

Federalization and Constitution-Making as an Instrument of Conflict Resolution

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Throughout the past decade, there have been numerous proposals advanced to end the frozen conflict between Moldova and the breakaway region of Transnistria. Since the short but intense civil war in the summer of 1992, Transnistria has retained independence from Moldovan central authorities and functioned as a de facto state. Similar to situations in other former Soviet areas such as Abkhazia and South Ossetia, the Transnistrian leadership has been able to function because of Russian economic, political, and military support. Although the Moldovan leadership has changed over the years, those Transnistrian individuals that were most directly involved with the civil war have been able to maintain their positions. This may promote continuity in discussions, but it also makes it very difficult to change negotiation positions and inject new ideas into the process.

Indeed, what is striking about the current debate over the federalization of Moldova is how little new ground it covers. In July 2002, ambassadors from Russia, Ukraine, and the Organization for Security and Cooperation in Europe (OSCE) officially submitted to Moldova and Transnistria a project to federalize Moldova under joint mediation and guarantees by all three parties. President Voronin issued a draft plan for Moldova in February 2003 calling for a new constitution to be formed by Moldova, Transnistria, Russia, Ukraine, and the OSCE, transforming Moldova into a federation. Although the specifics of the debate have changed, the nature of the debate between the parties, such as whether the plan should be conceived as a federal or confederal solution, has remained the same.

For the European Union (EU), the settling of the dispute between Moldova and Transnistria has become an important foreign policy issue, as the border of the EU will extend to Romania by 2007.¹ Transnistria is often cited as an area in which arms, drugs, and human smuggling are conducted with the help of government resources. In addition, many in Russia view the federalization plan for

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Moldova as a template for use in other former Soviet republics, such as Georgia and Azerbaijan. Therefore, the solution to this frozen conflict has wider implications for Europe and elsewhere. Since the federalization plan was first proposed in July 2002, there has not been any significant change in the negotiating position of the Transnistrians and very little input from Moldovan civil society. This is why the federalization plan for Moldova has elicited such a strong negative response, both from Moldovan opposition parties and nongovernmental organizations (NGOs). For many Moldovan opposition groups, any compromise with the Transnistrian leadership is viewed as a defeat and a capitulation to Russian interests. Therefore, the federalization process is both an important domestic and foreign policy issue for the Moldovan government. This article briefly examines some common concepts of federalism and then examines the federalization proposal and its domestic and foreign consequences for Moldova.

The Idea of Federalism

One of the reasons why the federalization plan for Moldova has been so problematic is that there is widespread disagreement among scholars and governmental participants as to the nature and conceptualization of federalism and even what a federal state should look like. Brzinski, Lancaster, and Tuschloff (1999) argue that there are three perceptions of federalism. One view is that federalism is a sociological process based on a group governance in which groups agree to power sharing and certain rules of the game. For example, Elazar (1994) argues that federalism is “not to be found in a particular kind of structure but a particular set of relationships among the participants in a political system” (15). Moreno (2001) argues that the federalization of Spain and the gradual devolution of powers to the autonomous communities were brought about by the agreed political will of these communities rather than by any institutional feature. Saunders (1995) argues that federalism is not established by rules and institutions alone but depends on attitudes and political culture. She argues that “the effects of federalism may be obtained in the absence of fully federal constitutional arrangements. In other cases, apparently federal in form, key benefits of federation may be missed, representing the worst of both worlds” (62).

The current federalization discussion in Moldova is an excellent case in point. What has been striking about the discussion concerning the drafting of a new Moldovan constitution has been the lack of exchange between elites and citizens. The actual design of the new constitution has been conducted largely without public engagement. Moreno (2001) argues that the federalization of Spain in the 1970s was a product of “the political will expressed by the governed” (2). This process of devolutionary federalism was based on societal consent over a period of time. It is not enough to get the institution of federalism right. Instead, the discussion of new institutional structures as a mode of democratization must be part of a civil society dialogue.

Kincaid (1995) poses the question this way: “What type of constitutional power-sharing will gain consent and achieve the desired values and objectives of the parties to the federation?” (32). It is imperative to examine what values the fed-

eration will represent and impose on the citizenry. What happens if the value system of the various federated entities differs significantly? In the United States, the civil war of the 1860s was a reaction to the conflicting value and economic systems of the north and the south. In the case of Moldova, many opposition parties and members of civil society openly question whether a democratic Moldova can become part of a federation with a nondemocratic and totalitarian region such as Transnistria. Kincaid (1995) notes the difficulty of establishing a federal democracy in the absence of a system-wide commitment to democratic values (for example, Brazil and India). In some cases, the lack of democratic consolidation among the federated entities has been one of the primary causes of the system-wide breakdown of democracy. This is a significant consideration, especially in democratically fragile countries such as Moldova.

A second view is that federalism is based on the creation of a certain set of structures. This institutionalist view places primary importance on the division and sharing of powers between a central and subunit governments. For example, Kymlicka (1996) describes the Canadian federal system primarily as a balance between centralized and decentralized powers (that is, between Ottawa and Quebec). Riker (1964, 1975, 1996) argues in a series of writings that the distribution of power and areas of shared powers are vital to crafting a federal system. Finally, there are those that emphasize the policy significance of federalism. For these scholars, federalism is a solution to policy problems. This intergovernmental perspective views federalism as a public administration process. For example, Oates (1972) argues that federalism concerns the division of public-sector functions and finances in a logical way among layers of government. Stepan (1999) argues that independent states may form a federation by ceding and pooling sovereign powers to provide such public goods as physical or economic security.

Federalism often is associated with the development of a market economy, as both structures are decentralized and place importance on contractual relationships, self-governance, and consumer rights. Brazil, Russia, and India are obvious examples that demonstrate that a market economy is not inherently a manifestation of or concomitant with federalization. However, Kincaid (1995) argues that the coexistence of federalism and a nonmarket economy can be problematic. If subnational governments are the predominant regulators of land and capital, as has been suggested by the Transnistrians, then “there are likely to be strong pressures to weaken or fragment the federal system” (34).

None of these views are mutually exclusive of each other, and many scholars combine aspects of these views to arrive at a more coherent conceptualization of federalism. Which view is most emphasized leads to a difference in the interpretation and implementation of federalism. Perhaps this is why there is such a diversity of countries listed as federal. Spain is a good example. As Moreno (2001) indicates, Title VIII of the Spanish constitution never mentions the word “federal” or speaks of a federal structure, and, thus, Spain’s formal-legal structure is often considered unitary. The reality is that the political agreement on the division of powers in Spain creates a federal system or, as Hamann (1999) argues, a “quasifederal” or “regionalist” political system.

Federalism and the Role of Minority Protection

Federalism is viewed as an institutional arrangement for the protection of ethnic or other national minorities. Although federalism can provide rights to ethnoterritorial groups, Kymlicka (1996) points out that federalism is not inherently connected to the protection of cultural diversity. He notes many federal examples that were instituted based on administrative decentralization rather than the protection of certain groups. (Germany is a prime example.) However, federalism is often instituted to provide rights and certain guarantees to local groups, whether these groups are racial, ethnic, tribal, or religious, but there is always the issue of how to protect a national majority that is a territorial (federal) minority. In Moldova, the problem of how to protect the rights of Romanian speakers within a federated Transnistria remains. This is an especially important issue given that Transnistrians are not an identifiable ethnic group and that Moldovans are the plurality ethnicity in the region.

Stepan (1999) labels as “holding together federations” those federations that develop from unitary states as a central government response to alleviate threats of secession by territorially concentrated minorities. Such federations often grant some subunits particular domains of sovereignty or shared sovereignty (for example, over language and cultural rights) in an asymmetric federation while maintaining a broad scope of action for the central government and the majority. The question that Stepan does not answer is how to protect an ethnic majority in a federal entity controlled by the ethnic minority. Swenden (2002) argues that de facto asymmetric federalism can refer to cultural, socioeconomic, and even party differences between the federated entities and is not necessarily linked to the idea of ethnicity or nation.

Role of Representation and Rule

Federalism is a political system of self- and shared rule. As constitutions are considered and powers examined, the primary institutional questions are: Which powers remain at the central level, which powers are reserved for the units, and which powers are shared between the entities. All of these questions revolve around how the central government, the subunits, and, ultimately, citizens and groups will be represented in a federation. Therefore, one of the issues that must be considered is the number of entities that should be created to provide for the representation of group diversity. Of course, the exact number of federated entities can vary either as an administrative function or due to issues of representation. Saunders (1995) argues that federations can either be too small or too large and that the entities in the federation ideally would be roughly comparable in size, wealth, and representation. Although there is the example of Belgium, generally the number of entities found within most federations is significantly larger than the number proposed in Moldova. In addition, most countries that have instituted federalism are far larger in terms of size and population than Moldova (such as Brazil, India, Russia, and the United States).

The communist legacy of federalism is one in which representation was subordinated to the administrative needs of the Communist Party and leadership. This is one of the reasons why Dorff (1994) argues that the communist federal sys-

tems in Czechoslovakia, the Soviet Union, and Yugoslavia were never really federal. The centralization of representation and decisionmaking made it impossible to institute meaningful federalism in Czechoslovakia and the Soviet Union, while Yugoslavia represented the other extreme of decentralized federalism. This is why Lynn and Novikov (1997) speak of the “refederalization” of Russia since 1991.² They argue that postcommunist federalism is a strategic mechanism used by central and regional elites to maintain power and privileges and has little to do with the representation of ethnic diversity.

It is only recently that the literature on federalism has begun to grapple with how federal institutions affect and allow for representation. Brzinski, Lancaster, and Tuschloff (1999, 12) argue that

when representation has been considered as part of federalism, it generally follows a Hobbesian definition of representation as “to act on behalf of.” Pitkin (1967) and others criticize this trustee model of representation because agents have unlimited authority that lasts forever and principals are bound by the actions of the

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agent. Instead, Brzinski, Lancaster, and Tuschloff propose the idea of “compounded representation,” in which the process of political representation and institutions of federalism produce an interaction effect in which institutions should be created to provide for the fullest possible representation, and representation of competing agents is a function of shared and separate jurisdiction. They argue that because “of both the presence of multiple governments and the competition between agents[,] federalism gives citizens a variety of institutional options through which to pursue their interests. Federalism’s overlapping political jurisdictions require principals and their agents [to] make choices about how and in what arena to organize politically, whom to represent, and how to maintain or escape accountability” (1999, 9).

Federalism is viewed as a means for the representation of group interests (no matter how the group is defined). As part of compounded federalism, this typically means that federal institutions are crafted to ensure that minorities or other groups have access to and the right to elect principals to federal institutions. The Kozak Memorandum is an example of compounded federalism, in which legislative and judicial federal institutions were created to provide for Transnistrian and Gagauzian representation (or, in this case, overrepresentation). In the case of the Kozak Memorandum, regional group representation in federal institutions came at the expense of the titular majority and highlighted the difficulty of balancing self-government in regions with representation in central institutions.

Kymlicka (1996) makes an interesting argument against the idea of group representation in federal institutions. He argues that the principle of self-government often places asymmetric limits on the authority of federal (central) government

institutions over national minorities or territorial groups. He argues that if self-government limits the authority of federal principals, self-government should also reduce the influence of groups at the federal level (at least on certain issues). He gives as an example prohibiting group MPs at the federal level from voting on legislation that would not apply to their region. He argues in favor of group representation on intergovernmental bodies that have an influence over the power of self-government and reduced group representation on federal bodies that are purely legislative.

However, the distinction between an intergovernmental institution that can make decisions on conflicting and concurrent legislation (such as a constitutional court) and a federal legislature that “purely legislates” is murky. Legislatures can have powers to influence the nature of self-government, and courts make decisions that involve essentially legislative matters. Although Kymlicka’s (1996) distinction between institutions is not well defined, he makes an important point concerning the relationship between self-government and representation at the federal level. The key is not so much to reduce group representation in federal bodies as it is to balance group representation with self-government. The key is to ensure that minority groups (however defined) do not possess a veto in federal bodies such that they can change rules or block the creation of new rules that are not specific to their group or region. In other words, groups should at best only have a veto on matters that strictly involve the right of self-government and not on ordinary legislation. This issue and the others described earlier point to some of the important weaknesses that have been part of the Moldovan federalization process and, in particular, the Kozak Memorandum.

Historical Context for the Federalization Proposal

The Moldovan federalization proposal has engendered considerable criticism, and much of the ire has been aimed at the OSCE and specifically Ambassador William Hill. Some opposition parties argue that the federalization plan is a capitulation to Russia and reflects Ambassador Hill’s close working relationship with Russia. In a series of writings, Vladimir Socor has articulated this position and, in effect, demonized the OSCE. However, Ambassador Hill is quick to point out that the idea that a unitary Moldovan state may not provide the necessary flexibility to accommodate the interests of Transnistria is a position long advocated by the OSCE.³ One of the first reports issued by the Commission on Security and Cooperation in Europe Mission to Moldova in 1993 argued that powers should be divided among central, regional, and mixed jurisdictions and clearly rejected any idea of a confederation between Moldova and Transnistria. Even in 1993, the commission realized that “the question of a special status for Transnistria merges with the ongoing debate on ‘federalization’ . . . both ‘autonomy’ and ‘federalization’ are equally unpopular words for many Moldovans” (CSCE Mission to Moldova 1993, 8).

Although the language in 1993 is strikingly similar to today’s language and debate, more than a decade has passed, which has changed the dynamic of the negotiations. Some form of special status or autonomy may have been possible

to negotiate between Moldova and Transnistria in 1993; however, it is difficult to imagine Transnistria accepting any change to the status quo that would possibly undermine the longevity of the current leadership. Since 1993, the Transnistrian foreign ministry has benefited from several international conferences and seminars and has become extremely well versed on various federal, confederal, and autonomous arrangements. Transnistrian foreign minister Valerii Litskai has occupied his post since 1992, and has become very knowledgeable and a formidable negotiator. Another crucial event that limits the area of negotiation was the establishment of Gagauzia, or *Gagauz Yeri*, in 1995. The Moldovan central government and the OSCE hoped that the territorial autonomy provided by the government to the Gagauzia would serve as a model for Transnistria. Instead, Transnistrians view Gagauzia as a failure and argue that Gagauzia is an example that demonstrates that the Moldovan central government cannot be trusted to provide meaningful autonomy.⁴

If the conflict between Tiraspol and Chişinău had essentially been political, then the parliamentary victory of the Moldovan Communist Party (PCM) in 2001 and the election of President Voronin by the parliament later that year should have alleviated fears on the part of the Transnistrian leadership that there would be greater democratic accountability in the region as well as any possibility of a reunification with Romania. During the parliamentary election campaign, the PCM proposed both the elevation of Russian to a second state language and Moldovan membership in the Russia–Belarus Union. Although these policies were not implemented, it was hoped that the support of the Moldovan leadership for such issues would satisfy Transnistria. The negotiations between Voronin and Transnistrian president Igor Smirnov were initially successful. In May 2001, Transnistria released Ilie Ilascu from jail. The release of Ilascu had been a long-standing demand of the Moldovan government, and Voronin and Smirnov met on subsequent occasions to negotiate a wide range of issues. However, by late 2001, Voronin had concluded that Smirnov had no real interest in ending the status quo and suspended the negotiations.

The 2002 Kiev Proposal

To revive negotiations, ambassadors from Russia, Ukraine, and the OSCE submitted a new draft agreement to Moldova and Transnistria in 2002 that was the most detailed and far-ranging proposal ever submitted by the mediators. Fundamentally, the document envisioned the federalization of Moldova, with state-territorial formations (specifically Transnistria) exercising local power over a range of issues subordinated to the Moldovan central administration. The proposal called for the creation of a bicameral parliament in which the upper house would represent the territorial units. Although the 2002 draft was the most specific document offered by the international negotiators, there were several key issues that were not addressed.

President Voronin invited the Transnistrians to form a Joint Constitutional Commission (JCC) in February 2003. The Commission was composed of three Moldovan and three Transnistrian negotiators. Ion Creanga, the head of the legal

department in the parliament, was named the Moldovan Commission president. At the same time, a new government agency was created to coordinate activity between Moldova and Transnistria, and Vasile Sova was named the Minister of Reintegration. The formation of the ministry of reintegration and the JCC were part of a larger conflict resolution and constitutional process in which a new constitution would be voted on by referendum, followed by parliamentary and presidential elections in early 2005.

There was a flurry of organizational activity in early 2003, but by the middle of the year, negotiations between the two sides once again began to stall. It took quite a long time to establish procedures and meeting schedules within the Commission, and eventually the EU's Venice Commission was asked to provide advice on the proposals that were presented. In terms of the basic framework of the federation, one of the most contentious issues was the number of state-territorial entities that should be created. Article 4 of the draft only stated that "state-territorial entities shall be established within the Republic of Moldova." The proposal did not specify how many territorial formations were to be created and did not provide a mechanism for constitutional revision.

Subsequent discussions focused almost exclusively on Transnistria as the sole territorial entity in the federation with the rest of the country, although there was some suggestion that Gagauzia would also constitute an entity.⁵ On the Moldovan side, some of the negotiators were concerned that a two-subject federation (that is, Moldova and Transnistria) would not be as stable as a federation with a larger number of entities.⁶ The literature on federal systems seems to support the idea that a limited number of entities only works in rare cases. In addition, several members of the Venice Commission also argued against a two-subject federation. Several Moldovan nongovernmental organizations (NGOs) have argued that federalization should be linked to territorial reform in which a larger number of entities would be created to represent various regions of the country.

Even an early report of the OSCE's Mission to Moldova argues that it would "make little sense to set up, as suggested by some, three federal states (Transnistria, Gagauzia, and the remaining but by far largest part of the country) and to top up such an unbalanced structure with a federal government . . . it could make perfect sense to subdivide the country into eight to ten regions" (CSCE Mission to Moldova 1993, 4). Unfortunately, most discussions supported the idea that the federation would be a combination of a rump Moldova and Transnistria. This view of federalism reinforced the Transnistrian concept that a federal solution would be reached as a state-to-state agreement and would in reality have several confederal features.

The number of entities is an important issue because it deals with the way in which representation will be handled in the new federation. One of the concerns of many opposition parties with the Kiev proposal was the significant legislative power provided to the parliament's upper house, which represented the federal entities. Article 26 of the proposal provides that "state-territorial entities are represented in the Chamber by an equal number of votes." Opposition politicians such as Dumitru Braghîş argued that this provision provided an effective

Transnistrian veto over all legislation.⁷ In addition, this provision allowed for a substantial overrepresentation of Transnistrian interests vis-à-vis the rest of the country. During negotiations in summer 2003, the Transnistrian delegation to the JCC refused to consider any proposal on the upper house that did not provide for 50 percent of the seats allotted to Transnistrian MPs.⁸

Aside from this federal framework issue, the two sides were separated on several other matters. In terms of the interworkings of federalism, differences emerged over the structure of the judiciary, as well as financing and taxing powers. Debates over the status of a constitutional court as well as taxing authority are a normal part of federal discussions. Indeed, Lynn and Novikov (1997) note the long and contested process in the formation of the Russian Constitutional Court in the 1993 constitution. President Yeltsin and his advisers were leery of granting the constitutional court too much independence, as the previous court had made several rulings against presidential actions. Transnistria wanted to create two separate judiciaries with a mediation court in which they would be able to nominate an equal number of judges. Moreover, Transnistria wanted to maintain its own legal codes for both criminal and civil cases.⁹

The other major practical issue in dispute was the financing and taxing authority of the federal unit and the territorial units. Although many of the large state-owned enterprises (SOEs) and agricultural land had been privatized in Moldova, Transnistria only recently began the process of industrial, agricultural, and land privatization. However, the Transnistrian delegation insisted that all previous privatization in Transnistria be recognized by the federal government as legal. Indeed, many suspect that Transnistrian authorities began to privatize to provide a legal cover for their assets. One of the problems with legalizing Transnistrian privatization is that the industries that have been privatized in Transnistria were done so without any legal basis recognized by the central government. In addition, some of the most important SOEs in Moldova are located in Transnistria. By recognizing the Transnistrian privatization, Moldova would lose the significant revenue that would have been generated by these privatizations.

The Kozak Memorandum

Because of these and other issues, the negotiations quickly stymied. The JCC became increasingly irrelevant as Voronin centralized negotiations within his presidential administration and within the Ministry of Reintegration. Although Voronin was publicly committed to the principles laid out in the 2002 Kiev proposal and the OSCE-approved constitutional process, he entered into negotiations with Russia unbeknownst to either the OSCE or Ukraine. Russian deputy head of administration Dmitry Kozak was appointed by President Vladimir Putin to mediate between Moldova and Transnistria and produce a memorandum that would serve as the basis of a new constitution. Throughout the summer and early fall, Kozak was engaged in shuttle diplomacy between Moscow, Chişinău, and Tiraspol. Although the exact nature of these discussions was secret, mediators such as the OSCE were aware that Kozak was engaged in a dialogue with the two parties. Indeed, the OSCE wanted to work with Kozak on crafting an agreement,

but Putin's presidential office refused to work with the OSCE and make their negotiations public.¹⁰

A September draft served as the basis of final negotiations between Voronin and Smirnov. The draft envisioned an asymmetrical federation with Transnistria as the sole territorial unit. The draft allowed Transnistria and Gagauzia to have overrepresentation in the upper house but delegated several competencies to the federal government. In an attempt to influence the final agreement, the Transnistrian leadership leaked the draft to the OSCE and Ukraine (International Crisis Group 2004). The OSCE had been aware for some time that negotiations had been underway and was trying to find a mechanism that would merge an OSCE-

approved draft with the September draft. The Russians continued to block any effort at bringing the comediators into the negotiations with Voronin and Smirnov. On November 17, 2003, Russia gave the OSCE and Ukraine a final draft, titled "Memorandum on the Basic Principles of the State Structure of the United State" (also known as the

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Kozak Memorandum). The Transnistrians had been very successful in changing many of the institutional features and competencies that had been articulated in the September draft. In addition, for the first time, Gagauzia was elevated from an autonomous region to a state entity, and several changes were made to the process of constitutional revision.

Several features of the Kozak Memorandum were highly objectionable. The document provided for a senate in which 50 percent of the twenty-six members would be chosen by the Transnistrian and Gagauzian territorial units. This is extremely important, because the upper house became the most important veto locus within the federal institutional framework. For example, organic laws had to be confirmed by a three-fourths Senate vote that gave the Transnistrians an effective veto. In addition, the Senate appointed the constitutional court and all cabinet members. Transnistrians also enjoyed a veto on the constitutional court.¹¹ These institutional features were designed to provide Transnistria a veto over any legislation that would threaten the leadership. Ultimately, these multiple loci of vetoes would make it impossible for the federal government to operate. In addition, the Kozak Memorandum included clauses that could be interpreted to easily dissolve the federation. For example, the Kozak Memorandum allowed for subjects of the federation to have the right "to leave the federation in case a decision is taken to unite the federation with another state and (or) in connection with the federation's full loss of sovereignty." Creanga commented that Moldovan integration into international organizations such as the EU could be used as a basis for the dissolution of the federation under this clause.¹²

Moldovan civil society and opposition groups felt that the Kozak Memorandum was a betrayal of the state and reinforced in their minds that federalization was an anti-Moldovan plan orchestrated by Russia. The international community was equally concerned about the document. Soon after the Kozak Memorandum was formally announced, a flurry of diplomatic efforts centered around Chişinău. Voronin was in touch with the OSCE Mission to Moldova as well as the Dutch OSCE chairmanship, which stated that there was no consensus in favor of the document. The EU and the U.S. embassy in Moldova also expressed their reservations. Only the Ukrainians, in concert with the Russians, publicly accepted the document. Voronin realized that the document and process had no domestic or international support and therefore indicated that he would not sign.¹³ Putin, who was to visit Moldova on November 25, 2003, for a formal signing ceremony, canceled immediately.

The Aftermath of Kozak

In all respects, the Kozak Memorandum was a failure that undermined the position of those who favored federalization and set back negotiations. Ambassador William Hill of the OSCE Mission to Moldova felt that the Kozak debacle meant that “we are practically back to zero.”¹⁴ The Kozak Memorandum further fractured Moldovan society, united opposition parties and movements, and ironically provided the Transnistrians the moral high ground in claiming that Voronin, who had initialed the document, was now going back on his word and could not be trusted. As Ambassador Hill indicated, the negotiations in a post-Kozak environment had to revisit several issues and called for a slow, confidence-building process. Although the Kozak Memorandum may be dead, several elements of the document were incorporated into a new Moldovan initiative launched by Voronin and Sova in February 2004. This document retains much of the structure of the Kozak Memorandum but attempts to diminish Transnistrian overrepresentation in various institutions. However, with presidential and parliamentary elections in early 2005, there is no realistic chance that any agreement will be reached any time soon.

The optimism in 2002 that a solution was at hand has turned into a pessimistic realism that this frozen conflict will require much more time and, ultimately, a reorientation of the foreign policy priorities of Russia (which seems a distant possibility). Moreover, any discussion of federalization and constitutional change is viewed now with great suspicion among many sectors of Moldovan society. Perhaps the only positive outcome of this episode is that the failure of the Kozak Memorandum, combined with upcoming elections, has caused the Moldovan pro-West opposition to become more united and civil society more assertive. In the end, the concept of federalization may not change the Moldovan constitution, but it may change the composition of parliament and government.

NOTES

1. Romania’s accession to the North Atlantic Treaty Organization (NATO) has also placed the issue of Transnistria high on the agenda of the NATO Parliamentary Assembly.

2. Sharlet (1994) argues that post-1993 trends in Russia reversed federalism and created a much more centralizing and unitary government.

3. William Hill (head of the OSCE mission in Chişinău), interview with the author, October 6, 2003.
4. Mikhail Kushakov (dean of the Law Faculty at Transnistria State University and member of the Joint Constitution Commission), interview with the author, June 20, 2003.
5. Some leading members of the PCM argued that in their discussions in the Gagauzian capital of Comrat, individuals expressed that they were not interested in Gagauzia becoming a federal entity. Interviews with the author, June 25, 2003.
6. Ion Creanga (chair of the Moldovan Delegation to the Joint Constitutional Commission), interview with the author, June 17, 2003.
7. Dumitru Braghîş (member of parliament and president of the Braghîs Alliance), interview with the author, June 25, 2003.
8. Creanga, interview.
9. Ibid.
10. William Hill (ambassador of the OSCE Mission in Moldova), interview with the author, November 25, 2003.
11. The Kozak Memorandum provided for a Constitutional Court comprised of eleven judges (four chosen by Transnistria) in which a decision required the consent of nine judges (until 2015).
12. Creanga, interview with the author, November 23, 2003.
13. In a declaration published in the state newspaper *Moldova Suverana*, Voronin stated that “the leadership of the Republic Moldova considers it premature to sign the Memorandum before the text is coordinated with European organizations” (*Moldova Suverana*, 2003, 1).
14. Hill, interview.

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