



Good cop or bad cop?

Sanctioning Belarus

by Ondrej Ditrych

Sanctions (or restrictive measures) seem to have become one of the EU's weapons of choice to effect change beyond its borders. Ranging from limitations on official or diplomatic contacts and the withdrawal of benefits (either under existing agreements or through redirection of aid) to arms embargoes, travel bans, asset freezes and restrictions targeting specific sectors and commodities, EU sanctions are used in trade and security policy mainly to project the Union's 'normative power' in the areas of human rights, fundamental liberties and the rule of law. Some 31 countries, in addition to a number of non-state entities associated with terrorist activities, are now subject to the sanctions specifically adopted under the Common Foreign and Security Policy (CFSP) framework.

In this context, the case of Belarus testifies in particular to the Union's ambition to conduct coercive diplomacy. Yet, despite the various steps taken by the EU (with some degree of flexibility) over the past years, little lasting success has been achieved so far in enforcing meaningful change in Europe's 'last dictatorship'.

A troubled relationship

The EU has imposed, suspended, lifted and re-imposed a variety of sanctions on the regime in Belarus since 1996. Reacting to legal restrictions on

freedom of speech and assembly as well as to the continued consolidation of powers by Alexander Lukashenka, the Union first decided to freeze the ratification of the Partnership and Cooperation Agreement (PCA) and then suspend the support that Belarus received through the Technical Assistance to the Commonwealth of Independent States (TACIS) programme. Travel bans were then imposed in response to the regime's effort to evict the diplomats of some member states from their residences in the Drazdy neighbourhood in Minsk in 1998. By contrast, no consensus was reached in the Council on a new travel ban list when the local OSCE office was closed by the authorities (with its staff accused of violating their mandate and denied new visas) in 2002, but further travel restrictions were subsequently implemented by most member states separately.

Little more than one year later, however, in reaction to flawed parliamentary elections, a referendum to remove limits on the number of presidential terms, the repression of political protests, and the continued failure of the authorities to launch an investigation into the mysterious disappearance of four opposition politicians and journalists, the EU issued new travel restrictions under the CFSP to those deemed responsible. These were expanded in 2006 following another fraudulent presidential election but this time around, and for the first time,



President Lukashenka himself was put on the EU blacklist. Shortly thereafter, despite initial opposition from some central European member states, Belarus was punished economically in 2007 by being withdrawn from the EU's generalised scheme of preferences (GSP) as a response to its failure to comply with International Labour Organization (ILO) conventions.

However, these restrictions did not just accumulate over time, as the EU also proved responsive to conciliatory gestures made by the regime. Technical assistance was resumed when the OSCE Advisory Monitoring Group office opened in Minsk in 1999. The first travel ban was lifted when an agreement was reached with the Belarusian government on diplomatic residences, and the 'national' travel bans were discontinued when the OSCE office reopened in 2003. Finally, most of the subsequent sanctions were suspended (and the possibility of lifting them altogether openly floated) in 2008 when Minsk released political prisoners in the context of a *détente* between the EU and Belarus; a *détente* which was primarily prompted by energy disputes with Russia and concerns about Moscow's policy in its 'near abroad' following the Russia-Georgia war. This phase also saw the EU reach out to the regime and offer positive incentives in the form of increased financial and technical assistance and even membership of the Eastern Partnership (EaP).

Events, however, took yet another turn for the worse following the violent repression of political protests in the aftermath of the presidential election in December 2010. In 2011-2012, travel bans were imposed on 243 individuals and assets were frozen of 32 entities associated with three business tycoons - Vladimir Peftiev (the first to be targeted), Yuri Chyzh and Anatoly Ternavski. In addition, an arms embargo and a ban on the export of equipment that could be used for internal repression were initiated. The Union also promised to quadruple funding for civil society projects in Belarus, secured the adoption of a Human Rights Council resolution on the domestic situation of the country (2011), and issued a number of statements critical of Minsk's domestic policies.

The playground

Sanctions may well have a number of positive side effects: they showcase the Union's 'actorness'

in international relations and, notably, in its own neighbourhood; they signal legitimate moral indignation, acting as an indirect means of promoting norms of good governance worldwide; and they also ostensibly punish the regime, perhaps preventing it from taking steps that it otherwise would have contemplated. Notwithstanding the above, all evidence seems to suggest that the sanctions appear to be ineffective, at least in terms of achieving their primary aims:

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political prisoners remain behind bars (unless they bend to pressure and, like Andrei Sannikov, ask for a presidential pardon), and the regime has yet to create a more permissive political environment.

This impasse can to a large extent be explained through a complex political constellation in which there are a number of players with different interests and conflicting strategies which possess various means to pursue them.

First, there is President Alexander Grygorievich Lukashenka's regime. It is primarily interested in political survival, rhetorically coated as preserving the country's independence. Lukashenka's survival strategy consists of ensuring internal stability and balancing out external influences that threaten to unsettle the status quo. Despite his occasional erratic behaviour and mismanagement of the country's economy, he has proven to be a fundamentally rational and pragmatic leader, relying on Russia as a powerful backer while simultaneously resisting - not unlike colleagues in Ukraine, Armenia or Abkhazia - attempts by the Kremlin to increase its influence. He also understands that, to preserve the political status quo, Minsk's unreformed (post-) Soviet economy and administration need to be modernised. Recent statements in which he voiced concerns that Belarus must reform in order to avoid the fate of Greece (on which reform was imposed) seem to reflect this reasoning.

The role the EU is assigned in this strategy includes counter-balancing Russia's influence and providing financial and technological transfers, albeit foreseen without any conditionality on political reform. Any attempt to get closer to Brussels would likely be opposed by the regime's *siloviki* with direct ties to Moscow. It cannot be entirely ruled out that the December 2010 violent crackdown on the opposition was orchestrated by those elements precisely to undermine Lukashenka's short-lived flirt with the EU.



According to the surveys conducted by the Independent Institute of Socio-Economic and Political Studies (IISEPS), based in Lithuania, a large part of Belarusian society does not see their country moving in the right direction and holds the government accountable for the current state of affairs. Opinion polls also suggest that criticism is increasingly focused on Lukashenka himself. Paradoxically, most Belarusians continue to pin their hopes of their situation improving on the president. In other words, 'public opinion' - insofar as it can be identified as such - encompasses highly diverse groupings unlikely to be mobilised for any common political purpose. Decreasing support for the country's leadership, therefore, does not necessarily translate into increased support for the opposition. There is no doubt that, in morally resisting the authoritarian regime, the dissidents show considerable personal bravery. But the opposition is fragmented, has no experience of government, is relatively isolated and is also divided over EU sanctions, with some elements supporting more restrictive measures and others considering them somewhat counterproductive.

As a consequence, the regime is neither on the brink of collapse nor under significant pressure to make concessions at a domestic level. Its relative stability, however, is mainly due to the lifeline - in terms of special energy prices, subsidies (amounting to approx. 70% of foreign direct investment), privileged market access and credit - provided or facilitated by Russia. This generous support, variously estimated at being 10-20% of annual GDP, comes without the sort of conditionality the EU employs toward its ENP partners - though it does not come without strings attached either.

Moscow is primarily interested in keeping Minsk within its sphere of influence. To ensure this whilst simultaneously pursuing its business interests, Russia has also penetrated the Belarusian market, purchasing key shares in the banking and media sectors, and gradually gaining full control of Beltransgaz (the state gas transit company) on behalf of Gazprom. Fears concerning Moscow's 'neo-imperial' ambitions and actions deemed hostile to Minsk's interests (including the decision to build the Nordstream pipeline bypassing Belarus in 2007) have at times led Lukashenka to take incremental steps (e.g. the release of political prisoners in 2008) towards improving relations with EU. At best, however, such relations are seen

as a dependent variable of Belarus' own ambitions and concerns over Russia.

Scrutinising sanctions

Part of the explanation why EU restrictive measures have not achieved their objectives *vis-à-vis* Lukashenka seems to be the manner in which they are designed. The aims of the sanctions are rather extensive, while the 'disutility' they cause - a variable usually defined as encompassing the share of GDP loss, decline in trade or (for targeted sanctions) reputational and other personal costs - is rather limited.

Their core objective, in fact, is not merely a change of *policy* (e.g. unconditional release of political prisoners) but rather of *politics*, as reflected in the demands to make changes to the electoral code to assure free and fair elections, and to introduce freedom of expression and assembly. True, the most recent Council Conclusions (15/10/2012) seem to indicate that the release and rehabilitation of political prisoners is 'essential' for reviewing the sanctions, whereas other demands have

been somewhat toned down. History shows, however, that no amount of incentives will make a regime carry out policies it deems to be potentially damaging to its vital interests. This has happened even with some EU candidate countries in the past, despite the much more attractive incentives on offer in the form of full membership.

In terms of scope, the sanctions employed conform to the definition of 'smart' or targeted sanctions, with no sectoral embargoes or similar 'crippling' measures having been implemented. The rationale behind traditional sanctions was to achieve political gain through economic pain

(with an assumed positive correlation between the two). Past experience, however, suggests that the likelihood of their success in authoritarian regimes where the opposition is weak and fragmented is even lower than in other cases. Some research suggests that, in such conditions, targeted sanctions can be more effective since they limit rentier opportunities for key regime supporters and turn them into advocates of change in lieu of the (marginalised) civil society/opposition.

Yet this scenario has not materialised in Minsk. There is plenty of evidence that the lives of those targeted in Belarus have been made uncomfort-



President Alexander Lukashenka

able because of the sanctions. But it also seems that the damage inflicted has not been heavy enough to turn key supporters of the regime into the agents of change the EU would like to see, although restrictive measures have been expanded (overcoming initial uneasiness in the Baltic states due the foreseeable decline in transit fees) both quantitatively and qualitatively since 2011.

Good cop *and* bad cop

That EU restrictive measures do not work does not mean that they are useless. But instead of recommending that the blacklists be expanded (e.g. to include other prominent businessmen like Aleksandr Moshensky or Aleksandr Shakutin), or that entire sectors be targeted (which would cause three main adverse effects: increase dependence on Russia, negatively impact society, and lead to further economic losses for EU member states), their timely suspension might well be taken into consideration. Paradoxically, the best way to make sanctions effective may be to terminate them.

This should not be an isolated step but rather the result of a bargaining process which also reviews the current policy of 'critical engagement' (with 'engagement' being limited to civil society). The EU had previously attempted to employ both carrot and stick in 2008-2010, but the infamous ending of that *détente* left a sour taste and undermined faith that anything durable could be achieved. As a result, the list of targeted persons and entities grew dramatically, possibly to punish the regime for 'cheating' the EU. It is now time to move beyond that position and adopt a more pragmatic policy.

Admittedly, from a geopolitical perspective, the window of opportunity that was once open is now closed. But while relations between Minsk and Moscow have normalised, Lukashenka is wary of excessive dependence on Russia and continues to see relations with the EU as a constituent part of his balancing act. At the same time, there seems to be a more acute awareness that changes in governance need to be made to guarantee the regime's longer-term survival, and EU assistance in this regard would be most welcome. Lastly, the Union is becoming an ever more important trading partner for Belarus, increasing its lead over Russia as the most important destination for its exports - a fact which could propel the regime to seek better relations.

The EU - most likely driven by the Council - would be ready to suspend sanctions following the unconditional release of political prisoners. Historical precedents of this kind exist in response to limited accommodation by a target of sanctions,

including a recent one in the same Eastern neighbourhood (Transnistria). Last but not least, the upcoming Lithuanian Presidency of the Council is likely to focus more attention on Belarus.

A 'smart' opening move could be to suspend the restrictions on Foreign Minister Uladzimir Makey as both a gesture of good will and a practical means of facilitating diplomatic dialogue.

It is crucial that any package then proposed to Minsk includes two items: first, clear and explicit assurances that closer cooperation is conditional on positive steps by Belarus, whilst not going so far as to threaten the regime. Although it cannot be entirely ruled out that President Lukashenka would remain in power even if free elections were held tomorrow, the current regime will never accept sweeping changes in *politics*, not least because such external intervention would present it as weak.

Second, a possible package could include a clear roadmap of what would follow were Minsk to make the first step and release its political prisoners. Belarus could thus be allowed to immediately begin to reap benefits, which would then increase if Lukashenka proceeds with administrative and economic modernisation and allows the transfer of expertise - which, in turn, could strengthen the regime's independence from Moscow.

It is important to stress that, by agreeing to such a roadmap, the EU would not betray its own principles but merely follow the logic of *relative* differentiation, of distributing benefits based on changes from a previous state of affairs. Engagement of civil society should not be given up on, but perhaps it would complicate relations with the regime less if it were carried out by a few interested member states rather than by the EU as a whole. Some pragmatic constraint in rhetorical terms - avoiding the impression that the Union is on a civilising mission in the neighbourhood - could also be welcome.

It is by no means guaranteed that Lukashenka would agree to the offer. And he is not omnipotent: pressure by spoilers, both internal and external, would also undoubtedly occur. In other words, making the package acceptable is not a *sufficient* condition for a positive outcome; it is, however, a *necessary* one. It is also preferable to a policy that is unlikely to yield positive results in the foreseeable future.

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