

Kaliningrad transit and visa issues revisited

CEPS Commentary

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The first crisis in EU-Russia relations over the 'Kaliningrad transit' issue took place in 2002-03, when Lithuania introduced a visa regime. That move provoked strong concerns in Russia that its Kaliningrad Region would be politically and economically detached from the mainland. Russia and Lithuania managed to reach a half-hearted compromise, which was implemented in July 2003. The compromise was at best temporary, however, since it was already known that Lithuania aspired to join the Schengen zone a few years later. Now that Lithuania will most probably join the Schengen zone by late 2007, that time has now about come. The consultations on the Kaliningrad transit issue are ongoing, although a final decision is not yet in sight. The prospects of achieving a comprehensive breakthrough are dim, due to the shallow nature of EU-Russia relations. To avoid a new crisis, another compromise is needed.

At the 10th EU-Russia Summit in November 2002, the parties agreed to pursue a comprehensive package of measures to make it easier to move across Kaliningrad's borders. The core aspect of the agreement was the creation of two types of documents for transiting Lithuania to and from mainland Russia, the Facilitated Transit Document (FTD) for cars and buses and the Facilitated Railway Transit Document (FRTD). While the FTD is issued at Lithuanian consulates, the FRTD is issued directly on the train on the basis of personal information supplied by the passenger when buying the ticket in advance. The EU agreed to bear the additional costs that arose on the Lithuanian side, which have amounted to €40 million over the three years since the start of the scheme.

The FRTD scheme functions smoothly. The millionth FRTD was issued to a six year-old boy travelling from Anapa to Kaliningrad on 3 March 2006. That makes a million documents in 32 months. By contrast, the FTD has proved to be redundant, as people prefer to receive full-scale multi-entry Lithuanian visas, which so far are available free of charge for Kaliningrad residents. The situation might change however when the free visas will be superseded by the new EU-Russia visa facilitation agreement, which sets the price at €35 and does not foresee an exception for Kaliningrad residents. It might provide an impetus for them to apply for free FTDs instead of visas.

Both Lithuania and Poland, together with six other Central European new member states, are due to join the Schengen area in late 2007 or in early 2008. The final date has not been settled yet. There are concerns that the 2003 transit scheme would not be valid since it does not meet the Schengen *acquis*. But what could replace the current transit compromise? The policy options are rather limited. Let us look at three of them.

First, the European Union is currently discussing the introduction of 'local border traffic permits' for non-EU nationals. The Commission's proposal passed a first reading in the European Parliament on 14 February. Such a permit would allow its holder to travel in the EU for a stay of up to seven days, while staying in the border region, defined as within 30 kilometres of the frontier.¹ Although this limit could be extended to 50 km,

¹ Bulletin EU 1/2-2006. Area of freedom, security and justice (7/25). Proposal for a European Parliament and Council regulation laying down rules on local border traffic at the external land borders of the Member States and amending the Schengen Convention and the common consular instructions.

that would not be enough to transit Lithuania on the way from Kaliningrad to the mainland Russia and vice versa.

Second, Lithuania could increase staffing at its consulates in the Kaliningrad Region (there are two of them, in Kaliningrad and Sovetsk) to satisfy the huge demand for visas. One problem is that the transit problem is relevant not only for Kaliningraders but also for other Russians who want to visit the enclave (the region received 240,000 Russian tourists in 2004, compared with only 71,000 foreign tourists). Yet another problem is that Russia vehemently opposes the introduction of a *de jure* visa regime for Kaliningrad transit: the semantic aspect is thus important.

Third, since the idea of a high-speed train through Lithuania has been dropped because of potentially very high costs, estimated by experts at several hundred million euros, Russia could turn to the option of subsidising direct flights from Kaliningrad to the mainland to avoid travelling by train.

In view of the limited scope of these alternative policy options, there could be a strong urge to keep things as they are. According to statements made by Russian and European politicians, diplomats and experts, the current transit regime will be preserved after Lithuania joins the Schengen zone. Marc Franco, the Head of the EU Mission in Russia, declared during his visit to Kaliningrad in November 2005 that the planned implementation of the Schengen agreement by Lithuania would not affect the existing Kaliningrad transit regime. Similar statements have been made by Russian officials. On the other hand, Sergey Yastrzhembsky, special envoy of the President of the Russian Federation for relations with the EU, was more cautious, stating that the issue would still have to be solved at expert level.

The continuation of the *status quo* is a plausible route. In fact, the current transit scheme represents a part of the *acquis* already. There are many examples of detailed special provisions in Schengen. An appropriate example is provided by other enclaves, namely the Spanish Ceuta and Melilla, located on the Moroccan coast. Moroccan nationals who are resident in the provinces of Tetuan or Nador and who wish to enter the territory of the towns of Ceuta and Melilla are exempted from the visa requirement.

The transit issue should be distinguished from the more general visa issue. The conditions for receiving Lithuanian and Polish visas will most certainly become tougher, as both countries will have to comply with the Schengen rules. For the moment, receiving multi-entry Polish visas is relatively easy and also free of charge for Kaliningrad residents. Lithuanian visas are also free of charge, although the Lithuanian consulate in Kaliningrad has never managed to cope with long queues. This will not be the case any longer for the majority of Kaliningraders since the recent EU-Russia agreement on facilitation of the visa regime does not foresee any exceptions for the residents of the region.

The EU-Russia agreement on visa facilitation

An Agreement between the Russian Federation and the European Community on the facilitation of the issuance of visas to citizens of the Russian Federation and the European Union (http://www.kremlin.ru/eng/events/details/2006/05/24_105894.shtml) was signed at the EU-Russia Summit in Sochi on 25 May 2006. It still has to be ratified by both sides. Briefly, it foresees the following:

- The issuance of visas for an intended stay of no more than 90 days per period of 180 days to the citizens of the Russian Federation and the European Union.
- The fee for processing visa applications is fixed at €35.
- A written request from the host organisation is sufficient justification for the issuance of the visa for such categories as members of official delegations, business people, truck and locomotive drivers, journalists, scientists, students and sport people.
- The above-mentioned categories can receive multiple-entry visas valid for up to five years. A multi-level procedure is prescribed: first, the applicant should have received a one-entry visa; then, s/he can receive a multiple-entry visa valid for one year; and finally, s/he becomes eligible for a two-to-five-year multiple-entry visa.

There are no specific rules on Kaliningrad in the agreement.

Therefore, only a few categories, of which business people are most important numerically and economically, will be entitled to the facilitated visa regime. This will potentially alleviate the problem of business cooperation between Kaliningrad and its neighbours. However, for the majority of Kaliningrad residents the current relatively relaxed procedure required to receive Lithuanian and Polish visas will be replaced by a more rigid Schengen procedure. This would mean more time spent at the EU consulates located in Kaliningrad (Poland, Lithuania, Sweden and Germany) and the continuation of trips to Moscow to obtain visas for other EU states.

What could more comprehensive solutions for the Kaliningrad transit and visa problem consist of? Clearly, a visa-free regime between Russia and the EU states would effectively remove the problem altogether. However, this is still a very long-term prospect. Another option would be to implement a visa-free solution specifically for Kaliningrad. It might entail a visa-free regime for Kaliningraders in the Schengen zone coupled with a visa-free regime for EU citizens in Kaliningrad. There are two major obstacles on the EU side. To begin with, it would apparently require changes to the Schengen *acquis*. EU officials are also concerned about Russian criminals obtaining residence in Kaliningrad and thus gaining access to the EU. This concern might be counteracted by setting time limits (e.g. only those who resided in the enclave prior to 2006 would be eligible). As for Russia, the Kaliningrad regional Duma has twice offered to introduce a visa-free regime for EU nationals unilaterally. This proposal would be wholly feasible technically, since Kaliningrad is detached from the mainland, but it was rejected by the Ministry of Foreign Affairs based on the principle of reciprocity.

To conclude, Lithuania's accession to the Schengen zone in 2007 brings with it the danger of another Kaliningrad transit crisis. The issue is complicated by the fact that Poland, like Lithuania, will toughen the visa regime for Russia too. Kaliningrad will effectively be more isolated than ever. Since other policy options are either costly and insufficient or ephemeral in the current framework of EU-Russia relations, the preservation of the FTD/FRTD scheme is a minimal requirement which is necessary to avoid a new Kaliningrad transit crisis. More comprehensive progress on both the transit and the general visa issues will have to await considerable improvement in EU-Russian relations.