

MOLDOVAN HELSINKI COMMITTEE FOR HUMAN RIGHTS

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MOTTO:

<... development of societies based on pluralistic democracy and rule of law are prerequisites for progress in setting up the lasting order of peace, security, justice and co-operation that they seek to establish in Europe...> (Copenhagen 1990, Preamble)

CRITIQUE OF PLAN FOR FEDERALIZATION OF MOLDOVA AS A MEAN TO SOLVE TRANSNISTRIAN CONFLICT

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About Moldovan Helsinki Committee for Human Rights

Moldovan Helsinki Committee for human rights is an independent, not-for-profit human rights organization founded by a group of human rights activists in Tiraspol, Transnistria region of the Republic of Moldova in 1992 in the wake of dissolution of the Soviet Union.

Moldovan Helsinki Committee monitors the respect for human rights obligations undertaken by the Republic of Moldova before the OSCE, the United Nations, and the Council of Europe. It advocates for respect, protection and promotion of human rights values through providing independent expertise of human rights legal and practices compliance, public interest advocating and litigation, raising awareness of specific groups and general public of the serious human rights concerns guided by understanding of universal superior values of individual freedoms, social justice, equality and nondiscrimination. Moldovan Helsinki Committee is a full member of the International Helsinki Federation for Human Rights (Vienna).

Moldovan Helsinki Committee comprehensive subject based and overall reports on the respect of human rights in the Republic of Moldova are known as good and professionally prepared information, solicited and relied by many specialized entities, including those of the Council of Europe, as for instance, the Council of Europe High Commissioner for Human Rights (<http://www.commissioner.coe.int/documents/translsanshighlights.doc>), European Committee on Prevention of Torture (<http://www.cpt.coe.int/fr/rapports/inf2000-20fr.htm>), PACE Monitoring Committee on the observance of obligations by the Republic of Moldova, US Department of State <http://www.state.gov/g/drl/rls/hrrpt/2001/eur/8304.htm>.

Additional and detailed information can be accessed at <http://chdom.ngo.moldnet.md> or obtained mailing to chdom@moldnet.md.

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1. Introduction

The Report aims at producing a comparative analysis of the two existent solutions of the Transnistrian problem: federative solution proposed recently under auspices of ESCE and autonomy solution discussed in large prior and proscribed by Constitution of Moldova. The approach undertakes three dimensions for examination: *political and regional perspective; social cohesion and reconciliation perspective; human rights and rule of law perspective*. Within each perspective, a discussion of various possible advantages and disadvantages for each of the existent solutions produced based on the arguments and motivations brought together to the best of author understanding of the problems and situation.

A number of opinions had been written so far approaching the federative solution proposal from different angles: geopolitical power distribution with historical incursions¹; theoretical considerations on federative solution legal consistency as a solution²; explanation of the nature of the Transnistrian regime and the nature of the conflict³; people perception of the conflict⁴. The present report wants to fill in the gap, discussing the federative solution compared with the autonomy solution in order to understand better comparatively the potential advantages and disadvantages of each solution and possible foresee the consequences of the preferred solution. The author believes that there is a need for a comprehensive comparative discussion of the sustainability of the proposed federative solution and its practical realization phase credibility.

The findings of the report give a rather alarming picture that the federative solution proposed and strongly supported by parties guarantors of the Transnistrian conflict resolution had opted for not the most realistic and sustainable solution. A number of serious concerns are raised, a number of substantial disadvantages and a number of decisive threats are not taken into due consideration that overall have inherited destructive elements to the proposed federative solution and will inevitable create unpredictable consequence and on a later stages unmanageable obstacles.

The Reports warns that the federative solution give prevalence to the objective to settle the conflict failing to abide the democratic principles of pluralist democratic society in the process of development of common vision and solution in compliance with the OSCE commitments relating to pluralist democracy, rule of law as the foundations for building up democratic societies based on free elections.

Report contains several chapters: Conclusions and recommendations, Comparative analysis of the proposed solutions, Background information and additional

¹ Vladimir Socor, August, 2002, [Federalization Experiment in Moldova](http://www.ipp.md/publications/en.html), <http://www.ipp.md/publications/en.html>

² Michael Emerson, Bruno Coppieters, August, 2002, [Comments on the draft agreement on Federalisation of the Republic of Moldova](http://www.ipp.md/publications/en.html), <http://www.ipp.md/publications/en.html>

³ Oazu Nantoi, August, 2002, [The east zone conflict in the republic of moldova - a new approach](http://www.ipp.md/publications/en.html), <http://www.ipp.md/publications/en.html>

⁴ Vladimir Kolosov and Dmitriy Zayats, Luminita Drumea, N.Babilunga in Russian at http://www.ist.md/index.asp?doc=1_3&doctree=1_3_7_2_4, in English at <http://www.yam.ro/forum/read.php?f=3&i=10078&t=9868>.

information where the proposals are annexed in full details. The chapter on Conclusions and recommendations contains generalized understanding of the findings and overall opinion on the two existent solutions as well as detailed recommendations to the stakeholders of the process. Comparative analysis chapter discusses in detail the two proposals from three dimensions: political and regional, social and rule of law and human rights. Background information helps better understanding of the Moldovan realities providing basic information on ethnic composition, country data and proposals details.

2. Conclusions and Recommendations

The two existent solutions resemble in certain extend; their difference is primarily in the degree of devolution of power to the region that needs a solution for long decade unsettled problem. The two solutions however quite distinct in their fundamental elements: process of elaboration and sharing of understanding, consequences and management implementation, costs and degree of support provided by the countries guarantors and other considerations.

The main conclusions of the report is that the federative solution although having certain advantages, is basically determined by the strong external support from Russian Federation and countries guarantors at the same time encountering major concerns and threats of practical implementation and realization character, implied from the inherited deficiencies of the Transnistrian regime and not only. The federative solution accounts for much higher Moldovan political controversy, juridical and power relation uncertainty, immense costs for implementation and maintaining of the system, problems with legitimate grounds for the proposed solution. At the same time autonomy solution while in generally better viewed from the sustainable solution point of view still encounters major threats from the potential dissatisfaction of countries guarantors and strong opposition of the Transnistrian regime aided by the Russian Federation.

The overall conclusion can be made that autonomy solution is a more viable, sustainable and realistic solution of the problem. Its success should be conditioned by clear engagements of providing guarantees for Transnistrian region secured and if necessary enforced by state guarantors. The federative solution has a character of externally artificially imposed solution that rather hides and conserve the problem that aims at its solution, it is costly, unclear, unstable and will bring over the time probably more problems but satisfying some specific geopolitical interests.

From regional and political perspective:

The autonomy solution can face significant threats from the negotiation position of the Russian Federation aided by unwillingness of illegitimate Transnistrian leadership, whereas federative solution has primarily concerns of the solution legitimacy, aim, deficiencies of shared vision by large Moldovan constituencies. The autonomy solution advantages based on the existing patterns being implemented in Moldova and elsewhere reflecting the real grounds and needs while the federative solution represents more theoretical benefits and satisfaction by the process of parties guarantors.

From social cohesion and reconciliation perspective

Major concerns for social cohesion and reconciliation in the case of federative solution are: high costs, lack of know-how for the transformation process, lack of enforcement of civil society, perseverance of state authorized “enemy” stereotypes while as compared with autonomy solution, threats primarily are fear of Transnistrian region to loose social benefits and galvanization of extremist groups. If compared by

advantages, autonomy solution probably brings more viable integration and building up of a political integral nation as compared to federative solution outcome of emphasis on distinctive role and place.

From rule of law and human rights perspective

Few potential advantages of the federative solution are heavily outweighed by a number of threats and concerns as the inexistence of rule of law and democratic institutions, past and present mass human rights violations practices. If compared with the advantages of relevant experience of implementation of autonomy solution in Moldova, the autonomy solution actually avoids the complex and poorly regulated in the federative solution relationships between the current constitutional order and the proposed new one that makes it more preferable option.

Moldovan Helsinki Committee for Human Rights appeal with regard to the proposed solution on federalization plan as a mean to solve Transnistrian problem:

- *the solution of Transnistrian problem plan should be developing with large participation in time manner by variety of political and other societal forces and representatives of both banks assuring that people of both banks voice is effectively heard;*
- *the role of external political interest in settling Transnistrian problem should not be a governing and predominant driving force behind the seeking of the solution, the will of people democratically represented at the negotiations should be upheld as a fundamental principle of OSCE core values of democracy and human rights;*
- *the potential solutions should be narrowly aimed at solving the existing Transnistrian problem rather than aiming at general objectives serving primarily political interests;*
- *the solution to Transnistrian problem should be placed in hands of democratically elected, representative and accountable governments, whereas the role of parties guarantors should not be substituting the role of the Government in solving the problem;*
- *the sought solution should be developed and implemented in the conditions of existent international and OSCE human rights and political agreements as the foundation and premises of Transnistrian conflict resolution;*
- *the solution to be preferred should feature the sustainability and underlying democratic principles results, commensurable and measurable by the existing realities and capacities of country democratic forces to implement the solution;*

3. Comparative analysis of the proposed solutions to Transnistrian problem

Comparative study examines the comparative advantages offered by each existent solution as well as associated to each solution concerns (inherited problems of the situation) and threats (external elements out of control). The comparative examination based on the brainstormed issues believed to be providing good basis for a comparative analysis of both existent solution of Transnistrian conflict.

3.1 Defining the problem

It is useful from the very beginning to define clearly the existent problem that is generically referred to as Transnistrian problem. At this very point the Transnistrian conflict emerged into bundle of problems that affect both the Republic of Moldova and beyond. In brief problem can be defined as a geographical area governed de facto by authoritarian non accountable regime responsible for gross human rights violations and source of instability in the region. The region is heavily stocked with billions of military munitions, generates significant and substantial losses undermining the security and integrity of the Republic of Moldova, it is a center of regional corruption and organized criminal activity involving producing and smuggling of arms, laundering of dirty money and drugs related activities, trafficking of human beings. The regime grounded its appeals for autonomy and independence on allegations of violations of language and minority rights and imminent unification of Western Moldova to Romania. The real grounds, however, are a combination of political, ideological and conflict of regional elite⁵.

The situation complexity is given the fact that 14th Russian Army, when Russia assumed its peace-keeping role, had been involved in playing an important role in building the military capacity of the region, Russian Federation direct financial and technical support had been a decisive element in overthrowing the constitutional order and in establishing the regime institutional setting of a state. The Republic of Moldova policy and position had been a weak and inconsistent with regard to Transnistria on national and international levels.

The parties - guarantors of the solution of the conflict (the OSCE mission, Russia and Ukraine) had since the seize-fire in 1992 been looking for the solution of the conflict.

⁵ Cited after Comments on the draft agreement on Federalisation of the Republic of Moldova (*text of July 2002*) Bruno Coppieters and Michael Emerson (*8 August 2002*):

Steven D. Roper, "the linguistic concerns of the Russophone population of Transdnistria were a salient factor underlying the outbreak of conflict", but the "pragmatic considerations of the regional elite make this conflict a regional rather than an ethnic issue." See Steven D. Roper, Regionalism in Moldova: The Case of Transnistria and Gagauzia, *Regional & Federal Studies*, Vol. 11, No 3. According to Gottfried Hanne, this conflict, "despite being known as the Transdnierster conflict (...) is not so much regional as rather of an ideological, power-political, economic and in part ethnic nature. Gottfried Hanne, *Der Transdnistrien-Konflikt: Ursachen, Entwicklungsbedingungen und Perspektiven einer Regulierung*, *The Transdnierster Conflict: Origins, Determinant Conditions and Prospects of Settlement*, Bericht des Bundesinstituts für Internationale und Ostwissenschaftliche Studien, No 42/1998 (20. October 1998).

During this time the Transnistrian regime had de facto set up its institutional structure and effectively overtaken the control over the region and became the source of tension in the region. It is only on 8 May 1997 MEMORANDUM On the Bases for Normalization of Relations between the Republic of Moldova and Transdneistria set out the framework for the peaceful solution. The very first proposal for the solution of the Transnistrian problem was framed in terms of autonomy within the Republic of Moldova. Different drafts of the proposal had been discussed with strong opposition from Transnistria regime advancing the two state agreement. At a meeting in Kiev on 1-3 July 2002, the mediators for the Moldovan-Transnistria conflict proposed, on the initiative of the OSCE, a draft agreement containing the federative solution of the Transnistrian problem.

Which of existent two solutions have better chances at addressing the Transinsitrian problem? Which solution is more viable and sustainable? In which extent each of the existent solutions will manage to address the problems more effectively? These are the questions that the Report is after...

3.2 Political and Regional Perspective

This section demonstrates that the autonomy solution faces significant threats from the negotiation position of Russian Federation aided by unwillingness of illegitimate Transnistrian leadership, whereas federative solution has primarily concerns of the solution legitimacy, aim, deficiencies of shared vision by large Moldovan constituencies. The autonomy solution advantages based on the existing patterns being implemented in Moldova and elsewhere reflecting the real grounds and needs while the federative solution represents a more theoretical benefits serving the satisfaction of preferences of parties guarantors.

Comparative Overview of Advantages

It is generally believed that a federative solution to an internal conflict can be solved by devolution of power via federalism or autonomy and decentralization. Comparatively, as based on the individual situation of Transnistrian conflict, federative solution can theoretically bring certain advantages as compared to the autonomy solution.

Assumingly, the federative solution could most importantly bring better equilibrium of influence and sharing of equal political power at administrative regional (Transnistrian and right bank of Moldova) level (federative units) shaping up a common federative/central level policy⁶. Comparatively and alternatively autonomy solution can be enriched by balancing the representative ness of each region in the parliament⁷ supplementary to the regional Legislative Assembly, shaped after the Gagauzian example. If the aim is to assure the greater influence and participation from the regional levels both proposals, in our view, the autonomy solution could stand on equal footing with the federative one from this perspective.

⁶ Immediate concern will be raised on Transnistria Chamber of representative election as opposed to the 10 large districts-judet in Western Moldova.

⁷ including bicameral Parliament with chamber of deputies and chamber of representatives or alternatively 50-50% election on the mentioned basis.

Another potential advantage of federalization could be the encouraging of regional development, concentration and creating/legitimizing centers of political influence as opposed to alleged predominant Chisinau position. The federative solution can arguable lead to the formation of three poles political power structure in Moldova where the federative policies will be built upon the shared view and agreement reached by three (or eventually two) political poles. Comparatively, the autonomy solution offers space and time within its central legislative forum - the political battle and confrontation field for the central problems affecting the country. There is also a vision that the federative solution can be a contribution to overall country stability as a three pole model, however it is justly counterbalanced by the autonomy solution aiming at achieving higher integration of the country given that fact that turned away regions actually resemble no significant difference to legitimize the creation of the distinct political region based poles.

Probably, another advantage can be represented by the fact of countries guarantors, international community and OSCE mission satisfaction with the process of federative solution of the conflict as it has strong Russian Federation commitment, a rather strong deal approach back up American position, silent support from the Ukraine, and somewhat withheld and never heard position of the other European countries, especially EU countries⁸.

As opposed to the federative solution, one may develop a number of potential advantages of the autonomy solution.

Probably one of the most important is the needed integrative process of country political consolidation and stability as a political nation that had been turned apart primarily by the external forces. This advantage rests on the realistic understanding that the country regions, namely Transnistria and Western Moldova (see the example of Gagauzia and Western Moldova with much more distinctive elements of culture, identity, etc) resemble no substantial difference based on the language, ethnicity, tradition, etc. Both banks reflect similar features of ethnic and linguistic composition of predominantly Moldovans, Ukrainians and Russians and even in some instances the patterns of certain right bank districts, cities mirrors the patterns in Transnistria and vice versa⁹. From the regional and political point of view Moldova in its current stage represent as break whole in the geographical map of stability and can eventually trigger similar processes expanding over Ukrainian Crimea and elsewhere. It is though true that the integrative process should be justly accompanied with greater minority rights given to local autonomies of Ukrainians in North and East-North parts of Moldova, including within Transnistria as opposed predominantly Russian cities of Tiraspol and in some less extent Tighina (Bender).

Another clear political advantage is that autonomy solution targets exclusively the existing problem of the Transnistrian conflict following well established and widely

⁸ Close proximity of Moldova that can actually in less than a decade can become the border country with EU poses questions of capacity of EU to foresee the potential consequences of the federative solution.

⁹ Compare Dubasari or Grigoriopol district of Transnistria with central judet of Western Moldova or Slobozia district of Transnistria with North districts of Balti or Edineti of Western Moldova. Exceptions will be probably big cities of Tiraspol and in a lesser extend Tighina (Benderi)

shared vision of looking out after solutions of the existent and real problems rather than imposing the generic solutions. As opposed to federative solution, the autonomy solution is limited to Transnistrian conflict, whereas federative solutions opens opportunities and triggers unrest elsewhere (Gagauzia, Taraclia) in the regions where the disputes calmed down some 5 years ago by implementation of similar autonomous solutions of different level. It is believed that federative solution has this implicit deficiency that can provoke much more political unrest in the country. Amusingly, how can an agreement between Transnistria and Moldova bring about settlement and rearrangement regarding the other regions of Moldova.

The autonomy solution probably enjoys the most participation of variety of political forces (ranging from left to right) over the years of negotiation. And that element probably presents a distinguished importance in the political and democratic process of negotiation of a settlement of a conflict. Transnistrian representatives throughout the negotiation had been the same persons and expressing the same extreme unrealistic position of independence or a state of two states. Transnistrian representatives legitimacy¹⁰ is one essential element that precluded successful negotiation process since their start-off. Within Transnistria region the autonomy vision is not less popular than in Western Moldova itself and should wider participation from Transnistria region be allowed (meaning at least the Supreme Soviet of the region which is the legislative organ at least) one could definitely have different outcomes in the process.

Another political advantage of autonomy compared with the federal one is the political feasibility of the solution, i.e. its practical comprehension based on the existent models implemented, with needed further adjustments, including resources and time efficiency. It seems that federative solution opens up more questions and difficulties that it tries to address, not to speak about the procedures of it.

Comparative Overview of Concerns and Threats

Federative solution raises a number of concerns of the potential negative outcomes that should be balanced against the aim of the solution and the advantages it has. A comparison of those should help better understanding of which solution can serve better the solution of the existing Transnistrian problem from the political and regional perspective.

Probably among the most disputed concerns of federative solution had been whether the creation of a federative territory based on *no clear and good motivated ethnic, linguistic, religious reasons* is not just a volatile expression of one will. If one to examine the reasons for needs of devolution of power to the extent to form up a federative territory in the state, there should be probably substantial reasons and premises. It is found no clear ethnic, linguistic, religious, and cultural or any other reasons for the formation of a federative territory (see for ethnic, linguistic and religious composition across the country and in the regions in the introduction). The creation seems to have clear politically motivated grounds of controlling and

¹⁰ It is widely known and represents and shared vision among all participating parties in the process and elsewhere that Transnistrian de facto representatives and power holders lack legitimacy and do not express the will of the people residing in the region including with regard to the position of federation or autonomy of Transnistria.

imposing the authoritarian will in the region by the current leadership of Transnistria aided by external force from some political circles of Russia interested in preserving the regional presence. This externally determined and dominated driving force, lacking even the legitimacy in the region itself, behind the federative solution causes greater concern for the viability of Moldovan state in any configuration. From regional perspective the excessive pressure from outside can eventually lead if not already resulted into an artificial self-invention of the need for imposition of completely unsuited to the peculiarities of the region solutions.

Another concern extends to the fact that the representatives of Transnistria do not enjoy the necessary legitimacy of representation¹¹ coupled with threatening *lack of commitment to any prior signed political agreements* from and by *Transnistrian* authorities, including those guaranteed by the OSCE, RF and Ukraine. Political unaccountability of Transnistrian leadership make their behavior extremely volatile and unpredictable where even parties guarantors cannot sustain the obligations entered prior by the Transnistrian region¹².

A similar of importance concern comes due to the fact that the proposal itself came out of the country process of negotiation based primarily on the vision earlier expressed by Transnistrian leaders and shared by some political circles of Russia. The process and also the concept itself is *strongly opposed by wide political spectra from right, right-center and left political parties* even hesitance of current political majority) with just very few exceptions¹³. The opposition political parties cumulatively share not less than a third of political preferences as stand alone political parties, while if comparing with the preferences of electorate on the federative solution, it is believed, that a much much wider electorate disfavors the federative solution. The federative solution thus enjoys not even substantial or significant support from the population that can have unprecedented impact on the society. A similar comparison with the autonomy solution enjoys probably the highest level of political support.

Autonomy solution does also have a number of threats as for instance a clear *Transnistria strong opposition and unwillingness* for participation in the negotiation by Transnistrian leaders. The same can be probably hardly said about people leaving in the region. It is even believed that a much more moderate position is shared by a substantial number of people¹⁴. The unwillingness to consider any solution but two

¹¹ None of the elections of any kind held in Transnistria had enjoyed the participation of the more than 20% of persons with the right to vote. Even that made that happened that opposition claims serious electoral frauds that allows the same people maintain leadership for almost 10 years. Comparing with the nearby regions of Ukraine or Moldova, and the countries mentioned, political leadership had changed at least three times.

¹² As an example can be given the memorandum of understanding signed in 1992 that stipulates that the Transnistrian conflict will be solved within the current borders of the Republic of Moldova.

¹³ Budapest 1994 (Summit declaration, par.7 and 14) ... **The CSCE's democratic values are fundamental to our goal of a community of nations with no divisions, old or new, in which the sovereign equality and the independence of all States are fully respected, there are no spheres of influence...**

¹⁴ Districts of Dubasari and Grigoriopol believed to have the most Unitarian position, with Tiraspol, Ribnita and lesser Tighina tending to have more autonomous visions, Camenca and Slobozia being in the middle. Extreme groups are supported by the leadership of the region. Private discussions with the local level initiative groups and people reveal that they do not support the federative solution as it, in their vision bring only the continuation of authoritarian regime of current leadership.

states within one is aided by political support from some Russian circles that are reasonably relied on and encouraged. It is widely shared and considered that the current leaders of Transnistria have no aim at pursuing a constructive position and dialogue for the reasons already mentioned: non-accountability to the population and lack of legitimacy, encouragement from external political forces from Russia¹⁵.

The autonomy solution would probably dissatisfy the negotiation position of *Russia as it strongly supports the federative solution*¹⁶. This important threat that also has a direct influence on the negotiation willingness of Tiraspol leadership influences negatively and decreases the probability of autonomy solution. Having said that one can only wonder if OSCE principles and the values the OSCE states committed to could be upheld here to serve a reference point in the negotiation process.

A concern that could also have legitimate presence is *potential political dominance of Chisinau, in the case of autonomy solution afterwards*. Experience shows that as a central state Moldova had been a weak player not been able to enforce a great number of its policies in the region. At the same time a number of even more particular and delicate situations found solution (Gagauz, Bulgarians). It is believed that if a democratic process of fair representation and election as well as government accountability to the people through democratic institutions functioning is continually strengthened in Moldova, this concern will not have serious grounds.

3.3 Social Cohesion and Reconciliation Perspective

Social cohesion and reconciliation perspective tries to cover social aspects, people attitude, opportunities for reconciliation and building up cohesion in the Moldovan society.

Major concerns for social cohesion and reconciliation in the federative solution are: high costs and lack of know-how for the transformation process, lack of enforcement of civil society, perseverance of state authorized “enemy” stereotypes; as compared with autonomy solution, they are primarily: fear of Transnistrian region to loose social benefits and galvanization of extremist groups. If compared by advantages autonomy solution will probably bring more viable integration and building up process of a political integral nation as compared to federative solution outcome that emphasis on distinctive role and place of each region.

Comparative Overview of Advantages

The federative solution assumingly is advantaged by the fact that *a part of population of the region shares a fear of potential discrimination* and also even prosecution from the authorities of Chisinau once the reintegration pursued. It does primarily go for

¹⁵ Lisbon 1996 (Summit Declaration, Par. 4 and 9) ... **We are determined to consolidate the democratic gains of the changes that have occurred since 1989 and peacefully manage their further development in the OSCE region. We will co-operate in strengthening democratic institutions...**

¹⁶ Istanbul 1999 (Charte for European Security, par. 14 and 19) ... **14. Peace and security in our region is best guaranteed by the willingness and ability of each participating State to uphold democracy, the rule of law and respect for human rights...**

those who pleaded obedience and commitment to Transnistrian authorities and mostly coming from repressive organs of current regime and politicians but also from persons who had been involved in grave human rights violations of killings or represent criminalized region elite, etc. A federative solution can give them a higher level of protection and immunity from claims to hold them accountable for the past injustices committed. This stratum of society – a mighty and influential one - exercises pressure and shapes the general opinion in Transnistria to the extent it is perceived by outsiders. It could be also true that a number of simple persons who were not involved directly or indirectly in the conflict, under the influence of region regime propaganda, formed a negative fearful opinion of potential reintegration. How enrooted is the opinion in people mentality remains unclear. The counterargument is that the region had never been closed or fenced off from the Western Moldova and an overwhelming number of people do have variety kinds of links with Western Moldova, especially in rural areas but also in cities of Transnistria as it goes along the business and entrepreneur activities between both banks.

One can also argue that a federative solution can bring benefits of the *region further social emancipation and self-esteem building as a regional phenomenon* - a regional characteristic and typology of a Transnistrian person distinct from Western Moldovan. It does have potential benefits, however it seems to have more theoretical considerations, considering that similar cultural patterns present in other parts of Moldova, as for instance in North and Northeast of Moldova. It is thus considered highly improbable and unjustified the position that the people of the region would claim a separate position as a nation or as peoples distinct or different from the rest of Western Moldova, with all the peculiarities attributed generically to any region of the country. An exception can be probably attributed, stretching to the maximum modest role of the differences, to Tiraspol and Ribnita – two big industrial cities in the region.

Finally another potential advantage can be speculated on the better region self-administration and maximum devolution of power to the region creating best conditions for the realization of regional human and social capital. That could be true however comparatively with the autonomy solution; the advantage seems not to be that imposing.

Advantages of autonomy solution for social cohesion is the *reintegration into the society aimed and sharing similar values as a political nation*. Integration does make the effort full of sense if it implies that all the elements of the solution contribute to the solution of the conflict. It is important though that the reintegration of the political identity process is being built within the understanding of sharing of the Moldovan integral state. Autonomy solution will certainly have greater catalysis for the integration processes and greater exchange and penetration of mutual influences between both banks of Moldova. Alternatively the federative solution seem to have more the effect of legitimizing the present state of Transnistria lacking the essential element of integration into one society enriched by mutual contributions in forming up an evolved political nation identify of state of Moldova.

A clear advantage of autonomy solution is the *existent experience* of Moldovan authorities for needed *institutional and legislative regulation and reform in view of autonomy solution* in Transnistrian region, given the examples of Gagauz autonomy, Taraclia, etc. From the social point of view the costs and management of the changes

the autonomy solution will have comparatively low costs. Subsequently, the costs of realization of the federative system of governing will be a clear burden for the country and most probably excessive for the regions and federative power to be administered¹⁷.

Comparative Overview of Concerns and Threats

Federative solution brings a number of concerns from social cohesion perspective as *preserving and cultivating the separatist mentality*, conservation of non-solution of many Transnistria difficulties of built stereotype “enemy”, region harsh negative portray of Western Moldova as invaders, continuous build up of Moldo-phobia. The existing hatred in Transnistria media towards the Moldovan/Romanian speakers and Western Moldova as a whole will be very probably remain unsolved and will trigger further tensions and will certainly not contribute to the country reintegration. The mentioned had been only possible due to on-going Transnistrian authority cultivation and facilitation. On the contrary in Western Moldova the mentioned phenomenon if exists has disproportionately less roots and the extent.

Another concern related to the situation is that in the region of Transnistria *civil society is the least developed sector* compared to similar sector in Western Moldova. Even Gagauz civil society sector reached higher level of development. If the situation is maintained the same with Transnistria region through excessive control of region authorities the important elements of social cohesion by wide public participation will be precluded. This leads to the situation of lack of sufficient information exchange between actors of civil society and precludes democratic institutions building process.

The *know-how and costs of setting up, harmonization and functioning of the federative state could be a significant preclusion* on the step of realization of the federative solution. Once the political agreement is signed, most importantly aided from abroad, the implementation of federative solution can by itself run into a number post agreement deadlocks as it had been proven by frequently “unconstructive” positions of Transnistrian authorities. This can result in political recognition but de facto practical absence of the solution of Transnistrian conflict. The concern should be closely weighted and thought through in a number of procedural steps if the solution is preferred.

The proposed federative solution based on territorial principles of federalization rather than on principles of ethnicity, language, religion or other significant distinction can bring about more problems with after implementation process and probably should be preferred in other circumstances than those related to Transnistria region. The particular circumstances of the case where the will of federative units to form up a federation is not the driving force behind, where the external force wants to accommodate the existent political domination in Transnistrian region within the power distribution formula of federation, the outcomes will inevitable inherit the conflicting situations in future.

¹⁷ If Gagauz region will be granted the federative territory the costs will be highly unreasonable.

Autonomy solution can be also characterized with a number of concerns of which the potential dominance of Chisinau in *social dimension of the problem solution can yield resistance from some elements* of society primarily from the city of Tiraspol and Ribnita. There is also a concern for the galvanization of extremist groups perpetuating the absolute solution of the independence of the region. Of the substantial concern could be the one that assumingly the Transnistria region is generally considered more industrially developed with income per capita higher than in the rest of Moldova territory that in the case of autonomy will lead cuts in social benefits as a result of bigger transfers to central budget. The process of reconciliation could be threatened by the need in substantial transformation and reforms of development of social sector, etc to adjust to the institutional setting of Moldova that could be opposed by the public sector and elite in Transnistria region. This said is taken in comparison with federative solution that needs social reforms but probably less adjustments to the system already existing in Moldova and less “giving-ups” to the central authorities.

These concerns could be effectively addressed by providing a flexible devolution of powers in the most sensitive areas of social, economic benefits, local and regional budgeting, etc within the autonomy solution.

3.4 Rule of Law and Human Rights Perspective

Few potential advantages of the federative solution are heavily outweighed by a number of treats and concerns: the inexistence of rule of law and democratic institutions, past and present mass human rights violations. If compared with the advantages of relevant experience of implementation of autonomy solution in Moldova bring strong benefits of: avoiding complex and poorly regulated in the federative solutions relationships between the current constitutional order and the proposed new one, makes the autonomy solution more preferable.

Comparative Overview of Advantages

Federative solution can potentially *better regulate highly sensitive language use* concerns on the territory of Transnistria region in such a manner that it will not provoke the conflicts¹⁸. Further federative solution can be potentially beneficial for significantly larger transfers of powers with regard to variety of policies that can generate conflicts and excessive limitations of human rights. These observations however can be effective if democratic institutions function in the region that unfortunately had not been the case since its inception.

Comparatively, *autonomy solution can still provide good framework for the enforcement of human rights policies and functioning of democratic institutions* based on the past experience of Moldova¹⁹ being a member of the Council of Europe and pursuing the policy for democratic reforms in last five years. Essential is the effective

¹⁸ Transnistria region regime is considered extremely human rights abusive with regard to the respect of minority and language rights itself: examples of Moldovan private and public school, Ukrainina minority.

¹⁹ Even though the human rights developments and functioning of democratic institutions present great concern in the Republic of Moldova itself for which more information one can find at <http://chdom.ngo.moldnet.md> at the website of Moldovan Helsinki Committee for Human Rights.

implementation human rights policies the independent and centralized judiciary and system of administration of justice. Relatively well established and functioning democratic institutions based on the stable and continuous development of constitutional order in Moldova is another strong advantage of the autonomy solution. Comparatively, federative solution will inherit the weak enforcement of constitutional order in Transnistria, inexistence of democratic institutions and other major problems.

Another strong advantage for the autonomy solution is the *no need for the major fundamental structural, institutional and legislative reforms* that will burden after all the public budget. The autonomy solution primarily can be managed with little implication from the part of states guarantors and the OSCE with Moldova capable in going through the process of reunification aided by political and technical support at initial stage from abroad. Autonomy solution will definitely help rising up the standards of human rights, rule of law enforcement and functioning of democratic institutions in the region of Transnistria, rather than opposing creating two systems and distinct practices for human rights respect and rule of law. That will later bring enormous outputs for the consolidation and the development of individual liberties and functioning democratic institutions.

Comparative Overview of Concerns and Threats

Federative solution can have little effect in attaining its objective in the conditions when *Transnistrian regime lacks the accountability and fair elections* which is the major failure in the region²⁰. The regime has no experience and respective conditions of functioning of democratic institutions, the governing elite is composed of few criminalized political persons²¹. The enforcement of human rights policies or respect for rule of law is questionable at the outset of becoming the federative unit, this will threaten overall the functioning of democracy in the whole federative state of Moldova²². The civil society is almost inexistence of which elements are heavily controlled by the law enforcement and security agents in the region.

The proposed federative solution by the agreement imposes a number of *provisions that clearly run counter the provisions of the existing Constitution* of Moldova, the nature of the agreement if considered to be an agreement that should lay the foundations of new federative state leave a number of juridical problems. Among them are: the unclear distribution of responsibilities between federative center and future federative territories that will bring potential conflicts; unjust combination of

²⁰ Copenhagen 1990 (par.2 to 5 and 24) OSCE commitments relating to the Rule of Law: (5.1) – free elections that will be held at reasonable intervals by secret ballot or by equivalent free voting procedure, under conditions which ensure in practice the free expression of the opinion of the electors in the choice of their representatives; (5.2) - a form of government that is representative in character, in which the executive is accountable to the elected legislature or the electorate;

Lisbon 1996 (Summit Declaration, par.9) ... Among the acute problems within the human dimension, the continuing violations of human rights, such as (...) electoral fraud (...) continue to endanger stability in the OSCE region. We are committed to continuing to address these problems.

²¹ Copenhagen 1990 (par.2 to 5 and 24) OSCE commitments relating to the Rule of Law, (5.4) – a clear separation between the State and political parties; in particular, political parties will not be merged with the State;

²² Copenhagen 1990 (par.2 to 5 and 24) OSCE commitments relating to the Rule of Law, (5.7) – human rights and fundamental freedoms will be guaranteed by law and in accordance with their obligation under international law.

arbitration and executive powers of the president, unresolved contradictions between the existent constitution and constitutions of future federative territories, etc. The role of countries guarantors is unregulated clearly, the terms of intervention for the guarantee of peace-keeping is not set clear, including the boundaries, conditions and framework of the intervention. This presents a considerable threat to the whole process of implementation of federative solution but also poses serious threats to the security and stability of future state, potentially undermining already gained achievements.

*Principles of separation of powers, independence of the judiciary, and respect for rule of law are probably the most substantial concerns in Transnistrian region*²³. The consequence of federative state could be felt by export of the principles onto the whole territory of federative state of Moldova that will threaten not only the country but also the objectives of the solution – the viable integration of Moldova. Transnistria had been little known in abiding external obligations honoring, it is known acting volatile and abusively infringing upon the human rights and democratic principles. Of a number of external agreements, including memorandum of understanding, Transnistria regime respected little of human rights provisions. It is improbable that Transnistrian leadership will abide with the external agreements, as is expected from a regime that is not accountable and volatile, on concluding upon federation, etc.

Mass abuses of human rights in Transnistria region: extrajudicial detentions and disappearance, arbitrary detention, political imprisonment, lack of fair trial, forcible assimilation, lack of independence of judiciary and principles of separation of powers, dominance of criminalized group over the State, suppression of undesirable opinion are the most widely recognized and known cannot and should not be forgotten when considering viability of federative solution. Lack of accountability for the past injustices and mass human rights violations can amount to undermine of the whole process of implementation of federative solution where Transnistrian authorities will be left with significant discretion in functioning.

Such a discrepancy in experiences and practices, extreme opposition from an authoritarian regime to a functioning democracy within one state can threaten the democratic achievements and provoke an institutional, legislative and overall chaos.

Comparatively autonomy solution can potentially lead to minority language rights concerns as the past experience shows, however nowadays realities clearly outset this scenario.

²³ Copenhagen 1990 (Preamble, par.9 and 11) OSCE commitments relating to the Democracy/democratic institutions: [The participating States] recognize that pluralistic democracy [is] essential for ensuring respect for all human rights and fundamental freedoms, ... They therefore welcome the commitment expressed by all participating states to the ideas of democracy and political pluralism as well as their common determination to build democratic societies based on free elections and rule of law. **The participating States express their conviction that [...] the development of societies based on pluralistic democracy and rule of law are prerequisites for progress in setting up the lasting order of peace, security, justice and co-operation that they seek to establish in Europe (...).**

4. Background Information

4.1 Current political situation in the Republic of Moldova (including Transnistrian region)

Republic of Moldova is a multinational state with population of 4 500 000 people²⁴ with ethnic composition: Moldovans/Romanian (64,5%), Ukrainians (13,8%), Russians (13%), Gagauz (3,5%), Bulgarians (2%), Roma (0,3%), Jewish (1,5%), and other minorities. A similar breakdown for left bank where the population is about 700 000 will look like: Moldovans/Romanians (41%), Ukrainians (28%), Russians (23%) and others (10%)²⁵. Republic of Moldova declared its independence in 1991 and became the member of UN in March 1992.

In 1992 a separatist regime with the military aid of 14th Russian Army and mercenaries seized control of Constitutional forces. A short-time military conflict broke out killing several hundreds dead from both parts and civilian population. A seize-fire agreement between Constitutional forces and break away regime mediated by Russia, Ukraine, and OSCE came into force in July 1992. Russia and Ukraine offered to maintain peace in the region establishing the security zone along Nistru River. Since then the solution of the Transnistrian problem had not moved even a while.

In 1995, Moldovan Parliament voted the Law on creation of Gagauz autonomy in South of Moldova, where 70 000 population had self-governing territory with Legislative Assembly, autonomy head of the executive who is the member of the Government. In 1997 Law on territorial arrangement established 11 districts- second level of autonomy- and granted 30 000 Bulgarian minority in the South a district second level autonomy within Taraclia district. Since there had not been serious or major disputes between central authorities and Gagauz or Bulgarian autonomies.

In 1999, at Istanbul OSCE summit Russian Federation agreed to withdraw its military presence from Transnistrian region by the end of 2002. The commencement is being threatened by undesired of Transnistrian authorities to let the military ammunitions from the region.

²⁴ Current assessment give the figures that in reality around 1 000 000 people left Moldova (including Transnistrian region and other regions proportionally) seeking better life elsewhere, including, Romanian, Ukraine, Russia, Turkey but also Western countries.

²⁵ Transnistrian region is divided into 5 small districts: **North:** Ribnita (25% -Moldovans), Camenca (38% -Moldovans), **Center:** Dubasari (82% -Moldovans.), Grigoriopol (67% -Moldovans), **South:** Slobozia (50% -Modovans). From Department of Statistics of the Republic of Moldova based on census 1989.

4.2 Short description of proposals for solution of the Transnistrian conflict

- *Federalization Plan*²⁶

Under auspices of OSCE mission “Federalization Plan” for Moldova had been proposed as a solution of Transnistrian conflict of the Republic of Moldova²⁷. The outline of the plan is as follows:

Republic of Moldova will become a federative state with two or three territorial-administrative units that will form up a federative state of Moldova. The federative state of Moldova elect a bi-cameral Parliament composed of chamber of deputies (71 deputies, proportionally to the population from each territorial federative unit) and chamber of representatives (30 deputies, equal from each territorial federative unit). It is presumed that left bank of Moldova (known also as Transnistrian region with around 700 000 population), Gagauz autonomy (with population of about 70 000) and the rest of right bank of Moldova (with population about 3 500 000) will form up the federative state. Each federative territory will enjoy vast regional powers including its constitution, regional executive, judiciary, law enforcement authorities, etc. The federative level will be responsible for common currency, defense, and external policy.

- *Autonomy Plan*

Current Constitution of Moldova, in article 111, provides that Transnistrian region of Moldova can be attributed a large self governing autonomy comparable or even larger than the autonomy enjoyed by Gagauz in South of Moldova. Several plans had been advanced since the outbreak of Transnistrian conflict in 1992 that can be generically summarized as follows:

Transnistrian region will be given large autonomy of self-governing in the field of education, culture, public administration, regional finances, tax and economic policies. Republic of Moldova will retain central Parliament, Government, centralized judiciary and law enforcement authorities at central level as well as defense, external policies.

²⁶ Full document can be found in Annex 2

²⁷ The draft, stipulating the Transnistrian problem solution through federalization of Moldova, was proposed as a working variant at the July 2-3 meeting in Kiev. On behalf of the international mediators, OSCE Mission Head Mr. David Swartz submitted it to the Chisinau and Tiraspol representatives. The mediators then met in Moscow on August 19, and approved the document as a possible variant for resolving the Transnistrian conflict.

5. Annex 1. Table of Comparative Analysis of Proposed Solutions

Political and regional perspective:

<i>Federative solution</i>	<i>Autonomy solution</i>
<p><u>Advantages (opportunities):</u></p> <ul style="list-style-type: none"> - (4) better equilibrium of influence and sharing of political power at central level (country)-raising the level regional participation on central level of regions; (unclear procedure and representation in superior camera from Transnistria) - (2) encouraging the regional development and concentration and creating/legitimizing centers of political influence (Transnistria, Gagauzia); - (2) contribution to overall country stability; - (2) countries guarantors, international community and OSCE mission satisfied with the process; <p>(1) potentially better representation of interests and bringing the participation process closer to people from regions in deciding on country level;</p>	<p><u>Advantages (opportunities):</u></p> <ul style="list-style-type: none"> - (4) Time effectiveness of realization of the proposal; - (4) Parliament with autonomy regions representation in similar as proposed (bicameral participation); - (4) Integrative process of country political consolidation as a nation; - (3) Vision of settling the Transnistrian conflict elaborated through years of participation of different political forces; - (3) contribution to overall country stability; <p>(2) no military or paramilitary forces on Trnasnistrian side;</p>
<p><u>Disadvantages (concerns and threats):</u></p> <ul style="list-style-type: none"> - (5) conflictous situations between administrative territories subjects of federation; - (5) lack of commitment to the Agreement from and by Transnistrian authorities; - (5) not directing to solution of only Transnistrian conflict but a larger impact and aim (affecting other regions and the country); - (5) creation of precedent based on the federalization without good ethnic, linguistic, religious, etc reasons; - (4) week country overall policy and orientation as a state; - (4) strong opposition to plan from right, right-center political parties (hesitance of current political majority); - (4) proposal came from out of the country process of developing a proposal for solution (other political forces – not governing – having little participation in the process); - (4) dissipation of institutional reform pace; <p>(3) little resources (human, other) to form up a viable political power;</p>	<p><u>Disadvantages (concerns and threats):</u></p> <ul style="list-style-type: none"> - (5) authorative regime, lack of fair elections and representative ness; - (5) Lack of representation of people will in Transnistrian representatives at negotiation; - (4) unsatisfied RF; - (3) Transnistria strong opposition and unwillingness for participation; - (2) Political dominance of Chisinau;

Social cohesion and country reconciliation perspective:

<i>Federative solution</i>	<i>Autonomy solution</i>
<p><u>Advantages (opportunities):</u></p> <ul style="list-style-type: none"> - (4) Decentralization of power and better local 	<p><u>Advantages (opportunities):</u></p> <ul style="list-style-type: none"> - (5) less “excessive” administrative costs of

<p>and regional representation of interests of population;</p> <ul style="list-style-type: none"> - (4) Region people self-emancipation and region self-esteem building; <p>(4) Mentality, lack of assurance and guarantees in the future of the region;</p>	<p>governing;</p> <ul style="list-style-type: none"> - (5) self-emancipation, more integral society; - (3) still decentralization of powers;
<p><u>Disadvantages (concerns and threats):</u></p> <ul style="list-style-type: none"> - (5) too small regions/administrative territories to set an viable civil society; - (5) conservation of separatist mentality; - (5) inexistence of practices and international models for the setting up a similar conflicts (peoples...); - (5) conservation and non-solution of the linguistic, ethnic, etc conflict in Transnistria-Moldova schools; <p>(4) "excessive" administrative costs related to the country administrative-territorial and overall governing;</p>	<p><u>Disadvantages (concerns and threats):</u></p> <ul style="list-style-type: none"> - (4) Potential dominance of Chisinau in the process of reconciliation with Tiraspol (public administration, police, judiciary, etc); - (4) Too centralized Chisinau position in the society (taxes, economic finance policies, social benefits, etc); - (3) galvanizing of extremist forces - (2) Transnistria seeing "not satisfied" with the results;

Human rights and rule of law perspective:

<i>Federative solution</i>	<i>Autonomy solution</i>
<p><u>Advantages (opportunities):</u></p> <ul style="list-style-type: none"> - (3) minority issues: language, etc regulated in a more decentralized manner; - (3) clearer delimitation of attributions and responsibilities; 	<p><u>Advantages (opportunities):</u></p> <ul style="list-style-type: none"> - (4) centralized judiciary and better enforcement of human rights policies; - (4) adjustment and continuity and gradual development of constitutional order; - (4) no need for fundamental major structural, institutional and legislative reforms, burdens for budget;
<p><u>Disadvantages (concerns and threats):</u></p> <ul style="list-style-type: none"> - (5) International agreement imposing against the current constitutional order; - (5) threat for independence of judiciary and other rule of law institutions, most importantly Transnistria; - (5) Transnistria lack of political representation and fair election tradition and experience; - (5) Lack of viable civil society representation in Transnistria and Gagauzia; - (5) legislative, institutional chaos, collisions, incertitude, lack of clarity in the relationships; - (5) lowering the standards of human rights on federal level; - (4) Lack of experience of human rights and democratic institutions building and enforcement; <p>(4) Non-accountability for mass violations of human rights in Transnistria;</p>	<p><u>Disadvantages (concerns and threats):</u></p> <ul style="list-style-type: none"> - (3) problematic minority language issues settling; - (3) problematics with taking into consideration differences of the regions from minority and language perspectives, etc

6. Annex 2. Federative Solution proposal

AGREEMENT: The Republic of Moldova and Transdnistria, hereinafter referred to as the Parties,

Striving rapidly and comprehensively to overcome by exclusively peaceful and political means the consequences of the conflict which occurred in the Transdnistrian region of the Republic of Moldova;

Recognizing the responsibility for integrating the country, for securing civil peace, trust, mutual understanding, and concord in society;

have agreed to the following:

Chapter 1. Fundamentals of the Constitutional System of the Republic of Moldova

Article 1

The Republic of Moldova is a democratic, federal State, governed by the rule of law, with a republican form of government, the policy of which is oriented toward creating conditions ensuring a decent life and free development for the individual.

Article 2

The human being, his rights and freedoms represent supreme values. The recognition, observance, and protection of human rights and rights and freedoms of the citizens are the obligation of the State. Every citizen is guaranteed judicial protection of his/her rights and freedoms.

The decisions and actions (or lack of action) of the central authorities, local administration, public associations, and civil servants may be challenged in court.

Each citizen is entitled, in accordance with the international treaties entered into by the Republic of Moldova, to appeal to international human rights institutions, in case all domestic legal remedies have been exhausted.

Article 3

National sovereignty resides with the people of the Republic of Moldova, who are the only source of State power. The people shall exercise their power directly and through central and local authorities.

The sovereignty of the Republic of Moldova applies on its entire territory.

The Constitution and the laws of the Republic of Moldova have supremacy on the entire territory of the Republic of Moldova. The Republic of Moldova guarantees the territorial integrity and inalienability of its territory.

Article 4

State-territorial entities shall be established within the Republic of Moldova. They shall be entitled to have their own constitution and legislation.

The state order of the Republic of Moldova is based on its state integrity, unity of the system of State power, delimitation of competencies and powers between the State authorities of the Republic of Moldova and the authorities of the state-territorial entities of the Republic of Moldova.

In their interrelations with the central authorities of the Republic of Moldova, the state-territorial entities of the Republic of Moldova shall enjoy equal rights vis-à-vis each other.

Article 5

The citizenship of the Republic of Moldova is acquired or lost in accordance with the law and is single and equal irrespective of the bases of its acquisition.

Each citizen of the Republic of Moldova shall enjoy on its territory all the rights and freedoms and shall bear equal responsibilities as provided by the Constitution of the Republic of Moldova.

Article 6

The unity of economic space, free movement of commodities, services, and financial means, and the freedom of economic activity are guaranteed in the Republic of Moldova. Private, State, municipal, and other types of property shall be equally recognized and protected in the Republic of Moldova.

Article 7

The legislative, executive, and judicial branches in the Republic of Moldova are separate and interact in the exercise of their prerogatives in accordance with the provisions of the Constitution. The legislative, executive, and judicial bodies are independent.

Article 8

State power in the Republic of Moldova is exercised by the President of the Republic of Moldova, the Parliament (Chamber of Representatives and Chamber of Legislators), the Government of the Republic of Moldova, the courts of the Republic of Moldova.

State power in the state-territorial entities of the Republic of Moldova is exercised through organs of State power to be established by them.

Delimitation of competencies and powers between the bodies of State power of the Republic of Moldova and the bodies of the state-territorial entities of the Republic of Moldova shall be realized through the present Agreement, the Constitution and the laws of the Republic of Moldova, other agreements on delimitation of competencies and powers.

Article 9

Local self-government shall be recognized and guaranteed in the Republic of Moldova. The local self-government is independent within the limits of its competencies.

Article 10

Political diversity and a multi-party system shall be recognized in the Republic of Moldova.

Chapter 2. State Order

Article 11

The territorial organization of the Republic of Moldova shall include the state-territorial entities to be established, by which is meant constitutionally bound internal self-government of a part of the State territory.

Article 12

The status of the state-territorial entities shall be determined by the present Agreement, the Constitution and the laws of the Republic of Moldova. Their status may be modified by mutual consent of the Republic of Moldova and the state-territorial entities in accordance with the Constitution.

Article 13

The borders of the state-territorial entities of the Republic of Moldova may be changed by their consent and that of the Republic of Moldova.

Article 14

The national language on the entire territory of the Republic of Moldova is Moldovan, and its writing is based on the Latin script.

The state-territorial entities have the right to establish their own official languages. These shall be used in the bodies of State authority, local administration, and institutions, along with the State language of the Republic of Moldova.

The Republic of Moldova guarantees the right to all people living on its territory to preserve their native language and to create conditions for its study and development.

Article 15

The Republic of Moldova shall have the following competencies:

- a. Adoption and amendment of the Constitution and the laws of the Republic of Moldova and control over their implementation;
- b. State order and the territory of the Republic of Moldova;
- c. Regulation and protection of the rights and freedoms of the individual and citizen; citizenship in the Republic of Moldova, regulation and protection of the rights of national minorities;
- d. Establishing the legislative, executive, and judicial systems, the procedures of their organization and functioning; forming bodies of State authority;
- e. State property and its management;
- f. Establishing the fundamentals of policy and programs in the areas of State, economic, ecological, social, cultural, and national development of the Republic of Moldova;
- g. Establishing the legal bases for a unified market; financial, currency, credit, customs control regulations, money issuance, foundations of a price policy; economic agencies, including the National Bank;
- h. Republican budget, taxes and duties;
- i. Power supply systems, transport, railroads, information, and communications;
- j. Foreign policy and international relations of the Republic of Moldova, international treaties of the Republic of Moldova, matters of war and peace;
- k. Foreign economic relations of the Republic of Moldova;
- l. Defense and security; defense industry; determination of procedures for selling and buying arms, ammunition, military equipment, and other military property; production of poisonous substances, drugs, and regulations for their use;
- m. Determining the status of and protecting State borders and the airspace of the Republic of Moldova; the regime of frontier zones;
- n. Judicial system, law enforcement, criminal legislation, criminal procedural legislation, and legislation on enforcing sentences; amnesty and pardon; civil legislation, civil procedural legislation, and arbitration procedural legislation; legal regulation of intellectual property;
- o. Legal collisions;
- p. Meteorological service, standards, models, metric system, time measurement, geodesy and cartography, geographical names, official statistical registration and accounting;
- q. State awards and honorary titles of the Republic of Moldova.

Article 16

The joint competencies of the Republic of Moldova and state-territorial entities include:

- a. Ensuring that the constitutions and laws of the state-territorial entities correspond to the present Agreement, the Constitution and the laws of the Republic of Moldova;
- b. Protecting the rights and freedoms of the individual and citizen; protecting the rights of national minorities; ensuring legality and the rule of law;
- c. Issues of property, use and management of land, earth, water, and other natural resources;
- d. Delimitation of State property;
- e. Nature management; environmental protection and ecological safety; protection of natural territories; historical and cultural monuments;
- f. General issues of instruction, education, science, culture, physical training and sports;
- g. Coordinating health care issues; protection of family, motherhood, fatherhood, and childhood; social security, including welfare;
- h. Implementing measures for managing catastrophes, natural disasters, epidemics, and eradicating their consequences;
- i. Establishing common principles of taxation;

- j. Administrative, administrative procedural, labor, family, residence, land, water, forest legislation, legislation on earth resources, legislation on environmental protection;
- k. Staff of the judicial and law enforcement bodies, the Bar, Notary's Office;
- l. Establishing common principles for the organization of the system of State authority and local self-government.

The provisions of this article shall apply to all the state-territorial entities equally.

The implementation of joint competencies and the exclusive competencies of the Republic of Moldova and the state-territorial entities as agreed by the Parties and shall proceed on a step-by-step basis.

Article 17

Beyond the limits of competencies of the Republic of Moldova and its powers in the areas of joint competency of the Republic of Moldova and the state-territorial entities of the Republic of Moldova, the state-territorial entities of the Republic of Moldova enjoy full State power.

Article 18

The establishment of internal customs borders, taxes, duties, or any other impediments to the free movement of commodities, services, and financial resources is forbidden on the territory of the Republic of Moldova.

Limitations to the movement of commodities and services may be introduced in accordance with the legislation of the Republic of Moldova, if necessary for security reasons, for ensuring the lives and well-being of people, for safeguarding nature and cultural values.

Article 19

The monetary unit of the Republic of Moldova is the Lei. Money issuance shall be executed solely by the National Bank of the Republic of Moldova. Introduction or issuance of other currency is forbidden in the Republic of Moldova.

Article 20

Constitutional laws shall be adopted concerning the competencies of the Republic of Moldova having direct force on the entire territory of the Republic of Moldova. Laws of the Republic of Moldova shall be adopted, as well as laws and other normative acts of the state-territorial entities of the Republic of Moldova conforming with the former, shall be adopted, regulating the areas of joint competencies of the Republic of Moldova and the state-territorial entities. Beyond the competencies of the Republic of Moldova, and the joint competencies of the Republic of Moldova and the state-territorial entities of the Republic of Moldova, the state-territorial entities shall execute their own legal set-up, including passing of laws and other normative legal acts.

The laws and other normative legal acts of the state-territorial entities of the Republic of Moldova shall not contradict the laws of the Republic of Moldova. In case of contradiction, the law of the Republic of Moldova shall prevail.

Article 21

The state-territorial entities shall determine the system of organs of State authority independently in accordance with the fundamentals of the constitutional system of the Republic of Moldova and the common principles of organization of the legislative and executive branches of State authority.

Organs of executive authority of the Republic of Moldova and organs of executive authority of the state-territorial entities shall constitute one unified Executive Branch system in the Republic of Moldova.

Article 22

With a view to implementing their competencies, the organs of executive authority of the Republic of Moldova may establish their territorial organs and appoint relevant officials.

By common agreement with the organs of executive authority of the state-territorial entities, the organs of executive authority of the Republic of Moldova may delegate implementation of part of their competencies to them, if this does not contradict the present Agreement, the Constitution and the laws of the Republic of Moldova.

By common agreement with the organs of executive authority of the Republic of Moldova, organs of executive authority of the state-territorial entities may delegate implementation of part of their competencies to them.

The President of the Republic of Moldova and the Government shall ensure the implementation of State authority competencies throughout the Republic of Moldova, in accordance with the present Agreement and the Constitution of the Republic of Moldova.

Chapter 3. The President of the Republic of Moldova

Article 23

The President of the Republic of Moldova is the Head of State.

In accordance with the Constitution and the laws of the Republic of Moldova, the President shall determine the main directions of the domestic and foreign policies of the State.

Article 24

The President of the Republic of Moldova shall be elected at the joint session of both Chambers of the Parliament.

The President of the Republic of Moldova has all the rights and duties stipulated in the Constitution of the Republic of Moldova and other constitutional laws.

The President of the Republic of Moldova is entitled to suspend the effect of acts of organs of executive authority of the Republic of Moldova and of the state-territorial entities of the Republic of Moldova, in case they violate the Constitution and the laws of the Republic of Moldova, international commitments of the Republic of Moldova, or the rights and freedoms of individuals and citizens, until the issue is settled by an appropriate court of law.

The President of the Republic of Moldova may utilize agreed procedures for resolving disagreements between organs of State authority of the Republic of Moldova and organs of State authority of the state-territorial entities, and also between organs of State authority of the state-territorial entities.

In the event of non-achievement of an agreement resolution, he may transfer resolution of the dispute for review by an appropriate court.

Article 25

The President of the Republic of Moldova may be removed from office by the Parliament on the basis of the Constitution of the Republic of Moldova.

A decision by the Parliament to remove the President from office requires a two thirds vote by the members of the Parliament.

Chapter 4. The Parliament of the Republic of Moldova

Article 26

The Parliament of the Republic of Moldova consists of two chambers: the Chamber of Representatives and the Chamber of Legislators. The Chamber of

Representatives consists of 71 members. Its members are elected in accordance with the law, by voting based on universal, equal, direct, secret and freely expressed suffrage. The state-territorial entities are guaranteed representation in the Chamber of Legislators in proportion to the number of their voters.

The Chamber of Representatives consists of 30 members and represents the chamber of territorial representation. The state-territorial entities are represented in the Chamber by an equal number of votes.

The election of the Parliament, the organization of its activity, and its competencies are established by the Constitution and the laws of the Republic of Moldova.

Article 27

The right to legislative initiative belongs to the President of the Republic of Moldova, the members of the Parliament, the Government of the Republic of Moldova, and the legislative authorities of the state-territorial entities of the Republic of Moldova.

Draft laws are submitted in the Chamber of Legislators.

Article 28

The laws of the Republic of Moldova are passed by the Chamber of Legislators on the basis of majority vote of the overall number of deputies of this chamber, unless the Constitution provides otherwise.

The laws passed by the Chamber of Legislators shall be submitted to the Chamber of Representatives within 14 days.

A law of the Republic of Moldova shall be considered as approved by the Chamber of Representatives if more than half of the overall number of members of this chamber voted for it or if the Chamber of Representatives fails to consider it during the 14 days. In case of disagreement by the Chamber of Legislators with the decision of the Chamber of Representatives a law shall be considered as passed if on a second ballot it receives not less than two-thirds majority of votes of the total number of members of the Chamber of Legislators.

In case the President of the Republic of Moldova rejects a law within fourteen days after its submission, the Parliament shall examine the law for a second time in accordance with the set procedure. If, under the second consideration, the law is passed in the previously adopted version, the President of the Republic of Moldova shall promulgate the law.

Article 29

Constitutional laws are passed on matters envisaged by the present Agreement and the Constitution of the Republic of Moldova. The Constitutional law is considered as passed if it is approved by two-thirds of the overall number of members of the Chamber of Legislators.

Chapter 5. The Government of the Republic of Moldova

Article 30

Executive authority of the Republic of Moldova is exercised by the Government of the Republic of Moldova. The formation, organization of activities, and the powers of the Government are established by the Constitution and laws of the Republic of Moldova.

Chapter 6. The Judicial Authority of the Republic of Moldova

Article 31

Justice in the Republic of Moldova shall be administered by courts of law only.

The court system of the Republic of Moldova is established by the Constitution of the Republic of Moldova and its laws. Creation of extraordinary courts is forbidden.

Chapter 7. Local Self-Government in the Republic of Moldova

Article 32

The local administration guarantees independent resolution of problems of local interest by the people.

Local administration is carried out by the citizens through referenda, elections, other forms of direct expression of will, as well as through electoral and other organs of local administration.

Chapter 8. Guarantees and Transitional Provisions

Article 33

With a view to assuring guarantees for implementation and establishment of a mechanism to fulfill the provisions of this Agreement and other documents on issues of the Transdniestrian settlement,

The Republic of Moldova and Transnistria mutually guarantee full and unconditional implementation of agreements governing their interrelations.

Article 34

The Parties undertake not to resort to force, or to threats of the use of force, in their mutual relations.

The Parties confirm that any and all disagreements shall be settled by exclusively peaceful means, through negotiations and consultations between the Republic of Moldova and Transnistria, with the assistance and mediation of the guarantor-states and the OSCE Mission.

Article 35

The Russian Federation, Ukraine, and the OSCE are the guarantors of the observance of provisions of the Agreement.

Article 36

The Parties agreed on applying the guarantees for fulfilling the provisions of the Agreement in the following spheres:

I. Political Guarantees

Mutual respect toward the positions of the Parties shall be ensured, as well as the non-acceptance of unilateral measures directed against other Party which could undermine its authority.

The Parties shall develop a coordinated intra-State procedure for entering into force of international documents which affect the interests of Transnistria.

II. Economic Guarantees

During the transition period, by mutual efforts of the Republic of Moldova and Transnistria:

- issues regarding the restoration and raising of the economy shall be solved, as well as development of economic relations in such spheres as the fuel-energy complex, transport, communications, etc.; investments projects and creation of joint ventures shall be stimulated;
- the sums and sources of the contributions to the joint state budget shall be determined by mutual agreement;
- the issue of a common currency shall be dealt with step-by-step, until the introduction of which the current currency regulations are maintained;
- the content of cooperation between banks shall be determined through mutual agreement;
- laws on the state property shall be harmonized, as well as the legislation on privatization and property rights registration;
- the tax systems shall be harmonized, by establishing common principles of taxation and by developing a unified legislation in this sphere;
- the work for developing a common legal basis shall be organized.

III. Military Guarantees

In order to support secure peace and stability, the Parties agree to the presence during the transition period of peacekeeping forces under the supervision of the OSCE.

The provision on the peacekeeping forces in Transdniestria is governed by a separate document, which is signed simultaneously with the present Agreement.

In order to strengthen confidence, to complete the unification of the Army, and implement military guarantees, the Republic of Moldova and Transdniestria jointly undertake during the transition period:

- a. To inform each other about planned military activities;
- b. To establish the institution of military observers of the Parties at the organized military activities.

IV. Social, Cultural, and Other Guarantees

In the Republic of Moldova there are common coordinated standards in the fields of education, health care, culture, welfare, retirement benefits, levels of social guarantees in labor, social security.

On the entire territory the population enjoys equal and unhindered access to medical care, to general and specialized education; equal conditions shall be created for the implementation of educational and cultural needs and necessities of citizens.

All the authorities in Transdniestria shall ensure the observance of internationally recognized human rights and fundamental freedoms, provisions on the rights and freedoms contained in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols. The stipulations on these rights and freedoms have superior force over other laws. Everyone in Transdniestria may appeal to international institutions to defend his/her rights.

All representatives of international organizations shall have access to Transdniestria in order to provide international assistance. All inhabitants of Transdniestria shall also have unhindered and direct access to the staff members of such organizations.

The Parties acknowledge that all the citizens have the right to return to their homes in Transdniestria and Moldova. The relevant authorities shall take all measures to facilitate the safe return of such persons. The Parties shall take all measures to accommodate them. All these persons are entitled to their property and personal belongings.

Through search mechanisms of the Committee on Missing Persons, the Parties shall cooperate and submit information to the families of all the persons, whose fate is unknown.

The Parties appeal to the international community with the request to provide humanitarian aid primarily for refugees and displaced persons returning to their abandoned homes.

Article 37

Amendments shall be introduced to the Constitution of the Republic of Moldova to take account of the provisions of the signed documents on the settlement of relations between the Republic of Moldova and Transdniestria. The constitution and legislation of the subjects of the Republic of Moldova shall conform to the Constitution of the Republic of Moldova and the present Agreement.

Article 38

The institutions currently functioning in Transdniestria shall be retained until their replacement by bodies established in accordance with the Constitution of the Republic of Moldova and the present Agreement. All the laws, decisions, and other acts valid in Transdniestria at the moment of this Agreement entering into force, remain in effect if and until they are replaced by laws and decisions adopted by a competent body.

Article 39

To settle disputes and conflict situations during the transition period, the Republic of Moldova and Transdniestria agreed to establish joint commissions on the basis of mutual trust.

In the year _____ elections in the two-chamber Parliament of the Republic of Moldova shall be held, and the new organs of authority of the Republic of Moldova and the state-territorial entities shall be established.

Article 40

From the moment of signature of this Agreement the Parties shall ensure:

- development of mechanisms for establishing a unified budget, banking/credit systems, macroeconomic policy;
- use by Transdnistria of its own monetary unit along with the Moldovan Lei, for cashless payments;
- citizen's rights and freedoms;
- implementation of measures to reduce the armed forces of the Parties to their minimal possible level;
- implementation of measures to combat crime;
- the resolution of other issues.

Article 41

Based on agreements to be reached in the transition period, as well as on documents determining the status of Transdnistria, the Parties agreed with the necessity of preparing and submitting the appropriate legislative initiatives on adding to and amending legislation.

To implement the measures for step-by-step settlement set out in this Agreement, the Parties shall continue to hold regular meetings, shall ensure the uninterrupted work of the commissions on socio-economic development and on coordination and support of the negotiating process.

The Parties may also, if necessary, establish by mutual consent joint or conforming commissions, expert groups, other working bodies for the drafting and implementation of various agreements.

Each Party has the right to pass legal acts, facilitating the implementation of competencies and obligations contained in the present Agreement, on condition that such acts shall not modify, limit, or undermine the obligations set forth in this Agreement.

Article 42

The present Agreement has supreme judicial force, direct effect and it applies on the entire territory of the Republic of Moldova. Laws and other legal acts adopted in the Republic of Moldova may not violate the present Agreement.

The universally recognized principles and norms of international law are a constituent part of the legal system of the Republic of Moldova. This Agreement enters into force from the day of its signature.

For the Republic of Moldova

For Transdnistria

From the guarantor states:

For the Russian Federation

For Ukraine

For the OSCE
