

The EU and Transnistria

From Deadlock to Sustainable Settlement

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The European Security Strategy (ESS) states that enlargement brings the EU closer to 'troubled areas' in its neighbourhood and that it 'is in the European interest that countries on the EU's borders are well-governed. Neighbours who are engaged in violent conflict, weak states where organised crime flourishes, dysfunctional societies (...) all pose problems for Europe.'¹ Enlargement not only brings the Union closer to conflicts on its periphery but also strengthens the EU as it brings in new states with a greater knowledge of these conflicts and who are equipped with a greater sense of urgency to deal with them. Moreover, with the development of the European Security and Defence Policy (ESDP) the EU has the military and civilian capabilities to seek the settlement of these conflicts. In Javier Solana's words, the EU is 'the only regional organisation with such a wide range of political, diplomatic, humanitarian, economic and financial, police and military instruments.'² Certainly, the resolution of the conflicts in the EU neighbourhood requires an integrated approach to conflict resolution. And in fact, the EU has little choice: 'In its neighbourhood and beyond, the EU cannot [...] confine itself to the economic and political spheres; it also needs to be able to guarantee stability, prevent conflicts and manage crises on its own doorstep.'³ In this context, the European Neighbourhood Policy (ENP) has been developed with conflict resolution as one of its priorities.

A number of unsolved conflicts in the neighbourhood poses problems for the EU. These include, among others, the conflicts over Western Sahara, Israel-Palestine, Abkhazia, South

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¹ *European Security Strategy: A Secure Europe in a Better World*, Brussels, 12 December 2003.

² Javier Solana, 'Europe must assume its responsibility for security,' *The Irish Times*, 23 September 2003.

³ Communication from the Commission to the Council and the European Parliament, *Building our Common Future: Policy Challenges and Budgetary Means of the Enlarged Union 2007-2013*, 26.2.2004, COM (2004) 101 final/2, p. 24.

Ossetia, Nagorno-Karabakh and Transnistria. The success of the ENP requires that the EU take a position on all of these. As argued in the European Security Strategy, EU security is inter-dependent with stability in the regions on its borders.

The paper discusses the use of the ENP to resolve the conflict that opposes the separatist region of Transnistria⁴ with the central government of Moldova. There is no apparent urgency for the EU to become more involved with this conflict: there is no fighting, people are not dying and terrorists are not being trained in Transnistria. However, Transnistria matters for the EU. The conflict poses considerable soft security challenges to the enlarged European Union as the separatist region has emerged into a hub for illicit trafficking in arms, people and drugs, organised crime, money-laundering and smuggling. Calm in appearance only, the security situation is far from stable and could deteriorate at any moment. The conflict is also the closest geographically to the enlarged EU – it stands less than 100 km from the border of Romania, due to join the EU in 2007-2008.

Importantly, this is also the most solvable of the conflicts in the EU neighbourhood. The conflict is not embedded in ethnicity, religion or history, but rather in contemporary politics and economics. This conflict did not feature the bloodshed seen in the wars that followed the dissolution of the Yugoslav Federation, and it has none of their enmity either. Transnistria is not a classic ethnic or religious conflict. The conflict is sustained because elites in the separatist region benefit from the status quo. They also enjoy the support of powerful groups inside Russia, Ukraine as well as Moldova. These elites benefit from lucrative criminal businesses centred on the geographic position of Transnistria and its existence in legal limbo. For much of the 1990s, Moldova's lack of attractiveness was another factor sustaining the conflict. Transnistria could justifiably look across the Dniestr River and argue the case for separatism.

The context around the conflict has changed for the better. First, Moldova in 2005 is not the Moldova of 1995 or 1989. The Orange Revolution in Ukraine, the prospect of Romania's future EU accession and EU-Russia cooperation on the building of a common space for external security – all create an environment that is conducive for a greater EU contribution

⁴ Transnistria is the Moldovan name of the secessionist region on the left bank of river Nistru (Dnestr in Russian). The Russian name for the region is Pridnestrovyie, and the formal name of the self proclaimed republic is 'Pridnestrovskaya Moldavskaya Respublika', or PMR. Transnistria-Pridnestrovye-PMR are different terms designating the same region.

to conflict settlement. Engaging in conflict settlement here will require a coordinated and integrated approach from the EU – both economic and Justice and Home Affairs measures, the greater integration of ESDP instruments into the ENP, as well as enhanced political dialogue with Moldova, Ukraine and Russia. These tasks are a challenge for the EU but they are not insurmountable.

EU thinking, assessments and policies towards the conflict in Transnistria have evolved quickly. The turning point towards a more active role occurred in late 2002. Since then, the EU has stepped up its attention and actions. The EU now raises constantly the Transnistria issue in relations with Russia and Ukraine. The Union has also used an array of CFSP instruments to support the conflict resolution process – these have included appointing a EU Special Representative, introducing a travel ban against the Transnistrian leadership, as well as envisaging common actions under its ENP Action Plans with Moldova and Ukraine on conflict resolution in Transnistria.

Why More EU Engagement?

First, because of enlargement. A 2002 Commission paper on EU approaches to Moldova stated: ‘Moldova’s stability clearly matters to the EU. Within a few years, Moldova will be on the borders of an enlarged EU. It has been destabilised by weak government, armed conflict and secession, near economic collapse, organised crime and emigration [...] The EU needs to help Moldova address these problems’⁵. Enlargement stimulated the EU to develop a neighbourhood policy.

Second, developments in CFSP and ESDP mean that the EU not only can look East, but that it can also potentially act in the East. What is more, by 2002, the Balkan region had been set more or less on the path towards stabilisation. Serbia’s authoritarian leader Slobodan Milosevic was ousted, FYR of Macedonia had stabilised after the 2001 clashes between the Slavic and Albanian communities and the EU was beginning to pay more attention to its Eastern neighbourhood.

Third, by 2003, after more than a decade of negotiations, the conflict settlement mechanisms have become discredited in the eyes of Moldova and the international community. The five-

⁵ EU approach on Moldova (Unpublished, 2002).

sided mechanism and the peacekeeping format have not worked and are no longer acceptable as negotiations were stalled, and Moldova did not trust Russia and Ukraine, and the peacekeeping operation was perceived as sustaining the status quo rather than solving the conflict. With every passing year of negotiation, the Transnistrian separatist state consolidated. Steps undertaken under pressure from the mediators as part of the conflict settlement efforts, such as granting Moldovan custom stamps to Transnistria were only contributing to a more economically independent Transnistria. Instead of altering the incentive structures sustaining the conflict, the negotiation format was, in fact, legitimising them. The UK Government memorandum on the appointment of a EU Special Representative to Moldova is clear: 'After another year without progress on the five-sided settlement talks [...] there is recognition within the EU of the need for greater engagement in Moldova. This has become more pressing following the recent enlargement of the EU, which has put the EU's external border closer to Moldova, and with the prospect of Romania's accession in 2007, which will put Moldova directly on the EU's border'⁶.

Fourth, the Transnistrian authorities have driven the EU towards greater involvement in the conflict resolution process. Transnistria opposes any Western involvement in the process, and is profoundly distrustful of Europe. Transnistria obstructionism in negotiations, which were employed by the separatist leaders to prolong the status quo, in fact, discredited the mechanism in the eyes of most observers and gave the Moldovan government credible arguments to insist on greater EU and US involvement in negotiations.

This was reinforced by a series of tensions between Moldova and Transnistria in 2003-2004 that revealed the flaws not only of the negotiation format but also of the peacekeeping mechanism. A brutal attempt to close down the only six Romanian-language schools (one of them an orphanage) using the Latin alphabet in Transnistria in the summer of 2004 prompted a series of EU statements, an extension of the travel ban on more Transnistrian officials, and a visit in early August 2004 by Robert Cooper, Director General for External and Politico-Military Affairs of the EU Council to Transnistria⁷. The crisis led to a direct and dangerous

⁶ Information from the Committee on European Security of the United Kingdom Parliament, House of Commons, Eleventh Report of Session 2004-2005, Point 12 'FCO (26397) EU Special Representative for Moldova'.

⁷ See 'Javier Solana, EU High Representative for the CFSP, writes to Russian Foreign Minister Sergey Lavrov on deteriorating situation in Transnistria,' Brussels, 30 July 2004, S0208/04; 'Javier Solana, EU High Representative for the CFSP, sends diplomatic mission to Moldova,' Brussels, 9 August 2004 S0210/04; 'Declaration by the Presidency of the European Union on the denial of access to

standoff between Moldovan police and Transnistrian militia, in which the peacekeeping forces did not interfere. Nor could the Joint Control Commission, composed of Russia, Transnistria and Moldova and the body supervising the security situation, intervene because of a Transnistrian and Russian veto. This revealed the biases of the structures, which, designed to maintain peace, now entrenched the conflict. Transnistrian actions, therefore, served to undermine the credibility of the Russia-led negotiating and peacekeeping formats and to encourage thinking in the EU, the US and Moldova on how the situation could be changed.

Fifth, Russian policies towards Moldova encouraged and even accelerated greater EU attention to the issue. Russia's unilateral diplomacy, witnessed with the 'Kozak memorandum' and Russian pressure to weaken the OSCE has undermined the five-sided format in this conflict. In November 2003, Dmitri Kozak, Putin's special envoy, developed a unilateral settlement plan that would have opened the way to a Russian military presence until 2020 and Transnistria's de facto domination of the whole of Moldova. This became known as the 'Kozak memorandum'⁸. In addition, Russia failed to withdraw its troops and armaments before the end of 2002 in accordance to its OSCE Istanbul commitments. Russia has not cease supporting Transnistrian separatism even after an initially pro-Russian communist government took power in Moldova. So assertive was Russian policy towards Moldova that even Moldova's communists turned away from Russia as the main 'strategic' partner. In 2004-2005, Russia also tried to sideline EU institutions by intensifying discussions on Transnistria with some EU member states to show that it consults with European partners while trying to undermine a common EU policy on Transnistria⁹.

Sixth, the EU-Russia dialogue on security issues, especially the launch of a road map for a space of common external security in May 2005, start to create a proper basis for cooperation on the conflicts in the former Soviet Union. A key objective of the common space is to

Transnistria of the OSCE Mission in Moldova,' 19 August 2004; 'Declaration by the Presidency on behalf of the European Union on the continuing deterioration of the situation in Moldova,' 26 August 2004. All these documents can be found on: www.eurojournal.org

⁸ The text of the Russian Draft Memorandum on the basic principles of the state structure of a united state in Moldova (Kozak Memorandum) can be found at: http://eurojournal.org/comments.php?id=P107_0_1_0_C; for relevant commentaries see Michael Emerson, 'Should the Transnistrian tail wag the Bessarabian dog?' CEPS Commentary, 11 January 2004, available at: http://www.ceps.be/Article.php?article_id=133&; and John Lowenhardt, 'The OSCE, Moldova and Russian Diplomacy in 2003,' Eurojournal.org 16 April 2004, http://eurojournal.org/more.php?id=139_0_1_6_M5

⁹ Interview with EU official, Brussels, April 2005.

‘strengthen EU-Russia dialogue on matters of practical co-operation on crisis management in order to prepare the ground for joint initiatives [...] in the settlement of regional conflicts, inter alia in regions adjacent to EU and Russian borders’¹⁰. This document clears ground in which the EU could increase its contribution to conflict resolution in Transnistria, which, after all, is an adjacent region only to the EU and not Russia.

Seventh, the Orange Revolution and changes in Ukrainian policy have made greater EU contribution to conflict resolution more welcome; these changes also increased the EU’s potential to act in stronger cooperation with Ukraine.

Taken together, these factors led member states and the EU to recognise that the status quo had to and could be changed. A new push was required. With the OSCE in crisis, NATO looking beyond Europe towards global responsibilities, the United States deeply involved in the Middle East, the obvious candidate to drive the conflict resolution process is the EU.

EU Thinking and Policy

Most importantly, EU thinking about Moldova has changed. The Moldovan conflict remains far from the most salient problem the EU faces, but since 2003 there has been a lot of thinking about the conflict in Transnistria. In addition, the EU has used a wide array of CFSP instruments to support the settlement of the conflict. It is worth reviewing these actions before considering new ideas for EU engagement.

Diplomatic Actions

The EU has moved relatively quickly to become a diplomatic actor in the Transnistrian conflict resolution process. During 2003-2004, the EU became an *ad hoc* diplomatic actor in Moldova, periodically sending diplomatic missions to Moldova, raising the Transnistria problem with Russia and Ukraine and expressing opinions on the conflict resolution process. The most dramatic instance of such diplomatic activism was Javier Solana’s declared lack of EU support to the ‘Kozak Memorandum’ in November 2003, which weighed in Moldova’s decision to reject the Russian plan. In early 2005, a decision was made to increase the profile and to streamline EU diplomacy and in March the EU appointed a EU Special Representative

¹⁰ EU-Russia Road Map for the Common Space of External Security, p. 43.

for Moldova. A senior Dutch-diplomat, Adriaan Jacobovits de Szeged, who served as the special envoy of the OSCE Dutch Chairman-in-Office in 2003 on the Transnistria problem was appointed. His mandate is to 'strengthen the EU contribution to the resolution of the Transnistria conflict [...] ; assist in the preparation [...] of EU contributions to the implementation of an eventual conflict settlement'¹¹. In this way, EU sent a message that its interest in the Transnistria problem is serious, and that the EUSR would be the main EU interlocutor with whom the problem should be discussed¹². The EUSR appointment was designed to provide for greater EU internal coherence and external visibility. However, the fact that the EUSR is based in The Hague has reduced his visibility on the ground.

Trade-related Actions

In September 2004, the EU introduced a double-checking system for the steel exported from Moldova without imposing any quantitative limitations.¹³ In fact, this was a measure to enhance the transparency of steel exports from Transnistria to the European Union. Such exports could no longer happen without Moldovan certificates confirming the origin of the steel. This meant in effect that the Transnistrian steel factory in Rybnitsa would not be able to export steel without Moldovan custom stamps or supervision by Moldovan authorities. The impact has been felt in Transnistria, which has had to redirect exports towards the East and China, in particular.

Participation in Negotiations

The EU has been involved in the negotiations also. During the Dutch chairmanship of the OSCE in 2003, the EU was present in the Joint Constitutional Commission, composed of Moldovan and Transnistrian deputies, to draft a new constitution for a reunified Moldova. The Commission ultimately failed in its task, but it marked a symbolic change in the conflict resolution mechanisms with the EU being involved for the first time in negotiations on the status of Transnistria.

¹¹ Council Joint Action 2005/265/CFSP of 23 March 2005 appointing a Special Representative of the European Union for Moldova, Official Journal L 081 , 30/03/2005 P. 0050 - 0052

¹² Interview with EU official, Brussels, April 2005.

¹³ Council Decision concerning the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the Republic of Moldova establishing a double-checking system without quantitative limits in respect of the export of certain steel products from the Republic of Moldova to the European Community, Brussels, 7 September 2004, 11511/04, SID 28, COEST 126.

The EU is not formally included in any of the formally institutionalised conflict management formats in Transnistria. It is not part of the five-sided negotiation format, the joint control commission, or the peacekeeping mechanism. The EU rather than seeking to join these mostly discredited and deadlocked formats, has been building new frameworks of cooperation in which it could bring an added value to the conflict resolution process. This included active diplomacy by the EUSR Moldova and the launch of the EU Border Assistance Mission. In fact the main thrust of conflict settlement efforts in Transnistria have shifted away from the five-sided format towards direct dialogue between the EU and other concerned actors and efforts to increase the transparency of the Moldova-Ukraine border.

Since September 2003, Moldova has constantly called for the EU (and the US) to become a full mediator in the conflict. The proposition is supported by Ukraine, and Transnistria has even decreased its objections to that the idea in 2005. It is increasingly likely that the EU, as well as the US, will become involved in the negotiating process at some point. As the failure of the “Kozak memorandum” showed, no solution to the conflict is likely without EU support. All of this highlights the importance of the EU role in the negotiations, even if it is not formally a mediator yet.

Political Dialogue with Ukraine and Moldova

Starting in March 2003 at the initiative of the European Commission, a series of trilateral consultations between Ukraine, Moldova and the EU were held in Brussels on the issue of joint border controls on the Moldovan-Ukrainian border, including its Transnistrian segment. The ENP Country Report on Moldova from May 2005 mentions that ‘a key element in any effort to achieve a settlement relates to ensuring Moldova’s control over its entire customs territory’. The Report states also that ‘without effective customs control on the goods crossing Transnistria, smuggling is flourishing with serious consequences on the government budget and the rule of law’. The EU, thus, supported Moldova’s proposals for the creation of a joint border control on the Ukrainian territory to ensure control over all of Moldova’s external borders. The EU also pledged funds to support the development of border infrastructure between Moldova and Ukraine. On 7 June 2005, the European Commission announced that this assistance would increase to 22 million euros primarily for strengthening border controls between Moldova and Ukraine.

In February 2005, the EU and Moldova signed their ENP Action Plan for increased cooperation. The Action Plan is a set of measures to advance economic and political relations between Moldova and the EU. Besides economic and technical issues, the Action Plan has separate section on Transnistria. The document underlines the 'continuing strong EU commitment to support the settlement of the Transnistria conflict, drawing on the instruments at the EU's disposal,' and that 'the EU is ready to consider ways to strengthen further its engagement'. One should note also that the EU will open a Commission delegation in Chisinau in September 2005.

Transnistria has been prominent in the bilateral EU-Ukraine dialogue. The EU-Ukraine Action Plan also states the necessity of enhancing cooperation in 'working towards a viable solution to the Transnistria conflict in Moldova, including addressing border issues'. In addition, the Transnistria issue is raised permanently in the EU-Ukraine dialogue, and Transnistria is often perceived as one of the tests of the post-Kuchma Ukraine.

Border monitoring

In response to the Moldovan and Ukrainian invitation to monitor the border between the two countries, in August 2005, the EU presented a memorandum on the creation of a EU Border Assistance Mission that would monitor customs and border controls on the whole frontier between Moldova and Ukraine, including its Transnistrian sector. It is expected that the mission will start its activity on 1 December 2005 and would last for 2 years with the possibility of extension for another year. It would be a European Commission led mission (not a ESDP operation), dealing with both border and customs monitoring, without any executive functions. The EU monitoring mission will be able to operate at all border crossing points but will not be permanently located at these points.

Sanctions

In February 2003, the EU and the US introduced targeted restrictions in the form of a travel ban against representatives of the Transnistrian leadership. The joint statement stated: 'The leadership of the secessionist Transnistrian region has continually demonstrated obstructionism and unwillingness to change the status quo, thereby impeding meaningful

negotiations'¹⁴. The EU statement noted also: 'The EU reserves the right to consider additional targeted restrictive measures at a later date. The EU will review its position in the light of further developments, in particular steps taken by the Transnistrian leadership to make substantial progress in negotiations'¹⁵. In August 2004, indeed, the travel ban was extended to an additional ten officials from Transnistria who were responsible for the attempt to close down the Latin-script schools, which was considered a human rights violation.¹⁶ However, the effectiveness of sanctions is reduced by a number of factors. Firstly, Ukraine has not associated itself with the travel ban. The Ukrainian authorities invoke that as a neutral mediator in the conflict resolution process they cannot exert pressure on one of the conflict parties. This makes it possible for Transnistrian officials to travel easily in Ukraine and Russia thus reducing from the negative impact of sanctions. Second, the sanctions are too limited in scope to impose a serious burden on the leadership and make it reverse their policies. They target a limited number of officials, but not key supporters of the regime such as senior executives of the most important industries or business groups that are key in supporting the regime¹⁷. Third, the objective of the sanctions is somehow vague, and there is no clear request to some concrete steps towards compliance from the part of the Transnistrian authorities.

Crisis Management

In the summer of 2003, the EU discussed the possibility of contributing to a peace-support operation in Transnistria. The idea was first raised officially in an OSCE food-for-thought paper¹⁸ and discussed in EU Political and Security Committee and in the EU Military staff¹⁹. In the end, the proposal was put aside because of Russian opposition, EU-Russia disagreements over the 'Kozak memorandum' and because of a lack of clarity in the prospects for a settlement in Transnistria. However, the idea of the need for a different type

¹⁴ 'Moldova : Council adopts restrictive measures against the Transnistrian leadership,' Brussels, 27 February 2003, 6679/03 (Presse 56), Annex 1 'Joint Statement of the European Union and the United States on Sanctions against the Transnistrian leadership,'

¹⁵ 'Moldova: Council adopts restrictive measures against the Transnistrian leadership,' Brussels, 6679/03 (Presse 56).

¹⁶ 'Declaration by the Presidency on behalf of the European Union on the continuing deterioration of the situation in Moldova,' 26 August 2004.

¹⁷ On the effectiveness of "smart" sanctions see Anthonius W. de Vries, "European Union Sanctions against the Federal Republic of Yugoslavia from 1998 to 2000: A Special Exercise in Targeting", and "Introduction" in David Cortright and George A. Lopez, *Smart Sanctions: Targeting Economic Statecraft*, (Rowman and Littlefield: Lanham, MD, 2002).

¹⁸ Food-for-Thought-Paper: Peace Consolidation Mission Moldova (Unpublished, July 2003).

¹⁹ Interview, Ministry of Defence of the United Kingdom, London, October 2003.

of peace support operation in Moldova is not off the agenda, and the EU will resume such discussions in the future.

This discussion has highlighted instances of increased EU engagement in the Transnistria problem. In a context where the conflict resolution mechanisms are discredited and ineffective, Transnistria's de facto independence is strengthening, the OSCE lies in deep crisis, and where Ukraine is moving closer to the EU while Russia wants closer cooperation on security matters with the Union, the EU becomes a central point of international efforts to address the Transnistrian conflict.

The question is now: What should the EU do? How and where the EU seek greater engagement? The EU has made significant progress in thinking about the Transnistria problem. Now, it is time for actions to catch up with thought.

Conclusions and Recommendations

The conflict in Transnistria is the closest geographically to the EU; at the same time, it is the most 'solvable.' The conflict features high on the agenda of EU-Russia and EU-Ukraine relations. A settlement of the conflict in Transnistria would attenuate the soft security challenges the EU faces on its Eastern border. Settling the conflict requires an international effort. The focus of EU policy should be to alter the context in which the conflict is situated and sustained, rather than hoping for an early agreement on the status of Transnistria. The primary objective should be to increase Moldova's 'attractiveness' while decreasing the benefits of maintaining the current status quo. The Transnistrian separatist project is very much based on false economic arguments for independence. Undermining these claims will be central to efforts to reunify the country.

In order to achieve a sustainable settlement of the conflict, the EU could consider such actions as:

- Secure greater alignment between Ukraine and the EU on CFSP joint statements and actions, including sanctions against Transnistrian leadership;
- Support the creation of joint Moldovan-Ukrainian border posts on the whole perimeter of the border;
- Involve Ukrainian NGOs in the efforts to support democracy in Transnistria.
- Increase Moldova's attractiveness through trade liberalisation and facilitation of the visa regime for certain categories of citizens in line with areas of flexibility in the Schengen acquis;
- Seek possibilities to start implementing some of the provisions of the EU-Moldova Action Plan in Transnistria as well, with a particular focus on political and democracy related issues;
- Expand targeted sanctions to key supporters of the regime from the business community, as well as against individuals and companies involved in criminal activities and human rights abuses in the region;
- Revise the objectives of sanctions. The EU should request democratisation in Transnistria with clearly set benchmarks, rather than link the travel ban to the continuation of negotiations on conflict settlement;
- Involve Transnistrian students and academics in EU-Moldova exchange programmes.