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LATVIAN VISA-FREE BORDER ZONES WITH RUSSIA AND BELARUS: WHAT ARE THEY AND WHY

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Since March 2012 Latvian holders of the local border traffic permits may visit the adjacent Belarusian border area without a visa. In June 2013, Latvians that reside in the vicinity of the Russia's border were entitled with a similar privilege. In turn, the residents of the Belarusian and Russian border areas may visit the Latvian border regions without a Schengen visa. This paper looks into the specifics of the Latvian local border traffic regimes with Belarus and Russia.

Characteristics of the border area under the Latvian LBTs

After the launch of the local border traffic (LBT) regime with Russia in June 2013, Latvia became the second EU country, after Poland, that has effective LBT agreements with two neighboring countries. A number of the EU countries (Hungary, Slovakia, Romania) and Norway as an associate member of the Schengen area have launched one LBT regime with a neighboring third country. Latvia's bilateral agreement with Belarus came into force on December 1, 2011. It took consecutive three months before the first lists of applicants were passed by the local authorities to the consulates responsible for the LBT permits issuance. Finally, first LBT permits were issued on March 1, 2012.¹

The border areas that fall under the Latvian LBT agreements, are quite sparsely populated, with no large towns except Daugavpils. Inclusion of Daugavpils into the Latvia-Belarus border area made its population to exceed considerably the population of each of the other three national border areas (see the table below).

Table 1. Some features of the Latvian border areas with Belarus and Russia.

| LBT agreement | Latvia-Belarus | | Latvia-Russia | |
|--|--|--|---|--|
| Respective border area | LV | BY | LV | RU |
| Institution that issues LBT permits | Belarusian consulate in Daugavpils | Latvian consulate in Viciebsk | Russian consulate in Daugavpils | Latvian consulate in Pskov |
| Total population, estimated | 166,000 | 65,000 | 84,000 | 88,000 |
| Largest settlements | Dagda (2,500); Daugavpils (99,000); Krāslava (10,000); Zilupe (1,500). | Braslaŭ (9,000); Miory (8,000); Vidzy (2,000); Vierchniadžvinsk (7,000). | Alūksne (9,000); Balvi (8,000); Kārsava (2,500); Ludza (9,000); Viļaka (1,500); Zilupe (1,500). | Krasnogorodsk (4,000); Ostrov (20,000); Palkino (3,000); Pechory (11,000); Pytalovo (6,000); Sebezh (6,000); Sosnovyj Bor (3,000). |

Own elaboration and calculations on the basis of the most recent population data available.

Naturally, the numbers of total population of the respective border areas do not equal the numbers of the hypothetical local border traffic permits, since only part of the border residents have legitimate interests in the adjacent border areas. As of early 2013, around one year after the start of the Latvian-Belarusian LBT regime, around 10,000 Latvian residents obtained the LBT permits, or about 6% of the total population of the Latvian border area. In turn, during the same period of time, less than 2 thousand Belarusians were issued LBT permits for travels into the adjacent border zone.² The fact that more Belarus-born people

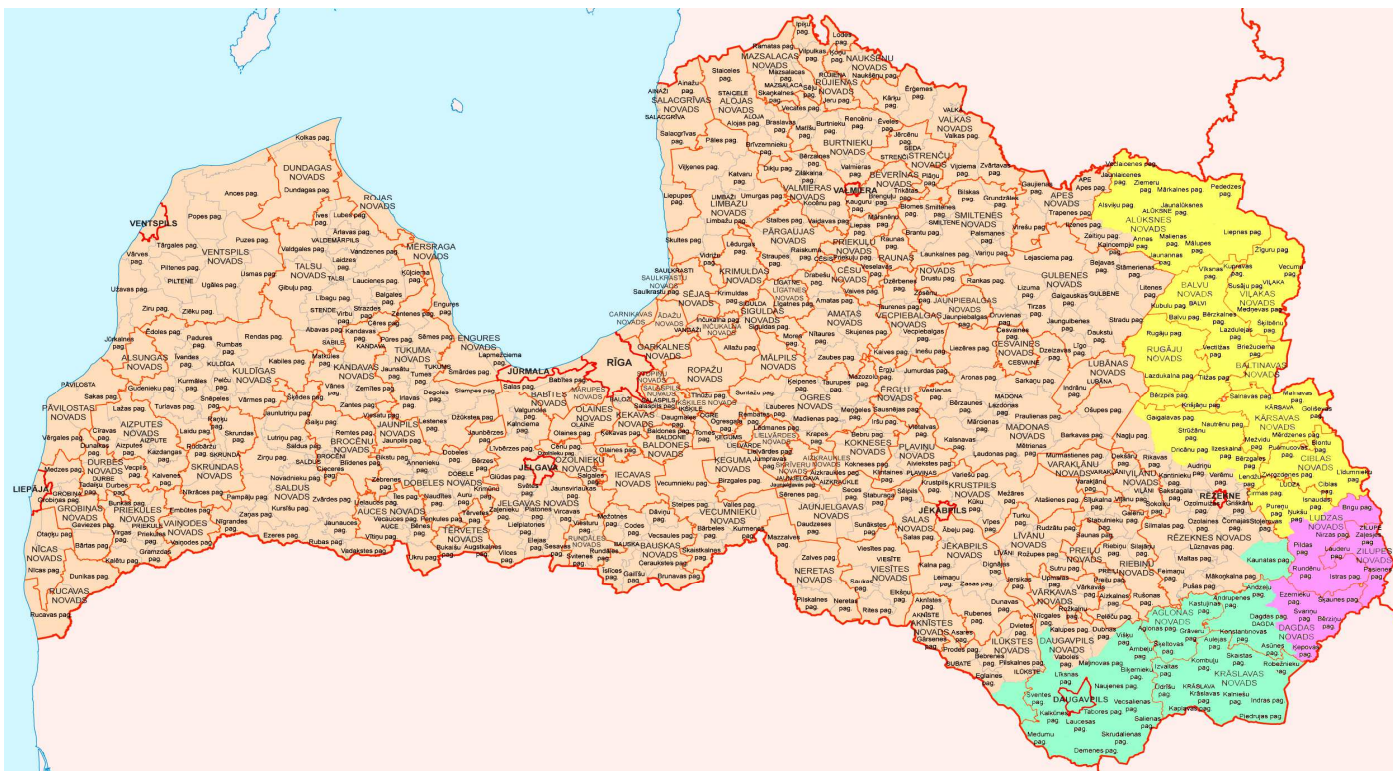
1 Малое приграничное движение между Беларусью и Латвией начнется 1 марта. Naviny.by, 20.02.2012. Available at http://naviny.by/rubrics/politic/2012/02/20/ic_news_112_387382/

2 Кустоўскі Зміцер. Латвійцы ездзяць у Беларусь без візаў у 6 разоў часцей, чым беларусы да іх.

currently live in the Latvian border area than Latvia-born residents in the Belarusian border area largely explains this difference in numbers. How popular will the Latvia-Russia LBT regime be, is yet to be seen.

Interestingly, the whole Zilupe municipality and parts of Ludza (Brīgi, Istra, Nirza, Pilda, Rundēni parishes) and Dagda (Bērziņi, Ezernieki, Ķepova, Svairiņi, Šķaune parishes) municipalities – with less than 10 thousand residents in total – fall under both Latvia-Russia and Latvia-Belarus local border traffic regimes. The map below shows the Latvian regions that fall under the LBT agreements with Belarus and Russia.

Latvian regions under the LBT agreements with Belarus and Russia.



Own elaboration. The Latvian regions that fall under the LV-RU agreement are yellow colored, those under the LV-BY agreement are blue colored; the areas that fall under both bilateral agreements are marked with pink color.

Legislative measures to counteract resale of excisable goods

Local border traffic regime makes frequent travels to adjacent border area cheaper and less burdensome for larger categories of residents. This raises the problem of the shuttle trade and of the retail sale of cigarettes, alcohol and automotive fuel across borders. Seemingly, this business of local residents was severely hit by the legislative measures implemented by Belarus and Latvia just before the introduction of the LBT regime.

Due to the steep devaluation of the national currency in the course of 2011 and a further widening of fuel price differences with the neighboring countries, Belarus enacted special legislation in 2011 in order to counteract the resale of local automotive fuel abroad. On June 11, 2011 duty on exported motor fuel was imposed in case of traveling abroad by a vehicle more than *once per five days*.³ A few months later the period for duty-free export of motor fuel was increased up to *eight days*.⁴

Еўрапейскае радыё для Беларусі, 18.01.2013. Available at <http://m.euroradio.fm/report/latviycy-ezdzyac-u-belarus-bez-vizau-u-6-razou-bolshchym-belarusy-u-latviyu>

3 Постанова Совет Министров Республики Беларусь 10 июня 2011 №753 "О некоторых вопросах регулирования вывоза автомобильного топлива с территории Республики Беларусь". Available at <http://pravo.by/main.aspx?guid=3871&p2=5/33947>

4 Постановление Совета Министров Республики Беларусь 18 ноября 2011 г. №1554 "О внесении изменений в постановление Совета Министров Республики Беларусь от 10 июня 2011 г. №753". Available at

These measures largely discouraged the residents of the areas along the Belarus-Lithuania and Belarus-Poland borders to resale automotive fuel. However, Belarus-Latvia border residents found themselves in somewhat better position, as long as they could – without making a big detour – still enter Latvia from Belarus via Russia⁵.

Nevertheless this situation lasted only until 2012 when Latvian toughened the rules over the transportation of excisable goods. Under the new edition of the Latvian Law "On Excise Duties" that was enacted on January 1, 2012, import of excisable goods, including by a road motor vehicle, more often than once *per seven days* (not per one day, as before), is considered to be commercial activity and therefore excise duty imposed.⁶ This restriction to import excisable goods in duty-exempted amounts of 40 cigarettes, one liter of strong alcoholic beverage and about 90 liters of motor fuel (a standard fuel tank plus 10 liter can) once per week provoked a series of public protests in the region of Latgale⁷ but left the amendments in place.

Rationale behind the local border traffic regimes

Acknowledging that the EU frontiers shall not mean borders closed to economic, social and cultural exchanges, since early 2000s, the EU organs started negotiations over a simplified border-crossing regime for the border residents that live along the EU's external border. This process resulted into the adoption of the EU Regulation that lays down rules on local border traffic at the external land borders⁸. The document says that *'it is in the interest of the enlarged Community to ensure that the borders with its neighbors are not a barrier to trade, social and cultural interchange or regional cooperation'*.

The LBT Regulation allows the EU member states to conclude bilateral agreements with neighboring third countries on a facilitated mode of entry for the border area residents. In order to be eligible for the LBT benefits, a person shall be a lawful resident in the border area for at least one year, but this requirement may be dropped for the close relatives of the border residents.

The residents that have legitimate reasons for regular crossing of the border for social, cultural or substantiated economic reasons, or for family reasons, may obtain special permits that entitle their holders to stay in the neighboring border area without a visa. According to the EU Regulation, the LBT permit shall be valid for a minimum of one year and a maximum of five years; it may be issued free of charge but shall not cost more than the fee charged for processing applications for short-term multiple-entry visas (i.e., EUR 35-60, depending on the country).

Local border traffic regimes look akin to a visa-free regime, but they have some important differences, including clear territorial limits. Under the Regulation, border area extends no more than 30 kilometers from the border, sometimes 50 kilometers, if part of any local administrative districts lies between 30 and 50 km from the border line. An LBT permit holder cannot go beyond the defined adjacent border area which is an abuse of the rules. Otherwise, he or she is subjected to penalties as provided for by national law, including possibility of canceling and revoking LBT permits.

<http://www.pravo.by/pdf/2011-131/2011-131%28015-050%29.pdf>

5 Note that fuel transportation restrictions do not cover the Belarus-Russia border as two states are in the customs union.

6 Grozījumi likumā "Par akcīzes nodokli". "Latvijas Vēstnesis", 204 (4602), 29.12.2011. Available at <http://likumi.lv/doc.php?id=241996>

7 Latgalieši draud rīkot masu nemierus pret 'legālās kontrabandas' ierobežojumiem; Rēzeknē protestē autovadītāji. DELFI.lv, 13.01.2012. Available at <http://www.delfi.lv/archive/latgaliesi-draud-rikot-masu-nemierus-pret-legalas-kontrabandas-ierobezojumiem-rezekne-proteste-autovaditaji.d?id=42052928>

8 Regulation (EC) №1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention. Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:405:0001:0022:EN:PDF>

Latvian LBTs in comparative perspective: more detailed and liberal

The LBT Regulation sets minimal and maximal marks for all the main LBT attributes, but it leaves some discretion to the states as for the actual length of residence in order to comply with the 'border resident' definition, actual LBT permit fees, or types of relatives under the LBT regime.

The LBT agreements that Latvia concluded with Russia⁹ and Belarus¹⁰, compared to the other existing LBT agreements between the EU member states and third countries, have a number of important peculiarities. *First*, Latvian agreements enumerate the most exhaustive list of legitimate reasons for the usage of the LBT regime. *Second*, they give the most detailed list of types of relatives of the border residents across border line. Latvia-Belarus LBT agreement stands out against all functioning LBT agreements in this respect. It lists such types of relatives as great-grandparents and great-grandchildren, uncles and aunts, nephews and nieces, brothers in law and sisters in law, mothers in law and fathers in law.

Third, the Latvian LBT agreements can be considered more liberal than an 'average' functioning LBT agreement. Latvia-Belarus agreement is just one of the two (besides Romania-Moldova LBT regime) LBT agreements that set a minimal period of residence in the border area at 1 year, compared to 3 years requirement in case of all the other counterparts. Latvia and Russia followed Slovakia-Ukraine example and agreed on issuing LBT permits free of charge while all the rest of bilateral agreements set the fee at EUR 20.

Moreover, neither Latvia-Belarus nor Latvia-Russia bilateral agreement contains a compulsory requirement of border residents to submit a documentary evidence of a legitimate reason (e.g., of the relatives in the adjacent border area) for the usage of the LBT regime. Such documents, together with a valid travel document, completed application, a personal photo and a medical insurance, may only occasionally be required by the consulates.

Why Latvia holds the lead among the Baltic States in widening borders

Two years ago, Lithuania was ahead of Latvia in the process of negotiations on the local border traffic (LBT) with Belarus and on a par with Latvia in negotiating the LBT with Russia. Ironically, in the end Latvia managed to launch the LBT regimes with both its eastern neighbors, while Lithuania's efforts to put the LBTs into effect remain vain.

Latvia has a functioning visa-free border area regime with Belarus since early 2012 and it was first among the Baltic trio to launch the local border traffic regime with Russia in June 2013. The LBT regime negotiations between Lithuania and Russia, Lithuania and Belarus went smooth on initial stages but were stuck in 2011. Negotiations on local border traffic regime between Estonia and Russia were never announced.

There are three important external factors that contributed to this state of play, namely Belarus's willingness to proceed exclusively with the Latvian LBT; Russia's and Lithuania's contradicting positions as to the LBT regime with regards to the Kaliningrad special status; and absence of the bilateral border treaty between Estonia and Russia.

Despite Lithuania and Russia agreeing upon the primary text of the bilateral LBT agreement yet in early 2009, the negotiations came to a standstill at some point in 2011. In contrast to Poland, which consistently persuaded the EU organs to broad the scope of the LBT regime to include larger territories (beyond areas of 30-50 km from the border line), Lithuania was never enthusiastic over similar idea.

In April 2010, Poland – in a joint declaration with Russia – called the EU organs to amend the

9 Latvijas Republikas valdības un Krievijas Federācijas valdības Vienošanās par Latvijas Republikas un Krievijas Federācijas pierobežas teritoriju iedzīvotāju savstarpējo braucienu vienkāršošanu. "Latvijas Vēstnesis", 115 (4921), 17.06.2013. Available at <http://likumi.lv/doc.php?id=257587>

10 Par Latvijas Republikas valdības un Baltkrievijas Republikas valdības vienošanos par Latvijas Republikas un Baltkrievijas Republikas pierobežas teritoriju iedzīvotāju savstarpējo braucienu vienkāršošanu. "Latvijas Vēstnesis", 178 (4370), 10.11.2010. Available at <http://likumi.lv/doc.php?id=221011>

LBT Regulation for the Kaliningrad case. The Commission came up with a legal initiative to make such amendments tailored to the specific situation of the Kaliningrad region. It was supported by the Council and the European Parliament, which opened the door for Poland and Russia to sign the bilateral LBT agreement in December 2011. Enforced in late July 2012, the agreement extends the border area to cover the whole Kaliningrad region and the territory on the Poland's side within about 100 km from the border.

As a consequence, Russia insists that this is the only acceptable fair treatment in order to proceed with the LBT regime and expects Lithuania to follow Poland's example. In turn, Lithuania supports the idea of extension of the border over the whole Kaliningrad region but not on its own territory to include the larger towns of Druskininkai and Kaunas. Currently, the two states stick with their contradicting positions amid rather tense bilateral relations.

Since Latvia-Russia border is a 'normal' case with no issues arisen alike those from the specifics of the Kaliningrad enclave, the negotiation process between Latvian and Russia did not encounter similar obstacles. Importantly, unlike Estonia, Latvia has an effective border treaty with Russia since 2007. Estonia-Russia border treaty was signed in May, 2005 but in the process of ratification Estonian parliament amended the text of the treaty with a reference to the Tartu peace treaty of 1920. Russia saw this amendment as a possibility for Estonia to file territorial claims over the lands that had ceded to Soviet Russia after the Second World War. As a result, Russia withdrew its sign under the bilateral border treaty. Currently Estonia's and Russia's state organs are finalizing the approval of a new text of the border treaty.

Cautious Belarus: towards sincere explanations of delay

One of the stumbling blocks in the negotiations on the LBT regime between Minsk and Vilnius was the Belarusian requirement that Lithuanians register with local police authorities once they get across the border. An early 2010 Wikileaks cable quotes a high Lithuanian official as saying that the Lithuania's president and government are disappointed with the potential Lithuania-Belarus LBT agreement. It reads that Lithuania "broke spears and twisted arms" to bring an agreement to the table only to see it whither because of Belarusian inaction on earlier promises of openness.¹¹

Later that same year the sides managed to agree upon the content of the agreement which was subsequently signed by the sides during the official visit of Dalia Grybauskaitė to Minsk in October 2010. The LBT regime was technically ready to be enforced since early 2011. However, despite the agreement was approved by the parliament and signed by the president, Belarusian side came short of making a final necessary step in ratification procedure, namely to send a diplomatic note of its readiness to launch the agreement. At first, Belarusian side came up with allegedly legitimate reasons of delay and claimed that it is to launch the LBT regime with Lithuania after '*we work through the cooperation [on the LBT regime] with Latvia*'.¹² However, later Belarus made it clear that the actual rationale of delay is not the technical issues. The Poland-Belarus LBT agreement was stuck alike, with somewhat earlier Belarusian side's public acknowledgment of political reasons behind delay.

Poisonous trio: sanctions, fears over westernization, and financial fragility

The Belarusian ruling elite's reluctance to make the life easier for the citizens that reside in the vicinity of the Western border, is explained by a mixture of political and economic considerations.

First, Belarusian authorities are dissatisfied with Poland's and Lithuania's policy of democratization and their support of the EU's sanctions policy towards Belarus. As Belarusian ambassador to Lithuania said, '*Latvia behaved in different way [compared to Lithuania], that*

11 Lithuania skeptical on further engagement with Belarus and Russia. Reference ID: 10VILNIUS59. Available at <http://wikileaks.org/cable/2010/01/10VILNIUS59.html>

12 See the statement of Ihar Pietryshenka, vice Foreign Minister of Belarus, in: Беларусь через несколько дней запустит в действие механизм малого приграничного движения с Латвией - МИД. Interfax.by, 23.11.11. Available at <http://www.interfax.by/news/belarus/102335>

is why the tangible progress [with the LBT regime] is there'.¹³ Since early 2011, the EU pursues a double-track policy towards Belarus, with high-level relations on hold, visa bans and asset freeze policy towards Belarusian officials, on the one hand, and intensification of cooperation with civil society and enhancement of people-to-people contacts, on the other. Apparently, the Belarusian authorities consider such EU policy non-amicable and therefore they oppose these EU's intentions. For a number of institutional, legal and political reasons, the EU cannot proceed with a unilateral genuine visa facilitation for the Belarusians beyond the EU Visa Code rules, just as the EU member states, for legal and technical reasons, cannot unilaterally launch the LBT regimes without Minsk consent.

Second, growing awareness of the Belarusian population of the political and economic situation in the West (which is, according to official propaganda, is worse or at least equal to that in Belarus) causes Minsk's concern. Belarusian citizens get the largest number of Schengen visas per capita, among all the third countries that have a visa-regime with the EU.¹⁴ Eventual functioning of the LBT regimes with Lithuania and Poland, without any doubt, would substantially increase the number of Belarusians traveling across the EU's external border to the adjacent border areas. As the table below shows, the number of Belarusians living along the borders with Lithuania and Poland and, therefore, the number of hypothetically eligible LBT permit holders is much greater than the border residents by the Latvian side. Much narrower and less populated zone by the Latvian border partly explains, why Minsk did not hesitate too long to launch the LBT agreement with Latvia, in contrast to the LBTs with Lithuania or Poland. Notably, in the second report on the functioning of the LBT regimes¹⁵, the European Commission expected that Lithuania-Belarus LBT agreement would come into force during 2011, before the Belarus-Latvia counterpart.

Table 2. Some features of the Belarusian border areas with Latvia, Lithuania, and Poland.

| Country | Length of the border, km | Population, Belarusian border area | Largest towns in the border area |
|-----------|--------------------------|------------------------------------|---|
| Latvia | 171 | 65,000 | Vierchniadžvinsk, Miory, Braslaŭ |
| Lithuania | 680 | 600,000 | Hrodna, Lida, Ašmiany |
| Poland | 605 | 1,1 mln | Hrodna, Brest, Vaŭkavysk, Skidziel, Žabinka |

Third, economic considerations play an important role in Minsk's concerns over the introduction of the LBT regimes with Lithuania and Poland. In 2011, Belarus was hit by a severe macroeconomic crisis, with a very high annual inflation rate (108.7%) and dramatic local currency depreciation (171.7%). The 2011 crisis was a product of loose macroeconomic policies when economic growth was instigated by domestic demand, meanwhile Belarusian goods found themselves less competitive on foreign markets in the absence of the decent structural reforms in the country. The gains of the Belarusian exporters in external price competitiveness after the depreciation of the rouble had been faded out in the course of 2012.

In the second half of 2012 external trade deficit began increasing again. In order to prevent the transfer of savings of the Belarusian population from rouble deposits into the foreign currency – this would make the situation in the foreign exchange market out of control – the

13 Посол Белоруссии в Литве: Главное, чтобы политики не путались под ногами. REGNUM, 11.04.2012. Available at <http://www.regnum.ru/news/1520011.html#ixzz2gxrr8RMv>

14 See comparative visa statistics in: Yeliseyeu Andrei. How isolated is Belarus? Analysis of Schengen countries' consular statistics (2007 - 2011). BISS research study, SA #01/2012RU. Available at http://belinstitute.eu/images/doc-pdf/english_research_yelis.pdf

15 Second report on the implementation and functioning of the local border traffic regime set up by Regulation № 1931/2006. Available at http://ec.europa.eu/home-affairs/news/intro/docs/COMM_PDF_COM_2011_0047_F_EN_RAPPORT.pdf

National Bank stimulates rise in real interest rates (rouble deposit rates in Belarus are currently at 35%-40% per annum). The scale of shopping that Belarusian do in the EU, mainly in Vilnius and Białystok trade centers and markets, adds to the fragile financial situation in the country.¹⁶ In Poland and Lithuania, Belarusians spend up to US 2 bln annually on building materials, motor spare parts, clothing and footwear, household detergents and cosmetic products, household appliances, radio and television articles, meat and other food products. Belarusian prime-minister has recently voiced his dissatisfaction with frequent shopping of Belarusians abroad¹⁷ and Lukashenko has even come with a scandalous idea of imposing an exit duty worth of USD100 on Belarusians that go abroad.¹⁸

Therefore, the Belarusian authorities would actually like (and they already voiced their intention!) to put additional barriers on the general public interactions with abroad, and to reduce expenses of Belarusians on import goods. In the current intricate economic situation, it is in the Belarusian ruling elite's interest to keep the western borders ajar, rather than to open the borders wide. This makes the prospects of the LBT regime between Belarus, on the one side, Lithuania and Poland, on the other, rather gloomy. The '*dead silence on the other side [of the border on the LBT issue]*', as Lithuania's former foreign minister Ažubalis once put it¹⁹, is likely to remain for the near future.

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16 In addition to the Vilnius trade center Akropolis, which is traditionally very popular among the Belarusian tourists, the newly-constructed IKEA in Vilnius store is destined to become yet another important shopping destination for Belarusians.

17 Мясникович: За развлечением и шопингом едут в Вильнюс и Варшаву. Неужели нельзя эти деньги оставить здесь? TUT.BY, 25.06.2013. Available at <http://news.tut.by/society/354750.html>

18 'Exit tax': authorities look for most suitable mechanism to implement initiative. Belarus in focus, 17.09.2013. Available at <http://belarusinfofocus.info/p/6030>

19 Lietuva nesulaukia Baltarusijos iniciatyvos dėl palengvinto judėjimo per sieną. BNS ir lrytas.lt, 2011-11-10. Available at <http://www.lrytas.lt/-13209363811319548684-lietuva-nesulaukia-baltarusijos-iniciatyvos-d%C4%97I-palengvinto-jud%C4%97jimo-per-sien%C4%85.htm>