Managing Intractable Conflicts:
Lessons from Moldova and Cyprus

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Edited by: Mensur Akgün

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GPoT
Global Political Trends Center
Istanbul Kültür University

foreign policy association
APE
asociatia pentru politica externa

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FOREWORD ON BEHALF OF GLOBAL POLITICAL TRENDS CENTER OF ISTANBUL KÜLTÜR UNIVERSITY

While the Cyprus and Transnistrian problems are just two of the numerous ongoing conflicts around the world, we believe that a comparative study of these two cases can provide useful information for actors involved in conflict resolution. The Global Political Trends Center (GPoT Center) of Istanbul Kültür University has been involved with almost all dimensions of the Cyprus conflict since the Center's formation. During the past couple of years GPoT Center has organized several rounds of talks between Greek Cypriots and Turkish Cypriots entitled the Heybeliada Talks. The meetings have been conducted following the strict Chatham House rules in a retreat on Heybeliada Island close to Istanbul, and have become a symbol of GPoT Center's second track activities on Cyprus. In addition, GPoT Center has focused on several different dimensions of the Cyprus problem through its various publications. We have come to understand that a comparative perspective is needed in order to better comprehend the psychology of the conflicting parties and formulate innovative solution oriented approaches.

GPoT Center is proud to share this study that compares the Cyprus issue with the Transnistrian case, deriving lessons from both. We would like to present this book to those who are concerned not only with the two case studies but all those who are aware of the potential negative regional and international consequences of leaving these conflicts unresolved.

While the origins of both problems diverge in many aspects that are futile to compare, there are also two major similarities. They are both based on ethnic belonging and in each case there are two states, one recognized and one not. Furthermore, the resolution processes for both of these cases are blocked making a comparison worthwhile. We believe that the one-year collaboration with our colleagues from the Foreign Policy Association (APE) of Moldova has been a successful and useful endeavor that has resulted in a publication that we hope will provide the readers with many new insights into conflict resolution studies.

The questions asked when this project was launched were how to unblock the stalled processes, how to solve the issues in both crises, and whether or not actors who desire a resolution could learn any lessons from the Transnistrian or Cyprus experiences. We, who took part in this project, have learned numerous lessons and have been

able to see the similarities and differences between the two case studies first hand. Hopefully our readers will learn from our findings, and consider our suggestions as well.

Sylvia Tiryaki, Deputy Director & Mensur Akgün, Director
Global Political Trends Center of Istanbul Kültür University

FOREWORD ON BEHALF OF EAST EAST BEYOND BORDERS PROGRAM OF THE SOROS FOUNDATION – MOLDOVA

The Moldovan/Turkish/Greek/Turkish Cypriot/Greek Cypriot initiative, reflected in the present study, fits into a larger group of topics focused on over the years by the East East Beyond Borders Program (EEBBP) of the Soros Foundation – Moldova. It is evident that Moldovan society inherited numerous historical problems upon independence that were later exacerbated and transformed into chronic diseases that have continued to impede it from becoming a functioning entity with viable democratic institutions. These issues refer to a society that continues to be divided along several lines: ethnic, cultural, political, identity, social, linguistic, etc. The EEBB Program has made an effort to address these issues by including public agenda topics of major concern and bringing valuable experiences and expertise from the region into Moldova, mobilizing civil society and sharing what has been learned by counterparts who have managed to succeed in some areas focused on the resolution of similar conflicts.

Several projects have been developed to study the experiences of various ethno-political conflicts from the region referring to Macedonia, Bosnia & Herzegovina, Baltic countries, UK/Northern Ireland, Georgia, etc. in order to provide to the Moldovan expert community and civil society access to new experiences and lessons learned. The Cyprus case stays apart from this continuum, as it is considered a vulnerable precedent for any country that experiences division. In a way, the Moldovan authorities and civil society have very little desire to learn about Cyprus' experience, as they tend to avoid becoming involved in the rather uncomfortable issue. However, any case study is equally valuable, from a positive and negative point of view, opening new opportunities for a better understanding of root causes and challenges of conflicts that can invigorate the search for potential solutions and conflict settlement strategies for other conflicts. For these reasons, experts from Moldova, Turkey, Cyprus, Greece and USA have been brought together forming an international team that had the opportunity to take a closer look at both the Moldovan and Cypriot cases, learning about the situation on the ground as well as benefiting from meetings with decision/policy-makers and civil society representatives from both sides of the divide.

Some relevant outcomes of these visits and findings of discussions held are elaborated upon in this study. To what extent the contributors managed to disclose the issues relevant to each case apart is going to be appreciated by readers. Nevertheless, we are confident that this study was a useful exercise for those interested in reflecting upon the challenges that the contemporary world faces with in the process of building a harmonized society. The EEBBP facilitated the exchange of views and opinions from a wide array of experts with different backgrounds and experiences in order for them to gain better understanding of complex processes undergoing in these societies. At the same time, it is pertinent to highlight that the results of the initiative stress the importance of the Confidence Building Measures, which raises an additional argument in the process of searching for appropriate settlement solutions for the Transnistrian conflict based on the experience acknowledged by the Moldovan experts during the study visit to Turkey and Cyprus. From the lessons learnt from the Cyprus' case the following can be concluded: European integration has brought benefits to states with internal conflicts like the Republic of Moldova, but it should involve all sides of the conflict into the process, otherwise rapprochement with the EU will not have the desired positive effect on the settlement of the conflict. On the contrary, it could further contribute to the isolation and the dissection of a country as seen in Northern Cyprus. This remark is valuable knowledge that should be disseminated to the public to empower people overcoming their fears and misinterpretations and try building together a better future.

By keeping its interventions at societal level and addressing issues of concern through a cross-cutting model, the EEBBP facilitates the bringing together of social actors and stakeholders as well as enforces peer-learning at the regional level and beyond. This demand cannot be met without the contribution of its project organizers, the participation of experts and its beneficiaries. Therefore, we take this opportunity to express our appreciation to the project partners, the Global Political Trends Center at Istanbul Kültür University in Turkey and the Foreign Policy Association of Moldova, without whom this initiative would not have been possible, and to all of the experts involved for their thoughtful insights during the entirety of the project.

Ana Coretchi, Program Director
East East Beyond Borders Program of the Soros Foundation – Moldova

INTRODUCTION

Some would argue that the once violent inter-communal conflict in Cyprus has transformed through the decades into a comfortable *status quo* that has enabled the main stakeholders, and everyone else directly or indirectly influenced by the problem, to take advantage of the situation on the ground, which has in turn developed a desire to intentionally protract the comfortable conflict. Yet others would claim that the number of failed attempts to agree on a comprehensive solution acceptable by all parties have diminished the quality of life on the island and have become a chronic headache not only for the locals, but also for the international community. Because of these reasons, one could rightfully ask why would the fruitless search for a resolution to the Cyprus conflict be chosen as an exemplar case study and source of inspiration for generating creative ideas aiming to help solve other disputes around the world, specifically the one regarding the territory of Moldova.

The "Searching for New Conflict Resolution Strategies: Lessons from the Case of Cyprus" project was built on the pretext that in spite of the pending solution of the Cyprus problem, the Greek Cypriots and Turkish Cypriots have come a long way since the island was first cut in two by the Green Line. After decades of no contact whatsoever, activists from across the divide have started to take courageous steps towards what was previously considered the unthinkable. For example, some of these steps included the first joint cross-communal endeavors that were born as these pioneers of change started to take part in bi-communal workshops and went from holding theoretical discussions about past events and future hopes to the execution of action-oriented projects aimed at confidence building and preparing the public to accept a prospective political settlement. Yet as in any other conflict, these actors have faced difficulties, met with disappointment and consequently, at times, fell into disillusionment as a result of the inconclusive negotiation process. Additionally, the protracted talks have played a significant role in domestic politics. The negotiations have not only helped some leaders to rise and advance on their career paths, but also to fall. All in all, the Cyprus talks could be likened to a ride on a roller coaster of hopes and disappointments.

It is difficult to evaluate and measure the success of the political negotiations and civic activities in Cyprus as the main goal has yet to be achieved. However the project team believes that the bi-communal efforts and the various types of high-level talks have not been in vain. Moreover, the personal experience, knowledge

and skills acquired by the local civil society activists and political leaders in Cyprus from the track one and track two talks have provided a valuable source of know-how, negotiation techniques, and inspiration for professionals from other regions, who have likewise invested their time and energy towards the resolution of other domestic or international problems.

The main objective of this project was to identify the "good practices" from Cyprus, which could potentially be replicated in the search to find a lasting solution to the dispute over Transnistria. However, we believe that the meetings organized within the scope of the field visits to Cyprus, Turkey and Moldova were inspirational for everyone involved and that the process of learning was multi-sided. These field visits formed the core elements of the project and provided the team of experts from Greece, Moldova, Turkey, the United States of America and both parts of Cyprus with the opportunity to engage in sincere and thought-provoking discussions with local civil society activists, academics, political leaders, diplomats, and journalists; and thus to have direct access to first hand information in addition to data collection during their desk research.

Composed of ten chapters, this book not only provides individual accounts of the respective situations in Cyprus and Moldova, but also addresses the two conflicts from a comparative perspective and offers a set of policy-oriented recommendations. Each author had the liberty to maintain his or her own writing style and to use his or her preferred terminology related to both conflicts. In their respective chapters, Oazu Nantoi and Sylvia Tiryaki look for answers to the question of nation and identity building. In addition to examining the role of perceptions of "the other side", they also assess the role of various factors in influencing the formation of a post-conflict generation. The readers will find a more detailed narrative of the history of the Transnistrian conflict and an insightful analysis of the reasons, which have, up to date, prevented the resolution of the problem in the chapters written by Radu Vrabie and Veaceslav Berbeca. Focusing on the soft aspects of conflict resolution, Irina Severin's piece researches the possibilities of building civic nations in both Moldova and Cyprus. The chapter prepared by Christopher J. Borgen reviews public international law norms and state practices related to issues of self-determination and secession, with a particular emphasis on the Transnistrian conflict. The role of actors such as civil society, media and political leaders in the search for conflict resolution with specific examples from Moldova and Cyprus is assessed in the pieces written by Denis Cenusa, Orestis Tringides, and Alexandru Baltag. Lastly, the comparative chapter co-authored by Ilia Roubanis, Mete Hatay and Alexandru Baltag focuses on

both the similarities and differences between the Cyprus and Transnistrian cases and also addresses the content versus context friction of the respective negotiation processes.

Based on first-hand information and know-how acquired during the field visits, the international team of experts participating in this project produced the following set of recommendations for stakeholders involved in the search for a comprehensive settlement of the Transnistrian and Cyprus problems:

- Utilize the available opportunities; show flexibility and focus on delivering step-by-step progress in negotiations between the two sides so that further protracting or backtracking of the talks is avoided;

- When challenges prevent progress in establishing the content of the negotiations agenda, redirect the focus on developing the context of the talks in order to keep the negotiation process alive at all times;

- Increase contacts and direct communication between the two parties at all levels and encourage cooperation as well as consultation between the political leadership and civil society, i.e. interconnect track one and track two diplomacy;

- Focus cross-divide cooperation on mutual growth and development; address challenges that require immediate attention, e.g. the management of natural resources; and propose joint solutions, which could leverage the impact of remittances;

- Support the implementation of initiatives and grass roots programs that aim to diminish stereotypes about the "other side", including changing the schoolbooks featuring historical narratives of the respective conflicts; build trust; and prepare the publics for accepting a prospective political settlement;

- Support cooperation between journalists from both sides; organize joint trainings on responsible journalism, social media and community media in order to encourage balanced and impartial coverage of issues related to the negotiation process, the future settlement as well as issues of joint interest; and to reach a wider audience;

- Initiate programs of economic, trade and entrepreneurial development to increase cooperation and interdependence between both sides and consequently reduce the influence of actors with vested interest in maintaining the status quo.

This book does not attempt to provide an answer to the question of how to solve the problems in Cyprus and Moldova. Rather, it aims to shed light on some of the challenges faced by the respective negotiating parties and to suggest ideas on how to overcome them. We believe that the opinions expressed in the individual chapters together with the set of recommendations produced by the team of international experts will offer valuable food for thought for everyone involved in the search for a lasting solution of the Transnistrian and Cyprus problems.

Lenka Peťková, Project Officer
Global Political Trends Center of Istanbul Kültür University

NESTED IDENTITIES: FROM HISTORY BOOKS TO THE EMERGENCE OF A POST-CONFLICT GENERATION IN MOLDOVA

By Oazu Nantoi[1]

Although the Republic of Moldova is not a large state from a geographical viewpoint, its territory has been marked by pronounced identity-political contrasts. The political processes, which have led to the emergence of an enclave called the "Transnistrian Moldovan Republic" (Transnistria)[2] in the territory of the Republic of Moldova, have deep historical roots. Over the past two centuries, in particular, the population from both sides of the Dniester have identified themselves with different metropolises, while the internal and external political regimes have been, and still are, capitalizing on various ethnic factors. The metropolises were concerned about imposing particular ethnical identities on the autochthonous population. The collective memory and identity parameters bear the imprint of each historical stage. When the process of the breakdown of the Union of Soviet Socialist Republics (USSR) started, the identity contrasts between the population from both banks of the River were at the basis of a political conflict between the central government at Chisinau and the groupings which, due to the political and military support provided by the former center of the USSR, took control of the eastern districts of the Republic of Moldova. At the same time, the processes which had an impact on the identity parameter of the population from both of the Dniester's banks are closely related. Policies promoted by the Russian Empire and the USSR have had the deepest impact on identity processes.

The Russian Empire

The present territory of the Republic of Moldova was a part of the principality of Moldavia, known as such since 1359. Alongside another Romanian principality, Wallachia, Moldavia was either under the Ottoman protectorate for several centuries

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1 Oazu Nantoi is an expert and Program Director of the Institute for Public Policy.

2 The term "Transnistria" – the Eastern districts of the Republic of Moldova, covers a number of communities from the left-side bank of the Dniester and the municipality of Bender (situated on the right-side bank) which are controlled by the regime from the "Transnistrian Moldovan Republic" ("TMR"). In the same time, a series of communities located on the left-side bank of the Dniester – Transnistria, remain under the jurisdiction of the Republic of Moldova.

(Wallachia – since 1476; Moldavia – since 1538), or, the Russian Empire, as it was preparing to challenge the Ottoman Empire for control of the Black Sea, including on the Bosphorus and the Dardanelles straits. During this time, both empires claimed the geographically important territory of Moldavia and Wallachia.

The Russian Empire expanded its control to the Dniester in 1791. Afterwards, as a result of the war of 1806-1812, the Ottoman Empire ceded Bessarabia (the territory in-between the Dniester and the Prut rivers) to the Russian Empire. Moldavia (deprived of Bessarabia) took part, alongside Wallachia, in the establishment of the modern Romanian State (1859-1881). Thus, within the territory of Romania, the population consolidated itself based on the common parameter of "Romanians", while the notion of "a Moldovan polity" was reduced to a regional self-identification, generated by the memory of the existence of the principality of Moldavia.

The creation of Romania provoked a polarization amongst the population of Bessarabia. A part of the local elite turned towards Romania, and the other part – towards Saint Petersburg, the administrative and cultural capital of the Russian Empire. On the other hand, since the fourteenth century, the Russian Empire began to promote the policy of "moldovenism", imposing the idea of the existence of two different nations – "Moldova" and "Romania". This policy was followed-up by the process of a premeditated change of the ethnic composition of the population of Bessarabia and by the promotion of the policy of Russification and insulation of Bessarabia in relation to Romania. The Russian Orthodox Church played an active role this processes.

Separate from Bessarabia, Transnistria (within the boundaries of the Eastern districts of the Republic of Moldova) did not identify itself with the area of habitation of any other ethnicity. As a result, the local population identified itself almost univocally with the Russian Empire, as the share of colonists established in this territory after 1791 was much larger than in Bessarabia.

The USSR and Transnistria as Tools for Ideological Expansion

Under the chaotic conditions generated by the Bolshevik revolution on the 7th of November 1917 in the Russian Empire, Sfatul Tarii (the local representative body) proclaimed the unification of Bessarabia with Romania on the 27th of March (O.S.) 1918. That act was vehemently contested by the new power in Saint Petersburg (the USSR since the 30th of December 1922) and, despite efforts by Romania, it was not recognized by most countries in the world.

This unsettled conflict of interests between Romania and the USSR determined the further actions undertaken by the USSR, which had a profound impact on the population of the present Transnistria. On the 29th of July 1924, in Moscow, during a meeting of the Political Bureau of the Central Committee (CC) of the Communist (Bolshevik) Party of Russia (CPR(b)), there was a debate on the issue entitled "Concerning the Moldovan SSR" and the following decision was adopted: "To consider as necessary, . . . *first of all, for political reasons*, the separation of the Moldovan population into a special Autonomous Republic within Ukraine and to propose to the Central Committee of the Communist (Bolshevik) Party of Ukraine to give the required directives to the concerned Soviet bodies".

On the 19th of September 1924, the Political Bureau of the Central Committee of the Communist (Bolshevik) Party of Ukraine debated the "establishment of the *Moldavian Autonomous Soviet Socialist Republic* (MASSR) within the Ukrainian SSR". The adopted decision included a comprehensive description of the territory and boundaries of the envisaged "socialist state entity", with the capital in the community at Birzula (since 1936 – at Tiraspol). The decision also pointed out the need for the "development of the Moldovan language based on the Russian 'Cyrillic' alphabet".

On the 12th of October 1924, the third Session of the Central Executive Committee of Ukraine, held in Kharkov, decided in favor of the establishment of the MASSR within the Soviet Ukraine (USSR). The representatives of the MASSR's administration stated that, from an ethnic viewpoint, the population (516.751 people) had the following structure: Moldovan – 32%; Ukrainian – 38%; Jewish – 11%; Russian – 11%; with representatives from other nationalities – 8%. The Western border of the new autonomy was set on the Prut and the Danube rivers, not on the Dniester. In the address to the first Congress of the Soviets of the MASSR (held April 19-23, 1925), the Government of Ukraine stated that: "*The establishment of the MASSR is the result of the Soviet power's correct policy and it will have a special impact on the growth of revolutionary spirit of the people of Romania and the Balkans*".

After the establishment of the MASSR, the official ideology of the USSR described the respective situation as follows: "*After the invasion of imperial Romania in Soviet Bessarabia, the Moldovan nation was dismembered. Its largest share, living on the territory of Bessarabia, which remains under the occupation of the invaders, endures a harsh social and national yoke. But its smaller part, living in the Soviet State, constitutes a socialist nation*".

In order to justify the territorial ambitions of Bessarabia, the promotion of the *moldovanism* policy was intensified in the MASSR. Consequently, throughout the

period between 1924-1940, the population of the MASSR became the target of various policies carried out by the authoritarian political regime of the USSR focused on such a goal.

Language Policy in the MASSR

The language policy in the MASSR was dictated by the *moldovanists*. In order to justify the change in language, they declared that the Romanian language was so overwhelmed with French words, that the population from both sides of the Prut, particularly people from the left-side bank of the Dniester, could hardly understand it. The Cyrillic alphabet was used in schools and in the local mass-media, moreover, the linguist Leonid Madan created a new "literary" language based on the Moldovan dialects spoken in Transnistria and Bessarabia, and Russian loanwords as well as on some neologisms fabricated by himself. Consequently, being the target of such an idealized language and cultural policy, the population of the MASSR was condemned to cultural and, particularly, language degradation.

Transnistria[3] Between 1941-1944

The alliance made by Romania in the Second World War with Nazi Germany still has a direct impact on the political processes in the Republic of Moldova. The events that occurred during that period are commonly interpreted unilaterally by representatives of various political currents from different areas of the Republic of Moldova, from an antagonist position that aim to manipulate different segments of the population by referencing historical events. This concerns mainly the period 1941-1944, when the territory between the Dniester and the Bug rivers was under Romanian jurisdiction.

On the 22nd of June 1941, the royal troops of Romania attacked the USSR as allies of Nazi Germany. The evident goal of Romania's involvement in the war was the repossession of Bessarabia and of Northern Bukovina. In July 1941, the goal was achieved. But Ion Antonescu, Marshal of Romania (since the 23rd of August 1941), decided that the Romanian army would continue to expand its military operations to the east of the Dniester.

The occupation of the lands between the Dniester and the Bug rivers generated the

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3 During the period 1941-1944, the administrative unit of "Transnistria" occupied the territory between the Dniester and the Bug rivers.

problem of creating a local administration by the German-Romanian coalition. As a result, in August 1941, a German-Romanian agreement was signed in Bender which set the basis for the establishment of Transnistria as an administrative-territorial unit administered by Romania. On the 19th of August 1941, Ion Antonescu issued Decreeno.1thatestablishedthe Romanian administration in Transnistria, based in the town of Tiraspol. Afterwards, when the Red Army withdrew from Odessa (in October 1941), this town became the seat of Transnistria whose territory comprised of, in addition to other lands, the eastern districts (on the left-side bank of the Dniester) of the MASSR.

Throughout the existence of Transnistria, the Romanian administration carried out non-univocal policies in relation to the local population. The population of Transnistria was treated as "Bolshevized" with all the consequences inherent to a state of war. Accordingly, Romania attempted to undertake the "de-sovietisation" of the life of people of Transnistria through the re-establishment of churches, the return of private initiatives in economics, the retrocession of properties and liquidation of kolkhozes and sovkhozes, etc. Concurrently, ghettos for Jews and Roma people were established in Transnistria. The Romanian state, ruled by the Marshal Antonescu, was responsible for the subsequent Holocaust in Transnistria, as has been proven by numerous researchers, as well as in the Report[4] of the Wiesel Commission of 2004.

Transnistria ceased to exist as a distinct administrative unit on the 20th of March 1944, when the Romanian army withdrew after advancements of the Soviet Army.

It is well-known that the Soviet propagandistic machinery made use of the realities from the period of Romanian occupation to undertake a forced *Romanian-phobia* in post-war period. At present (2012), it is difficult to assess the share of the population of Transnistria (i.e. from the eastern districts of the Republic of Moldova) formed by the bearers of the collective memory imposed by the realities of 1924-1940 and 1941-1944 periods and by their interpretation by Soviet propaganda. Nevertheless, it is obvious that policies carried out by the Soviet regime in the period between1924-1940, alongside with the realities of the period between 1941-1944 and their interpretation by the Soviet propaganda, has set the basis for the phenomenon of *Romanian-phobia*, which was consciously cultivated and amplified by the political regime of the USSR among the population of the territory of the MSSR.[5]

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4   For more information see the Report of the International Commission on the Holocaust in Romania available at http://www.presidency.ro/pdf/date_arhiva/6101_ro.pdf.
5   The Moldovan Soviet Socialist Republic (MSSR) was established on the 2nd of August 1940, after the USSR regained control on Bessarabia on the 28th of June 1940.

The Eastern Area (Transnistria) of the MSSR During the Period 1988-1991

Since 1944, when the USSR regained control over the territory of the MSSR, the central authorities of the Union enforced policies aimed at strengthening the "Moldovan Socialist Nation". In the MSSR, like in the MASSR, the Cyrillic alphabet was used in the "Moldovan" language and "Moldovan language and literature" were taught in schools. All references to Romania were excluded from literary works studied at school. The central power did its best to reduce the communication between the inhabitants of the MSSR and Romanians. The repressive bodies of the Regime consistently fought against any expression of "Romanian nationalism". As a result of the policy of forced Russification, Russian became the only official language and, at the same time, the language of "inter-ethnic communication" in the MSSR. Meaning that representatives of various ethnic groups could communicate amongst themselves or with representatives from the majority population exclusively in Russian. Concurrently, representatives of the ethnic minorities proved to be particularly responsive to the *Romanian-phobia* policy implemented by the ideological machine of the Communist regime.

During the period between 1988-1991, the population of the MSSR passed through a dynamic and turbulent process – from the adoption of legislation related to the official language (31st of August – 1st of September 1989) to the proclamation of independence on the 27th of August 1991. The people's reactions to these events show, on one hand, the extent to which the population was polarized and on the other hand, that the notions of "majority" and "minority" were very different in the different areas of the MSSR. Thus, Chisinau, the capital of the MSSR, became the hotbed of political processes identified with societal democratization, the national emancipation of the "titular nation "and the movement of liberation from the central power of the Union while the state of mind in the eastern districts of the MSSR (Transnistria) was completely different.

The particularities of the *urban* communities of the left-side bank of the Dniester were, among other causes, determined by the industrialization and militarization of the Region. As a result, in communities on the left-side bank, there was a particularly high share of people coming from other regions of the USSR. For example, according to the data of 1989 census, just 17,7% of the inhabitants of Tiraspol identified themselves as "Moldovan". Accordingly, the largest share of the inhabitants of Tiraspol did not self-identify with the MSSR, which was, for them, a

purely geographic notion, but rather they considered themselves "Soviet citizens" – Russian-speaking people. The USSR was their motherland, not the MSSR.

The extremely dynamic developments of the political situation in the USSR in the summer of 1990 initiated the so-called "parade of sovereignties", and the Supreme Soviets of the Union's republics started to adopt declarations proclaiming their sovereignty from the central power of the USSR. For the MSSR, the adoption of the Sovereignty Declaration by the Russian Federation on the 12th of June 1990 was decisive. The Russian Federation was the nucleus of the USSR and it was identified with the metropolis of the Russian Empire. The adoption of such a declaration by the Russian Federation was a clear signal that the central power of the Union had lost its central authority and that the other republics of the Union, situated at the periphery of the Soviet Empire, could securely follow in its example.

Processes in the Eastern Districts of the Republic of Moldova (Transnistria)

Since 1988, the political processes in the Transnistrian area have acquired a distinct local specificity in relation to the ones occurring on the right bank of the Dniester. It became obvious that in the communities of the left-side bank of the Dniester, particularly in the industrial centers, the number of supporters of the democratization processes and the national emancipation of the "titular nation" was much lower than on the right-side bank. The few supporters of the withdrawal from the MSSR of the USSR became the target of a policy of psychological harassment and hostility. On the other hand, in the industrial centers on the left bank of the Dniester a process of political mobilization of labor collectives of industrial companies was launched. As a result, the antagonism between the decisions taken by the central power bodies of the MSSR and the policies carried out at the local and regional levels deepened.

The adoption on the 23rd of June 1990 of the Sovereignty Declaration by the Supreme Soviet of the MSSR was a turning point in the political confrontation on the issue regarding the relationship between the Republic of Moldova and the central power of the Soviet Union. While the Sovereignty Declaration adopted by the Republic of Moldova was no different, in essence, from similar declarations adopted by the other Soviet republics, the Republic of Moldova turned out to be much more vulnerable due to the destructive processes targeted at the statehood of the Republic of Moldova unleashed in its Eastern districts. It is worth noting that the irrational fear of the unification of the Republic of Moldova with Romania, generated by

Romanian-phobia inherited from the Soviet past, was one of the main factors which raised the separatist spirit. On the 2nd of September 1990, in Tiraspol, the second Congress of "Deputies of all Levels" established the "Transnistrian Moldovan Soviet Socialist Republic within the USSR". It involved the withdrawal or the Republic of Moldova from the territory on the left bank and the Bender municipality as well as a self-declaration of the "Union's Republic", as being distinct from the Republic of Moldova and directly subordinate to Moscow.

That decision unleashed a competition between the two antagonists' political processes. On the one hand, the Republic of Moldova exerted efforts to establish state structures throughout the territory of the former MSSR, including the Eastern districts. On the other hand, the communities on the left-side bank of the Dniester initiated a violent process of neutralizing political opposition to the idea of separatism and destroying the fragile state structures of the Republic of Moldova. The leadership of the Republic of Moldova was justifiably disconcerted by such developments although the scattered attempts to initiate a dialogue with the people of the left bank of the Dniester were inconsistent and, obviously, too late. This state of mind was particularly aggravated after the fall of the regime of Nicolae Ceausescu (in December 1989) in Romania and the fall of the "Iron Curtain" between the MSSR and Romania enthused the supporters of the unification with Romania and, in the same time, provoked a wave of hysterical *Romanian-phobia* in the industrial centers on the left bank of the Dniester. On the other hand, the attempts to protect the supporters of the territorial integrity of the Republic of Moldova in the district of Dubasari failed, with the first victims on the 2nd of November 1990.

The fear of unification with Romania, amplified by a disinformation policy promoted by the central power of the Union, strengthened the most aggressive opponents of the Republic of Moldova's statehood centering around the idea that "my republic will protect me!" Later on, an armed conflict was provoked in the eastern districts of the Republic of Moldova in which the military units subordinate to the Russian Federation played the main role. In that conflict, the Russian Federation consciously assumed the role of aggressor both through the direct involvement of its military units on the side of the separatist regime, and through the numerous mercenaries and criminal elements coming from Russia. Due to the support provided by the Russian Federation, the paramilitary troops of the separatist regime have been endowed with armament and ammunition and a military potential comparable to the National Army of the Republic of Moldova. Throughout the violent phase of the armed conflict, the regime of Transnistria carried out an aggressive policy of

ethnic purification which resulted in the internal displacement of nearly 25 thousand inhabitants of Transnistria.

The "Transnistrian People" – 1990-2012

Since 1990,an authoritarian political regime and a censored and closed information space were established in the eastern districts of the Republic of Moldova. In continuation with the policies of the former USSR, Transnistria promoted a policy of establishing a "new historical entity", although this time based on the "Transnistrian people", although the USSR's policy of Russification and the cultivation of anti-Romanian *moldovanism* was continued. Only the few schools with Moldovan language instruction use the Cyrillic alphabet and the ldren who learn at these educational institutions are deprived of any future prospects. The Transnistria regime has put a lot of effort into presenting the Republic of Moldova as an aggressor responsible for numerous atrocities. Furthermore, the Russian Federation still refuses to withdraw its troops from Transnistria, which is technically an act of occupation as the lands officially belong to the Republic of Moldova. Moreover, the Russian Federation provides financial support to the regime of Transnistria which has collapsed economically (the budget deficit in 2012 amounts to nearly 70%) and it owes around 3 billion USD to the company Gazprom.

At present, it is obvious that there is neither juridical, ethnic or religious grounds for the existence of this conflict. Nevertheless, because of multiple errors committed by the governments in Chisinau, corruption and of the lack of political will for the reintegration of Trasnistria, the phenomenon of Transnistrian conflict seriously affects the prospects of consolidation of the Republic of Moldova as a state within the borders recognized by the international community.

Conclusion

- The Tansnistria regime has been strengthened by the idea of the perpetuation of the USSR. After collapse of the USSR, Russia took real control on this region. *Romanian-phobia,* alongside with other repressive tools of the authoritarian regime were, and still are, the main tools used in the manipulation of the population. After the collapse of the USSR, the representatives of the *majority*[6] population of the USSR, bearers of the Great-Russian chauvinism, rejected the idea of becoming a *minority* in the Republic of Moldova and integrating into the new state's society;

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6 The monolingual population – Russian-speakers, most of which self-identify as Russians.

- Transnistria is a region with a multi-ethnic population. However, Transnistria has promoted, even more aggressively than in the former MASSR and MSSR, a policy of forced the Russification of the population. This policy aims to create a "multi-ethnic Transnistrian people" whose future is linked to the Russian Federation. Therefore, the most aggressive segment of the population of Transnistria rejects any form of integration with the Republic of Moldova;

- Most inhabitants of Transnistria are Moldovan citizens (nearly 60%). However, Ukraine and Russia have been in competition to increase their influence in the area and have thus been providing citizenship to the inhabitants of Transnistria. As a result, in Transnistria, there are competing identities that have profound political repercussions;

- Under the present conditions of the frozen conflict, a generation of the inhabitants of Transnistria has grown up with two major self-identifications – a regional one (Transnistria) and another related to the Russian Federation. However, despite the Regime's official and historical ideology, an important segment of the population of Transnistria consider themselves as citizens of the Republic of Moldova.

NESTED IDENTITIES: FROM HISTORY BOOKS TO THE EMERGENCE OF A POST-CONFLICT GENERATION IN CYPRUS

By Sylvia Tiryaki[1]

> "Most people are other people"
>
> Oscar Wilde

The island of Cyprus' long history, rival empires and competing religions have made it a "meeting place of races and tongues", Harry Charles Luke would argue (1957, p. 28). However, it has become only a place of meeting, not fully melting together, as two main Cypriot communities, Greek Cypriots and Turkish Cypriots, have been living on the island for centuries side by side, never together.

Greek Cypriots have been representatives of the Orthodox Church and Turkish Cypriots have been representatives of Islam. Greek Cypriots' mother tongue has been the Greek language and Turkish Cypriots' mother tongue has been the Turkish language. According to Jennings, though Christians and Muslims were living in the same settlements, they have never mixed together.

Both communities have very close ties with their respective "motherlands", Greece and Turkey. Yet, as polls conducted in 2009 show, the majority of both communities do not perceive themselves as exclusively Greek or Turkish. 96 per cent of Greek Cypriots identify themselves as Greek and Cypriot at the same time. Although the percentage of Turkish Cypriots identifying themselves as Turkish and Cypriot simultaneously is a bit lower, still it represents a significant 76 per cent (Kaymak, Lordos, & Tocci, pp. 6-7).

Despite the fact that it is a common feature in a high percentage of both communities to perceive themselves simultaneously as also Cypriots, the differences regarding the roots and beginning of the Cyprus conflict differ immensely. If it is true that the reasons for any conflict between nations have always been the incompatibility of the goals of their respective policies, then it is particularly valid for the Cyprus conflict.

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In simplified terms, the Cyprus conflict was marked at its very inception by two conflicting political goals: the quest for *enosis*[2] on the side of Greek Cypriots and the goal of *taksim*[3] on the Turkish Cypriot side. Both of the respective nationalistic causes were supported by the corresponding motherlands, Greece and Turkey. Moreover, these two mainstream ideologies were largely shaped by their own nationalisms.

The idea of *enosis*, fostered by the newly independent Greek Republic, had already become popular by the 19th century, when Orthodox Cypriots became part of a wider Hellenic movement. Yet, fully organized political support was given to it only after Cyprus gained its independence in 1960. The construction of the Hellenic consciousness and identity was implemented by the Greek educational network through the means of opening Greek schools among the Orthodox communities in Asia Minor as well as Cyprus. This was done from the 1860s onwards (Kizilyurek, 2002, pp. 51-53).

Muslim Cypriot community, on the other hand, was influenced by the establishment of the Republic of Turkey in 1923, and the Turkish nationalism that emerged in the 1920s. Similar to how Greek Cypriot nationalism was influenced by Greek nationalism many decades earlier, Turkish Cypriot nationalism developed gradually from the Turkish nationalism. This happened, again much akin to the Greek state's encouragement of Greek Cypriot nationalism, via Turkey's assistance in educational matters. Yet, Turkish Cypriots were likely to be a less homogenous group vis-à-vis their self-perceptions than Greek Cypriots. They were basically divided into two subgroups, those who identified themselves as subjects of the British Empire (usually employees of the British colonial office) and those who based their identity on the "new Turkishness", following the establishment of the Republic of Turkey. Nonetheless, they united against the perceived threat of *enosis,* which, they believed, would mean annihilation of the Turkish Cypriot community (Akgun et al., 2005). Consequently, some deem Turkish Cypriot nationalism as 'reactionist nationalism', a reaction to the nationalism of Greek Cypriots (see e.g. Attalides, 1997, pp. 77-78; Pericleous, 2009, p. Xv).

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2   *Enosis,* or a unification with Greece, as rigid goal of Greek Cypriots can be seen as a part of Panhellenic movement inspired by Megali Idea (Great Idea) which has the origin in the conquest of Constantinople (now Istanbul) by the Ottoman Turks in 1453 and which aims the reconstruction of the Byzantine Empire. For more see Selahattin Salisik, 1968, p. 189; see also Nathalie Tocci, 2004.

3   Turkey's response to *enosis* was to abandon its position of getting the whole island 'back' and it started claiming a part of the island instead, the goal which later became known as *taksim*, i.e. division of Cyprus between Turkey and Greece.

Nowadays nobody, or very few, would opt for *enosis*[4] or even *taksim,* but the perceptions about each other that were created or strengthened during the years of that struggle, remain. So, when the Megali Idea (see footnote 2) faded away, what stayed and entered the national culture seemingly irreversibly was the Hellenic – Orthodox synthesis [induced by the concept of Megali Idea]. This shaped the paradigms and the images through the process of Hellenic [Greek] identity building.

As many other national identities, modern Greek identity used negative images of the other as one of its building stones. Hellenism was to be the model to identify with, while the 'other' was represented by the late Ottoman Empire, the Republic of Turkey and the heirs of the Ottoman Empire, the Turks (Tiryaki, 2013). Turkish Cypriots are also sometimes subjected to the popular stereotype in which they are portrayed as the descendants of converted Greeks (Bryant, 2004).

Education has played a substantial role in this identity building and consolidating process. The fact that education has always been a domain of the respective communities since the time when the island became a subject to the British Administration, has led to each side being taught different and opposing accounts of history. As a result, separate school curricula of Greek Cypriots and Turkish Cypriots have only helped to establish the negative reverse images of each other, as they were focused primarily on the dehumanization and devaluation of the other. Until the violent inter-communal conflict erupted in 1963, the official schoolbooks of the respective motherlands, guided by stereotypes, were directly used by both communities. Since that time, they have been using modified versions of a various degree.

Thus the Greek Cypriot history books treat the history of Cyprus as a part of history of Greece. Such a history is divided into three periods: Ancient Greece, medieval Greece [Byzantine Empire] and modern Greece [characterized by the creation of the Greek state in the 19th and 20th centuries]. Some 300 years of Ottoman Empire period in Cyprus is not mentioned as a part of the Cyprus history but as a foreign domination that destroyed the glorious Byzantine Empire. Modern Greece is identified with modern Cyprus history and Hellenism is portrayed as a transcendental, trans-historical category interwoven in all three periods.

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4 Although it must be noted that the Resolution on *enosis* passed by the Republic of Cyprus House of Representatives consisted then already only from Greek Cypriots on 26 June 1967 is still valid.

Turks [a word and expression used usually interchangeably with the one used for Turkish Cypriot] are branded the archenemy of Hellenism, barbaric and bloodthirsty people. Illustration on, for instance, one of the primary school history textbooks depicts a group of Greek fighters against a background of Turks ready to decapitate Greek captive with a curved sword (Papadakis, 2008, pp. 6-8). Words 'Hellenic', 'Greek' and 'Cypriot' are used interchangeably as synonyms and are coupled by mottos like: "Cypriots were and are Christian Orthodox" and "Cyprus is and has been Greek and nothing but Greek" (ibid). The period of 1960s interethnic violence is mentioned succinctly and only Greek Cypriot suffering is emphasized.

Turkish Cypriot official schoolbooks were revisited in 2003-2004 by the pro-solution, non-nationalist Talat administration. The 'classical', Turco-centric history books were replaced by Cypriot-centric books that emphasized the common history of all Cypriots, Turkish and Greek, rather than depicting historical events as black and white. The new books focused on common features in culture, and folklore and undermined those features, which were more divisive.

This was a major shift from the nationalistic account on the history, in which the history of Cyprus was almost unexceptionally thought of as a part of Turkey's history. The previous Turkish Cypriot schoolbooks considered a history that started with the Ottoman conquest in 1571, with the emphasis on the fact that Cyprus was Turkish for three hundred years, till the British overtook it in 1878. They referred to Turkey as the 'anavatan' [motherland] and to Turkish Republic of Northern Cyprus as the 'yavruvatan' [babyland].[5] The official vocabulary does not refer to Turkish Cypriots but call them Turks of Cyprus. On the other hand, Greek Cypriots are called Rums.[6]

As it was already stated before, according to some researchers, Turkish Cypriot nationalism transpired as a popular movement in the early 1940s as a reaction to the *enosis* revival. It was also a unifying factor for the various fractions of rather fragmented Turkish Cypriot society that eventually grew into the *taksim* (or 'split' between Turkey and Greece) idea in the mid 1950s (Attalides, 1977, pp. 77-78; Kizilyurek, 2005, pp. 223-319). Until then, Turkey's common position was that if Cyprus could not stay British, it should be given back to Turkey.[7] "Ya *taksim*, ya

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5 These emotional linguistic expressions are used also in the popular Turkish language.

6 'Rum' is a word used for Greek people living in the former Ottoman territories.

7 In 1878 the island came under British administration, though formally it remained under Ottoman sovereignty. Under the terms of British-Ottoman defense agreement, Turkey agreed to lend Cyprus to Britain to occupy and rule, though not legally possess it. In line with the

olum" [Either *taksim* or death] was the slogan expressing sentiment prevailing among Turkish Cypriots.

The independence of the Republic of Cyprus has been also perceived differently. Although, when it became independent on 16 August 1960, Greek Cypriots and Turkish Cypriots celebrated the event separately, within their communities (Holland & Faustman, 2010, p. 57), Turkish Cypriots were the ones who demonstrated more enthusiasm. Greek Cypriots started commemorating the independence only in 1979, as a reaction to the 1974 events. They also started using the Cypriot national flag and created their own Olympic team, while before they were using the Greek national flag and were part of the Greek Olympic team (Papadakis, 2010, p. 65).

Turkish Cypriots, on the other hand, currently completely ignore the Independence Day. Since the collapse of the 1960 Republic in 1963, but mainly after the establishment of the Turkish Republic of Northern Cyprus, Turkish national symbolism was introduced and Turkish national holidays, including its military parades, started being celebrated together with the Turkish Cypriot ones. Instead of the Republic of Cyprus' Independence Day, the TRNC Independence Day is celebrated (Tiryaki, 2013).

The beginning of the conflict is also viewed and perceived differently. What Greek Cypriots view as 'invasion' by Turkey in 1974, Turkish Cypriots call 'baris harekati', the peace operation. While for Greek Cypriots the conflict started in 1974, for Turkish Cypriots it started in 1963 when they were ousted by Greek Cypriots from the bi-communal government and comprised 3 per cent of the island's territory (Brus et al., 2008, pp. 24-26).

It is only logical that with such a big difference between the views of Greek Cypriots and Turkish Cypriots over the reasons and date of the conflict's outburst, the visions for the solution also differ. According to the polls, the majority of Greek Cypriots favor a unitary state over other alternatives. Federation is a distant solution. 77 per cent of Greek Cypriots favor a unitary state with a 'one person one vote' principle,

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agreement agreed upon behind the scenes at the Congress of Berlin in summer 1878, Cyprus was transferred to Britain. Although the Convention contained a provision that "if Russia returns Kars and other territories in Armenia, which were taken in the last war [Russo-Turkish War 1877-78 that ended up with defeat of Turkey and Peace Treaty of San Stefano], to Turkey, Cyprus will be evacuated by Britain and the Convention will be annulled", additional agreement in the Convention deprived the Sultan of every power in Cyprus and in 1914, when Ottomans entered the war against the Allies, the British annexed the island entirely (Hadjidemetriou, 2007, pp. 302-352).

as an alternative to federalism. 42 per cent of them deemed it totally essential. On the other hand, 46 per cent of Turkish Cypriots believe two separate and internationally recognized states are absolutely essential to the peace in the island (Sozen, Christou, Lordos, & Kaymak, 2011).

However, since 1974, the leaders of the two communities have been negotiating a bi-zonal and bi-communal federation based on the power sharing and political equality as an ideal solution for the Cyprus problem.

The preferences demonstrated in the polls also correspond with the fears and mistrust both communities maintain towards each other. Turkish Cypriots fear that the fact that Greek Cypriots prefer the unitary state solution prove their 'real' intention, which is to dominate the whole island. Nationalistic descriptions in the schoolbooks of the island being purely Greek strengthen the conviction of Turkish Cypriots that rather than compromise on the power sharing and political equality, Greek Cypriots desire to be the sole owners of the island. Greek Cypriots, citing the intervention by Turkey in 1974, which divided the island's territory and the unilateral declaration of independence from TRNC in 1983 [UDI], believe that Turkish Cypriots desire a permanent division of the island instead of a joint federation.

It seems that in the Cyprus case, while nationalisms were behind the inception of the conflict, the conflict itself has helped to shape conflicting narratives regarding the reasons and prospects of the conflict itself. National historical narratives built on the thesis of the incompatible 'other' fuel the conflict while the conflict itself gives a pretext for the continuity of the homogeneous nationalist accounts.

Indeed, it can be observed that the vicious circle of interconnectedness is quite firm in the Cyprus conflict. It seems that Turkish Cypriot nationalism, emerged as a reaction to the Greek Cypriot goal of *enosis*. When that transpired to the *taksim* thesis and when the *taksim* thesis partially materialized after Turkish Cypriots effectively withdrew from the Republic in 1974, Greek Cypriots embraced for the first time the 'Cypriotness' of the Republic of Cyprus. The vicious circle seems perfect: while Turkish Cypriot nationalism emerged as a reaction to the '*enosis* thirsty' Greek Cypriot 'Greek' nationalism, the Greek Cypriot 'Cypriotic' nationalism developed as a result of the '*taksim* hungry' Turkish Cypriot 'Turkish' nationalism.

Is there any way out of this seemingly self-fueling cycle of perceived and real hostilities? Numerous peace proposals have been penned for the resolution of the Cyprus conflict. The late Annan Plan was just one among many. However, none

of them have succeeded. If a genuine reconciliation between Greek Cypriots and Turkish Cypriots is to occur, it should start from the bottom of the education system. The schoolbooks for the primary schools must be changed and images of the other diverted. This shouldn't be done as a part of any unilateral confidence building measures. This should be done together, simultaneously by the two separate independent educational systems – as they did in Germany, France and the Balkans for instance.

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CIVIL SOCIETY AND TRANSNISTRIAN CONFLICT SETTLEMENT

By Denis Cenusa[1]

General Aspects

The post-conflict decade drastically influenced people-to-people communication leading to the separate and autonomous development of two different types of civil societies on each side of the Dniester River. Consequently, as each side of the river possess two distinguished political systems, the civic sector in the constitutional territory and the one belonging to the Transnistrian region have worked within different legal, institutional and political conditions for years. Actions on the horizontal and vertical levels should be considered for bridging the two distinct civil societies, having the acceptance and the involvement of the constitutional authorities and the administration from Tiraspol.

Legal and Institutional Aspects

Following the ideology of self-determination while creating closer ties with Russia, the civil entities on the left bank have been discouraged from building contacts with their colleagues from the other side. Simultaneously, the officials in Chisinau have shown strong reservations over encouraging civil society to work across the country, including in the Transnistrian region.

Even though legislation since 1996 has favored the development of a civil society (Republic of Moldova. Parliament, 2010), the first official framework for developing a cooperation between state and civil society was introduced in 2005 with the Concept of Cooperation between Parliament and the Civil Society (Republic of Moldova. Parliament, 2005). The cooperation establishes the main fields and forms in which the legislative body is able to interact with non-governmental organizations. But the mechanism encompasses only the non-governmental organizations registered in the constitutional territory, which *de facto* means the *exclusion* of the civic entities set-up on the left bank from the cooperation.

A similar deficiency, although in this case the result of a lack of resources, can be observed in the "consultative body" created between the Government, civil

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society and private sector, aiming to develop and promote a strategic partnership for strengthening a participative democracy (Government of the Republic of Moldova, 2010). Having been established later, the civil society in the Transnistrian region continuously suffers because of the lack of financial resources and of project management experience, which makes it uncompetitive in comparison with partners from the right bank. However, as the Transnistrian region is outside of the consultative framework, there is a need for an increase in the transfer of knowledge and experience in order to facilitate their rapprochement and potential re-integration.

Human Rights Issue

Human rights is one of the most complex and inflamed topics related to the Transnistrian region, largely due to the fact that the constitutional authorities are incapable of ensuring the functionality of the legal order within their national borders. In this respect, the horizontal cooperation between the two civil societies has become a vital, yet still unaddressed, priority. In reality, there are only a few organizations who work to promote human rights on the right bank. The existing problem with human rights was highlighted in the last European Court of Human Rights (ECHR) judgment concerning the case of Moldovan/Romanian language schools in Transnistria (ECHR, 2012). While the ECHR mentioned only the violation of the right to education in the previous report, a subsequent report prepared by the association "Promo-Lex" (2011) catalogued a more complete list of all other human rights infringements in the uncontrolled region. Additionally, the national authorities are not prepared to propose a clear and structured action plan which would protect citizens from the abusive actions of the separatist regime. In this respect, an analysis of the National Plan in the context of human rights between 2011-2014 (Republic of Moldova. Parliament, 2011a) proves that state institutions are preventing themselves from taking steps forward. Also, they are far from stimulating the NGOs on the right bank to act individually, and show a reluctance to establish a framework for common partnerships between the civil stakeholders on each side. An example of an incentive that could activate the interest of the Trandsnistrian civil society is an amendment to the Law on Civil Associations (Republic of Moldova. Parliament, 2011b). By extending the status of public utility to encompass NGOs, it would be possible to develop bilateral projects, including Trandsnistrian partners, with those who work partially or exclusively in the region.

Political Aspects

The warming climate seen in the political dialogue between Chisinau and Tiraspol appears to be bringing positive changes at the people-to-people level of engagement, especially with regard to the human rights agenda. According to the results of the 4th round of negotiations in the "5+2" format, both sides have agreed to create a common platform designed for civil stakeholders from the two banks of the Dniester, including the participation of the relevant international organizations (Government of the Republic of Moldova, 2012a). The representatives of Chisinau have expressed the need for such a platform in order to monitor human rights on the left side of the border. They have also expressed concerns regarding the degradation of human rights in the Trandsnistrian region. Additionally, the two parties discussed the possibility of setting up a forum for the cooperation and interaction between civil society and mass-media where they could develop and implement common projects as part of a confidence building effort. The idea of a forum was repeatedly introduced by the Moldavian Vice Prime Minister for reintegration (VPMR), Eugen Carpov, during the visit of Thomas Hammarberg, a UN expert on human rights in the Trandsnistrian region (Government of the Republic of Moldova, 2012b). Later in October 2012, VPMR Eugen Carpov stressed the added value of the potential forum at a meeting with the US ambassador, William H. Moser, in Chisinau (Government of the Republic of Moldova, 2012c).

But along with diplomatically promoting this initiative, practical steps should be taken by civil society actors on the right bank, taking into account the feasibility, existing resources and the prospects of fundraising the necessary funds needed to materialize the idea of a common forum. In this regard, the contribution of the Eastern Partnership Civil Society Forum's (2012) working group on "Democracy, Human Rights, Good Governance and Stability" may prove fruitful, drawing attention and, eventually, resources from European partners that are needed for the launch and smooth function of the proposed forum.

Recommendations

- *Eliminating the exclusions and obstacles in interactions with constitutional authorities.* The Concept of Cooperation between Parliament and Civil Society should be revised in order to allow for the inclusion of NGOs from Transnistrian regions, which are currently not able to register with the constitutional authorities for various reasons. The consultative body that liaisons between

the Government and civil society should also consider the engagement of Transnistrian NGOs in thematic dialogues, perhaps granting them the status of observers within the existing mechanism at a later stage.

- *Promoting a framework for a "common partnerships" between the two civil societies.* The future Action Plans, be it in the field of human rights or in any other, should foresee actions oriented towards the initiation and implementation of joint projects engaging NGOs from both banks of the Dniester. Also, incentives should be given (for example: financial or fiscal) to both sides impelling them to participate in a structural process of interaction.

- *Reinforcing the leadership of civil society from the right bank.* Using its own resources and attracting the capacities of the European platforms, the established right bank civil society should support the authorities as co-partners, offering their expertise and experience. A group consisted of the most active and influential NGOs could establish, together with the central authorities, a help desk and, thereby, facilitate the technical and organizational skills required for setting up the envisaged forum before a final political settlement is reached.

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THE ROLE OF MASS MEDIA IN THE SETTLEMENT OF THE CYPRUS PROBLEM

By Orestis Tringides[1]

Mass Media in Cyprus: Modus Operandi

If it is agreed that in order for the mass media to be able to play a positive role in the peace-building process and cooperation in a conflict region they first have to ensure impartiality in both the way they present the news and in the way they operate, then the media in Cyprus cannot fulfill that role. Some of the problems regarding the media in Cyprus playing an effective role in peace- and trust-building between the two communities (Greek Cypriots and Turkish Cypriots), are; the tendency of advocacy journalism (the kind of journalism that deliberately and transparently employs a non-objective perspective for political or social intentions) and the reliance on external (official) sources (Christophorou, Sahin, & Pavlou, 2010).

As a percentage of the population, the readership of newspapers is relatively low – the broadcast media is a preferred source of news and opinion. News programs frequently feature developments regarding the Cyprus problem, although due to a limited number of sources, and heavily politically influence, they often resort to advocacy journalism with a dramatized and sensationalized delivery of news about a political development. In many cases there is lack of investigative journalism, with the news falling short of informing the audience as they lack crucial, or background information required to understand and present the issue thoroughly (INDEX, 2010). Very frequently party-centric (male-dominated) and heated debates take place, thus diminishing (and sometimes, deliberately undermining) the role of those who can provide technocratic expertise, or a non-partisan view.

Civil society events that work to bring the two communities together have been largely excluded in the "traditional" media outlets – although in recent years civil society organizations (CSOs) have started employing and increasing their skills capacity in the new media (social media) that indirectly tend to attract more attention by the mainstream media (Gillespie, Georgiou, & Insay, 2011). Exemplar cases of cooperation in the media across the divide (Greek Cypriot and Turkish Cypriot) have largely taken place "outside" of the established administrative structures; mainly by individuals' initiatives (Anastasiou, 2008, p. 250).

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Financial Dependencies and Political Influence on Media

Applying to both sides of the island, since the market size in Cyprus is small and the media sector is populated by many outlets competing for a market share, the media's susceptibility to either commercial or political influence and pressure is in large part the result of the difficulties encountered in establishing an independent economic base upon which any non-state media enterprise depends on (Lyndon, 2010). Thus, media outlets on both sides of the island have varying degrees of political, but especially political party alliances. This applies to the majority of newspapers and TV channels and to a lesser, but still significant, extent to radio stations (INDEX, 2010).

For example, regarding television channels in the south, most of the wide-audience channels are heavily politically influenced. The range of labels applied to describe the kinds of influence range e.g. from the "rejectionist" (the "hardliners" when it comes to the Cyprus issue) political influences, to close party affiliations, to consistent government-backing stances (e.g. as is the case with the Cyprus Broadcasting Cooperation (CyBC), in the southern part of the island and the Bayrak Radyo Televizyon Kurumu (BRTK) in the northern part) (Christophorou et al., 2010; INDEX, 2010).

Practical, Legal Obstacles; Press Freedom and Access to Information

Although there is a large disparity in the Press Freedom Index between the southern part (an improved 16th place in the rank for 2011-2012) and the northern part of the island (a deteriorated 102nd place in the rank) (Reporters Sans Frontieres, 2012), in reality, journalists on both sides of the island are not (entirely) free to deviate from the agreed political modus operandi between their editors/outlet management and political party/ies, or other poles of political influence. Subsequently, on both sides of the island, media outlets, editors and journalists are limited to freely and openly question, research and criticize, so to create a shift when it comes to vital prerequisites in building for a settlement of the Cyprus problem.

Moreover, journalists on both sides are being hindered to perform their duties due to a lack of an effective access to information legal framework. Journalists rely on their personal connections to have quick access (if any) to public documents and information, resulting in the difficult position journalists (especially young and non-networked) find themselves in due to lack of such contacts (Access to Information, 2011). Thus, without access to information, the news is susceptible to being biased

and misinterpreted, since it is not easy to access information that can verify, or challenge the validity of a news report.

With these, it is demonstrated that the Freedom of expression is not fully guaranteed in Cyprus (Simopoulos, 2012) because its scope does not empower and protect journalists from the abovementioned cases, thus affecting the coverage and media strategy-building on the Cyprus problem. As extreme examples, in the past, journalists and newspapers in the north had been receiving harassment and unfavorable treatment by both the establishment and entities associated with the establishment (EFJ, 2011; Hasturer, 2004).

Cooperation Obstacles Due to Non-Recognition

Historically, due to the climate of animosity and mistrust, there has been minimal cooperation between journalists and media outlets from both sides, resulting in a lack of coordination and mutual understanding. For instance, there currently exists no intercommunal news agency or established sustainable structure for media professionals from each community to exchange information and produce joint content – instead, initiatives for this level of collaboration rely on CSOs and individual professionals. Consequently, there is an overreliance on news provided by agencies both local and international (Christophorou et al., 2010).

Due, in part, to the insistent and explicit statements by authorities on both sides, rejecting the claims of the other, there is the fear that even unofficial contact by journalist unions, news agencies, media outlets, and individual journalists may imply a recognition or endorsement of the other side's views. Of course, this worry is fundamentally flawed: As long as the administrative structures of either side of the island do not recognize each other (and in the case for the Republic of Cyprus, it is a state recognized by the UN and supported by memberships to the EU and other international organizations), then unofficial or official meetings, or institutions from both sides participating (even with "official capacity") in international meetings, neither implies recognition, nor does it cancel out or alter the official stance of the authorities of non-recognition of the other side (Brownlie, 2008).

This fear of "implied" recognition (and the concern of being labeled as a "traitor", a foreign "agent", or a "collaborator"), has developed obstacles on basic issues, such as how to address and acknowledge the other side: journalists have employed a terminology when referring to the other side (e.g. "pseudo-state"; the "Greek Cypriot Administration" etc.) that is plainly offensive for the other side.

Furthermore, journalists have problems attending events on the other side when there is a requirement to involve/cooperate with an authority (and thus may imply recognition) (Constantinou & Papadakis, 2001).

The Barriers of Language and Information

Historically, the Cyprus media landscape has always exemplified a high degree of exclusivity to its respective language community. Media outlets communicate to their audience in two different languages, Greek and Turkish. Thus, it is difficult for journalists from the opposite side of the dividing line to follow the news on the other side (due to the language barriers) and to have a clear picture of the prevailing opinions on the other side of the dividing line.

Often times news from the "other side" are purposefully screened out and not mentioned at all, according to the particular outlet's interests. Moreover, the miscommunication and lack of cooperation can result in certain extreme cases where e.g. writings of a newspaper on one side of the island are incorrectly translated in an outlet on the opposite side, or e.g. cases of selective translation and even distortion (in fewer cases) in order to serve the particular outlet's purpose, (e.g. the "demonization" of the other side). As a result, it is an unfortunate fact that the public's general opinion and view on the matters (and on the other side) can be rather different from the general opinion of the other side; even when it comes to basic facts and events.

Mass Media: Part of the Solution, or Part of the Problem?

In various studies (Droushiotis, 2005; Christophorou et al., 2010; Djambazis et al., 2009) the media sector has received a lot of criticism and has been described as a contributing factor in the conflict (Simopoulos, 2012; Azgin, 1996). The media's ability to shape public opinion has come under close scrutiny in the past, particularly during crucial periods of Cyprus' recent history (Droushiotis, 2005). The media polarization further contributes to the lack of understanding and acceptance between the two communities. Even with an acknowledged improvement in recent years, there is an unbalanced coverage in the mainstream media of issues of common concern to both communities.

There has been an excessive emphasis on the hardships and obstacles to a settlement by the media, and almost no mention of any prospects for a solution. In fact, the media contradicts itself by, on the one hand, stressing the negative aspects of a settlement while at the same time repeating the need for a settlement. As a result, often the

message emitted from the media has been one supporting a "non-solution" rather than a solution (Christophorou et al., 2010; INDEX, 2009), a somewhat consistent picture with how the public opinion reacts on the Cyprus problem (Beyatli, Kaymak, & Papadopoulou, 2011).

Portrayal of Bi-communal, Collaborative and Reconciliatory Civil Society Efforts by the Mass Media

With regards to bi-communal activities, the mainstream media has had a neutral, or a negative role to play. Overall, the vast majority of the media does not take a supportive stance and does not sufficiently promote bi-communal activities. (Gillespie et al., 2011). Therefore, the media is not of particular assistance to CSOs that are active in bi-communal activities attempting to reach a wider audience and discussion panels on political and social issues in television programs that, for example, only seldom include civil society experts.

In the past, especially before the opening of checkpoints in 2003 and during the Annan Plan period (2003-2004), on many instances the media had harshly criticized participants of bi-communal initiatives and organizers alike, on both sides of the divide. This intense criticism created psychological obstacles for participants, who became reluctant to participate in events that would "label" them as, in the least, "unpatriotic" (Cyprus Center for European and International Affairs, 2011). Such practices are accentuated whenever there is a "critical landmark decision" coming up regarding the Cyprus problem.

"Us and Them": The Portrayal of the "Other" Community by the Mass Media

On the media reports on the Cyprus Problem, there is little differentiation on either side when it comes to the portrayal of the "other" side: cultivation of prejudices (The Cyprus, 2011) stereotypical phrases, expressions and the position that "our" side is the righteous one who strives for a solution whereas it's the "others" who are negative, characterize the media on both sides, reinforcing a common public perception that one community does not want a peaceful solution with the other (Christophorou et al., 2010) by giving disproportional coverage to the few extremist voices of the other side, rather than of those who wish for a solution.

Expressions such as "our side" and the "other side" are often used in everyday conversations to describe the Greeks/Greek Cypriots and the Turkish Cypriots/the

Turks or Turkey and thus some Greek Cypriot media occasionally use the expression "the Turkish side" when referring not only to Turkey, but also to the Turkish Cypriot community or the Turkish Cypriot leadership; an indication of their views on identity that assumes that Turkey and Turkish Cypriots all have the same positions and aims. (Christophorou et al., 2010; Gillespie et al., 2011).

As in the case of Cyprus, studies have shown that in reports from conflict areas, pain and blood are differently "valued" (Avraham, 2003) often with a distinction between "worthy" and "unworthy" victims. The same applies to how the media handles stories, where assumptions regarding past events and traumas are filtered (e.g. of missing persons; rarely reporting when the remains of a missing person, a war victim, of the other community has been found) (Christophorou et al., 2010).

The Mass Media and the Annan Plan

During the Annan Plan era, most of the Greek Cypriot media favored its rejection, attacking those in favor, emphasizing the negatives and dismissing, or not mentioning, the positives (Djambazis et al., 2009). Public television channels also displayed their bias, as can be seen by the amount of air time given to personalities of the "no" vote; even avoiding almost altogether to give any airtime even to EU Enlargement Commissioner Gunter Verheugen, who vocally supported for the acceptance of the plan. Also during the Annan Plan period, the Greek Cypriot media would often change the semantics of the texts taken from the Turkish Cypriot/Turkish media outlets, altering the original articles to adapt them to their own stances and perceptions (Droushiotis, 2005; Christophorou et al., 2010). Therefore, the representation of the Annan Plan was divided; it was either positive or negative depending on the media outlet and its political alliances.

Examples of Cooperation / Communication and Flow of Information from and to Each Side

In 2003, when, for the first time since the war of 1974, the moving restrictions from one side to the other were eased, journalists from both sides had the opportunity to meet and cooperate with each other. Currently, this cooperation is mostly conducted in an un-strategic manner via the formal structures of the media outlets; most of the times it is e.g. based on a journalist's personal connections with another journalist on the other side. Nevertheless, since 2003, some media organizations have established forms of direct cooperation between journalists and media organizations on the

other side thus helping each other not only to get access to primary information on the news, but also helping their colleagues to understand the background of a story; this included featuring articles of journalists from the other community. In those early days, columnists from one side were utilized by newspapers on the other side, only up to the point that they would express aligned and favorable opinions - going beyond this point was not acceptable.

Problems still exist between the journalists' organizations where The Union of Cyprus Journalists (UCJ) and the Turkish Cypriot Union of Press Workers (BASIN-SEN) are having difficulties cooperating even under the General Assembly of the European Federation of Journalists (EFJ), which both organizations are members of. It remains, however, "the first example of formal institutional cooperation between Greek Cypriot and Turkish Cypriot journalist associations after decades of separation" (Kahvecioglu, 2008).

Currently, there isn't an established agreed roadmap on how to establish and promote a sustainable unified media sector in a post-conflict, after a solution, Cyprus, despite the fact that there is an identifiable imperative need for common institutions in the future that can foster ownership and participation e.g. a press and information office composed of Cypriots from all communities and a common media regulatory body (Simopoulos, 2012).

Various international organizations have supported a series of journalism symposia and trainings from journalists not only from both sides of Cyprus, but also Greece and Turkey addressing issues of mutual concern, such as objectivity when covering conflict and the Cyprus problem; establishing mutual understanding about the background and intentions of each sides' various stakeholders (political and others); and the representation of Cyprus and of the other community in the media (Hisscocks, 2008).

Finally, it is important to present an exemplar case of cooperation between journalists from both sides, namely, journalists Sevgul Uludag and Andreas Paraschos, where by cooperating closely they were able to tackle the very difficult and sensitive issue of missing persons (victims of the hostilities from both communities, who have never been found). With their collaboration, they were able to detect mass graves and "unearth" untold stories, thus partially disassociating this humanitarian issue from political hurdles, sensitizing the public opinion about the "pain of the other", and achieving unprecedented progress (Uludag, 2006).

The Role of Community Media as an Alternative to Traditional Mass Media

Because most attempts at collaboration remain hidden below the surface and informal, collaboration at the institutional level remains low. Also, the Internet remains an underutilized forum for media and information exchange. The civil society sector, engaged in cross-community issues, has used social media to promote dialogue and debate on issues of common concern.

For these abovementioned reasons, as an alternative to the established traditional media, joint initiatives in the Community Media (an umbrella term that also includes Social Media) have recently been taken by CSOs and individuals from both sides. As a result, the established Cyprus Community Media Centre (CCMC) acts as a "transcommunal" CSO (by this term emphasizing that its scope goes beyond the "exclusivity" of Greek Cypriot and Turkish Cypriot communities) that aims to increase civil society's capacity in providing CSOs with the skills and tools to both communicate their message in the wider public and also to find ways to communicate with the traditional media. CCMC was established as a result of the identified "media gap" that the CSOs were facing and to counteract the disregard that the CSOs have been treated with by the traditional media and, as a result, the broader society. Community Media has been identified as an (alternative) means for building cooperation in the media sector – a sector that is very important for the peace process (CCMC, 2012).

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CHALLENGES IN LEADERSHIP AND PUBLIC OPINION IN MOLDOVA: THREATS AND OPPORTUNITIES

By Alexandru Baltag[1]

To start with, we will do a review of political evolution on the right bank of the Dniester River, where we will then underline the main changes in leadership and public opinion starting in 2005. It should be noted that the period between 2005 – 2008 was characterized by the existence of very close Moldovan-EU relations, while the Moldovan-Russian relations were practically frozen, when the former President of Moldova, Vladimir Voronin, refused to sign the Kozak Memorandum, which contained the settlement of the conflict by the federalization of the reintegrated state. In fact, the closeness between Chisinau and Brussels helped the former ruling party of Moldova, the Communist Party, to remain in power until 2009, and to popularize the idea of the European Integration of Moldova among the Moldovan citizens. Concurrent to the Individual Action Plan Moldova – EU being signed, the European Union Border Assistance Mission to Moldova and Ukraine (EUBAM) was launched, the diplomatic mission of the European Commission was opened in Chisinau, the EU Special Representative for the Transnistrian conflict was appointed, and, finally, the new format of negotiation "5 +2" was established.

In this context, it should be mentioned that the closeness between the Republic of Moldova and the EU and, at the same time, the chilled relationship with Russia was highlighted by the blocking of relations with the separatist authorities, which resulted in the blocking of the negotiation process for a long time. Or rather, the inconsistent foreign policy of the former Moldovan leadership was the main cause concerning the blockage of the positive development of the settlement process and the absence of this topic in Chisinau's official agenda. Likewise, the Transnistrian subject was absent from the public discussion on the right bank, a fact that has led to lower public interest towards this process. The low public interest continues to have repercussions today, as indicated by the fact that the settlement of the Transnistrian conflict ranks 5th and 6th in the priority list of the Moldovan population.

Since 2007, when pro-European opposition forces from Moldova began to gain

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electoral points thanks to several strategic and tactical mistakes on the part of the communists, especially in diplomatic issues, we have observed that the ruling Communist Party has begun to distance themselves from the pro-European position, contributing to the radicalization of the Moldovan political struggle between the ruling party and the opposition. This culminated in April 2009, with the protests in Chisinau following early parliamentary elections, which then degenerated into mass actions with a destructive nature. This contributed to the aggressive rhetoric of political opponents during the early parliamentary elections of July 2009 and November 2010, that permeated the political mood in Moldovan society at the time. In the background of these events, in 2009 and then in 2010, a coalition of center-right, one pro-democratic and pro-European, came into power who gave a new life to the Transnistrian settlement process and to relations with international partners: EU, USA and, of course, Russia and Ukraine.

From 2009 to present, since the Alliance for European Integration has been in power in Moldova, we can identify a pragmatic approach to politics, an open and predictable attitude towards the Transnistrian conflict settlement and diplomatic activity. Consequently, the following results were achieved:

- The resumption of the dialogue between the right and left bank of the Dniester River and the unlocking of the official process of negotiations;

- The defrosting of Moldovan relations with its neighbors, particularly with Romania, with whom the communists were in an "open war" with in 2009;

- The advancement in the dialogue with the EU, which led to a spectacular evolution in the negotiations on the Association Agreement Republic of Moldova – EU, the Free Trade Agreement with the EU and visa liberalization for Moldovan citizens (agreements that are expected to be signed in 2013);

- The advancing of the dialogue with the Russian Federation based on mutual respect.

A positive development in the Transnistrian settlement process has been the result of a constructive diplomatic behavior on the part of Chisinau towards Moscow, which could potentially convince the separatist administration to adopt a more open attitude in the negotiations. This was seen especially after the so-called Transnistrian presidential elections in 2011, when a new leader came at power, Yevgeny Shevchuk. The new leadership in Tiraspol adopted a more open and friendlier approach to relations, which contributed significantly to the political closeness between both banks especially with regards to the continuation of dialogue between the sides.

Therefore, we can emphasize that political changes in Chisinau and Tiraspol have contributed significantly to lessen the blockages imposed by the communist leadership. In fact, we can categorize this as an opportunity in the settlement process. In this context it is very important to mention the success of Moldovan diplomacy, which consists of the inclusion of the Transnistrian problem in several key states' agendas, for example the Meseberg Memorandum, signed by German Chancellor, Angela Merkel, and former Russian President, Dmitry Medvedev; the discussion on the Transnistrian issue between Sarkozy, Merkel and Medvedev during the Deauville Summit; and the joint official visit to Chisinau by Angela Merkel and US Vice President Joe Biden.

However, if we look at the history of the conflict, we find that the general problem between conflicting parties has not changed since the political confrontations between Chisinau and Tiraspol and Chisinau and Moscow. The political positions of Moldovan and Transnistrian representatives at the negotiating table are as diametrically opposed as ever. The cause of the perpetuation of this political stalemate are: the insistence of Tiraspol of realizing its independence and solving its own socio-economic problems; Chisinau desires to reintegrate the state, offering the region wide autonomy; and Moscow aims to maintain its own influence in the area.

Accordingly, we observe that the continuing European integration process of the Republic of Moldova is the main threat in the Transnistrian settlement. This is demonstrated by numerous official and unofficial statements coming from Moscow stating that the EU integration process of Moldova will not contribute to the country's territorial reintegration as well as numerous Russian representatives calling for Eurasian integration, as promoted by Russian President Vladimir Putin. Currently, we are witnessing Moldovan and Transnistrian political elites promoting two different incompatible political directions, European integration and Eurasian integration. Additionally, we can see this contraposition of positions being transmitted into analytic debates, which in turn influence the whole society.

In conclusion, since the political changes seen in Chisinau and Tiraspol between 2009 and 2011, there have been new opportunities to advance dialogue regarding the Transnistrian conflict settlement. However, the main obstacles that underlie the political and geopolitical character of the conflict have remained. On one hand, Russia desires to maintain the Republic of Moldova under own sphere of influence and prevent its integration to the EU, while on the other hand, the majority of Moldovan politicians and population of Moldova support the continuation of the European integration process.

The division of the Moldovan population into pro-European and pro-Russian camps represents a threat to the development of Moldova and will maintain the *status quo* in the conflict settlement process. Furthermore, the separatist rhetoric supported by Moscow, contradicts the official position of the Republic of Moldova concerning state reintegration and its external development vector additionally contributing to the preservation of the current situation.

NESTING STAKES: FROM THE CONSOLIDATION OF POLITICAL CLEAVAGES TO INSTITUTIONAL RESISTANCE IN MOLDOVA

By Veaceslav Berbeca[1]

Transnistrian conflict, caused by the same logic as other separatist conflicts in the former Soviet Union, is considered to be less complex and therefore more likely to be quickly settled. However, its been more than 20 years after cessation of armed conflict on the Dniester, and the situation has not been moving towards the reunification of Moldova. On the contrary, the state of "cold war" in the sense of the freezing or obstruction of the negotiation process by separatist leaders has been rather a rule than an exception in discussions on Transnistrian conflict settlement.

The causes of this conflict's influences explain the evolution of the dispute. There were two important topics in the last years of the Soviet Union that divided the political class in the former Soviet Socialist Republic of Moldova. First, there is the discussion on the place of the Romanian language in public space. This separatist movement, initiated under the pretext of fear of the eventual unification of Moldova with Romania was meant as a tool to keep Moldova in the Russian sphere of influence. Do not forget that just a few months after the declaration of independence in 1991, Moldova joined the Commonwealth of Independent States (CIS), which would integrate former Soviet republics in another form in the new conditions created.

Another problem is the centrifugal tendencies announcing the collapse of the Union of Soviet Socialist Republics (USSR), a process to which the Moscow administration had opposed by supporting secessionist movements in several republics. Thus, part of the Soviet nomenclature that opted to keep the Soviet Union proclaimed the independence of "Transnistrian Soviet Socialist Republic in the USSR" in September 1990. Generally, decisions made by secessionist region leaders aimed to challenge the attributes and prerogatives of power in Chisinau on localities from the left bank and Bender municipality. It was a process of institutional and symbolic denial of the territorial integrity and sovereignty of Moldova. Thus, the city councils of the cities of the breakaway region then adopted decision not to use the new flag of the

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Moldovan Soviet Socialist Republic – tricolor – in the territory of these cities. On the 22nd of June 1990, the council of Tiraspol, followed by other cities, decides that the Moldovan laws have no effect on the territories of their administrative units.

In September 1990, members of the Congress "at all levels" of Transnistria adopt the "Decree on State Power" and the "Declaration on the Establishment of the Soviet Socialist Republic of Transnistria", then, in spring 1991 they created institutions and a Government for the breakaway region. A milestone in the consolidation of Tiraspol leaders' power was the decision from 1991 to create the "Republican Guard". The creation of armed forces of the breakaway region was achieved through the broad involvement of the Russian 14th Army. Besides the active involvement of Russian officers in the creation of the Transnistrian armed forces, their support also materialized through the transfer of weapons from the 14th Army to the military forces of Transnistria. And the presence of Russian troops in the breakaway region localities is an important factor in perpetuating this conflict even if the Russian Federation pledged at the 1999 OSCE Summit in Istanbul to withdraw its troops and munitions from the territory of Moldova by the end of 2002.

Signed in Moscow on the 21st of July 1992, the Moldovan-Russian bilateral agreement on the "principles of peaceful settlement of the armed conflict in the Transnistrian region of Moldova" is a confirmation of Russian participation in the armed conflict of the separatist movement. Later, under the umbrella of protection and with the help of Russian military units present in the breakaway region, the Tiraspol regime created its own military forces, which, by category and number of weapons, overwhelmed the forces of the Republic of Moldova (Fruntasu et al., 2005). Peace instruments created under that agreement did not result in achieving the objectives agreed, upon, especially the demilitarization of the Security Zone and ensuring the necessary conditions for the free movement of people, goods and services between both banks. Tiraspol leaders still maintained some military and paramilitary formations in this area and installed points of "customs control" and "border", thus creating serious obstacles to free movement (Stavila, 2009).

The first official project that aimed to define Transnistria's status was developed by the Conference on Security and Co-operation in Europe / Organization for Security and Co-operation in Europe (CSCE / OSCE) in 1993. Recommendations by the CSCE / OSCE mission to Moldova on the special status of Transnistria districts aimed to establish a "basis for negotiations between the two parties in the conflict" and to create the overall goal to give a "special status to Transnistria as an inalienable

part of the Republic of Moldova with high considerable self-government". Special status for the Transnistria, a concept developed by the OSCE mission, was not immediately and unconditionally accepted by the Chisinau and Tiraspol because, according to some, gave "too much freedom" region, and in the opinion of others – "too little". Also, it highlighted, in the negotiation process, the attitude of the parties on the status of Transnistria localities and Bender municipality that from 1992 until now, practically never deviated, with few exceptions, from the position of the parties originally announced. Chisinau insisted mainly on the availability of offering broad autonomy to the region, while Tiraspol leaders insist on the independence of the region and promoted the idea to create a confederation that would recognize the independence of this region.

The pro-independence speech of the separatist leaders from the region was held in parallel with the creation of their own structures of governance that undermined the power of the constitutional structure of the Republic of Moldova in the separatist region. Tiraspol leaders insisted on organizing "plebiscites" on the issue of development "state institutions" and continuing Russian military presence in the region. After the "referendum" in 1995 the new "constitution" of the Transnistrian Moldovan Republic was adopted. Also it is important to highlight the position of the Russian Federation to the negotiation process. Moscow did not hesitate on various occasions to directly and indirectly support the Tiraspol regime. For instance, in 1995, the State Duma refused to ratify the Moldovan-Russian Agreement on the withdrawal of Russian troops from Moldova and recommended the President Boris Yeltsin consider recognizing the independence of Transnistria.

On the 8th of May 1997 the signed "Memorandum on the basis of normalization of relations between Moldova and Transnistria" was signed in Moscow by Moldovan President Petru Lucinschi and Transnistrian leader Igor Smirnov. This document contains several controversial issues using terms such as the "normalization of relations" and "Moldovan and Transnistrian leadership" that puts the governments of both Chisinau and Tiraspol on equal footing. Also, this document used and the confused notion of a "common state" that provides opportunities for Transnistrian leaders to promote the idea of a "Moldovan confederation".

In November 2003 another document the "Memorandum on the basic principles of construction of the unified state", was drafted. Known as the Kozak Memorandum, from the name of the author, this document is essentially a manifestation of the idea of "common state" launched by Primakov (Stavila, 2009). Under this project,

the constituent units of the federation would have very broad powers, including the right to veto as well as other tools to block decisions in important areas at different levels of the State. Also, Chisinau and Tiraspol had to address the Russian Federation's "proposal to provide security guarantees" which meant that Moscow will provide "stabilizing peacekeeping forces" until 2020 within the territory of the future federation Following an internal and external pressures, President of Moldova Vladimir Voronin refused to sign this document. As a result, Moldova has been the target of political and economic repercussions. We have been confronted by attacks of police and security institutions of the separatist regime against Moldovan schools teaching in Latin script and the violent occupation of property in the "Railway of Moldova" from the Transnistrian region. It also prevented the withdrawal of Russian troops from Moldova.

The last international initiative on Transnistrian conflict settlement was made in 2005 by the Ukrainian President Viktor Yushchenko. This project provided for a three phases settlement initiated by the conduction of free elections and democratic legislature in the eastern regions under international supervision. Cooperation between Moldova and Ukraine on the Transnistrian segment of the Moldovan-Ukrainian border by introducing a new customs regime and EU involvement in Chisinau assistance on border management have generated vigorous protests from leaders in Tiraspol. Moldovan-Ukrainian cooperation in this sector has aimed at combating smuggling and other economic frauds cause losses to the Moldovan budget. Tiraspol leaders have said that the introduction of new the customs regime is an attempt to establish an economic blockade and have refused to support the "Yushchenko plan".

In 2005 the European Union and the U.S. involvement as observers in the negotiation process has led to an expansion of the negotiations formula to "5 +2" format. But after five rounds of talks, the "5 +2" negotiations were suspended in February 2006. Negotiations also failed due to differing views on a favorable settlement of the Transnistrian conflict. The Chisinau administration promoted the idea of granting a special status for Transnistria, while Tiraspol leaders insisted on the recognition of the current situation meaning Transnistrian statehood recognition. Moreover, Tiraspol has insisted on equal participation in talks as part of the "1 +1" format (Chisinau – Tiraspol) or a trilateral formula (Moscow's involvement in negotiations), which differed from Chisinau position to negotiate in the "5 +2" format.

From the 30th of November to the 1st of December 2011, the first round of negotiations in the "5 +2" format was held in Vilnius more than 5 years of formal negotiations freeze. Chisinau authorities announced a small steps policy in relations with Tiraspol after the reopening of formal negotiations. ThesSmall steps policy would facilitate the rapprochement of the population on both banks of the Dniester. It is also meant to enhance the attractiveness of the Republic of Moldova for the citizens from the left bank and Bender, solve various social and economic problems, raise the level of confidence between Chisinau and Tiraspol, in this way creating the land required for a final political settlement of the Transnistrian conflict.

The formal resumption of negotiations in the "5 +2" format was achieved in part, because two sensitive topics were removed from the agenda: the withdrawal of Russian troops from Transnistria and the transformation of its peacekeeping mission in to a civilian observer mission under an international mandate (Chirila, 2012a).

Tiraspol has also adopted the policy of small steps. Other than the socio-economic aspects of the approach that will help overcome the Transnistrian crisis, the small steps policy will break the international isolation of the breakaway region, develop "interstate" relationships with Moldova and thus strengthen "the foundations of statehood of Transnistria". While the President, Nicholas Timofti, says that according to the UN and OSCE stationing Russian troops in the Transnsistrian region is contrary to international law and neutrality stipulated in the Constitution, Tiraspol leader are negotiating with Moscow to strengthen Russian military presence there (Tugui, 2012). Moreover, while Chisinau promotes the small steps policy to build confidence between the two sides, the Russian Federation strengthens its direct control over security structures in Transnistria, as seen by its dispatching of FSB colonel Evgeny Petrushin to Tiraspol, as the First Deputy of KGB (State Security Committee), to deal with the KGB elite troops of Transnistria (Chirila, 2012b).

Another important issue that should be mentioned refers to the Tiraspol authorities' inistence that the foreign policy priority of Transnistria to move towards Euro-Asian integration. For Tiraspol leaders, Eurasian aspirations are a national theme of Transnsisitra resulting in the "Eurasian integration vector that should become the leitmotif of foreign policy". The foreign policy objectives of the region have also been drwan up in order to initiate actions to study the possible economic integration of Transnistria into the Eurasian Economic Community's structures, as well as into the Customs Union and the Single Economic Space. This attitude clearly contrasts with the pro-European Chisinau that is now in a long process of negotiation of several important agreements with the EU.

Moscow's objective seems to be to draw Moldova permanently into its own sphere of influence and therefore it perceives Chisinau's movement towards the EU as a transgression against its geopolitical interests. Consequently, in order to hinder this process, Russia may instrumentally exploit its extensive influence over Transnistria to provoke a crisis between Tiraspol and Chisinau (Kononczuk & Rodkiewicz, 2012).

The national revival movement in Moldova was a pretext to trigger separatist actions by some of the Soviet nomenclature that wanted to preserve the USSR. Later, after the collapse of the Soviet Union, separatist movements have been an instrument of maintaining the former Soviet Republics in the Russian sphere of influence. The existence of these political divisions and resistance to certain processes initiated by the Republic of Moldova are fed and stimulated, in many respects, by Moscow.

Progress and Regression: The Observed Impasse

Te Transnistrian conflict settlement has been an important issue for all of the governments in Moldova. At different stages several actions have been discussed and implemented to resolve the conflict. Most times, they have failed, or they have had the opposite effect than originally intended. The positive side of these negotiations has been that they, with a few notable exceptions, have not been frozen since the armed conflict in the Dniester ended. The downside has been that, despite the different levels of negotiations on the conflict settlement, the situation has not changed in the negotiation process.

Discussions focused on a very broad spectrum of topics from social and economic problems to issues related to the status of Transnistria and Russian armed forces in the region.

The status of Transnistria is one of the most sensitive topics that was discussed during the negotiations at different levels. Chisinau has offered a wide range status to the Transnistrian region, while Tiraspol insists on independence or create a confederation. In some occasions, Chisinau government welcomed, in principle, the idea of a federation, as it was applicable to a project developed by a group of international experts under the aegis of the OSCE presented in Kiev in 2002.

The Tiraspol regime has generally supported the proposed versions of the Russian Federation that have been either very obscure or created conditions of political deadlock and created opportunities for separation from Moldova under certain conditions. Such a situation is observed in the case of the "Primakov Memorandum"

that benefits, politically speaking, the Tiraspol regime in their relations with Chisinau authorities. Phrases like "the leadership of Moldova and Transnistria" put Chisinau authorities and Tiraspol leaders on equal footing. The notion of a "common state" is supported by the separatist regime to promote the idea of a "confederation" or the "union of two sovereign states". "Kozak Memorandum" is another document, which politically supported Tiraspol regime by awarding it veto power, which could have been applied in the most important areas of a future state.

The resumption of negotiations in the "5 +2" format after a break of more than five years as well as the change of leadership in Tiraspol failed to modify the current state of affairs. The downside of this is that the Transnistrian regime continues to insist on gaining independence for the region. We notice that things have not been moving towards accepting a settlement on Transnistria status after 20 years of conflict termination.

Another issue discussed extensively refers to the presence of Russian forces in Moldova. Withdrawal of Russian troops was the subject of discussion both at the bilateral level, between Chisinau and Moscow, and at the multilateral level. Although the Russian Federation has occasionally accepted the withdrawal of its armed forces from Moldova, Moscow has ignored or refused to implement the decisions of international bodies to withdraw its military forces.

The agreement from 21st of July 1994 which established the status and terms of withdrawal from the Republic of Moldova of Russian military units has not solve this problem because of Moscow's refusal to enforce it. Also, Russia has ignored decisions adopted by the CSCE / OSCE as well as documents adopted at the 1994 Budapest Summit which provided for the withdrawal of Russian troops. Perhaps the most obvious disregard of international organizations decisions is related to the results of the OSCE summit in Istanbul in 1999 when the Russian Federation pledged to withdraw by the end of 2002 its troops and munitions from Moldova.

The presence of Russian troops in Moldova has been one of the biggest impediments (possibly the largest) and it led to the suspension of the Treaty on Conventional Armed Forces in Europe (CFE) by Russia in December 2007 (Rodkiewicz, 2011), making it into a problem with negative consequences for the security of the European continent.

Unfortunately, the withdrawal of Russian forces from the Republic of Moldova is far from being solved. If at the end of the last century we had the impression of achieving

some progress on this segment, then nowadays we must say that the situation has worsened. The Minister of Defense, Vilatie Marinuta, said that Russia delivered not only military trucks to Transnistria, but also weapons. In September 2012, Russia sent 20 new Ural type trucks to Transnistria. Moscow argued that it was upgrading its military equipment for the peacekeeping forces deployed in Transnistria. We assume that it is a fact the modernization of the armed forces of Transnistria with the broad assistance of Russian Federation.

After the termination of the Transnistrian conflict, Chisinau authorities made several important concessions in the economic-trade field in order to stimulate the negotiation process. But ultimately, these concessions, rather than create favorable conditions for the settlement of the Transnistrian conflict, undermined Chisinau positions at the negotiating table. Speaking of unilateral concessions, we refer primarily to the Decision Protocol in February 1997 "on solving business problems in customs services of Moldova and Transnistria". This document stated that "customs stations" installed at the entrance of the Transnistria region of right-bank was to be liquidated and joint customs were to be installed on the border with Ukraine. Thereafter, all goods exported from the region were to be equipped with new type stamps with the inscription "Republic of Moldova. Transnistria. Tiraspol customs".

The logic of these arrangements was to remove internal customs barriers and to organize a joint customs control on the Transnistrian segment of the Moldovan-Ukrainian border. However, after getting the opportunity to use the Moldovan customs stamps and the legalization foreign trade, which was one of the most important sources of income for the region's budget, Tiraspol has refused to implement the other objectives set out in the Protocol. It is a common practice used by Transnistrian leaders which allows them to obtain significant powers in different sectors through negotiations without actually complying with the rest of the conditions of the agreement.

In the same same context, based provisions of the so-called "Primakov Memorandum", signed in Moscow in May 1997 Chisinau recognized Transnistria's right to "establish and maintain their own international contacts in the economic, scientific-technical and cultural domains." Again, Tiraspol leaders obtained important concessions from Chisinau yet have not shown an interest in developing a mutually acceptable formula to solve the Transnistrian conflict. The separatist leaders' tactics has been to reach an agreement in different areas without conduct negotiations on the status of the region.

Chisinau's decision to institute a new customs regime on 6 March 2006 with the participation of Ukraine and EUBAM in the Transnistrian segment of the Moldovan-Ukrainian state border to restore the Moldovan indirect control of import-export operations in the region of Transnistrian aroused negative reactions.

The current approach of Chisinau government's small steps policy, broadly repeats practice negotiations between both parties over the past 20 years. Tiraspol insists on concessions from Chisinau on economic or social issues while not negotiate on security and political settlement of the conflict. Such an approach strengthens the position of the Transnistrian region against Chisinau at the negotiating table. Transnistrian leader, Yevgeniy Shevchuk, while demanding concessions from Chisinau, does not hesitate to declare, on several different occasions, about the need to strengthen the "Transnistrian statehood".

Tiraspol concessions have been: the release from Transnistrian prisons of Moldovan citizens – Ernest Vardanian, and Alexander Cazac Bear – 100% cancellation of fee "imports" for goods from the right bank, imposed by former Transnistrian leader Igor Smirnov, and the recently reimposed by Shevchuk and the resumption of rail passengers and goods through Transnistria ; are manifestly disproportionate to the long list of concessions Chisinau has made. Thus, Tiraspol requires the recognition of the independence of the bank system from the regions; recognizing cars registration forms from the Transnistrian region; recognition of diplomas issued by Transnistria; etc. Concessions that are discussed by both sides show a pronounced asymmetry in favor of Tiraspol.

The negotiations character between Chisinau and Tiraspol, regardless of their format, denotes a state of affairs, which has basically perpetuated itself over time. In other words, we are witnessing a process of continuous failure of Chisinau concessions to Tiraspol regime on economic, commercial and social issues. On other hand Transnistrian leaders have avoided to discuss security issues and those related to the Transnistrian conflict settlement. Seeking concessions from Chisinau, Tiraspol leaders have not respected the commitments they have made and declare their intention to strengthen "Transnistrian statehood". Such an approach eliminates any possibility of achieving progress in the settlement of Transnistian conflict.

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CHALLENGES TO REUNIFICATION IN MOLDOVA AND CYPRUS: BETWEEN THE EU'S SOFT POWER AND RUSSIA'S SOFT FORCE

By Irina Severin[1]

Introduction: Soft Aspects of Conflict are Underestimated

The idea behind the comparative study on Cyprus and Moldova is based on the pronounced similarities between the two cases. The main similarity is the division of both countries and unresolved problems, which hinder the normal development of both countries. Furthermore, in both cases the historical applied conflict resolution approaches have not offered viable solutions.

The main similarity, usually overlooked, is an "ideological component" holding back the conflict resolution instead of moving it forward. Both divided countries face identity problems that should be resolved first in order to build cohesion, an indispensable element in sustainable conflict resolutions. In both cases, a civic nation should be built based not on ethnic identity, but rather on some universal common values.

In the Cyprus case the common civic Cypriot identity should be prioritized over potentially dividing ethnic Greek or Turkish identities. Likewise, in Moldova a conscious effort should be made to build a civic nation based on the common values, attractive to people from both banks of the Dniester.

Despite the apparent similarities, there are several differences between the North Cyprus and Transnistria ethnic and language problems. The main difference is that unlike Cyprus, Moldova has no confessional or ethnic divisions between the two parts of its population.

In Transnistria, Russian and Russian speaking urban population hold power while the native rural population consists of ethnic Moldovans and Ukrainians. Transnistria can be viewed as a "miniature Soviet Union", where the Russians and the Russian language had the dominant position, but the native population is *de facto* denationalized.

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On the other hand Moldova positions itself as an ethnic state, ideologically still opposed to the former Soviet Union's policy of denationalization. The Russian speaking population and Russian language are seen as ideological attributes from the former Soviet empire with its policy of suppressing ethnic rights.

Reconciling Conflicting Narratives Using the EU Example

There is a strong element of residual pain behind this approach. Russia's seemingly permanent pressure over Moldova continues to aggravate old grievances and ethnically divide the Moldovan public. Another dividing line is between those who perceive themselves as ethnic Moldovans and are nostalgic for the Soviet Union and those who identify themselves as the ethnic Romanians and gravitate towards Romania.

The later group can be divided into those who identify themselves as cultural nationalists and those who seek reunification with Romania. In Moldova, language and self-identification issues continue to be as big problem as they were 20 years ago when they triggered the original conflict.

In Cyprus the former colonial power was an external one. As a result the language issue is not a source of strong resentment between the two communities as it is in the Moldovan case. Although Turkish Cypriots do not speak Greek and Greek Cypriots do not speak Turkish, both communities speak English – the language of the former colonial power and the official language of the European Union.

In the Cyprus case, the English language has the potential to unite both communities as an element of a postmodern state not based on ethnic classification, but on civic nationalism. Cyprus, as a state, has a chance to become "the EU in miniature" if a conscious effort to build a civic nation is made. Cyprus, as a civic nation, can be based on the common destiny of the two communities – primarily on the vision of a common future.

Building a Civic Nation is Priority for both Cyprus and Moldova

The conflicts in both Cyprus and Moldova were stirred by the hardliners who promoted ideas of unification with their Motherland, which created and continues to maintain an atmosphere of distrust between the divided communities, despite the fact that only a small part of the population supports unification.

At the same time, both countries' major ethnic groups have their ethnic 'mainland' – Greece and Turkey in the Cyprus case; and Romania, Ukraine, and Russia – in the Moldova case. This favors the creation of a civic nation based more on universal values than ethnic or religious identities.

Only the creation of a civic identity and the development of a common vision for the future with an emphasis on the uniqueness of the country as a matter of common pride and "civic nationalism" can unite the divided countries.

In both cases, the basis for unification can become the European model, which successfully reconciled the conflicting historical narratives of the European nations after the WWII. Theoretically this model will also be able to reconcile the divided communities in both countries. However, in both cases, the European model as a basis for unification has been neglected. The emphasis has been placed on the pragmatic side of the EU integration – the economic and social benefits, rather than on a common value basis which is indispensable for the reconciliation.

This approach has not been applied in Cyprus despite the fact that the country joined the EU in 2004. However, if properly and creatively applied, it should significantly diminish the identity and language issues providing the feeling of fairness and inclusion for both parts of the country. The same pragmatic approach to the EU integration can be applied in Moldova as well. The authorities, both in Tiraspol and Chisinau, lack the vision of creating a common state and base their interactions exclusively on a permanent power struggle and a zero sum game approach.

Other "Soft" Aspects of the Conflict Resolution

Regarding Moldova, a soft aspect of the resolution is the conflicting desires of unifying with Romania on one side of the political spectrum and unifying with Russia on the other side. Both polarizing ideas, based on a conflicting historical narrative, remain marginal and do not represent the majority of the society. During the last parliamentary election the parties promoting these ideas did not overcome the threshold, each only winning around 1-2 percent of the voters. However, despite their weakness at the polls, these parties are strong enough to pollute the political landscape to the point of political paralyses.

The majority of the Moldovan population used to support the idea of the European integration while desiring good relations with Russia (Voronin, 2003). During the Communist's rule, the idea of the European integration was officially recognized

as a national priority. Around 70% of the population approved EU integration as a main course of the country (Voronin, 2009). Lately Russian president Vladimir Putin launched a competing to the EU project – the Eurasian Union, which is aggressively promoted as an alternative to the EU for the former USSR allies – the East and Central European countries and Balkans ("Putin", 2012).

This union does not currently exist, and is in its initial stage known as the Customs Union of Russia, Belarus and Kazakhstan. Nevertheless the polls, comparing the existing European Union and nonexistent Eurasian Union, show that the Moldovans support both options equally.

The Communists, who are still popular among left wing and Russian-speaking voters, currently oppose to the idea of the European integration. They justify their change of mind as in opposition to the ruling coalition, which has styled itself as "the Alliance for the European Integration", in such way that has ousted the Communists from the popular niche of the European integration.

At the same time leader of the Communists, Vladimir Voronin, who is still one of the most popular politicians, does not outright reject the idea of the European Integration of Moldova. He merely regards it as unrealistic due to the EU's recent problems, amplified by Russian propaganda, and the EU's disregard of Moldova's European aspirations.

Recently, the Communists have dismissed the EU's unconditional support for the ruling coalition, which is quite hostile toward the Communists as illustrated by the banning of communist symbols (Socor, 2001), particularly symbols of the Stalinist regime responsible for the extermination of tens of millions of people during the Soviet time.

Another reason for the Communists' affront to the EU is that it lacks the funds necessary for the next elections and hopes to get financial support from the EU's "geopolitical opponent", Russia, in exchange for its opposition of EU integration.

Should the Communists come back into power they would inevitably revert to supporting EU integration as a counterbalance to Russian pressure. This pattern was seen the first time the Communists came to power in 2001 through the use of pro-Russian slogans, yet they changed their geopolitical orientation after the election (Socor, 2004).

The same happened to the pro-Russian president of Ukraine, Victor Yanukovych, who after coming into the power declared that he would be working towards

European integration. Both Voronin and Yanukovych see the EU as a protection from Russian interference, although their residual authoritarian inclinations continue to prevent them from embracing core EU values.

For now the Communists continue to use their propaganda tools to promote the Eurasian Union idea and criticize the European Union, acting as the Russian front in Moldova, competing for Russian financial support and the electorate with the smaller pro-Russian parties.

Russia's Virtual Politics vs. Real Interests

Russia perceives the EU's vulnerability during the current economic crisis as a historical chance to reestablish its former influence in the region at the expense of the EU's "waning power". Russia has recently launched an umbrella organization in Paris, which provides grants to EU organizations and personalities who promote the idea of a return to the nation state as opposed to membership in the EU. Russians unofficially dub it the "Sovereignty Revolution" in Europe and consider it retaliation for the Western support of the Orange Revolution in Ukraine on one side. On the other, pragmatic side, they are sure that when the EU will fall apart Russia will finally gain a "due" influence in the region.

The main ideological point, promoted by the Institute, is presumed deficit of democracy in the EU and the return to the nation state as a remedy for all the EU ills. Putin declared the intention to create the Institute in 2007 (Socor, 2007). Then he said that it would be a "proportionate response" to the European investment in the democratization of Russia, what amounts to 60 million euros per year.

Most beneficiaries of Russian assistance are the eurosceptics both ultra-right and ultra-left. This encourages not only the division of the EU, but radicalizes the internal politics of the individual EU states. An example of the effect of the cooperation is in Greece, which was on the brink of leaving the EU last summer and where ultra-right and ultra-left parties have lately been appearing seemingly from nowhere.

The same "divide and rule" strategy Russia has been applied in Moldova (Severin, 2011). Via offshore companies, Gazprom finances a Moldovan TV station, Publika, which, as a result of the massive investment, has gained a dominant position in the country and controls its political agenda.

Inviting politicians with extreme points of view – advocates of unification with Romania on one side and adherents to the idea of unification with Russia on the

other, Publika has managed to be one of the factors keeping the society divided (Severin, 2011). Additionally, Publika is a beneficiary of Russia's Free Video RT Agency, which provides free videos to tens of thousands of TV stations around the world, in such way as to impose its agenda.

Russian "soft measures", dubbed by Russians as an "information war", make reintegration with Moldova less attractive for Transnistria and diminishes the EU's potential as a conflict mediator. Playing the role of a spoiler, Russia is unable to become an attractive substitute for the EU, what leads to a political chaos and stagnation in the region.

The latest example is the active promotion, by Publika, of the Unionist march and pro-Russian countermarch, which was supposed to meet at the same time and the same place. The idea behind this was to incite a clash between two marginal forces opposing each other, in order to illustrate a visible "threat" of Moldova's Unification with Romania – the unique raison d'état for Transnistria existence.

Another goal has been to discredit Moldova as an immature state with a divided society on the international level. Nevertheless, Moldovan civil society has managed to prevent a clash, and has exposed Russia's involvement in the financing of both extremist movements (Severin, 2010).

Russia's Stake in Moldova and Cyprus Settlement

Russia plays a crucial role in the Moldova's Transnistrian settlement. However, the unification of Cyprus would also inevitably lead to a decrease in Russian influence in the region. Unofficially, the Russians like to dub Cyprus another "Russian region" largely due to the massive Russian investments in Cyprus. Germany's foreign intelligence agency (BND) estimates that Russian deposits around 20 billion euro into Cypriot banks – about 150 % of the country's GDP.

Generous provisions allowing rich Russians to gain Cypriot citizenship facilitate money laundering. BND found that some 80 oligarchs have gained access to the entire EU in this way (Volkery, 2012). According to Russia Today (TV station, financed by the Russian government), Cyprus is the largest source of foreign direct investment in Russia ("Cyprus", 2012).

The Kremlin is interested in preserving the current arrangement in order to protect Russian investment. In 2011, Russia granted 2.5 billion euro in credit to the Cyprus banks. However, the money has been used up and the Russian government is reluctant

to provide any more. Instead, Russia created the Customs Union Investment Fund making in such way the Customs Union more attractive for potential members experiencing lack of funds.

"The Cypriot government is banking on the Europeans being unable to refuse aid. When the euro finance ministers voiced criticism, their Cypriot counterpart reacted furiously, saying the country would solve its problems without the Europeans, if necessary, and threatened to leave the single currency", the article "Bailing out Oligarchs" says (Dettmer, 2012).

The reunification of Cyprus would diminish Russia's massive influence over the country naturally bound with Russia by the orthodoxy on one hand and by the communist brand, which Russia considers its heritage on the other hand.

Reunification would also significantly strengthen Turkish economic and political influence in the country. Russia perceives Turkey as a strong economic competitor in the region. From a political point of view, Turkey as a member of NATO is Russia's also geopolitical opponent.

Russia's direct involvement in the Cyprus conflict settlement "manifested itself in the Kremlin's stance on the Annan Plan for the reunification of Cyprus in 2004, when Russia torpedoed a UN resolution, backed by the EU, Turkey and the USA, to provide sufficient security guarantees for the implementation of the Plan" (Stergiou, 2012).

The major impact on the region that Russia achieves via indirect means, is described by the same source:

> In many ways, both Soviet and post-Communist Russian policy in the Mediterranean can be clearly identified with classic Realpolitik. Like the Soviet Union, modern Russia has followed a policy of slow but steady strategic and economic penetration into the countries of the eastern Mediterranean, especially Turkey, Greece and Cyprus. It should be noted that this penetration was achieved primarily through indirect tactics. Rather than take overt political actions, Moscow supported various political groups and governments with a view to weaken ties with the West and extend Russian influence southward.

Another reason why Russia is not interested in the reunification of Cyprus is that it is attempting to get involved in the exploitation of recently discovered energy deposits in the Cypriot and Israeli Exclusive Economic Zones (EEZ), which is expected to

lessen the dependence of the EU on Russian energy. This explains Russia's interest in strengthening the alliance between Israel, Cyprus and Greece while distancing Turkey.

For Russia, the geostrategic position of Cyprus in the southeastern Mediterranean has gained even greater attraction after the balance of power has shifted in the region due the Arab Spring and the potential loss of its strategic port in Syria.

Regarding North Cyprus, Russia has long been interested in non-recognized states, using them as an important leverage for its influence abroad. As we were informed during a study visit to North Cyprus, it is part of the so-called "coalition of unrecognized countries", including Abkhazia, South Ossetia, Nagorno-Karabakh and Transnistria. All of these non-states are actively supported by Russia.

Russia in general supports secessionists movements in Europe as a way of promoting the fragmentation of the EU - a process that would make the EU more complicated to manage and thus more reluctant to accept new member-states, especially the neighboring countries of its "privileged sphere of interest" or Turkey, which Russia would prefer to keep in its "sphere of control".

In addition, Russia is among the biggest investors in North Cyprus, which is usually accompanied with growing political influence. The North Cyprus "Plan B" (a "two-state solution") ideally suits Russia's interests in the region.

Different Approaches to Conflict Resolution – The Same Results

There is an important difference between the Moldova and Cyprus approaches. In Cyprus, the emphasize is on political status and power sharing negotiations, while confidence building measures were mostly neglected. Moldova, on the other hand, emphasizes the policy of "small steps", resolving technical sector issues between the divided communities, which eventually (in the long run) will theoretically lead to the *de facto* unification of the country. History and current affairs have proven that both approaches are not effective.

Cyprus: Elitist Approach Does Not Work

Cyprus' "elitist approach" to the problem based on high-level negotiations has not produce results. The people did not and will not approve of a solution produced without their participation.

The 2004 Referendum regarding the Annan Plan failed to obtain the necessary support from the Greek Cypriots. The proposed federalization plan did not take into account the main fears of the Greeks Cypriots – the potential secession of Turkish Cypriots. It seems that during the negotiations, the Turkish Cypriots obtained better deal than Greeks Cypriots.

North Cyprus is more isolated, vulnerable and dissatisfied with the *status quo* than Cyprus is. In reality, the North Cyprus probably would be able to agree to a lesser option with the support of the people – autonomy within a centralized federation. This would guarantee all rights for the Turkish Cypriots, but at the same time would soothe Greek Cypriot's fears of the potential secession of the North Cyprus.

Moldova passed the similar stage in 2003 with the Kozak Memorandum (The Russian Federation, 2003), elaborated and negotiated with Russia as the mediator. However, at the last moment, the Moldovan President rejected signing the document.

The document was made public just a week before its official signing (Emerson, 2003). Moldovan civil society actively opposed to the Kozak Memorandum, which would have offered exaggerated powers to the breakaway province and dramatically increase Russia's influence over Moldova. The Plan granted to Transnistria 1/3 of the seats in the future Federation Senate as well as the right to veto with only 1/4 of the votes what would affect the adoption of ordinary and organic laws and Government designation (Botan, 2003). There were persistent fears that if implemented the Kozak Memorandum could either block Moldova's EU integration or legitimize Transnistria's secession.

Moldova: "Small Steps" Policy Reached Its Limit

During the last three years Moldova has practiced the policy of "small steps" in the Transnistrian conflict resolution – a process usually dubbed as confidence building measures. Recently this policy was paused when critics insisted that the policy promoted the unilateral concessions from Moldovan side.

Transnistria, despite the concessions did not change demand to obtain independence from Moldova and unite with Russia. In fact, if the "small steps" policy had continued, it would have led to the legitimization of Transnistria's independence, rather than reunification.

During the last several months, in spite of Moscow's high-level politically correct declarations on Moldovan sovereignty, independence and territorial integrity, Russia

has managed to, and continues to, strengthen its political and military presence in Transnistria. It seems that Moldova has failed to offer Transnistria an attractive vision of a common future and an inclusive model of coexistence.

Confidence Building Measures Should Not Be Neglected

Nevertheless, confidence-building measures still are a key to the conflict resolution. However, the main role here should play not the Governments "small steps" policy, but rather the civil societies and business communities of divided sides, within the framework of the new package of Confidence Building Measures, initiated and funded by the EU. The EU financially and organizationally supports these confidence-building measures. From March 2012 to February 2015 the EU allocated 9.5 million euros to fostering cooperation between Moldova and its Transnistrian region in the fields of: 1) business development; 2) social and community infrastructures, health and environment, 3) civil society ("Support", 2012). This special role could be attributed to development of capacity building and infrastructure of confidence-building measures and to the strengthening civil society and business connections. Also the "small steps" policy contributed to the resolution of the day-to-day problems of both communities and elimination of the barriers between them at the official level that should be complemented with the civil society and business interaction as the main confidence-building component.

As the confidence building measures cannot be either omitted or postponed, the political negotiations on the status should not be neglected too.

All three processes – the small steps at the level of governments, the confidence building measures at the business and nongovernment organizations level and the negotiation process in the international format 5+2 or 1+1 (Chisinau plus Tiraspol) should be synchronized.

The Role of the EU Should Evolve

The same applies to Cyprus where the EU could play a more active role encouraging the "small steps" policy and confidence building measures in parallel with the negotiation process.

While, in Moldova, the EU has played a catalyzing role in confidence building measures, in the Cyprus case, the EU has lost its ability to play a significant role in the country unification process since Cyprus stopped to be an aspirant country and

became a full fledged member of the EU. However, the EU can still significantly contribute to confidence building measures in Cyprus by upgrading its cooperation with civil society, and by increasing its role in building effective and benevolent communications between the two communities in such way eliminating psychological barriers.

The example of the EU as an organization that has managed to maintain peace and resolve complicated issues between the European countries in peaceful way should be emphasized. The EU is a viable example of successful integration, despite all its temporary setbacks.

Countering Opposition to the Confidence Building

In both the Moldova and Cyprus cases there are some vested interests in a 'non-solution' and nontransparent investment to continue a 'non-solution'. In both countries the role of spoiler promotes the 'Plan Bs' – the unification of Moldova with Romania in the Moldovan case and the "two-state solution" in the Cyprus case. Both "Plans Bs" are not only not realistic, but also damage the trust between the communities of the divided countries.

Additionally, the 'two-state solution', promoted by Turkish and Greek nationalists on the island, is not acceptable for the EU, which recently declared that "there is no Plan B for Cyprus", emphasizing the necessity to continue to look for an optimal formula for reunification that is acceptable to both sides.

The opposition to reunification in Moldova is most visible in the mass media, which often either fosters false information or transforms marginal topics and issues into mainstream news, triggering fears and damaging trust between the two sides.

The collaboration between the journalists from both sides should be encouraged by raising their awareness concerning the need for an objective, and equidistant approach in relating events, in this way diminishing the manipulation of public opinion by the nationalist and other internal and external interest groups. Sponsoring "confidence boosting" publications and their presentations to the wider public would help to counter different types of the "non-solution" propaganda.

Conclusion

- The three main approaches to the settlement – policy of "small steps", confidence building and official negotiations should be combined and ideally synchronized

- The "soft" aspects of the conflict resolution should not be ignored

- The Cyprus experience of failed federalization should be seen as a negative example for Moldova. The emphasis should be on building "cohesion" and "civic nationalism" among the divided communities than on a mechanical "power sharing", based on a "zero sum game" principle.

- Greek Cyprus lost interest in conflict settlement after the Republic of Cyprus became a member of the EU.

- While the *status quo* is not popular in North Cyprus and Transnistria, it is acceptable for Moldova and Cyprus. The EU should find a way to encourage both Cyprus and Moldova to work towards reunification. As beneficiaries of the European Union they should become providers of the regional stability.

- Financial assistance to Moldova and the bail out of Cyprus could be a good incentive for reunification, not to mention the solidarity principle as a core European value.

- The EU should strengthen its presence in the conflicting regions.

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MAIN OBSTACLES TO FINDING A SOLUTION OF THE TRANSNISTRIAN CONFLICT

By Radu Vrabie[1]

Unlike the other frozen conflicts in former Soviet areas, the Transnistrian one does not have an ethnic or religious component, which, at first glance, makes it appear as if it would have been easy to solve. However, after 22 years, the conflict remains. Moreover, it seems as though Chisinau and Tiraspol have more and more divergent and irreconcilable visions of the future. Chisinau insists on autonomy with a special status for Transnistria, while Tiraspol desires to be independent as well as being part of Russia to a degree. Furthermore, nowadays, both internal and external factors have been unfavorable for a political solution. Consequently, if the internal factors are unable to find a political solution, the external factors will be crucial in determining the course of future events.

The Failure of the Meseberg Memorandum: Now an Obstacle to a Resolution

On June 5th, 2010, German Chancellor Angela Merkel and Russian President Dmitry Medvedev signed the Russian–German Meseberg Memorandum, under which the EU and Russia were to create a joint Foreign Policy and Security Committee (at the level of ministers), with the Transnistrian conflict at the top of the Council's agenda. However, it has been two and a half years since the signing and the committee has yet to be formed. This is partly a result of Russia and European member states' differing expectations surrounding the Memorandum. For example, Moscow considers the ball to be in Brussels' court and that they should initiate the proposals agreed upon in the Memorandum. However, the 27 member states in the European Union lack a consensus on the Memorandum which has led to the delay of its application. Furthermore, Brussels views progress on the Transnistrian conflict to be a test of Russia's sincerity in respecting Europe's current security policy. While, at the same time, Moscow sees the creation of the joint European anti-rocket shield between Russia and NATO as a test of Europe's sincerity in fully implementing the Memorandum.

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Consequently, it seems that developments in the Transnistria conflict are not going well. Russia perceives the 2011 re-launching of the 5+2 negotiations to be of its doing, a symbolize a sign of faith towards Germany and the EU that was not responded to properly. Thus, the appointment of Dmitry Rogozin as the Special Representative to the Russian President for Transnistria ("po Pridnestrovyu") by out-going President Dmitry Medvedev, illustrates Moscow's new attitude towards the conflict and its belief that the Memorandum is dead.

Was Russia Sincere?

The Meseberg Memorandum was signed June 5th, 2010 by German Chancellor Angela Merkel and Russian President Dmitry Medvedev. It envisaged the creation of a high-level EU–Russian Political and Security Policy Committee for consultations and decisions in order to enhance EU–Russian coordination and make joint actions to resolve various security issues in Europe a possibility. It also identified the Transnistria conflict as the only applicable test case for EU–Russian security cooperation. The conflict was identified as such under the assumption that it is relatively more amenable to a resolution in comparison with the other conflicts in the former Soviet territories.

It should be mentioned that Chisinau welcomed the agreement, in the form of the Memorandum, between Merkel and Medvedev, hoping that it would lead to the re-launching of the 5+2 official negotiations that would revitalize the Transnistrian settlement. The following declaration of the EU High Representative on Moldova and the trilateral agreement in Deauville increased optimism among Moldovan politicians regarding such an aim. In particular, the three leaders' joint Deauville declaration called for the EU to launch a 'modernization partnership' with Russia; to adopt a road-map for visa-free travel between Russia and the European Union; and to initiate "institutional and operational cooperation between Russia and the EU" regarding European security. The three signatory leaders pledged to "work jointly on security issues in the Euro-Atlantic and Eurasian zones" (a two-zone concept, at odds with the EU rhetoric of a 'single security space'). Furthermore, the three leaders intended to seek "closer cooperation in order to contribute, in a tangible way, to mutual confidence and collective actions on conflict prevention and management, opening the way for the settlement of long-standing conflicts, such as the one involving Transnistria".

This all looked very optimistic at the time, however, some of the details in the Deauville document belie the divergent perceptions of the interpretations of the

said document by the various parties. Firstly, the Transnistria conflict is the only issue specified as a possible object of Franco–German–Russian cooperative action. Although it highlights the Transnistria conflict, the Deauville declaration fails to mention the recognized, legal and sovereign state of Moldova indicating the Declaration's political nature. Apparently, the Russian drafters were able to successfully prevent any mention of Moldova, in line with Moscow's practice of referring to Transnistria as a separate entity from Moldova therefore decreasing lip-service to Moldova's territorial integrity.

From Russia's standpoint, withdrawing both its troops from Moldovan territory and its support of Tiraspol authorities is a negligible price to pay for an increased role in European security affairs. However, Medvedev adopted a wait-and-see attitude toward this proposal at the Deauville meeting and at the concluding press conference, Medvedev suggested that a resolution of the conflict be facilitated, but deflected responsibility onto the other actors. Medvedev additionally declared that any solution "depended on the position of Moldova, Transnistria, Romania, and the EU."

Medvedev's response indicated, first, that Russia would maintain its established preconditions regarding Moldova (the permanent neutrality of Moldova and a special status for Transnistria negotiable on a co-equal basis, all under Russian-led politico-military guarantees) until further notice. Second, a support for the continuation of Tiraspol's veto power (with a solution "depending on" Transnistria as well as the other players). Third, it cautioned the EU to either lower its expectations or raise the price. And fourth, as a novel element, it placed the responsibility for the outcome of any negotiations on Romania (as well as other parties), indicating an intent to distort the process and deflect blame for the deadlock. The second time that Russian and the European (German) positions were this different was at the time of the re-launching of official talks in the 5+2 format. Thus, Moscow wanted to realize this without any European implications, showing this move as a step forward in the Meseberg initiatives. In this sense the Russian Minister of Foreign Affairs, Sergey Lavrov, have offered encouraging signals to their European partners that a re-launch is possible.

In receiving Moldova's Foreign Affairs Minister, Iurie Leanca, on March 29th, 2011 in Moscow, Lavrov recognized "Moldova's territorial integrity". Calling for a "special status for Transnistria in the framework of a united Moldovan state," Lavrov endorsed the soonest possible resumption of the 5+2 negotiations, saying that "we will do everything to persuade the parties to adopt this position".

However, efforts to re-launch the Transnistria conflict negotiations, in the 5+2 format (Russia, Ukraine, the OSCE, the United States, the European Union, Chisinau, and Tiraspol) collapsed on June 21ˢᵗ, 2002 in Moscow after a five-year hiatus. Surprisingly, Tiraspol rejected Lavrov's position instantaneously and firmly. Transnistria's "ministry of foreign affairs" declared:

"We underline that none of the documents adopted during the negotiation process ever stipulated a resolution within a 'united Moldovan state' or the maintenance of 'Moldova's territorial integrity' . . . Any attempt from outside to impose a resolution model that ignores the existing realities will be rejected by the people of Transnistria, and will cast doubt on the need to negotiate in any formats". Having thus threatened to block the negotiations indefinitely, the declaration invoked the 2006 referendum in Transnistria, whereby its "multinational people" voted for "independence" and subsequent integration with Russia.

In the end, Moscow managed to convince Tiraspol to be more flexible to its demands in September 2011 and official negotiations started two months later in Vilnius. Subsequently, participants in the international Transnistrian conflict negotiations announced their collective intention to re-launch official negotiations after a five-year hiatus. In doing so, Russia expected to receive a response from the German government and, implicitly, from the EU. However, it seems as though the EU member states remain divided regarding the German–Russian initiative and Berlin was unable to respond to the developments organized by Russia. The scenario envisaged by Chancellor Angela Merkel and President Medvedev in the 2009 Meseberg Memorandum, has yet to materialize in any shape, other than in informal contact, thus far. Apparently, although Germany is not a member of that process, it is attempting to establish a role in the negotiations by nudging Chisinau into unilateral concessions within the 5+2 process. While the inducement of concessions from Moldova within the 5+2 framework by external parties would distort the process, it might, at a price, restore Moscow's confidence in Berlin and the Meseberg process could be restarted.

However, with Medvedev's departure from office, and his sudden appointment of Rogozin as Putin's special representative to Transnistria, the Meseberg process seems to be heading nowhere.

What Is to Be Done?

The failure of the Meseberg Memorandum should not affect the European Union's long-term goal of the settlement of the Moldovan and Transnistrian conflict. It is clear that in order to succeed economically and politically, Moldova needs external help. In this sense the EU can contribute to its development by proceeding with the following actions:

- Work out and propose a common assistance package for modernizing the Transnistrian region, which would be at least equal to the assistance provided by Russia in the region. Such a package of assistance would be provided in exchange for steps taken towards the democratization and demilitarize of the region. Furthermore, it would promote a dialogue and cooperation between Tiraspol and Chisinau at all levels, remove all obstacles hindering the movement of persons and goods between the banks of the Dniester, and implement joint infrastructure-related projects between Tiraspol and Chisinau.

- Give assurances to Moldova that it will have the EU's full political and financial support in drawing closer to the EU, just as Moldova should exert maximum effort to fulfill its commitments to the EU;

- Reassure Moldova of its devotion to the resolution of the conflict through high-level visits;

- Engage further in the resolution of the Transnistrian conflict and devise a strategy for a resolution, including 'stick and carrot' incentives;

- Continue with EUBAM. Also, the EU should assist the Moldovan government in devising resolution strategies for the Transnistrian issue; this could include step-by-step trade-offs and their ramifications, outlines of a possible settlement worked out by the parties and partners with input from civil society, as well as a media strategy. This will require programmes to enhance think-tank capacity in Chisinau, that were depleted following the 2009 elections when many analysts took new positions. Programmes increasing NGO capacity should ensure know-how transfer from international experts to local activists for long-term sustainability as well as a cross-party consensus in parliament. The strategy should address the activation or amendment of the large number of memoranda and agreements between Chisinau and Tiraspol over the last 20 years.

Chisinau will need to demonstrate that it will abide by its autonomy agreement with the southern region of Gagauzia. By accomplishing these actions the EU can increase its role in the settlement of the conflict and form a consensus in order to be able to effectively utilize its influence that would allow it to be more able to promote its principles, values and legitimate interests in Transnistria.

PUBLIC INTERNATIONAL LAW AND THE CONFLICT OVER TRANSNISTRIA

By Christopher J. Borgen[1]

Introduction

This essay reviews the public international law norms and state practice related to the issues of self-determination and secession, with a particular emphasis on the Transnistrian conflict.

The discussion has five main parts. First, I will briefly summarize some of the legally relevant aspects of the recent history of the conflict over Transnistria. Part Two will consider international law as it relates to self-determination, secession, and the recognition of states. The third section will turn to the application of these legal principles to the Transnistrian conflict. Part Four considers the recent International Court of Justice (ICJ) decision concerning Kosovo's declaration of independence and its implications concerning self-determination and secession. Finally, Part Five will have some brief closing observations on the use and abuse of international law in intractable conflicts.

I have set aside the complex issues related to property rights and restitution but note that some of these issues are covered at length in the NY City Bar Report *Thawing a Frozen Conflict: Legal Aspects of the Separatist Crisis in Moldova* (the "Moldova Report").[2]

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1 Christopher J. Borgen is Associate Dean for International Studies and Professor of Law at St. John's University School of Law. Unlike other chapters of this publication, the reference style of the chapter written by Christopher J. Borgen follows the standard European legal format for citation. This is due to its content, which focuses on the public international law norms.

2 Special Committee on European Affairs, 'Thawing a Frozen Conflict: Legal Aspects of the Separatist Crisis in Moldova,' 61 *Record of the Association of the Bar of the City of New York* 196 (2006) [hereinafter "Moldova Report"]. In late May 2005 the Association of the Bar of the City of New York, through its Special Committee on European Affairs, sent a legal assessment team to the Republic of Moldova, including Transnistria, to consider the international legal issues involved in the conflict over Transnistria. The mission was led by committee chair Mark A. Meyer, a member of the law firm Herzfeld & Rubin. The members of the mission were Barrington D. Parker, Jr., United States Circuit Court Judge for the Second Circuit; Robert Abrams, partner of the law firm Stroock & Stroock & Lavan and former Attorney General of the State of New York; Elizabeth Defeis, Professor of Law and former Dean of Seton Hall University Law School; and me. We were not representatives of any party in the dispute; we were convened as experts not beholden to any side. We met with and interviewed over forty

Moreover, various themes that are discussed in this memo are also developed at greater length both in that report and in my own various articles; sections of this memo are adapted from those texts.[3] However, where needed, due to subsequent history and reflection, I have expanded upon or revised analyses from the Moldova Report and those articles. I must emphasize that this new essay consists of my own personal reflections and is not an official report of the New York City Bar.

A Short History of the Transnistrian Conflict

The region in which Moldova is located is a crossroad of cultures. Historically, the west bank of the Nistru River was called Bessarabia. "Transnistria" referred to the East bank. Prior to the Soviet period, Transnistria "was, at an even deeper level than in Bessarabia, a classic borderland where ethnic identities were fluid and situational, and where Russian, Ukrainian, Romanian, Jewish, and German influences combined to create a mixed culture."[4]

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policymakers and diplomats from Moldova, (including the Transnistrian separatist leadership), Romania, Russia, Ukraine, and the United States. We also met with representatives from various civil society groups and other interested parties. The result of our efforts was the Moldova Report.

3   In particular, I discuss the evolution and application of the law of self-determination to issues of secession at greater length in Christopher J. Borgen, 'Imagining Sovereignty, Managing Secession: The Legal Geography of Eurasia's "Frozen Conflicts,"' 9 *Oregon Rev. Int'l L.* 477 (2007), available at <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1345846>. I consider how great powers utilize the legal rhetoric of self-determination, particularly in the cases of South Ossetia and Kosovo in Christopher J. Borgen, 'Great Powers, Small States, and the Rhetoric of Self-Determination: The Cases of Kosovo and South Ossetia," 10 *Chicago J. Int'l L.* 1 (2009), available at <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1472068>. Also, I analyze issues related to great power competition and normative regionalism, located in Part Four of the paper, in Christopher J. Borgen, 'Whose Public, Whose Order?: Imperium, Region, and Normative Friction,' 32 *Yale J. Int'l L.* 331 (2007), available at <http://papers.ssrn. com/sol3/papers.cfm?abstract_id=989984>. This essay is also based in part upon a previous discussion paper I had written, Christopher J. Borgen, "The Not-So-Great Game in Moldova: International Law and Hegemony in the Russian Near Abroad," discussion paper prepared for the Harriman Institute Seminar Series on Limited Sovereignty and Soft Borders in Southeastern Europe and the Former Soviet States (November 12, 2009). A version of this present essay was presented at "International Law and Self Determination: The NYCBA Report on Transnsitria in Light of Recent Developments," under the auspices of the Soros Foundation – Moldova in Chisinau, Moldova on September 27, 2012.

4   Charles King, *The Moldovans: Romania, Russia, and the Politics of Culture* 181 (Hoover Press 2000). The following narrative draws from King's book as well as Graeme P. Herd, *Moldova & the Dniestr Region: Contested Past, Frozen Present, Speculative Futures?* Conflict Studies Research Centre, Defence Academy, UK, Central & Eastern Europe Series 05/07 (February 2005) *available at* http://www.da.mod.uk/colleges/csrc/document-listings/cee/; and Pal Kolstø & Andrei

In the mid-1920's Bessarabia was part of Romania. In 1924, Josef Stalin established the Moldovan Autonomous Soviet Socialist Republic (or "MASSR"), which included Transnistria, as an autonomous province within the Ukrainian Soviet Socialist Republic. In 1939, the Union of Soviet Socialist Republics (USSR) and Germany signed the Molotov-Ribbentrop Pact, which, among other things, provided for the USSR's annexation of Bessarabia, which had by then been part of Romania for more than twenty years. In 1940, Romania was forced to cede Bessarabia and other territory to the USSR. Stalin merged Bessarabia and the MASSR into the Moldavian Soviet Socialist Republic (or "MSSR"), which became the fifteenth republic within the USSR.

While a sense of history is important to frame the conflict over Transnistria, the current crisis can be traced to more recent events. Contemporaneously with the events leading to the fall of the Berlin Wall, from August to December 1989, the MSSR parliament passed a series of language laws that made Moldovan (essentially, Romanian) the official state language and that also began a transition from Cyrillic to Latin script. On April 27, 1990, the Supreme Soviet of Moldova adopted a new flag and a national anthem.

The population of Gagauzia, a part of Moldova with a large Turkic population, declared the establishment of the Gagauz Republic on August 19, 1990.[5] On September 2, 1990, deputies from Transnistria declared the Transnistrian Soviet Socialist Republic as a separate republic (a Union republic) of the USSR.[6] This should not be understood as a declaration of full international sovereignty, but of "sovereignty" in the sense of seeking to become a Union republic (on par with the MSSR) within the Soviet constitutional system. While the Russophone leaders of this entity will eventually refer to it as the "Pridnestrovian Moldavian Republic," we will use the more common English translation: the "Transnistrian Moldovan Republic" or "TMR."

Edemsky with Natalya Kalashnkova, *The Dniester Conflict: Between Irredentism and Separatism*, 45 EUR.-ASIA STUD. 978 (1993). A longer version of this narrative is contained in the Moldova Report, *supra* note 2, at 210-23.

5   Marius Vahl and Michael Emerson, 'Moldova and the Transnsistrian Conflict,' in Bruno Coppieters, et al., *Europeanization and Conflict Resolution: Case Studies from the European Periphery*, 157 (Academia Press 2004). See, also, Edward Ozhiganov, 'The Republic of Moldova: Transdniester and the 14th Army,' in Alexei Arbatov, et al. (eds), *Managing Conflict in the Former Soviet Union: Russian and American Perspectives* 161 (MIT Press 1997).

6   Ozhiganov, *supra* note 5, at 162; Vahl and Emerson, *supra* note 5 at 158.

A group of Russian speakers led by Igor Smirnov, a factory manager who had come to Moldova in November 1987 to become a director of the Elektromash factory in Tiraspol, expressed concern that the newly sovereign MSSR would soon seek reunification with Romania and take Transnistria along with it.[7] Soon after the September 2nd declaration, separatists began taking over police stations and government institutions in Transnistria.[8]

Chisinau rejected both declarations for new union republics. At first, Moscow reacted to the Gagauz and Transnistrian declarations with silence.[9] The Gagauz Republic was subsequently outlawed by a decree from Moscow, which aided in its reintegration in Moldova as an autonomous area within Moldova.[10]

Moldova sought independence from the USSR. On May 23, 1991, the Moldavian Soviet Socialist Republic changed its name to the Republic of Moldova.

On August 27, 1991, the Moldovan parliament, in the aftermath of the attempted putsch against Gorbachev, declared Moldova to be an independent republic. Igor Smirnov, the leader of the Transnistrian separatists, argued that Transnistrian independence was necessary to protect the Russian minority in Transnistria from the possible reunification of Moldova with Romania. After the August 27th declaration of independence by Moldova, Moldova's President Snegur asked the UN to accept Moldova as a member state.[11]

On September 6, 1991, the Supreme Soviet[12] of the TMR "issued an order placing all establishments, enterprises, organizations, militia units, public prosecutors' offices, judicial bodies, KGB units and other services in Transnistria, with the exception of military units belonging to the Soviet armed forces, under the jurisdiction of the 'Republic of Transdniestria'".[13] The Government of Moldova, for its part, announced in Decree no. 234 on November 14, 1991, that all property of Soviet military units within the Republic of Moldova were now the property of Moldova.[14]

The USSR dissolved on December 15, 1991; the United States recognized the

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7   King, *supra* note 4, at 188-89.

8   Id., at 189.

9   Ozhiganov, *supra* note 5, at 162.

10 Vahl and Emerson, *supra* note 5, at 157.

11 Ozhiganov, *supra* note 5, at 168.

12 The Supreme Soviet is the parliament.

13 Case of Ilascu (Ilascu v. Moldova) 311 Eur. Ct. H.R., at para. 35 (2004).

14 Id., at para. 37.

independence of the Republic of Moldova on December 25, 1991.[15]

The situation between the Republic of Moldova and the Transnistrian separatists boiled over in the summer of 1992. Fighting erupted in and around the city of Bender and elsewhere. The Russian 14th Army (previously the Soviet 14th Army), which had been garrisoned in Moldova, intervened on the side of the Transnistrians and, in part due to the 14th Army's positions, the Moldovan Army was unable to take control of Bender or Dubasari.[16]

The fighting resulted in approximately 1,000 deaths and 130,000 people either internally displaced or seeking refuge in other countries.[17] On July 21, 1992, the fighting ended with Moldova signing a cease-fire agreement that was notably countersigned by Russia, as opposed to the Transnistrians.

The result of the Russian intervention was that Transnistria became effectively partitioned from the rest of Moldova.

As the years since the 1992 war passed, observers became increasingly concerned that Smirnov and his associates had no intention of allowing formal reintegration into Moldova as that might thwart increasingly profitable smuggling activities. The end of the 1990's saw another series of attempts to resolve the conflict, including plans for a federal state and for Transnistrian autonomy within a Moldovan state, none of which succeeded. Russia and, to a lesser extent, Ukraine were involved in the ongoing situation as "guarantors" of regional peace and stability.

The Transnistrian conflict has been at a deadlock since the mid-1990's. The TMR settled into a waiting game; as the then-Chairman of its so-called Supreme Soviet, Grigoriy Marakutsa said in 2003: "Every year we are getting closer to our international recognition".[18] In the ten years since this statement, the TMR has yet to

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15 Bureau of European and Eurasian Affairs, *U.S. Relations With Moldova Fact Sheet* (June 14, 2012) available at http://www.state.gov/r/pa/ei/bgn/5357.htm

16 King, *supra* note 4, at 193-94; See, also, Vahl and Emerson, *supra* note 5, at 158 (The 14th Army "played a decisive role in the brief military conflict in Moldova.") More generally, the 14th army was a wild card, causing Moscow to be concerned about whether the 14th would transform itself almost wholly into a Transnistrian Army. Thus, the "presence of the 14th Army [in Transnistria]… seriously complicated the situation." Ozhiganov, *supra* note 5, at 147.

17 King, *supra* note 4, at 178.

18 Graeme P. Herd, *Moldova & the Dniestr Region: Contested Past, Frozen Present, Speculative Futures?* 1, Conflict Studies Research Centre, Central & Eastern Europe Series 05/07 (February 2005) at 4, *available at* https://da.mod.uk/CSRC/documents/CEE/05%2807%29-GPH.pdf.

receive its first recognition from a UN member state.[19] As for the mediation process, the United States of America (U.S.) and the European Union (EU) have become increasingly involved: the "5+2" talks have included Moldovan leadership, TMR leadership, Russia, Ukraine, and the Organization for Security and Co-operation in Europe (OSCE) as the main five stakeholders and the U.S. and the EU as the official observers.

Kosovo's declaration of independence, the Russian-Georgian war in the summer of 2008, and, as I will explain later, the *legal arguments about those events*, may have political effects on the Transnistrian case, but they have not changed the basic legal norms. Before turning to that, though, I will set out in Part Two the legal issues related to self-determination and secession.

Legal Aspects of Self-Determination, Secession, and the Recognition of Statehood

The Evolution of Self-Determination

Although the self-determination of peoples was mentioned in Woodrow Wilson's 14 Points, the UN Charter,[20] and in major human rights treaties,[21] its exact meaning has evolved. For example, at various points in international legal history, the term "people" has been used to signify citizens of a nation-state, the inhabitants in a specific territory being decolonized by a foreign power, or an ethnic group. As understood in the 1960s, self-determination was essentially another term for decolonization: stating that *all* peoples had a right to self-determination meant that all *colonies* had a right to be independent.[22] As the era of decolonization waned, the

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19 Although, it has received statements of recognition from largely-unrecognized entities, such as Nagorno-Karabakh and Abkhazia.

20 The UN Charter referred to self-determination in Article 1, stating that one of the purposes of the UN was "To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples…" See Art. 1, para. 2 and Art. 55 Charter of the United Nations.

21 Article 1 of both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights states: "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." *International Covenant on Civil and Political Rights*, 16 December 1966, 999 U.N.T.S. 171, Art. 1 para. 1; *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, 993 U.N.T.S. 3, Art. 1, para.1.

22 Patricia Carley, *Self-Determination: Sovereignty, Territorial Integrity, and the Right to Secession*, (1996) 3–4. But, see Antonio Cassese, *Self-Determination of Peoples: A Legal Reappraisal* 51(1995), stating that by the time the self-determination language of Article 1 of the International Covenant of Civil

question became what effect would a right to self-determination have outside of the colonial context. There were thus two questions that needed to be resolved: (a) *who* has a right to self-determination; and, (b) *what* does the right entail outside of the decolonization context?

Today the right to self-determination is generally understood to be "the right of cohesive national groups ('peoples') to choose for themselves a form of political organization and their relation to other groups".[23] The mainstream view is that the choice of political system and pursuit of economic, social and cultural development would occur under the auspices of an existing state, and would not require the establishment of a new state. This conception of *internal* self-determination makes self-determination closely related to the respect of minority rights. Furthermore, modern views of self-determination also recognize the "federalist" option of allowing a certain level of cultural or political autonomy as a means to satisfy the norm of self-determination.[24]

Perhaps the single most contested issue concerning self-determination is defining what is meant by the self-determination *of peoples*. As the Canadian Supreme Court put it in the *Secession of Quebec* opinion, the meaning of "peoples" is "somewhat uncertain".[25] Prior to being defined as the population of a colony, the term "people" had often meant "an ethnic group". For example, the commission of jurists that addressed the status of the Aaland Islands in 1920-21 used an ethnographic definition of "people." But equating the term "people" with "nation" has been criticized by some for being too restrictive, as it is difficult to show that a group is the near totality of an ethnic nation. Others have argued that defining people based on ethnicity opens too many possible arguments for rights of self-determination, such that concerns for international stability led States to deny that there was a right

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and Political Rights was adopted in 1955, few States argued that the principle only applied to colonial rule.

23 Ian Brownlie, *Principles of Public International Law*, 7th ed. (2008), 580; see, also, Daniel Thurer, 'Self-Determination', in R. Bernhardt (ed.), 4 *Encyclopedia of Public International Law* (2000), 367. I have described elsewhere how the concept of "self-determination" is used in the diplomatic strategies of great powers and how it effects the diplomatic strategies of those powers; see Christopher J. Borgen, 'The Language of Law and the Practice of Politics: Great Powers and the Rhetoric of Self-Determination in the Cases of Kosovo and South Ossetia', 10 *Chicago Journal of International Law* (2009) 1, 1.

24 Daniel Thurer, 'Self-Determination, 1998 Addendum', in R. Bernhardt (ed.), 4 *Encyclopedia of Public International Law* (2000) 373.

25 Reference re: Secession of Quebec, 2 S.C.R. 217 at para. 123 (1998).

of self-determination to ethnic groups *within* colonial territories.[26] According to the Italian jurist Antonio Cassese, the "UN has remained silent in response to claims" by ethnic groups such as the Kurds or the Basques seeking self-determination.[27]

In the post-colonial era, instead of returning to the older ethnographic definition, various commentators have attempted to reframe the analysis by defining the idea of "the self-determination of peoples" in non-ethnographic terms. Professor James Crawford of Cambridge argues that the "units" to which the principle of self-determination applies can be best understood by not focusing on the term "people". Rather,

> The units to which the principle applies are in general those territories established and recognized as separate political units; in particular it applies to the following:
>
> (a) trust and mandated territories, and territories treated as non-self-governing under Chapter XI of the [UN] Charter;
>
> (b) States, excluding for the purposes of the self-determination rule those parts of States which are themselves self-determination units as defined;
>
> (c) other territories forming distinct political-geographical areas, whose inhabitants are arbitrarily excluded from any share in the government either of the region or of the State to which they belong, with the result that the territory becomes in effect, with respect to the remainder of the State, non-self-governing; and
>
> (d) any other territories or situations to which self-determination is applied by the parties as an appropriate solution.[28]

In this analysis, category (a) essentially refers to former colonies and, as such, is not of interest regarding Transnistria. We can also set aside category (d), as this would apply only if the parties involved agreed that the group in question should have the right to self-determination. The problem here, of course, is that the parties have not agreed upon this issue. Category (b) concerns how a state itself may use the arguments of self-determination; that will be considered below.

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26 See Cassese, *supra* note 22, at 73.
27 Id. at 103.
28 James Crawford, *The Creation of States in International Law*, 2nd ed. (2006), 127.

At times it may be unclear whether the entity claiming a right to self-determination is already an existing state or merely a territory within a state that is attempting to secede from that state. In such disputes, "a certain date, or several dates, will assume prominence in the process of evaluating the facts".[29] The critical date would be the date that establishes any relevant boundaries: if the territory seeking self-determination is *within the boundaries of a pre-existing state*, then that entity would belong in category (c). If, as of the critical date, the territory seeking self-determination is already a state, the situation would be category (d).

Once we have decided what category best defines a particular entity, one still needs to assess *what the right of self-determination would actually entail.*

The Québec Commission, a group of experts convened by a committee of the National Assembly of Québec to provide advice concerning the legal issues implicated by a hypothetical secession of Québec, considered this question. The Commission found that the right to self-determination is context-dependent, that different definitions of "peoples" lead to different applications of the right to self-determination, and that secession is only recognized as a remedy in the case of decolonization.[30] In cases other than decolonization, there is no right to such "remedial" secession.

As long as a state allows a minority group the right to speak its language, practice its culture in a meaningful way, and participate effectively in the political community, then that group is said to have *internal* self-determination. According to this view, a right of self-determination is not a general right of secession.[31]

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29 Brownlie, *supra* note 23, at 125. See, for example, the *Eastern Greenland* Case (Norway v. Denmark), PCIJ, Ser. A/5, no 53, p. 45 (the Court finding that the Norwegian proclamation of 10 July 1931 was the critical date) and the *Island of Palmas* arbitration (Neth. V. U.S.) 22 Am J. Int'l L. 867 (1928) (finding the critical date was the treaty of cession of the territory by Spain); see discussion in Brownlie, *supra* note 23, at 126. See, also, 1 *Oppenheim's International Law* (9th ed. 1992) (Robert Jennings and Arthur Watts, eds). [*hereinafter* "*Oppenheim*"], at §273, pp. 710-12.

30 The Report of the Group of Experts Concerning the Territorial Integrity of Québec in the Event of the Attainment of Sovereignty, [hereinafter the "Quebec Commission"] at Sec. 3.07 in Anne F. Bayefsky, ed, *Self-Determination in International Law: Quebec and Lessons Learned* 241 (Kluwer 2000).

31 See, *e.g.*, Crawford, *supra* note 28, 247; Quebec Commission, *supra* note 30, at 248, 279–280 (stating that secession is only recognized as a remedy in the case of decolonization); Cassese, *supra* note 22, at 40 (stating that self-determination does not mean a right to secede). But, see Malcolm N. Shaw, *International Law* 271 fn 140 (5th ed. 2003) (stating that a posited right of remedial secession is "the subject of much debate").

However, commentators also explained that one cannot say that international law makes secession illegal.[32] If anything, international law is largely silent regarding secession, and attempted secessions are, first and foremost, assessed under domestic law.[33]

As a matter of modern diplomatic practice, though, secession is strongly disfavored. Allowing easy recourse to secession would have clashed with a cornerstone of the UN, article 2(4) of the UN Charter, the territorial integrity of states. Thus, while secession itself is not illegal, other rules of international law make secession difficult. For example, it can be illegal for an outside state to provide material support to secessionists.[34] But for certain circumstances (such as an internationally recognized belligerency or a UN-approved operation), such support would be considered a violation of the sovereignty of the pre-existing state from which the secessionists are attempting to separate. Moreover, *military* intervention by an outside state in support of secessionists is especially problematic as it would violate the UN's prohibition on the use of force and could be considered an act of aggression and a violation of territorial integrity.

Thus, the law of self-determination, as understood *after* the era of decolonization, can be summarized as follows:

- self-determination for a colonized people allows for the ability to separate the colony from the colonial state so that the colony may gain independence and become a sovereign state;

- for a state as a whole, self-determination means the right to be free from

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32 A 1996 US Institute of Peace/ State Department Policy Planning Staff Roundtable stated that: The United States should… make absolutely clear that secession has not been universally recognized as an international right. It may choose, on the basis of other interests, to support the secessionist claims of a self-determination movement, but not because the group is exercising its *right* to secession, since no such right exists in international law. At the same time, an absolute rejection of secession in every case is unsound, because the United States should not be willing to tolerate another state's repression or genocide in the name of territorial integrity. Secession can be a legitimate aim of some self-determination movements, particularly in response to gross and systematic violations of human rights and when the entity is potentially politically and economically viable. Carley, *supra* note 22, at vii.

33 Concerning the silence of international law, see, for example, P. Daillier, A. Pellet & N. Q. Dinh, *Droit International Public* (2002), 526, para. 344 no. 1: "la sécession n'est pas prise en compte en elle-même par le droit international," that is, "secession in itself is not taken into account by international law."

34 See Moldova Report, *supra* note 2, at 276-78.

external interference in its pursuit of its political, economic, and social goals;

- for communities that are not colonies and are within existing states, self-determination means internal self-determination, essentially the pursuit of minority rights within the existing state.[35]

What of secession? It is treated as a fact: either a secession did, or did not occur. The question is what should be the results of that fact? For this, one turns to the law of the recognition of statehood.

However, this view is not accepted by all. Clearly, the leaders of various secessionist areas continue to argue that a right to secession exists, even outside the context of decolonization. This, in the words of Professor Malcolm Shaw, is "the subject of much debate".[36] For example, in *re Secession of Quebec*, the advisory opinion issued by the Supreme Court of Canada on the issue of secession, the Canadian court found that in non-colonial cases, "[a] right to *external* self-determination […] [including at times the assertion of a right to unilateral secession] arises *in only the most extreme cases and, even then, under carefully defined circumstances*".[37]

In the Kosovo Advisory Opinion, the ICJ noted that there are some sharp differences of opinion concerning remedial secession, although almost no state proposed remedial secession as a primary argument:

> 82. A number of participants in the present proceedings have claimed, *although in almost every instance only as a secondary argument*, that the population of Kosovo has the right to create an independent state either as a manifestation of a right to self-determination or pursuant to what they described as a right of "remedial secession" in the face of the situation in Kosovo. The Court has already noted… that one of the major developments of international law during the second half of the twentieth century has been the evolution of the right of self-determination. Whether, outside the context of non-self-governing

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35 See Crawford, *supra* note 28, at 127–128.

36 Shaw, *supra* note 31, at 271 fn. 140.

37 *In re Secession of Quebec* [1998] 2 S.C.R 217, 126 (Canada) (second emphasis added). Crawford has also written that:

At least it is arguable that, in extreme cases of oppression, international law allows remedial secession to discrete peoples within a State, and that the 'safeguard clauses' in the Friendly Relations Declaration and the Vienna Declaration recognize this, even if indirectly.

Crawford, *supra* note 28, at 119.

territories and peoples subject to alien subjugation, domination and exploitation, the international law of self-determination confers upon part of the population of an existing state a right to separate from that state is, however, *a subject on which radically different views were expressed by those taking part in the proceedings and expressing a position on the question. Similar differences existed regarding whether international law provides for a right of "remedial secession" and, if so, in what circumstances. There was also a sharp difference of views as to whether the circumstances which some participants maintained would give rise to a right of "remedial secession" were actually present in Kosovo.*

83. The Court considers that it is not necessary to resolve these questions in the present case…[38]

While, technically, the ICJ leaves the issue unresolved, it is hard to see how such remedial secession would be part of current international law. It is not clearly stated in any general treaty. Moreover, given the lack of a widespread consistent state practice in favor of such a remedy and that many (if not the majority) of states do not see any legal requirement for a remedy of secession; this suggested right does not reach the level of being customary international law.

That being said, jurists who do interpret the law of self-determination to include remedial secession outside of the colonial context generally emphasize that any attempt to claim *secession as a remedy* must *at least* show that:

(a) the secessionists are a "people" (in a sense recognized by the international community);

(b) the state from which they are seceding seriously violates their human rights; and,

(c) there are no other effective remedies under either domestic law or international law.[39]

For now, though, we will return to the mainstream view that there is no right to secession outside of the colonial context and consider how the law of the recognition of states is relevant.

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38 *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*, International Court of Justice, Advisory Opinion, 22 July 2010, paras. 82-83 (hereinafter 'Kosovo Advisory Opinion') (emphasis added).

39 This framework is discussed at greater length in the Moldova Report, *supra* note 2, at Sec. III C.

The Role of Recognition

As a matter of actual diplomatic practice, arguments over attempted secessions often shift from the question of the legality of the secession itself (about which, as mentioned earlier, international law is largely silent), to the question of the legality *of the recognition* of the secession, a subtly different question.[40] Recognition is not itself a formal requirement of statehood. Rather, recognition merely accepts (or "declares") the factual occurrence of the establishment of a new state. Nonetheless, no state is required to recognize an entity claiming statehood.

State practice shows that, absent a clear indication of illegality, in matters of state recognition there is considerable deference to the political prerogatives of outside states to decide whether or not to recognize an aspirant state. However, looking at secessionist conflicts since the end of World War II, there are no more than three clear examples of secessions contested by the pre-existing states that were both successful "on the ground" and were also accepted and recognized by a significant portion of the international community: Bangladesh, Eritrea, and now possibly Kosovo.[41] By contrast, in that period there have been at least twenty (as yet) unsuccessful attempted secessions.[42]

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40 Thürer, *supra* note 23, at 371 ("Rather than formally recognizing a right of secession . . . international law only became subsequently relevant within the context of recognition.").

41 But, see Crawford, *supra* note 28, at 415. Instances of separation, dissolution, and secession outside of the colonial context since World War II include: Senegal (1960); Singapore (1965); Bangladesh (1971); Latvia, Lithuania, and Estonia (1991); the eleven successor states of the USSR (1991); the five successor states of Yugoslavia (1992-95); the Czech Republic and Slovakia (1993); and, Eritrea (1993). Crawford did not include Eritrea or Kosovo (as the Kosovar declaration had not yet occurred). See id. at 391.

However, Crawford notes that in the cases of Senegal, Singapore, and the Czech Republic and Slovakia, each was separated pursuant to separation agreements or operation of their domestic constitutions. I would add to this South Sudan. Moreover, the USSR capitulated on the secession of the Baltics and, as of September 6, 1991, no longer contested their departure, and the successor states of the USSR and those of Yugoslavia were formed due to dissolution of the pre-existing states, not secession. See id. at 392-403.

42 Nagorno-Karabakh (Azerbaijan); Republika Srpska (Bosnia Herzegovina); The Karen and Shan states (Burma); Tibet (China); Katanga (Congo); Turkish Federal Republic of Northern Cyprus (Cyprus); Abkhazia (Georgia); South Ossetia (Georgia); East Punjab (India); Kashmir (India); Kurdistan (Iraq/ Turkey); Anjouan (Islamic Republic of the Comoros); Gagauzia (Moldova); Transnistria (Moldova); Biafra (Nigeria); Bougainville (Papua New Guinea); Chechnya (Russian Federation); Somaliland (Somalia); Tamil Elam (Sri Lanka); and, Democratic Republic of Yemen (Yemen).

List adapted from id. at 403, with the addition of Transnistria and the deletion of Kosovo.

While recognition is a political declaration, it does not ignore legality. Rather, the norms of *non-recognition* are the means by which a decentralized legal system may enforce its norms. A good argument may be made that states should not recognize a new state if such recognition would perpetuate a breach of international law.[43] The jurist Sir Hersch Lauterpacht wrote that non-recognition "is the minimum of resistance which an insufficiently organized but law-abiding community offers to illegality; it is a continuous challenge to a legal wrong".[44]

Rather than arguing that non-recognition is due to purely political factors; the inverse may be more accurate in this case: that there are good reasons for non-recognition and that recognizing a secessionist entity may be imprudent. Along these lines, James Brierly wrote:

> It is impossible to determine by fixed rules the moment at which other states may justly grant recognition of independence to a new state; it can only be said that so long as a real struggle is proceeding, recognition is premature, whilst, on the other hand, mere persistence by the old state in a struggle which has obviously become hopeless is not a sufficient cause for withholding it.[45]

With this legal framework in mind, I will turn to the Transnistrian conflict.

Applying the Law of Self-Determination to the Transnistrian Conflict

The Mainstream Analysis: No Right to Remedial Secession

Based on the foregoing, there are three main questions we must assess in consideration of the international legal issues related to the conflict over the status of Transnistria:

Abkhazia and South Ossetia can continue to be listed as "unsuccessful" due to their being recognized (as of the time of this writing) by only six UN member States.

43 *Oppenheim, supra* note 30, § 54 at 183.

44 Hersch Lauterpacht, *Recognition in International Law* 431 (1947); see, also, Lori Damrosch, Louis Henkin, et al., *International Law Cases and Materials* 267 (4th ed. 2001). In relation to this, one should note that being unrecognized does not excuse an entity from the norms of international law. The protection of property rights and of treaty obligations are ensured as the rules of State succession still apply. Christine Haverland, 'Secession,' in 4 *Encyclopedia of Public International Law* 354, 358 (R. Bernhardt, ed. 2000). Moreover, human rights are also protected. For example, the Second Circuit has held that the Torture Victim Protection Act applied even to unrecognized States. See, generally, Kadic v. Karadjic 70 F. 3d 232 (2d Cir. 1995).

45 James Brierly, *The Law of Nations* 138 (6th ed. 1963, Sir Humphrey Waldock, ed); see, also, David A. Ijalaye, 'Was Biafra At Any Time a State in International Law?,' 65 *Am. J. Int'l L.* 551, 558 (1971).

- first, whether the population in Transnistria constitutes a self-determination unit;

- second, if it is a self-determination unit, what the application of the law of self-determination would mean in this case; and,

- third, if there are any related issues concerning recognition and non-recognition.

Is the population in Transnistria a "self-determination unit"? The answer is "almost certainly not".

As Transnistria is not an issue of decolonization, the assumption is that this is an internal matter to be resolved pursuant to the laws of Moldova. The Member States of the United Nations have not treated this as an issue of decolonization; to the other extreme they have re-emphasized Moldova's territorial integrity.

If not a colony (Crawford's category (a)), can Transnistria be defined as some other form of "self-determination unit"?

When Moldova became a sovereign state at the dissolution of the USSR on December 15, 1991, the borders of Moldova were defined. This makes the TMR a secessionist entity, rather than an existing state. The TMR itself would probably not view the dissolution of the USSR as the critical date: it may argue, for example, that the critical date was its September 2, 1990 declaration of sovereignty, thus predating (according to their argument) the existence of Moldova as a sovereign state. But this declaration was related to seeking the status of a Union republic, a request that was not supported by Moscow. It should be noted that Union republics, absent some special agreement, did not have external sovereignty vis-a-vis the international community. Moreover, there is no evidence that the international community has accepted this as the critical date as there have been no recognitions of an independent TMR as of that date.

Taking as a given that the critical date is the dissolution of the USSR, then if the TMR were to argue that it was a "self-determination unit" then the only possible category would be category (c):

> other territories forming distinct political-geographical areas, whose inhabitants are arbitrarily excluded from any share in the government either of the region or of the state to which they belong, with the result that the territory becomes in effect, with respect to the remainder of the state, non-self-governing[.]

For Transnistria to fit in this category it would need to show that its inhabitants had been excluded from political participation in Moldova to the extent that it was "non-self-governing". As long as the residents of Transnistria had adequate opportunity to take part in the political life of Moldova and were able to express their own culture in their communities, they had self-determination and there was no obligation of Moldova (or the USSR) to accept secession.

There is no persuasive evidence that the population of Transnistria was systematically excluded by Chisinau from any meaningful participation in the political life of Moldova. In addition, as I understand, since 1992 there have been offers of varying levels of autonomy for Transnistria. If this is correct, then it would be hard to argue that the population of Transnistria was "arbitrarily excluded from any share in the government" and had no opportunity to express itself politically.

The likely result of such an analysis is that neither the population of Transnistria nor the TMR as an entity qualify as self-determination units.

But, for the sake of argument, let us proceed to the next step of the analysis. If one finds that the population of Transnistria was in fact excluded from meaningful participation to the point of being "non-self-governing," then the remedy under the law of self-determination would be "internal self-determination": the protection of the linguistic, cultural, minority and other human rights of the population of within the state of Moldova. In other words, secession would not be the outcome, but rather a renewed focus on domestic political reform within Moldova.

The "Extreme Circumstances" Scenario

Let us finally consider the least likely scenario: that the population of Transnistria is a self-determination unit *and* the international community was to recognize a *right* of remedial secession in extreme circumstances.

First, I should note that while this result is unlikely as a general matter, it is especially unlikely to be the view in Europe. In its 1993 report on the situation in Moldova in which it also defined its role as mediator, the OSCE rejected the notion that there was a general "right" of secession on the part of the Transnistrian population, framing its argument in the context of the international rules necessary for European stability:

> The present division of Moldova threatens not only the territorial integrity of the country but stability in Europe as a whole. Tensions between nations, ethnicities, and ideologies have determined much

of the more recent European history and led to some of the ugliest fratricidal wars. Today's national borders contain the result of century-long haggling and fighting. The stability enjoyed throughout most parts of Europe owes much to the fact that modern Europeans do not consider territorial changes an issue in international politics anymore. The efforts to increase co-operation across national borders have replaced the interest in borders themselves. The inviolability of frontiers has become one of the CSCE principles. International practice and almost all scholars agree that, in contemporary Europe, a national or ethnic right of self-determination cannot reasonably be an 'external' or 'extreme' one, i.e. cannot aim at changing international borders unilaterally.[46]

Why, then, do separatists maintain a supposed right to secede in non-colonial contexts?[47] The OSCE argued this was a result of an improper analogy to the dissolutions of Yugoslavia and the USSR:

> As a result, some areas, among them Transdniestria, have thought it fit to attempt secession from their post-Soviet state and the establishment of mini-'states' of their own. If this tendency prevailed, the ensuing 'atomization' of the map of Eastern Europe and the resulting lack of vitality of state entities could pose a serious threat to political stability and accelerate economic decline.[48]

However, the USSR chose to dissolve via domestic constitutional action and Yugoslavia was found to be in a state of dissolution in the first opinion of the Badinter Commission.[49] Neither are actually cases of secession; they are both examples of new states arising from the complete dissolution of previous states. The view of the international community is that the establishment of these new states was not due to a supposed right of secession but due the result of the dissolution of the previous states. And Moldova, it bears noting, has never been considered to be in a state of dissolution. Thus, the Transnistrian leadership is seeking secession, but using an incorrect analogy to dissolution.

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46 CSCE Mission to Moldova Report no. 13 (13 November 1993) 2.

47 For a longer discussion of this question, see Christopher J. Borgen, 'How Does a Conflict Become "Frozen?"' *Proceeding of the Conference on the Basic Principles for the Settlement of the Conflicts of the GUAM States* (2008).

48 CSCE, *supra* note 46, at 2.

49 Conference on Yugoslavia Arbitration Commission Opinion No. 1 (1992) [hereinafter Badinter Commission].

The OSCE, for its part, only saw the possibility of "external self-determination" in the Transnistrian conflict in one scenario: "In case Moldova chooses to give up statehood in order to merge with another country, the Special Region of Transdniestria would be guaranteed the right of 'external self-determination', i.e. to determine its own future".[50] Absent the specific case of an attempted merger of Moldova and Romania, there is no *right* to separate.

In the NY City Bar's original Moldova Report, we set out a slightly less restrictive conception of what remedial self-determination could entail. First, it is important to emphasize that our view that any *supposed* right that is "highly contested" does not *in actuality* reach the minimum requirements of customary international law as there is neither adequate state practice nor *opinio juris* (the belief that a certain practice is followed from a sense of legal obligation). Also, no such right is clearly stated in the text of a treaty. Nonetheless, we considered what would be needed for a claim of remedial secession *as if* such a right existed. Based on non-binding analyses (known as "dicta") from various opinions and commentators, we concluded that the TMR would need to convince the international community of three things: (1) that the population of Transnistria are a "people"; (2) that they have suffered an extreme case of repression under Moldovan rule; and (3) that there is no other solution.

Assuming that the TMR convinced the international community that Transnistrians should be considered a people (more specifically, one of the "self-determination units" described above), they would then need to turn to the issue of harms suffered. When the NY City Bar Mission spoke with Transnistrian leadership in 2005, they proposed three sources of serious violations of human rights by Moldova:

(*1*) violations of linguistic, cultural, and political rights;

(*2*) the brutality of the 1992 War; and

(*3*) the denial of economic rights.[51]

Taken either separately or together, the facts related to these claims do not rise to the level of justifying the dismemberment of a state. First, regarding cultural and political rights, since the end of the 1992 War, Moldova has improved its respect of minority rights. Moldova's human rights track record has had its share of setbacks—press freedoms have been narrow and various political parties claim government interference, for instance. However, Moldova is nonetheless more respective of

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50 CSCE, *supra* note 46, at 1.
51 This is discussed at greater length in the Moldova Report, *supra* note 2, at 244-50.

human rights than the TMR and, more to the point, there is no credible sign that people in Transnistria would face widespread persecution if there was a formal reintegration of the territory.[52] On the contrary, the actual movement of people back and forth over the Nistru is evidence of good will among the populations.

Related to this, the mere fact that there was a war in 1992 is not persuasive evidence that Transnistria cannot be reintegrated today. This is not to belittle the fact that one thousand people died, but that there is no credible risk of a renewed conflict if the country were reintegrated.

Finally, the economic rights claim was actually about allocation of tax revenues and this does not lead to a legal right to dismember a state. This argument is really about policy, not the form of a polity.

Although Moldova still has many possible pitfalls on its road to becoming a fully modern democratic state, it is clear that it is nonetheless traveling the road in the right direction, albeit with some fits and starts. Thus, the second prong—ongoing serious violations of human rights—has not been met.

Despite the fact that the Transnistrians have not made a convincing argument for the second part of this three part test (the existence of a serious threat of human rights violations), let us turn nonetheless to the third part, which asks whether there are any other options available besides secession. The conflict in Moldova has been intractable not so much because there are no other options besides secession, but because the separatists have chosen to make the conflict *seem* intractable by repeatedly refusing any options short of effective sovereignty for the TMR.

Thus, even in the highly unlikely case of interpreting that there is a possibility of remedial secession under certain circumstances (a scenario that I do not think is legally correct), the Transnistrian claim would not actually meet the requirements for such a right.

Given the general view that there is no right of remedial secession and that, even under a legal theory that allows for remedial secession under extreme circumstances, the most basic requirements for such a claim are not met in the Transnistrian case, what effect, if any, have the developments in Kosovo and South Ossetia had on the situation in Moldova?

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52 See id. at 244-47.

Has Kosovo Changed the Law of Self-Determination?

As a matter of law, the answer to this question is "no." But the political situation is more complex.

Two years prior to Kosovo's 2008 declaration of independence, independence sent a seismic shock through the state system. As then-"President" of the TMR Igor Smirnov had complained in 2006, "[c]urrently they are preparing recognition of Kosovo, but would deny this to Transnistria. If this is a really fair, universal approach to conflict settlement, it must be applied also to Transnistria, and Abkhazia, and South Ossetia, and Nagorny Karabakh."[53] It is no surprise that the Moldovan leadership has contended that the situation in Kosovo is a false analogy.[54]

After Kosovo's declaration of independence on February 17, 2008, the U.S. and other states that supported Kosovo's independence have claimed that it is a special case and cannot be viewed as precedent for any other conflict. Then-Secretary of State Condoleezza Rice explained:

> The unusual combination of factors found in the Kosovo situation – including the context of Yugoslavia's breakup, the history of ethnic cleansing and crimes against civilians in Kosovo, and the extended period of UN administration – are not found elsewhere and therefore make Kosovo a special case. Kosovo cannot be seen as precedent for any other situation in the world today.[55]

By contrast, the Russian Duma issued a statement that read, in part:

> The right of nations to self-determination cannot justify recognition of Kosovo's independence along with the simultaneous refusal to discuss similar acts by other self-proclaimed states, which have obtained de facto independence exclusively by themselves.[56]

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53 *Transnistrian President Jealous About Kosovo Variant,* Infotag, Feb. 17, 2006. Similarly, in November 2005, then-Speaker of the TMR's Supreme Soviet Grigoriy Marakutsa seemed to think that, in light of the decision by Kosovo's parliament to seek recognition as an independent state, the TMR would soon abandon negotiations: "Parliament may decide to stop talks with Moldova and start building a fully independent state" he told reporters. 'Moldova's Rebel Region May Proclaim Independence, Speaker Says,' *Interfax-Ukraine*, Nov. 24, 2005.

54 See, *e.g.*, 'Kosovo Experience is No Good for Transnistria—Voronin,' *Infotag*, Feb. 21, 2006.

55 U.S. Recognizes Kosovo as Independent State, statement of Secretary of State Condoleeza Rice, Washington DC (Feb, 18 2008).

56 As quoted by the NY Times in Nicholas Kulish and C.J. Chivers, 'Kosovo Is Recognized but Rebuked by Others,' *NY Times* (Feb 19, 2008) *available at* http://www.nytimes.com/2008/02/19/world/europe/19kosovo.html?pagewanted=2&hp.

Yet, while the Duma was implying that Kosovo justified recognizing other breakaway republics, the Russian and Serbian foreign ministries argued that, inasmuch as Serbia did not consent to an alteration of its territory and borders, there can be no legal recognition of Kosovar independence,[57] an argument which could similarly weaken Transnistrian claims for statehood.

Even a brief consideration of Kosovo shows that the material facts concerning the status of Kosovo are quite different from those of the Transnistrian conflict. Secretary Rice was correct in highlighting that the situation in Kosovo is the result of numerous factors including the dissolution of a state (Yugoslavia), the general breakdown of a region, and the bad acts of the government of the pre-existing state (Serbia), and a period of international administration of the territory under the auspices of the United Nations.

Despite these arguments, there was a concern that Kosovo could be a precedent for Transnistria's independence. The legal question was whether Kosovo's declaration and subsequent recognition was the type of event that international lawyers would view as an example of a new legal rule applicable to Transnistria, an example of a case that is different from that of Transnistria, or whether it was simply a breach of international law.

On October 8, 2008, at the request of Serbia, the UN General Assembly by a vote of 77 for, 6 against, and 74 abstaining, asked the ICJ to provide it with an advisory opinion on the question: "Is the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo in accordance with international law?".[58] The ICJ held hearings in December, 2009 and issued its

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57 Prior to Kosovo's declaration of independence, Russian Foreign Minister Sergei Lavrov called a potential Kosovar secession a "subversion of all the foundations of international law, . . . [a] subversion of those principles which, at huge effort, and at the cost of Europe's pain, sacrifice and bloodletting have been earned and laid down as a basis of its existence." Paul Reynolds, *Legal Furore Over Kosovo Recognition,* BBC News (Feb 16, 2008), *available at* http://news.bbc.co.uk/2/hi/europe/7244538.stm.

58 Request for an advisory opinion of the International Court of Justice on whether the unilateral declaration of independence of Kosovo is in accordance with international law, UN Doc. A/63/L.2, available at http://www.un.org/ga/search/view_doc.asp?symbol=A/63/L.2&Lang=E. The voting record is as follows:

In favor: Algeria, Angola, Antigua and Barbuda, Argentina, Azerbaijan, Belarus, Bolivia, Botswana, Brazil, Brunei Darussalam, Cambodia, Chile, China, Congo, Costa Rica, Cuba, Cyprus, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, Egypt, El Salvador, Equatorial Guinea, Eritrea, Fiji, Greece, Guatemala, Guinea, Guyana, Honduras, Iceland, India, Indonesia, Iran, Jamaica, Kazakhstan,

Advisory Opinion in July 2010.

The Advisory Opinion itself is misunderstood by commentators who think it equates self-determination with secession.[59] It did not do that. Rather, the ICJ simply stated that, based on the wording of the question, the answer "turns on whether or not the applicable international law *prohibited* the declaration of independence".[60] The Court

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Kenya, Kyrgyzstan, Lesotho, Liechtenstein, Madagascar, Mauritius, Mexico, Montenegro, Myanmar, Namibia, Nicaragua, Niger, Nigeria, Norway, Panama, Papua New Guinea, Paraguay, Philippines, Romania, Russian Federation, Saint Vincent and the Grenadines, Serbia, Singapore, Slovakia, Solomon Islands, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Syria, Timor-Leste, United Republic of Tanzania, Uruguay, Uzbekistan, Viet Nam, Zambia, Zimbabwe.

Against: Albania, Marshall Islands, Micronesia (Federated States of), Nauru, Palau, United States.

Abstain: Afghanistan, Andorra, Armenia, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belgium, Belize, Benin, Bhutan, Bulgaria, Burkina Faso, Cameroon, Canada, Colombia, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Ghana, Grenada, Haiti, Hungary, Ireland, Israel, Italy, Japan, Jordan, Latvia, Lebanon, Lithuania, Luxembourg, Malaysia, Malta, Monaco, Mongolia, Morocco, Nepal, Netherlands, New Zealand, Oman, Pakistan, Peru, Poland, Portugal, Qatar, Republic of Korea, REP OF Moldova, Saint Lucia, Samoa, San Marino, Saudi Arabia, Senegal, Sierra Leone, Slovenia, Sweden, Switzerland, Thailand, The former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Uganda, Ukraine, United Arab Emirates, United Kingdom, Vanuatu, Yemen.

Absent: Bosnia and Herzegovina, Burundi, Cape Verde, Chad, Côte d'Ivoire, Ecuador, Ethiopia, Gabon, Gambia, Iraq, Kiribati, Kuwait, Lao People's Democratic Republic, Libya, Malawi, Maldives, Mali, Mauritania, Mozambique, Rwanda, Saint Kitts and Nevis, Seychelles, Tonga, Tunisia, Turkey, Turkmenistan, Tuvalu, Venezuela.

See Backing Request by Serbia, General Assembly Decides to Seek International Court of Justice Ruling on Legality of Kosovo's Independence, GA Doc A/7064 *available at* http://www.un.org/News/Press/docs/2008/ga10764.doc.htm.

59 See, for example, this excerpt from the "Statement of the Foreign Ministry of the Transdniestrian Moldavian Republic in view of the Decision of the International Court of Justice on Kosovo", available at http://mfa-pmr.org/index.php?newsid=678:

This decision is a significant one and is of general political and legal character as far as it confirms the sovereign right of nations and peoples for self-determination on the part of the authoritative international organization which in adopting this decision took note of the existing realities and present-day state of the system of international relations.

The decision taken by the United Nations' highest court de-facto means international legitimization of the settlement model based on the priority of the right of people for self-determination what comes to be an obvious step on the way of reformatting an obsolete Helsinki mechanism of pan-European order in accordance with demands of the XXI century. The decision of the International Court of Justice is of international and legal importance since it levels any unilateral attempts of other sates to impede the will of the people through adoption of their own laws.

60 *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo,*

concluded that the historical record "does not point to the emergence in international law of a new rule prohibiting the making of a declaration of independence in such cases".[61]

The Court also found that the principle of territorial integrity is not implicated in cases of declarations of independence. Instead, it "is confined to the sphere of relations between states",[62] as opposed to the actions of non-state entities. This supports the idea that secession itself is not illegal.

As for whether there is a *right* to "remedial secession" under international law, the Court noted that there were "radically different views" among the states taking part in the proceedings regarding secession outside of the context of decolonization and, if such a remedy existed, whether it could be applied to Kosovo. But the ICJ did not further investigate this issue as it "consider[ed] that it [was] not necessary to resolve these questions in the present case".[63] As described earlier in this memo, although the ICJ took no formal stance on the issue, the likely practical result is that secession is not a right because it can not find a source in either treaty law or customary international law.

The ICJ chose restraint and narrow readings. We are left with what may have been the consensus before we started: declarations of independence are primarily domestic affairs, and the UN does not condemn such declarations unless there is a separate violation of international law (such as an illegal use of force by an intervening country).

Closing Observations of International Law and Conflict Resolution

The conflict over Transnistria is still considered by many a political "back burner" issue in comparison to the disputes over Kosovo and the Georgian breakaway regions.

International Court of Justice, Advisory Opinion, 22 July 2010, para. 56 (hereinafter Advisory Opinion) (emphasis added); see, also, Christopher J. Borgen, *Introductory Note to the International Court of Justice Advisory Opinion on Accordance with International Law of the Unilateral Declaration of Independence of Kosovo, 49 ILM (2011)*.

61 Advisory Opinion, *supra* note 60, para. 79.

62 Id., para. 80. Thus, when the Security Council condemned particular declarations of independence, such as those of Rhodesia or Northern Cyprus, the issue related to an "unlawful use of force or other egregious violations of norms of international law," in particular, *jus cogens*. Id. para. 81.

63 Id., paras 82-83.

Legal rhetoric has been used to a much greater extent in the public diplomacy over Kosovo and South Ossetia than in the case of Transnistria. As such, the evolution of these disputes may affect how the parties interpret the relevant norms in the case of the Moldovan conflict.

On one level, States cloak their actions in "law talk" to foster reputations of being lawful actors, even if they are not.[64] But this is not the whole story of when states use legal language. Sometimes the act of arguing about interpretations of international law can ultimately change the law, without actually changing the wording of a single treaty or court case.

Norms matter. Moreover, how states and other actors use language—what is or is not a right, what is "self-determination", who are a "people", and so on—plays an essential role in defining expectations of how states and others will act.[65] How they use these terms inform actors as to which arguments may or may not be made legitimately.[66]

This is especially powerful in international law for two reasons. First, the pluralist nature of international law means that in most cases there is no final interpreter of what law is. Occasionally, the ICJ or another such institution may play an important role in resolving an interpretive dispute between two or more states.[67] But the

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64 Law professor Andrew Guzman has written extensively on the role of reputation as a prod towards compliance to international rules. He explains that: "A reputation for compliance with international law is valuable because it allows states to make more credible promises to other states. This allows the state to extract greater concessions when it negotiates an international agreement." Andrew T. Guzman, 'Reputation and International Law,' 34 *Georgia J Intl & Comp L* 379, 383 (2006).

65 See, John R. Searle, *The Construction of Social Reality* 59 (Free Press 1995) (stating that "language is essentially constitutive of institutional reality").

66 Thomas Risse, '"Let's Argue!": Communicative Action in World Politics,' 54 *Intl Org* 1, 17 (2000). See, Martti Koskenniemi, *From Apology to Utopia: The Structure of International Legal Argument* 11 (2005) (describing the concept of a legal "*langue*"). See, also, Peter M. Haas, 'Introduction: Epistemic Communities and International Policy Coordination,' in Peter M. Haas, ed, *Knowledge, Power, and International Policy Coordination* 1, 2 (South Carolina 1992). See, Ryan Goodman and Derek Jinks, 'How to Influence States: Socialization and International Human Rights Law,' 54 *Duke L J* 621, 625–26 (2004). See, generally, G. John Ikenberry and Charles A. Kupchan, 'Socialization and Hegemonic Power,' 44 *Intl Org* 283 (1990).

67 However, as a technical matter, these cases are only legally binding on the litigants, although they may be used as persuasive evidence in subsequent disputes among different parties. More generally, relatively few cases arrive before the ICJ and other international tribunals in comparison with the vast array of interpretive disputes that exist (although the number and variety of cases before international tribunals are increasing).

most important interpreters of international law are the states themselves. The interpretations, in turn, affect international relations:

> Law structures the relations among states by providing a common frame of reference. It is the language of international society: to present one's claims in legal terms means to signal which norms one considers relevant and to indicate which procedures one intends to follow and would like others to follow.[68]

International law, perhaps more than anything else, has become a consensual vocabulary and grammar for how states talk about international relations. How we define the substance of international law can change the community's interpretation of what constitutes international law. In short, how we talk about terms like "self-determination" can affect legal substance of what "self-determination" is. Legal rhetoric can frame policy options.

This is part of a larger cycle: politics affects international law, which then affects politics, and so on. Consider that at its most basic level, "law talk" related to self-determination is often distorted by secessionists or their supporters as a means to rally support for their cause, most notably among their domestic constituencies. The right to self-determination can be mutated in rhetoric into a supposed right to secede. According to one report:

> On 12 October 2004, at a conference dedicated to the 80th anniversary of the [Moldavian Autonomous Soviet Socialist Republic], Igor Smirnov announced that [the TMR] would hold a referendum "to prove the legitimacy" of its independence. The results of the referendum would become law and force the international community to acknowledge the [TMR] people's will: "We must hold a national referendum, with international observers to make sure that there can be no doubt about the legitimacy of our state. The results of the referendum will be a law for us, a law that the international community, above all the United States, the European Union and the OSCE, will have to respect." Smirnov had previously argued in August 2004 that holding separate referendums in Moldova and [the TMR] to settle the [TMR]-Moldovan conflict was a possibility. Such action would be in accordance with the Cyprus settlement model of conflict resolution, and would afford the people of [the TMR] "the right to self-determination".[69]

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68 Ian Johnstone, 'Treaty Interpretation: The Authority of Interpretive Communities,' 12 *Mich J Intl L* 371, 376 (1991).

69 Herd, *supra* note 4, at 9.

Thus, the publics within secessionist enclaves may be persuaded that not only do they have a right to secede, but that anything that prevents them from seceding is unfairly denying them a basic right. Rhetoric that equates self-determination with secession thus makes anything short of secession non-negotiable. The problem, of course, is that such rhetoric is not an accurate description of the mainstream view of self-determination.

Such distortions may rally support of the populations within separatist regions, but contribute to the intractability of the conflict as it makes it more difficult for the separatist leaders, present and future, to accept anything short of sovereignty, lest they be perceived by their own constituents as being weak.

The language of international law can provide a vocabulary by which states and other actors may frame their arguments in an attempt to persuade other international actors. As it is a normative language, it also provides a context against which arguments, claims, and positions may be assessed. Used properly, bargaining in the shadow of international law may make it more difficult to maintain positions that are clearly against the normative consensus of the international community.

International legal rhetoric is not a solution to international conflict. It is a tool that may be used by the various parties and stakeholders involved in a conflict. Like any tool it may be used for good or ill, to promote resolution or maintain intractability. What is important though, is to realize that international law is invoked in these conflicts. And it is ignored at the ignorer's peril.

CHALLENGES TO KEEPING THE NEGOTIATION PROCESS ON TRACK

By Ilia Roubanis, Mete Hatay & Alexandru Baltag[1]

Introduction

Peace negotiations never take place in a vacuum. This is a global theme. During our interview with the former Turkish Cypriot leader, Talat, in June 2012, he described the process of negotiations as multi-variable, where content and context agendas, at times, collide. Elections take place; the EU economy is experiencing a severe crisis; oil is discovered; EU progress reports are issued; polling is regularly conducted. In sum, the negotiation process cannot be handled with a neat "problem-solving" approach, since the actors have to come to terms with the fact that not everything is in their hands. The same can be said of the negotiation process involving the two banks of the river Dniester, where another variable must be considered, namely the propensity of political discourse in the Wider Caucasus and the Black Sea region to be imbued with more explicitly geopolitical significance (Kuchins et al., 2012). This is not because of some proverbial "cultural deficiency," but because of the mere fact that the whole region has for decades been treated as a crossroads between empires, trade roots and spheres of influence. The common denominator in both cases is not merely a series of obstacles encountered in the negotiation process per se, but also the quest to create a "contextual window of opportunity." This chapter focuses precisely on the significant differences and similarities between the two case studies on the content versus context friction of the negotiation process.

Content versus Context

In formal terms, the negotiation process in Cyprus seems far more "advanced" than in Moldova. In principle, both communities in Cyprus have come to terms with the idea of a common yet composite polity. The main cleavage seems to be finding an agreement over the nature of the future common polity, which is under negotiation.

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On the two shores of the river Dniester, we went from a desire for a union with Romania in the 1990s in Chisinau, to a desire for a union with Russia in Tiraspol. The notion of a composite polity has never gained, even in principle, consensual agreement.

When it comes to the content of the negotiation process in Cyprus, it seems that existential anguish inhibits nearly all negotiators after "nearly a decade". During our visit in Cyprus in June 2012, the chief negotiator for "nearly a decade" told us that "he could have argued the other side's case better" since he had been exposed to the very same red-line arguments year after year. In many respects, this frustration seems to echo that of UN Secretary's General, Kurt Waldheim (1972-1981), who later on in life admitted that he devoted "nearly a decade" of his life to a negotiation process that did not advance at all (Waldheim, 1985, p. 30). For decades the Turkish Cypriot side has emphasized the principles of "bizonality" and "political equality" between the two constituent communities, indicating a clear preference for parallel communal coexistence within distinct nation-states and, should this approach fail to gain consensus, in a very loose confederation. The Greek Cypriot community has emphasized the freedoms of movement, property, and settlement, advocating functional interdependence between the two communities within a single polity, placing on the table specific "restorative" demands in consonance with international legal norms, such as the right of return, property restitution and the evacuation of Turkish settlers from the mainland (Morelli, 2012). Their preference was for a unitary state without a titular nationality and, should this strategy have failed, a polity with as strong a federal dimension as possible.

Between 1974 and 2002, U.N.-sponsored direct and indirect negotiations essentially gravitated along the same cleavages, with no real "progress." As noted by Anastasiou, the Greek Cypriot community and Greece framed the Cyprus problem as essentially a legal issue, that is, as "a military invasion and partial occupation of an independent, UN-recognized state by another." The framing presented by the Turkish Cypriot community was, in essence, that of the right of an ethnic group to defend itself against the perceived historic struggle of Greece and the Greek Cypriot community to Hellenize the island; the main objective being the recognition of the Turkish Republic of Northern Cyprus (Anastasiou, 2009). In this scheme, each side pays lip service to the desire for a federation. In the South, a federal solution would entail power-sharing with a minority community, a potentiality that is not preferred after almost five decades in which Greek Cypriots have controlled a recognized state. Turkish Cypriots express a desire for a federal solution, but one in which

their unrecognized state would gain legitimacy as a Turkish Cypriot-majority state within a (con)federation. Nonetheless, even on a formal level, talk of union with the "motherlands" has all but ceased. On the contrary, Chisinau's explicit desire in the early 1990s for a union with Romania was succeeded in the 2000s by a call in Tiraspol for annexation to Russia.

The negotiations in Cyprus are in fact about building a common polity. True, polls indicate that Greek Cypriots actually prefer a unitary state in which Turkish Cypriots would have minority rights; it is also a fact that Turkish Cypriots would prefer a two-state solution. Nonetheless, both are willing to settle for a federal solution if it is one that closely resembles their preferred arrangements. This means that "bizonalism" is consistently interpreted differently, so that for Turkish Cypriots it means two ethnic-majority zones, while for Greek Cypriots it means two states not defined by ethnicity in which Greek Cypriots would be the *de facto* majority. UN Special Advisor on Cyprus, Alexander Downer, expressed this contradiction between words and intentions in 2010 when he remarked: "It's easy to sound in favour of a solution. . . . You can train a parrot in a pet shop to say that" (Evripidou, 2011).

And yet, the negotiation process has established precedents. The idea of a six member Federal Council first appeared on Kurt Waldheim's evaluation report in 1981. A number of guarantees for the adequately "composed" nature of the polity demanded by the Turkish Cypriot community were first introduced during the term of Javier Perez de Cuellar. During Boutros Boutros Ghali's term, a map was placed on the table, initiating a process of delineating the two federal entities (Pericleous, 2007). In sum, while the Turkish Cypriot negotiator told us that "should there be a political will, an agreement could be drafted over the course of a weekend," his confidence relied heavily on the existentially unfulfilling commitment of several negotiators preceding him. The process in itself is never in vain.

If one focused strictly on the positions of the two negotiating sides in Moldova, the content-agenda of the negotiations echoes that of Cypriot. Since 1997 the OSCE has managed a conflict mediation process, which now engages seven stake holders in the "5+2" format: Moldova and Transnistria, plus Russia, Ukraine, and the OSCE as intermediaries, and the US and the EU as observers. In many ways, this negotiating framework is reminiscent of periods of negotiation in Cyprus even prior to the *de facto* separation of the island in 1974, since the main trait of this framework is engaging all stake holders in a flexible, albeit, ineffective format. And predictably, the idea of a "composite polity" resurges in similar terms. In Tiraspol the model

of future governance that is evoked is "Serbia and Montenegro" with the operative word being "and." In Chisinau, "Gagauzia" is mostly commonly referred to as the most acceptable precedent of an "independence minus" formula; as in Nicosia, where the specter of a Turkish Trojan Horse is frequently evoked, the first priority in Chisinau is that any such arrangement should work without "outside interference," meaning Moscow.

But, there are also significant differences between the two case studies in this respect. Russia, in more ways than one, has claimed for itself the role of a mighty trinity, unmatched in the Cypriot case by any of the stakeholders, that is, the role of a "guarantor," a "mediator" and, if need be, a "peacemaker." And there is one more significant difference: Chisinau, unlike Nicosia, has come to terms with the principle that a socio-culturally distinct entity, "like Gagauzia," will be incorporated in a future composite polity, meeting Tiraspol half way in terms of conceding to a semi-confederal arrangement. Moreover, the call for union with the motherlands in Moldova has not subsided as it has in Cyprus.

During our visit to Tiraspol (September 25, 2012), Alexandr Korshuv, deputy head of the Economic Committee of the non-state's "Supreme Soviet," argued that the essence of the conflict was an encounter between an ethnically delineated polity based on the principle of a titular nationality (Moldova) and a more encompassing vision of a polity, which is civic-minded and transnational in the Soviet sense of the term. Generally, Russia is seen as the successor of the Soviet Union in Transnistria, which symbolically celebrates its soviet identity with tanks and statues of Lenin and Marx adorning most of its public spaces. And Moscow is economically, militarily and politically the sponsor of the Transnistrian regime. In many respects, Tiraspol is a "Soviet-nostalgic" regime, where Moscow appears to be, *de facto*, the Russian motherland but, in ideational terms, appears as the proverbial "Soviet motherland." And this is a reality with political significance.

The former Chief negotiator for Tiraspol, Mr. Yastrebchak, was willing to concede that an element of interethnic power politics was part of the soviet as much as of the transition legacy. After all, Russia has been a stakeholder in interethnic conflict in Moldova ever since the first separatist movements emerged in the late 80s; Moscow had a hands-on involvement in armed operations in 1992; Russian troops are present there to this day. It was, after all, the Russian Federation that concluded the ceasefire agreement with Moldova on 21 July 1992. Tiraspol does periodically organize referendums for the renewal of the mandate of Russian troops to remain in the

territory, although their results are always the same. Nearly all of the members of the "Grand Soviet" in Tiraspol speak openly of their desire for a union.

On the contrary, the issue of a desired unity with Romania in the early 1990s was scarcely addressed during our visit in Chisinau. Therefore, it is not infrequent for opinion leaders and political authorities in Chisinau to refer to Tiraspol as the seat of a hypocritical regime of a *de facto* Russian titular nationality, whereas "European values" in Moldova leave more room for freedom of expression and a more inclusive citizenship. It is true that in Cyprus the Turkish Cypriot community customarily accuses Nicosia for dressing a "Hellenization" project with the garment of "civic identity;" and the Greek Cypriot community responds in kind by calling Turkish Cypriot "autonomy" a Turkish Trojan Horse. Nonetheless, "union with the motherland" is increasingly regarded a passé project.

There is another distinct contextual difference between Cyprus and Moldova. The former Minister for Reintegration of Moldova, Sova Vasilii, briefed us in Russian, a fact that would be unthinkable in a Cypriot context. This is a telling sign that in social terms, the conflict between the two sides of the river Dniester was never as "frozen" as it has been in Cyprus. Ethnic hybridity, multilingualism, familial, social and economic connections between the two communities have been vivid, although interrupted, ever since 1992. Moreover, harnessing these bonds and networks with a people-to-people perspective has been a primary objective for most external actors in Moldova, such as the OSCE, the EU office in Chisinau, the UNDP in both Tiraspol and Chisinau, as well as the range of initiatives taken by the British Embassy. As opposed to Cyprus, external actors were invited to cultivate rather than "envision" coexistence and unlike Cyprus, the communities on both sides were never complete strangers to each other. There are vibrant links between the two civil societies rather than a Cypriot-style reality of parallel worlds; in other words, there is a sense of a common life that initiatives can build upon, rather than seeking to create them from scratch.

In 2003 the two shores of the river Dniester came close to a composite polity arrangement, which fell through mostly because of a failure to agree on the process of political and security "transition." In essence, the so called "Kozak memorandum" was widely perceived in Chisinau as well as Brussels as a case of "Russian arm twisting" (Lowenheardt, 2004). Subsequently, from 2003 and until 2009, there was a period of "frozen talks." Even after the resumption of official negotiations in 2010, Moscow and Tiraspol continue to regard political autonomy and security as "off the

agenda"; there is an implicit agreement on the inevitability of disagreement.

Recently, hopes for "advancement" in the *status quo* negotiations have been raised on the basis of a more European type of "arm twisting", on that does not entail troops and tanks. Specifically, during our visit to Moldova in September 2012, there was a sense of anticipation for the signature of a Deep and Comprehensive Free Trade Agreement between Moldova and the EU, in the hope that Tiraspol would be forced to consider over the next year the opportunity cost of not applying this agreement in the territory under its *de facto* control, which would have been detrimental for its links with the European market. Could this development enforce a change of attitude? It is hard to tell; nonetheless, given that politics and economy in Tiraspol gravitate strongly toward Russia, this "opportunity" could backfire.

Meanwhile, a map has not been placed on the table; in-depth discussions on property swaps or compensation have not taken place, although we are informed that these swaps do take place informally between citizens. The issue of displaced populations at large has not been touched in a substantial way. The process of negotiations seems to be focused on *"status quo"* management and sidetracked by a lack of vision.

On the contrary, in Cyprus, frustration is often caused not because there is no progress, but because a settlement proves elusive despite progress. In this scheme, a qualitatively different factor was introduced into the framework of negotiations in 1999, where Athens was the catalyst. Traditionally, Athens since 1974 had tacitly – albeit by no means explicitly – assumed historical responsibility for the Colonel's Regime coup against President Makarios, which in many ways triggered the chain of events culminating with the Turkish "intervention" or "partition" of the island. Subsequently, Athens assumed a "dependent variable" diplomatic position, with the basic line of strategy being "Nicosia leads, Athens follows". It is thus paradoxical that since 1999 Athens was to act as a catalyst in the reframing of the negotiating process. It was then that Greece lifted its veto over opening membership negotiations between the EU and Turkey, gradually becoming a fervent advocate of the Europeanization of its bilateral relations with Turkey, which had a direct spillover effect to the Cyprus question.

This course of events resulted in an "interest-convergence" process, if not harmonization. Ankara seemed to be responding in kind with a "dependent variable" position. And, according to many local analysts, such as Savvides (2011), this also paved the way for the communities on the island – North and South – to envision the possibility of a common future in the EU. Indeed, for the first time in decades,

a linear and sequential narrative of progress appeared to be viable. Fractures in the traditional "red-line positions" were immediately perceptible. The so called "Annan Plan" – fiercely negotiated between November 2002 and March 2004 – was in many respects founded on the principle of "constructive absence of clarity," that is, a bold indication of willingness from both sides to "progress", i.e. envisioning a new state as a result of negotiations that would have a new name, flag and national anthem, without reference to the previous *status quo*. Clearly, for the Turkish Cypriot community the new state would be the sum of two states; for Greek Cypriots it would constitute a return to the *status quo ante*. The real breakthrough was that the two parties agreed that their perceptions did not have to be harmonious. This fact goes well beyond agreeing to disagree; it indicates genuine willingness not to fight battles that cannot be won. This goal oriented approach could indeed be regarded as "progress" in the fully perspective and sequential sense of the term. Unlike Moldova, the difference is that the "context" of the negotiations allowed both sides of the negotiating table to envision a process of "interest convergence" amongst all of the stakeholders involved.

Context versus Content

Moldova society is more ready for a change in the *status quo* than the political elite. In Cyprus the political elite seems more ready for a change in the *status quo* than the Cypriot society.

In Moldova, the *status quo* has never been "comfortable." Nearly a quarter of the population on both sides of the river Dniester has emigrated, a result of severe socioeconomic depression. Moldova ranks the fourth country in the world in terms of remittance contributions as a share of its GDP (World Bank, 2011). During our study-visit, a number of informants pointed out the "structural differences" between the two economies. Light and heavy industry dominate the economy of Tiraspol, with the help of natural gas, provided by Russia at token prices if not for free; nonetheless, most of the economy has a "semi-feudal-oligopoly" structure, due to privatization programs that are not exactly in tune with the Regime's "Soviet-nostalgic" identity. The only "trickle down" effect of this "wealth consolidation" is the comfort of living without gas bills for some pensioners. In the South, the economy is infused with the lifeline of remittances and foreign aid, while local production is mostly focused on agriculture. It is one of the poorest economies in Europe. In this general climate of deprivation in both the North and South, any advocates for change have a distinct advantage. Inevitably, however, given the geopolitical context, it is hard to

articulate a "win-win" narrative that does not entail "caving in" to either the East or West.

This is not the case in Cyprus. The Republic of Cyprus has one of the highest per capita incomes in the EU, and the North, despite its economic isolation, has half the per capita income of the South and twice that of Turkey. Two different economic and political systems have become entrenched on either side of the island since 1974, none of which faces the specter of dire poverty. In the South, mass tourism and offshore banking are the two most important economic sectors, while the North has created a casino tourism sector and a grey economic sector dealing in pirated goods. Cities have grown, universities have been built, and land prices have risen throughout the island. What used to be an agricultural society has been transformed on both sides of the island into a service-based economy. In recent years, this has also included the sales of land and homes to foreigners, and the boom of local economies such as in Paphos. Indeed, there was speculation at the time of the Annan Plan referendum that one reason for a significant "no" vote from the Paphos area had to do with the potential devaluing of land after a solution and the inclusion of the property market into the island's north. Moreover, there was fear in the South that a solution would entail the employment of large numbers of Turkish Cypriots as civil servants at the expense of their Greek Cypriot counterparts.

On the contrary, the "unsettling" prospect of the revision of the *status quo* in Moldova does not seem to threaten the population in such ways. The main cleavage is on the elite level. Moldova is not a unique case of elite "unbridgeable gaps" in the Black Sea/Caucasus region. From Kiev to Baku and from Tiraspol to Tskhinvali, the West versus East discourse in politics is not "compartmentalized" as a question of foreign policy orientation, but has become an underlying political cleavage in its own right (Japaridze & Roubanis, 2011), feeding a general "winner takes all political culture" that thrives on conspiracy theories (Kuchins et. al., 2012), with little room left for compromise. In this scheme, there have always been voices advocating a "middle-of-the-road" or "open-vector" approach, which are often dismissed as "populist." This type of discourse was apparent during our visit to the Dubasari community, where a local mayor was explaining how joining both the European Union and the Eurasian Union was the way forward for Moldova. More technically informed discourses examine soberly the options of states in the region and explain how small states eagerly try to "sit on the fence" of the seemingly glacial encounter (MacFarlane, 2012). And amongst veteran diplomats active in the region, it is conventional wisdom that interest convergence on a contextual level is the key to addressing most of

the "protracted conflicts" (EASI Report, 2012). Nonetheless, although such an approach in Moldova clearly has a constituency and, perhaps, its political advocates in Chisinau, there is hardly a convincing and realistic vision of "interest convergence" comparable to Cyprus.

In Cyprus the Annan plan failed on the level of civic society, that is, on April 24, 2004 the in simultaneous referendums, the Turkish Cypriot community voted overwhelmingly in favor (64,9%) of the plan, while the Greek Cypriot community voted overwhelmingly against it (75,8%). And for the first time in decades, the Greek Cypriot community was perceived as bearing the moral and political burden of failure in negotiations. Beyond the moral "blame-game" this failure reflects a deeply embedded social reality. Victims of the conflict on each side of the island have been rehabilitated in ways that have further complicated the larger political problem. For instance, Turkish Cypriot refugees and families of persons lost or killed in the conflict who were given Greek Cypriot homes in the North, most likely voted against the referendum as their properties could be returned to their original Greek Cypriot owners if the island is reunified. On the other hand, in the South, refugees were encouraged by their leadership to consider their displacement as temporary, and this was institutionalized in the ways that they were resettled. Forms of resettlement – whether in refugee housing or on Turkish Cypriot property – were considered by most to be temporary arrangements. Not only were Greek Cypriot displaced persons not given titles to these properties for several decades, but communities were also dispersed, creating a longing for the return to their former homes and villages. Both forms of institutionalized victimization have also created the denial of the other's rights: while Turkish Cypriot displaced persons often deny the right of Greek Cypriots to return, Greek Cypriots often deny the desire of Turkish Cypriots to stay where they are, that is, in a safe area where they are a majority. This is what Pericleous has termed "the addictive influence of the status quo" (Pericleous, 2007).

"The immediate other" in Moldova is less threatening than in Cyprus. True, the fear of being entangled in a polity with virtually unworkable governance structures or, worse yet, a Russian veto, haunts most negotiators from Chisinau. While on the other hand, the fear of being "a minority" in a titular nationality regime seems to haunt most negotiators from Tiraspol, irrespective of whether this fear is justified or not. However, an agreement that would overcome these fears would have a decent chance of being ratified, mainly because "the other" is not an unknown and vilified stranger behind an iron curtain that is unseen and unknown for decades. If anything, as the dream of a union with Romania has continued in the margins in Chisinau,

the opportunity to harness an inclusive Moldovan identity is promising. In sum, Moldovans can still grow together in terms of identity-building politics.

Food for Thought

What seems to be absent in Moldova is a "window of opportunity" for negotiations that is more regionally grounded than contextually determined, as in Cyprus in 2004. The "open vector" or "sitting on the fence" approach is not available or viable. In light of this observation, time should be best spent harnessing what Moldova already has, that is, a society that can still envisage a common future with the other side. This asset should not be taken for granted, as we have learned from Cyprus. And there are unilateral policies that can be taken from Chisinau and Tiraspol to this effect that do not necessitate international engagement or consultation. In sum, working on the context despite the content of the negotiation process seems – at this point in time – the most realistic suggestion.

In Cyprus the content of the negotiation agenda seems to be in an advanced stage of development. The process is not linear, but there are binding precedents. Nonetheless, perhaps more so than ever, countless activists that have spent time and effort in harnessing bi-communal cooperation might consider doubling their efforts with a focus on a "common citizenship" agenda. What seems to be completely absent in Cyprus, while a lot of work has been done in this respect in Moldova – including by members of our working group – is the construction of micro-narratives for day-to-day citizenship. "What would it be like living in a united Cyprus?"

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RECOMMENDATIONS

The authors who contributed to this publication elaborated the following set of recommendations for the stakeholders involved in negotiations aimed at solving the Transnistrian and Cyprus problems:

- Utilize the available opportunities; show flexibility and focus on delivering step-by-step progress in negotiations between the two sides so that further protracting or backtracking of the talks is avoided;

- When challenges prevent progress in establishing the content of the negotiations agenda, redirect the focus on developing the context of the talks in order to keep the negotiation process alive at all times;

- Increase contacts and direct communication between the two parties at all levels and encourage cooperation as well as consultation between the political leadership and civil society, i.e. interconnect track one and track two diplomacy;

- Focus cross-divide cooperation on mutual growth and development; address challenges that require immediate attention, e.g. the management of natural resources; and propose joint solutions, which could leverage the impact of remittances;

- Support the implementation of initiatives and grass roots programs that aim to diminish stereotypes about the "other side", including changing the schoolbooks featuring historical narratives of the respective conflicts; build trust; and prepare the publics for accepting a prospective political settlement;

- Support cooperation between journalists from both sides; organize joint trainings on responsible journalism, social media and community media in order to encourage balanced and impartial coverage of issues related to the negotiation process, the future settlement as well as issues of joint interest; and to reach a wider audience;

- Initiate programs of economic, trade and entrepreneurial development to increase cooperation and interdependence between both sides and consequently reduce the influence of actors with vested interest in maintaining the *status quo*.

Stakeholders involved in negotiations would often argue that international as well as intra-state conflicts are difficult to resolve particularly due to the devil hidden in the details. This publication aims to shed light on some of those details and also larger challenges that have made it impossible to agree on lasting solutions for the respective conflicts in Cyprus and Moldova despite the numerous years of effort by the parties involved. In addition to providing individual accounts of the situation in Cyprus and Moldova, this book also addresses the two conflicts from a comparative perspective and offers a set of policy oriented recommendations. Prepared by a team of international experts from Greece, Moldova, Turkey, the United States of America and both parts of Cyprus, this publication is the outcome of the "Searching for New Conflict Resolution Strategies: Lessons from the Case of Cyprus" project. This project was supported by a grant from the Open Society Foundations and the East East Beyond Borders Program of the Soros Foundation-Moldova and implemented by the Global Political Trends Center of Istanbul Kültür University in collaboration with the Foreign Policy Association of Moldova between April 2012 and April 2013.

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