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### **NEW BORDERS OF EUROPE: CONTRIBUTION OF POLAND**

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At present, despite some achievements, there remains uncertainty about further steps to be taken and on the whole about overall strategy for Poland, as an EU member state, towards its East European neighbours (Belarus, Russia and Ukraine) in the field of visa policy. In many ways the situation is determined by the lack of clarity as regards the development of the Polish visa policy in the EU towards the neighbouring countries of Eastern Europe even in the near future.

This paper stresses that, while a non-visa regime between Poland and its non-EU neighbours should be considered to be the ultimate aim, at the moment the Polish authorities should improve the communication of their visa policy strategy to both their neighbours and EU partners. As I see it, it is a task for the Polish Ministry of Foreign Affairs and, in a way, for relevant Polish consulates. The proposal for such a policy outlined below discusses the conditions for that:

- What has been achieved in the sphere up to the moment.
- How the Polish specific approach to the visa policy to her neighbours fits the EU policy in the sphere.
- What are the implications of Poland`s entering the Schengen area.
- How the visa policy experience of some new EU member states can contribute to moving to the final aim.
- How much room for manouvre the European Neighbourhood Policy grants Poland.
- Why the non-visa regime is an optimal solution.

## PRESENT STATE OF AFFAIRS

The recent EU enlargement process initiated a debate among the politicians, scholars and the public about new divisions in Europe (in particular, about the emergence of a ‘paper curtain’ between Central and Eastern Europe following the previous ‘iron curtain’ between Western and Eastern Europe). The most visible sign of this is the final introduction of the visa regime by all the new EU member states with their non-Union neighbours. In this context the case of Poland, one of the key new EU border-countries, which demonstrated the ability to come up with new solutions in the visa policy, deserves special attention. For instance, it is important for Russia, where a heated debate over the solution for the Kaliningrad region left much uncertainty about the long-term development.

The Polish and EU authorities, central and local, justify the introduction of visas for eastern neighbours with Poland`s obligations towards the Union. A claim has been made that the new policy will bring stability and security and, in the end, will facilitate the cross-border exchange. At the same time both Poland and her eastern neighbours felt much concern with its most immediate and not long-term consequences, given that the Polish visa regime is to meet, in the



end, fairly strict Schengen standards within a few years. Among the reasons for concern for the Polish authorities, especially local, was the impact on the Polish eastern borderland, a less developed region of the country, whose revenues, very often 'grey', depend on the cross-border exchange.

In the process of working out the visa policy with the eastern neighbours the Polish government has managed to develop some successful intergovernmental solutions to the problem, which received the EU authorities' consent. Taking a differentiated approach to the non-Union neighbouring countries and even to certain key regions (in terms of the actual rate of exchange), Poland has introduced a virtually non-charge visa regime with the Ukraine and the Kaliningrad region of Russia and considerably reduced visa fees for citizens of Belarus and, to a lesser extent, for the Russian Federation, except the Kaliningrad region. The procedure is much more simplified in comparison with the one required under the Schengen agreement. For instance, the results of an independent four-country project 'Monitoring of Polish Visa Policy' (published in 2004) demonstrate that the work of Polish consulates is getting better, although there is still much room for improvement. The citizens of Belarus, Russia and Ukraine travelling to Poland on the whole have already accepted the fact that the visa regime is inevitable, as it is an integral part of the EU *acquis* binding on any member-state of the Union, especially for an EU border-state. However, the nationals of the neighbouring states pay much attention to the process of obtaining visas, as the above mentioned project's results confirm.

There are some recent positive developments in the sphere, which demonstrate that both parties – not only Polish, but also EU authorities on one side and the neighbouring countries' governments on the other – are aware of the need for new compromise solutions aiming at improving the visa regime. Thus, in September 2005 the Union authorities decided to launch EU-Ukraine talks for the conclusion of an agreement intended to facilitate the short-stay visa issuing procedures for Ukrainian citizens entering the Schengen area. Also, in October EU-Russia five-year negotiations on the conclusion of the readmission treaty and visa facilitation agreement have been finally completed.

## CORRELATION BETWEEN THE EU AND POLAND'S VISA POLICIES

### *1. Poland's and EU policies towards neighbours and to visa policy towards them.*

The fact that Poland, being an active EU member state, is much interested in the region of Eastern Europe does not need much proving. The Republic of Poland is closely connected with its three non-EU neighbours – Belarus, Russia and Ukraine – in many spheres: economic, political and cultural. This interdependence is illustrated by the immediate impact that the introduction of the visa regime by Poland had on many aspects of life in both Poland and the neighbouring countries. The Polish government has worked out a comprehensive policy for the



region, which demonstrates the significance of every country under discussion for Poland and at the same time stresses its differentiated policies towards them. In this regard the Polish authorities emphasize their strategic partnership with Ukraine, vigorously supporting its European aspirations. It follows that Poland, being an EU member state, should occupy a place of one of the major players in the EU's Neighbourhood policy, according to which the new member states are committed to the task of bringing about stability into the region and contributing to the development of their non-Union neighbours.

The Polish policy towards the eastern neighbours has resulted in the Polish approach to the national visa policy for them: this visa regime has not been conceived to be a simply technical measure, but rather – a political instrument. For this reason Poland put much effort in negotiating solutions which were more or less appropriate for its neighbours. In this context it is not surprising that the best practice had been developed with the Ukrainian authorities: non-visa regime for the Polish citizens, non-charge visas for the Ukrainian nationals. Although a similar solution was agreed for the Kaliningrad region, there was less room for cooperation with Russia due to the absence of the Polish-Russian readmission agreement. Obviously, that solution was approved due to much EU-Russian political debate on the issue and, to some extent, the Polish national interest in it (e.g. to lessen the negative impact on the borderlands).

However, approach of Poland, an EU member state though, does not completely agree with that of the Union as a whole. The shaping of the relations of the Union with its new neighbours, of course, is a matter of concern for the EU authorities. The growing significance of the relations with neighbouring countries for the Union is demonstrated by the fact that the fundamentals of the EU's Neighbourhood policy have been worked out before the enlargement. In 2004 the European Neighbourhood Policy (ENP) was developed and the European Neighbourhood and Partnership Instrument was established, promising the centralization of funds intended, among others, for most of the East European neighbours and an increase in financial assistance to them. At the same time the EU authorities keep stressing the security in the region, thus, being concerned with safeguarding the Union, in fact, not less than with building friendly and constructive relations with neighbours.

So, at present the EU position on the visa policy seems to be two-fold. On the one hand, the EU authorities tend to view the visa regime towards non-Union countries primarily as a technical security instrument. Yet, the Union's attitude cannot be confined to this. On the other hand, it is argued by the EU authorities that the visa policy is not simply a justice and home affairs tool. The Union authorities are inclined to define the place for the visa policy broader – not only within JHA, but within the area of justice, security and freedom. Accordingly, the area of justice and home affairs (JHA) was included into the ENP priority areas. For instance, the decision to start



EU-Ukraine talks on short-stay Schengen visas for the Ukrainians falls in line with the Action Plan on Ukraine developed within the framework of the ENP.

It is likely that the EU rhetoric stresses that Union's visa policy is not an instrument of creating a new dividing line. In principle it is oriented towards compromise, but it is very slow in this. In fact, only new EU member states established asymmetric regimes with Ukraine in response to its decision to drop visa requirement for all Union nationals.

However, the Polish government seems to be quite satisfied with the EU stand concerning its neighbours and does not intend to work out its own policy instrument, alternative to ENP, towards East European neighbouring countries. Obviously, there is an assumption in the Polish leadership that the EU policies give them enough room for manoeuvre for conducting the policy, in a way different from that of the Union.

## *2. The implications of Poland's entering the Schengen area.*

Here, there is a widely known problem of impact on both Poland and her neighbours of anticipated her accession into the Schengen area, scheduled for 2007.

Comparing the current visa regime established by the Polish government with the three East European countries in question with the one to be implemented under the Schengen acquis, it is evident that the future visa regime is to be stricter. So, it is the easily foreseeable consequences of this (difficulty of people-to-people contacts, fear of a new very disturbing dividing line between the two sides, etc.), which have caused concern in Poland and in the neighbouring countries as well. This matter sparked a debate among the Polish independent experts. Proposing possible solutions to the matter, most of them tend to stress Poland's valuable experience of developing the present visa regime with the Eastern neighbours, which can be of use to the Union and, thus, influence the Schengen rules.

But it is worth noting that there is not, in fact, much concern about the formal introduction of the Schengen visa regime in Poland. The reason for this is a fairly widely spread assumption that Schengen rules are not a dead letter and can be changed. There is only a slight difference in accents. While some experts tend to think that Poland can alter these rules on its own, some governmental circles, especially those working closely with the EU officials, believe that the Union authorities and, thus, the acquis are flexible enough to allow changes, if they seem justified.

The EU considers the Schengen Agreement, Convention and other legislation, incorporated into the Union acquis, as an instrument to create the area of security, freedom and justice. In practice they unequivocally stress that strengthening of the external border and enhancing cooperation



among old and new member states in the sphere of JHA (e.g. introduction of the second generation of the Schengen Information System - SIS II that would be updated for the enlarged Union) is a prerequisite for Poland's entry into the Schengen area.

Obviously, it is a priority for Poland to enter the Schengen area, thus, coming much closer to the status of a fully fledged EU member state. The Polish authorities put every effort to demonstrate that Poland is able to meet successfully the EU requirements, not lagging behind any other new EU member state. So, at the beginning of 2005 Poland, together with the other Visegrad countries (Hungary, Slovakia and the Czech Republic), informed the EU authorities that they would be prepared to meet the inspections to evaluate their work on the SIS already in early 2006.

In fact, Poland has much to do in bringing its visa policy closer to that of the EU. The Hague Programme, adopted by the Council in early November 2004, gives the idea of the visa policy development taking place in the Union. The Programme aims at strengthening the area of freedom, security and justice by means of highlighting ten priority tasks to be fulfilled in a five-year period. One of them is to develop integrated management of the EU external borders. This task includes two tasks to be accomplished:

- establishment of an agency responsible for managing of external borders;
- creation of the effective visa policy through development of a visa information system (VIS) and a common European consular service.

Also, as a prerequisite to these points, the need to equip identity and travel documents with biometrics is stressed.

Poland plays an important part in implementing these tasks. The aforementioned agency - European Agency for the Management of Operational Cooperation at the External Borders – has been recently set up in Warsaw. This EU authorities' decision is well-grounded, given Poland's lengthy external borders and many challenges in managing them. The technical question such as creation of VIS is closely connected with the work on SIS II, which is well underway. The biometric identifiers are also included among the SIS II requirements. However, a common European consular service in a five-year period is not an easy-to-implement goal, especially in the light of the recent V4 countries' attempts to cooperate in the sphere. As the results of a most recent four-country project on the feasibility of the Visegrad Group consular and visa cooperation 'The Visegrad States Between Schengen and Neighbourhood' confirm, it is a slow and difficult process.

In the course of the process of meeting the EU standards on the visa regime with the non-Union countries the Polish authorities have come to think that there are some immediate positive consequences for both Poland and its neighbours in introducing the Schengen-compatible visa regime. They are somehow interrelated. For example, the Polish Ministry of International Affairs



feels that it is not necessary to expand the network of Polish consulates in the neighbouring East European countries, which is insufficient, because it will be possible to get a visa for a travel to Poland in any Schengen country consulate. In turn, it facilitates the nationals of Belarus, Russia and Ukraine in obtaining visa for travel to Poland, because it is likely to reduce travel expenses for many of them to get to a consulate. Also, as the current liberal visa-issuing practice of Polish consulates is not planned to be subject to considerable changes, the possibility for these countries' nationals to obtain a Schengen visa in a Polish consulate is likely to make the process easier. More unified and predictable visa application process is also to the advantage of visa applicants as well. However, the Polish authorities somehow overlook the necessity to communicate it to their neighbours, to be more accurate, to these countries' nationals who are interested in contacts with Poland.

#### EXPERIENCE OF THE NEW EU MEMBER STATES IN VISA POLICY

The visa regimes developed by some new EU member states towards their non-Union neighbours, in particular by the Visegrad countries, at present vary considerably and present a number of solutions of alleviating the regime, as the results of the above mentioned project on the feasibility of the Visegrad Group consular and visa cooperation confirm. So, Poland is not alone in her policy of finding new solutions to its visa regime with the neighbouring countries, which would be consistent with its foreign policy priorities. Yet, it is necessary to note that Poland is, together with Hungary, the most advanced country of the Visegrad Four (V4) in working out national solutions in their visa policies. It was the Polish and Hungarian authorities that demonstrated the possibility and benefits of establishing asymmetric visa regimes with neighbours. This experience even had some influence on the more restrictive Czech and especially Slovak visa policies. Also, the V4 countries even managed to develop some form of cooperation in their common quest for entering the Schengen area.

So, the experience of the Visegrad countries demonstrates that compromises in visa policy towards non-EU neighbours are needed. Even some new member states (Slovakia and to a lesser extent the Czech Republic) had to alleviate their policies, which at first followed the EU rules strictly. Moreover, their experience, especially that of Poland and Hungary, serves as a proper framework for both negotiations with the neighbours and with Brussels on the future development of the visa regime.

#### EUROPEAN NEIGHBOURHOOD POLICY AND POLAND



Such EU policies, as the creation of the area of freedom, security and justice and the European Neighbourhood Policy in a way overlap for Poland, in particular in the sphere of her visa policy. Although there are principal differences between them. The former is designed mainly for the Union's inside, whereas the latter – for the outside. Also, their accents are different: ENP is more of a political instrument, while the area under discussion is, in fact, a security tool.

The critics of the ENP are more and more numerous. A number of scholars and analysts from different countries unanimously define this EU policy as very ambiguous. One of its biggest drawbacks for Poland is the fact that the ENP 'fails to match the expectations of some of its [EU] neighbours', as Fabrizio Tassinari puts it. For example, Ukraine, especially after the 'Orange revolution' willing to enter the EU, is disappointed by the fact that there is no Union membership prospect in the ENP. Furthermore, Russia has decided not to be a partner to the ENP, because it is puzzled by such a wide definition of a 'neighbour'. It is also very important that the ENP, first proclaimed as 'more than a partnership and less than a membership', does not presuppose the partners' participation in shaping of this policy. Moreover, Poland, while being potentially one of the key actors in the ENP, in fact, is not supposed to be consulted about its definition, although it is still in progress. There is nothing left for her (and other EU new member states) but to wait for decisions from Brussels. However, the recent successful example of the so-called 'regional interaction' in the course of elections in Ukraine, which was considered to be a mainly EU's CFSP affair, has raised in Russia some negative expectations concerning Poland's future role in the ENP.

## OPTIMAL VISA POLICY TOWARDS POLAND'S NEIGHBOURS

The best solution for the visa regime between Poland and its East European neighbours is for it to be a real device of facilitating people-to-people contacts. Only a non-visa regime meets this criterion. A 'non-visa' type does not mean the regime existing among the countries of the Schengen Group; instead it refers to the possibility of a travel to Poland for a short period without the right to apply for a work permit. A similar regime is firmly advocated by Russia and not so explicitly by the Ukraine. It would also be the best solution for Belarus. There is a feeling among analysts that the Ukrainian authorities will be the first to achieve this type of arrangement. In addition the Union authorities have expressly admitted such a possibility. Thus, in the course of the press-conference, which was held in London on October 4, 2005 after Russia-EU summit, the Commission President emphasised that the final goal was to secure full freedom in people's movement between Russia and the EU.

At the moment it is difficult to define the specific stages of a step-by-step movement to non-visa regime between Poland and Belarus, Russia and Ukraine, because the perspectives of different





EU policies, including that of the area of freedom, security and justice and the Neighbourhood Policy, is uncertain. However, the present visa regime between Poland and its neighbours might serve as a basis for the gradual implementation of the final objective – a non-visa regime. The Polish authorities are quite satisfied with their achievements in the area of the visa regime; governments of the neighbouring countries, although not considering it a success, admitted the existing state of affairs and are determined to negotiate. However, it is worth repeating that they, especially the Russian authorities, prefer working out solutions with the EU as a whole, not in bilateral negotiations with Poland. While the Polish government is aware of the need to exert some influence, among other things, on the EU visa policy and ENP, it tends to overlook that one of the ways to achieve it is the cooperation with their non-EU neighbours in the sphere. The recent Russia-EU talks have demonstrated the problem very clearly.

In fact, the Polish government somehow has neglected the question of the objective of the development of the visa regime with non-EU neighbours. Of course, accession into the Schengen area is due in 2007. Thus, there are still many things to be done, but it is a matter of a very near future. As regards the visa regime there is a question for Eastern neighbours: what we are heading for? It is likely that the main reason for Poland not to articulate its approach clearly is that it does not see a need for that. Probably, because its strategic partner Ukraine has confidence in Polish policy towards visa regime between the two countries. However, Poland here overlooks an opportunity to improve the cooperation with Russia in the process of implementing the Schengen-compatible regime and in the development, of broader bilateral relations. Russia is very interested in the clearly defined objective of non-visa regime; on the whole its visa regime serves as a political instrument.

## CONCLUSIONS

Poland's authorities should work simultaneously with the central Union authorities and that of neighbouring countries and their concerned public, in order to increase their input in development of the visa regime between the EU and neighbours acceptable to both parties. In view of this it is advisable for Poland to improve communication of its visa policy strategy both to its EU partners and neighbours. Accordingly, it is expedient for the Polish government:

- To inform the EU central authorities of its unreserved intention to take part in building the EU's friendly borders' policy towards Russia along the lines of the policy towards Ukraine, thus, supporting the objective of non-visa regime between the two sides.
- To launch an initiative of bilateral consultations with Russia on non-visa regime. This is to achieve a number of closely related tasks. First, to formulate the appropriate concept of





non-visa regime for both sides – thus Polish authorities can avoid fait accomplis from the central EU authorities. Second, it would be Poland's part to promote the agreed concept in the EU bodies. For Russia, it would be important from the viewpoint of its desire to take part in shaping those EU policies that it considers especially relevant. It looks even more significant, as the EU authorities, while expressing their approval of non-visa regime as an objective, fail to formulate the concept of its implementation. Poland could help accelerate this process.

- To develop a campaign informing its neighbours' nationals of advantages and disadvantages of Poland's entering the Schengen area. To my mind, it can be done through consulates, where the information could be available in the applicant's language, worded in a simple form. In my opinion, it can not only contribute to reducing the feeling of uncertainty among neighbouring countries' nationals, but also it can result in a feeling among visa applicants that Poland does not forget about her neighbours' difficulties, while striving to become a fully fledged EU member state.

