Federalism and Democracy in Moldova

By

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Abstract

The paper discusses the prospects of federalization and democratic consolidation in Moldova. A federal constitutional arrangement has been actively advocated by domestic and international actors as a way of solving ethno-political tensions in the country. However, progress in constitutional talks based on a federalization agenda has so far proved to be elusive. The paper analyzes how democratization imperatives shape the constitutional talks and how progress in reaching a federal constitutional solution is effected by the varying degree of success in democratizing political life in Moldova and in its minority-dominated regions. The paper contributes to the general discussion of federalism and democracy by exploring conditions that facilitate or impede efforts to employ democratization and federalization strategies in a reinforcing manner.
Moldova constitutes a very interesting case of democratic transition. A very poor and predominantly agricultural country, it consistently scores higher in terms of development of democratic freedoms than any other post-Soviet successor state with the exception of the Baltic republics (Way, 2003; Way, 2002). The ascendance to government office in 2001 of the Moldovan communist party (PCRM), the only ruling communist party in the post-Soviet space, put some strains on the functioning of democratic institutions but did not halt or reverse in any major way the process of democratic consolidation.¹

Moldova is also a case of a very difficult and controversial exercise in state building. The country has become known to an international audience of policy makers and social scientists largely due to the existence of multiple ethno-political challenges to its statehood. The Transdniestrian region became the site of a violent although short-lived military conflict in the beginning of the 1990s and has virtually succeeded from Moldova since then. Although another conflict that erupted in the Gagauzian region at the time of the Soviet Union’s disintegration did not escalate into a full-blown military confrontation and secessionist mobilization, this self-determination dispute continues to simmer, illustrating the difficulties of managing ethno-political differences in new multinational states (Neukirch, 2001; Roper, 2001; Crowther, 1998; Chinn and Roper, 1995).

Although these conflicts are not the only political challenges to Moldovan statehood – a significant segment of the titular nation and the titular political elite, for example, continues to question the very idea of separate statehood and a distinct Moldovan identity, advocating instead the option of unification with Romania (King, 2000) - these conflicts, especially the Transdniestrian one, continue to top the list of factors complicating Moldova’s democracy- and state-building exercises.

Federalization has recently been actively promoted as a way of solving the Transdniestrian conflict and as a way of alleviating tensions over power-sharing in the autonomous region of Gagauzia. This paper examines how the pressures to federalize

¹ Freedom House’s political rights’ score for Moldova dropped in 2003 but the decline is attributed by the Freedom House analysts to the changes in the survey methodology and not to the substantive worsening in the functioning of democracy (Freedom House 2003).
what is effectively a multi-ethnic state interact with the imperatives of securing the successful completion of democratic transition. This process has many facets and produces both opportunities and obstacles on the way to achieving both democratic development and effective power-sharing in this post-Soviet republic.

Of central importance to understanding how the negotiation process over federalization evolves is the existence of sharp disparities in the level of democratic development between right bank Moldova (the part of the republic on the west side of the Dniester river, which also includes the Gagauzian autonomous region in the south) and the breakaway Transdniestrian region. While the post-communist transition in Moldova led to the adoption of democratic norms and procedures, the evolution of the political regime in Transdniestria was marked by strong authoritarian tendencies. The difference in the nature of the political regimes established on the left and right banks of the Dniester river has a strong influence on how parties in federalization talks perceive each other and how they approach the issue of federalization.

After describing briefly the most recent federalization initiative, I examine democratic values-based reasoning that makes this initiative a highly controversial topic in domestic political discourse in right-bank Moldova. Then I discuss how the preceding ethno-political confrontation has influenced democratic transition in minority-dominated regions and has shaped the willingness of elites in these regions to negotiate a federal constitutional settlement. I also analyze the main substantive differences in the negotiating parties’ approaches to designing a federal state. I conclude by providing some thoughts on whether federalization and democratization logics can reinforce each other, or whether pursuing these two distinct political agendas are more likely to perpetuate political instability and delay consolidation of democracy in Moldova.

The Communists’ Federalization Initiative and Democratic Opposition

The decision of the Transdniestrian authorities to close down Romanian language schools in the middle of 2004 led to a sharp deterioration in relations between the

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2 Vladimir Socor, an influential analyst of Moldovan affairs, has recently traced how the current proposal is related to the previous conflict settlement initiatives and summarized arguments against federalization (Socor, 2004).
Moldovan authorities and the Transdniestrian leadership (Breitenstein 2004). President Voronin, the PCRM leader, declared that the Moldovan side was stopping any negotiations with the Transdniestrian authorities, effectively bringing to an end the most recent round of talks on federalization. This development, however, did not change the fact that the idea of federalization has been a defining element in the ruling Moldovan communist party’s approach to Transdniestria throughout most of the 2001-05 parliamentary term. Since most public opinion polls indicate that the communists are likely to secure a majority of parliamentary seats in the next parliament, the evolution of this party’s position with regards to Transdniestria remains of critical importance for understanding both past developments and the future prospects for solving this ethno-political conflict.

The landslide victory of the PCRM in the 2001 parliamentary elections marked the start of a new round of bilateral and multilateral negotiations aimed at solving the thirteen-year old Transdniestrian conflict and re-integration of the country. President Voronin articulated the ruling party’s position most explicitly in the February 2003 statement which proposed that Transdniestria become a co-author of a new constitution which would transform Moldova from a unitary into a federal state. The Voronin statement emphasized that a new constitution should be drafted on the principles of territorial integrity and unity of state authority and on the basis of a democratic and republican system.

The formation of such a position by the ruling party was undoubtedly influenced by the mediators in the Transdniestrian conflict – the Organization for Security and Co-operation in Europe (OSCE), Russia, and Ukraine. The mediators, which played a crucial role throughout the entire period of the conflict, saw the federal framework as a meaningful formula that could produce a solution that would be acceptable for both the Moldovan and Transdniestrian authorities. The evolution of the mediators’ positions in the Transdniestrian conflict is well documented and has received a great deal of attention in the academic and policy oriented literature (International Crisis Group, 2004; Hanne, 2004; Neukirch, 2003; Hill, 2002).

The actual work of a Joint Constitutional Commission (JCC) comprised of Moldovan and Transdniestrian official representatives started in April 2003. Despite the
initial optimism and intense efforts of the part of the OSCE Moldova Mission aimed at facilitating the smooth functioning of the JCC, the Commission’s activities did not become the focal point of the current constitutional negotiations. The Commission almost immediately ran into difficulties due to differences in the positions on some basic issues of federal constitutional design (International Crisis Group, 2003).

Disagreements on the approaches to the task of constitution-writing are fundamental and encompass a broad set of issues. The negotiating parties differ about how a federation should be formed (decentralization and delegation of powers from the center to the federation subjects vs. a constitutional treaty between negotiating parties which delegates some powers to the federal center), what should be the number of federation subjects, whether most of right bank Moldova should be transformed into of a federal territory with special status, how powers should be distributed between the federal center and federal subjects, whether federation should be symmetrical or asymmetrical, and what international guarantees should be provided in order to secure the stability and longevity of the constitutional settlement (Creanga, 2003; Galinski and Kushakov, 2003).

President Voronin’s initiative faces another formidable challenge inside Moldova itself. The initiative is perceived as a project that is sponsored exclusively by the communist party. The federalization plan in its current shape is not supported by any opposition political force and is not based on any broad societal consensus about optimal strategies for dealing with Transdniestria. The level of politicization of the Transdniestrian conflict in Moldovan domestic politics is very high and alternative approaches to the Transdniestrian problem serve as an important marker of differences among political parties occupying the center stage of Moldovan politics.

Although the level of Vorinín’s personal popularity is very high, the level of support that the ruling communist party commands in society and consequently the strength of its mandate to implement such a major policy initiative as a constitutional settlement of the Transdniestrian problem, should not be exaggerated. The formidable presence of the communist party in the parliament, where it occupies 71 out of 101 seats, does not accurately reflect the level of support that the communists gained in the 2001 parliamentary elections. The fragmentation of opposition parties and the adoption of a vote-to-seat transfer principle that favors large parties are the main reasons why the 50
percent vote received by the communist party in the elections was converted into 70 percent of the seats in the parliament (Hill 2001).

After being in office for more than three quarters of its parliamentary term, the ruling party remains largely unsuccessful in its attempts to build broader societal support for the federalization plan. In a poll commissioned in the end of 2003 by the Institute for Public Policy (IPP) in Chisinau, more than 70% of respondents did not consider the idea of federalization to be an important policy priority for the country (Institute for Public Policy 2003). Public indifference is combined with a strong resentment of the federalization plan on the part of many leading civil society organizations. Two out of four regional civil society forums coordinated by the National Assistance and Information Centre of NGOs, “Contact,” and held during the last quarter of 2003 even felt compelled to include in forum resolutions special clauses condemning the federalization plan (Niculita, 2003).³

Although observers agree that many voters in the 2005 parliamentary elections will opt for renewing the communists’ mandate due to the party’s relative successes in halting economic decline and marginally improving living standards, it is highly unlikely that the party will replicate its 2001 electoral success. This implies that constitutional negotiations will continue in a more complex parliamentary setting where the idea of federalization can be contested on a number of grounds.

The public perception of current constitutional talks as representing a defeatist position and as threatening sovereignty and the unity of the country has multiple sources. There is very little discussion in society of the costs of preserving the status-quo and benefits that federalism can bring in terms of re-integrating the country, alleviating security concerns, providing a more favorable climate for economic activity and foreign investments, and giving hope for eventual integration into the European Union. Disintegration of the former socialist federations – the Soviet Union, Yugoslavia, and Czechoslovakia – is also a very recent and vivid experience that is often used by various political and civil society leaders to illustrate the potential dangers of federalism. It is,

however, the character of the political regime in the breakaway region of Transdniestria which serves as a focal point of much of the opposition to the idea of a federal state.

“First Democratization then Federalization”

One of the key factors undermining President Voronin’s ability to consolidate support for his initiative domestically is the lack of democracy in Transdniestria. A wide spectrum of political and civil society organizations in Moldova perceive the Transdniestrian regime as an authoritarian and criminal entity. A relatively high, by the standards of the former Soviet Union, level of institutionalization of democratic norms and principles, as well as the hegemonic status of beliefs in the virtues of a Western-style democracy, make political and civil society representatives in Moldova question the status of the Transdniestrian authorities as an acceptable negotiating party. A large number of leading politicians and civil society activists in Moldova deny the legitimacy of the Transdniestrian regime and question attempts to find a settlement with the ruling authorities in Transdniestria.

“Democratization, decriminalization, and demilitarization,” or the so-called “3Ds” principle, summarizes this attitude (Nantoî, 2002). First elaborated by the IPP, an influential think tank in Chisinau, this principle became one of the main slogans of opposition parties and civil society organizations in Moldova.4 After federalization talks broke down in mid 2004 due to the Transdniestrian authorities’ decision to shut down Romanian language schools, the “3Ds” concept started to regain the momentum.5 Enacting democratic changes, decriminalizing state structures and the economy, and demilitarizing the Transdniestrian region6 should become, according to the authors, a prerequisite for any final settlement of the Transdniestrian conflict. Among the key


6 The demilitarization clause refers, first of all, to the continuing presence of Russian troops in Transdniestria. Although the Russian Federation committed itself at the OSCE Istanbul Summit in 1999 to a complete withdrawal of its troops by the end of 2002 there are still troops in Transdniestria, although in reduced numbers. Both local actors and the OSCE view this situation as a very serious obstacle to negotiating a final settlement (Neukirch, 2003).
elements of the “3Ds” strategy are the removal of the existing Transdniestrian leadership, whose degree of legitimacy in the eyes of the Transdniestrian public the “3Ds” advocates tend to underestimate, and the appeal for increased international pressure and additional sanctions against the Transdniestrian elites.

An example of rhetoric based on the appeal to democratic values is the wording of the final resolution adopted by the regional forum of civil society organizations in town of Soroca in October 2003. Federalization is described as a threat to the functioning of democracy in Moldova and as a project that will lead to “the expansion of a totalitarian system of Transdniestrian type”(Iatp.md/contact-soroca, November 23, 2003). While no details on the mechanism that would lead to the breakdown of democracy in Moldova after the adoption of a federal model is provided, the resolution unequivocally rejects the idea of a federal state. Similar types of declarations condemning the federalization plans appeared throughout 2003 and early 2004 as a reaction of various civil society organizations to the obvious intensification of federalization talks during that period.

Although the current distribution of political forces in parliament, where the ruling party controls more than two thirds of seats, does not allow opposition political parties to effectively influence government policies with regard to federalization and Transdniestria, these parties have been vocal on both issues. A higher degree of political pluralism in Moldova than, for example, in Russia or even Ukraine, the two largest post-Soviet successor states, means that the opposition in Moldova is better able to convey its views on the main political issues to the public. The ever-changing configuration of so-called centrist political parties, however, means it is not possible to speak about one consolidated position on the part of these parties in regard to the main political issues. While their position on the Transdniestrian issue is a strange mixture of accommodationist and confrontationalist stands towards the Transdniestrian leadership, they have been very critical of federalization plans using this issue as one of the main ways of differentiating their political identities from that of the ruling party.

Even more consistent in their criticism of federalism have been political parties that occupy the right end of the political spectrum in Moldova. The Popular Christian Democratic Party of Moldova, the most influential of these parties and the only one that has enjoyed a steady representation in parliament across a number of parliamentary
terms, is the most vocal opponent of the ruling party on main political issues, including the issues of recognizing the legitimacy of the Transdniestrian leadership and federalism. The party rejects any form of federalism for Moldova and condemns any talks with the Transdniestrian leadership, which is perceived as an illegitimate group of former communist functionaries and state enterprise directors that with the help of Russian troops usurped power on part of Moldovan territory.

Although the party has never enjoyed the electoral support of more than ten percent of the population, the newspaper “Flux”, which is closely associated with the party, is widely read in the country. The fact that the radical opposition’s newspaper has a large circulation and enjoys the de-facto status of a mainstream publication is again unparalleled in either Russia or Ukraine.

Record of democratization in Transdniestria

Accusations about the Transdniestrian authorities’ dismal record in upholding democratic principles and human rights are well grounded. The Transdniestrian republic’s power ministries attracted some very questionable Soviet military and secret police figures from all over the former Soviet Union (International Crisis Group, 2003). Security services are claimed to dominate the functioning of government authorities and to control media to a very large extent. The Moldovan human rights watchdogs, which have established credibility with various international organizations such as the Council of Europe and the International Helsinki Federation for Human Rights, report numerous instances of psychological and physical persecution of individuals and organizations by the authorities in the Transdniestrian region (Ostaf, 2000; Moldovan Helsinki Committee for Human Rights, 1999).

There has been no significant turnover in the top political leadership positions since the so-called “Transdniestrian Moldovan Republic” (TMR) was established in 1990 (Troebst, 2004). President Smirnov and parliamentary speaker Maracuta, two key office-holders in Transdniestria, have occupied their respective offices since the beginning of the self-proclaimed republic. Other key government officials such as, for example, TMR “Foreign Minister” Lickaj, have been in office just as long. Although presidential and parliamentary elections take place on a regular basis they do not seem to have any major
effect on the configuration of political power in the region. Political opposition to the existing regime has been systematically harassed and, in particular, dissent from the government position regarding a settlement with Moldova is not tolerated.

These political developments are in a stark contrast with the political evolution in Gagauzia, another zone of ethno-political tension in Moldova. After the 1994 constitutional settlement was reached, which granted Gagausia the special status of an autonomy unit in the Republic of Moldova, three rounds of very competitive elections to the regional legislative and executive bodies took places. They led to a leadership change in the office of Governor (Bashkan), who is a popularly elected head of the executive, and to even more frequent turnover in the leadership positions in the People’s Assembly of Gagauzia, which is vested with legislative power in the region. There is an agreement among analysts that the political system of Gagauzia is pluralistic and that the regional government institutions in Gagauzia have made significant progress in embracing the principles of democracy and rule of law (Neukirch, 2002; Chinn and Roper, 1998).

Reaching a compromise over conflict settlement, which manifested itself in the 1994 Autonomy Statute for Gagauzia, undoubtedly contributed to the advance of democracy in the region. Gagauzian progress in adopting democratic principles, in turn, further lessened opposition to the idea of Gagauzian autonomy, even on the part of the most radical elements in the political and civil society establishment in Moldova. This progress provided them with evidence of the strong legitimacy in the eyes of the regional population of the successive groups of Gagauzian leadership that first negotiated and then implemented the autonomy arrangement. Although the Moldovan central government’s failure to adhere to some of the 1994 Statute provisions have been strongly criticized in Gagauzia and many issues concerning the competencies of the center and the region have not been satisfactorily resolved, having the 1994 agreement allowed the parties to the conflict to improve their relations and to strengthen both national and regional democratic practices.

When confronted with claims about the lack of democracy in Transdniestrria the representatives of the Transdniestrian elites refer to the “siege mentality” phenomenon. According to them, being confronted with Moldovan and international pressure to dismantle Transdniestrian sovereignty led the people of Transdniestrria to “rally” around
their leaders and around one position. The lack of leadership turnover in this view is a function of societal consensus about appropriate policies and appropriate people to safeguard the region’s interests and a distinct political and cultural identity (Galinski and Kushakov, 2003).

The lack of international recognition and the existence of threats to territorial autonomy might have indeed contributed to the development of the “siege mentality” in Transdniestria. At the same time, these factors can not be held exclusively responsible for the prevalence of authoritarian political practices found in Transdniestria. As the experience of Northern Cyprus, which has many parallels with the international situation surrounding the Transdniestrian conflict, indicates, unrecognized states can still make significant progress in democratizing political life.

This lack of democracy in the region leads one to question the extent to which a “rallying” phenomenon is genuine in Transdniestria. There is some evidence that the “rallying” effect is artificially manufactured and that the authoritarian regime is needed to suppress dissent and maintain the appearance of support. The question of consent or support becomes especially interesting given the multi-ethnic character of the Transdniestrian region. Unlike the Gagauzian region, which consists of more ethnically homogeneous, although not always adjacent settlements, the Transdniestrian population consists of three territorially mixed ethnic groups: Moldovans (Romanians), Ukrainians, and Russians. According to the 1989 census, Moldovans constituted about 39.9% of the population, Ukrainians 28.3%, and Russians 25.5% (Goskomstat, 1990).

The Moldovan media and human rights group are especially concerned about the plight of ethnic Moldovans in Transdniestria. These sources claim that the predominantly rural ethnic Moldovan population is underrepresented in the government structures of the self-proclaimed republic and experience various types of linguistic and cultural discrimination. For example, despite pressure from ethnic Moldovans in Transdniestria, the region’s authorities refused to adopt a change from the Cyrillic to Latin alphabet for the Moldovan language, a move that would have brought Moldovan speakers from Transdniestria in sync with linguistic developments in right bank Moldova where such a change was enacted at the beginning of post-communist transition.
To solidify their control over the educational sphere, in the summer of 2004 the Transdniestrian authorities attempted to close down even the last few schools on its territory that were subordinated to the Moldovan Ministry of Education. The formal justification for this decision, which caused an international outcry and led to the breakdown of the constitutional talks, was the Transdniestrian authorities’ claim that these schools did not follow the registration procedures and refused to comply with the norms and standards issued by the educational authorities in Transdniestria. The decision about the closure involved police blockades of the schools and detention of some of the protesting parents. The OSCE Permanent Council and a number of other international organizations condemned the actions of the Transdniestrian authorities, interpreting them as a clear violation of European standards on human rights and minority rights.

This high degree of ethnic heterogeneity in Transdniestria poses many more challenges for the Transdniestrian authorities’ attempts to maintain support for their policies with regards to settlement of the conflict. While the ability of regional authorities in Gagauzia to command a very high level of popular support for autonomy claims is generally accepted both by the current government and opposition in Chisinau, there are many more questions in this respect about the Transdniestrian leadership, especially on the part of the opposition in Moldova. The stand of the opposition is logical in this respect: since there is no democracy in Transdniestria it is difficult to accept the election results or the results of public opinion polls as a reliable source of information about the preferences of the population in the region.

At the same time, Moldovan opposition claims that the Transdniestrian leadership lacks any substantial popular support cannot be verified either. There is evidence that indicates the existence of genuine support for the Transdniestrian leadership on the part of societal organizations active in the region. Especially in the early days of the “Transdniestrian Moldovan Republic” organizations such as the Committee of Defenders of Transdniestria, the Women Strike Committee were able to mobilize significant segments of the regional population in support of achieving the political and socioeconomic goals outlined by the Transdniestrian leadership. The emergence of these organizations was largely a result of self-organization on the part of primarily non-
Moldovan inhabitants of the region in response to what were perceived as highly discriminatory policies put forward by the first Moldovan governments.

Throughout the existence of the “Transdniester Moldovan Republic” authorities have also been able to secure living standards that, according to some experts, are equal or even higher than those in Moldova. Although the sources of this relative well-being are frequently questioned and attributed mainly to Russian economic injections and the Transdniester regime’s involvement in various illegal economic activities, the ability of the Transdniester authorities to provide a minimum social welfare for the region’s population serves as a critical pillar of the regime’s support, especially among the older generation.

Officially, there is also linguistic equality in the region. Russian, Moldovan, and Ukrainian are state languages in Transdniestria. One can see local currency which bear text in three languages, or buy local official newspapers published in Russian, Moldovan or Ukrainian. This tri-lingualism, however, is only nominal: Russian completely dominates both governmental and educational institutions. The region’s education system relies on Russian textbooks and programs for the needs of both secondary and higher education.

The relative success of the Transdniesterian authorities in normalizing life for ordinary citizens in a breakaway republic underscores the tensions between the positions that the ruling communist party and opposition in right bank Moldova take with regard to the Transdniesterian region. Both government and opposition have valid reference points but draw their evidence from the different facets of Transdniesterian reality. While the opposition points to the authoritarian practices of regional authorities and questions both the domestic and international legitimacy of the Transdniesterian regime, the ruling party can point to the ability of the Transdniesterian authorities to guarantee some minimum welfare and stability to the region’s inhabitants and thus to command some genuine popular support. Securing regime change prior to achieving a constitutional settlement therefore is a problematic task in the eyes of the communists, even with the help of increased pressure on the Transdniesterian leadership on the part of the OSCE and the European Union.

7 For the discussion of sources on economic situation in Transdniestria see Troebst (2004).
The question of how to apply democratic norms or how to interpret the relevance of one or another democratic principle also arises in discussions of substantive issues of constitutional design. Although the current JCC made very little progress in designing a new constitutional document, its experience, as well as the experience of high level political negotiations over constitutional settlement in a five-party format (Moldova and Transdniestria, with OSCE, Russia, and Ukraine as mediating parties), point to a number of key differences in approach and main stumbling points in negotiations over how to form a federation.  

Problems discussed here include: a) a form of agreement about federation; b) the ratification procedure; and c) the number of constituent parts, i.e. federation subjects. How a federation is formed can have multiple implications for how the federation functions. This is well understood by the negotiation parties and their positions in this respect are well articulated.

Chisinau refuses to accept the long maintained position of the Transdniestrian authorities that federation should be based on a treaty between Moldova and Transdniestria. Critics of this position point to the fact that such a treaty would amount to a formal recognition of the Transdniestrian region as an independent entity. Equally important in their view is the implications of such a treaty for the stability of a future federation. Entities that entered federation on a treaty basis can always claim the right to withdraw from the federation. Such a treaty can thus serve as one source of future instability for a common state. Adopting a constitution that does not envision the right of self-determination for the federation subject, rather than signing a treaty, is a starting point of negotiations for the current Moldovan leadership. Denying the choice of exit might not be democratic with respects to the federation subject but it is critical for the

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8 I concentrate here on the problems related to the general issues of federation formation. For a review of specific proposals that are currently on the table the reader should consult the so-called 2002 Kiev Document “Draft Agreement on the Basis of Relations between the Republic of Moldova and Transdniestria” (Kiev Document, 2002), the 2003 Kozak Memorandum “Draft Memorandum on the Basic Principles of the State Structure of a United State in Moldova” (Kozak Memorandum, 2003), and the 2004 OSCE Recommendations “Proposals and Recommendations of the Mediators from the OSCE, the Russian Federation, Ukraine with regards to the Transdniestrian Settlement” (OSCE, 2004). For a detailed comparison of these documents see (Botan, 2004).
survival and proper functioning of the state, the Moldovan side argues, pointing to the absence of self-determination clauses in the constitutions of most states.

The idea that the constitution has to be ratified in a nation-wide referendum does not generate much disagreement on the part of the negotiation parties. Yet securing popular majority support for any form of federal state in such a referendum might prove to be very challenging. As the previously cited 2003 IPP Barometer of Public Opinion (Institute for Public Policy 2003) and other recent polls indicate, the majority of the population in right bank Moldova does not consider federalization to be an important policy priority for the country. The lack of concern about progress in the constitutional talks and even hostile attitudes towards the idea of federalization are partly explained by the lack of concerted efforts to educate and inform the public about the nature of the constitutional process and the advantages that federalization can bring to Moldova. Fierce criticism of the idea of federalization on the part of opposition political parties and civil society complicates any educational or informational efforts undertaken by the government with the tacit support of such international actors as OSCE, to consolidate public support for federalization in right bank Moldova.

The situation surrounding public support for constitutional negotiations is even more complicated on the left bank of the Dniester, in the Transdniestrian region. Serious restrictions on freedom of expression in the region create a lack of reliable information on public attitudes towards settlement of the conflict. Regional newspapers create the impression that a significant part of the population is not ready to accept the idea of re-integration with Moldova on federal principles. “No Occupation under the Disguise of Federation” is one of the slogans regularly found in the regional newspapers taking a radical stand against settlement with Moldova. Due to tight control of the media and the activities of non-governmental organizations (NGO), the view of the constitutional process that is sanctioned by the authorities dominates public discourse. This view conveys the message that the only acceptable institutional settlement is a constitutional arrangement which allows Transdniestria to keep most of its acquired statehood attributes and which provides for a union with Moldova on the principles of a contractual federation created by two equal states. This de facto means the endorsement on a loose confederation as the only acceptable form of a future state.
Given the difficulties of securing popular support, one idea is to have a constituent assembly ratify a new constitution. The proponents of this viewpoint point to examples of some well-known federal constitutions such as the 1950 Indian constitution that was debated and adopted by the constituent assembly (Mocreac, 2003). This discussion of alternative ratification options indicates that finding ways to secure the legitimacy of a new state may involve making some uneasy choices that cut to the core of such concepts as democratic participation and representation.

The question of how many constituent parts a new federation should have is not easily answered either. While the ideal preference of the Transdniestrian leadership would be to have two equal federal subjects - Moldova and Transdniestria – linked by a treaty and a weak federal center, the Transdniestrian side realizes that such a solution is unattainable. At the same time, the Transdniestrian leadership is also under the increasing pressure to settle the conflict. What has changed from the earlier rounds of negotiations is a fact that there is less ambiguity about where the OSCE mediators and Western governments put the blame for the lack of progress in reaching a settlement. The February 2003 ban on travel to European Union countries imposed on the Transdniestrian leaders by the Council of the European Union is one of indications of such a change.

The Moldovan government seems to have in mind a very different type of federal arrangement altogether. Out of the three most recent proposals on conflict settlement - Kiev Document of July 2002 (Kiev Document, 2002), Kozak Memorandum of November 2003 (Kozak Memorandum, 2003), and OSCE Recommendations of February 2004 (OSCE, 2004), - only the 2003 document, which is named after the principal author of the document, the deputy head of the Russian presidential administration, Dmitri Kozak, specifies the number of subjects that federation will have. The fact that the Moldovan side came very close to signing the document – Moldovan president Voronin made a decision not to sign the document only hours before the planned signing ceremony – suggests that the Moldovan government support the basic architecture of the state proposed in the Kozak Memorandum.

The Kozak Memorandum envisions that Moldova will consist of two federal subjects – Transdniestria and Gagauzia – and a federal territory that encompasses the rest
of Moldova. What this document proposes is not what many analysts and politicians in Moldova and abroad call “an asymmetrical federation.” This term usually implies an arrangement whereby all of the state’s territory is divided among federal subjects but these federal subjects have differing powers. The Kozak Memorandum provides for a type of federal political system in which Transdniestria and Gagauzia become federal subjects, but the rest of the Republic of Moldova does not.

While the details on how the rest of the republic would be governed are not well elaborated, the Kozak Memorandum implies that the federal government, which will have jurisdiction over matters of federal competency throughout the Republic of Moldova, will also exercises specific government functions over Moldova’s territory outside Transdniestria and Gagauzia. Such a model bears some resemblance to the recent territorial and administrative changes introduced in the United Kingdom, where the UK government governs over the UK and England, but Scotland, Wales, and Northern Ireland have their own regional governments dealing with regional matters. The fact that the Kozak Memorandum was rejected by the Moldovan side has to be attributed not to a fundamental conflict about the general structure of the state but to specific disagreements about how federal and federal subjects’ competencies should be divided and how federal government bodies should be formed.

A two-subject federation is not the only choice discussed in Moldova. Regionalization could be seen as a main alternative to the government-sponsored project of federalization (Popa, 2004). This alternative is only emerging in the circles of academics, civil society leaders, and politicians opposed to or suspicious of the current government’s plans to negotiate a federal state. They point to the number of issues that could be, in their view, problematic to the viability and stability of a future state. Most prominently, they oppose federalization based on ethnic principles. Ethnically based federalizations, according to them, have a poor record in securing the successful resolution of conflicts and ensuring a country’s stability. They also question the value of an asymmetrical design. Pointing to the experience of the Russian Federation, they argue that inequality of subjects encourages competition for the control of greater competencies and encourages system instability.
The regionalization alternative emerged as a reaction to the current settlement proposals and as such does not have elaborated documents associated with it. There is no agreement on the number of regions, division of competencies, or roadmap for conducting negotiation on the basis of this idea. The proponents of this alternative derive their inspiration from the process of European regionalization and envision the creation of four to six regions on a territorial basis in Moldova, with Transdniestria (and sometimes to Gagauzia) being granted the status of such a region. Elaborating and concretizing the regionalization alternative, especially along the lines suggested by the relatively recent Spanish experience with regionalization, would have great value. It could be beneficial both for the purpose of building broad support for reaching a settlement with Transdniestria and for promoting decentralization and power sharing as tools for the further democratization of the policy-making process in right-bank Moldova. At the same time, such a proposal will meet even more opposition on the part of the Transdniestrian authorities than the current one. Neither would it help to avoid facing some difficult trade-offs between ensuring the stability of a new constitutional system and making it responsive to the specific needs of individual regions.

**Implications and conclusion**

Federalization plans are far from being concrete in Moldova. The recent escalation of confrontation caused by the decision of the Transdniestrian authorities to close down the Romanian language schools in mid 2004 makes the prospects of federalization even more elusive. At the same time, it does not appear as if the school crises has changed any fundamentals in the equation of the Transdniestrian conflict. Neither of the two negotiating parties was able to strengthen/weaken very substantively their bargaining position, the set of mediating actors remain the same despite intense attempts by president Voronin to change the format of negotiations in the summer of 2004, and no viable alternative to the idea of federalization has so far been fully articulated.

If federalization talks resume, as international mediators currently recommend, a number of changes in the position of conflicting parties will need to take place in order to make such talks productive. The defiant stand of the Transdniestrian authorities with
regards to the principles of international law, democratic governance and human rights has to be altered. Russia and Ukraine – two mediating sides in the conflict - are in a position to exercise considerable leverage in this matter. The OSCE and the international community has to put even stronger pressure on Russia to complete a long promised withdrawal of Russian troops and ammunition from Transdniestria and on Ukraine to introduce proper mechanisms for preventing illegal cross-border trafficking between Transdniestria and Ukraine. These are the most immediate steps from a well-elaborated list of policy recommendations that continue to reappear in conflict management proposals dealing with Transdniestria (International Crisis Group, 2004; International Crisis Group, 2003).

The success of federalization talks or, for this matter, any other talks based on the idea of granting substantial autonomy to the Transdniestrian region in the framework of the Moldovan state will also depend on changing the prevailing expectations on either side of the Dniester river with regards to the effects of federalization or autonomy. Right-bank concerns about “losing the Moldovan state” and left-bank fears about having their self-governance dismantled could be alleviated if more attention is paid to the various mechanisms of power-sharing articulated in the conflict management literature and applied in practice in various ethno-political conflict zones.9

This paper’s central concern is with the position of democratic opposition in Moldova. Instead of flatly rejecting the idea of federalization, opposition political parties and civil society organizations should show the will to constructively discuss the concept and explore the multiple opportunities that a fine-tuned federal constitutional design can provide for addressing such concerns as securing the integrity and stability of the country and ensuring the effectiveness of the federal decision-making process. Both government and opposition also have to make much more effort to engage society in an informed debate about the advantages that federalization can bring to Moldova in terms of territorial integrity, stability and sustainable development. Gaining public support for conflict settlement is a critical condition for successful reintegration efforts. As the

9 For the most recent discussion on the topic of power-sharing see the section “Complex Power-Sharing Arrangements as a Means of Overcoming Self-Determination Disputes” in European Yearbook of Minority Issues (European Center for Minority Issues, 2003).
results of the April 2004 memorandum on the reunification of Cyprus reminded everyone involved in resolution of ethno-political conflicts, having a well elaborated legal document negotiated by the political elites (in the case of Cyprus it was the more than a thousand pages long Annan Plan) does not guarantee success in solving entrenched conflicts.

Moving ahead with federation talks should not alienate those democracy advocates in Moldova who blame the Transdniestrian authorities for their adherence to authoritarian and illiberal political practices. The fears that introducing a federation will only solidify the authoritarian regime will not materialize if proper safeguards are introduced that put federal authorities in charge of securing the provision of individual rights and liberties for the whole territory of the country. Contemporary federal systems vary greatly in how various competencies are distributed between the federal center and the federation subjects but they are fairly similar in granting the federal center enforcement power with respect to protection of individual rights and liberties which is of fundamental importance to the democratic functioning of a political system (Stepan, 1999).

Finding a federal solution in the case of the Transdniestrian conflict implies, among other things, finding a way for the federal center to have a say in how ethnic Moldovans are treated in Transdniestria, an obvious and legitimate concern for right bank Moldovans. Those politicians and civil society leaders in Moldova who demand democratization in Transdniestria are right in arguing that only genuine democratization can help to reveal the true extent of support that the current Transdniestrian authorities enjoy among the Transdniestrian population. Moldova’s own experience in dealing with the Gagauzian region, however, suggests that finding a solution for the conflict through institutional accommodation, and under the condition that the center itself adheres to democratic political practices, increases chances of subsequent democratization in a region. In this sense, the democratization imperative becomes imbedded in the very process of constitutional negotiations.

Those who warn that federalization can provide ethnic entrepreneurs with an institutional framework and resources for mobilizing support and undermining political stability are right in unmasking some of the general risks associated with
introducing a federal model. But they miss the point in the case of Moldova. Ethno-
political mobilization had already taken place in Moldova and federalization is a way to
accommodate the ethno-political differences that, to a very significant extent, were
crystallized in the course of a prior mobilization. These differences are not going away
and they have to be taken into account in any form of a final settlement.

Willingness on the part of the Moldovan opposition to discuss constructively the
federalization options would help to prevent the excessive politicization of the conflict
settlement issue. It would also help to move public debates to a more constructive level,
allowing for concentration on the design of specific instruments of power sharing. The
result could be a more unified approach to conflict settlement that would substantially
increase chances of reducing ethno-political tensions and re-integrating the country.
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