

Resolution mechanisms of the Transnistrian conflict

Vacaru, Cristina

Veröffentlichungsversion / Published Version

Zeitschriftenartikel / journal article

Empfohlene Zitierung / Suggested Citation:

Vacaru, C. (2006). Resolution mechanisms of the Transnistrian conflict. *Studia Politica: Romanian Political Science Review*, 6(4), 905-921. <https://nbn-resolving.org/urn:nbn:de:0168-ssoar-56253-8>

Nutzungsbedingungen:

Dieser Text wird unter einer CC BY-NC-ND Lizenz (Namensnennung-Nicht-kommerziell-Keine Bearbeitung) zur Verfügung gestellt. Nähere Auskünfte zu den CC-Lizenzen finden Sie hier:

<https://creativecommons.org/licenses/by-nc-nd/1.0/deed.de>

Terms of use:

This document is made available under a CC BY-NC-ND Licence (Attribution-Non Commercial-NoDerivatives). For more information see:

<https://creativecommons.org/licenses/by-nc-nd/1.0>

Resolution Mechanisms of the Transnistrian Conflict

CRISTINA VACARU

The end of the Cold War which entailed the dissolution of the Soviet Union had created an enormous potential for the outbreak of violence in the former Union republics which had been finally materialized in the appearance of the intra-state conflicts. Moldova was caught into the framework of such a conflict that over the time had not ceased to exist even if its initial violent character was hampered.

The so-called "frozen conflicts" are presenting a major security issue at a local level, but also at a regional level. The Black Sea region recently began to gain a more important role on the international arena. The concerns towards the evolution of this region were raised by the enlargement of the European Union and also NATO enlargement. Thus, this region which is marred by conflicts needs to become a more stable one through finding a final viable solution to be addressed to these separatist conflicts.

Transnistrian conflict had drawn attention upon it of the third party actors which had involved themselves in the process of conflict resolution through the establishment of a clear mediation mechanism. In this study I would identify the implications of these actors in their search for the establishment of a final political settlement and I would consequently present their record of the envisaged proposals. Such a comprehensive approach is required in order to determine why these resolution mechanisms had failed to advance a workable solution. This failure had contributed to the maintenance of the conflict for more than a decade and this reality stresses even more the need for such an analysis.

History, Causes and the First Mediation Attempts

The Transnistrian conflict was brought by the dissolution of the Soviet Union. There are numerous causes of this conflict and the history of the region is important in this view. The territory between Prut and Dniester Rivers, which represents a part of nowadays Republic of Moldova, has been known as Bessarabia, beginning with the year 1812 when it was annexed by the tsarist Russia. Bessarabia had been a part of the Moldova principality and its population has been largely Romanian. In 1918 Romania had regained the control of this region through its unification. In October 1924 was created the Moldovan Autonomous Soviet Socialist Republic, with the capital at Balta, which comprised the territory between Dniester and Bug Rivers, known as Transnistria. As the Soviet Union didn't recognize the unification of the Bessarabia with Romania, the creation of this republic

was suspected as being the initial step towards the annexation of Bessarabia. On 28th of June 1940, as the consequence of the Molotov-Ribbentrop Pact, Bessarabia had been seized by the Soviets. On 2nd of August 1940 the Soviet Union decided to create the Moldovan Soviet Socialist Republic (MSSR) out of some regions of the Bessarabia (the North and the South of the Bessarabia were given to Ukraine) and six districts of the Moldovan Autonomous Soviet Socialist Republic (MASSR). For a short time, Romania had apprehended the region due to the advancement of the Axis powers, but the Soviet Union regained this region in 1944. Thus, Transnistria was formed by the will of the Soviets¹.

The origins of the Transnistrian conflict are to be found in the late 1980's Gorbachev's reforms. The *glasnost* and *perestroika* had raised in the Union republics the problem of insufficient democratization and had triggered the formation of national liberation movements. These movements had brought the adoption by the Moldovan Supreme Soviet on 31st August 1989 of a law that had made the Moldovan (Romanian) language in Latin script the official language of the state. The Russian minorities and especially those from Transnistria, which were concentrated in urban areas, perceived all these actions as a threat to their positions and identity, and consequently had formed their own movement, the United Council of Work Collectives (OSTK). On 23rd of June 1990 Moldovan Soviet Socialist Republic had adopted a Declaration of Sovereignty. Transnistrian leaders didn't approve the actions of the Moldovan Popular Front and declared "Transnistrian Moldovan Republic" on 2nd September 1990². The so-called "Transnistrian Moldovan Republic" is a *de facto* state situated on the left bank of the Dniester River, a region of the eastern Moldova, which represents 12% of the total territory of Republic of Moldova or approximately 4000 square kilometers³.

The next step towards a fully independent republic was marked by the presidential elections which were held on 8th of December 1991. Mircea Snegur had been elected president⁴. The separatist enclave had refused to participate in these elections and had organized its own elections, before the elections in Moldova. Through these elections the separatists had claimed legitimacy for their regime⁵.

On 27th of August 1991 Republic of Moldova declared its independence⁶.

The unrecognized regime, which controls the left bank of the Dniester River, claims to represent the interests of ethnic Russians who are in their view the ethnic majority. Ethnic component of this region however proves that these claims are unfounded because 40% of the population are Moldavians, 28% Ukrainians, and only

¹ Oleg SEREBREAN, *Va exploda Estul? Geopolitica spațiului pontic*, Editura Dacia, Cluj-Napoca, 1998, pp. 115-118.

² Charles KING, "Eurasia Letter: Moldova with A Russian Face", *Foreign Policy*, no. 97, Winter 1994/1995, pp. 106-120; Daria FANE, "Moldova: Breaking Loose from Moscow", in Ian BRUMMER, Ray TARAS (eds), *Nations and Politics in the Soviet Successor States*, Cambridge University Press, New York, 1993, pp. 121-153.

³ Mihai GRECU, Anatol ȚĂRANU, *Politica de epurare lingvistică în Transnistria*, Studiu elaborat în cadrul Institutului de studii politice și militare ULIM, Chișinău, 2005, in <http://www.studiidesecuritate.ro/pdf/Grecu,%20Taranu%20%20Epurare%20lingvistica%20in%20Transnistria.pdf.pdf>.

⁴ Marian ENACHE, Dorin CIMPOEȘU, *Misiune diplomatică în Republica Moldova: 1993-1997*, Editura Polirom, Iași, 2000, pp. 49-53.

⁵ Daria FANE, "Moldova: Breaking Loose...cit".

⁶ Marian ENACHE, Dorin CIMPOEȘU, *Misiune diplomatică...cit.*, pp. 70-72.

about 25% Russians (according to the data of 1989 census)¹. An ethnic reason to this conflict can be claimed when speaking of the Soviet policy of Russification or Sovietization, which had brought a considerable number of ethnic Russians and Ukrainians to this region, while displacing the Moldavians by sending them to Siberia and Kazakhstan. The Russians were encouraged to settle in Moldova by offering them high positions in the administration of MSSR and they were mainly encouraged to come to the Transnistrian region².

The Tiraspol regime had defied Chişinău leaders by participating in the Union referendum (17 March 1991), which was to decide the maintenance and the reform of the Soviet Union³.

Clashes between Moldovan police and Transnistrian forces took place as early as in November 1990. In March 1992, the events had lead gradually to the outburst of the civil war. The numerous cease-fire agreements which were established between the two parties, during this period, were violated by one or another of the parties. The conflict achieved its peak in June 1992 in the battle for Bender city. The Moldovan forces were defeated by the Transnistrian paramilitary troops, which were supported by the Russian 14th Army that intervened in the conflict on the side of Transnistrian forces⁴. At the end of the conflict the numbers of victims rose to 300 killed people and to more than 1000 of wounded men and the majority of victims were registered on the Moldovan side⁵.

The Russian officials didn't recognize their direct implication in this conflict, but the facts came to present another reality. The number of Transnistrian forces was impressive. The secessionists were supported by Cossacks and also by the highly organized force of the 14th Army. The Transnistrian paramilitary troops were heavily armed and these arms were also provided through an indirect support of the Russians. During the conflict, the Russian President, Boris Yeltsin, had transferred the 14th Army under the direct Russian command (1st of April 1992) and this action has raised more intensely the problem of the 14th Army involvement in the conflict and also the problem of its withdrawal from the Moldovan territory⁶.

At CSCE (Commission on Security and Cooperation in Europe, later known as Organization on Security and Cooperation in Europe or OSCE) Helsinki Conference held on 23rd of March 1992, the Foreign Ministers of Ukraine, Moldova, Russia and Romania had expressed their willingness to form a *quadrupartite mechanism* for a peaceful resolution of the conflict. On 6th of April, the Foreign Ministers of these countries had gathered in Chişinău and had taken a first step towards the conflict resolution by signing the *Quadrupartite Declaration on Resolution of the Transnistrian Conflict*. The declaration had established a set of basic principles which were meant to guide the further negotiations: the respect for the sovereignty, independence and integrity of the Republic of Moldova; the adherence to the peaceful resolution of the conflict; the right of Republic of Moldova to take appropriate actions to

¹ Silviu COSTACHE, "Transnistria: radiografia unui conflict", *Geopolitica. Revistă de geografie politică, geopolitică și geostrategie*, Anul II, nr. 7-8 (3/2004), 2004, pp. 227-232.

² Iulian CHIFU, *Basarabia sub ocupație sovietică și tentative contemporane de revenire sub tutela Moscovei*, Politeia-SNSPA, București, 2004, p. 204; Silviu COSTACHE, "Transnistria...cit".

³ Daria FANE, "Moldova: Breaking Loose...cit".

⁴ Charles KING, *Moldovenii: România, Rusia și politica culturală*, D. Stanciu transl., Editura Arc, Chişinău, 2002, pp. 195-197.

⁵ Silviu COSTACHE, "Transnistria...cit".

⁶ Iulian CHIFU, *Basarabia sub ocupație sovietică...cit.*, pp. 206-214.

maintain the order; the non-intervention of an external organization or force in the internal affairs of the country. The Foreign Ministers of the four countries had also established a series of institutions which had the goal of building trust in the region. A second meeting of the quadripartite Commission had been held on 17th of April in Chişinău and it had discussed the report of the observers group. In this meeting had been approved five documents which could be resumed to the following important provisions: each of the countries had the right to send in the region 40 observers which had the task to supervise the halting of military actions, which was scheduled to begin on 20th of April; in the case of the failure of the observer mission, it must have been replaced with a peacekeeping mission. The resolutions of the quadripartite mechanism had failed because the separatist leaders were reluctant to engage in this mechanism. On 25th of June at a meeting that addressed to the issue of cooperation within the countries of Black Sea Basin, in Istanbul, the four countries had again established a decision on the immediate cessation of fire and also had approved the establishment of a security zone. This meeting had also for the first time addressed to the solution of the establishment of a statute for the Left Bank districts. The chiefs of states of the four countries had also agreed to address an appeal to the CSCE in order to ensure its participation to the resolution of the conflict¹.

The quadripartite mechanism was doomed to fail because Russia had engaged in a campaign of direct talks with the Moldovan authorities, which was conducted by Vice-President, Alexandr Rutskoï².

The mediation efforts of Alexandr Rutskoï had materialized into the so-called *Yeltsin-Snegur Convention*, which was signed by the Russian and Moldovan Presidents on 21st of July 1992. Mircea Snegur and Boris Yeltsin met in Moscow and concluded the *Convention on Principles of Peaceful Settlement of the Armed Conflict in the Transnistrian Region of Republic of Moldova*. The Convention was largely a cease-fire agreement that had also established a Unified Committee of Control which had to supervise the activity of the peacekeeping troops³. This agreement brought to an end the hostilities between the parties and established a security zone along the Dniester River. The peacekeeping forces were provided by six troops from Russian Federation, three troops from Moldova, and three troops from Transnistria⁴.

After the cease-fire agreement the parties engaged in seeking viable solutions. The Moldavians had drafted a solution in late 1992-early 1993. In the proposal of Transnistrian self-governed territory they were willing to grant to "Transnistrian Moldovan Republic" an extensive autonomy. Transnistrian Moldovan Republic Supreme Soviet had replied to this initiative by approving a resolution on 6th January 1993, which saw the solution in a Moldovan confederation formed by the Transnistria, Găgăuzia, and the remaining districts of Moldova⁵.

In 1993, in Chişinău had been established a permanent mission of the Commission on Security and Cooperation in Europe (CSCE, later known as Organization on

¹ Gheorghe E. COJOCARU, *Politica externă a Republicii Moldova: Studii*, Ediția a 2-a, revăzută și adăugită, Editura Civitas, Chişinău, 2001, pp. 78-97.

² *Ibidem*, pp. 101-105.

³ *Convenția cu privire la principiile reglementării pașnice a conflictului armat din zona nistreană a Republicii Moldova*, Anexa 39, 21 iulie 1992, in Marian ENACHE, Dorin CIMPOEȘU, *Misiune diplomatică...cit.*, pp. 400-401.

⁴ Charles KING, *Moldovenii...cit.*, pp. 198-199.

⁵ Pal KOLSTO, Andrei MALGIN, "The Transnistrian Republic: A Case of Politicized Regionalism", *Nationalities Papers*, vol. 26, nr. 1, March 1998, pp. 103-128, in <http://proquest.umi.com/>.

Security and Cooperation in Europe or OSCE). The OSCE had elaborated a possible solution in December 1993. Its report had stated that a settlement in the form of a confederation or recognition of the secessionist region was not acceptable, but it emphasized that the region could achieve considerable autonomy through the creation of a Special Region of Transnistria, which would have its own government, legislative body, and Supreme Court. The proposal also sustained that the powers should be separated between three types: central, regional and mixed jurisdiction. It has also been recommended to the Moldovan authorities to grant to Transnistria the possibility to break from Moldova in the case of the unification of Moldova and Romania. The report in fact was proposing a federation¹. The involvement of the OSCE mission as a mediator in the conflict had brought a new mechanism in the negotiation process.

On 28th of April 1994, Igor Smirnov, the Transnistrian leader, and Mircea Snegur, the President of Republic of Moldova, had signed a joint declaration at which Russia and OSCE had participated as assisting parties. The declaration had insisted upon the fact that the future negotiations would seek a viable political solution beginning with the necessity to "define the legal-state statute of Transnistria"².

The negotiation on the issue of the special status for the Left Bank region began as early as on 28th of October 1994, but it had proved as being a very hard problem to be solved³.

The negotiations continued with a meeting in Tiraspol on 15th of February 1995. The leaders of the "Transnistrian Moldovan Republic" had insisted during this meeting that they do not want to consider as a solution the attribution to Transnistria of a special statute and they demanded from the Moldovan side an official recognition of the "Transnistrian Moldovan Republic". The delegation from Chişinău had refused this proposal, firmly reiterating its adherence to the solution that would envisage a special statute⁴.

In April 1995, the Moldovan side had submitted to Transnistrians a draft law on the special status of the region. The law took into account the recommendations of the OSCE and proposed the maintenance of the "development and expression of the ethnic, cultural, linguistic, and religious distinctiveness of the region's population". The Transnistrians did not expect to receive such a proposal and they had not succeeded in giving a proper answer. On 5th of July 1995 Snegur and Smirnov met on a new round of talks. Although they did not agree upon a final solution, they signed some other important agreements, as the *Agreement on Non-use of Force* as well as a banking agreement⁵.

On 8th of May 1997 was signed the *Memorandum on the Normalization of the Relationship between the Republic of Moldova and Transnistria*. The memorandum was meant to redress the situation that occurred in 1995 when the negotiations were blocked. This memorandum had also officially installed the mechanism of *five-sided format* of the negotiation process, under which Russia and Ukraine had acquired

¹ Steven D. ROPER, "Federalization and Constitution-Making as an Instrument of Conflict Resolution", *Demokratizatsiya*, vol. 12, nr. 4, Fall 2004, pp. 527-540, in <http://proquest.umi.com/>; Pal KOLSTO, Andrei MALGIN, "The Transnistrian Republic...cit."

² *Declarația Comună Snegur-Smirnov*, Anexa 11, 28 aprilie 1994, in Marian ENACHE, Dorin CIMPOEȘU, *Misiune diplomatică...cit.*, p. 339.

³ Charles KING, *Post-Soviet Moldova*, The Center for Romanian Studies, Iași, 1997, pp. 84-86.

⁴ Marian ENACHE, Dorin CIMPOEȘU, *Misiune diplomatică...cit.*, pp. 130-131.

⁵ Pal KOLSTO, Andrei MALGIN, "The Transnistrian Republic...cit."

the status of guarantor states and OSCE– the status of mediator (article 1 and 6). In the second article the memorandum had addressed to the necessity of the establishment for the Transnistria of a status, which had to begin to be drafted immediately after the signing of this memorandum and the parties would have to take into consideration the previous agreements signed in this process. The memorandum had also had a few provisions in the third article which were consistent with the problem of Transnistria's special status, because it had established some of its future competences in a federation: Transnistria would have the right to participate in the conduct of Moldova's foreign affairs when the foreign affairs matters would indulge its interests; Transnistria would also have the right to set up "international contacts in economic, scientific and cultural fields". The memorandum was emphasizing that the negotiations would proceed from the preservation of Moldova's integrity as being a "common state" within internationally recognized borders. Having the previous experience of the convenient interpretations of the documents, Moldova's delegation had insisted upon some guarantees which were to be given by Russia, Ukraine and the OSCE in sustaining the explanation of the treaty in some special annexes. Although these types of annexes were obtained, the Transnistrian authorities had never recognized them. Transnistrian authorities had viewed the document as being advantageous for them, because the expression "common state" could be interpreted as not necessarily overruling the solution of a confederated state¹.

A new round of discussions had been held in Odessa, on 20th of March 1998. There were concluded a series of accords that ensured the gradual demilitarization of the security zone and the access to the bridges over the Dniester River. The parties had signed a Convention which was meant to build trust and security and envisaged the admission to the conflict zone of Ukrainian peacekeepers with the statute of observers².

The OSCE Plan

On 2-3 of July 2002 Russia, Ukraine, and the OSCE had offered to the parties a detailed draft of the so-called *Kiev Proposal* or *OSCE Plan*, which was meant to renew the negotiations. The plan described the federalization of Moldova. In the fourth article of this draft was specified that Moldova would be formed of "state-territorial entities", which were to be given local powers over a series of matters, but however this entities were to have an inferior status as related to the central Moldovan government. The document didn't specify how many entities had to be included in the federation. This fact has raised numerous controversies within the Joint Constitutional Commission (JCC), which was established in February 2003 by the President Vladimir Voronin and it comprised three representatives from each party. Although at the beginning there were some proposals to include in the federation two entities (Găgăuzia and Transnistria), the discussions however had resumed to the admission of a single entity, Transnistria. The debate was focused on the stability of a federation based only on two entities. The Venice

¹ *Memorandum privind principiile normalizării relațiilor dintre Republica Moldova și Transnistria*, Anexa 40, 8 mai 1997, in Marian ENACHE, Dorin CIMPOEȘU, *Misiune diplomatică...cit.*, pp. 402-403; Charles KING, *Moldovenii...cit.*, pp. 203-205.

² Boris STRATULAT, "Reuniune la Odesa", *Moldova și Lumea*, nr. 3-4, 1998, pp. 2-3.

Commission as well as some Moldovan nongovernmental organizations (NGOs) were opposing the formation of a federation based on two subjects, precisely because of the instability it could have triggered. OSCE's Mission to Moldova had also stated in a previous report, as early as in 1993, that a federation formed of even three entities would be a loose federation. OSCE also suggested that for achieving an unbiased structure within a Moldovan federation it is necessary that the territory of Moldova should be divided in no less than eight to ten regions¹.

The document had also addressed the issue of the military power of the parties and it had stipulated that the two armies, the Moldovan army and the Transnistrian forces, would be unified in a single army of the future federation. The document in this case also left some unresolved questions because it did not specify the method for the unification of the two armies neither it did specify a clear period of time under which this unification would take place. The document provided that the two actors had to diminish the number of their forces and had to take steps that might have brought more confidence between the parties: the announcement of the units' movements and the announcement of the military exercises. The fact that the period of time of the unification of the two forces was not fixed might have caused a legalization of the Transnistrian army. The Transnistria's forces were perceived on the international arena as illegal forces, paramilitary troops, and the text of this document had altered this view because it had put in the same framework the illegal troops of Transnistria and Moldova's legal forces².

The document had provided that each state-territorial entity could have its own legislative and executive bodies and its own Constitution. A clear delimitation of competences had to be made, under the agreement's provisions, in a negotiation between the state-territorial entities and the rump Moldova. *Kiev Proposal* had presented as a basis for the future negotiations three types of competences: the competences of the federal center that included the foreign affairs, defense, state security, citizenship, criminal justice, emission of currency, customs control, control over the state property; the competences of state-territorial entities which largely included the control of these entities on a local level through a series of competences; and the shared competences that were reduced to the protection of human rights and to the guarantees of the ethnic minority rights. The document had stated that such federal competences as customs, national currency and commercial laws would require a period of transition in order to be applied in the state-territorial entities, but as in the case of the unification of the two forces the period of transition was undetermined, because the text overlooked to mention its interval. Even if the foreign affairs were considered to be a field controlled by the federal center, the draft however envisaged that Transnistria might participate in the implementation of international agreements which were consistent with Transnistria's interests. This provision had given to Transnistria an instrument of pressure over Moldova and it also might have blocked Moldova's orientation towards the West. The provisions of the document which dealt with the problem of the official language had raised numerous criticisms, because even if the official language of the federation was

¹ Steven D. ROPER, "Federalization and Constitution-Making as An Instrument of Conflict Resolution", *Demokratizatsiya*, vol. 12, no. 4, Fall 2004, pp. 527-540, in <http://proquest.umi.com/>.

² Adrian POP, Gabriela PASCARIU, George ANGLIȚOIU, Alexandru PURCĂRUȘ, *România și Republica Moldova – între politica europeană de vecinătate și perspectiva extinderii Uniunii Europene*, in http://www.ier.ro/PAIS/PAIS3/RO/ST.5_RO_Final.PDF.

Moldovan language written in Latin script, the state-territorial units had the right to use the languages which were spoken in their regions along with the official language. This provision might have brought the installment in Transnistria of the Russian language as an official language. The draft established a bicameral Parliament, which had to be composed from 101 members. The Legislative Chamber had to have 71 members and they were to be elected through the votes of the population of the whole country. The Representative Chamber had to include 30 members and they were to represent the "state-territorial entities". The bicameral Parliament had raised another controversial issue which was included in the article 26. In the opposition's view this article granted to the Transnistrians a right of veto over all basic federation's laws because it stipulated that "state-territorial entities are represented in the Chamber by an equal number of votes". Thus, the Representative Chamber had the real power in enacting the laws, while the Legislative Chamber in order to pass a law had to have more than a simple majority¹. Debates between the two sides were also raising problems on such topics as finances, judiciary and taxes. Transnistria required the establishment of two separate judiciaries, which were to be arbitrated by a joint mediation court, consisted of an equal number of judges from each subject. Besides this fact, Transnistria sustained that it also should preserve its own criminal and civil codes. The representatives of the Left Bank region were also insisting that Moldova should recognize their achievements in privatization. This privatization however lacked any legal basis and if Moldova had approved its recognition it might have lost a significant income².

The plan had to be mediated by Russia, Ukraine and OSCE and the three participants had to form a system of "guarantees". Russia, Ukraine and OSCE as guarantors had the right to monitor the implementation of the plan on constitutional and legislative levels. They had to observe the work of the institutions and the guarantors had also the right to mediate the disputes that might surface in this process between the federal center and the state-territorial units. The decisions taken by guarantors had preeminence over the federation's decisions. This system had in fact installed the right to interfere in the internal affairs of an independent state and the independence of Republic of Moldova was established by its Constitution in the first article. The *OSCE Plan* through many of its controversial provisions was to empower the Transnistrian separatism and to deepen the conflict³. The fact that the *OSCE Plan* was supporting the Transnistrians was confirmed by Tiraspol "Foreign Minister", Valeri Litskai, who had declared that this plan was representing Transnistria's victory. The plan was clearly drafted under the Russian influence because it reproduced on a major scale the provisions of the Constitution of the Russian Federation. Russia would have had established its influence through the system of guarantees because it was represented as guarantor state, but it also had a representation within the OSCE institutions and also because the system did not include an eventual accession of other European states. Thus, the plan was to endanger Moldova's reintegration and was to entail the legitimization of Transnistrian regime⁴.

¹ Vladimir SOCOR, *September 11 and the Geopolitical Revolution of our Time*, Editura Universitară Politeia-SNSPA, București, 2004, pp. 276-278.

² Steven D. ROPER, "Federalization and Constitution-Making...cit."

³ Adrian POP, Gabriela PASCARIU, George ANGLIȚOIU, Alexandru PURCĂRUȘ, *România și Republica Moldova...cit.*

⁴ Vitalie CIOBANU, *Anatomia unui faliment geopolitic: Republica Moldova*, Editura Polirom, Iași, 2005, pp. 225-227.

The Kozak Memorandum

In November 2003, Russia took the initiative in proposing a plan that envisaged another Constitution for the creation of a Moldovan federation. This plan, the *Memorandum on the Basic Principles of the State Structure of A United State in Moldova*, was an exclusive creation of the Russian Federation and it was better known as the *Kozak Memorandum*, because it was promoted by Dmitri Kozak, an influential person of the Putin's team. The memorandum proposed a federation compounded of two units ("Transnistrian Moldovan Republic" and Găgăuzia) and a federal territory, consisted of the remaining Moldovan territory. The Federation as stated in the preamble of the memorandum was to represent a "neutral, demilitarized state" and it had to be created within the 1990 borders of the Moldovan Soviet Socialist Republic (article 1). In the first article the federation was also declared as an independent and unified state. This project was considered to represent an "asymmetric federation", because the federal territory had to have a consistent number of powers as compared to the other two subjects. However the powers of the federation were separated into three categories: federation's competences, the subjects' competences and joint ones. The draft Constitution had offered too many joint competences and this could be considered as a prospect for the governments failure. The third article in its seventh chapter had included a controversial provision that had legitimized the use of the Russian language in Republic of Moldova saying that Russian would be considered "an official language", while Moldovan would have the status of "state language". Besides this, the article had also provided that the subjects of the federation would have the right to institute other official languages in their own Constitutions. The subjects of the federation had the right to establish their own legislative, executive and judicial bodies and also had the right to have their own Constitution, tax system and their own budget. The memorandum had also in a way approved the privatization done by the Transnistrian unconstitutional regime, because it didn't approve an eventual re-examination of laws on "state, municipal and private property", which were passed in Transnistria before its accession to federation. The Parliament was to be composed of two houses, the Senate and the House of Representatives, and this had raised the problem of a possible overrepresentation of minorities in the Senate. The Senate was formed of 26 senators of whom 13 were elected by the House of Representatives, 9 were representatives of the Transnistrian Supreme Soviet and 4 were representative of the Găgăuz National Assembly. Most of the laws had to be passed through the Senate and the federal laws required a substantial majority in the Senate (a $\frac{3}{4}$ majority). This fact amounted to practical veto power of the minority and it certainly contradicted the concept of an asymmetric federation. The veto power of the Senate was at least to be exercised in the approval of federal organic laws until 2015. Thus, a minority group had been able to block any law which concerned the joint competences. It could have had the power to block the legislation that might bring Moldova closer to European integration. The same problem of the overrepresentation of the minority groups was raised by the structure of the Federal Constitutional Court (six judges were representing the lower house, one- Găgăuzia and four-Transnistria). The adoption of a decision by the Constitutional Court at least until 2015 also required a substantial majority which amounted to

no less than 9 votes and this provision had, as in the previous case, empowered the minorities to block any decisions¹.

Vladimir Voronin, the Moldovan President, had recognized the plan as being a viable solution saying that it is a "realistic, compromise scheme" that would bring to an end the problems of the republic. The Transnistrian authorities were also pleased with the provisions of this plan, but they however had insisted on the inclusion of some adjustments in the plan. The first requirement of the Transnistrian side was to legitimize the Russian military presence on the territory of Moldova for another 30 years, under the so-called military guarantees. The second provision demanded for the Russian language the status of a state language. The international community was mainly concerned with the fact that the *Kozak Memorandum* didn't provide any system of international guarantees. The protests organized by Moldovan opposition parties, the concerns expressed by OSCE, United States and European Union had persuaded the Moldovan President to do not accept to sign this plan².

Belkovski Project

Russians had failed in imposing the *Kozak Memorandum* as the final political solution for resolving the Transnistrian conflict, but this fact had not meant that they had renounced to draft and promote other proposals. Such a proposal appeared as early as in June 2004 and it came from Stanislav Belkovski, the Director of the Russian National Strategy Institute. The *Belkovski Project* proposed the recognition of an independent Transnistria and the unification of Moldova with Romania. Stanislav Belkovski had sustained that such a plan was accepted by the Russian President, Vladimir Putin. The proposal was in many instances interpreted as a Russian diversion, because Russia knew that its implementation was not possible. The plan didn't establish a clear mechanism through which these two provisions could have been materialized. The proposal might have deepened the security problems in the region because it would have entailed the preservation of the Russian troops in an independent Transnistria. The presence of the Russian army could have created a kind of "Black Sea Kaliningrad" which was to represent a neighbor of NATO and European Union. If the provision which entailed Moldova's unification with Romania was to be implemented, it could have raised serious problems for Romania's acceptance as a full member of the European Union. Romania's integration in the European Union, in its better case, would have been delayed if it were to incorporate a region which was considered to be an unstable one. Russia through this plan had largely reasserted its position of an imperial power, because it didn't consult Republic of Moldova's authorities on the provisions which were included in it. However, this plan had also created some positive effects for the Republic of Moldova. This plan through the unification provision had unofficially recognized

¹ *Russian Draft Memorandum on the Basic Principles of the State Structure of A United State in Moldova*, 17 November 2003, in http://www.peacebuilding.md/library/13/en/7_Memorandum_Nov_2003_eng.doc; Michael EMERSON, *Should the Transnistrian Tail Wag the Bessarabian Dog?*, 25 November 2003, in <http://www.ipp.md/public/comentarii/34/ro/MoTransRev.doc>.

² <http://www.e-democracy.md/en/e-journal/20031203/#51>.

that Moldova's people have Romanian origins. Consequently, the theory of "Moldovan language" and "Moldovan people" which had been propped up by Russians beginning with the Stalin regime was dismantled¹.

Youshtchenko Plan

In 2005, Ukraine had decided to take an active position in the promotion of a viable solution to this conflict and it had proposed at the five-sided negotiations held in Vinnitsa, on 16-17 May, a plan. This plan was supposed to continue to detail a draft proposed at GUAM (Georgia, Ukraine, Azerbaijan, and Moldova) summit held in Chişinău on April 22. However the *Plan on the Resolution of the Transnistrian Problem*², also known as *Youshtchenko Plan*, departed considerably from the initial "seven steps" plan. This proposal comprised a solution to be applied in three stages and as the *Kozak Memorandum* contained provisions which were detrimental to Moldova. In the first chapter the drafters of this plan had unofficially recognized that some of the provisions of the plan went in contradiction with the Moldovan Constitution, because it provided that the special legal status of Transnistria would be offered preserving "Moldova's constitutional system" (article 2). The concept of the constitutional system can be interpreted, because it does not mean that it equals with the concept of the Moldovan Constitution. In the third chapter the document had established the use in Transnistria of three official languages: Moldovan, Ukrainian and Russian. The language issue, as I had previously noted, was at the basis of the violent outbursts that led to the civil war and this provisions would only enhance Transnistria's position by conserving its negative attitude towards the Moldavians or Romanians, which would eventually bring to another serious clashes. This draft provided an unofficial recognition of the existing Transnistrian regime, because the Transnistrian leaders had to sign it as an equal part and this fact raised Transnistria to the status of a state. The plan also raised the problem of the right to self-determination of the Transnistrians in case Moldova would lose its sovereignty or independence. This provision could eventually block the access of Moldova to European integration, but it also questioned which citizens could be considered as being Transnistrians. Another difficult issue was raised by the fact that it established a system of international guarantees and this could further bring an eventual intervention of such actors as Russia and Ukraine in Moldova's internal affairs. The plan also provided that in Transnistria the regime could be changed only after holding democratic and free elections monitored by international observers. The plan overlooked to mention the means by which a democratic context should be build in the region and it also ignored the fact that democracy can't be achieved within an autocratic regime. The recognition of the newly elected Transnistrian Supreme Soviet by the Moldavian authorities would also be in fact an unofficial recognition of Transnistria, precisely because there is no a real guarantee that this Supreme Soviet would substantially differ

¹ Vitalie CIOBANU, *Anatomia unui faliment geopolitic...cit.*, pp. 363-366;***, *Transnistria: evoluția unui conflict înghețat și perspective de soluționare*, Institutul „Ovidiu Șincai”, București, septembrie 2005, in http://www.fisd.ro/PDF/mater_noi/Raport_Transnistria.pdf.

² *Ukrainian Plan for Settling the Transdniestrian Conflict*, in http://www.ipp.md/files/Comentarii/Yushchenko_plan_eng14.doc.

from the current unconstitutional Transnistrian regime. Thus, a real democracy in the region could only be met after the reintegration of the Moldovan state. *You-shchchenko Plan* stipulated that Moldovan Parliament should commit itself to provide by the end of the July 2005 a law on the basic principles of the Transnistrian region's statute. The warring fact in this provision was that the basic principles proposed by Kiev were aiming at instituting a Moldovan confederation¹.

"Three D Strategy" Plan

While the Russian and Ukrainian mediators were promoting federalization, the Moldovan civil society was advancing the *"Three D Strategy" Plan*, which is aiming at a full reintegration of the secessionist region with Moldova through "democratization, decriminalization and demilitarization". The democratization of the region should promote the creation of a strong civil society, which could in turn bring the formation of an opposition. OSCE and other international organizations had to involve themselves more actively in a democratization process. OSCE's tacit acceptance of the Russia's leading role in the Transnistrian conflict resolution process, especially through its acceptance of Russia's draft documents, had drawn numerous criticisms upon OSCE mission. The OSCE involvement in the democratization of the region could endorse this view and it could bring positive results, which would overrule the manipulation of people in this region by the current regime through the creation of an independent press and a strong opposition movement. The democratization should also be promoted only together with the process of the decriminalization, because a criminal regime could halt the democratic process. The demilitarization issue is a prominent factor in this strategy, because the withdrawal of the Russian troops would no more provide a serious support to the Transnistrian criminal regime. Besides the retreat of the Russian 14th Army, the demilitarization should entail also the dismantling of the security system created by Russia and the transformation of the so-called Russian "peacekeeping" mission into an international peacekeeping mission. The international peacekeeping mission should not be a military one as the Russian "peacekeeping" mission is, but a civilian mission that would include lightly armed military observes provided by the active participation of the whole Euro-Atlantic community².

The Recent Developments in Transnistrian Conflict

The process of Transnistrian conflict management was continued with an initiative undertaken by Vladimir Voronin, the President of the Republic of Moldova, which had presented to the Moldovan Parliament a law project. On 22nd of July

¹ Oazu NANTOI, *Planul de reglementare a problemei transnistrene, propus de partea ucraineană-pro și contra*, 8 June 2005, in <http://www.ipp.md/comentarii1.php?l=ro&id=38>.

² Vladimir SOCOR, "Democratizare, decriminalizare, demilitarizare", *Jurnal de Chișinău*, 1 iunie 2004, in <http://jurnal.md/>.

2005, the Moldovan Parliament had adopted the *Law on the Basic Principles of the Special Legal Status of the Localities of Transnistria* (no. 173-XVI). The project of such a law had also been envisaged in the *Youshtchenko Plan*. Even if the law approved by the Moldovan Parliament had had as a starting point some provisions of the *Youshtchenko Plan*, it however had also entailed some substantial differences. The law had stipulated the reintegration of the Republic of Moldova and it had been drafted in accordance with the provisions stipulated by the Republic of Moldova's Constitution. The fact that in the law was clearly expressed the term Republic of Moldova's Constitution was the first substantial change of the Ukrainian plan because the latter had only employed such a vague concept as the constitutional system of the Republic of Moldova. The law had provided the creation of a Transnistrian autonomous territorial unit and thus, it had altered another provision of the *Youshtchenko Plan* which was offering to Transnistria the status of an autonomous republic. The legislative body of the future autonomous territorial unit would be represented by the Supreme Council and it would be elected "on the basis of free, transparent and democratic elections". The law had explained which elections would be considered as democratic elections. It had been pointed out that such elections can only occur after the democratization and demilitarization of Transnistria. These two concepts were signalling the acceptance by the Moldovan authorities of some ideas of the "Three D Strategy" Plan constructed by the Moldovan civil society and it accepted the fact that a real democratization of Transnistria can only occur if Moldova's sovereignty is accepted on the whole territory of the republic. The law had also provided that the special legal status of Transnistria would also be approved by a law which would be drafted within a period of six months. An important provision of this law, which was aiming to a certain extent to realize the demilitarization, was envisaging the retreat of Russian peacekeeping forces until 31st of December 2006. The Transnistrians had interpreted the law as an "ultimatum" and this declaration was supported by the argument that the law was drafted without any consultations of their opinion on its provisions¹.

Upon the insistence of Moldovan authorities on a more active involvement of European Union in the resolution of the conflict, European Union had promoted a memorandum on the creation of a European Union Border Assistance Mission. The border assistance mission had to operate at the Moldo-Ukrainian border in Transnistrian region and its purpose was to halt the illegal flow of goods, weapons and drugs through this border. Ukraine was initially reluctant to the Moldovan initiative of establishing a joint control on Moldo-Ukrainian border, but after the European Union's involvement it had signed along with the European Commission and Republic of Moldova the memorandum for the border assistance mission (7th of October 2005). However, subsequently Ukraine had delayed its actions on establishing an effective control on the Moldo-Ukrainian border, despite the fact that it had approved a range of documents in this sense².

On 26th-27th of September 2005 in Odessa the negotiations on the conflict had moved to a new step by enlarging its format. The new format had included in its framework United States and European Union which had acquired the statute of

¹ http://ro.altermedia.info/cealalta-romanie/parlamentul-moldovean-acorda-transnistriei-statut-de-unitate-teritoriala-autonoma_2524.html.

² Oazu NANTOI, *Transnistrian Conflict: What Could the European Union and the United States of America Do?*, 21 November 2005, in http://www.ipp.md/public/comentarii/39/en/Transnistrian%20Conflict-EU%20and%20SUA_Engl29.doc.

observers in the process of negotiation of the Transnistrian Conflict. However the subsequent negotiations held on 15 December 2005 and on 26-27 January 2006 didn't bring a substantial advancement in negotiations and this fact was largely due to a common stance promoted by Russia and Ukraine. On 15th of December 2005 Russian and Ukrainian Presidents had presented a joint declaration which had marked their main directions in the process of the negotiation of Transnistrian conflict. The declaration stated that Russia and Ukraine would "coordinate their steps" in their subsequent decisions upon the resolution of this conflict. Ukraine had in this manner approached itself to the Russian view on the solutions for the Transnistrian conflict and it could be said that it had renounced to the ideals promoted by the "orange revolution". In the Joint Declaration, Vladimir Putin and Victor Youshtchenko had adhered to the principles of the previous agreements which were signed between the parties during the process of negotiation. The only relatively positive statement in this declaration refers to an unofficial recognition of the two Presidents that the Transnistrian conflict is not an inter-ethnic one because they had stated that on the left bank of Dniester River as well as on its right bank live the same peoples, "Moldavians, Russians and Ukrainians", but the fact that they had also included in this phrase the Russians and the Ukrainians might be interpreted as a justification of the future interventions for the protection of these minorities. The Russian and Ukrainian Presidents did not speak in their declaration about the law passed by the Moldovan Parliament in July 2005 and they had said that they would accept in the region only an international mission of observers under the OSCE auspices. They also had mentioned the important role and efficiency of the existing peacekeeping mission and through this statement they had rejected the Moldovan proposal of the replacement of the current peacekeepers with an international peacekeeping mission. Besides this, they had emphasized that the current mission could only be transformed in a "guarantor peacekeeping mission under the OSCE aegis". This new concept of "guarantor mission" raises the question of its meaning which could in the end entail the consequence of the legitimization of Russian military troops¹. The next round of talks in the new 5+2 format of negotiations held on 26-27 January 2006 had not brought any improvement in the process of negotiations on the Transnistrian conflict, because Igor Ivanov, Russia's Security Council Secretary, and Anatoly Kinakh, Ukraine's National Security and Defense Council (NSDC) Secretary had confirmed that their countries would continue to preserve a common view on the resolution of the conflict. Ukraine's and Russia's position differs substantially from the Moldovan and Western position and this fact is maintaining the inefficiency of the negotiations and represent the main cause of the poor results of the last two rounds of talks². However Ukraine succeeded on the 3rd March to distance itself from such a position and it finally had approved to implement the law on the control of the border. This change in the Ukraine's position had largely occurred due to a more active involvement of the European Union³.

The negotiation process over the Transnistrian conflict didn't yet provided a viable solution and the future of the negotiations will largely depend on how ac-

¹ Oazu NANTOI, *Doi președinți într-un bloc comun*, 20 decembrie 2005, in <http://www.ipp.md/public/comentarii/42/ro/Putin%20+Iuscenko%2015.XII.20051.doc>.

² Vladimir SOCOR, *Moscow, Kyiv Disrupting Negotiations on Transnistria*, in <http://www.ucipr.kiev.ua/index.php?newlang=eng>.

³ *Flux*, nr. 10 (538), 17 martie 2006; *Timpul*, Anul V, nr. 54 (329), 24 martie 2006.

tive would be the involvement of the United States and especially European Union in the new 5+2 format of the negotiations.

Conclusions

After a comprehensive analysis of the Transnistrian conflict and its mediation process it is necessary to explain why the resolution mechanisms of this conflict had failed to provide a final political settlement.

The explanation of this failure resides in Russia's implication in these mechanisms. In almost all of these mechanisms Russia had a leading role in the process of mediation. Russia had assumed this leading role as a natural right which originates in Russia's imperial policies that were perpetrated throughout centuries beginning with the Russian Empire and continuing with the Soviet Union. Russian Federation had defined the region as "near abroad", a region which represents its special strategic interests and it falls under its sphere of influence. In order to preserve the control over the former United Soviets' space, Russian Federation had created the Commonwealth of Independent States which includes all the former Union republics except for the Baltic States.

Russia's interests were consistent with the maintenance of the *de facto* state as a means of controlling its respective governmental counterpart. Russia's natural gas resources were effectively used as an instrument of control over Moldova because this state was dependent upon Russian gas resources. Thus Russia's political interests were advanced through the use of economic means.

Russia had clearly supported the separatist stance in the mediation process. Moreover, Russia had backed the separatists through offering them military support. In Transnistria Russia is backing the unconstitutional criminal regime through the maintenance in the region of the 14th Army. Russia had signed the Treaty on Conventional Forces in 1999 at OSCE Summit in Istanbul. The treaty and the final declaration had provided the unconditional withdrawal of the Russian troops from the Moldavian territory until the end of 2002. Russia did not pursue these commitments and it had constantly sought to delay the term of the withdrawal. Thus, Russia continues to support the separatist Transnistria.

At the beginning of the conflict Russia had contributed to the annulment of the quadripartite mechanism through its initiative of the bilateral talks with the Moldovan authorities. It was supposed that Russia had aimed first of all to exclude from the negotiation format the Romanian representatives, which were to support the Moldavian interests. Even if Russia was a participant of a mediation mechanism in which OSCE representatives were included it had however remained in a leading position and this is largely due to the fact that it had the means to influence the OSCE decisions through its power of veto. OSCE, generally, is considered to be a very loose organization because it includes as much as fifty-five states.

In 1997 when the five-sided format of the negotiations was established Russia had even succeeded to reserve to itself the right to be not just a simple mediator in this mechanism, but also a guarantor party. This right had also been acquired by Ukraine. As Ukraine was totally supporting the Russian stance, Russia could have continued its policy unhampered. The support for the Transnistrian authorities is also seen through the solutions which were submitted to the parties during the negotiation process. The *OSCE Plan* or the *Kiev Proposal*, which had envisaged the

creation of a federation, had some provisions which were to empower the Transnistrian regime: the unification of the illegal Transnistrian forces with the Moldavian Army; a period of transition (an undetermined interval of time) for the establishment of the common currency and the control over the state borders; the Transnistria's participation in the conduct of foreign affairs that were to concern its interests; the language provision which could have raised the Russian language to the status of official language on Transnistrian territory; the system of guarantees provided by Russia, Ukraine and OSCE, which in fact could have brought the involvement of these powers in the internal affairs of Moldova; and finally the equal number of votes in the Representative Chamber which actually entailed a veto power for the Transnistrian representatives. Even if it was said that the plan was drafted by OSCE it clearly had proved that Russians had decisively influenced the creation of this plan. The *Kozak Memorandum*, which was recognized as an exclusive Russian initiative, had more blatantly proved Russia's support for the separatist regime. It had envisaged the creation of a federation formed of two territorial units, Găgăuzia and Transnistria, and the remaining part of the Moldovan territory. The memorandum had legitimized the use of Russian language on the entire territory of the future federation. Besides this, the most controversial issues were the minority representation in the Senate of the future Parliament and in the Constitutional Court. In fact the *Kozak Memorandum* had envisaged an overrepresentation of the minority groups within these institutions and it had actually granted to the minorities the right to hamper the implementation of any organic law. The Transnistrians which had realized that they were empowered by Russian support had even gone so far as to propose the inclusion in this draft the legitimization of the Russian troops in this region for a period of another thirty years.

The *Youshtchenko Plan* was a Ukrainian initiative and it had confirmed the Ukraine's support for the Russian stance because it contained some stipulations which were clearly unfavorable for Moldova. This plan had such stipulations as: the use of three official languages in Transnistria (Moldovan, Russian, and Ukrainian languages); the Transnistria's right to secession in the case Moldova loses its sovereignty and the creation of a system of guarantees which might have represented a basis for the future Russian or Ukrainian intervention in the Moldova's internal affairs. The plan was also an actual recognition of the Transnistrian regime, because it had included Transnistria as a signatory party of this plan and also because the plan had provided the recognition of the newly elected Supreme Soviet. But, it however was not sure that this new Supreme Soviet would substantially differ from the previous one. These solutions were clearly unacceptable for the Moldovan side because they were only to bring the stabilization of the unconstitutional regime. Thus, the failure of the mediation mechanisms can be explained by the fact that such mediators as Russia and Ukraine had clearly breached the impartiality clause.

Transnistrian conflict is also having a problem with Russian "peacekeeping" troops. These so-called peacekeepers are lacking any legal United Nations mandate and they for sure could not be considered as neutral forces because many of them had participated in the civil war on the separatist side. Moldova had recently become more active in appealing to the international community for the replacement of these forces with multilateral peacekeeping forces.

The above analysis proves the fact that a viable solution could only be obtained in the framework of a resolution mechanism in which the mediators are

impartial towards the conflicting parties. Thus, it can be concluded that the mediation mechanism in which Russia has a prominent role must be expanded as to include some other powerful mediators. Such an attempt was made by Moldova. The five-sided format of the negotiations was recently enlarged through the inclusion of European Union's and United States' observers. However the status of an observer can't be compared with the guarantor or mediator status. This fact consequently raises the question if this mechanism will really succeed to promote a viable solution. The Transnistrian conflict also largely depends on the withdrawal of the Russian army.

This conflict could be solved if the following measures would be applied:

- the withdrawal of the Russian troops from Moldova;
- the establishment of international peacekeeping troops and consequently the replacement of the Russian peacekeeping troops;
- and finally a more active reliance on the peace-building measures, which in this had registered a rather poor record.