

## Democratization as a Means of Conflict Resolution in Moldova

### I. INTRODUCTION

The failure of federalization talks that dominated the Transnistrian conflict settlement agenda during the first term of communist government in Moldova (2001-2005) led to a renewed emphasis on the role that mechanisms of democratization can play in resolving a fifteen-year old conflict. Due to the strong normative appeal attached to the concept of democracy in the contemporary international environment, the idea of legitimacy of leadership has gained significant currency in relation to this conflict and consequently both the Moldovans, the Transnistrians and the international community are placing increasing emphasis on the idea of democratization as a catalyst for the resolution of this particular case of post-communist ethnopolitical conflict. Yet the main parties to the conflict ascribe different meanings to the concept of democratization, disagree about stages and criteria of democratization, and have widely divergent hopes with regard to the substantive outcomes that the process of democratization is to generate.

This chapter seeks to review developments in the negotiations related to the Transnistrian conflict as of the end of summer 2005 and to analyze the evolution in the positions of the main parties to the conflict. After describing new conflict settlement initiatives and the reaction to these initiatives on the part of the main actors involved, the article proceeds to discuss the key challenges and dilemmas that domestic actors and the international community will have to address, while advocating a policy of democratization in Transnistria. Whether these specific challenges are successfully addressed will have a major effect on the viability of the current democratization initiative and on the odds of securing a lasting conflict settlement in the region.

### II. THE YUSHCHENKO INITIATIVE AND ITS INTERNATIONAL CONTEXT

Federalization talks initiated by Moldovan President Voronin soon after he assumed office in 2001 constituted the key element of the communist government's plan to

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\* Research Assistant, European Centre for Minority Issues, Flensburg, Germany.

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address the Transnistrian conflict during its first term in office.<sup>1</sup> While the plan received support from the international mediators – the Organization for Security and Cooperation in Europe (OSCE), Russia, and Ukraine – there was very strong opposition to the idea of a federal state on the part of significant segments of civil society and across a wide spectrum of political parties in Moldova.<sup>2</sup> The 2003 Kozak Memorandum, a Russian plan for a federal state that envisaged granting very strong proactive and reactive powers in federal matters to the Transnistrian region, caused a storm of protest in Moldova and Western diplomatic circles and forced the Moldovan government to back off from signing the document.<sup>3</sup>

The Moldovans attempted to continue negotiations on the basis of the February 2004 OSCE recommendations, which also envisaged the creation of a federal state but avoided addressing the controversial issues of federal design and distribution of competencies.<sup>4</sup> These talks, however, lacked dynamism, reflecting the unwillingness of the Transnistrian leadership to engage in negotiations over a federal design on principles other than those that were proposed in the Kozak Memorandum.<sup>5</sup> By autumn 2004, the idea of federalization also ceased to excite any enthusiasm on the part of the Moldovan government, which was increasingly preoccupied with the task of surviving the electoral test in the March 2005 parliamentary elections.

The most recent electoral cycle in Ukraine and Moldova, which lasted from October 2004 till March 2005, had a significant effect on the strength of bargaining power of Moldovan government and Transnistrian authorities, the two main parties to the conflict, and gave impetus to a new period of conflict settlement negotiations. The electoral changes created a domestic and international environment that significantly strengthened the position of the Moldovan government. Although the parliamentary

- 1 For details of the federalization initiative, see C. Neukirch, "Coming Closer to a Solution in Moldova:", 14(4) *HM* (2003), 233-342 (10). For a discussion of arguments against the idea of federalism, see V. Socor, "Federalization Strikes Again: Bad for Moldova, Bad for International Precedents", 25 May 2004, at <<http://www.eurojournal.org>>.
- 2 O. Protsyk, "Federalism and Democracy", 20(1) *Post-Soviet Affairs* (2005), 72-90.
- 3 Kozak Memorandum, "Draft Memorandum on the Basic Principles of the State Structure of a United State in Moldova", 17 November 2003, at <[http://eurojournal.org/more.php?id=107\\_0\\_1\\_6\\_M5](http://eurojournal.org/more.php?id=107_0_1_6_M5)>. For a discussion of the effects of the Kozak Memorandum on the negotiation process, see S. D. Roper, "Federalization and Constitution-Making as an Instrument of Conflict Resolution", *Demokratizatsiya*, Fall 2004, at <[www.findarticles.com/p/articles/mi\\_qa3996/is\\_200410/ai\\_n9466385/print](http://www.findarticles.com/p/articles/mi_qa3996/is_200410/ai_n9466385/print)>; M. Vahl and M. Emerson, "Moldova and the Transnistrian Conflict", in B. Coppieters (ed.), *Europeanization and Conflict Resolution: Case Studies from the European Periphery* (Academia Press, Gent, 2004), 149-191.
- 4 OSCE, "Proposals and Recommendations of the Mediators from the OSCE, the Russian Federation, Ukraine with regards to the Transnistrian Settlement," 13 February 2004, at <<http://www.osce.org/moldova/documents/reports>>.
- 5 The escalation of conflict over the fate of Romanian language schools in Transnistria in the summer of 2004, which was initiated by the Transnistrian authorities' decision to change the status of or close down these schools, can serve as one indicator of Transnistria's lack of interest in maintaining the format of negotiations envisaged by the February 2004 OSCE recommendations.

dominance of the communists was reduced, the Moldovan voters returned the communist majority to the parliament. Factions in parliamentary opposition, partly due to the strength of the communists' popular mandate and partly due to the communists' skilful use of such selective incentives as offers of high positions in the executive and legislative branches of government, chose to break ranks and support the reelection of the communist leader Voronin as the country's president.<sup>6</sup>

The reelected communist government was eager to stress its commitment to the task of Moldova's European integration, which marks a clear ideological shift from the initial pro-Russian orientation of the communists' foreign policy. Although analysts continue to dispute how genuine and credible this move is,<sup>7</sup> putting emphasis on the task of European integration, as well as taking some concrete steps to reform government institutions and to democratize political life (both were initiated under very considerable pressure from the opposition), further strengthened the reputation and legitimacy of the communist government in the eyes of most of the key international actors in the region.

The Transnistrian authorities, on the other hand, found themselves in a weaker international position at the end of the 2004-05 electoral cycles. The fresh democratic legitimacy of the Moldovan government was in stark contrast to the reputational problems of the Transnistrian elite, which is widely perceived as presiding over a highly authoritarian and illiberal political regime. The 'Orange Revolution' in Ukraine not only highlighted Transnistria's problem of democratic legitimacy but also created an extremely painful vulnerability for the Transnistrian authorities: the openness of the Ukrainian border, the only external border that the Transnistrian authorities have access to, could no longer be taken for granted. The deterioration of relations between Russia, which is the main economic and political backer of the Transnistrian regime, and both Moldova and Ukraine further underscored the fragility of Transnistria's international status.

It was in this international context that Ukrainian President Yushchenko put forward his plan for settling the Transnistrian conflict. The plan reiterates the principles of sovereignty and the territorial integrity of the Republic of Moldova; it proposes that a special legal status be granted to the Transnistrian region within the Republic of Moldova; it provides for Transnistria's right to self determination only in the event that the Republic of Moldova loses its independence and sovereignty; and it proposes the creation of a common space incorporating legal, economic, social, customs and humanitarian issues. The plan envisaged early free and fair elections to the Transnistrian 'supreme soviet' under international monitoring before Moldova recognizes this body as the legitimate representative body of the region.

The settlement is to take place in three stages, each stage not exceeding six months in duration. In the first stage, the Moldovan parliament is to pass a law on the basic principles of settling the status of the Transnistrian region, on the basis of which Transnistria adopts a new constitution. Then, in October-November 2005, free and

6 I. Botan, "Presidential Elections", 7 April 2005, at <<http://www.adept.md/en/comments/political/200504071/>>.

7 L. March, "Socialism with Unclear Characteristics: The Moldovan Communists in Government", 12(1) *Demokratizatsiya* (2004), 507-524.

fair elections to the 'supreme soviet' will be organized under OSCE guidance. A parliamentary commission composed of Moldovan and Transnistrian deputies will then prepare a draft law on the status of Transnistria, which is to be passed by the Moldovan parliament. The law enters into force upon the approval by the Moldovan parliament of an agreement on guarantees of compliance with the Law on the Special Legal Status of Transnistria. The agreement is to be prepared with the participation of the future guarantors – Russia, Ukraine and the OSCE, possibly assisted by the US and the EU. Lastly, a Conciliation Committee, which will be comprised of representatives of Moldova, Transnistria, Ukraine, Russia, the OSCE and possibly the US and the EU, will have the task of settling all disputes arising from the implementation and/or interpretation of the provisions of the Law on the Status of Transnistria.<sup>8</sup>

The plan drafters were careful enough not to propose their version of answers to the most acute problems that stall the talks every time the negotiation process resumes. Those problems include the withdrawal of Russian troops from Moldovan territory, the delineation of competencies between the central and Transnistrian regional authorities, specific methods to ensure stability in the 'Security Zone' and security guarantees regarding Transnistria's special status, and the establishment of legal controls on the Transnistrian segment of the Moldova-Ukraine border.

The plan for the Transnistrian conflict settlement became one of the first major foreign policy initiatives of Yushchenko's government. The level of attention to developments in Moldova and the extent of involvement on the part of key Ukraine decision makers in negotiations over the plan suggest a high degree of commitment on the part of the Ukrainian authorities to finding a solution for the Transnistrian conflict. The early stages of the new Ukrainian government's involvement in mediation efforts indicate that Ukraine is trying to develop an even-handed approach to dealing with both parties to the conflict. While the Yushchenko Plan favourably addresses all the major concerns of the Moldovan side (confirming the principles of sovereignty, territorial integrity and a unified legal space), the Ukrainian side also made conscious efforts to avoid alienating the Transnistrian authorities. Despite repeated calls on the part of the Moldovan government and international organizations to toughen border controls, Ukraine proposed a relatively liberal border regime for the movement of people and goods from Transnistria. The top Transnistrian officials, banned from travelling to EU countries since 2003, continue to be frequent visitors to the Ukrainian capital. Overall, the level of engagement and interaction between the Ukrainian and Transnistrian authorities remains high.

### III. REACTION TO THE YUSHCHENKO PLAN AND FIRST IMPLEMENTATION STEPS

Conflict resolution proposals are not just the results of deliberation among a small group of key advisors to a person or an institution that wants to play the role of mediator; they are usually products of numerous rounds of shuttle diplomacy and behind-the-scenes negotiations among the major parties involved in a conflict. These informal negotiations involve offering compromises, searching for ways to accommodate diverse

8 The plan is available at <[http://www.ipp.md/files/Comentarii/Yushchenko\\_plan\\_eng14.doc](http://www.ipp.md/files/Comentarii/Yushchenko_plan_eng14.doc)>, accessed 15 July 2005.

interests and fostering a minimal level of acceptance of the initiative, all of which is done in order to increase the probability of a successful launching of official talks. The Yushchenko Plan constituted no exception in this sense. The details of the plan, which were publicly revealed after the May 2005 meeting between representatives of Moldova, Transnistria, Ukraine, Russia and the OSCE in the Ukrainian town of Vynitsia, were a product of intense prior negotiations among the parties.

Despite the fact that the publication of the Yushchenko Plan caused a wave of domestic criticism of specific details of the initiative, the Moldovan government moved fast to start the process of implementation of some of the key provisions of the plan. On 10 June 2005, with a vote of 96 deputies out of a total of 101, the Moldovan parliament passed a declaration endorsing the plan proposed by Yushchenko. The declaration was followed by two appeals passed by the parliament on the same date that called for the demilitarization of the Transnistrian zone and withdrawal of the Russian military contingent and ammunition and appealed to the Council of Europe, the OSCE and the EU for assistance in democratizing the breakaway region.<sup>9</sup> The cross-partisan support that this new conflict settlement plan enjoyed in the parliament is testament to the fact that a high degree of consensus, however temporal it might be, has emerged with regard to Transnistria policy among the Moldovan elite.

The momentum of the Moldovan elite's willingness to follow the blueprint of the Yushchenko Plan was also confirmed by the passage in the first and second reading in a one-day session on 22 July 2005 of the Law on the Basic Provisions of the Special Legal Status of Settlements on the Left Bank of Nistru (Transnistria). The law establishes a special autonomous territorial unit – Transnistria. It grants legislative and representative powers to the regional 'supreme soviet', which is to be elected under the supervision of the international electoral commission created under the auspices of the OSCE. The law also requires that elections should follow the Moldovan legislation and be monitored by the Council of Europe.

The law does not include any details on the distribution of powers and competencies between the national centre and the autonomous unit. It only includes clauses that establish the supremacy of national legislative acts and require that regional legislation to be in accordance with Moldovan laws. The law also states that detailed provisions regarding the status of Transnistria will be elaborated in an organic law drafted jointly by the Moldovan and Transnistrian representatives and passed by the Moldovan parliament after the formation of a new system of government in Transnistria. Finally, the law does not include any clauses that could serve as the basis for a system of international guarantees of Transnistria's special status; the law only envisages the creation of a system of internal guarantees of such a status.

The Law on the Basic Provisions is a very brief document and its content reflects the mode in which the law was adopted. The Moldovan deputies drafted the law to reflect the ideal preferences of the Moldovan side and to correspond to the Moldovan side's vision of the principles under which the country ought to be reintegrated. The

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9 The Parliament of the Republic of Moldova, "Decision on the Ukrainian Initiative Concerning the Settlement of the Transdnistrian Conflict and Measures for Democratization and Demilitarization of the Transdnistrian Zone", at <<http://www.parlament.md/lawarchive/decisions/117-XVI-10.06.2005/en.html>>, accessed 1 August 2005.

unilateral nature of Moldova's actions, however, can create problems in the long run. The lack of Transnistrian input into the drafting of the law may result in a lack of commitment to the basic principles of the law on the part of Transnistrian politicians, irrespective of which specific group of leaders will represent Transnistria in the later rounds of negotiations over the terms of the conflict settlement.

Given the unilateral nature of the decisions regarding the law, its content, which could have been substantially different if the Transnistrians had had the means to influence the drafting process, is not unexpected. What has to be explained is the willingness of the Moldovan side to agree with the central component of the Yushchenko Plan, which calls for the holding of regional elections in Transnistria in the near future. The current internal situation in Transnistria suggests that if such elections were to be held now (summer 2005) the odds of the current Transnistrian leadership winning the elections are very high. Both the Moldovan and Transnistrian decision makers are aware of this.

The explanation for the Moldovan side's acceptance of the Yushchenko Plan's clause concerning the Transnistrian regional elections lies in the details of the documents that the Moldovan parliament passed in June and July 2005. The Moldovan side's acceptance of the plan's provision about the elections in Transnistria is highly conditional. Both the above-cited June 2005 appeals and July 2005 Law on the Basic Provisions attach conditions to what will constitute free and fair elections in Transnistria.

The parliament's June appeal on the criteria of democratization demands liquidation of the Transnistrian Ministry of State Security, reformation of the judicial branch, the release of political prisoners, the removal of barriers to the normal activity of Moldovan political parties, non-governmental organizations (NGOs) and mass media, that the elections be held under the exclusive aegis of an international electoral committee authorized by the OSCE, that participation in the electoral process should proceed only on the basis of Moldovan citizenship and that monitoring of democratic standards by the international electoral committee should commence at least five months prior to the date of elections. The appeal also states that international involvement in the monitoring of democratic standards and the organization of the democratic process "cannot bring about any consequences regarding the recognition of this [Transnistrian] entity under the international law".<sup>10</sup>

The appeal on the principles and conditions of demilitarization asks, among other things, for the withdrawal of Russian troops and weapons, and for the transformation of peacekeeping operations conducted by the Russian contingent on the basis of the 1992 Moldovan-Russian Agreement into an international mechanism of military and civil observers under the auspices of the OSCE. The July 2005 Law on the Basic Provisions extends the logic of the appeals by requiring that elections be conducted in accordance with Moldovan laws and only after the conditions specified in the parliamentary appeals regarding democratization and demilitarization are met.

Facing a changed international context, with Ukraine's renewed pro-European drive being one of the defining elements of this context, the Transnistrian leadership has had to adjust to a new geopolitical situation. A cautious endorsement of the

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10 *Ibid.*, Appeal of the Parliament of the Republic of Moldova on the Criteria of Democratisation of the Transdnistrian Zone of the Republic of Moldova, annex 2.



Yushchenko Plan, voiced by Transnistrian President Smirnov during his visit to Kyiv on 15 July 2005, was the Transnistrian authorities' way of acknowledging a change in Transnistria's international environment.<sup>11</sup> This endorsement, however, quickly gave way to a dismissal of the prospects for the Yushchenko Plan to contribute to the settlement of the conflict after the Moldovan parliament passed the Law on the Basic Provisions of the Special Legal Status of Settlements on the Left Bank of Nistru (Transnistria) on 22 July 2005. President Smirnov was quoted as saying that the Yushchenko Plan was effectively buried by the passage of the law.<sup>12</sup>

Similarly, a negative reaction to the passage of the law emanated from Moscow. A commentary by the Russian Ministry of Foreign Affairs described the passage of the law by the Moldovan parliament as a counterproductive move.<sup>13</sup> Russia, however, proved to be less straightforward in making judgements about the Yushchenko Plan. In one of the commentaries made by Russian officials it was stated that the plan's proposals should be married with the provisions of the Kozak Memorandum.<sup>14</sup> Both Moldovan and Ukrainian officials were actively engaged in consultations with Russia during the spring and summer months of 2005. Securing Russian support for Yushchenko's initiative is likely to involve serious modifications of the initial plan.

If the various forms of international pressure on Transnistria continue to intensify, the Transnistrian leadership might be forced to accept the conduct of elections under international supervision. It will, however, do everything in its power to hold such elections on terms favourable to the existing regime. A recent memorandum signed by a large number of leading Moldovan NGOs anticipates the Transnistrian regime's efforts to control the electoral process and warns the international community against leaving the processes of democratization in Transnistria in the hands of the Transnistrian leadership.<sup>15</sup> The Transnistrian leadership, as numerous analysts note, will also attempt to turn the elections into a referendum on Transnistrian independence. The Transnistrian Minister of Foreign Affairs, Valerii Litskai, one of Moldova's key experts on the conflict, argues that the regional elite will try to pursue the Kosovo variant, which involves forming representative bodies for the region under OSCE control but refusing any form of integration into the Moldovan state.<sup>16</sup>

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11 "Smirnov has Accepted Yushchenko's Plan", *Moldova Azi*, 7 July 2005, at <[www.azi.md/news?ID=35103](http://www.azi.md/news?ID=35103)>.

12 "Transnistrian Conflict", *Adept: E-Journal*, 8 August 2005, at <<http://e-democracy.md/en/e-journal/20050729/>>.

13 "The Russian Federation Estimates as Counterproductive the Law on the Basic Provisions of the Special Legal Status of Transnistria Adopted by Moldovan Parliament", *Moldova Azi*, 8 January 2005, at <[www.azi.md/news?ID=35333](http://www.azi.md/news?ID=35333)>.

14 "Russia Ready to Work on Yushchenko Plan", *Moldova Azi*, 18 July 2005, at <<http://www.azi.md/news?ID=35125>>.

15 "Memorandum on Supporting Effective Democratisation in Transnistria", *Moldova Azi*, 27 July 2005, at <<http://www.azi.md/tribune?ID=35269>>.

16 O. Nantoi, "The Ukrainian Plan and the Moldovan Law", *Moldova Azi*, 26 July 2005, at <<http://www.azi.md/comment?ID=35231>>.

The OSCE, which has played an important mediating role in the Transnistrian conflict for many years,<sup>17</sup> reacted positively to Yushchenko's initiative and to the first steps of the Moldovan recognized by the OSCE, the Council of Europe, or the international community as a whole.<sup>18</sup>

Although the Moldovan authorities moved very fast to address the first tasks outlined in the Yushchenko Plan, the unilateral character of these steps raises serious doubts about the readiness of the Transnistrian leadership and their backers in Moscow to cooperate on the Yushchenko Plan. If such cooperation is, however, achieved, meeting deadlines set in the plan seems to be highly unrealistic. For one thing, the plan envisions, as was already mentioned, holding elections to the Transnistrian regional assembly in October or November 2005. Neither the head of the OSCE Mission to Moldova Ambassador Hill nor Secretary-General of the Council of Europe Terry Davis considered it probable that elections could be organized by the end of 2005.<sup>19</sup> The 10 June appeal on the criteria of democratization passed by the Moldovan parliament also stated that monitoring of democratic standards must be commenced by the international electoral committee at least five months before the date of elections.

#### IV. DILEMMAS OF DEMOCRATIZATION IN TRANSNISTRIA

In trying to bring about democratic change in Transnistria, Moldovan decision makers, as well as the international actors that are involved in the conflict settlement efforts, face a number of major challenges. Below, the three types of challenge are reviewed: deciding how best to deal with the current Transnistrian leadership; confronting the difficulties surrounding the holding of elections in an imperfect democratic environment; and accepting the outcomes of the elections as grounds for renegotiating the terms of a final settlement and reintegration of the country.

##### *A. Negotiating with the Ruling Elite*

In terms of approaches to deal with the current Transnistrian leadership, the choice lies between strategies aimed at achieving some sort of a pact with the ruling elite and efforts to marginalize and sideline its top representatives. The literature on 'pacting' (the term usually refers to a structured bargaining that produces agreement about the terms of transition) has been heavily influenced by successful democratic transition in Southern Europe.<sup>20</sup> This literature suggests that there are multiple beneficial effects

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17 For a detailed discussion of the OSCE activities in Moldova, see G. Hanne, "The Role and Activities of the OSCE Mission to Moldova in the Process of Transdnistrian Conflict Resolution", 2 *EYMI* (2002/2003), 31-51.

18 "OSCE Mission Head Welcomes Law on Status for Transnistria", *Moldova Azi*, 26 July 2005, at <<http://www.azi.md/news?ID=35222>>.

19 For the commentary on Terry Davis' visit, see "Terry Davis Suggests to Moldovan Authorities to Hasten Slowly", at <<http://politicom.moldova.org>>, accessed on 25 July 2005.

20 Guillermo O'Donnell, Philippe C. Schmitter and Laurence Whitehead, *Transitions from Authoritarian Rule*, Vol. 1-4 (Johns Hopkins University Press, Baltimore, 1986); John Higley and Richard Gunther (eds.), *Elites and Democratic Consolidation in Latin America*



that the fact of reaching an agreement with the ruling elite can have on the process of democratic transition: it reduces opposition to regime change, increases cooperation between representatives of old and alternative elites, and provides political stability for the construction of a new order. On the other hand, some authors who have analyzed the democratic transition in Eastern Europe point to the fact that 'pacting' that tended to demobilize publics has often resulted in a stagnated transition and the continuation of an authoritarian rule.<sup>21</sup>

Choosing about these options involves estimating preferences and resources available for the ruling elite. At the beginning of the 1990s, there was no ambiguity concerning where the preferences of a closely-knit Transnistrian elite lay. If a menu of alternatives available to the regional elite is described as consisting of the acceptance of existing political practices, seeking changes with the parameters of the existing state or opting for succession, there was significant convergence among the ruling elite in terms of preferring the third alternative.<sup>22</sup> This was due to a number of factors, which have been extensively analyzed in the literature.<sup>23</sup> More than a decade later, the Transnistrian leadership is most interested in preserving the current status quo, which amounts to the *de facto* independence of the Transnistrian region.<sup>24</sup> However, even prior to the events of the 'Orange Revolution', the Transnistrian leadership had to wonder how sustainable this status quo was. There was no evidence that the international community was likely to be forthcoming with recognition of Transnistrian independence, quite the contrary – there was increasing pressure from Western governments to participate in negotiations with Moldova. The economic situation in Transnistria – while in certain respects better than in Moldova – was far from being stable and sound and its further vulnerability was magnified by the Moldovan authorities' ability to impose sanctions on Transnistrian external trade. The young and skilled continued to emigrate due to the region's uncertain political and economic prospects.

Despite the defiant independence rhetoric – used extensively for both international and domestic consumption – and despite rather successful efforts to build functioning

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and Southern Europe (Johns Hopkins University Press, Baltimore, 1992); Juan J. Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation* (Johns Hopkins University Press, Baltimore, 1996).

- 21 V. Bunce, "Rethinking Recent Democratization: Lessons from the Post-communist Experience", 55 *World Politics* (2003), 167.
- 22 On preferences of minority leaders, see V. Bunce, "Status Quo, Reformist or Secessionist Politics: Explaining Minority Behavior in Multinational States", NCEEER Working Paper, July 2004, at <<http://www.nceeer.org/Working%20Papers/paperpdfs/bunce071304.pdf>>.
- 23 For a review of the origins of preferences for succession, see P. Kolstø, "National Integration and Violent Conflict in Post-Soviet Societies: The Cases of Estonian and Moldova", *The Slavonic and East European Review* (2002); S. Troebst, "The 'Transdnistrian Moldovan Republic': From Conflict-Driven State-Building to State-Driven Nation-Building", 2 *EYMI* (2002/2003), 5-30.
- 24 For the discussion of the Transnistria leadership's efforts to cultivate regional support for status quo see ICG Europe Report, *Moldova: Regional Tensions over Transnistria*, International Crisis Group, 157, 2004.

state institutions and to manage a new identity construction,<sup>25</sup> the Transnistrian leadership never discarded the option of a common state. The failed Kozak Memorandum is a very important document in this respect. It reveals valuable information about the nature of the Transnistrian leadership's preferences with regard to the terms of a possible conflict settlement. The Transnistrian elite was ready to sign the memorandum, which provided for the creation of a common state on terms that were closer to a federal rather than confederal model and it was only the last minute refusal by Moldovan President Voronin to sign the memorandum that took the deal off the table. The issue of a common state and the optimal forms of constitutional design for such a state has also remained a very important topic in the debates in academic and policy circles in Transnistria.<sup>26</sup>

The refusal of the Moldovan government to discuss the status of the Transnistrian region prior to democratization could be especially threatening to the current regional elite. The absence of provisions on the future status of the region as well as the proposal of a system of only internal guarantees increases the level of uncertainty over the potential outcomes of transition. This might intensify the Transnistrian elite's opposition to the proposed terms of transition and to the design and procedures of the electoral process envisioned by the Yushchenko Plan.

The regional elite controls very substantial resources to do so. Its security apparatus is large and capable. In one estimate, the combined forces of the ministries of state security, internal affairs and defense amount to 15–20,000 permanent staff personnel, which is a quite formidable force for a region with a population of about 670,000 inhabitants.<sup>27</sup> Together with employees of many other government institutions and pensioners (whose allowances are far higher in Transnistria than they would be in Moldova), they constitute a group whose clientalistic ties to the unrecognized Transnistrian state are especially strong. The region's leadership has a firm control of the major media outlets and educational institutions. The regime can also rely on a substantial grassroots support, in the form of various NGOs and citizens' associations, both from those that trace their roots to the initial stage of the conflict (e.g., Committee of Defenders of Transnistria) and those that were organized more recently.<sup>28</sup>

### B. *Timing of Elections*

The second set of challenges relates to the timing of elections. The list of conditions of democratization that the Moldovan parliament insisted must be met prior to the conduct of elections was specified in the 10 June 2005 appeal. This list, which could better be described as a list of demands aimed at liberalizing the existing authoritar-

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25 Troebst, "The 'Transnistrian Moldovan Republic' ...".

26 N. V. Babilunga and I. N. Galinski, "Kak nam postroit' i obustroit' obshchee gosudarstvo?" in N. V. Babilunga et al. (eds.), *Fenomen Pridnestrovja* (RIO PGU, Tiraspol, 2<sup>nd</sup> Edition, 2003), 248–263.

27 ICG Europe Report, *Moldova: Regional Tensions over Transnistria*, International Crisis Group, 157, 2004.

28 Protsyk, "Federalism and Democracy" ... .

ian regime,<sup>29</sup> was further elaborated in a joint memorandum of Moldovan civil society organizations.<sup>30</sup> It is highly unlikely that all those conditions can be met in the foreseeable future. A choice has to be made on whether or not to hold the elections in an environment where only partial liberalization has taken place and only some of the demands advanced by the Moldovan side have been met.

As the recent wave of so-called 'coloured' revolutions in Serbia, Georgia, Ukraine and Kyrgyzstan suggests, authoritarian and semi-authoritarian regimes exhibit the greatest weaknesses and vulnerabilities at the time of elections. It suggests that small openings and opportunities, which become available due to the partial loss of control by the authoritarian regime during the electoral period, could be exploited by the regime opponents to bring about democratic change. The ability to exploit such opportunities, of course, depends on the character and the size of opposition to the regime.

Transnistrian leadership tries to present to the outside world a picture of a united region mobilized around its leadership. The lack of leadership turnover – two key office-holders in Transnistria, President Smirnov and Parliamentary Speaker Maracuta, have been in power unchangeably since the beginning of the self-proclaimed republic – is a fact that does not sit well with democratic principles. This fact, however, is not considered by the regime proponents to be evidence of authoritarian tendencies in the evolution of the Transnistrian regime; it is explained as the logical response to the numerous hostile external pressures on Transnistrian statehood.<sup>31</sup>

Despite repressions and elaborate attempts to manufacture ideological unity, there has always been a detectable opposition to Smirnov's rule in Transnistria. Some evidence suggests that this opposition might be growing. In May 2005, a group of deputies from the Transnistrian regional parliament brought up the idea of the most significant reform of the region's constitution since the region acquired *de facto* independence from Moldova. The constitutional reform draft envisages increasing the powers of parliament over the formation of the cabinet of ministers and the constitutional court, the possible introduction of the post of prime minister, and changes to the procedures for the adoption of constitutional laws, which will no longer require the signature of the president of the Transnistrian Moldovan Republic. Even the analytical report compiled by the official Transnistrian news agency 'Olvia-Press' acknowledged the initiative as an attempt to weaken the powers of the presidency and as a direct attack against the local "guarantor of stability", Transnistrian President Smirnov.<sup>32</sup>

Tensions can also be detected in the Transnistrian business community. Local enterprises suffer from the difficulties of conducting business in an environment of political conflict and economic sanctions. One strategy of Transnistrian enterprises for dealing with Moldova's withdrawal of customs stamps, for example, was selling stakes to or forming joint ventures with foreign investors who are already active on the right bank of the Nistru river, which is where most of Moldova's territory lies and where the

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29 For the distinction between liberalization and democratization, see Linz and Stepan, *Problems of Democratic Transition* ....

30 "Memorandum on Supporting Effective Democratisation in Transnistria", *Moldova Azi*, 27 July 2005, at <[www.azi.md/tribune?ID=35269](http://www.azi.md/tribune?ID=35269)>.

31 Protsyk, "Federalism and Democracy" ....

32 Olvia-Press, "Reforma Semnadsati", 8 August 2005, at <<http://www.olvia.idknet.com>>.

Moldovan central government has full control.<sup>33</sup> Political conflict not only reduces profits, it also prolongs the uncertainty about the legalization of capital for Transnistrian businessmen. The region's economic actors are potentially a very strong constituency in favour of political rapprochement and economic reintegration. The Transnistrian political leadership is aware of this and the possible defection of the business elite has a high priority on its list of concerns.<sup>34</sup>

In early 2005, prior to the announcement of the Yushchenko Plan, the Transnistrian authorities had already scheduled regular elections to the Transnistrian 'supreme soviet', the region's parliament, for December 2005 and started preparations for this event. This fact possibly contributes to explaining the Yushchenko Plan's unrealistically tight schedule for holding elections under international supervision (planned for October–November 2005): this schedule might have been the result of prior consultations between the Ukrainian drafters of the plan and the Transnistrian authorities, who would like to keep their initial schedule intact. The strong international pressure to delay the elections, which was discussed earlier, makes it very problematic for the Transnistrian elite to go ahead with their own schedule. The questions about timing of elections for anyone concerned with democratization in Transnistria, however, remain. One of those questions is whether, given that elections provide an opportunity to exploit the already existing weaknesses of the current authoritarian regime, the fulfilment of *all* conditions specified in the Moldovan parliament's appeal and the civil society memorandum should be a nonnegotiable prerequisite for holding elections in Transnistria.

### C. *Accepting the Election Outcomes*

The third set of dilemmas that Moldovan authorities and international actors are likely to face has to do with recognizing and accepting the outcomes of the prospective elections, whatever those outcomes might be. A return of the pro-Smirnov majority to the regional parliament could be one possible outcome, even if conditions for free and fair elections are largely met. As was mentioned earlier, significant segments of the population have depended on Smirnov's regime to provide them with salaries, pensions, and various subsidized services. Smirnov's support is not only limited to groups of direct clients. The regime was able to guarantee some minimal living standards in what the majority of population believes was a very hostile external environment. Although one has to treat survey results derived within an authoritarian setting with a degree of suspicion, the survey figures seem to paint a picture that the Transnistrian authorities might perceive as comforting. In one study conducted in 2000, for example, it was reported that although the Transnistrians found their economic situation in general to be poor, they still believed it was much better than on the other side of the river.<sup>35</sup>

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33 G. Selari, "Transnistria Economy: Regional Dimension", *Democracy and Governing in Moldova E-Journal* Vol. 55, 4–29 July 2005, at <[www.e-democracy.com](http://www.e-democracy.com)>.

34 See quotes from the interview with President Smirnov in Olvia-Press, "Reforma Semnadsati", 8 August 2005, at <[www.olivia.idknet.com](http://www.olivia.idknet.com)>.

35 B. G. Bomesenko, "Pridnestrovje: Gody sozidaniya", in Babilunga et al., *Fenomen Pridnestrovja ...*, 94–122.

The level of support for the current Transnistrian leadership might vary between the main ethnic groups in the region. One of the recurrent topics in Moldova's accusations against Smirnov's regime is the fate of ethnic Moldovans in Transnistria. The declarative internationalism of the Transnistrian regime cannot hide the fact that there are a number of problems with the situation of ethnic Moldovans in the region. There are ethnic Moldovan prisoners in Transnistrian correction facilities who could be considered to be political prisoners; the educational system continues to use the Soviet-era Cyrillic script for the Romanian language although Moldova switched to the Latin script in 1989 – this situation disadvantages the Moldovan youth that seek educational and job opportunities either in the rest of Moldova or in Romania; although no hard data is available, Moldovan analysts believe that ethnic Moldovans continue to be underrepresented in the Transnistrian government, business, and educational institutions.

Even if the level of discontent with Smirnov's regime is higher among ethnic Moldovans, it does not imply the automatic defeat of the current leadership in free and fair elections. The potential electoral clout of ethnic Moldovans is not that high. According to the 1989 census, Moldovans constituted about 39.9% of the population in Transnistria, Ukrainians 28.3% and Russians 25.5%.<sup>36</sup> The Transnistrian authorities claim that the 1989 census figures are not accurate because they included populations from a large number of right bank settlements, which were a part of the left bank administrative districts at the time of the 1989 census, but that has remained under the control of the Moldovan central government since 1990. The official numbers that are used by the Transnistrian authorities since 1998 are: Moldovans 33.8%, Ukrainians 28.8 % and Russians 28.7%.<sup>37</sup> Furthermore, there is no evidence to contradict the possibility that regional solidarity might play an important role in the electoral behaviour of Transnistria's ethnic Moldovans.

An alternative outcome of the elections could be that an anti-Smirnov mobilization will take place and the regional assembly will be dominated by the opposition to Smirnov's regime. There is no reason, however, to believe that such mobilization will imply that the new regional parliament will be any more willing than Smirnov's regime to accept the country's reintegration on Chisinau's terms. As Troebst reports, even those Transnistrian democratic opposition leaders who are the staunchest opponents of the current leadership highly value the autonomy gains made by the secessionist movement and attach a great symbolic significance to such events as, for example, the Transnistrian forces' resistance against the Moldovan army's attempts to gain control over the right bank city of Bendery (Tighina) in 1992, a battle that incurred some of the heaviest casualties in the course of the conflict.<sup>38</sup>

Despite Transnistria's sinister image in the Western media, the region is not a gangsters' land where no rules and norms apply. The Transnistrian regime succeeded in building workable institutions that provide for its citizens a sense of normalcy and rule

36 Goskomstat, *Itogi Vsesoiuznoi perepisi naseleniia 1989 goda [Results of All-Union Census of 1989]* (Gosstatizdat, Moscow, 1990).

37 B. G. Bomesenko, "Pridnestrovje: Gody sozidaniia", in Babilunga et al., *Fenomen Pridnestrovja ...*, 94-122.

38 Troebst, "The 'Transdnistrian Moldovan Republic' ...".

of law. For example, there is a constitutional court that routinely makes judgments on matters pertaining to the implementation of the 1995 Transnistrian constitution, with the court's rulings often going against the wishes of parliament and, sometimes, of the president.<sup>39</sup> While this particular institution tries to perform some functions typical to Western democracies, there are other government institutions (for example, heavily subsidized systems of health care and education) that cater to citizen's needs articulated on the basis of the norms of the peculiar Soviet understanding of democracy. For many citizens of Transnistria, who also happen to be former Soviet citizens, the concept of democracy is based not on the ideas of political competition and separation of powers but on the egalitarian ideas of social justice and fairness.

The point of these examples is that, for very significant numbers of Transnistrians, their regional institutions are democratically legitimate government bodies and not simply the facades of repressive and irresponsible authoritarian rulers, as a reading of some of the Western press might suggest. The wholesale dismantling of these institutions might be unacceptable for whoever represents Transnistria after the regional elections. All this means that negotiating with the new democratic representatives of Transnistria will require a lot of patience, respect for their values and institutions, and a willingness to find a workable compromise. The challenge will be to design political institutions of a common state in such a way that permits genuine power-sharing but also includes provisions that encourage cooperation and safeguard against institutional deadlock and confrontation.

## V. CONCLUSION

For the date of 2 September 2005, the Transnistrian authorities plan an elaborate set of events, which include military and veterans' parades, numerous rallies and celebratory gatherings, as well as concerts and exhibitions by various local artists and renowned guests from the CIS countries. The date commemorates the fifteen years anniversary of the creation of the Transnistrian Moldovan Republic. Although many of those in Moldova and Transnistria who are interested in reintegrating the country believe that time works to their advantage, it is not all that obvious to many others, especially to those who look forward to participating in these celebrations. For one thing, the longer the country remains divided the stronger the Transnistrian separatist identity is likely to become. Evidence from various sources suggests that the Transnistrian leadership's energetic state construction and identity management efforts led to the creation of a political environment that generates a very substantial level of popular support for that part of the Transnistrian regional elite that is the least willing to make any substantial compromises on the issue of the country's reintegration in negotiations with Chisinau.

The idea of reintegration, however, continues to have a strong appeal. The Transnistrian conflict in many respects provides more hope for a successful settlement on the basis of reintegration than any other major ethnopolitical conflict on the territory of the former Soviet Union. Such fundamental characteristics of the Transnistrian

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39 See, for example, Transnistrian justice minister's interview on conflict between the parliament and the ministry: Andrei Mospanov, "Ministr Yustitsii Podverg Kritike Poslednie Initsiativy Verkhovnogo Soveta", *Olvia-Press*, 4 April 2005, at <[www.olvia.idknet.com](http://www.olvia.idknet.com)>.



conflict as the absence of the deeply entrenched animosity among major ethnic groups, the stabilizing effects of geographic proximity to the EU and strong incentives for economic cooperation across the current political divide favourably distinguish the Transnistrian situation from the conflicts in Abkhazia, South Ossetia, and Nagorno Karabakh. These fundamentals, as well as the great promise of improving economic, social, and political fortunes of people on both sides of the Nistru river that the idea of the country's reintegration contains, should make domestic actors and international mediators keep trying to find a lasting solution for the Transnistrian problem.