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Local border traffic agreement for the Kaliningrad region: a success story of the Polish presidency and a trust-building exercise for Poland and Russia

The signing of the Polish-Russian Local Border Traffic Agreement on the 14th of December, 2011, is an unambiguous success of the Polish Presidency. The present agreement differs from other local border traffic (LBT) agreements between EU member-states and their neighbours in terms of the scope of territory covered by it. Instead of the regular 30 km on both sides of the border, the new agreement covers the whole area of the Kaliningrad region and a corresponding territory on the Polish side, including the main cities. The signing of the agreement would not have been possible without amending the EU regulation on local border traffic. It demanded a considerable amount of effort on the side of Poland and the Russian Federation to persuade the European Commission, European Parliament and European Council to allow for this exception. It also demonstrates that good cooperation between Poland and the Russian Federation is possible. If the agreement is ratified, it will enable visa-free travel between the Kaliningrad Oblast and the specified areas in Poland and thus will reduce the isolation of the Kaliningrad region and considerably boost tourist and economic exchange as well as the local governments' cooperation.

Background

Local Border Traffic Regulation No 1931/2006 constitutes the EU basis for special arrangements on crossing of the EU external borders by residents of neighbouring third countries. The current provisions of this regulation allow EU Member States to sign bilateral agreements with relevant third countries which allow for simplified border crossings for residents who live no more than 30 kilometres from the border (in exceptional cases up to 50 km). Since the EU LBT Regulation's enactment four LBT agreements between the EU and its eastern neighbours have come into force: between Hungary and Ukraine (2008); Slovakia and Ukraine (2008); Poland and Ukraine (2009) and Romania and Moldova (2010). There are also agreements signed by Latvia, Lithuania and Poland with Belarus. Latvia has already ratified its agreement with Belarus; otherwise, the ratification processes are ongoing, though their future is uncertain due to lack of politi-



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cal will on the Belarus side. Moreover, an LBT agreement was signed between the Russian Federation and Norway, the ratification procedures are ongoing and the agreement is expected to enter into force in 2011. There are also draft agreements between Latvia and the Russian Federation, between Lithuania and the Russian Federation (already mentioned) as well as between Romania and Ukraine.

The 30 km restriction may work well for all the other external land borders of the EU, but create a serious problem for Kaliningrad as it is the only enclave within the EU whose residents require a visa to enter the EU. Application of the current provisions of the LBT Regulation would mean that the residents of the Kaliningrad region would be divided into four categories of citizens: (i) those who would be eligible for crossing the borders only within the local border area (without a visa) to Poland, (ii) those who would be eligible do the same within the border area with Lithuania, (iii) those who would be eligible for visa-free travel to both EU countries and finally (iv) those who would not be eligible for visa-free travel to any EU country. What is also noteworthy is that the capital of the region, the largest and most densely populated city, would not be covered by the provisions of local border traffic.

The city of Kaliningrad, the capital of the region (0,5 million inhabitants), is situated 35 kilometres from the border with Poland and 70 kilometres from the border with Lithuania. The closest city of mainland Russia is Pskov, 800 kilometres from Kaliningrad. The length of the border of the Kaliningrad region (and the Russian Federation) is 550 kilometres, out of which land border with Lithuania and Poland is 410 kilometres. The Kaliningrad region is very significant for Russia from the national defence perspective – the headquarters of the Baltic Fleet is situated in the city of Kaliningrad, and the largest base in the city of Baltiyskoye.

The Kaliningrad region is highly dependent on imported goods. The import of goods from Poland and Lithuania is considerably larger than the export of domestic products. Import from Poland in 2010 was valued at \$685,194 mln,

whereas export was \$36,4 mln.¹ Import from Lithuania in 2010 was worth \$205,5 mln and export to Lithuania – \$58,3 mln.² The Kaliningrad region is also attractive for foreign investors due to its proximity as well as its tax and customs privileges and cheaper workforce. It has Special Economic Area status since 1996. Most joint capital enterprises have been opened with Lithuanian investors (603), Polish investors (568) and German investors (358).³ Trans-border cooperation between local governments, the third sector, as well as higher education, sports and cultural institutions is relatively well-developed.

Bearing in mind the unique position of the Kaliningrad region vis-à-vis the EU, and Poland in particular, in 2010 the Polish and Russian side negotiated a local border traffic agreement that would cover the whole of the Kaliningrad area as well as a territory in Poland of comparable size. However, such an agreement could not be signed, being in breach of the aforementioned regulation No 1931/2006. In April 2010 the ministers of foreign affairs of Poland and the Russian Federation wrote an open letter to Baroness Ashton, the High Representative of the Union for Foreign Affairs and Security, drawing her attention to the unique position of the Kaliningrad region.

On the 29th of June, 2011, the European Commission officially supported the initiative to amend the current EU Regulation on Local Border Traffic. The proposed amendment makes it possible to treat the Kaliningrad region as an exception and cover the entire area by local border traffic regulations. It also proposes to include the following administrative districts within the Polish regions (voivodships): in the pomorskie voivodship, the pucki, gdański, nowodworski and malborski districts, as well as the major cities of the region of Gdańsk, Gdynia and Sopot; in the warminńskomazurskie voivodship, the elbląski, braniewski,

¹ Data from the Polish consulate in Kaliningrad.

² <http://ru.delfi.lt/news/politics/kaliningrad-nadeet-sya-na-skoroe-podpisanie-soglasheniya-o-prigranichnom-sotrudnichestve.d?id=48283107>.

³ <http://russia-briefing.com/news/european-commission-may-ease-travel-to-eu-for-kaliningrad-residents.html/>.

lidzbarski, bartoszycki, olsztyński, kętrzyński, mągowski, węgorzewski, giżycki, gołdapski and olecki districts, as well as the cities of Olsztyn and Elbląg.⁴ The population affected by the current proposal on the Polish side is about two million people (1,014,737 in pomorskie and 941,295 in warmińsko-mazurskie⁵) and on the Russian side – almost one million people (941,500).⁶

The European Parliament supported the EC proposal to amend the Regulation on LBT by 556 votes, with only 69 against. The act amending the Regulation No 1931/2006 as regards the inclusion of the Kaliningrad area and certain Polish administrative districts in the eligible border area (2011/0199 COD) was signed on the 13th of December, 2011.

Political Controversies

The idea to introduce visa-free travel for residents of the whole area of the Kaliningrad region has brought about some political controversies. First of all, Lithuania, Kaliningrad's other EU neighbour, has not been equally enthusiastic about the idea of treating the whole of the region as border area, and even less so about following Poland's decision to broaden the border area on its own territory to include the larger cities of Druskienniki and Kaunas. In April 2010 Lithuania did not sign the letter drafted by the Polish and Russian Ministers of Foreign Affairs appealing to Catherine Ashton to treat the Kaliningrad area as an exception to the general EU regulations on LBT, despite initial declarations to do so. The Lithuanian Ministry of Foreign Affairs emphasised that the existing regulations are sufficient for signing a successful LBT agreement and thus there

is no reason to support the Polish-Russian initiative. The underlying assumption was that the initiative was a tactical ploy by Russia to gain more ground in the debate on a visa-free regime for the whole Russian Federation.⁷

Even though the LBT Regulation is not directly related to the EU visa regime, the EC's proposal has been seen as a first step towards a visa-free regime between the EU and the Russian Federation, and Lithuania ostensibly is not ready to support that idea. The country's president, Dalia Grubauskaite, explained that Lithuania supports visa-free regime with countries that fulfil security criteria, and that it was for Brussels to decide whether this was the case with the Kaliningrad region.⁸ The current official Lithuanian position is that it accepts the EC's proposal provided that the country is not pressured into opening a comparably large area for LBT on its territory.

Paradoxically, the proposals for improving travel opportunities for residents of the Kaliningrad Region have also been a matter of controversy within the Russian Federation itself. The declarations of the country's Prime Minister, Vladimir Putin, critical of the 'special treatment' that the region would be granted (6th of June, 2011, in Sochi) exemplified these ambiguities. Just when the two foreign ministries had done a great deal in order to convince Brussels to treat the whole of the region as border zone, and when the proposal was being discussed by the European Commission, Putin declared that the Russian Federation was not going to claim special privileges for the Kaliningrad region. He justified his position with claims for equal treatment for all citizens of the Russian Federation as well as expressed misgivings about the reluctance of the EU to grant visa-free regime to the whole country, especially since Brussels had managed to achieve special treatment for the region of Russia that it is interested in the most. One has to bear in mind the specific location and history of the Kaliningrad region, which brings up questions

⁴ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) No 1931/2006 as regards the inclusion of the Kaliningrad area and certain Polish administrative districts in the eligible border area http://ec.europa.eu/home-affairs/news/intro/docs/110729/1_EN_ACT_part1_v6.pdf

⁵ According to the data provided in 'Stan i struktura ludności oraz ruch naturalny w przekroju terytorialnym. Stan w dniu 31 XII 2010 r.' GUS http://www.stat.gov.pl/gus/5840_655_PLK_HTML.htm.

⁶ National Census of the Russian Federation, http://www.perepis-2010.ru/results_of_the_census/results-inform.php.

⁷ <http://kurierwilenski.lt/2010/08/09/litwa-i-polska-sa-poroznione-ws-rosyjskiej-enklawy/>.

⁸ <http://kurierwilenski.lt/2011/07/29/ke-zaproponowala-objecie-kaliningradu-przygranicznym-ruchem-bez-wizowym>.

about the integrity of the Russian Federation and the allegiance of its peripheries to the centre. It is difficult not to note the ambivalence of Kaliningrad as simultaneously 'the window to Europe' for all the Russian Federation as well as a province whose loyalty can be doubted, a region which may feel itself closer to Warsaw and Berlin than to Moscow.

In turn the Kaliningrad Region, indeed, craves more independence from the centre. In the end of July, the Region's law-makers prepared a draft proposal for granting the region the status of a federal 'okrug' or even independent federal territory. What is more, one of the members of the local parliament who drafted the proposal also suggested that Kaliningrad should lift the visa requirement for visitors from EU countries.⁹ Since such a decision does not lie within the competences of the local government, the proposal was clearly meant not merely to demonstrate good will to the EU, but first and foremost to show resistance and a will for independence to the central authorities.

A certain amount of scepticism can be found on the Polish side as well. On the one hand, some practical concerns are being raised, especially regarding the functioning of the border crossing points with the increased border traffic enabled by the LBT agreement, as well as the proper marking of the borderline between the area covered by the agreement and the rest of Polish territory. Predictably enough, sceptics also raise security concerns, which come up in all discussions about liberalisation of visa regime. An example of this can be a comment by the Polish analyst Bartosz Cichocki, who predicted that Germany may re-introduce border checks if residents of Kaliningrad regularly abuse the regulations of LBT.¹⁰ Finally, the most vociferous opponents of the LBT agreement between Poland and Russia use it as an opportunity to criticise the government for 'selling off national interests' and to exploit arguments about the German and Russian 'threats.'¹¹

⁹ http://www.ng.ru/regions/2011-08-01/1_kenig.html

¹⁰ <http://newsbalt.ru/detail/?ID=931>.

¹¹ An example of this rhetoric can be found here: <http://cogito.salon24.pl/264522,projekt-prusy-wschodnie>.

Future benefits

There is a number of reasons why an LBT agreement between Poland and Russia that covers a considerably broader area than the EC regulation would normally allow is a good idea. First of all, it will not create divisions within Kaliningrad society but will apply to all residents equally. The significance of visa-free travel for people participating in artistic, scientific, cultural or sports exchange and local government cooperation cannot be overestimated. It will also boost tourism, thanks in particular to opening the main Polish Baltic sea coast cities to visitors. Poland is already an important tourist destination for Russians from the Kaliningrad region. Unlike in the cases of cross-border exchange between Poland and Ukraine and Poland and Belarus, where the dominant motivation for travelling to Poland is shopping, about one third of Russians come to Poland as tourists.¹²

The Kaliningrad region is highly dependent on the import of goods. It can be expected that trade and economic cooperation will also see a considerable boost once the visa requirement is lifted. This has been the experience of the LBT agreement between Poland and Ukraine: if in the third quarter of 2008 556 mln Polish zlotys were spent by Ukrainians in Poland, in the same period of 2011 it was 893 mln Polish zlotys. More than one third of the money spent by Ukrainians for Polish goods fell within the LBT.¹³

The experience of the existing LBT agreements between EU member-states and their neighbours also shows that security concerns are largely ungrounded. In its evaluation of the existing agreements the European Commission concluded that there are few abuses in their practical implementation, especially with regard to the violation of the border zone in order to travel to other Member States.¹⁴

¹² *Badanie obrotu towarów i usług w ruchu granicznym na granicy zewnętrznej Unii Europejskiej na terenie Polski w III kwartale 2011 roku. Wyniki Wstępne.* GUS, Rzeszów, 2011, http://www.stat.gov.pl/cps/rde/xbcr/rzesz/ASSETS_BAD_OBROT_GRAN_III_Kw_2011.pdf.

¹³ http://www.stat.gov.pl/cps/rde/xbcr/rzesz/ASSETS_BAD_OBROT_GRAN_III_Kw_2011.pdf.

¹⁴ Communication from the Commission to the European Parliament and Council. Second report on the imple-

Since the agreement is expected to intensify cross-border traffic between Poland and the Kaliningrad region, the EC Regulation amending the LBT regulation rightly puts emphasis on the need to facilitate border crossing. The steps proposed include specific border crossing points only for LBT; authorisation for border residents to cross their external land border at defined places other than those authorised. Poland has also pledged to provide combined training and info-campaigns targeted at Consuls, Border Guards, Police and City Guard (*Straż Miejska*), Customs, local authorities in powiats, transport authorities and tourism organisations.¹⁵ Representatives of the Border Services claim to be already preparing for the LBT agreement's coming into force,¹⁶ but details are not yet known. It is very important that steps aimed at making cross-border traffic truly effective are taken.

The signing of the LBT agreement between Russia and Poland covering the entire area of Kaliningrad Region is certainly a success of the Polish Presidency. It should also be noted as a significant step towards achieving a visa-free Europe. It can also serve as a trust building mechanism that would help alleviate fears and convince other EU member states of the benefits of visa-free regime, as well as provide evidence to the residents of the Kaliningrad region of the EU's openness and good will.

Dr Joanna Fomina – coordinator of the Friendly EU Border project, Open Europe Programme, the Stefan Batory Foundation

mentation and functioning of the local border traffic regime set up by Regulation No 1931/2006.

¹⁵ http://www.europarl.europa.eu/meetdocs/2009_2014/documents/libe/dv/kaliningrad_/kaliningrad_en.pdf.

¹⁶ <http://www.dziennikbaltycki.pl/artykul/483222,dokaliningradu-bez-wiz-umowa-z-rosja-podpisana,id,t.html?cookie=1>.