

**AFTER THE GSP WITHDRAWAL: THE CASE FOR THE REVISION OF THE EU
POLICY TOWARDS BELARUS**

By Kirill Hajduk and Vitali Silitski

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Summary

In this paper, BISS experts address the issue Belarus' temporary withdrawal from the EU's Generalized System of Preferences (GSP). This decision was initially seen as a tool to influence the attitude of the Belarusian authorities towards independent trade unions. However, the GSP as a policy tool was not sufficient to change the status quo. Therefore, new routes of influence have to be discovered.

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I. The road to GSP suspension

On June 21, 2007, the EU has temporarily deprived Belarus of its trade preferences provided within the framework of the Generalized System of Preferences (GSP). Although some EU countries considered this [decision to be short-sighted](#), the EU, as the EU Trade Commissioner, Peter Mandelson stressed, employed it [to create 'real' incentives for democratization of Belarus](#). If so, has this policy tool demonstrated any efficiency so far? What is at stake here – both for the Belarusian authorities and the EU? This paper assesses the current situation and suggests that the use of GSP suspension is a weak policy tool. Also, some policy recommendations are devised for the EU to revise its current stance towards Belarus.

The story starts from 2000, when a number of trade unions lodged a [complaint to the International Labor Organization \(ILO\) about violation of their rights](#). In general, a hostile attitude to the independent trade unions has been a by-product of more overarching goals that the Belarusian authorities pursued. The first such goal is of the political nature, namely, the establishment of a comprehensive control over the political arena (manifested in the construction of so-called 'vertical of authority'), and over the Belarusian society including grassroots movements and the trade unions. The second goal is somewhere at the backcloth, but still important. Independent trade unions can make attempts to bargain independently over wages and thus cause wage drift, resulting in the wage inflation and macroeconomic imbalances. Ultimately, the independent trade union activism could potentially derail [the political business cycles](#) run by the Belarusian authorities.

In the face of the discrimination by the government, trade union leaders complained to the ILO about the violation of trade union rights in Belarus. This UN agency had attempted to help independent unions inside Belarus, and began to monitor the situation with essential labor rights in Belarus. Their further violation informed the establishment of a special Commission of Inquiry to perform fieldwork in Belarus. The Commission confirmed that no progress has been made by Belarus, [and included Belarus into the 'Special Paragraph'](#) (the ILO "hall of shame") together with other undemocratic regimes. Some warned about the possibility of Belarus' exclusion from the ILO, but no practical guidance has been provided on how to apply that in the relation to the one of the founding members of the United Nations. Instead, the focus of the affair has been on the need to fulfill twelve recommendations made by the ILO to recover the relationships. (see Table I)

It is not only the ILO, but the International Confederation of Free Trade Unions (ICFTU), European Trade Union Confederation (ETUC), and World Confederation of Labor (WCL) that have monitored the situation in Belarus and rigorously campaigned for freedom of association and the right to organize. Since June 2005, [the ICFTU, ETUC and WCL have written to European Trade Commissioner Peter Mandelson](#), and many of their affiliates have written to the countries in the European Union committee that decides which countries will benefit under their GSP. These bodies urged the EU to suspend GSP due to the violation of trade union rights in Belarus. The EU Council adopted a decision to suspend Belarus from the GSP system on 20 December 2006. This suspension was enacted on 21 June 2007 after a six month period given to Belarus government to comply with the ILO recommendations.

2. Recommendations to the Government of Belarus: Monitoring of Performance

The ILO Commission has parceled violations into twelve recommendations offered [for the Belarusian government to implement 'with urgency'](#). Table I contains the list of recommendations

(reformulated in a more reader-friendly way) and the degree of their implementation (or non-implementation) by the authorities.

Table 1: The List of ILO Recommendations and their implementation status

#	What it is about	What has been done	What has to be fulfilled	Conclusion
1.	Registration of primary organizations of independent trade unions	Only two organizations of the REP Union have been registered (but after the adoption of the EU decision)	Register trade union organizations of the BCDTU and the REP Union; abolish the bureaucratic barriers to registration	The least respected point, much yet to be done
2.	Abolish/simplify registration procedure and related membership threshold (10% of the labor collective)	A draft of the new Law on Trade Unions has been developed to some extent to 'legalize' discrimination against independent trade unions	Abolish address requirement and registration threshold; do not revise or adopt a independent union-friendly version of the Law	The government has attempted to divert attention to new law instead of simplifying registration
3.	Non-transparent registration principle: National Registration Commission has to be closed	Commission was closed indeed, but its functions have been transferred to the Ministry of Justice	This point is connected to points one and two (since registration requirements continue to be strict)	Formally fulfilled
4.	Publication of the ILO recommendations in the media	Published in the government newspaper 'Respublika' (and a departmental journal)		Formally fulfilled
5.	Organizations that lodged a complaint have to stay immune to any persecution	Persecution has not been stopped	The authorities continue to pressurize independent trade union organizations and activists and prevent them from organizing	Not fulfilled
6.	Directors and executives should not intervene into trade union affairs at the enterprise level	It is unknown whether directors were instructed about non-interference, but the pressure is still observed	Pressure is still exerted at the enterprise level by using fixed-term contracts (and threats with a job loss)	Not fulfilled
7.	Anti-union discrimination has to be stopped	Fixed-term contracts with the activists of independent trade unions are not	Activists of independent trade unions should not be persecuted	Not fulfilled

8	The rule of law has to be respected in relation to independent trade unions	extended Courts make decisions not for the benefit of independent trade unions	Courts should stay neutral	Not fulfilled
9	Make the use of foreign aid less complicated	Unions shall not face complicated bureaucratic procedures when provided foreign aid	Procedures remain to be complicated; foreign aid is very hard to obtain	Not fulfilled
10	Abolish restrictions on mass actions	Decree No. 11 (on mass actions) has been abolished	The Law on Mass Actions has not been amended; independent trade unions face legal barriers when organizing mass actions (pickets, rallies, etc.)	Formally fulfilled
11	Accept BCDTU at the National Council for Labor and Social Issues	The BCDTU has been provided a place at the Council		Formally fulfilled
12	Improve social partnership by dividing the roles of social partners	The Council on Improvement of Legislation in Social and Labor Fields have been created (BCDTU representatives are allowed to take part in its work)	The Council is a consultative body with no ability to improve the position of independent trade unions	Formally fulfilled

Note: REP = Radio Electronics Workers' Union; BCDTU = Belarusian Congress of Democratic Trade Unions; FTUB = Federation of Trade Unions of Belarus

Out of twelve points formulated by the ILO, it is possible to distil three key aspects that are at the heart of the problem. The first is the issue of the registration of primary (enterprise-level) organizations of independent trade unions. The most rigid barrier they currently face is the requirement to obtain a legal address in order to be formally registered (and thus conduct collective bargaining). The ILO pressure played a role since two organizations of the REP union have been registered right after the meeting in Geneva attended by the representatives of the government of Belarus. However, the key message here is to establish a silence-is-consent registration principle.

The second aspect is discrimination against independent trade unions. The membership in independent trade unions is constrained by discriminatory policies of the authorities. People are reluctant to join independent trade unions because they are: (i) scared of losing a job; and (ii) primary organizations are not registered and thus unable to conduct collective bargaining and sign up collective agreements. Accordingly, the incentives to join independent trade union organization are altered with force. At the same time, there is empirical evidence that potentially membership in independent trade unions can increase. The results of the opinion poll conducted by [the](#)

[Independent Institute for Socio-Economic and Political Studies \(May 2007\)](#) show that 'free and independent unions' enjoy greater trust of the respondents (42%) than the unions affiliated with the FTUB (38.6%). The enterprise-based trade independent union activity may be attractive for the employees due to [the peculiarities of the labor market in Belarus](#), as low labor mobility increases the stakes of improving welfare at particular enterprise or sector of the. Accordingly, it can be expected that as soon as impediments to the activity of independent trade unions is abolished, membership could grow substantially.

The third aspect is the unfair application of fixed-term contracts as a tool to get rid off activists of independent trade unions. This measure is particularly sharp, given the problems with finding a new job, especially in small localities outside the capital of Belarus, where labor markets tend to be dense. It has to be reminded that in the EU countries with some tendencies for 'flexibilization' of labor markets, [fixed-term employment is often considered to be abnormal](#).

3. Non-Compliance with ILO Recommendations: Domestic Factors

Clearly, it was up to the government of Belarus to make steps towards implementation of the ILO recommendations. The key policy action was to register primary organizations of independent trade unions. For that purpose, 'legal address' requirement had to be abolished. But this measure, if implemented, would have had clear political implications. As soon as independent trade union organizations start to be registered, the monopoly of the government-sympathetic trade unions would be undermined very rapidly. In a broader sense, the removal of legal restrictions on the activity of independent trade unions implies the opening of one of the important channels of citizens' activism: something the Belarusian authorities do not want to happen.

In addition, there is an important aspect for the Belarusian authorities such as prestige and image. It is somewhat 'improper' for the government to be responsive to the demands of a small group although these have been channeled through an international body. The straight adoption of the recommendations would mean that Belarus is responsive to some external pressure. Such a step, as the President of Belarus emphasized many times, is hostile to the very character of his policies.

Moreover, the public relations offensive organized by the official media in Belarus regarding the GSP suspension was rather effective in undermining the credibility of the EU, the democratic opposition, and free trade unions, by portraying it as "sanction-mongerers." Without efficient channels of communications with the Belarusian public and a chance to explain the essence of the demands and what is at stake for the Belarusian society, the conditionality policy was doomed to such PR failure. This being said, this failure cannot be solely blamed on the EU. In fact, building of such communications channels is a primary task of the Belarusian civil society, which, being poorly organized and not efficient, by and large failed to engage with the Belarusian public and seem place unwarranted hope that the job of advancing political and economic change in Belarus could be done by a combination of the external pressure and the economic calamity.

4. GSP Conditionality in the Context of Belarus-EU Relations

The issue of withdrawal from the GSP should be perceived in the context of the overall relations between the EU and Belarus. While Belarusian economy heavily depends on the exports of processed oil to the EU, the GSP suspension affected oil exports in an extremely marginal way, as the [BISS estimates suggested](#). This means, it did not diminish in any way the ability to the

Belarusian government to maintain political control and the economic stability, including generous welfare policies, inside the country.

This being said, the attempt by the EU to influence domestic political developments in Belarus using the GSP mechanism was not entirely unsuccessful. One positive development that came up out of the process the building of the communication channels between the Union and those of the Belarusian elites that understand that improvement of the EU-Belarus relations will be necessary sooner or later, especially against the background of the nearly absent communication between Belarus and the EU in the past decade. Also, the bargaining surrounding the GSP allowed for some liberalization of political climate in Belarus and the release of some political prisoners, although these developments were short-lived and largely reversed. Last but not least, it is in the middle of this process (although not directly related to it) that [the EU attempted for the first time ever to appeal directly to the Belarusian people](#), extending the offer of cooperation and partnership. Regardless of the short-term effectiveness of this message, it is a positive sign that gives hope for a more energetic EU involvement into the Belarusian affairs in the future.

Yet, it has to be understood that the official Minsk became somewhat responsive to the EU leverage only at the moment of uncertainty, when the Belarusian authorities could not have calculated the consequences of the oil and gas price hikes following the Belarus-Russia “energy conflict” last winter. The official Minsk sent some signals about its readiness to mend bridges with the EU, not just in order to avoid direct losses from the GSP suspension, but, in a broader sense, to explore other ways of ensuring the economic stability in Belarus once Russia’s subsidies were no longer guaranteed.

This period of uncertainty, however, was soon over as soon the Belarusian authorities found other, at least short term, alternatives to economic liberalization and opening up to the West, [such as external borrowing](#). With GSP suspension (as well as travel bans and asset freezes) already in place, the EU ran out of the sanctions it could exert on Belarus without damaging its own economic interests, the democratic opposition inside the country, and, for its reason, its overall democratization objectives vis-à-vis Belarus.

5. Ways to Revise Policy

Two important conclusions can be derived from the “GSP affair.” For the democratic opposition in Belarus, a simple conclusion is that it still cannot count on the external pressure to have all its problems within Belarus solved. Even much heavier economic strike that was blown to Belarus by the increase of oil and gas prices by Russia has yet to generate a push towards a full-scale transformation in Belarus. It would have been naïve and short-sighted to count on the EU or international organizations in this role with much more limited tools of leverage they possess.

For the EU, the GSP story once again confirmed that the policy of half-hearted measures and “wait-and-see” approach towards the official Minsk brings only limited, if any, results. While there is no shortage of declarations on behalf of the EU institutions about their desire to see Belarus as a democratic and responsible partner, this ambitious goal can only be achieved with a more energetic and proactive policy than the one that had been pursued so far. This being said, we do not call for the revision of the key elements of the EU policy towards Belarus (conditionality, a pursuit of a critical dialogue, and a positive message to the Belarusian public) but rather for the radical extension and deepening of this policy.

Such policy needs a strategic vision of Belarus' development in the future. [The incentives offered by the EU to Belarus to engage in reform](#) may be weak and rather unspecific now, but may become effective in a more distant future, in the case when the politico-economic model currently existing in Belarus will no longer be sustained. In this case, the EU may indeed come up as an important player capable of influencing the political and economic direction in the country. It is important to start planning in advance for this scenario in three important ways.

The first is to decipher the EU message towards Belarus, going beyond general requests of democratization and general promises of bright future of cooperation and partnership in a better world, but laying down a benchmarking approach that would specify what concrete action shall Belarus make in order to make an engagement with the Union possible and productive in a given arena (be it trade, political cooperation, etc.) Such a benchmarking approach would present a "roadmap" for political and economic change to which the Belarusian elites, and set an agenda for the upward pressure towards the Belarusian government for reform. Another value of such a roadmap is to present an exit strategy for the Belarusian elites and thus to increase their motivation to accept and promote the change and reform.

The second is to develop communications with those parts of the Belarusian society and the elites that are or will be responsive to this EU message. Perhaps, energy dialogue will be the most important and pivotal area in which such communication channels can be built, considering the strategic importance of the energy issue for both political and economic future of Belarus, and for the EU-Belarus relations. Such dialogue, in which lower-level officials and governments can be involved together with representatives of civil society and the independent expert community in Belarus, is the best available way to promote a positive image of the EU inside Belarus.

The third is to build communication channels with the Belarusian society through which the Belarusian public could be able to receive the EU messages and understand its policies. It is a very heavy channel given the semi-closed nature of the Belarusian political system as it exists today. But some measures, such as the development of efficient media projects, activation of cultural, educational, and professional exchanges, and relaxation of travel requirements for Belarusians, especially the younger generation, may help immensely.

Overall, the major way to revise the EU policy towards Belarus is, while keeping the current conditionality policy in place, to go beyond it and to invest into the formation of social agency inside Belarus that could enhance the bottom-up pressure for the political and economic change and, moreover, will be capable of bringing this change to reality. We understand that such proactive strategy to the EU's long-standing tradition of government-to-government cooperation and conditionality in relations with neighbors and partners, which is based on the presumption that it is up to a partner to make the first step and prove that there is some basis for engagement. Yet, the decade of unsuccessful application of this approach to Belarus itself presents a convincing case for upgrading this approach.