

**DOCUMENTI  
IAI**

**TRANSNISTRIA:  
COOPERATION OR COMPETITION IN MEDIATION?**

*by Dov Lynch*

Paper presented at the International Conference on “The EU and the Eastern Neighbours: Democracy and Stabilization without Accession?”, in cooperation with the Polish Institute for International Affairs (PISM), Centre for Peace Conversion and Foreign Policy of Ukraine (CPCFPU),

## TRANSNISTRIA: COOPERATION OR COMPETITION IN MEDIATION?

by Dov Lynch

Senior Research Fellow, EU Institute for Security Studies (Paris)

### Introduction

The conflict between the separatist self-declared 'state' of Transnistria and the legally recognised state of Moldova remains unresolved. What is the state of affairs in the mediation process? Is the mediation process driven more by cooperation or competition? It is worth being blunt from the outset. The conflict stands unresolved, and there is little opportunity for resolution, because of enduring deep-rooted differences between the two parties to the conflict and differences between the mediators within the negotiating framework. In sum, there is very little cooperation to identify and much competition.

This being stated, the question becomes: Why has so little progress occurred towards finally settling this conflict? Part of the answer lies with our understanding of these conflicts. How have we interpreted the Transnistrian conflict for much of the past fifteen years? Two pieces of conventional wisdom have led thinking and policy towards these conflicts. These must be examined critically.

A first piece of conventional wisdom concerns the oft-repeated view that this is a 'frozen conflict.' It may appear frozen, in that little progress has been achieved in negotiations and the conflicts remain fixed on a cease-fire line established in the first half of the 1990s. In reality, however, the metaphor is misleading—the conflict is far from frozen. On the contrary, events have developed dynamically, and the situation on the ground today is very different from the context that gave rise to the conflict in the late 1980s. A new reality has emerged since the imposition of the cease-fire regime in 1992. The amalgam of territory, population and government in the separatist areas of Transnistria has produced something that is greater than the sum of these parts – a strange but certain belief in sovereignty. The separatist authorities maintain that they exist empirically. And, however weak, they have the recognisable features of statehood.

A second piece of conventional wisdom is 'peace has been held since the cease-fires.' This line of thinking argues that the mechanisms created in the early 1990s to deter conflict have kept the peace in Transnistria. These mechanisms include the Joint Control Commissions and the Russian-led peacekeeping operation. In fact, the record is poor. In their structure, these mechanisms have allowed a predominant voice for the separatist authorities. Consent of all parties is vital for the success of any peacekeeping operation, but, in these cases, one party has been able to block further progress. As a result, the separatist authorities have also been able to consolidate and strengthen their armed forces, resulting in the dangerous militarisation of the conflict zone. So, peace has not always been held, and it is a precarious 'peace' at that.

Settlement of this conflict is difficult, therefore, because it is intra-state but has an inter-state dimension, opposing a legally recognised state to an unrecognised self-declared 'state.' In these circumstances, the existing peacekeeping and negotiation formats have tended to sustain the status quo rather than challenge it.

In examining the mediation process in this conflict, this paper will address three specific questions. First, why does the non-resolution of this conflict matter from an EU perspective? What are the stakes for the EU? Second, in more detail, which forces have sustained the status quo of non-settlement in this conflict and how are these forces changing? Put simply, what challenges the status quo? Finally, how to move forward?

### **What Stakes for the EU?**

Although the non-settlement of the conflict in Transnistria does not pose a strategic threat to the EU, it does have a relevance that is strategic for EU interests. The distinction may seem overly subtle but it is real in this case. This relevance lies at six levels.

- 1) At an immediate level, the non-resolution of such a conflict in a state soon to be on EU borders raise challenges at the level of soft security to EU interests. Transnistria is positioned to act both as a source and a transit point for the smuggling of illegal goods, including persons, towards Europe.
- 2) In addition, Transnistria has become a heavily militarised self-proclaimed 'state' that has contributed to the militarisation of the region around it. Certainly, it is the case that the separatist region has acted as source and transit point for arms smuggling.
- 3) Transnistria has undermined the political and economic transition undertaken by Moldova. At a fundamental level, the continuing existence of the breakaway region raises questions about the viability of Moldova as a sovereign state. With further enlargement to Romania in 2007/2008, enduring doubts about the essential make-up and future of Moldova matter for the EU.
- 4) This conflict is relevant to EU ambitions as a nascent strategic actor. With the changes occurring in Europe's security landscape in the last few years - the OSCE having faced a serious crisis and NATO assuming increasingly global responsibilities - the conflict in Transnistria can be seen as a test case of the EU's ambition to extend security to its immediate neighbourhood. This objective was declared central by the EU member states in the *European Security Strategy* adopted in December 2003.
- 5) The enduring non-settlement of the conflict impacts on EU-Russian relations. The Moscow Summit in May 2005 reached agreement on the *Road map for the Common Space on External Security* to be built between the EU and Russia. On one level, the roadmap revealed progress in allowing for cooperation in the shared neighbourhood between the two – or, as the document stated, 'the regions adjacent to the EU and Russian borders.' In practical terms, a genuine strategic partnership between Moscow and Brussels will have to be forged on such questions as the conflict in Transnistria.
- 6) Finally, the non-settlement of the conflict matters because of the changes that are occurring in the post-Soviet space. Since 2003, this region entered a period of upheaval, announced by the 'Rose Revolution' in Georgia and strengthened by the 'Orange Revolution' in Ukraine. In so doing, the Moldovan government has conducted a volte-face in its foreign policy orientation, with a full turn towards Europe. These changes remain nascent and fragile; they still announce a new period of change, even upheaval, in a region that seemed to many by the late 1990s as entrenched in stagnation.

Securing progress in settling this conflict matters for supporting wider positive dynamics emerging across the post-Soviet space.

### **What sustained the Status Quo?**

Since the 1992 cease-fire agreement, one may identify several forces that consolidated the status quo of non-settlement.

#### *1) Separatist Transnistria*

Most importantly, the self-declared 'state' of Transnistria had no intention after 1992 of negotiating a compromise with the central authorities in Chisinau that would risk altering a status quo that is in its favour. Over the course of the 1990s, the separatist authorities have succeeded in building the features of a 'state' and deeply consolidated their control over the region.

#### *2) Moldovan Weakness*

Since 1992, most Moldovan governments have been willing to play in the game of negotiations with Transnistria, but with few real hopes of settlement. The weakness of Moldova's central government, and the widespread complicity with making the best of the status quo, meant that Chisinau never challenged existence of the separatist region.

#### *3) Distorted Peacekeeping*

The Russian-led peacekeeping operation, and the Joint Control Commission, was important for stabilising and normalising relations between the central authorities and the separatist elites immediately after the 1992 cease-fire. However, over the course of the 1990s, these structures became part of the logic sustaining the status quo – that is, the non-settlement of the conflict and the strengthening of the separatist 'state.' By 2006, it is possible to argue that these peacekeeping mechanisms support the status quo. They have also had the effect of sustaining the artificial militarisation of the conflict, as well as the security zone.

#### *4) The Negotiating Mechanism*

Throughout the 1990s, talks between Moldova and its separatist region were held through various formats, almost always under the aegis of the OSCE. The five-sided format included Russia, Ukraine, and the OSCE with the two conflicting parties. Progress towards conflict settlement through this structure was hampered by a lack of consensus between the mediators and also by unilateral attempts by Russia to short-circuit the multilateral framework. The five-sided mechanism, while not directly sustaining the status quo, was not able to challenge it significantly.

#### *5) Russian Interests*

Various Russian forces, including the government itself at times, have been deeply engaged in sustaining the status quo of non-settlement. Russian policies have had military, economic, and political dimensions, ranging from private business investment in Transnistrian concerns to energy support to the separatist region, high level political support to the 'interests' of the left bank of the Dnestr river, an active policy of providing Russian passports to the population in the region, and military assistance. After 1992, with moments of exception (1997), Russian governments had shown little

interest in pushing for conflict settlement, especially as the status quo is seen in Moscow to protect Russian interests.

6) *Ukrainian Ambiguity*

Despite initial hopes for Ukraine, ambiguity in Ukrainian policy towards Moldova and the separatist region was an important factor consolidating the status quo. In particular, the opacity of the Ukrainian border with Transnistria supported the consolidation of the separatist region through the illegal and illicit smuggling of goods throughout the region.

7) *Relative International Neglect*

Finally, neither Moldova nor the its conflict featured highly on the radar of international attention throughout the 1990s. The United States was engaged on an on-and-off basis, while the EU had little political profile in Moldova o the conflict settlement process. Certainly, the EU did not have the tools in the 1990s to develop such a political profile.

The intermingling of these factors had clear results. Firstly, the negotiations, despite momentary appearances of progress, were stalled and even blocked. Secondly, the separatist 'state' spent its time well in the 1990s consolidating political and economic structures as well as its control mechanism over the region. The logic surrounding the conflict over the last fifteen years, therefore, has run largely contrary to settlement.

The status quo has carried costs for all of the parties, in terms of social-economic difficulties and political burden. However, in the last decade, both Moldova and separatist Transnistria have developed internal structures and external sources of support that offset the pain of stalemate. Moldova also developed mitigating strategies that offset the pain of the current stalemate. The status quo hurts, but not enough and not everyone in the same way. The Transnistrian authorities have become inured to the difficulties of non-recognition and adapted to gain the greatest benefits from it. The Transnistrian public and private authorities have profited extensively from the legal limbo in which Transnistria exists and have become content with retaining the freedom this has provided for all sorts of criminal and non-regulated activities. While Transnistrian leaders insist on retaining sovereign control over the left bank, it has become uncertain that they actually seek recognition or would welcome its constraints.

### ***The Rise of New Forces***

In the last few years, significant changes have occurred, which taken together have announced a shift in the logic sustaining the conflict.

1) *A New Moldova*

Since 2003, Moldovan foreign policy has undergone an about-face. After initially placing hopes in resolving the conflict quickly with Russian support, the Moldovan president has declared that there is no use talking to the 'criminal authorities' in Tiraspol, and argued that the peacekeeping operation was ineffective. The Organic Law passed by the Moldovan parliament in July 2005 has altered Chisinau's approach to the conflict quite fundamentally.

In addition, Moldovan foreign policy has more clarity than ever before in its pro-European orientation. The agreement on the *European Neighbourhood Policy Action*

Plan, as well as on an Individual Partnership Action Plan with NATO, have signalled an increasingly determined European vocation for Moldova. Serious doubts remain as to the implementation of this vocation at the domestic level, but a change has occurred. In dealing with the separatist region, this has translated into a more intransigent line that has been less accepting of a continuation of the status quo.

## 2) *A New EU*

Since 2002, the EU has increased its involvement at the political level in and around the conflict, all of which signal increased attention and commitment to Moldova and to pushing for conflict settlement.

EU policy has been reflected at several levels:

- The development of tougher positions in the negotiations, including the identification of Transnistria as the main obstacle for settlement.
- The imposition, in coordination with the United States, of targeted travel bans against elements in the separatist leadership.
- The appointment of a EU Special Representative with a mandate to lead EU policy in the conflict, and agreement to join the five-sided format as an official observer, along with the United States.
- The deployment on November 30, 2005 of a Border Assistance Mission on the Moldovan-Ukrainian border to assist the Moldovan and Ukrainian border and customs services, and to ensure the transparency of transactions across this border.
- Work with Moldova and Ukraine to adopt and apply a new customs regime for trade across their shared border, instituted in March 2006.
- A more substantial commitment to Moldova through the ENP Action Plan.

## 3) *A Defensive Russia*

The so-called 'Kozak Memorandum' of late 2003 marked a hardening of the Russian position in this conflict, the failure of which exacerbated Russian zero-sum perceptions of its role.

It is worth examining the document in some detail as it highlighted Moscow's aims for settling the conflict on Russian terms. The proposal consisted of a 'Memo On the Basic Principles of the States Structures of the Unified State.' Under its terms, Moldova would have become the Federal Republic of Moldova (FRM) within its 1990 borders. The FRM would have been based on the following principles: it would be united and democratic, demilitarised and neutral, and contain two Federal Subjects (the PMR and Gagauz formation with all their state organs and powers, and symbols). Moldovan would be the state language of the FRM, while Russian would have become an official language. Federal Subjects would be given the right to exit the FRM, through a referendum on the territory of the Federal Subject, if the FRM should change its status or suffer a loss of sovereignty. The FRM would have had three institutions: a Senate, with twenty-six members (four Gagauz and nine PMR, and thirteen from the House of Representatives); a House of Representatives (with seventy one members); a Federal President and a Constitutional Court (with eleven members: six from the House of Representatives, one Gagauz, four PMR). All legislation in the FRM would have to be 'confirmed' by the Senate. In a transition period, the PMR would have retained its military formations. Moreover, there would have been no review of PMR laws enacted since 1992.

In many ways, the proposal contained the worst of previous documents that had been put forward, with too many joint powers between the federal centre and the subjects, and too vaguely defined. The PMR was recognised as a state formation in the proposal, and provided with over-representation in the federal centre, to such an extent that Moldova itself may have been *transnistrianised*. Certainly, the PMR would have been in a position to block the movement of Moldova towards the EU. Moreover, the proposal would have allowed Russia to deploy a peacekeeping operation of 2000 troops to guarantee security during the implementation of the agreement.

The failure of the proposal exacerbated Russian defensiveness at several levels:

- Continuing economic and energy support, including humanitarian assistance, to the left bank.

- Rhetorical and diplomatic support to Transnistrian aspirations through high-level statements on a so-called ‘Kosovo precedent.’

- Official condemnation of the declared Moldovan-Ukrainian ‘blockade’ of Transnistria with the new customs regime on the border

- Criticism of the EU and the US for their obstructive external engagement in the negotiating process.

For Russia, the conflict has become a front line in a struggle for influence in the former Soviet Union and for ensuring that Russia’s voice is respected in the overall European security order. For Moscow, the stakes are seen as high. The former Foreign Minister, Igor Ivanov, argued at the OSCE Ministerial summit in Maastricht in December 2003: ‘The memorandum proposed through the mediation of Moscow was acceptable to the parties. In our own conviction, its signing would have made it possible to resolve the Transnistrian problem within the framework of one state. Regrettably, the signing did not take place as a result of pressure from certain states and organisations.’<sup>1</sup> For ‘organisations,’ read – the European Union. In Ivanov’s view, all parties ‘lost’ as a result of ‘methods of pressure and attempts at interference.’

Divergences run deep. The Russian government has read EU statements about the need for a multilateral approach in the conflict as an attempt to ensure a predominant European voice and weakened Russian influence. In contrast, Russia has shown a preference for bilateral relations with Moldova, and not trilateral (with the EU and/or the US), and even less multilateral. Moscow has rejected the European argument that the Kozak proposal was too flawed to be acceptable. The prevailing view is that a zero-sum struggle for influence is being waged in the former Soviet Union.

For Moscow, the settlement of the Transnistrian conflict has become a small part of a wider game in which rising EU influence in the shared neighbourhood is seen to be occurring at the expense of the Russian voice.

#### 4) *A New Ukraine*

Despite significant wavering after the Orange Revolution, Kyiv has finally changed its approach towards both Moldova and the settlement process. The Ukrainian conflict settlement proposal of 2005 turned out to be less useful than hoped for initially. However, the Ukrainian government agreed in December 2005 to institute a new customs regime on its border with Moldova, including the Transnistrian section, to

---

<sup>1</sup>Ivanov’s statement of 1 December 2003, is available from IPD, DNB, Moscow: [www.mid.ru](http://www.mid.ru)

ensure the transparency of all trade and the sovereignty of Moldovan customs regulations – an agreement that was implemented as of March 2006.

The new customs regime on the border, combined with Ukraine's agreement to the EU BAM, reflects a radical shift in Kyiv policy – towards supporting Moldovan sovereignty *de facto* and not only *de jure*, towards aligning with EU approaches towards the conflict, towards pursuing foreign policy lines that are independent of Russian preferences and towards a willingness to sustain the costs of difficult choices.

Ensuring the legality and transparency of trade across the Ukrainian border is key to creating new conditions around the conflict, because it will strengthen the Moldova government and induce the normalisation of economic transactions in and around Transnistria while placing pressure on the separatist authorities.

#### 5) *A Hardening Transnistria*

Despite some hopes of a nuanced opposition emerging inside Transnistrian politics, there has been no breach within the elites of the separatist region on the central questions of independence and relations with Russia. In the last year, the authoritarian nature of the regime has only hardened, with a well-orchestrated information campaign against the so-called 'blockade,' and new laws tightening control over NGOs in the separatist region.

These changes offer new opportunities for pursuing conflict settlement, but they have also entrenched old difficulties. By 2006, the situation in and around the conflict settlement process was worrying:

1) The talks have remained stalled, despite the inclusion of new observers and new attempts to stimulate negotiation on overall settlement principles. At least from the Transnistria, if not also from external parties, there exists no will for serious negotiations on a compromise settlement. The Transnistrian authorities remain as intent as ever on their *de facto* independence, and have drawn solace from events in Serbia/Montenegro and the talk over the status of Kosovo.

2) The existing negotiation and peacekeeping arrangements seem ever more like dead ends, from the peacekeeping operation, which has not prevented the militarisation of the security zone or even provocative acts, to the Joint Control Commission, which has become superfluous, to the "5+2" format, which has not succeeded in de-blocking talks or in creating new conditions for their conduct.

3) Moldovan-Russian relations have never been worse, as reflected in the exchange of hostile rhetoric between Moscow and Chisinau over the enduring Russian military presence, and the Russian ban on Moldovan wine exports for hygienic reasons.

4) At the same time, EU support to Moldova has not yet reached a level and scope to offset the impact of rapidly deteriorating relations with Russia. The still timid EU approach to Moldova is reflected in enduring restrictions on trade and the travel of persons.

5) Over the short term, it would seem that current tensions work in the favour of the separatist regime and the strengthening of its authoritarian control over the region. The so-called 'blockade' has not prevented the registration of Transnistrian-based businesses in Chisinau, including recently the *Rybnitsa Steel Mill*, and has been a convenient justification for hardening control inside the separatist region.



6) Finally, the Russian government has stuck firmly to a zero-sum approach to the conflict in order to offset rising EU and US influence. Russian objectives are linked to the conflict itself and to Moldova, where Moscow seeks a ‘friendly’ and accommodating state, but they are also tied into wider security concerns. In Moldova, Russia is intent on setting a positive precedent for other conflicts in the region, as well as for EU-Russia relations and for Russia’s wider position in the new European security order that is arising.

### **What to Do?**

Within the OSCE, the current focus of conflict settlement activities has fallen on three areas. First, the OSCE has sought to secure Transnistrian cooperation with the confidence and security-building package. Second, the OSCE has pushed forward the idea of an international monitoring mission to inspect the military-related factories and plants on the left bank. Third, the OSCE has been insistent on clarifying the situation around the Dorotskaya village.

All three of these issues are important, but none are *logic-changing policies* that could substantially affect the Transnistrian drive for independence or the Russian determination to retain a predominant position. In such difficult circumstances, what should the EU do?

EU policy could move forward at the following levels:

#### *1) Relaunch the Talks*

This requires being blunt, stating that the current mechanisms are not working. The EU could call for an international conference to:

- Take stock of the lessons of the last decade;
- Consider the potential role of new actors in a format of “7”,
- Consider new approaches to demilitarising the conflict and maintaining peace.

#### *2) Pressure Transnistria*

The EU should seek to induce the separatist state to compromise through further strengthening of transparency on the border with Ukraine, seeking Transnistrian agreement to the implementation of the CSBM package, and applying coercive measures against the separatist leaders.

#### *3) Transform Moldova*

A danger would be to hold EU-Moldovan relations hostage to Tiraspol. The goal for the EU should be to fundamentally alter the equation by bringing Moldova as close as possible to the EU. High-level attention by the EU and the US are key to providing support to Chisinau and to locking this government onto the European track.

#### *4) ESDP Cooperation with Russia*

As much as possible, every step taken by the EU should be considered in light of the need to forge a positive precedent for EU-Russian cooperation. Constant communication through the EUSR with Moscow is vital. More substantially, the EU could push three questions onto the agenda with Russia:

- Producing a new joint settlement proposal;
- Designing a new joint crisis management operation;

