

The Transnistrian Settlement in Stalemate

APE Policy Paper

Synopsis

In 2014, the small-step policy of engagement with the Transnistrian administration has stalled. The consultations in the "5+2" format were discontinued and discussions on the political and security issues remained blocked. The sectorial cooperation between both banks has generally known no development. The joint working groups met without deciding anything substantial and their work agendas were dominated mainly by the conflicting issues. The situation in the security zone of the conflict continued to deteriorate, while the mutual recriminations between Tiraspol and Chisinau on sabotaging the dialogue have become increasingly common.

On February 18, 2015, after protracted political negotiations, the new Moldovan Government led by Prime Minister Cyril Gaburici, for which continuing the dialogue with the Transnistrian Region remained a priority, was invested in Chisinau. On March 14, 2015, a meeting was held between the Prime Minister of Moldova, Cyril Gaburici, and the Transnistrian leader, Yevgeny Shevciuk. During the meeting, they agreed to give new impetus to the dialogue and collaboration across platforms in the Transnistrian settlement process.

Gaburici-Shevciuk meeting is another attempt by the central authorities in Chisinau to revive the small-step policy of engagement with the Transnistrian Region, aiming to initiate the political negotiations in the "5+2" format. However, despite the positive developments that were made lately, still, there are a number of objective obstacles, which, willy-nilly, will prevent Chisinau to get out of the vicious cycle of failure in its dialogue with the Tiraspol administration.

Consequently, the launching of the political negotiations on the special legal status of Transnistria remains uncertain. Both the Tiraspol administration and the Chisinau authorities do not display real interest in such negotiations. The parliamentary parties do not have a joint vision for the future political settlement, while the society is not ready for a possible compromise. In these circumstances, we consider it appropriate for the central authorities and the parliamentary parties to avoid hasty settlement of the conflict and to focus primarily on the thorough preparation of the Republic of Moldova for a gradual reintegration of the Transnistrian Region in its economic, legal and political space.

By small steps towards a new stalemate

In 2011, Vlad Filat, former Prime Minister of the Republic of Moldova, launched the small-step policy in relation to the Transnistrian Region. The new concept of engagement with the Tiraspol separatist administration aim primarily at re-launching the political dialogue and negotiations between Chisinau and Tiraspol on the future status of the region, while promoting the practical cooperation in various fields of common interest to both banks: economy, education, the socio-humanitarian field, transport, telecommunications, the field of ensuring human rights etc.

Due to this new approach, the parties managed to re-launch the dialogue between the authorities in Chisinau and the Tiraspol administration in the "5+2" and "1+1" format; to endorse the principles, procedures and agenda of the negotiation process; to resume the activity of the joint working groups; to revive the rail freight traffic through the Transnistrian Region; to dismantle the industrial funicular over the Nistru River between Rezina and Ribnita; to evacuate 1012 radioactive sources from the Transnistrian Region to be stored in specially designated warehouses and about 140 tonnes of obsolete pesticides to be liquidated safely in Germany; to implement a common mechanism governing the payment of pensions to residents on both sides of the Nistru River who change their residence etc.

Despite this progress, so far, the small-step policy has not reached its major goal, failing to determine the Tiraspol administration to accept the initiation of negotiations on the political-legal status of the Transnistrian Region. On the contrary, the Transnistrian administration, encouraged by the Russian Federation, refuses categorically any discussion on this subject by insisting on the need to settle first all socio-economic problems. In the view of Moscow and Tiraspol, this is the only way to create the appropriate conditions for the political negotiations. This attitude is contrary, however, to the position of the Moldovan authorities, who insist on promoting the sectorial cooperation while advancing the negotiations on the special political-legal status of the Transnistrian Region within the Republic of Moldova.

As a result of this contradiction of approaches, throughout 2014, the sectorial cooperation between both banks of the Nistru River ran in circles. The joint working groups met without deciding anything substantial. Their agendas were increasingly dominated by conflicting topics such as: the situation of Latin-script schools in the Transnistrian Region; the prohibition imposed by the Tiraspol administration on Dubasari residents trying to access the agricultural lands located along the Rybnitsa - Tiraspol line; unauthorized use by the Transnistrian Region of the radio spectrum resources, which are public property of the Republic of Moldova etc.

The situation in the security zone of the Transnistrian conflict has become increasingly unstable. Tiraspol introduced discriminatory tariffs for the employees of the law enforcement bodies of the Republic of Moldova situated in the security area; it has strengthened and expanded, without any authorization for doing so, the infrastructure of the "migration, border guards and customs stations"; it complicated the procedure for registering the Moldovan citizens on the right bank of the Nistru River to limit the period of stay in the Transnistrian region up to 90 days; it has deliberately blocked the movement of the military observers to the incidents; it has unilaterally increased the military presence in the security zone (City of Bender), without any authorization for doing so; it has unlawfully arrested the military of the Contingent of peacekeeping troops on the Moldova's part and representatives of the "Lucian Blaga" Latin-script school administration of Tiraspol; it has constantly blocked the work of the Joint Control Commission, refusing to discuss the problems existing in the security zone.

Tiraspol and Moscow have deftly exploited some decisions/actions that were insufficiently prepared/coordinated by the Moldovan authorities. Those decisions/actions included the installation of the migration checkpoints on the Nistru River, necessary for monitoring the flow of foreigners entering via the Transnistrian Region into the Republic of Moldova and the

introduction of excise duties on the imports of goods in the region, subsequently annulled by the Moldovan government. Consequently, the "5+2" format meetings failed to focus on re-launching the political negotiations proper.

It was also in the context of the Republic of Moldova's signing the EU Association Agreement that the meeting in the "5+2" format, scheduled for July 17-18, 2014, was postponed upon the request of the Russian Federation, which claimed that "it sees no reason for the negotiations to be held for the sake of negotiations" and if "the July round does not lead to any result, this will undermine the negotiations". The scenario followed the same path in August, when the Tiraspol administration refused to attend the "5+2" meeting, which was supposed to take place on September 11-12, in Vienna, this time, under the pretext that the Chisinau authorities have filed criminal charges against several representatives of the Transnistrian administration, including Tatiana Turanskaia, "Prime Minister", Gennady Kuzmiciov, "Minister of the Internal Affairs", Gennady Evstratii, "Minister of Agriculture", Vladimir Ramar, "Chairman of the Supreme Court" etc. Later, on the eve of parliamentary elections in the Republic of Moldova, the "1+1" meetings of the Chisinau and Tiraspol political representatives have been also cancelled, with them to be resumed after the elections of November 30, 2014.

Tiraspol and Moscow accuse insistently the Republic of Moldova and Ukraine of economic blockade following the decision of the Ukrainian authorities to strengthen the security measures and control on the Transnistrian segment of the border with the Republic of Moldova. However, these allegations are contradicted by the trade data published by the so-called "Customs Committee of the Transnistrian Moldovan Republic", according to which, the exports from the region increased by 48% - up to USD 559.2 million, while the imports grew up by 8.9% - up to USD 1.215 billion during January-September, 2014. Thus, in early October 2014, the foreign trade conducted by the Transnistrian Region exceeded USD 1.774 billion, which is by 19% more if compared to the same period of 2013¹. Against the backdrop of these developments, mutual recriminations between Tiraspol and Chisinau on sabotaging the negotiations and straining the situation in the security zone of the conflict have become increasingly common.

Stalemate breaking is postponed

On February 18, 2015, after protracted political negotiations, the new Moldovan Government led by Prime Minister Cyril Gaburici, for which continuing the dialogue with the Transnistrian region remained a priority, was invested in Chisinau. Shortly afterwards, the "1+1" format dialogue was resumed at the level of political representatives of the Moldovan government and Transnistrian administration, while on March 14, the meeting between the Prime Minister of the Republic of Moldova, Cyril Gaburici, and the Transnistrian leader, Yevgeny Shevciuk, is held in Chisinau. During the meeting, the parties signed the Additional Protocol extending the rail freight transport mechanism through the Transnistrian Region; they agreed upon giving a positive impetus to all dialogue and cooperation platforms in the Transnistrian settlement process; and they consented to hold a joint meeting on March 20 with the heads of the political

¹ http://www.publika.md/tiraspolul-se-lauda-cu-majorarea-comertului-extern--top-cinci-parteneri-de-afaceri-ai-regiunii-transnistrene_2121581.html

representatives of the sectorial working groups to build trust between both banks of the Nistru River.

The meeting is undoubtedly a new attempt by the central authorities in Chisinau to revive the small-step policy of engagement with the Transnistrian Region aimed at launching the political negotiations in the "5+2" format as regards the special status of Transnistria within the Republic of Moldova. This effort is supported and encouraged by the EU, which recommends that the Moldovan Government *"continue the pro-active engagement with the Transnistrian side to promote a mutually acceptable vision for a common future and create conditions that would allow the application of the AA/DCFTA on the entire territory of Moldova"*². At the same time, the EU and US ambassadors accredited in the Republic of Moldova have submitted to the new Government a set of detailed recommendations for the immediate, short and medium term, called upon to contribute in 2015 to improving the relations between the two banks of the Nistru River, re-launch the "5+2" process and facilitate an agreement with the Tiraspol administration as regards the way to implement the Deep and Comprehensive Free Trade Agreement in the Transnistrian Region³.

Meanwhile, some of the recommendations made by the EU and US ambassadors have been carried out. Chisinau and Tiraspol resumed the "1+1" meetings, including the ones at the level of the Moldovan Prime Minister and the Transnistrian administration leader; the meetings of the sectorial working group restarted; the problem of the compulsory liability insurance for the motor transport registered on the two banks of the Nistru River was solved by the parties reaching a compromise according to which they agreed upon signing a protocol Decision on the cooperation of the insurance subjects from the Republic of Moldova and Transnistria⁴; and on April 21, 2015, special consultations of the "5+2" format participants were held in Vienna. Despite these positive developments, tensions persist and worsen periodically. Tiraspol administration refuses to resume the formal meetings in the "5+2" format, because, in its view, the Chisinau authorities would maintain a number of constraints and had initiated criminal investigations against several individuals and companies/importers in the region. In turn, the central authorities in Chisinau say that the Transnistrian representatives continue to defy the commitments on ensuring free movement in the Security Zone of the conflict⁵, blocking, in particular, the free movement of the Moldovan police officers in the City of Bender, as well as that of the military observers called to investigate such cases.

Hypothetically, given the positive developments mentioned above, we must admit that the "5+2" meetings may be also resumed in the near future. However, this will not mean overcoming the

² European Commission & High Representative of the European Union for Foreign Affairs and Security Policy, Joint Staff Working Document, Implementation of the European Neighborhood Policy in the Republic of Moldova, Progress in 2014 and recommendations for actions, Brussels, 25.3.2015, SWD(2015) 69 final, http://eeas.europa.eu/enp/pdf/2015/repulic-of-moldova-enp-report-2015_en.pdf

³ Informative Notes on the part of the Development Partners of the Republic of Moldova, January 2015, http://www.gov.md/sites/default/files/document/attachments/briefing_book_rom.pdf

⁴ Приднестровье и Молдова предварительно согласовали механизм взаимного признания полисов ОСАГО [Transnistria and Moldova have agreed in advance on a mechanism of mutual recognition of the insurance policies], <https://tv.pgtrk.ru/news/20150408/30406>

⁵ Tiraspol representatives have unilaterally renounced the previous commitments on ensuring free movement in the Security Zone <http://gov.md/ro/content/reprezentantii-tiraspolului-s-au-dezis-mod-unilateral-de-angajamentele-asumate-anterior>

impasse entered by the process of political settlement of the conflict. As of November 2011 until June 2014, the "5+2" format meetings were held regularly, however, the process of the political settlement has stalled. Tiraspol, supported by Moscow, refused to open the talks on political and security issues, included in the so-called "third basket", preferring to focus on the socio-economic and humanitarian issues. As a result, the agendas of the "5+2" meetings were largely dominated by the technical and organizational issues.

Clearly, this situation will repeat itself this time too, because the real causes of the stalemate as regards the political process of the conflict settlement have not been removed. On the contrary, as a result of the Russian aggression in Ukraine, regional context got complicated, the discrepancy between the positions of Chisinau and Tiraspol continues to grow, while the Republic of Moldova is still unprepared for the reintegration of the Transnistrian Region. In the lines to follow, we briefly highlight the most important causes obstructing, from our point of view, the process of settling the Transnistrian conflict.

1) Lack of space for compromise between Chisinau and Tiraspol

Despite the small-step policy promoted by the Moldovan authorities, as well as the regular meetings in the "5+2" format, the compromise space between Chisinau and Tiraspol has dangerously narrowed. The Transnistrian administration promotes without any alternative the idea of normalizing the relations with the Republic of Moldova only by the international recognition of Transnistria as an independent state. This solution, however, is unacceptable to the central authorities in Chisinau, who offer instead a special legal status to the Transnistrian Region as an autonomous territorial unit, according to the model of the Gagauz Autonomy, an option that is categorically rejected not only by the current administration in Tiraspol, but, also, regrettably, by our citizens in the region. At the same time, the geopolitical discrepancy between the two bank of the Nistru River continue to deepen. While the Republic of Moldova opts for the political association and economic integration with the EU, the Transnistrian Region decided to harmonize its legislation and policies with those of the Russian Federation, promoting the integration into the Eurasian Union and refusing to be part of the Deep and Comprehensive Free Economic Zone (DCFTA) negotiated by the Republic of Moldova with the EU.

2) Moldova has failed to become a pole of attraction for the Transnistrian Region⁶

Despite intense promotion of the European integration vector on the right bank, the Republic of Moldova has failed to become a credible alternative for the citizens from the Transnistrian Region. According to the sociological research conducted in the Transnistrian Region in July 2014, upon the Ecorys UK command, the majority of respondents who participated in the focus groups excluded the idea of reintegration of Transnistria into the Republic of Moldova with a special legal status. Instead they prefer, first of all, the recognition of Transnistria's independence or the incorporation of the region into the Russian Federation.

3) The society of the right bank of the Nistru River (the Republic of Moldova) is not ready for a political compromise with the Transnistrian Region⁷

⁶ Ecorys UK, „Quality Sociological Survey on the Dialogue Between Two Banks of Dniester River”, Tiraspol, July 2014, 31.07.2014, <http://www.ape.md/lib.php?l=ro&idc=173&year=2014>

According to the sociological research about the prospects for the Transnistrian conflict settlement carried out in 2014 by CBX AXA Company, upon the command of Ecorys UK, 66% of the population of the right bank of the Nistru River believe that Transnistria must be part of the Republic of Moldova just like other districts of the country and only 15% would support the idea of granting a statute of economic, cultural and administrative autonomy for the Transnistrian Region.

4) *The fragmentation of the solidarity of the Moldovan political class as regards the Transnistrian Region*

The Moldovan political class is divided more than ever as regards the Transnistrian Region. The solution granting Transnistria a special legal status stated in *Law No. 173 of the Moldovan Parliament, of July 22, 2005, on the basic provisions of the special legal status of the settlements on the left bank (Transnistria)* no longer enjoys the unequivocal support of the parliamentary parties. The leader of the Party of Communists of the Republic of Moldova, Vladimir Voronin, the main promoter of this Law, stands, at present, for granting the Transnistrian Region the status of a republic within the Republic of Moldova⁸ and rejects the formula of an autonomous territorial unit with a special legal status, as provided in Art. 3 of the Law of July 22, 2005. The Law in question is challenged by the Party of Socialists of the Republic of Moldova (PSRM) led by Igor Dodon, who supports the idea of federalization of the Republic of Moldova, with Transnistria as a federal subject. PSRM is continuously rising in the voters' preferences, while at the last parliamentary elections of November 30, 2014, it managed to win 25 of the 101 seats in the current Parliament. In turn, the Democratic Party of Moldova and the Liberal Democratic Party of Moldova, which form the current minority government, prefer to ignore Law No. 173, of July 22, 2005, which according to the (informal) opinion of the two parties is rather an impediment to the promotion of the dialogue with the Tiraspol administration.

5) *The apathy of the society concerning the Transnistrian conflict*⁹

The society is deeply disinterested in the Transnistrian problem. Only one per cent of the Moldovan citizens who live on the right bank believes the Transnistrian settlement to be priority no. 1 for the Government. The situation is characteristic of all distinct groups of citizens, with no significant differences by age, education, the socio-economic level etc. This is also true for the districts situated in the neighbourhood of the Nistru River where the contacts with the Transnistrian Region are more common, only 14% of the respondents place the conflict settlement among the first three priorities. The apathy of the society concerning the Transnistrian issue is, undoubtedly, largely due to a low level of information about the actions and/or inactions taken by the Moldovan authorities to settle the conflict. Thus, only 21% of the respondents believe that the Republic of Moldova has a plan for settling the Transnistrian conflict, 45% believe that such a plan is missing, while 34% do not know anything about it. The reintegration policies are almost completely missing from the public opinion, only 11% of the respondents

⁷ Ecorys UK, „National Survey on the Transnistrian Reintegration Prospects: Public Perceptions”, CBS AXA, Chisinau, May 2014, 30.05.2014, <http://www.ape.md/lib.php?l=ro&idc=173&year=2014>

⁸ Владимир Воронин: «Они просто хотят отделиться по Днестру от Украины и России» [Vladimir Voronin: "They just want to secede following the Nistru from Ukraine and Russia"], Kommersant.md, <http://www.kommersant.md/node/18873><http://www.kommersant.md/node/18873>

⁹ Ecorys UK, „National Survey on the Transnistrian Reintegration Prospects: Public Perceptions”, CBS AXA, Chisinau, May 2014, 30.05.2014, <http://www.ape.md/lib.php?l=ro&idc=173&year=2014>

said that they knew "a lot" or "quite a lot" about them, the remaining respondents recognizing that they did not know anything about such policies. As a result, 56% of the people surveyed considered that the authorities take insufficient measure or do not take them at all for the country reintegration.

6) Lack of a real commitment in Chisinau to reintegrate the Transnistrian Region

Law No. 173 of the Moldovan Parliament, of July 22, 2005, on the basic provisions of the special legal status of the settlements on the left bank (Transnistria) has largely remained a declarative document, with no practical consequences. It was not followed by the development of a Strategy to reintegrate the country that would guide all state institutions and the society in implementing its provisions. The means of the policy to reintegrate the country are either underdeveloped or virtually do not exist at all. The *Governmental Commission for the Country Reintegration* coordinates a practically non-existent policy of reintegration, without a strategy and without a consolidated action plan to channel the attention, efforts and resources of the central and local authorities. The *Deputy Prime Minister for Reintegration* lacks the necessary leverage to carry out the reintegration policies, which exist almost exclusively in the public discourse only and is almost inexistent at the level of some programmatic documents approved by the Ministries, Government or Parliament. Although the reintegration is a major priority of their work, the *Ministries in line* did not develop relevant sectorial reintegration plans, if this is to happen in the next 10 years. The *Reintegration Bureau of the State Chancellery* has insufficient expertise to develop regulation and reintegration strategies, policies, plans and mechanisms. As regards the *Sectorial Working Groups*, the authorities in Chisinau have their own mid-term pro-active action plans, which would turn their work towards creating objective prerequisites for building unique economic, transport, education, commercial, social, tourism, customs etc. spaces between both banks of the Nistru River.

7) The political representative of Chisinau in the "5+2" format does not have an indisputable mandate, expressly formulated and approved by the Government, to negotiate a political compromise with the Transnistrian Region

Although the Moldovan authorities plead for starting the negotiations on the special legal status for the Transnistrian Region, Chisinau's political representative in the "5+2" format does not have an express mandate formulated and approved by the Government in this regard. According to Law No. 173 of the Moldovan Parliament, of July 22, 2005, on the basic provisions of the special legal status of the settlements on the left bank (Transnistria), the negotiation of the special legal status of the Transnistrian Region can take place only after the conditions on the demilitarization of the region are met, in particular, those relating to Russian Federation fulfilling its obligations taken at the OSCE Summit in Istanbul (1999) on full, urgent and transparent evacuation of troops and weapons from the Republic of Moldova, and after the creation in Transnistria of a system of power that is democratically elected¹⁰. Therefore, as long as the demilitarization and the democratization of the Transnistrian Region has not occurred, the

¹⁰ The conditions for the demilitarization and democratization of the Transnistrian Region were expressly stipulated by the Parliament of the Republic of Moldova in Law no. 117 of June 10, 2005, on the initiative of Ukraine concerning the settlement of the Transnistrian conflict and measures for democratization and demilitarization of the Transnistrian Zone <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=307472>

negotiation of a political compromise with the administration in Tiraspol is illegal and liable to criminal responsibility.

8) *The intensification of the geopolitical confrontation in the region*

The settlement of the Transnistrian conflict can not take place while ignoring the regional/European context. As a result of the Russian aggression against Ukraine, the regional stability is highly volatile. The logic of confrontation dominates the Moscow's actions in the region. By annexing Crimea and creating in south-eastern Ukraine the Donetsk and Lugansk popular republics, Russia has triggered an open geopolitical struggle with the West (US and EU) to maintain Ukraine and the entire post-Soviet region in its sphere of influence. The Minsk Truce of February 2015 did not end the confrontation. And as long as the fate of Ukraine is not resolved, Transnistria, the outpost of the Russian interests in the region, will continue to be an important piece in the geopolitical game triggered by the Kremlin. The current status-quo is more than convenient for Moscow, as it enables it to use Crimea and Transnistria along with the Donetsk and Lugansk popular republics in its actions of intimidation, isolation and coercion to resignation/submission of Ukraine.

What's next?

Given the facts mentioned above, in our opinion, launching the political negotiations on the special legal status of Transnistria is uncertain and risky. Both the Tiraspol administration and the Chisinau authorities do not show real interest in such negotiations. The Republic of Moldova is totally unprepared for the reintegration of the Transnistrian Region. At present, it has neither a systematic policy of reintegration, nor the resources necessary to implement carry out such an effort. The parliamentary parties do not have a joint vision for the future political settlement, while the society is not ready for a possible compromise. What is worse that that is the fact that the society remains extremely apathetic towards the Transnistrian issue, while its lack of interest can generate new willful and obscure ideas, like the Kozak memorandum, on the part of the Moldova political class and authorities. Under these conditions, we consider it appropriate that the authorities and the parliamentary parties avoid a hasty settlement of the conflict.

We recommend instead that the central authorities and parliamentary parties focus primarily on the thorough preparation of the Republic of Moldova's gradual reintegration of the Transnistrian Region in its economic, legal and political space, namely:

1. Transform the Republic of Moldova into an example/model of democratic, economic, social and institutional transformation worthy of emulation by the Transnistrian Region;
2. Agree on a shared/solidary vision to reintegrate the country in the medium and long term;
3. Develop a policy of reintegration of the country in the medium term, which would prepare the state institutions, the state economy and the society on both sides of the Nistru River for the possible reintegration of the Transnistrian region;
4. Develop and launch a national campaign of systematic information of the society, on both banks of the Nistru River, about the Republic of Moldova's vision concerning the conflict settlement and its policy of reintegration of the Transnistrian Region;
5. Develop partnership relations with the politicians, administration and business community in Transnistria, as the reintegration will not mean at all the unconditional surrender of the Transnistrian Region, but rather a compromise between the two partners;

6. Give up the fear of losing the Transnistrian Region, which, de facto, is lost, and generate bold solutions for its engagement into the cooperation partnerships capable of facilitating the recreation the area of compromise between Chisinau and Tiraspol by multiplying the institutional, economic, social and cultural synergies between both banks of the Nistru River. An example of synergy is to extend in the Transnistrian Region the assistance programs offered by the international institutions to our country;
7. Negotiate a mutually acceptable solution for the implementation of the DCFTA in the Transnistrian Region. Reduce this issue to a purely technical one is a big mistake.
8. Formulate and approve a negotiating mandate with clear objectives and without legal equivocations for the Republic of Moldova's political representative in the "5+2" format¹¹.

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¹¹ For example, the mandate of the Republic of Moldova to negotiate with the EU the future Association Agreement was approved by Government Decision no. 680 of November 13, 2009. While the negotiations were launched by Presidential Decree no. 67 of 17.11.2009, following the compliance with all procedures provided for by the law in force, including the consultation with the Foreign Affairs Committee of the Parliament of the Republic of Moldova.