

Policy Department External Policies

HUMAN RIGHTS AND FROZEN CONFLICTS IN THE EASTERN NEIGHBOURHOOD

HUMAN RIGHTS

November 2007

EN

This briefing paper was requested by the European Parliament's Subcommittee on Human Rights.

This briefing paper is published in English
EN (OR)

Author: **Martina Bielawski**, Centre of International Studies,
University of Cambridge, UK
Nicu Popescu, European Council on Foreign Relations,
London office and Central European University, Budapest

Responsible Official: **Mrs Andrea Subhan**
Directorate-General for External Policies of the Union
Policy Department
BD4 06 M 071
rue Wiertz
B-1047 Brussels
E-mail: andrea.subhan@europarl.europa.eu

Publisher European Parliament

Manuscript completed on 7 November 2007.

The briefing paper is available on the Internet at
<http://www.europarl.europa.eu/activities/expert/eStudies.do?languageEN>

If you are unable to download the information you require, please request a paper copy
by e-mail : xp-poldep@europarl.europa.eu

Brussels: European Parliament, 2007.

Any opinions expressed in this document are the sole responsibility of the author and do
not necessarily represent the official position of the European Parliament.

© European Communities, 2007.

Reproduction and translation, except for commercial purposes, are authorised, provided
the source is acknowledged and provided the publisher is given prior notice and supplied
with a copy of the publication.

Executive Summary

The conflicts in Abkhazia, South Ossetia, Nagorno-Karabakh and Transnistria undermine the potential of the European Neighbourhood Policy and they worsen the human rights situation in the immediate neighbourhood of the European Union. Not being under the control of the metropolitan states, the separatist territories have become legal “black holes” for human rights. While the situation differs from one area to another, the list of human rights problems in these regions is long. In addition to the high number of refugees and internally displaced persons, nationals of the metropolitan states are regularly discriminated and refused their right to return to their homes. Allegations of torture and mistreatment in prisons, lack of adequate recourse to justice, and disrespect for property rights are serious issues in the separatist entities. Civil rights and political liberties are infringed upon.

The steps taken by the European Union with a view to promoting conflict resolution, rehabilitation and the support of civil society do not amount to a comprehensive and coherent strategy. However, human rights violations in these *de facto* independent entities can only be addressed effectively, if the specific context is taken into account. In order to strengthen respect for human rights and rule of law in the European neighbourhood the European Union must firstly become more active in the conflict resolution processes and secondly move towards a targeted and conditioned use of EU assistance.

Contents:

1. Introduction.....	4
2. Human Rights Situation in the Areas of Frozen Conflicts	5
2.1 Juridical Structures and Rule of Law	6
2.2 Discrimination against Nationals of the Metropolitan State.....	9
2.3 Political Rights and Civil Liberties	10
2.4 Disrespect for Property Rights	11
3. Human Rights Engagement of International Actors.....	13
3.1 Commonwealth of Independent States/Russian Federation	13
3.2 OSCE.....	14
3.3 United Nations.....	15
3.4 Council of Europe and the European Court of Human Rights	16
4. EU Policies towards the Secessionist Conflicts	16
4.1 EU policies on Transnistria.....	16
4.2 EU Policies on Abkhazia and South Ossetia.....	17
4.3 EU Policy towards Nagorno-Karabakh.....	20
5. Conclusion	22
6. Recommendations	23

1. Introduction

Abkhazia, Nagorno-Karabakh, South Ossetia and Transnistria are invisible on the map of the European neighbourhood, but they are real political phenomena which have broad implications for EU's role in Eurasia and the future of CFSP/ESDP. The secessionist conflicts in the Eastern neighbourhood emerge as important tests for the whole web of Union's bilateral and multilateral relations with practically all its Eastern neighbours – Moldova, Armenia, Azerbaijan, Georgia, but also Russia, Ukraine and Turkey.¹ The EU can do little in the East without stumbling on these conflicts, as they pose serious problems for the efficiency of the ENP. In addition, they challenge European values. In and around these areas minorities are threatened, fundamental freedoms are impinged upon, and human rights are often disregarded.

The success of the ENP towards its Eastern neighbours depends to a large extent on how the EU deals with the conflict zones in its neighbourhood. In this context there are two obvious questions: 1) Which role does the EU want to assume in conflict resolution in its neighbourhood, and 2) What action does it want to take with a view to the separatist entities? Obviously these entities have held on to their quasi-independence for more than a decade and are not likely to surrender it easily.

The EU has gradually started to develop policies towards the countries affected by secessionist conflicts. It had undertaken a rule of law mission under the ESDP to Georgia, a border assistance mission to Moldova and Ukraine. The EU has also been involved in reform of the border system in Georgia and has discussed a possible contribution to peace-keeping contingents in Nagorno-Karabakh and Transnistria. Moreover it started to target the secessionist entities directly through its policies. The EU has financed some post-conflict rehabilitation projects in Abkhazia and South Ossetia. As for Transnistria and Nagorno-Karabakh there have been no EU funding efforts directed either at post-conflict rehabilitation, or at improvement of the human rights situation in the conflict zones. The EU pays much less attention to human rights in these regions than in the recognised neighbouring states, because of the difficult legal status of these entities. Overall the EU has weakly developed policies on the conflict themselves, and no policy of supporting human rights in these four regions.

This study aims to fill a void. While there is an important body of literature on the emergence of the secessionist conflicts and particularly the crucial role played by outside actors such as Russia and Armenia in sustaining them,² very little research has addressed

¹ In the EU's eastern neighbourhood, only EU's relations with Belarus are not affected by the existence of a secessionist conflict.

² See Bruno Coppieters, "The Georgian-Abkhaz Conflict", in Bruno Coppieters et al., *Europeanization and Conflict Resolution*, Academia Press 2004; Goldenberg, Suzanne: *Pride of Small Nations- The Caucasus and Post-Soviet Disorder*, 1994, New Jersey; Damien Helly and Giorgi Gogia "Georgian Security and the Role of the West" in [Bruno Coppieters](#) and [Robert Legvold](#) (eds): "Statehood and Security: Georgia after the Rose Revolution"; Nicu Popescu, "Outsourcing De Facto Statehood: Russia and the Secessionist Entities in Georgia and Moldova", CEPS Policy Brief 109, 20 July 2006.

the entities themselves.³ Without a doubt the strategic environment dominated by the interests of the Russian Federation accounts for most of the policy problems emerging from the frozen conflicts.⁴

At the same time the authors noted during a number of research trips to the secessionist entities, that the internal dynamics of these territories create scope for policy action and concrete human rights improvements with a view to the local population. Of course, this does not imply that the broader political context of the Russian role, must not be addressed by the EU.

A focus on these specific regions neither supports the entities' secessionist agendas nor does it approve of Russian policy in the region. But it stems from recognition of the distinctive character of human rights challenges in these territories, which deserve to be analysed in a more focused way. Thus this paper reviews the human rights situation in the four entities that emerged from secessionist conflicts in Europe's eastern neighbourhood and the ongoing EU contribution to conflict settlement in these regions. It develops a set of recommendations for the EU and specifically for the European Parliament, on how it can develop further its policies and support human rights in the conflict regions.

2. Human Rights Situation in the Areas of Frozen Conflicts

Outside the control of the metropolitan states of Georgia, Azerbaijan and Moldova, the secessionist regions of Abkhazia, Nagorno-Karabakh, South Ossetia and Transnistria have become legal "black holes" for human rights. In addition to the non-applicability of standard reporting and monitoring practices of the major international human rights agreements, it is unclear if and to which extent the *de facto* authorities can be held legally responsible for non-compliance with international standards in the zones of frozen conflict.

In all four cases the local *de facto* authorities insist to be formally independent of the metropolitan state⁵ and seek international recognition. Accordingly they do not regard themselves to be bound by the human rights obligations of the states they attempt to

³ In this respect Dov Lynch's publications, such as "Engaging Eurasia's Separatist States – Unresolved Conflicts and De Facto states" 2004, Washington D.C. stand out. With a view to Nagorno-Karabakh Thomas De Waal presents a comprehensive overview over the genesis of the conflict and the situation in the metropolitan states as well as in Nagorno-Karabakh in: *Black Garden – Armenia and Azerbaijan through Peace and War*, 2003, New York and London.

⁴ One example is, that the EU, by loosening its visa regime for Russian citizens, is unwillingly compelled to indirectly supporting the status quo in the secessionist regions. As Russia handed out citizenship to the majority of inhabitants of Abkhazia, South Ossetia and Transnistria they can benefit from this EU concession, although the official EU policy clearly sees them as citizens of Moldova and Georgia.

⁵ "Statement on Independence of the Republic of Abkhazia" of 12 October 1999, South Ossetian vote for Independence of 19 February 2006, confirmation vote on 12 November 2006, "Declaration of State Independence of the Nagorno Karabakh Republic" of 6 January 1992, "Declaration of Independence of the Pridnestrovian Moldavian Republic" of 2 September 1990.

secede⁶. At the same time they are trying to behave as if they were states - mimicking the creation of state-like institutions from having national anthems and constitutions, to creating a judiciary and academies of science. The secessionist entities have incorporated human rights provisions into their “constitutions”.⁷ They pretend to have legally accepted major human rights treaties⁸ such as the International Covenants on Human Rights⁹ and the European Convention on Human Rights and Fundamental Freedoms¹⁰. However, these unilateral acts must be regarded as half-hearted and mainly declarative. In Nagorno-Karabakh martial law remained in force until December 2006¹¹. Due to the perceived “state of war” there are several restrictions on freedom of movement, expression and assembly in all four zones of conflict. The death penalty, abolished throughout Europe¹² is still in force in Abkhazia and Transnistria¹³, although moratoria have been introduced.

In order to create a human rights protection mechanism, the separatist entities have followed the European practice to establish Ombudsperson institutions, which, however, do not meet European standards. First and foremost they are not independent. The official description of the South Ossetian Ombudsperson is “Plenipotentiary for Human Rights of the President”. Abkhazia’s human rights defender was formerly *de facto* deputy foreign minister and has been appointed by the *de facto* president Sergej Bagapsh¹⁴. In Nagorno-Karabakh the Ombudsperson has not even been appointed¹⁵, despite the passing of relevant laws by the *de facto* parliament 2004. In addition to the weakness of existing mechanisms, the population is not particularly well informed about their functions.¹⁶ In such a framework without any outside control and weak internal mechanisms, human rights standards easily fall behind. Considering that central objective of secessionist governments is to ensure military security and survival of their regions, respect for individual human rights is most often subordinated to security goals.

2.1 Juridical Structures and Rule of Law

Although judiciary systems ensuring general peace and order have been established, the shortcomings in the secessionist entities regarding the rule of law are serious. Legal

⁶ In this context it has to be mentioned that Moldova, Azerbaijan and Georgia declared that they cannot be held responsible for breaches of Convention obligations within the territories not under their control, when joining the Council of Europe.

⁷ Chapter 2, Constitution of the Republic of Abkhazia of 26 November 1994, Section II, Constitution of the Pridnestrovian Moldavian Republic of 17 January 1996, Chapter 2 Constitution of the Nagorno Karabakh Republic of 12 December 2006.

⁸ See for example Transnistrian *de facto* parliament resolution of 15 September 1992 “On the attitude of the PMR towards international treaties and other documents regarding human rights.”

⁹ UN-Doc. A/RES/2200A (XXI) of 16 December 1966

¹⁰ Convention for the Protection of Human Rights and Fundamental Freedoms of 4th November 1950.

¹¹ With the entering into force of the ‘constitution’ martial law has been replaced in Nagorno-Karabakh.

¹² Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty of 28. April 1983.

¹³ In Nagorno-Karabakh death penalty was abolished only with the entering into force of the constitution in December 2006.

¹⁴ *De facto* presidential decree of 4 June 2007 “Polozhenie ob upolnomochennom po pravam cheloveka pri presidente Abchazii”.

¹⁵ Information as of July 2006.

¹⁶ Interview with South Ossetian *de facto* Ombudsperson David Sanakoev, Tskhinvali on 11 July 2006.

institutions are “vulnerable to corruption, intimidation and cronyism and are usually heavily dependent on the *de facto* government.”¹⁷ In relation to the Abkhaz legal system Freedom House noticed that “defendants limited access to qualified legal counsel, violations of due process, and lengthy detentions are the systematic problems in Abkhazia’s criminal justice system”¹⁸. Similar conditions exist in the other zones of conflict. Courts in the secessionist areas are aware of the fact that there is no control mechanism above them and thus do not refrain from arriving at legally absurd conclusions¹⁹, if such behaviour is politically opportune or otherwise beneficial. Often the inhabitants of the conflict zones are discouraged from fighting for their rights by the knowledge that their claims will lead nowhere²⁰. According to the Moldovan Helsinki Committee, people calling upon Transnistria’s *de facto* parliamentary Human Rights Commission are turned away on the grounds that their case is against the “state interest”.²¹ As violations perpetrated are usually attributable to the local enforcement agencies or authorities, resort to international mechanisms such as the European Court of Human Rights (ECHR) is not possible. Previously cases concerning violations in a *de facto* entity have been brought before the ECHR, but invoked the responsibility of a protector state rather than the local authorities²².

Poorly working courts are also a result of the poor standard of legal education in the *de facto* entities. While in the recognised post-soviet states rule of law is often below most European standards, the situation in the secessionist regions is even more difficult. Most skilled lawyers have left the conflict zones. Legal departments at universities in the conflict zones as well as courts are not equipped with modern literature. Often they even do not even have the relevant legal texts and precedents at hand. Obviously, the separatist entities were not included into the rule of law programmes run by the EU and national assistance agencies across the post- Soviet space. Although this exclusion was politically reasonable, the consequence is weak rule of law in the conflict zones.

¹⁷ Bielawski, M.I.: The role of international organizations in ensuring human rights compliance in Georgia’s separatist entities”, in FES Georgia (ed.): *Human Rights Situation in the Conflict Zones of Georgia*, 2006, Tbilisi, at 142.

¹⁸ Freedom House: Freedom in the World – Abkhazia 2007, on: http://www.freedomhouse.org/inc/content/pubs/fiw/inc_country_detail.cfm?year=2007&country=7313&pf (last accessed 20.07.2007)

¹⁹ One case involves a rapist who has been sentenced by a South Ossetian court to a low prison term, because he had “serious intentions” with the girl he raped. Shortly after imprisonment the man was pardoned by *de facto* President Kokoity. Interview with South Ossetian NGO’s, Tskhinvali on 11 July 2006.

²⁰ Interview Ministry of Justice of the “Nagorno Karabakh Republic”, Stepanakert, 21 July 2006.

²¹ Interview with Helsinki Citizens Committee for Human Rights in Moldova, Chisinau, 22 May 2006.

²² *Loizidou v. Turkey*, Application No.25781/94, ECHR, Judgment (Merits) of 18 Dec. 1996, *Cyprus v. Turkey*, Application No. 25781/94, ECHR, Judgment of 10 May 2001, *Case of Ilascu and Others v Moldova and Russia* Application No. 48787/99, ECtHR, Judgment of 8 July 2004.

Another serious problem concerns the bad conditions of prisons in the *de facto* entities²³. Reports do not confirm systematic and widespread torture of inmates, but it does occur, especially against nationals of the metropolitan state. In this context the case of *Ilascu and Others v. Russia and Moldova*²⁴ should be mentioned. The Court found *inter alia* that the applicants have repeatedly been subject to torture such as severe beatings and deprivation of food throughout their captivity in the self-declared Transnistrian republic²⁵. Despite international pressure following the judgment it was not until June 2007 that the last two prisoners Andrei Ivantoc and Tudor Petrov-Popa were released from prison and handed over to Moldova²⁶.

Also Levan Mamasakhlisi a Georgian student held in the Abkhazian Dranda prison for charges of terrorism complained of torture. He was imprisoned after a hand-made grenade exploded in his hand and allegedly deprived of medical assistance²⁷ while in detention. Mamasakhlisi was released in February 2007²⁸. His case has been submitted to the European Court of Human Rights.²⁹

Considering that it is the deep ethnic cleavages that lead to the secessionist conflicts themselves, it is not surprising that ethnic and political biases are wide spread among the enforcement agents in the conflict zones. For example, the *de facto* law-enforcement agencies in the Gali region of Abkhazia consists of ethnic Abkhaz, while the population is overwhelmingly Georgian. This leads to serious tensions and a deteriorating security situation. in the region³⁰. Local Abkhaz enforcement agencies' main function is to ensure control of a region potentially hostile to the Abkhaz secessionist authorities, rather than to provide protection to residents which is obviously far from modern standards of policing.

²³ UN-Doc. E/CN.4/2006/6/Add.3 of 23 September 2005, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Mission to Georgia, paras. 52 and 55-56, UN-Doc. E/CN.4/2005/62/Add.3 of 16 March 2005, Preliminary note by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Mission to Georgia, para.11.

²⁴ *Case of Ilascu and Others v. Moldova and Russia*, Application no. 48787/99, European Court of Human Rights, Judgment of 8 July 2004. Mr Ilie Ilascu, Mr Alexandru Lesco, Mr Andrei Ivantoc and Mr Tudor Petrov-Popa have been arrested in June 1992 by Transmission militia on charges of 'anti-Soviet activities' and 'fighting by illegal means against the State of Transnistria' and subsequently been tried before the 'Supreme Court' of the self-proclaimed Moldovan Republic of Transnistria. The group turned to the European Court of Human Rights, accusing Moldova and Russia to be responsible for the torture and inhumane, denial of a fair trial and the violation of property rights, inflicted on them while in detention in Transmission prisons.

²⁵ *Ibid.*, paras. 434ff.

²⁶ OSCE Mission to Moldova, OSCE News Digest of 4 June 2007.

²⁷ Interview with NGO "Article 42 of the Georgian Constitution" and Pavle Beria (lawyer in the Mamaskhlisi Case), Tbilisi, 5 July 2007.

²⁸ UN-Doc. S/2007/182 Report of the Secretary-General on the situation of Abkhazia, Georgia, 3 April 2007, para.8.

²⁹ *Mamasakhlisi v. Georgia and Russia*, Application No.29999/04

³⁰ See following Reports of the Secretary-General on the situation in Abkhazia, Georgia, UN-Doc. S/2006/435 of 26 June 2006, S/2006/19 of 13 January 2006, S/2004/570 of 14 July 2004 and S/2001/59 Annex II.

2.2 Discrimination against Nationals of the Metropolitan State

A large portion of human rights violations perpetrated in the zones of frozen conflict is targeted towards the nationals of the metropolitan state. Major disputes in this respect have been fought in recent years over language and discriminatory citizenship laws of the *de facto* entities.

The formulation of citizenship laws must be seen as a conscious attempt to exclude the nationals of the metropolitan states from political life in the *de facto* entity. Abkhazian and South Ossetian citizenship, necessary to fully participate in the public life of the entities can be held together with Russian citizenship, but not in combination with a Georgian passport.³¹ In the past Abkhazia reportedly tried to impose citizenship on ethnic Georgians living in the region³². Only recently an official assurance has been given that these practices will stop.³³ Also in Nagorno-Karabakh the Azerbaijani minority is not allowed to vote and take part in the official life of the self-declared Republic.

Education is at the core of the identity of the conflicting sides in these areas. Thus schools have often been involved in political disputes. Harassment of teachers, pupils and their parents is common³⁴. For example since 1993 a controversy on the script used in school education is lingering in Transnistria³⁵. Some 40% of the population of Transnistria are ethnic Romanian-speaking Moldovans. However, while in Moldova the teaching of the Romanian language is in the Latin script, Transnistrian authorities force most Moldovan schools the use of Cyrillic script. Only a small number of schools is allowed to use the Latin script. In the summer of 2004 the Transnistrian authorities tried to forcefully close those schools.³⁶ An increased OSCE mediation effort defused the dispute to a degree that schools could resume instruction, but as tensions have not fully been resolved, there are fears of renewed closure.

A similar controversy can be observed in the Gali region of Abkhazia, which is populated by a Georgian majority. Georgian-speaking students are taught Georgian only for a limited number of hours, while Russian is becoming their main language of instruction.³⁷ One major issue of discontent is the use of Georgian schoolbooks in Georgian schools in

³¹ See "Law on Citizenship" of 20 November 2005 of the self-declared Abkhaz Republic and Jeffrey Donovan: South Ossetia to Vote in Independence Referendum, RFE/RL of 10 November 2006 on: <http://www.rferl.org/featuresarticle/2006/11/c76d6bc7-5c1d-47fe-a887-bba35069c339.html> (last accessed 20.07.2007).

³² UN-Doc. S/2006/19 of 13 January 2006, Report of the Secretary General on the Situation in Abkhazia, Georgia, para.26.

³³ UN-Doc. S/2007/182 of 3 April 2007, Report of the Secretary-General on the situation in Abkhazia, Georgia, para.18.

³⁴ Interview with Headmaster Ion Ioncev, Headmaster, Moldovan School in Tiraspol, Tiraspol, 25 May 2006.

³⁵ See Hanne, G.; Neukirch, K.: Moldovan Schools in Transdnistria, in: *OSCE Magazine*, June 2005, at 20.

³⁶ See OSCE Mission to Moldova on: <http://www.osce.org/moldova/13428.html> (last accessed 20.07.2007).

³⁷ UN- Doc. S/2001/713 of 19 July 2001, Report of the Secretary-General concerning the situation in Abkhazia, para. 28.

Abkhazia. In order to resolve the issue an Abkhaz- Georgian schoolbook Commission has been established in 2001³⁸. Nevertheless, due to fundamental disagreements the Commission has not yet been able to produce any outcome.

2.3 Political Rights and Civil Liberties

Apart from South Ossetia, all zones of conflict are included in the Freedom House Index, which rates the realisation of political rights and political liberties. Abkhazia and Nagorno-Karabakh have been rated as “partly free”, while Transnistria is regarded to be “Not free”. In some ways the *de facto* entities do not score significantly worse than the fully-fledged states of the region (Armenia “partly free”, Azerbaijan “not free”, Georgia “partly free”, Moldova “partly free”, Russia “not free”)³⁹.

It is frequently mentioned in the metropolitan states that the zones of frozen conflict lack any civil society⁴⁰. Indeed, the secessionist regions most often score worse than their metropolitan states. However, the gap is sometimes less important than it seems. Abkhazia is regarded to have a rather active and independent NGO community. Paradoxically, the civil society groups in Abkhazia have developed partly as a result of the devastating wars of the early nineties. After the war there was a greater international humanitarian interest in helping the populations of the conflict regions to overcome at least some of the post-war hardships. NGOs were crucial in overcoming some of the consequences of war. There was an objective humanitarian and social need of these structures, as they dealt with such issues as humanitarian assistance, helping displaced people, demining activities, lobbying on behalf of war veterans and overcoming psychological trauma.⁴¹ Transnistria and South Ossetia have been more suspicious of NGO activities funded by external donors and copied Russia’s controversial restrictions on foreign-funded NGOs.

All four regions hold regular elections, which are declared illegitimate by the international community. Nevertheless qualitative differences between the elections in the conflict zones cannot be denied. Transnistria’s presidential elections have never been free and fair. Serious challengers of president Smirnov have been banned from participation in the election in 1996 and 2001. There are reports that the *de facto* Ministry of State Security conducted brutal interviews of citizens suspected to be involved in “subversive activities” and threatened them⁴².

In contrast presidential elections of 1996 and 1997 as well as the parliamentary vote of 1995 and 2000 in Nagorno Karabakh have been regarded as free and fair (though

³⁸ Interview with Georgian NGO Center for Regional Research, Tbilisi, 3 July 2007.

³⁹ Freedom House: Freedom in the World 2007, on: <http://www.freedomhouse.org/template.cfm?page=363&year=2007> (last accessed 17.08.2007).

⁴⁰ Interview Moldovan Parliament, Chisinau, 23 May 2006.

⁴¹ Nan S.A. (1999): Civil Activities, in J.Cohen (ed.): A question of sovereignty – The Georgia- Abkhazia peace process, *Accord Series*, on: <http://www.c-r.org/our-work/accord/georgia-abkhazia/civic-initiatives.php> (last accessed 17.08.2007).

⁴² Freedom House: Freedom in the World – Transnistria (Moldova) 2007, on http://www.freedomhouse.org/inc/content/pubs/fiw/inc_country_detail.cfm?year=2007&country=7319&pf (last accessed 19.07.2007).

obviously only ethnic Armenians residing in Nagorno Karabakh could vote), while the 2005 parliamentary vote was claimed to be fraudulent by local NGOs⁴³. Armenia pointed to the contradiction that the international community on the one hand declares elections in Nagorno-Karabakh illegal⁴⁴, but on the other calls for “elected and other representatives” of Nagorno-Karabakh to take part in peace negotiations⁴⁵. In Abkhazia the presidential elections in 2004 have led to the victory of the opposition despite Russian support for the incumbent Vladislav Ardzinba.

Freedom of media is not realized in all four conflict zones.⁴⁶ In Transnistria the media situation is rather difficult. There are no independent TV stations and a few newspapers which are harassed by the authorities. For example an opposition newspaper “The Individual and His Rights” have been facing serious harassment⁴⁷. “The authorities use tactics such as bureaucratic obstruction and the withholding of information to inhibit the activities of independent media”, as has been described by Freedom-House⁴⁸. Also South Ossetian journalists experience serious restrictions of their independent work⁴⁹. Although several independent newspapers exist in Abkhazia, the authorities control electronic media⁵⁰. In Nagorno-Karabakh self-censorship is common amongst journalists. The government controls most of the countries broadcasting media outlets⁵¹.

2.4 Disrespect for Property Rights

In the secessionist regions property rights are not about ownership, but to a large extent a demographic and security issue. Property rights are inherently linked to the right to live in or return to the conflict regions. Considering the large number of persons that were expelled from Abkhazia and Nagorno-Karabakh, property rights are a central issue to these conflicts. In addition, expropriation without compensation does not only violate human rights law, but it creates facts, which increase the costs for both parties to return to the territorial *status quo ante*.

⁴³ Freedom House: Freedom in the World – Nagorno Karabakh (Armenia/Azerbaijan), on http://www.freedomhouse.org/inc/content/pubs/fiw/inc_country_detail.cfm?year=2007&country=7309&pf (last accessed 20.07.2007).

⁴⁴ UN-Doc. S/2004/581 of 21 July 2004, Letter dated 20 July 2004 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General.

⁴⁵ Helsinki Additional Meeting of the CSCE Council of 24 March 1992, Summary of Conclusions, para. 9.

⁴⁶ Interviews with NGOs in Tiraspol, 25 May 2006, Tskhinvali 11 July 2006 and Stepanakert, 20 July 2006.

⁴⁷ OSCE, the Representative on Freedom of Media, Miklos Haraszti: Assessment Visit to the Transnistrian Region of the Republic of Moldova, 10 March 2005, at 7ff..

⁴⁸ Freedom House: Freedom in the World – Transnistria (Moldova) 2007, on http://www.freedomhouse.org/inc/content/pubs/fiw/inc_country_detail.cfm?year=2007&country=7319&pf (last accessed 19.07.2007).

⁴⁹ Interview NGO, Tskhinvali, 11 July 2006.

⁵⁰ Freedom House: Freedom in the World – Abkhazia 2007, on: http://www.freedomhouse.org/inc/content/pubs/fiw/inc_country_detail.cfm?year=2007&country=7313&pf (last accessed 20.07.2007).

⁵¹ Freedom House: Freedom in the World – Nagorno Karabakh (Armenia/Azerbaijan), on http://www.freedomhouse.org/inc/content/pubs/fiw/inc_country_detail.cfm?year=2007&country=7309&pf (last accessed 20.07.2007).

Dov Lynch described that demography lies at the heart of all four frozen conflicts.⁵² For this reason the return of internally displaced people (IDP) is not desired. Depriving them of their former livelihoods is one way of deterring them from returning. The Nagorno-Karabakh Republic occupied during the 1991-1994 included not merely the territory of the Former Soviet Autonomous Oblast of Nagorno-Karabakh, but also an ample “security cordon” which is a few times bigger than Nagorno-Karabakh itself. These territories used to be predominantly inhabited by Azerbaijanis, and some 800.000 Azeris were forced to flee the regions. Meanwhile the *de facto* authorities in Nagorno Karabakh emphasise that a return of IDP’s will not be permitted until the status question is resolved in Nagorno-Karabakh’s favour.

In Abkhazia the new Civil Code guaranteeing court protection of property rights declares claims inadmissible filed for property lost since 1992. This in fact discriminates against Georgians, who are most likely to have lost their property during the 1992-1994 war.⁵³ During the war and shortly thereafter, it was common practice for Abkhazians to move into apartments and houses abandoned by the Georgian owners or to loot them in view of the desperate economic situation. By the time Abkhazia recovered from war in the second half of the 1990s many of these properties were sold on to third persons.

Property rights are also disregarded in Transnistria, though at a much lower scale than in the cases of Nagorno-Karabakh and Abkhazia. Since 2003 Transnistrian police set up checkpoints at the line of control, separating the farmers of Dorotcaia village, which is under Moldovan control, from 85% of their farmland situated in the Transnistrian controlled territories.⁵⁴ Insisting that the farmers were crossing an “international border”, Transnistrian police demanded the payment of customs. Only in 2006 a temporary solution to the problem was found thanks to intensive OSCE mediation efforts.⁵⁵

Property rights do not only fall prey to the ambitions of the separatist leaders to assert their claims for independence. The general absence of hard-and-fast regulations in the zones of frozen conflicts is abused by unscrupulous profiteers. One example is the expropriation of shop-owners in the sanatorium of the Moscow Army division. Since the end of the war between Georgia and Abkhazia, the sanatorium “Sukhum” has been serving as a military base of the Commonwealth of Independent States (CIS) peacekeeping force as well as a popular holiday resort for (mainly Russian) tourists. The status of the sanatorium once run by the Soviet army is unclear and has never been subject to agreement between Russia and the local Abkhazian authorities. On its territory Abkhazians have been running shops and restaurants since the mid-90ies, which are highly popular with tourists. The sanatorium’s new director, the Russian Aleksandr Fusenko, has unexpectedly declared these private enterprises property of the sanatorium

⁵² Lynch, D. (2002): Separatist states and post-Soviet conflicts, in: 78 *International Affairs*, No. 4, at 838.

⁵³ See UN-Doc. S/2007/182 of 3 April 2007, para.33; UN-Doc. S/2007/15 of 11 January 2007, UN-Doc. S/2006/771 of 28 September 2006, para.25; Reports of the Secretary-General on the situation in Abkhazia.

⁵⁴ Neukirch, C.; Kalland, T. (2005): Moldovan Mission seeks solution to Dorotcaia’s bitter harvest, on:

http://www.osce.org/moldova/item_2_15957.html (last accessed 22 July 2007).

⁵⁵ *ibid.*

and put them under his control.⁵⁶ His Rambo-methods have not met any criticism of the local Abkhaz administration.

All these examples demonstrate the level of insecurity owners in and outside the conflict zones have to bear with a view to the property left in the *de facto* entities. This issue is probably the most difficult to tackle before a final solution to the conflict is found. As disrespect for property rights is used as a mechanism to obstruct a return to the *status quo ante*, this question deserves increased attention.

3. Human Rights Engagement of International Actors

International actors in the zones of frozen conflict are mostly cooperating with local civil society actors only in order to avoid any semblance of recognition. It has been noted by International Crisis Group that “[t]here is little donor support for reforming public administration or building capacity in the legislative, judicial or executive branches of the *de facto* government.”⁵⁷ Beyond that however, they have also tried to find creative mechanisms which allow them to engage with the *de facto* authorities in order to achieve a better human rights performance in the separatist territories.

A brief overview of the human rights activities of international organizations is given below:

3.1 Commonwealth of Independent States/Russian Federation

Although officially mandated by the Commonwealth of Independent States (CIS) very little is done to mask the fact that the peacekeeping forces in Abkhazia, Transnistria and South Ossetia are under direct control of the Russian government. Unlike the other international organisations discussed below, Russia is an important security actor in these regions, whose direct involvement in the conflicts is undisputed.⁵⁸

It has assumed a distinctive role in all four conflicts from their inception and signed the ceasefire agreements in Abkhazia, Transnistria and South Ossetia on behalf of the separatists. Invoking the mandate of the peacekeeping forces, Russia refuses to integrate a deliberate human rights component into its activities on the ground. At the same time many of Russia’s policies in the separatist entities have a clear impact on the human rights situation there.

⁵⁶ Chashig, I. (2005): Abkhazkie predprinimateli brosayut vysov rossiskomu voenachalniku, Caucasus Reporting Service, No.287 of 19 May 2005, reprinted in: Institute for War and Peace Reporting (ed.): *Voyna i Mir na Kavkaze*, London.

⁵⁷ International Crisis Group: Abkhazia: Ways Forward, Europe Report No.179 of 18 January, at 25, on http://www.crisisgroup.org/library/documents/europe/caucasus/179_abkhazia_ways_forward.pdf (last accessed 15 July 2007).

⁵⁸ See Oksana Antonenko, “Frozen Uncertainty: Russia and the Conflict over Abkhazia”, Geir Flikke, Jakub M. Godzimirski, "Words and Deeds. Russian Foreign Policy and Post-Soviet Secessionist Conflicts", December 2006, Norwegian Institute of International Affairs, Nicu Popescu, "Outsourcing De Facto Statehood: Russia and the Secessionist Entities in Georgia and Moldova", CEPS Policy Brief 109, 20 July 2006. ICG reports,

In this respect the role of Russian peacekeepers stands out. For example in Abkhazia they have been accused for not being able to stop some of the most obvious human rights abuses against ethnic Georgians in the Gali region conducted by the *de facto* enforcement authorities of Abkhazia.⁵⁹ Similarly Russian peacekeepers have also failed to manage emerging tensions around the Latin script schools and the Dorotcaia village in Moldova. Instead they appeared to protect the illegal actions of the Transnistrian separatists rather than seeking to mediate between parties. A clear participation in human rights abuses by Russia has been found by the European Court of Human Rights in the Ilascu Case. The Court held that Russia was legally responsible for violations of the right to liberty and the prohibition of torture for the detention and inhuman treatment of the Ilascu group on behalf of the secessionist authorities of Transnistria.

Russia's influence on the human rights in the secessionist entities also has a less tangible component. Its patronage of the local authorities enables the latter to make decisions independently of the interest of their local constituencies. One example is the restrictive Russian NGO law, limiting the possibility to receive funds from foreign donors. This law has been copied in Transnistria and South Ossetia although even a lot of NGO's loyal to the separatist regime depend on outside support. Furthermore the influence Russia tries to exert upon local elections has to be mentioned. In the so-called "presidential election" in Abkhazia 2005 Russia firmly and openly supported the candidate proposed by Abkhaz leader Ardzinba, whose leadership of the secessionist territory was notorious for its poor human rights record.

3.2 OSCE

Human rights activity of the OSCE varies across cases. In Nagorno-Karabakh the OSCE is involved in the negotiation process through the Minsk Group. Beyond conflict resolution efforts however, the organisation has not been active in Nagorno-Karabakh. The mandate of Ambassador Andrzej Kasprzyk, Chairman in Office Representative of the Minsk Group does not include a human rights component⁶⁰.

In Georgia the OSCE is mainly involved with conflict related issues in South Ossetia, while the UN takes the lead in Abkhazia. In South Ossetia the OSCE supports civil society and provides them with small grants and human rights trainings⁶¹. One important project in the past has been the support of the establishment of a NGO resource centre. With a view to rule of law, a working group between Georgian and South Ossetian police has been set in 2005⁶². In general the OSCE Mission tried to avoid working with the local *de facto* authorities or their agents in their human rights projects⁶³. The OSCE Mission to Georgia has also seconded an officer to the UN Human Rights Office in Sukhumi, Georgia (HROAG) but does not run its own human rights projects in Abkhazia.

⁵⁹ See "Resolution of the Georgian Parliament on Peacekeeping Forces Stationed in the Conflict Zones", 18 July 2006, <http://www.civil.ge/eng/detail.php?id=13079>

⁶⁰ See <http://www.osce.org/item/13668.html> (last accessed 23.07.2007).

⁶¹ See <http://www.osce.org/georgia/22955.html> (last accessed 23.07.2007).

⁶² Interview OSCE Mission to Georgia, Tbilisi, 6 July 2007.

⁶³ *ibid.*

The OSCE is quite active in engaging with human rights issues in Moldova. The Mission is regularly in direct contact with the Transnistrian authorities. In the past it criticised legislative projects, such as the NGO law severely limiting the possibility of NGOs to receive external funding, which clearly does not meet European standards. If a conflictual issue emerges *ad hoc* negotiation groups are set up in order to provide a quick solution. The above-mentioned access of Dorotcaia farmers to their lands has been such an issue. In certain instances the OSCE tries to build up public pressure and seeks to mobilize international attention, as happened with a view to the closure of Latin script schools in 2004. The rather high level of OSCE engagement is justified by the logic, that many of the activities of the authorities would also be within their competence, if Transnistria was a federal entity of Moldova, as most conflict resolution plans suggest.⁶⁴

3.3 United Nations

The United Nations is engaging in human rights protection in Abkhazia. Since 1995 the Secretary-General includes a section on human rights in his reports about the work of the United Nations Observer Mission in Georgia (UNOMIG). Pursuant to Security Council resolution 1077 (1996)⁶⁵ a UN Human Rights Office in Sukhumi, Georgia (HROAG) jointly staffed with OHCHR and OSCE officers has been established. The HROAG is mandated to⁶⁶

- monitor the human rights situation in Abkhazia
- establish direct contact with the local authorities of Abkhazia to prevent and redress human rights violations
- report to the UN High Commissioner for Human Rights on the overall human rights situation in Abkhazia
- provide technical assistance for the strengthening of local capacities to protect human rights
- develop human rights education
- contribute to the development of human rights structures in civil society

HROAG accepts individual complaints and tries to assist through its direct contacts with the Abkhaz authorities. The office is providing free legal aid through a project implemented by the Association of Abkhaz Lawyers. Its monitoring activities include visits to detention sites and court trials⁶⁷. In terms of human rights training activities HROAG focuses on civil society actors, journalists and sometimes low-level law enforcement officers. Moreover the Office has been openly criticising legislative acts by the *de facto* parliament, which did not correspond to international human rights standards, such as the new civil code or the citizenship law.

In 2000 a joint assessment mission to the Gali district recommended the opening of a

⁶⁴ Interview OSCE Mission to Moldova, Chisinau 23 May 2006.

⁶⁵ UN-Doc. S/RES/1077 (1996) of 22 October 1996.

⁶⁶ UN-Doc. S/1996/284 of 15 April 1996, Annex I.

⁶⁷ S/2007/15

Gali branch of HROAG⁶⁸. Despite pressure of UNOMIG⁶⁹ and the Security Council⁷⁰ the Abkhaz side rejected this proposal. Instead a Human Rights Centre run by Abkhaz NGO's has been established. A human rights officer has been assigned to UNOMIG's Gali headquarters to liaise with the Human Rights Centre and strengthen its capacity. The planned activities for 2007 include "legal aid to Gali residents; human rights training, including training of local de facto administration; awareness-building; and the creation of an information and resource centre."⁷¹

3.4 Council of Europe and the European Court of Human Rights

An important case for human rights issues in secessionist entities is the *Ilascu and others vs Moldova and Russia*. In this case ECHR ruled *inter alia* that Russia was responsible for human rights abuses committed by the Transnistrian authorities because the secessionist region "remains under the effective authority, or at the very least under the decisive influence, of the Russian Federation, and in any event that it survived by virtue of the military, economic, financial and political support given to it by the Russian Federation."⁷² The case confirms former rulings of the Court holding the protector state of the secessionist entity legally responsible for human rights abuses⁷³. So far there have been no follow up ECHR decisions on human rights in the other three secessionist entities. However, a number of lawyers in Moldova and Georgia have submitted cases to the Court.

Abkhazia, South Ossetia and Transnistria have in recent years been included in country visits of Council of Europe representatives such as the Commissioner for Human Rights⁷⁴. However the Country Offices restrict their activities to the territory under control of the metropolitan state.

4. EU Policies towards the Secessionist Conflicts

In the last few years there has been a pattern of increasing EU interest towards separatist conflicts in the former Soviet Union. Although its increased profile, the EU is far from being a central actor in the conflict resolution processes. Before turning to a discussion of possibilities for EU engagement in support for human rights in the secessionist regions of Transnistria, Abkhazia, South Ossetia and Nagorno-Karabakh this paper takes a broader look at the way the EU engaged with conflict resolution in these conflict regions.

⁶⁸ UN-Doc. S/2001/59 of 18 January 2001, Report of the Secretary- General concerning the situation in Abkhazia, Georgia, Annex II.

⁶⁹ See for example UN-Doc. S/2005/453 of 13 July 2005, para.19, UN-Doc, S/2006/771 of 28 September 2006, para.24.

⁷⁰ UN-Doc. S/Res/1554 of 29 July 2004, para.18.

⁷¹ UN-Doc. S/2007/182 of 3 April 2007, Report of the Secretary-General on the situation in Abkhazia, Georgia, para.17.

⁷² *Case of Ilascu and Others v. Moldova and Russia* of 8 July 2004, *op.cit.*, para. 392.

⁷³ see *Loizidou v. Turkey* of 18 Dec. 1996 *op. cit.*, *Cyprus v. Turkey* of 10 May 2001, *op. cit.*.

⁷⁴ for example Visit of Council of Europe Commissioner for Human Rights, Thomas Hammarberg to Georgia, including Abkhazia and South Ossetia, 12-18.02.2007.

4.1 EU policies on Transnistria

The conflict around Transnistria, a secessionist region in Moldova, has seen the highest level of EU involvement in conflict settlement efforts. From 2002 the EU has deployed a growing range of EU foreign policy instruments to help advance conflict resolution. Most of them were aimed at strengthening Moldova as a state that is functional and potentially more attractive to Transnistrians.

First, the EU introduced travel restrictions against Transnistrian leaders in 2003 due to their obstruction of the conflict settlement process. Second, the EU has appointed an EU Special Representative on Moldova and joined the conflict settlement mechanisms on Transnistria called the 5+2 format. Third, the EU offers significant economic support for Moldova. As part of the ENP Action Plan implementation the EU offers Moldova the possibility of Autonomous Trade Preferences, a beneficial trade regime applied to the Western Balkans. After the EU pledged 210 million Euro in assistance for 2007-2010, Moldova is also the second biggest recipient of EU funding per capita in the neighbourhood (after the Palestinian authority). Most importantly, the EU launched an EU Border Assistance mission to Moldova and Ukraine (EUBAM). The mission has 100 personnel and is deployed on the Moldova-Ukraine border, including on the Ukrainian side opposite Transnistria. EUBAM has been of crucial importance in the efforts to reduce smuggling around Transnistria, reforming the Moldova and Ukrainian border and customs services, and most importantly in making Transnistrian businesses register with the Moldova authorities.

Despite a relatively active policy, the EU has not financed directly any projects in Transnistria. It has exercised some pressure on the Transnistrian authorities. to respect human rights, but so far has not launched any projects aimed at improving human rights or supporting civil society in Transnistria. However, some member states such as the UK through DFID have supported some projects aimed at supporting civil society in Transnistria.

4.2 EU Policies on Abkhazia and South Ossetia

EU policies on Abkhazia and South Ossetia have followed another pattern.⁷⁵ The EU is not involved in negotiations over the conflict in Abkhazia, but EU member states – Germany, France and the United Kingdom are involved as part of an UN-led framework. In South Ossetia, the European Commission is an observer in talks on economic rehabilitation issues.

The EU perceives the efforts to build a democratic Georgia as an integral part of the broader conflict resolution agenda. Thus the EU deployed a one year long “rule of law” mission to Georgia (EUJUST THEMIS), and team of experts to support border reform. But the EU failed to deploy an EU border monitoring mission requested by Georgia in

⁷⁵ For more details on EU and conflict resolution in Georgia see Nicu Popescu, “Europe’s Unrecognised Neighbours: The EU in Abkhazia and South Ossetia”, Working Document 260, March 2007, Centre for European Policy Studies, Brussels.

2005. Its readiness to open markets for Georgian products has been smaller than in the case of Moldova.

The European Commission finances post conflict rehabilitation projects in Abkhazia and South Ossetia since 1997. It's declared objective of providing assistance is "to build greater trust between the conflict-affected populations, [...] improving living conditions of the population affected by the conflict and creating conditions for the return of internally displaced persons, as well as facilitating progress in a constructive dialogue" between the conflict parties.⁷⁶

Since 2006, the EU claims to have become the largest international donor to both regions. Between 1997 and 2006, the EU committed some €25 million for projects in Abkhazia. EU-funded projects have been as depoliticised as possible and were not conditional on progress in the conflict resolution process or improvement of the human rights situation. They have also been very technical and focused on two priorities. Firstly, economic rehabilitation and humanitarian assistance and secondly civil society support. Initially, the EU concentrated most on the Gali region in the south of Abkhazia and the Georgian districts bordering Abkhazia which were affected the most by the hostilities. In these regions the EU has financed the rehabilitation of the Inguri hydropower plant, electricity networks, hospitals, basic utilities (water, sewage and waste management), helping farming and other agricultural activities. The EU has also supported demining efforts by HALO Trust in Abkhazia. From 2006, the EU has started to expand activities outside the direct conflict zone through the so-called 'decentralised Cooperation projects'. These would include other parts of Abkhazia, such as the capital of Sukhumi, and west Abkhazia. The EU supported projects on the development of income-generating activities. In addition, the EU contributed to civil society development and confidence-building measures through the European Initiative for Democracy and Human Rights (EIDHR). Within the EIDHR the EC Delegation chose to give grants to two Abkhazian NGOs working with vulnerable populations and providing free legal aid. Expanding its activities on civil society dialogue, the EU plans to launch projects aimed at capacity-building for NGOs and universities as well as strengthening civil society dialogue with the *de facto* authorities.

In South Ossetia, the EU has funded projects of approximately €8 million between 1997 to 2006. These projects concerned the rehabilitation of drinkable water supply networks, rehabilitation of schools, electricity and gas networks, railways, support for agricultural development in various towns and villages of the conflict region. More political projects were related to confidence-building activities through second-track diplomacy between Georgians and South Ossetians, as well as financial support for the Joint Control Commission (JCC).⁷⁷

⁷⁶ European Union (2006): Overview of European Commission Assistance in Abkhazia and South Ossetia, update, July 2006, on: <http://www.delgeo.cec.eu.int/en/programmes/rehabilitation.html>, last accessed 17.08.2007.

⁷⁷ *ibid.*

Comparing EU involvement in Abkhazia and South Ossetia one can note a few differences in approach of the EU. First, in South Ossetia, the EU has been less involved in projects for supporting civil society, youth, media, women and former combatants. The needs assessment focused on six priority areas: road engineering, civil engineering, finances, banking, agriculture and energy, not social, political or security projects.⁷⁸ As some civil society activists in South Ossetia complained, “until recently the EU has been quite passive in dealing with the South Ossetia problem [...] Compared to Abkhazia or Georgia, European structures are under-represented in South Ossetia. As a result of that, civil society is also less developed here.”⁷⁹

In South Ossetia, EU assistance has been more coordinated with the conflict settlement process with some of the EU financial assistance being made conditional on agreement between the conflict parties in the JCC. This was not unproblematic. Georgians and South Ossetians could not always agree, even if such agreement would have opened the way for greater EU financial assistance. For example, a Special Coordination Centre for the Law Enforcement Bodies of the Sides (SCC) bringing together Georgian and South Ossetian law-enforcement agencies since April 2001 ceased its activity in late 2003 for three years despite EU financial support.

Some assessments of EU support for conflict resolution are rather harsh. The International Crisis Group claims that “[t]he EU risks working around rather than directly on conflict. Its projects in the conflict zone focus mainly on local infrastructure, agriculture and social services. They allocate much less to more traditional conflict resolution fields such as demobilisation, disarmament and reintegration (DDR), rule of law, human rights promotion and media development. No substantial work has been done on security sector reform in Abkhazia, arms proliferation and re-integration of combatants, or improving rule of law through policing projects on either side of the Inguri. In Abkhazia, few projects support development of an independent judiciary, free media, critical civil society, female leaders or active youth.”⁸⁰

Asked to explain the philosophy of the EU approach to assistance for Abkhazia and South Ossetia, an EU official argued that the EU objectives are: 1) to decrease the (financial) dependence of the secessionist entities on Russia and to give them an opportunity to diversify their options, 2) to create links between the secessionists and Tbilisi and promote reconciliation and 3) to promote knowledge about Europe and its values.⁸¹

However the EU is caught between two equally bad alternatives. One alternative is that the EU will provide ‘apolitical money’ which is not conditional on the peace process, and

⁷⁸ International Crisis Group, Conflict Resolution in the South Caucasus: The EU’s Role, Europe Report No. 173, 20 March 2006, p. 20, on: http://www.crisisgroup.org/library/documents/europe/caucasus/173_conflict_resolution_south_caucasus.pdf (last accessed 17.08.2007).

⁷⁹ Regnum (2006): NPO Yuzhnoi Ossetii vystupaut za integratsiiu respubliki a evropeiskie struktury”, *Regnum.ru*, 4 May 2006 on: <http://www.regnum.ru/news/635032.html> (last accessed 17.08.2007).

⁸⁰ International Crisis Group, Europe Report No. 173, *op. cit.*, p. 18.

⁸¹ Interview with EU Official, Brussels, 12 June 2006.

such assistance will improve the living conditions on the ground but will not necessarily further the conflict settlement process. The other alternative is that the EU will qualify its assistance with conditions, but then its support will not be welcome in the conflict areas. Because as one EU official claimed: “The EU can get involved in the conflict areas because its assistance is apolitical. It is difficult for the EU to use political conditionality. The EU does not have enough leverage, or the right instruments.”⁸²

Mistrust of EU assistance in the secessionist entities is widespread. While the *de facto* government of Abkhazia has been quite supportive of civil society development, NGOs from Abkhazia that have received funding from international organisations, including the EU, have been under constant attack from conservative forces grouped around the Abkhaz opposition which lost power after the 2004 elections. They have typically claimed that organisations supported by the west are agents or spies of the west and work with Georgia against the secessionist entities, even though civil society activists in Abkhazia are strong supporters of Abkhaz independence. Similar accusations were made of civil society activists in South Ossetia.⁸³ Moreover, restrictions on foreign NGO activities in Russia and broader political centralisation have only encouraged greater pressures on the NGOs in South Ossetia. Thus, in providing assistance, the EU has to operate in an environment that is not entirely friendly. Important conservative forces, ranging from intelligence services to *de facto* governmental officials, in the secessionist entities are wary of a greater EU role.

4.3 EU Policy towards Nagorno-Karabakh

Nagorno-Karabakh is the most dangerous and important conflict in the South Caucasus. The likelihood that the conflict can degenerate into war is the highest in the region, and this unsolved conflict is the most serious obstacle to regional stability and cooperation. It is also the greatest impediment in the efforts to make South Caucasus a transportation hub between East and West, North and South. Despite that, Nagorno-Karabakh is also the conflict in which the EU was least involved.

Unlike in the case of Transnistria, Abkhazia and South Ossetia, the EU is not even a *demandeur* for a greater role in the conflict settlement process. While in the case of Georgia and Moldova, the EU is unambiguously on the side of the metropolitan states; its position on Nagorno-Karabakh is more nuanced. The EU is trying to play a more careful balancing act between Armenia and Azerbaijan. The official position of the EU is that it would consider a contribution to a peacekeeping operation in the region once and if there is agreement between the parties on the deployment of a peacekeeping operation.

There have been very few EU projects to support the rehabilitation of the conflict zones. The EU, working in parallel with the World Bank, UNHCR and UNDP has financed between 1996 and 2000 the rehabilitation of water supplies, drinking and irrigation, housing, schools, electricity supplies, rail communications, agricultural and other

⁸² Interview with EU Official, July 2006.

⁸³ Kuchuberia, A.: NPO i jurnalisty Abhazii vstupilis za Parastaeva i Tskhovrebova, *Kavkaz.Memo.ru*, 14 July 2006, on: <http://www.kavkaz.memo.ru/newstext/news/id/1029527.html> (last accessed 17.08.2007).

economic activity in Fizuli and Agdam districts of Azerbaijan which were affected by the war, but are outside Nagorno-Karabakh.⁸⁴

However the EU has not financed any projects on post-conflict rehabilitation, nor democratisation in or around the secessionist region of Nagorno-Karabakh the way it has done in Abkhazia and South Ossetia. Nor have there been any EU crisis management missions of the type of EUBAM in Moldova and Ukraine, or EUJUST Themis and EU Border Support Team in Georgia. The EU has provided some humanitarian aid in the form of feeding programmes and providing shelter for IDPs and refugees from the region affected by conflict.⁸⁵ However, such aid, while important from a humanitarian point of view can hardly be perceived as a political contribution to conflict resolution.

Other areas of potential EU involvement could include confidence and security building measures, rehabilitation of the conflict areas, people-to-people contacts between Azerbaijan and Armenia in general and former or current inhabitants of Nagorno-Karabakh. However, these are also opposed by Azerbaijan. Since Azerbaijan maintains a blockade of Armenia and does not talk to the secessionist authorities in Nagorno-Karabakh such EU projects would be controversial in Azerbaijan. They would be seen as eroding the blockade on Armenia and possibly conferring some sort of legitimacy to the secessionist government of Nagorno-Karabakh.

Armenia and Azerbaijan have faced “mirror dilemmas” regarding a possible EU involvement in the conflict resolution efforts. Azerbaijan dislikes the status quo around the conflict and the Minsk Group which should makes it supportive of a more assertive EU policy seeking to offset the status quo through involvement in the Minsk Group and more projects in the conflict area. At the same time Azerbaijan fears that greater involvement of the EU in the conflict area would legitimise the secessionist authorities and erode the blockade around Armenia and Nagorno-Karabakh.

Armenia’s ambiguity about the EU stemmed from an inverse dilemma. Armenia would like the EU to play a bigger role in the conflict resolution efforts if that helps it erode the blockade and confers greater legitimacy to the authorities in Nagorno-Karabakh, but on the other hand it is quite content with the Minsk Group and the status quo around the conflict, so it is very careful not to offset it.

Such ambivalence on the part of the conflict parties has drastically limited the scope for possible EU involvement in the rehabilitation of the conflict areas the way it has done in Georgia’s conflicts. As one EU official claimed “no one has allowed us to do anything in Nagorno-Karabakh... we would do something if we were asked by the sides”.⁸⁶

As a result, the EU is not involved in the rehabilitation of the conflict zone; it does not apply either pressure or incentives to push the conflict resolution process. It does not

⁸⁴ European Commission, Country Strategy Paper on Azerbaijan 2002-2006, 27 December 2001.

⁸⁵ See the Overview of EU’s relations with Azerbaijan, on: http://ec.europa.eu/external_relations/azerbaidjan/intro/index.htm (last accessed 17.08.2007).

⁸⁶ Quoted by International Crisis Group (2006), Europe Report No. 173, op.cit., p. 25.

have a policy of strengthening either Armenia, or Azerbaijan or Nagorno-Karabakh itself. The EU is careful to stay neutral in the broader debates between Armenia and Azerbaijan. It is opposed to the Turkish and Azerbaijani blockade of Armenia, while also being careful to remain in cooperative relations with Azerbaijan. In other words the EU has little if any policy towards the conflict in Nagorno-Karabakh.

Overall, the modest level of EU involvement in both conflict resolution and human rights issues in the secessionist entities reflects the broader dilemma of how to promote and support human rights in areas whose legal and political status is unclear, while the involvement of international actors is controversial for the conflict parties. The EU as many other intergovernmental organisations has been constrained by a careful balancing act between promoting human rights and security objectives.

5. Conclusion

Overall, the EU policy on the secessionist entities of the former Soviet Union has been quite hesitant. EU involvement in conflict resolution efforts is the highest in Transnistria. However this conflict remains unsolved, even though the involvement of the EU has infused some positive trends in the conflict resolution efforts. The EU has made some efforts around the conflicts in Abkhazia and South Ossetia, and very little in the case of Nagorno-Karabakh. EU's contribution to human rights in the secessionist entities has been even smaller than its political and security engagement in conflict resolution efforts. The only secessionist region where the EU supported human rights projects is Abkhazia. EU projects in South Ossetia have focused on economic and security issues mainly. In Transnistria the EU has exercised only diplomatic pressures in order to prevent some obvious human rights abuses. And the EU has done virtually nothing about human rights in the case of Nagorno-Karabakh conflict, except for a few minor projects on IDPs support in Azerbaijan.

Several problems emerge with a view to developing a human rights strategy for the zones of frozen conflict. To start with perpetrators of human rights violations cannot be held directly accountable⁸⁷. In absence of a mechanism, the authorities of the *de facto* entities can profit from impunity. Without integrating the entities into international human rights instruments, open to states only, effective alternative mechanisms have to be found. For example the EU could help the separatist authorities to develop human rights codes of conduct and support NGOs that observe compliance with these self-obligations.

In all four cases protector states play a significant role and exert considerable influence. At the same time Russia and Armenia deny responsibility for any events taking place within the separatist entities. The ambiguous role of these states has been countered with calls by the metropolitan state, to get Russia and Armenia out of the areas of frozen conflict. The contrary approach may yield some results. If both countries would be formally engaged in the conflicts, they could also be held legally accountable, as has been demonstrated in the *Ilascu* case in Moldova.

⁸⁷ Alston, P. (2005): *Non-State Actors and Human Rights*, Oxford; Clapham, A. (2006): *Human Rights Obligations of Non-State Actors*, Oxford.

Accordingly an EU strategy must do both: work towards a permanent solution of the conflicts and engage in activities aimed at improving the current human rights situation in the entities. While it is difficult to tie economic aid to the conflict resolution process, some conditionality with a view to the political and human rights situation within the entity should be attached to rehabilitation projects. Obviously the EU cannot offer any incentives in the form of an enhanced international status to the separatist entities, however it could encourage human rights compliance by using its substantive financial support as a lever.

6. Recommendations

General Recommendations to the EU:

- Before the EU policy on the secessionist entities can become effective, the EU should gain leverage over the secessionist governments. This can be achieved through a gradually increasing presence, engagement and visibility of the EU in the conflict regions;
- In the long run, the EU should support the alignment of the secessionist entities to the ENP Action Plan implementation, which would prepare the ground for greater convergence between the political, economic and legal systems of Georgia, Moldova and Azerbaijan respectively;
- Neither of the secessionist entities can be fully included in the ENP, but for a start, they can benefit from inclusion in ENP projects in such areas as education, culture, civil society-building, rural development, poverty reduction, transport and infrastructure development, environment, regional cooperation, people-to-people contacts, fighting human trafficking;
- The EU should explain the ENP in the secessionist entities and involve civil society of the secessionist entities in a dialogue on the ENP. During visits to the secessionist regions, the EUSRs, European Commission and EU member states officials, MEPs could give lectures on the EU and the ENP at civil-society roundtables and universities in the secessionist entities, as well as explain the essence of the ENP to *de facto* officials;
- The EU should increase civil society and democracy-building support in Abkhazia, Transnistria, Nagorno-Karabakh and South Ossetia;
- The EU should develop more projects aimed at supporting IDPs and refugees in Georgia and especially Azerbaijan. This is important for humanitarian reasons, but could also potentially decrease the number of supporters for military solutions to the conflicts.

Recommendations regarding human rights:

- Establish mechanisms that combine economic aid and human right protection, in order to create incentives for the authorities to comply with international standards;
- Seek a role as coordinator of human rights activities of the international players already engaged in projects in the conflict zones;
- Encourage the *de facto* entities to elaborate a Human Rights Code of Conduct and support the organisation of a coalition of NGOs to ‘monitor’ the authorities’ compliance with it;
- Seek to get the CIS Peacekeeping force in Abkhazia engaged in human rights protection so that they can be held responsible for their acts and omissions;
- Encourage NGO to establish joint human rights monitoring mechanisms.

To the European Parliament:

- Establish regular parliamentary dialogue between the EP and the parliaments of the Black Sea states under the EU Black Sea Synergy. Invite the parliamentarians of the secessionist entities as observers to sessions of the EU-Black Sea states parliamentary dialogues directly relevant to them;
- Support second track-diplomacy efforts on all the conflict regions. The EP should host regular second-track diplomacy conferences for Moldova-Transnistria, Georgia-Abkhazia, Georgia-South Ossetia and Azerbaijan-Nagorno-Karabakh and Armenia;
- MEPs should regularly give public presentations on the EU, its history, institutions and policies when visiting the secessionist entities;
- The EP could invite joint groups of civil society activists from the secessionist entities and the metropolitan states in study trips to Brussels where they would familiarise with the EU institutions.