can only bring positive results if used as a "warm-up" to further broader measures (Hufbauer and Oegg 2000) and are inefficient if used by the government only as a symbolic step taken in order to avoid doing nothing (Stringer 2004, p. 667).

Alternatively, visa regime simplification (facilitation or full liberalisation) might be used to express support to a country's policy (WTTC 2012, p.9) and serve as a message expressing a move towards closer cooperation and recognition (Stringler 2004, p. 659).

What is more, subsequent increase in cross-border interactions² in the form of tourism and business travels, academic and cultural exchanges as well as other types of personal communication promotes the diffusion of norms and values (Schimmelfennig and Sedelmeier 2005, Schimmelfennig and Scholtz 2008), and also represents a good background for fostering economic development, job creation and investments³ (ETOA 2010, Committee on Eastern European Economic Relations 2011, WTTC 2012).

Another important element in this respect is the improvement of visa issuance process and procedures since it significantly influences the "lasting image and perception of the issuing country by the foreigners" (Rodino 1983, p.5).

Taking into account these potential effects, it can be concluded that in general simplification of visa regime provides opportunities for the promotion and spread of certain values and norms and therefore can be used as an instrument for EU external governance. What is more, in the EU the promotion and facilitation of movement for people is stated to be

² For example, changes in visa policies aimed at simplification of visa regime increase the arrival of international tourists by 5-25% (WTTC 2012, p.4).

³ ETOA (2010, p.4) in report arrived at a conclusion that "...Europe is losing business because of administrative inefficiency in visa processing".

one of the four main freedoms as well as strategic element of EU external migration policy (European Commission 2011).

Therefore, in this context simplification of visa regime can be considered not only as an instrument of external governance, an attractive incentive to be offered by the EU to its neighbours willing to achieve easier conditions of travel, but also as a value to be spread and promoted. The latter is especially true in case of relations with the countries which do not show explicit interest in simplification of visa regime and enhancing cross-border mobility, which, however, makes its implementation for the purposes of external governance subject to certain limitations.

Part 2. EU external governance in Belarus

2.1 Is the EU aiming to “externally govern” Belarus?

External governance was used by the EU as a basic framework for building relations with the new neighbourhood within the framework of European Neighbourhood Policy (Hubel 2004, Lavenex 2004, 2008, Raik 2006) aimed at bringing EU neighbours, including Belarus, “closer to the European Union in a number of priority fields” (European Commission 2004) by means of “creating new neighbours: namely, the kind who conforms not only to “EU values” generally speaking, but also to EU standards and laws” (Smith 2005, p. 736).

In fact, this framework represented an example of hierarchical “governance by conditionality” (Raik 2006, Lavenex 2008, Bosse and Korosteleva-Polglase 2009) which was previously resorted to by the EU in relations with its future members. However, the addressees of the ENP had no accession perspective, which deprived the new neighbourhood policy of credible motivation and incentives. What is more, it was designed by the EU as a strongly asymmetrical relationship, without taking into account the specific features, interests and characteristics of the partners, which predetermined low ENP efficiency (Korosteleva 2009).

Similar approach was imbedded in Eastern Partnership launched by the EU in order to overcome the weaknesses of ENP. Even though called “partnership”, which presupposes mutual reciprocity of interests and gains between the parties, whereby common values and norms are not preliminarily fixed, but represent a by-product of behavior adjustment and policy coordination (Keohane, cited in Milner 1992, p. 467), EaP was still developed for the purpose of “projecting our model into the neighbourhood” (Senior Official, DG RELEX, 2009, cited in Korosteleva 2012, p. 36), as an act of negotiating the neighbours’ compliance with the EU norms and rules. Therefore, it was also designed as a tool of and for the purposes of external governance, whereas the term “partnership” was only used in order to minimize the negative consequences of conditionality (Korosteleva 2012, pp. 35-36).

Belarus, even though to a limited extent, formally participated in ENP⁴ and was included into the framework of EaP, whereby particular goals of the EU were determine as “for Belarus to become a democratic, stable, reliable, and increasingly prosperous partner with which the enlarged EU will share not only common borders but also a common agenda driven by shared values” (European Commission 2007b). Therefore, in might be concluded that the EU policy towards Belarus fits into the framework of external governance.

2.2 Hierarchical governance

In order to achieve the abovementioned aims, the EU initially resorted to hierarchical mode of external governance using political pressure and conditionality as its major instruments.

In 1997, after Lukashenko in 1996 further increased the powers of the President, the EU stopped the ratification of PCA with Belarus and stated that “the EC and their Member States will conclude neither the interim agreement nor the Partnership and Co-operation Agreement due to the deteriorating political situation” (Council of the EU 1997). What is more, it suspended TACIS (Technical Assistance for the Commonwealth of Independent States) programme (Council of the EU 1998b) and since 1998⁵ the EU has been gradually introducing and broadening travel and asset restrictions on certain Belarusian officials

⁴ Belarus was included into ENP Strategy Paper (European Commission 2004), but has no bilateral Action Plan.

⁵ For the first time visa bans were imposed on July 9th, 1998, after the crisis over Drozdy diplomatic compound in Minsk (Council of the EU 1998a).

responsible for violations of human rights and democratic principles. In 2006 Non-paper it was underlined that any future EU cooperation with Belarus is strictly conditional upon compliance of the official Minsk with 12 requirements in the abovementioned fields (European Commission 2006).

In addition, the EU applied certain economic restrictions. In response to the failure of Belarus to comply with its International Labour Organisation (ILO) obligations relating to freedom of association for workers, since June 21st, 2007, the country was excluded from EU Generalised System of Preferences (GSP) until it “irreversibly conforms with core trade union rights” (European Commission 2007a). However, these actions caused only very small economic damage (Bosse and Korosteleva-Polglase 2009), and, on the whole, even though more coercive and potentially more efficient measures were available for the EU, it preferred to stick to the previously used declaratory and condemnatory strategy of setting conditions (Portela 2011, p. 492).

After the 2007-2010 break in January 2011 the EU returned to the strategy of coercive diplomacy and responded to violations of human rights and democratic principles by setting political conditions and sanctions. In its conclusion the Council renewed travel bans and asset freezes⁶ temporarily suspended in 2008 and underlined again that lifting of the abovementioned sanctions as well as the deepening of cooperation between the parties depends on fulfilment of a number of conditions by the Belarusian authorities, such as release and rehabilitation of political prisoners, respect of the principles of democracy, rule of law and human rights⁷ (Council of the EU 2011).

Despite the fact that such methods were rather successful for spreading of European rules and norms in certain Central and Eastern European countries which had a membership perspective (Schimmelfennig 2008), not only did EU hierarchical governance towards Belarus, based on political and limited economic sanctions, bring no tangible achievements (Viera and Bosse 2008, Bosse and Korosteleva-Polglase 2009, Bosse 2011, Portela 2011), but also lead to further isolation, consolidation of the regime and stronger dependence of the country on Russia (Korosteleva 2012, DG RELEX 2012) and, in fact, resulted in EU “losing Belarus” because of the lack of clear proactive strategy (Marin 2011a, p. 3).

2.3 Market-based governance

Some changes in EU relations with Belarus were observed in 2007-2010 after the Belarus-Russia energy crisis in January 2007, when the official Minsk showed its willingness to cooperate: it released political prisoners and by doing so resolved the most problematic tension in relations between the parties. However, this was not a result of EU pressure or sanctions (Fischer 2009, p. 5), since Belarusian authorities did not fully comply with EU requirements⁸, but a result of “volonté de rapprochement” (Portela 2011, p. 494) between the parties.

For Belarus it was dictated by the necessity to cope with significant economic difficulties which arose due to increase in price for Russian energy sources, attract additional

⁶ The sanctions were subsequently broadened (Council of the EU 2012a) and as of May 2013 restrictive measures are applied to 243 individuals, including the majority of top officials, responsible for violations of human rights and 32 companies associated with Lukashenko's government (Council of the EU 2012b).

⁷ Particular requirements included reform of the Electoral Code, putting an end to persecution of democratic forces, independent media and representatives of civil society, students, provision of the right to freedom of expression and assembly, including the leaders of the opposition parties (Council of the EU 2011).

⁸ For example, the Council did not acknowledge parliamentary elections held on 28 September 2008 as compliant with OSCE democratic criteria (Council of the EU 2008).

financial resources⁹ (Portela 2011) and to utilize the EU as an alternative leverage vis-à-vis Moscow in order to balance Russian influence (Vanderhill 2008, Demes 2010).

From the EU side cooperation turned out to be possible due to active “lobbying” by interested EU actors, particularly, by the countries neighbouring Belarus which were interested in including the Belarusian question into EU foreign political agenda (Jarabik and Silitski 2008). For example, Germany, one of the main donors for Belarus, during its presidency in 2007 accommodated the release of political prisoners (Lindner 2008) which was subsequently acknowledged as a factor that provided new possibilities “for dialogue and deepened cooperation” (Council of the EU 2009a).

As a result, travel bans were suspended, contacts with Belarusian authorities were renewed (Council of the EU 2009b), what is more, the EU shortened the list of conditions included into 2006 Non-paper of the Commission and underlined its interest in further deeper cooperation “provided that there are further positive developments” in Belarus (Council of the EU 2009a).

The series of mutual steps of bargaining was further continued by both parties: Belarus did not recognize the republics that broke away from Georgia after the 2008 war, launched a privatization programme, authorized the opening of EU Delegation, whereas the EU in response launched full-scale Energy and Human Rights Dialogues, initiated cooperation in the fields of environment, agriculture, customs, transportation, technical norms and standards.

In general, the main factors that allowed to break the deadlock in EU-Belarus relations in 2007-2010 were economic difficulties and willingness to balance Russian influence on the part of Belarus as well as the ability of the interested actors within the EU, particularly, the country holding presidency, to bring Belarusian question into the agenda and take certain steps towards improvement of relations.

However, the period of cooperation with the official Minsk did not last long: the crack-down of the opposition demonstration and subsequent repressions towards independent journalists and human rights activists after presidential elections in December 2010 showed that the incentives the EU is able to offer are not sufficient to motivate Belarusian authorities for implementation of real democratic changes, but are only capable of promoting, for a short period of time, certain market-oriented measures or minor political concessions such as release of political prisoners, which mainly represented “tactical adaptation rather than genuine reforms” (Fischer 2009, p. 17).

Therefore, market mode of governance can be used by the EU in relations with Belarus in certain situations, particularly, when the latter is willing to cooperate because of economic difficulties and problems in relations with Russia. At the same time this type of strategy is ineffective for promoting real democratic change and can only be used for spreading of limited scope of technical rules and norms through short-term ad hoc cooperation with Belarus which comes to an end as soon as its relations with Russia improve (Vanderhill 2008, Portela 2011).

2.4 Network-building with civil society

In parallel to the abovementioned steps of hierarchical and market-based governance aimed at Belarusian authorities the EU resorted to “dual-track approach” of differentiation between the regime and the Belarusian civil society (Dura 2008, Korosteleva 2009). In 1997 it was stated that technical assistance of the EU for Belarus would be suspended except for

⁹ Of particular importance for Minsk was the credit from IMF that Belarus received in 2009 which would have been impossible without approval from the EU countries (DG RELEX 2012).

support “to humanitarian or regional projects or those which directly support the democratisation process” (Council of the EU 1997) and further underlined its support to Belarusian civil society as well as set itself the goal to “win the hearts and minds of the people” (European Commission 2006).

Since 1997 Brussels provides relevant aid to Belarusian CSOs and projects¹⁰ through TACIS, which was in 2007 substituted by ENPI (European Neighbourhood Policy Instrument), some thematic instruments and programmes (e.g. EIDHR (European Instrument for Democracy and Human Rights), Non-state Actors and Local Authorities programme), as well as finance for stimulation of student mobility (Delegation of the EU to Belarus 2013).

Further increase in such support was announced at the International Donor Conference “Solidarity with Belarus” in Warsaw in February 2011: EUR 86.96m were provided as assistance to Belarusian civil society, including a four-time increase in EU support, a doubling of Polish funding and 30 % more funding from the U.S. (Ministry of Foreign Affairs of the Republic of Poland 2013). What is more, on March 29th, 2012, European Dialogue on Modernisation with Belarusian society, a forum for exchange of ideas on and relevant support for the possible reforms in Belarus between the EU and representatives of Belarusian civil society and opposition, was launched (Füle, cited in Europe Press Release 2012).

Despite such support, it was argued that the EU support to Belarusian civil society also brought very limited results (e.g. Dura 2008, p. 2, Korosteleva 2012, DG RELEX 2012).

In order to understand the reasons thereof and to find out which modes of governance and respective instruments the EU can select to overcome this inefficiency, it is necessary to analyse the limitations or “boundaries of order” (Smith 1996) specific for EU interaction with Belarus, which are in detail explained in the following section.

2.5 Limitations of EU governance in Belarus

2.5.1 Power-based limitations

One of the major reasons of failure of the EU to promote change and reforms in Belarus is the lack the power to provide credible, both positive and negative, incentives for the country to comply with its requirements. The leverage over official Minsk which is available for the EU, such as, on the one hand, “governance by conditionality” in the form of targeted visa restrictions, asset freezing, bans on cooperation with individual companies, and, on the other hand, vague incentives and prospects of cooperation offered by ENP, turned out to be an ineffective tool to enforce the adoption of its laws, rules and values in a country which expressed little enthusiasm for involvement into such cooperation (Korosteleva 2009, Portela 2011, Marin 2011a, DG RELEX 2012).

The effectiveness of EU external governance in this case is significantly limited by power-based factors, particularly, by extremely strong Russian presence in Belarus which is crucial in political, economic and military areas (Radchuk 2011). For example, the countries created the United State of Russia and Belarus, both are the members of CIS, EEC and other integration groups on the post-soviet space. As for economic links, the existence of Customs Union established by Russia and Belarus together with Kazakhstan and Single Economic Space to be launched in 2015 significantly limits the possibilities of bilateral trade cooperation between EU and Belarus. What is more, Belarus is strongly dependent on Russian imports (more than 50%), especially in terms of energy sources, which are sold to Belarus at

¹⁰ Total ENPI budget for Belarus in 2012 amounted to €20.75 mln, EIDHR – €3.1 mln plus €1mln. for Vilnius-based European Humanitarian University in exile, €4 mln. were provided to foster youth mobility (European Union 2011, p. 23).

rather low prices¹¹, and exports (35%) (MFA 2013a) and, recently, from the credits of the anti-crisis fund of Russia-dominated EEC¹² which made it possible for Belarusian authorities to avoid total collapse of the economy during 2011 crisis (DG RELEX 2012, p. 9).

Such strong Russian presence turned EU policy towards Belarus into a “by-product” of its relations with Russia (Marin 2011a, p. 7) and substantially limited the possibility for official Minsk to comply with EU requirements, even if it might desire to do so in certain situations, since it might be too costly, both politically and economically, for Belarusian authorities (Korosteleva 2012). For them such compliance bears the risk of Russian losing support¹³ or being put under pressure from Kremlin which views Belarus as its main and, probably, single military ally on its western border as well as a strategic channel for transit of its good to Europe (Rozanov 1999, p. 123) and whose “concept of sovereignty clashes with EU norms in the area” (Dimitrova and Dragneva 2009).

2.5.2 Institutional limitations

Another aspect to be considered when analyzing the possibility of taking certain actions in the sphere of foreign policy and limitations thereof is the internal structure of the relevant actor, its procedural rules, norms and values, institutional framework as well as the environment in which it acts (Sprout/Sprout 1956).

In case of EU relations with Belarus the abovementioned lack of leverage was also to a significant degree influenced by commitment of the former to decision making by consensus and avoiding qualify majority voting on foreign policy issues even if it is permitted by the treaties (Smith 2004, Lewis 2003). That makes decision-making very slow and inflexible, whereby it is impossible for the EU to adopt a clear position necessary for effective actions in case member states have different vision on relations with a particular country (Vanderhill 2008, p.6).

Lack of agreement is characteristic of the EU when it comes to formulation of policy towards Belarus. Except for a small group of countries whose national interests are strongly affected by the level of relations with official Minsk, such as Poland, Lithuania, Latvia and to some extent Slovenia, for the majority of the EU member states Belarus is either not a priority issue on their foreign political agenda (this is particularly relevant for Greece, Portugal, Malta, Cyprus, Bulgaria, Ireland, Luxemburg and to some extent also Spain, Belgium, Denmark and Estonia) or, as it is in the case of the other member states (such as France, Germany, Italy and Spain), it represents a matter of concern in terms of not violating the interests of and, respectively, not worsening the relations with Russia (Marin 2011a, p.3).

For example, Latvia, Lithuania and Slovenia have been reluctant to further the sanctions towards Belarus¹⁴ due to considerable economic interest in cooperation with Belarus. Particularly, the two Baltic countries received significant revenues from transit of Belarusian goods through their railways and ports as well as from exports of their goods to

¹¹ For comparison, in 2013 Ukraine pays \$352 per 1000 cubic meters of natural gas (KyivPost 2012), whereas the respective price for Belarus amounts to \$185 (BELTA 2012a), what is more, Belarus buys oil from Russia (in the amounts necessary for internal consumption) without paying any export duties.

¹² \$ 3 bln. were allocated to paid in parts, whereby the provision of each consequent trench is conditional upon Belarus' fulfillment of a set of conditions (MFA 2013c).

¹³ For example, in 2011 Belarus received around \$4.12 bln. as subsidies due to lower prices on Russian energy (Putin 2011).

¹⁴ Which, taking into consideration the fact that 38% of Belarusian exports go to EU countries (MFA 2013a) could have had considerable negative effect on Belarusian economy and, thus, put pressure on Belarusian authorities.

Belarusian market which could have been jeopardised if relations with official Minsk deteriorated¹⁵.

Of particular importance in this regard were also investment interests of the Baltic States. For example, large Lithuanian companies, such as Vakarų Medienos groups, Norfa network and Arvi kalakutai, carry out or are planning to expand their businesses in Belarus (Dudzinska and Dwyer 2013). What is more, Latvian oil businesses are closely connected to 3 petrochemical companies owned by Y. Chizh, one of the presumed supporters of Lukashenko's regime (Hyndle-Hussein and Klysinski 2012).

Further economic sanctions would also harm the interests of Slovenia, namely, one of its biggest companies, Riko Group, which was given preferable conditions¹⁶ for construction of a hotel worth about €100 mln. on the territory of Elite Estate which was reported to be under control of one of Chizh's holdings. Moreover, Riko Group closely cooperates with state-owned MAZ company and signed a €54 mln. contract with Minskenergo for modernization of power stations (Solash and Jorwiak 2012).

As a result, Latvia and Slovenia with verbal support from Lithuania blocked the decisions on stricter economic sanctions considered by the Council of the EU in 2011-2012, whereby the Council (2012b) was able to adopt restrictive measures only towards those companies that had very limited contacts with European market. Therefore, the imposed sanctions represented mainly "symbolic half-measures" (DG RELEX 2012, p.5) and had almost no negative influence on the targeted objects that were accused of being closely connected to and supportive of the regime (Hyndle-Hussein and Klysinski 2012).

Another institutional boundary to external governance in Belarus which the EU has set for itself is its "commitment to coherence in foreign policy in terms of time and areas" (Thomas 2011, p. 14) which made it difficult for Brussels to refrain from the previously established way of dealing with the country. For example, EU policy towards its neighbours, particularly, Belarus, is structured in such a way that almost all possible steps and activities of the EU require approval from the authorities.

The abovementioned policy design significantly limited the efficiency of EU activities towards Belarus, particularly, the assistance provided to support Belarusian civil society. The majority of funds allocated for that purposes are provided through ENPI (20.75 mln. Euros in 2012 (European Union 2011)) where in the majority of the fields, except for student exchange and media, financing of any projects is subject to agreement of the authorities. On the contrary, the instruments that might provide assistance without prior authorization, such as EIDHR and Non-State Actor Programmes, remained underfinanced¹⁷. As a result, the money was mainly allocated to purely technical/functional projects and was not available for the organizations that act to promote reforms and change in the country (Bosse 2011) which in fact invalidated the twin-track approach of the EU towards Belarus aimed at the empowerment of its civil society (Korosteleva 2009, p. 241).

In the case of Belarus the EU was unable to fully engage official Minsk into the framework of ENP, what is more, cooperation with the authorities is currently in a deadlock. From the one side, that was caused by EU sanctions (visa restrictions as well as asset freezes)

¹⁵ For example, in November 2012 Lukashenko threatened to redirect Belarusian cargos from Baltic to Russian ports (BELTA 2012c).

¹⁶ Particularly, the company was freed from the necessity to pay the common fees for paper work and was granted the right to lease the area for the time of construction "without an auction" (Solash and Jorwiak 2012).

¹⁷ In 2012 3.1 mln. Euros were allocated to these two programmes for projects within Belarus (European Union 2011).

imposed on 243 top officials and businessmen after presidential elections in December 2010 removal whereof is conditional upon progress towards respect by Belarus for the principles of democracy, the rule of law and human rights (Council of the EU 2012a). From the other side, deadlock emerged due to the unwillingness of the official Minsk to comply with such requirements which Belarusian President defined as “useless and unacceptable” (cited in BELTA 2012b).

In the presented situation EU’s commitment to previously adopted policies and measures makes it extremely difficult to break the deadlock by abolishing, at least partially, the imposed sanctions which did not bring any significant results in terms of promoting change and reforms in Belarus (e.g. Vanderhill 2008, Fischer 2009, Portela 2011) and, on the contrary, blocked the opportunity of cooperation and increased pro-Russian orientation of the country (Marin 2011a). One of the most vivid examples thereof is the problem of EU investments in Belarus: the imposed sanctions minimize the possibility for Western investors to work in Belarus in the light of poor political relations (DG RELEX 2012) as well as significantly weaken the positions of largest domestic companies which represent the only feasible alternative to the penetration of Russian capital into the Belarusian market (Chaly 2013).

What is more, sanctions are one of the major factors irritating Belarusian officials and make it unacceptable for them to negotiate with the EU, particularly on easier access to Schengen zone to their citizens, while being totally banned to enter the EU themselves (Stuzhinskaya, video EU Observer 2012).

Another important argument in favour of waving sanctions is that it provides an opportunity for the EU - if not to increase its influence on Belarus - at least remove grounds for criticism of double standards in its foreign relations constantly repeated by the official Minsk when comparing actions of the EU in response to authoritarian development in Belarus and other post-Soviet countries (Smith 2003, Brummer 2009, Sahm 2010). Taking into consideration the fact that more than a half of Belarusian believe that the reason why the EU imposed sanctions on Belarus is not the bad human rights or democracy record of the latter, but its intention to put pressure on the country (Melyantsov and Artemenko 2013), refusing from sanctions might also serve the purpose of improving the overall perception of the EU by the general public.

However, the respective decision is subject to the limitation in the form of “entrapment” (Schimmelfennig and Thomas 2011), which means that in case of differences in opinions among Member States¹⁸ those measures that are less consistent with the existing norms and policy commitments are less likely to be adopted, even though it might favour their general interests. When it comes to lifting sanctions from Belarusian officials, it is extremely difficult for the EU to justify refusal from previous policy commitments, since such removal is conditional upon “release and rehabilitation of all remaining political prisoners”, refrain from the “harassment of civil society, the political opposition and the independent media, compliance with the Human Rights Council Resolution 20/13, including implementation of all recommendations contained in the report of the UN High Commissioner for Human Rights of April 2012 and full cooperation with the new UN Special Rapporteur on Belarus” (Council of the EU 2012a).

Here the EU again faced the old problem of choice: “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

¹⁸ UK and Netherlands consistently objected to lifting sanctions from Belarusian officials (Marin 2011b).

signal of support for policies which do not conform to EU values” (European Commission 2003, p. 15). Even though in the recent time the list of EU conditions of political dialogue between EU and Belarus was reduced to release and rehabilitation of political prisoners (Füle 2013), the first step still depends in the goodwill of the official Minsk, which significantly limits the level of influence that the EU can have over the situation in Belarus (DG RELEX 2012, p. 9).

2.5.3 Domestic limitations

Another extremely important limitation to EU external governance in Belarus is the nature of the political regime in the country, which is mainly based on Russian support, coercion as well as “egalitarian nationalism” ideology, which considers collective values and interests as being more valuable than the individual, underlines the importance of social unity, state-owned economy and negative attitude to discontent, and, thus, legitimises the non-democratic rule and is used by the authorities as one of the major arguments in internal and foreign policy (Leschenko 2008). Taking that into account, it might be concluded that steps towards democratisation and economic liberalisation required by the EU cannot be accepted by Lukashenka since it “would seriously jeopardize his future as Belarus’s president” (Dura 2008, p. 6).

In addition, the strongly centralized and closed structure of the Belarusian political system, where working with regional bodies requires without prior authorization from the centre (Vierra and Bosse 2008), to a significant extent hampers the possibility of establishing contacts with low-level officials. For that reason network-building with public bodies at the lower level is possible only in apolitical, technical spheres, such as border control or energy cooperation, where no emphasis was made on political issues (Bosse 2011, p. 450). However, such network mode of governance resorted to by the EU can only lead to a certain degree of convergence of views towards pursuit of mutual interests, but not to the desired socialisation and spread of the values and standards promoted by the EU (Bosse and Korosteleva-Polglase 2009).

What is more, it has to be taken into consideration that scepticism or even negative attitude to the EU as a representative of Western civilisation is characteristic not only of the Belarusian elite (Dargenfield 2012, p. 225) that defines European values as “alien” by Belarusian officials (interview with the Head of Foreign Affairs Committee, House of Representatives, Belarus, 2009, cited in Korosteleva 2012, p. 76). Limited leverage of the EU over the country can be also attributed to the insufficient knowledge¹⁹ and support of European values as well as of the EU as a whole by the general population (CEPA and Freedom House 2011, Vanderhill 2008, Dura 2008).

As Belarus-wide survey indicated, 58% of people believe that EU relations with Belarus reflect only the interests of the former and are unlikely to bring any dividends for the latter and mainly perceive themselves as culturally different from the EU, particularly, as being more collectivist, altruistic and spiritual unlike more individualistic, pragmatic and competition-oriented Europeans. Another matter of concern for the EU established during the survey is that many young Belarusians, even though more knowledgeable about the EU, are most sceptical and least enthusiastic about EU-Belarus cooperation (Korosteleva 2012, p. 78).

Such a situation significantly limits the effectiveness of opposition and CSOs pro-democratic activities. As underlined by one of the Belarusian intellectuals, the difficulty of changing

¹⁹ For example, in 2013 only 13.7% of the Belarusians were aware of the ENP (Meljantcov and Artemenko 2013, p. 19).

regime is not that there is no reform-minded person, “a Havel”, but that such people are not wanted by the society (Ioffe 2006, p.161).

On the one hand, this might be explained by domestic Belarusian factor of scarce access to information among the Belarusians. First of all, it allows for active propaganda and manipulation of public opinion by the authorities (Bosse and Korosteleva-Polglase 2009, p. 157). What is more, it significantly limits the possibilities of EU information policy in Belarus. Particularly, in the existing information vacuum it is extremely difficult for Brussels “to show Belarusians what rewards the regime deprives them of in refusing to abide democratic rules” (DG RELEX, p. 10).

On the other hand, the problem stems from the low cross-border mobility between the EU and Belarus due to strict visa regime: Belarusians have to provide a substantial amount of documents and, unlike the majority of their neighbours, have to pay the quite often “unaffordable” (Paleckis, cited in Naviny.by 2013) for them²⁰ amount of 60 Euros in order to get a Schengen visa. What is more, very complicated, time consuming and often humiliating application process not only significantly de-incentivizes Belarusians from travelling (Korosteleva 2012, p. 75) but also enhances the negative image of the “fortress Europe” in the eyes of the people. On the whole, EU visa regime represents a significant “transactional boundary” (Smith 1996) to its governance in Belarus.

All in all, opening the “third track” (Marin 2011b) in EU policy towards Belarus based on building networks on the grassroots level and establishing links and promoting communication with general population, especially with the middle class, which is significantly disappointed with the recent developments in the country, particularly, decline in the level of material welfare after 2011 economic crisis, looks as an appropriate ways for the EU to increase support of reforms and change in the country.

However, network-building is also subject to certain limitations. Taking into account the impossibility for the EU to destroy the information vacuum created by Belarusian authorities within the country (Bosse and Korosteleva-Polglase 2009, DG RELEX 2012), network building in the case of Belarus requires intensification of cross-border contacts which might contribute to increasing the support of the EU and its norms by Belarusians. In the third part the author presents the analysis of whether visa regime simplification is a suitable instrument for achieving EU goals in Belarus as well as of the steps it can take in order to make use of this instrument.

²⁰ Average salary in Belarus in April 2013 was around 400 Euros (calculated on the basis of CISSTAT data).

Part 3. Visa regime simplification as an instrument of EU external governance in Belarus

3.1 Potential effects of simplified visa regime

As argued by Schimmelfennig and Sedelmeier (2005), increase in cross-border mobility and communication promotes the diffusion of values between the partners.

Such a tendency was also observed in the case of EU contacts with Belarus. For example, in 2011 58.8% of the Belarusians did not leave the country within the previous year and 55% had no contact with non-CIS national within the previous 36 months, whereby those Belarusians that have been abroad and/or communicated with foreigners exhibited a significantly higher support of the EU and willingness that Belarus joins the EU rather than integrates with Russia (increase from 44 to 74% and from 37.5 to 68% respectively) (IISEPS 2011). Results of BISS and Novak (2010) study also supported this assumption: the Belarusians that have visited Schengen zone countries within the previous three years expressed much higher rate of support of the EU than those who had no cross-border travel.

In order to fully analyse the potential effect of visa regime simplification, it is also necessary to take into consideration the demand for easier travelling in Belarus, particularly, to Schengen zone countries. According the results of BISS survey (Melyantsov and Artemenko 2013), more than a half of Belarusians would be willing to visit the EU within the next year, whereby 37.7% of Belarusians chose the option “free travel to EU countries” as the most desired aspect of cooperation with the EU (IISEPS 2009). Strong demand for travel to the EU in Belarus is also supported by the fact that in 2012 Belarusians were issued 74 visas per 1000 people (European Commission 2013), the highest rate in the world as well by the launch of visa free travel campaign “Go Europe! Go Belarus!” by the coalition of civil society organizations. All factors considered, in the presented situation simplification of the existing visa regime can contribute to the increase in cross-border travel and subsequently provide an opportunity for the EU to enhance its public support in Belarus.

However, in order to evaluate to prospects of taking relevant measures by the EU, it is necessary to establish the nature of the existing visa regime towards Belarus on the basis of the criteria to be assessed by the Council when making a decision on the type of visa regime²¹.

According to Frontex data (2011), Belarus has a positive border security profile in terms of drugs and human trafficking as well as risk of illegal migration in comparison to other countries at the eastern border of the EU, which nonetheless have a much more advantageous visa regime²²: the nationals of Ukraine, Moldova and Russia pay 35 Euros for Schengen visa, whereas for Belarusians it costs 60 Euros.

It is also necessary to take into account in this regard that the existing visa regime does not completely prohibits, but only significantly complicates the procedure of getting a travel authorisation. That means that those who have a strong intention to illegally move to another country still can, after having used some imagination, money and effort, still can get a visa and overstay the allowed period of time (Kennedy 1983, p. 25). This is also true for the EU where around a half of all illegal migrants are overstayers (European Commission 2008).

²¹ Security-related issues, such as risk of illegal migration flows, border control, reliability of documents, adoption of readmission agreements, and political criteria, such as the level of relations of the EU with the relevant countries as well as issues of regional coherence and reciprocity (Council of the EU 2001).

²² The nationals of Moldova together with citizens of Georgia represent the largest share of illegal migrants detected. What is more, in 2010 the border between Ukraine and Slovakia was the most insecure in terms of illegal migration. Ukraine is also the main transit country for both CIS and non-CIS illegal migrants, whereas Belarus contributes to this problem to a much lesser extent (Frontex 2011).

Therefore, the procedure of issuing Schengen visas is not consistently aimed and designed for effective prevention of illegal immigration (Finotelli and Sciortino 2013, p.82).

On the basis of the above mentioned it can be concluded that Belarusians have to face such strict visa requirements mainly due to political situation in the country which in fact represents non-targeted sanctions towards general population which has little control of political situation and, therefore, are counterproductive as a measure to foster reforms (Melyantsov and Silitsky 2008, Portela 2011). What is more, taking into account the regional context, the discriminatory restrictive visa practices towards Belarusian population negatively influence the soft power of the EU and its image of an open, fair and liberal society and creates basis for mistrust and accusations hypocrisy and double standards (Popescu and Wilson 2009, p. 3, Meloni and Hobolth 2011, p.4), which are frequently used by the official Minsk in its anti-Western rhetoric in order to show the EU as a hostile actor towards ordinary citizens of Belarus (e.g. Lukashenko 2013b).

Therefore, simplification of visa regime for general population in this context would be in compliance with the EU strategy of support to Belarusian people, differentiation between Belarusian authorities and general population and, as a whole, can serve the purpose of increasing support of European values and the EU itself. In addition to this direct effect, such measures would also contribute to creation of new opportunities for activities of civil society organizations promoting sustainable change and democratic reforms in the country which are currently lacking social base.

3.2 Limited opportunities to simplify visa regime for Belarusians

The respective need of enhancing communication and people-to-people contacts with Belarusians was also acknowledged by the EU, (e.g. European Union 2011, Council of the EU 2012a), nonetheless, very little has been achieved in this direction so far.

On the one hand, this might be explained by domestic situation in Belarus. As argued by Melyantcov and Silitsky (2008), restricted contacts between the Belarusians and EU citizens represent a benefit for the government since it helps them to control the public opinion and “carry out the policy of isolation with the hands of the EU itself”. What is more, negotiations on simplified travel with the EU were not plausible for Lukashenko due to political barriers, first of all, the risk of “losing face” of negotiating visa regime facilitation while being at the same time under the EU travel ban (Giro, cited in BelaPAN 2012, DG RELEX 2012, p.9). Therefore, unlike the situation in EU relations with other neighbours, in the case of Belarus simplification of visa regime (even though officially declared as one of the priority foreign political goals of the country (MFA 2013b)) does not represent an effective positive incentive to be used by the EU as an instrument of market-based external governance (Eliseev, cited in Sinjuk 2013). On the contrary, taking into consideration the potential positive effect for the EU as well as fears of the regime towards increase in pro-European moods in Belarusian society, free (or at least simplified) travel represents a rule to be promoted by external governance and, thus, is also subject to certain limitations.

For the abovementioned reasons the attempt of the EU to use the standard scheme of spreading its rules and norms by using the combination of visa facilitation and readmission agreements (Trauner and Kruse 2008) without taking into account the local realities brought no results so far. The Commission’s invitation to start respective negotiations made in June 2011 was rejected and further blocked by Belarusian authorities with “concerns over potential effect of readmission agreement” (Savinyh, interview to Euro radio 2012) declared as an official reason thereof. Here the EU faced the dilemma of promoting its rules and norms that under the existing conditions are unacceptable for the government of the partner country and at the same time require agreement of the authorities (Sikorski, cited in Eliseev 2012a, p. 8).

An alternative way to simplify visa regime in such a situation would be to resort to unilateral measures which do not require approval from the other party and, therefore, in fact represent a measure of hierarchical, the most efficient, mode of governance. Relevant suggestions re-emerged in the EU agenda²³ shortly after the Commission's attempt to negotiate a facilitation and readmission agreements with official Minsk brought no result (e.g. Jaroczewicz 2012, p. 49). The initiative to unilaterally reduce visa fees for Belarusian from 60 to 35 Euros was then brought up in February 2012 during the meeting of the Heads of Missions with EEAS in Minsk and was subsequently discussed during a number of events (European Commission 2012b).

The necessity thereof was also underlined by both individual MEPs²⁴ and the European Parliament in general, whereby the latter called on "the Council and the Commission to take further steps, unilaterally if necessary, towards the facilitation and liberalisation of visa procedures for Belarusian citizens ... which is the only way to prevent Belarus and its citizens from becoming increasingly isolated" (European Parliament 2012).

Similar measures were also proposed by numerous civil society organizations and representatives of Belarusian opposition as one of the very few instruments of democratization available for the EU in relations with Belarus (e.g. CEPA and Freedom House 2011, Korotenkova 2013).

However, no unilateral steps towards simplification of visa regime with Belarus which would require derogations from the Visa Code have been taken so far.

First of all, there is no agreement of the member states for such unilateral measures. Particularly, considerable opposition to fast visa liberalisation emerged in the Council after visa waiver was provided to the majority of Western Balkan countries in 2009-2010. Despite the fact that Poland, the Baltic states and Hungary actively support visa liberalisation and stress its importance for the societies of the neighbouring countries, states such as Netherlands, France, Austria and Germany underline that the third country in question has to demonstrate "irreversible and sustainable character of reforms" (Kazmierkiewicz 2012a, p. 4).

Such constellation made unilateral measures on visa regime simplification for Belarus impossible to be implemented by the Council, where 228 out of 309 votes from minimum 14 states with the total population not less than 311 mln. people would be required. What is more, decisions on the conditions of entry into the country are central to state sovereignty and represent a very sensitive issue for Member States since it affects their national interests (Kazmierkiewicz 2012b, p.28, Reslow 2012, p. 225). Therefore, of special relevance here is also the Council's commitment to consensus and avoiding qualify majority voting on foreign issues even if it is permitted by the treaties (Smith 2004, Lewis 2003) which further decreases the likelihood of adoption of respective decisions.

The entire issue is also complicated by increasingly negative public opinion about migrants and, thus, about simplification of visa regime due to the economic crisis (Vitorino, cited in Bertoncini and Kreilinger 2012) as well as by the lack of understanding of differences between migration, e.g. long-term stay with a right to employment, and mobility, e.g. short trips for mainly tourism or business visits (Beckouche, cited in Bertoncini and Kreilinger 2012, Kazmierkiewicz 2012b, p. 6).

²³ The question was also discussed in 2008 when the Prime Ministers of Visegrad Group countries announced their support to any measures for liberalization of visa regime as well as fees reduction for Belarusians (Visegrad Group 2008, Part IV, para 6.), however, the initiative brought no results

²⁴ For example, in March 2013 J. Paleckis in his draft report on the situation on Belarus argued that the EU should "consider unilaterally facilitating the issuing of visas and reducing their cost from EUR 60 to an affordable level for Belarusian citizens" (cited in Naviny.by 2013).

Another difficulty in that regard is that the unilateral adoption of such derogations would imply for the EU a change in earlier pursued policy of reliance on the principles of reciprocity and obligations of third countries towards readmission and may create a precedent for other third countries (European Commission 2012b). What is more, it could cause displeasure of those states that had to undergo a long way before signing of such agreements, such as Ukraine, Armenia or Moldova (Eliseev 2012a, p. 8).

On the whole, using unilateral steps of visa regime simplification would constitute a “values vs. security nexus” (Bosse 2009). On the one the EU has declared the objectives of building friendly relations with Belarus, promoting democracy and spread of European values, including through enhancement of people-to-people contacts (e.g. European Commission 2006, European Commission 2007b). On the other hand, it acts in compliance with its internal security interests, particularly, protection from illegal migration (Article 3 (2) TEU), and, in addition, underlines its commitment to norms of international law (Article 21 (2)), coherence and consistency in foreign policy (European Commission 2012b).

All these objectives are legitimate, however, in case of relations with Belarus for some member states, such as Lithuania, Latvia or Poland, which have building good relations and enhancement of ties with Belarus at the top of their foreign political agenda, the first group of objectives is more relevant, whereas the others who are less interested in progress in EU-Belarus relations mainly commit themselves to the second group of norms. Therefore, the described situation represents an example of limited opportunities of EU external governance due to entrapment, which is similar to those in the case of lifting sanctions from Belarusian officials. That explains the sticking of the EU to a previously determined norm of behavior and policy commitments²⁵, even though such a strategy was proved to bring very limited results, as well as inability of the EU to adopt measures which in general comply with its goals and interests.

3.3 Possible ways of overcoming the limitations

3.3.1 Bargaining

As explained above, hierarchical mode of governance, though in general the most efficient (Youngs 2009), is not applicable in the case of Belarus, since credible leverage as well as consensus in the EU concerning the creation of such a leverage is unlikely to be found by the EU in the nearest future (e.g. Marin 2011b, Korosteleva 2012).

An alternative way in this situation for the EU would be to resort to bargaining strategy and find some positive incentives for the Belarusian government to adopt the facilitation and readmission agreements. The possibility thereof looks quite promising for the nearest time, taking into consideration the current dynamics in EU-Belarus relations which is very similar to that which preceded the 2008-2010 rapprochement between the parties. Particularly, Belarus faces extremely high credit payments in 2013-2014 and has to cope with the challenges of recent Russian membership in WTO as well as resist its strong pressure for privatization of its most valuable assets (Melyantsov 2013). Therefore, the country is

²⁵ In case of visa policy the established norm of behavior for the EU is gradual simplification of visa regime on the basis of visa facilitation agreement to be signed in combination with the agreement on readmission with subsequent possibility of complete visa liberalisation upon completion by the country in question of a bulk of conditions (Trauner and Kruse 2008).

currently in need of financial resources²⁶ as well as European investments for the implementation of the announced modernization program (Lukashenko 2013a).

Belarusian foreign policy index (BFPI) (Melyantcov 2013) underlines in this regard that since the end of 2012 EU-Belarus relations have mainly developed according to the logic of non-confrontational and general improvement in the relations was observed (total index +24). One of the significant steps was the decision of Belarusian Ministry of Foreign Affairs to accredit Swedish charge d'affaires to Minsk after the mutual closing of Swedish and Belarusian Embassies due to teddy bear scandal (MFA, cited in Interfax 2013). The parties also increased their activity in diplomatic circles²⁷, brought their contacts to a high level²⁸, which has had no precedents since 2010 presidential elections.

In light thereof it was argued that Belarus has managed to achieve certain results in softening the EU position towards official Minsk from some EU Member States. Particularly, after Kupchina's visit to Paris and Brussels Belarusian media provided information on increased French (Fournier, cited in Charter97 2013) and Italian (Arnaldo, cited in BelaPAN 2013a) support of softening of EU position towards Belarus. During the Council meeting in Luxembourg on April 22nd, 2013, Latvian Minister of Foreign Affairs E. Rinkevicius (cited in BelaPAN 2013b) suggested that Belarusian Minister of Foreign Affairs V. Makey should be invited to the meeting of foreign ministers of EaP countries in Brussels in July 2013. What is more, Deputy Minister of Foreign Affairs of Lithuania A. Krivas (cited in Polskie Radio 2013) claimed in June 2013²⁹ that the sanctions against Makey are very likely to be temporary lifted in the nearest time and that respective decision is undergoing the last round of legal formalities. In general, such a decision, if adopted, will make it possible for him to participate in EaP summit in Vilnius in November 2013, which might contribute to an increase in the level of EU-Belarus political dialogue, particularly, on the issue of simplification of visa regime for Belarusians.

Also extremely important in this regard is the forthcoming Presidency of Lithuania in the second half of 2013, the country which is highly interested in improvement of EU-Belarus relations due to its strong economic dependence on the transit of Belarusian cargos through its ports. Official Vilnius included improvement of relations with Eastern neighbours as a priority for its presidency (Dudzinska and Dyner 2013), whereas Lithuanian position towards Belarus was vividly expressed by its Foreign Minister L. Linkevicius, who underlined that cooperation and engagement are the strategies to be used in relations with Belarus because "only by doing so, not by building walls can the EU influence the people in Belarus" (cited in BelarusDigest 2013).

Having the Presidency in the Council, the country can use its role of agenda-shaper, consensus-builder and external representative (Szabo 2011, p. 28) and bring Belarusian question back into EU foreign political priorities and promote finding a common position on Belarus.

Also important is the fact that Lithuania is considered to be one of the friendliest and most cooperative partners in the EU for Belarusian authorities:

²⁶ Particularly, official Minsk expressed its interest in new programme with the IMF (Ermakova 2013, Snopkov 2013), which cannot be launched without the approval of EU countries, as well as in other opportunities to borrow money in Europe (Amarin 2013).

²⁷ For example, Deputy Minister of Foreign Affairs E. Kupchina visited Paris and Brussels; Belarusian Ambassadors held numerous meeting with diplomats, officials and members of parliament in Hungary, Czech Republic, France and Austria .

²⁸ In spring 2013 Latvian Minister of Foreign Affairs visited Belarus and, which is especially important, Belarusian Prime Minister participated in Belarusian-Lithuanian economic forum in Vilnius.

²⁹ The date of submission of the master thesis.

“We believe that during Lithuanian Presidency in 2013 we are simply obliged to make use of additional opportunities in EU-Belarus relations and seriously move ahead in the direction of their normalization” (M.Myasnikovich, cited in Melyantcov 2013, p. 8).

All in all, such a constellation creates certain prerequisites for bargaining and looking for mutually acceptable solutions which earlier turned out to be the only way to ensure effective interaction between the parties (Portela 2011, p. 459), whereby the EU can propose that Belarus signs visa facilitation/ readmission agreements in exchange for certain actions or concessions, e.g., further lifting of visa bans and asset freezes.

However, the potential impact of these agreements on the subsequent cross-border mobility between Belarus and EU is questionable for a number of reasons.

First of all, as previous experience demonstrated, visa facilitation agreements did not lead to significant improvements in visa application process (Trauner and Kruse 2008)³⁰, whereas their main merit was the further possibility to launch negotiations on visa-free regime (Eliseev 2012a) which requires a further strict and detailed review of the partner state's legislation, institutional arrangements (including mechanisms for inter-agency co-operation), and operational practices. Therefore, even in EU relations with other neighbouring countries, which consider simplified access to Schengen zone to be a good, simplification of the visa regime in accordance with the existing procedure is a very lengthy process that might bring significant results in terms of real intensification of cross-border mobility only in the middle-term perspective (Fomina, cited in Bertoncini and Kreilinger 2012)³¹.

In the case of Belarus it is also necessary to take into account the fact that Belarusian authorities are not especially interested in establishment of simplified visa regime for general public (Melyantsov and Silitsky 2008, Jaroczewicz 2012, p.33), which was demonstrated the experience of the local border traffic agreements between Belarus with Poland and Lithuania which were signed as early as in 2010 but not yet effectively launched due to hindrances from the Belarusian part (Eliseev 2012a).

Taking into consideration these limitations it can be concluded that the prospects and real impact of visa facilitation and readmission agreements in Belarus, even if signed, are very uncertain. Therefore, such a strategy is in the nearest future unlikely to bring any significant improvements in the level of cross-border mobility between Belarus and EU.

3.3.2 Making use of existing flexibilities

An alternative and probably the most viable solution in such a situation is to complement activities on the bilateral level aimed at signing the agreement on visa facilitation with unilateral measures for maximum simplification of visa application and issuance procedure allowed by the existing EU legislation.

Particularly, EU Visa Code provides some flexibilities for Member States in the reduction of visa costs for children of 6-12 years, holders of diplomatic and service passports and participants aged 25 years or less in seminars, conferences, sports, cultural or educational events, organized by non-profit organizations (Article 6 (5)), whereby it was emphasized that

³⁰ For example, in Ukraine some member states charged additional payments for processing the application which offset the reduction of the visa fee, which in Ukraine amounted to 65-70 Euros even after visa facilitation agreement had been launched (Weinar et al 2012, p.2).

³¹ Negotiations concerning visa facilitation and readmission agreements with Ukraine, where democracy and pro-European commitment of the elite are significantly more evident than in Belarus, were launched in 2004 and finished only by the beginning of 2008. Subsequent negotiations on visa liberalization have not been completed up till now and, in the light of changes in Ukrainian government and arrest of Julia Timoshenko, their prospects are not clear (Eliseev 2012a).

within local Schengen cooperation, Member States shall aim to harmonise the application of these exemptions (Article 16 (5)).

Quite important is that in individual cases the amount of the visa fee may be waived or reduced when to do so serves to promote cultural or sporting interests as well as interests in the field of foreign policy, development policy and other areas of vital public interest or for humanitarian reasons (Article 6 (6)).

Member states are also given the right to apply, in accordance with international law and custom, certain derogations and exception towards specific groups, e.g. people that have special documents, including those issued by navigation companies and international organizations, or exercise specific professions or functions, for example, schoolchildren going for excursion (Council of the EU 2001, preamble, para.8).

EU Visa Code (Preamble, p.8) also stipulates that multiple-entry visas should be issued in case certain criteria are complied with in order to minimize administrative burden on the consulates. What is more, it is underlined that reliable and integrated applicants should be treated with in accordance with simplified procedure, particularly, local consulates can waive some of the requirements on application documents (Article 14 (6)).

EU Visa Code also states that due to significant differences in the local conditions, the practical implementation of individual legislative provisions should be assessed among local diplomatic missions and consular posts of the Member States in order to “ensure harmonised application thereof to prevent “visa shopping” and different treatment of visa applicants” (Recital 18). Article 48 also created a legal framework, local Schengen Cooperation (LSC), for implementation of these tasks, particularly, evaluation of the need to harmonise the lists of supporting documents to be submitted by visa applicants in a given country, unified criteria for provision of optional visa fee waivers for certain categories of applicants, consistency of information provided to visa applicants and exchange of relevant information among the Member State consulates present in the country in question.

The necessity of using these flexibilities in relations with Belarus was also acknowledged by the EU (e.g. Council of the EU 2011, 2012a, 2013, European Parliament 2012). In order to provide further impetus in this direction the Hungarian Presidency and the Commission on February 14th, 2011, presented a non-paper on “Possible ways of facilitation to be recommended for Local Schengen Cooperation (LSC) in Minsk in order to support the civil society of Belarus”. Proposed were certain facilitations and improvements, including immediate appointment for the lodging of application (if possible), elaboration of a single list of required documents, looking for “alternatives” to official documents that have to be provided for application, especially for students³², issuance of maximum possible amount of multiple long-term visas as well as harmonization of the procedure among all consulates (Presidency and the Commission 2011).

Further suggestions and measures proposed to be taken in this direction included the establishment of Common Application Centres, extending opening hours of consulates, issuance of multiple-entry visas to regular *bona fide* applicants, e.g. reliable travelers with a positive track record of legitimate visa use, which can not only eliminate the need for excessive applications for such persons, but also reduce the administrative burden on the consulates, open special windows for express procedures, extend the use of digital technologies for application purposes (e.g. Boniface and Wesseling 2008, Gromadzki and Wasilewska 2008, CEPA and Freedom House 2011, BelarusDigest 2012, WTTC 2012).

³² In order to apply for a Schengen visa students have to submit much more documents, issued by the authorities and therefore often difficult to get, than other groups of applicants.

On the whole, certain steps were taken in this direction and the measures adopted by individual Member States improved and simplified the visa application procedure for Belarusians (Eliseev 2012b). This resulted in an increase in the total amount of issued visas (See Annex, Figure 1), whereby the most significant steps were taken by Poland and Lithuania³³ (Potozki 2012) which made them undisputable leaders both in the amount of all Schengen visas used to Belarusians and in terms of refusal rates (See Annex, Table 1). What is more, according to the unofficial rating, Polish and Lithuanian representations occupied two of the three top positions of most applicant-friendly and least strict consulates in Belarus (Tio.by 2011).

Despite certain achievements of some member states, the differences in the ways they interpret the requirements of the visa code were not eliminated. For example, the lists of supportive documents to be provided by the applicants are still different in various consulates (Kazmierkiewicz 2012b, p. 28). What is more, only three of eleven representations of EU Member States in Belarus³⁴, namely, German, Lithuanian and Polish, systematically waived visa fees under Article 16(5) (European Commission 2012b). Significant differences were also observed in the percentage of multiple entry visas (See Annex, Figure 2).

Certain limitations are still observed in terms of representation of EU Member States on Belarusian territory: only Lithuania, Latvia and Poland have consulates outside Minsk, whereby only Slovenia, Netherlands, France, Greece and Estonia provide an opportunity to apply for their visa in one of these representations outside the Belarusian capital (European Commission 2012a), which creates substantial travelling costs for the applicants.

What is more, still unresolved is the problem of overload of consulates in Belarus, which is especially acute in the Polish representations. As underlined by the press-service of the Polish Embassy in Minsk (cited in NewsBy 2012), the amount of applications it has to process constantly grows, whereas it is impossible to increase the staff of the representation because of missing authorization from Belarusian authorities. In an attempt to overcome this limitation, the representation launched the system of on-line registration which made it possible to double the amount of applications accepted. At the same time, the number of applications that could be processed (around 120 000 per month) was still significantly lower than the amount of those who would like to apply for a visa. This created the problem of illegal access, registration and subsequent reselling of appointments for visa application. As a result, many Belarusians have to pay additional charges³⁵ in order to get an appointment for application for a Polish visa (Eliseev 2013).

Therefore, many problems and unused opportunities are still present, whereby further efforts aimed at coordination and improvement of visa issuance procedures by Member States as well as “avoiding the use of the existing visa procedures in ways that contradict or go against the Council’s and Commission’s efforts to strengthen Belarusian civil society” (European Parliament 2012) are required. Of particular importance in this regard is the harmonisation of the lists of documents to be submitted by applicants with an opportunity for

³³ For example, Polish embassy started to issue Schengen visas for shopping purposes only, which requires minimum amount of supporting documents and relatively easy to get. Since December 2012 Polish consulate in Grodno issues free visas to Belarusians who are going to visit opera theatre in Belostok. In September 2012 simplified visa application procedure was provided by Lithuanian embassy to those who were going to the concert of a popular Belarusian music band famous for its oppositionist views that received no authorization for the concert from the authorities.

³⁴ Czech Republic, Greece, Germany, France, Hungary, Italy, Latvia, Lithuania, Poland, Slovakia and Sweden, since May 31st, 2013, also Spanish visa centre in Minsk issue Schengen visas for Belarusians.

³⁵ In the Internet there are numerous websites offering to register your visa application form and even choose a relevant date for 50-150 Euros (NewsBy 2012).

bona fide travelers to be able to get a visa with lower requirements, spread of best practices that simplify application procedure used by separate consulates, promotion of issuing of more multiple-entry visas and providing visa waivers in individual cases as well as burden sharing between consulates of different Member States, particularly, by opening new representations and setting up more common application centers.

Here Lithuania can also make use of its role of Presidency in the EU Council in order to raise the awareness of the problems by the Member States which can subsequently provide relevant regulations on the simplification of visa practices and approaches to their representations in Belarus. Sufficient political support in the domestic countries would also make it easier for ambassadors and/or their deputies to make more decisions favourable for Belarusian applicants (for example, decision on granting a visa waiver) (Melyantsov and Silitski 2008, p.8).

On the other hand, significant contribution to implementation of the abovementioned measures can be achieved at the local level, particularly, within the framework of LCS which is designed to serve the purposes of “ensuring the continuity and coherence between EU Member States consulates” (European Commission 2012c). Particularly, the Commission and the Presidency as the chairmen of relevant meeting can contribute to more harmonisation and spread of best practices by underlining the need of maximum use of existing Visa Code flexibilities for simplification of visa regime and facilitation of an informal agreement between the representatives of the Member States on a single list of requirements to issuing visas. What is more, the Commission, the Presidency together with the representatives of other Member States could also assess the consular coverage of various Member States in the country, promote equal burden sharing between the representations and find the most suitable ways to achieve that (e.g. by establishing common application centers) (European Commission 2012c). That might be helpful for reduction of travel costs for those who do not live in the capital and contribute to the solution of the problem of overloading and long waiting times in some consulates, particularly, that of Poland in Minsk.

Even though limited in scope of possible measures, such an approach creates an opportunity for EU Member States to issue more and, on the average, cheaper (due to granting more visa waivers) Schengen visas to Belarusians. What is more, taking into consideration the difficulties the EU faces in terms of adoption of unilateral measures on visa regime simplification for Belarusians as well as significant limitations to cooperation with the official Minsk on the issue, this approach seems to be a useful one for EU to improve the level of cross-border mobility already in the short-term perspective.

Conclusion

It is widely acknowledged that the previous EU attempts to “externally govern” Belarus by means of hierarchical and market-based modes of governance as well as building networks with the civil society have failed so far. That makes the selection of new instruments to be used in its policy towards Belarus of special importance for the Union. The goal of the master thesis was to analyse if visa regime simplification can serve as an instrument of EU external governance in Belarus, as well as investigate the ways it can be used in practice taking into consideration the existing limitations.

In general, the fact that the EU did not manage to achieve its goals in Belarus, still called “the last dictatorship in Europe”, can be explained by significant limitations to its external governance. First of all, these are the power-based limitations, particularly, EU’s lack of credible and efficient leverage over Belarus and very strong dependency in economic, military, political and other fields of the latter from Russia.

Also extremely important are institutional limitations, namely, EU’s adherence to previous policy commitments as well as the behavioural rule of finding a consensus among all Member States when making decisions on foreign policy. Combined with the lack of agreement within the EU on its relations with Belarus (e.g. Belarusian question is important only for a small number of Member States: Lithuania, Latvia and Poland, whereas the others either do not have the issue at the top of their agenda, or prefer to deal with the country through the prism of relations with Russia), it makes almost impossible for the EU to adopt decisions on the measures deviating from previous policy commitments, even though they might contribute to the achievement of the established goals.

Last but not least in this regard are the limitations predetermined by Belarusian domestic situation. This group of factors includes the authoritarian nature of the regime, which makes the EU requirements in the sphere of democratisation unacceptable for the president; strongly centralized political system, where EU cooperation with low-level officials is only possible upon authorisation from the higher authorities as well as insufficient knowledge and support of the EU by the general population due to scarce access to information within the country and low level of cross-border mobility between EU and Belarus under very strict visa regime. This not only makes it difficult for the EU to achieve its goals of promoting democracy, rule of law, human rights and fundamental freedoms in the country, but also significantly decreases the possibilities for spreading thereof by CSOs which in fact invalidates EU’s support to Belarusian civil society.

In the short-term perspective it will be extremely difficult for the EU to overcome the limitations from the first two groups, e.g. to find credible positive or negative incentives for Belarus which might weaken the country’s strong ties with and respective dependence from Russia or to change its system of decision-making and the constellation of foreign political interests of its Member States. The EU is also very unlikely to be able to influence the Belarusian political regime and the policy it pursues within the country. At the same time it was underlined that increasing cross-border mobility positively influences the diffusion of values, which was also proved to be true in the case of EU-Belarus contacts. On the basis thereof it can be concluded that simplification of visa regime might be a useful instrument for the purposes of EU external governance in Belarus.

Even though the necessity of stimulating people-to-people contacts was widely acknowledged, also by the EU itself, not much has been achieved in this direction so far. This can be explained by the fact that, unlike the situation in EU relations with other neighbours, Belarusian authorities are not really interested in simplification of visa regime. Therefore, in this case freer travel is not a positive incentive to be used in negotiations, but represents a

value to be promoted, which makes simplification of visa regime subject to the abovementioned limitations.

The previously established way of visa regime simplification through negotiation of visa facilitation/liberalisation agreements has brought no results so far. Belarusian authorities, for fear of the increase in pro-European moods in the society as well as unwillingness to “lose face” of negotiating simplified travel for their citizens while being under EU travel ban, had no real interest therein and did not react positively at the relevant proposal from the Commission. The EU had no leverage to enforce/bargain over such agreements and, due to lack of unified position and substantial differences in interests of the Member States, turned out to be unable to create any (for example, by imposition of stricter economic sanctions). Similar reasons as well as EU’s adherence to previously adopted policies also resulted in its inability to take unilateral measures, particularly, to make derogations to the Visa Code, even though it was argued that such a step might have a positive effect on cross-border mobility and subsequently contribute to the achievement of EU goals in Belarus.

Current developments in EU-Belarus relations, e.g. economic problems and growing Russian pressure in Belarus and forthcoming Lithuanian presidency in the EU Council, create certain prerequisites for fruitful bargaining with the official Minsk, which under certain circumstances (for example, lifting of visa sanctions from Belarusian officials in response to release of political prisoners) might result in signing of visa facilitation agreement.

However, previous EU attempts to “bargain” with Lukashenko showed that market-based governance can only be used for spreading of very limited amount of rules and norms in apolitical spheres through short-term cooperation which comes to an end as soon as official Minsk resolves the tensions in its relations with Russia. The Polish and Lithuanian experience of local border traffic regime also demonstrated that signing an agreement with the official Minsk does not *per se* ensure its effective implementation. What is more, visa facilitation agreements did not lead to significant simplification of visa application and issuance procedure in the cases of other EU neighbours, whereby their main benefit for the country was the possibility to start visa liberalisation dialogue with the EU, which is also a very lengthy process requiring compliance by the respective state with numerous EU requirements. Therefore, the efficiency of such an agreement, even if it is signed, for promotion of cross-border mobility between EU and Belarus in the nearest time, is questionable.

In such a situation the current EU efforts aimed at signing of visa facilitation agreement with Belarus can be complemented by promotion of the maximum possible use of the existing flexibilities allowed by the EU Visa Code. For example, issuing more multiple-entry visas, harmonisation of the list of required documents by all consulates, allowing a simplified application procedure for *bona fide* travelers, providing maximum possible amount of visa waivers and visa fee reductions, creation of common application centers to reduce travel costs and waiting times in some consulates and spreading other best practices can make Schengen visas more available for Belarusians.

Even though limited in number and scope of application, such measures might positively influence the level of cross-border mobility already in the short-term perspective, which makes them an important instrument to be used by the EU for the purposes of external governance, especially taking into account the significant limitations to its cooperation with the official Minsk on the issue of increasing of cross-border mobility on bilateral basis as well as the problems the EU faces in the adoption of derogations to Visa Code for Belarus.

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Annex

Country	Number of visas issued	Refusal rates, %
Hungary	7430	0,64
Germany	69516	0,65
Italy	29400	0,36
Lithuania	144328	0,17
Latvia	26816	2,56
Poland	244037	0,19
Slovakia	3949	20,9
France	16260	0,85
Czech Republic	14341	3,42
Estonia	19766	2,39
Sweden	4081	1,32

Table 1. Schengen visas issuance in Belarus in 2011 (Source: Eliseev 2012b)

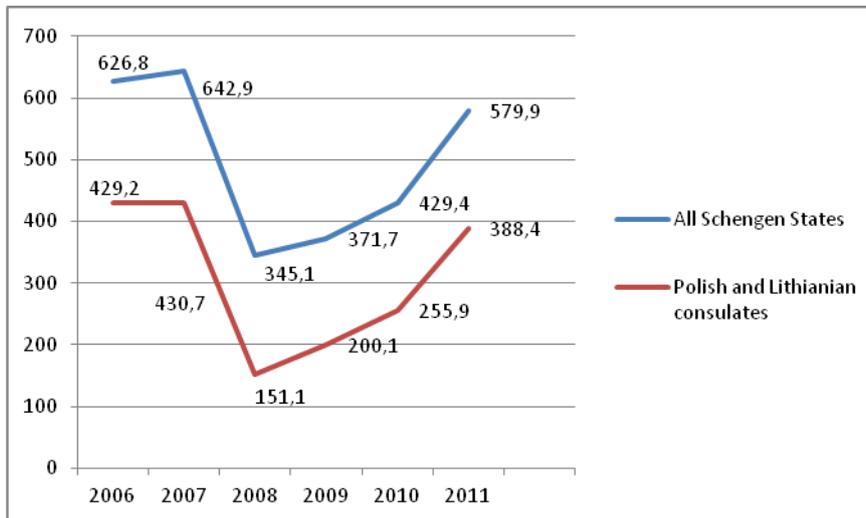


Figure 1. Schengen visas issued by all Schengen states and Polish plus Lithuanian consulates in Belarus (Source: Eliseev 2012b)

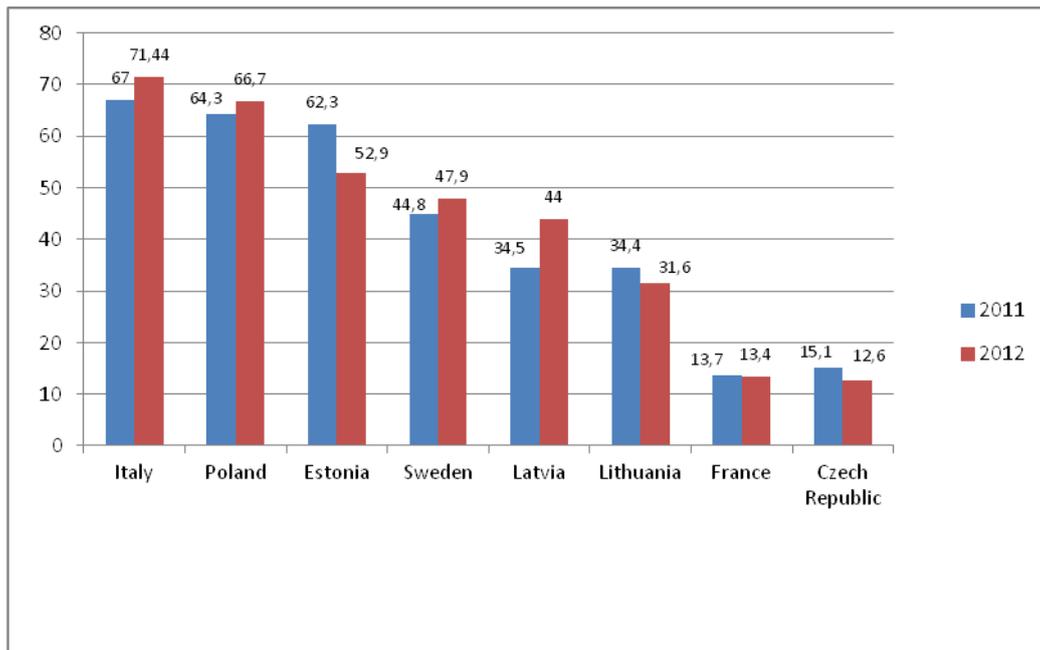


Figure 2. Share of multiple entrance visas in individual consulates of EU Member States in Belarus, in % (Source: Eliseev 2013)