

The OSCE and the Moldova- Transdnistria Conflict: Lessons in Mediation and Conflict Management

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Abstract

The OSCE has been involved in attempts to resolve the Transdniestrian conflict since 1992, even before the conference became a formal organization. As is the case with other conflicts, the OSCE has often been criticized in Moldova for failure to resolve the conflict. Such criticism, however, often glosses over the positive impact OSCE missions have had on mediation processes, the Moldova-Transdniestria conflict in particular.

Keywords

Moldova-Transdniestria Conflict; OSCE; mediation

The OSCE has been involved in attempts to resolve the Transdniestrian conflict since 1992, even before the conference became a formal organization. As is the case with other conflicts, the OSCE has often been criticized in Moldova for failure to resolve the conflict. When I was Head of Mission, I frequently used a local cartoon to illustrate such criticism – the cartoon depicted the OSCE as a tortoise moving only imperceptibly along a road in the direction of a sign labeled “Transdniestrian settlement.”

It is indeed true that the Moldova-Transdniestria dispute is one of four conflicts that arose on the Soviet periphery as the USSR disintegrated and that remain to this day unresolved. If a full settlement is the only criterion for success, then in these four conflicts, in particular Moldova, the OSCE is indeed a failure. However, I consider this standard not entirely fair, since no organization can resolve a dispute that the parties themselves persist in continuing. In the meantime, the OSCE has done many things over the past two decades to move the parties to the conflict in Moldova closer to agreement, to avert exacerbation of the conflict, and to make life better for populations on both sides of the river that now divides Moldova.

I firmly believe that there is much to be learned from the experience of the OSCE in the Moldova-Transdniestria conflict, so much so that I wrote a book, which appeared in print about a year ago, on this very subject – Russia, the Near Abroad, and the West: Lessons from the Moldova-Transdniestria Conflict. The book considers the Transdniestrian conflict in a broader EuroAtlantic context, but focuses in particular on the year 2003, when President Voronin’s constitutional initiative and Dmitri Kozak’s Memorandum brought the conflict the closest to settlement it has ever been.

In this article I will not go deeply into the details of 2003 – anyone who wishes to can read the book. Instead, I will try to cite in general terms some of the lessons learned from OSCE involvement and activity over at least a decade and a half in Moldova.

My experience in the OSCE Mission to Moldova and the Transdniestrian political settlement process demonstrated for me a number of areas where the OSCE has great potential:

First, a well-conceived field operation with a good mandate can accomplish many things, some of them surprising. Presence on the spot provides access, knowledge, and credibility that are simply not available to those working in bilateral embassies or offices in capitals. For example, the presence of OSCE Mission personnel on the ground in Moldova and the trust they earned with local officials enabled us to obtain access on the left bank for representatives of the IAEA, WHO, and other international governmental and non-governmental organizations that for various reasons would otherwise have had difficulty working directly with an unrecognized entity. OSCE Mission personnel are often perceived as neutral, in a way that bilateral Embassy officers seldom can be.

Second, and related to the first point, the OSCE presence on the ground enabled quick response, trouble-shooting, and confidence-building. In several cases the rapid deployment of OSCE Mission military or civilian members in Moldova observed and defused charges of troop build-ups, police actions, and the like. Both the charging and accused sides appreciated the intervention and objective opinion of a neutral party such as the Mission.

Third, ad hoc groups of interested states within the OSCE, whether in Vienna or in the field, can be effective fora for discussing, developing, and adopting special approaches to particular questions. During my tenure, especially in my first term, the so-called “Friends of Moldova” in Vienna was an effective mechanism for keeping interested participating states informed and active in the Transdniestrian settlement process without having to bring everything for consideration and approval to the Permanent Council. As long as the actions of such groupings remain within broad policy guidelines established by consensus of all the participating states, they can provide effective means for addressing specific problems or issues.

Fourth, the OSCE can develop and implement special projects of great significance and impact. For example, the Voluntary Fund for the withdrawal and destruction of Russian military equipment, arms, and ammunition in Moldova raised over 20 million Euros and successfully disposed of almost all heavy arms and half of the enormous stores of ammunition left in Moldova from the Cold War. This job is not done, but compared to the situation and amounts of arms and ammunition I found in Moldova on my arrival in 1999, the country is substantially demilitarized and the security situation significantly better (irrespective of any current failings).

Fifth, the experience in Moldova demonstrates many ways in which OSCE institutions can cooperate, acting as force multipliers for one another. The HCNM actively supported Mission efforts to keep open controversial schools on the left bank and to make the Gagauzia autonomy agreement work better. ODIHR participated in efforts at electoral reform and improving institutional capabilities. The OSCE PA contributed significantly to efforts at reconciliation through parliamentary contacts.

Sixth, the OSCE has been able to recruit, attract, facilitate, and sponsor the involvement in the settlement process of experts from other international organizations, NGOs, and track two negotiators. Such efforts have provided avenues for keeping in touch with opinions from civil society and testing the assumptions and positions of track one negotiators. The OSCE found ways to put representatives of Chisinau and Tiraspol in touch with appropriate experts from Europe or around the globe in pursuit of ideas that might be useful in the settlement process.

Let me provide some specific examples which illustrate some of these points:

The first OSCE involvement in mediation of the Transdniestrian conflict in Moldova was the dispatch of Adam Rotfeld as personal representative of the CiO in December 1992. Rotfeld spoke extensively with representatives of all parties involved in the conflict and produced a detailed, balanced, insightful report to the Chair in early 1993. Rotfeld’s report served as the basis for the mandate of the OSCE Mission to Moldova and for the most important early work of the Mission, Report Number 13 from November 1993. These reports established acceptable parameters for resolution of the conflict to which the international community, including all OSCE participating states, have adhered to this day. This is an example of how, by identifying and deploying the right people, the OSCE Chair can have immense and long-lasting influence on the course of mediation and conflict resolution efforts.

Together with the Ukrainian mediators, the OSCE Mission to Moldova in March 2000 organized a working table of representatives and experts from Moldova, Transdniestria, and a number of participating states and international organizations. At this meeting a group of experts from the Venice Commission and universities in Russia, Austria, the UK, and the U.S., together with representatives from Chisinau and Tiraspol, developed a draft political settlement for the conflict which in everything but name represented an asymmetric federation, and which arguably offered inspiration for both the 2003 Mediators' Document and the Kozak Memorandum.

From the mid-1990s well into the next decade, the OSCE worked in ad hoc fashion with a number of assistance ministries or offices of participating states (DFID and SIDA were particularly active at this time), NGOs, and academic institutions to provide Chisinau and Tiraspol with expert advice, assistance, people-to-people contacts, and track two mediation fora. Negotiators for both sides visited Flensburg, Germany, South Tirol, Northern Ireland, Oxford, Kent, the Aaland Islands, and Varna, many of these multiple times. They heard from experts from the London School of Economics, and universities in Moscow, Kiev, Salzburg, Kent, Zurich, Oxford, Berlin, and Hamburg, among others. To be sure, some of this might be criticized as conflict mediation tourism, but from personal observation I can attest that the sides obtained intellectual expertise and a spate of international examples that otherwise lay far beyond their own resources. The OSCE did not recruit and pay for all these experts and trips, but through its Moldova Mission, Secretariat, and Friends of Moldova group, the OSCE helped ensure that these meetings and contacts occurred.

The Transdniestrian conflict political settlement process effort witnessed the first institutional involvement of the OSCE Parliamentary Assembly in mediation of one of the unresolved conflicts in the OSCE area. When the OSCE PA executive secretary and Finnish parliamentarian Kimmo Kiljunen approached me in 2000 with the idea of an OSCE PA group for Moldova, it seemed obvious that this initiative gave us the opportunity to sponsor activity aimed at political reconciliation in an area hitherto sadly neglected, the legislative branches of the two sides. Over the years that I worked with it, the OSCE PA Group for Moldova helped us put Moldovan parliamentarians and legislators from Tiraspol in steady contact. The work of the OSCE PA in Moldova did not produce an overall settlement, but it did help us resolve a number of local issues and problems over the years that I was there. With the understanding that parliamentarians can be extremely important in either reaching or blocking a settlement, such parliamentary assembly groups have now become common practice, not just in Moldova and not just for the OSCE.

The Voluntary Fund enabled the OSCE to make significant progress on one of the most sensitive issues in Moldova, and the second major item on the Moldova Mission's mandate – the withdrawal of foreign military forces from the Republic of Moldova. When I arrived in Moldova in the summer of 1999, there were just under 3,000 Russian Federation troops in the Operative Group of Russian Forces (OGRF) in the Transdniestrian region, down from a high of some 9,600 in late 1992. There were also four major storage depots for Russian arms, ammunition, and military equipment in Bendery, Tiraspol, Dubossary, and Colbasna. In direct connection with the major accomplishments of the Istanbul summit, the OSCE participating states in late 1999 decided to establish a fund to assist the Russian Federation in carrying out the withdrawal and destruction of arms and troops to which it had committed at Istanbul.

The decision in principle was simple, but the obstacles to its implementation were severe. There were no precedents in OSCE experience for such an endeavor, and both the Secretariat and Mission did not have the staff and regulatory framework to handle such a job. During 2000 I negotiated with the Russian Federation Foreign and Defense Ministries an agreement on how such assistance could be provided, including conditions

for verification. During 2000-2001 the Mission obtained commitments from interested participating states to provide millions of Euros (dollars, at the time, later converted) to finance the effort. With the active support and assistance of former Russian Federation Prime Minister Primakov, large-scale destruction and withdrawal operations began in the summer of 2001. By the end of the year over 500 pieces of heavy arms had been destroyed, much more equipment shipped back to Russia, and the first of the Istanbul deadlines, covering CFE Treaty-limited equipment, was met. By the end of the year, the only substantial store of Russian arms remaining in Moldova was the 42,000 metric tons of ammunition at the depot near the small village of Colbasna.

The OSCE exchange of letters with the Russian Federation used the CFE Treaty as the legal basis for the provision of assistance and verification of withdrawal or destruction of arms, ammunition, and equipment. OSCE participating states funded participation of their inspectors attached to the NATO arms control unit, who conducted inspections on the territory of the Russian Federation. The OSCE Mission to Moldova conducted inspections in the Transdnestrian region of the Republic of Moldova; participating states detailed suitable military experts to the Mission. The OSCE Mission and Secretariat developed procedures for monitoring operations and providing compensation to the Russian Federation.

After a year's extension decided at the Porto 2002 Ministerial Council, the Russian Federation began withdrawal of ammunition in earnest in March 2003. In 2001 the OSCE Mission developed a plan for eliminating large portions of this ammunition through destruction on site. As part of this plan, a large ammunition destruction chamber was actually delivered to Chisinau, where it sat unused for four years. As withdrawals began in 2003, it became clearer that removal of the ammunition was going to be much safer and go much faster than Russian Federation and OSCE experts had believed. During 2003 almost half the ammunition in Colbasna was transported to the Russian Federation and the OSCE provided over 7 million Euros to finance these operations. Ammunition withdrawals ceased after March 2004. The reasons for this are political, which I will address a little later in this paper.

Looking back at the Voluntary Fund, several observations seem warranted. First of all, because this operation was the first of its kind and much larger and more complex than anything the OSCE had done before, we proceeded at times by trial and error and made some mistakes, for which we were roundly and sometimes justifiably criticized. Mistakes and critics notwithstanding, the Voluntary Fund helped the OSCE accomplish the major part of a significant political and security objective. Equally important, the experience of the Voluntary Fund in Moldova demonstrates how the OSCE can decide, arrange funding, and orchestrate major demilitarization and security-related projects, should the participating states have the imagination and willingness to cooperate. Moreover, the operation in Moldova was accomplished safely and securely, for which the Russian and OSCE personnel who participated deserve enormous credit.

The first point of the mandate of the OSCE Mission to Moldova is to assist in creating the conditions for a political settlement between Chisinau and Tiraspol. This is ultimately that standard by which the OSCE's efforts in Moldova will be judged, and in this respect up to this point OSCE efforts are a failure. Lest this judgment seem too harsh, one should note that Chisinau and Tiraspol have been close to an overall political settlement twice – with the signing of the so-called Moscow Memorandum on May 8, 1997, and the apparent acceptance by both sides of the Kozak Memorandum in November 2003. It is worth looking carefully both at what enabled agreement, at least in principle, to be reached in each instance, and what prevented each agreement from being fully implemented.

The Moscow Memorandum introduced a term that became notorious in Moldova, as it called for the two sides “to construct their relations within the framework of a common state.” The Memorandum also gave Tiraspol the right to establish its own international economic contacts and activity, and to participate in any foreign policy decisions taken by the Republic of Moldova. The Memorandum was largely the work of then Foreign Minister Primakov, but was supported by the other two mediators – Ukraine and the OSCE. The sentence containing the term “common state” was the last element of the agreement brokered by Primakov, and clearly the key point, as it indicates clearly (except to the willfully blind) that Transdniestria will be a part of one country with Moldova. The problem was (and is) that while the state is clearly common, nothing else in the Memorandum specified what kind of state it will be. Thus diehards in Chisinau insisted that it would be a unitary state, and Tiraspol must simply adopt Moldova legislation and institutions. Transdniestrian negotiators pushed for an interpretation envisioning a confederative state so loose that it amounted to de facto independence for Tiraspol.

When my first predecessor as Head of the OSCE Mission to Moldova, Ambassador John Evans departed Washington in September 1997, colleagues told him that he would be the OSCE official who presided over a Transdniestrian settlement. He arrived to find that negotiators from Tiraspol were boycotting a meeting in suburban Moscow to begin working out the terms of implementing the Moscow Memorandum. When I arrived in 1999 Chisinau and Tiraspol were still engaged in the same basic argument, which continued past my departure in November 2001.

When I returned in January 2003, I found that President Voronin had introduced the idea of a federation into the political settlement process. While the 2002 Kiev Document was ostensibly the work of the mediators, I am convinced the inspiration came from Voronin. He had already made clear to me in 2001 that attaining reunification of his country was going to be a top priority of his presidency. I broached the idea of a federal solution with him (and the Transdniestrians, too) in 2001, but he was not ready at the time to embrace it. In 2003 he was. He proposed that Transdniestrian leader Igor Smirnov join him in writing a new constitution for a Moldovan federal state. To his surprise, Smirnov accepted. He also personally asked Russian President Putin to provide assistance, specifically in the form of a high-level special negotiator to assist in reaching a settlement.

The history of the negotiations in 2003 is strange, to say the least. The OSCE, together with Russian and Ukrainian mediators, worked with the Moldovan and Transdniestrian delegations to the talks and the Joint Constitutional Commission to produce a document, Proposals and Recommendations of the Mediators, which provided in some detail for an asymmetric federation in Moldova. The Mediators’ Document, as it came to be called, was ready for presentation to the sides in early November 2003.

At the same time, in late July, 2003, Deputy Head of the Russian Presidential Administration Dmitri Kozak first appeared in Moldova, in response to Voronin’s appeal to Putin for high-level assistance. Kozak conducted a separate, bilateral negotiation with Chisinau and Tiraspol on the terms of a political settlement. I was made aware of the Kozak document early on, and met with him several times to see if we could not combine our efforts. Kozak told me the Moldovans wanted him to negotiate separately, and Moldovan colleagues told me the Russians wanted them to negotiate with Kozak separately.

In any case, on the same day I was authorized to present the Mediators’ Document, Kozak asked me to meet him, presented me a copy of his Memorandum on the Basic Principles of State Structure of the Unified State, told me both sides had accepted it, and asked the OSCE to join with him in supporting this solution.

I congratulated him, and reported to the OSCE Chair. After consultations, because of problems the OSCE saw in some of the provisions of the Memorandum, the Chair decided neither to oppose nor to endorse the document. I was later shown an updated version of the Memorandum which contained three articles not in the draft which Kozak gave to me, on a long-term bilateral Russian military presence in Moldova. When the OSCE Chair and other participating states became aware of these articles, they objected. There was also considerable popular opposition in Moldova to the Memorandum. For a number of reasons, President Voronin decided early on Tuesday, November 24, shortly before President Putin was to depart Moscow for Chisinau to witness the signing, not to accept the Memorandum. Within a few weeks the last train departed from Colbasna carrying ammunition to Russia. In less than a year, the political negotiation process fell apart, and has never been near agreement on a settlement again.

What can the OSCE (and other mediators) learn from the experiences of the Moscow and Kozak Memoranda? First of all, agreement in principle is a wonderful thing, but implementation of the details of that agreement needs to be pursued with at least as much energy and force as the initial accord. Foreign Minister Primakov faced interlocutors on both sides of the Dniestr/Nistru River who saw the Moscow Memorandum as a tactical setback in pursuit of their actual aims, a unitary state in the case of Chisinau, and independence in the case of Tiraspol. In the post-1997 negotiations there were no real carrots and sticks to prompt or force the sides to make real, tough concessions on key practical areas of disagreement. Following the Moscow Memorandum, Chisinau and Tiraspol were supposed to engage in negotiation of delimitation of specific government competencies between the two. They never even began such negotiations, and none of the mediators had the combination of the means and the will to force them to do so.

In the case of the Kozak Memorandum, I believe the issue of competition versus cooperation between the mediators was the key. In a number of specific instances during my years with the OSCE in Moldova, I watched (sometimes with amusement, sometimes with annoyance, sometimes with resignation) as my Russian and Ukrainian colleagues competed with each other for influence, publicity, or political advantage in the mediation process. I will leave it to my fellow mediators to assert whether I was ever guilty of such behavior on behalf of the OSCE. My basic point here is that the split in the negotiations in 2003 was ultimately fatal to an effort that could and should have succeeded.

In 2003 all parties had agreed that a federation was the solution to the conflict. In fact there were substantial similarities between the Mediators' Document and the Kozak Memorandum. While there were also important differences, I remain of the opinion that if we had worked together, we could have overcome these differences. In addition, there was general agreement on the withdrawal of Russian military equipment, which was actually taking place at a rapid rate. The basic difference on security issues was over the composition of a post-settlement peacekeeping force. In the Mediators' Document, together with our Russian colleagues, we found language that could bridge our differences in principle. Had we been able to negotiate the details together, rather than be confronted by a *fait accompli* in the Kozak Memorandum, I believe to this day we could have bridged any gap between us.


What the experience of the Kozak Memorandum ultimately shows is the need for trust, among mediators and among OSCE participating states. There was much more such trust before 2003. We live in a different environment today, with greatly increased distrust and rivalry among many important participating states. A significant portion of that distrust and rivalry stems from this time, and directly from the Kozak Memorandum. I sat across from Russian Foreign Minister Ivanov at Maastricht when he made clear his belief that some of us

had deliberately wrecked a Russian-brokered settlement in Moldova. I have spoken with many senior western officials who insist that the Kozak Memorandum was a deliberate attempt to circumvent Russia's co-mediators to achieve political advantage. The resultant resentments and suspicions make it much harder to work together, something that will be necessary for achieving goals such as a Transdnestrian settlement. While the genie of distrust cannot be out back into the bottle, participating states will need to keep in mind the need for confidence-building, transparency, and inclusion of all interested parties in future endeavors, if they do not wish to replicate the experience with the Kozak Memorandum.

The debacle of 2003 also had serious, unconstructive effects on Chisinau and Tiraspol. In the summer of 2005 the Moldovan Parliament adopted legislation that in effect dictates a priori what the terms of a Transdnestrian settlement must be. All of the mediators and observers advised Chisinau not to take this step. Although it is the sovereign right of any state to determine its own internal legislation, that right does not extend to controlling the effects of such legislation beyond the writ of that state's own control. Surely enough, in 2006 Tiraspol responded with an ill-advised, craftily formulated referendum which essentially ensured a large vote in favor of independence from Moldova. With both sides dug in with basically non-negotiable positions, the formal political settlement negotiations did not meet for over five years. Whatever the forum and nature of contacts between Chisinau and Tiraspol, they have been much less productive and less promising than before December, 2003.

When I read the various redactions of the Kozak Memorandum in autumn of 2003, I asked both my Moldovan and Transdnestrian colleagues why they left the de facto blocking role of the upper house in effect until at least 2015. Both sides answered to the effect that as veterans of a violent conflict, they harbored memories and resentments that would prevent them from working together in a single state and government. By 2015 there would be a new generation without such bad memories, and it would be easier for them to reach agreement.

It is now almost 2015, and there is a new generation growing up and already in power on both sides of the river. And the members of this generation have little memory of living together in a common polity and tell me they see little reason why they should unite with their counterparts on the other side of the river when they have so little in common. Some conflicts, such as the inter-communal hostilities in Northern Ireland, are resolved after festering for decades. Other conflicts, like Kashmir or Cyprus, seem to continue, occasionally coming closer to reconciliation, but never attaining resolution. Which will be the model for the Transdnestrian conflict? None of us knows, but I would cite one final lesson for the mediators and the OSCE. Irrespective of any reasons that support resolution of the conflict, one needs to remain mindful of the factors driving the parties apart, whether internal demographic, social, economic, and cultural factors, or the rivalries of interested external powers. In my opinion, if the participating states neglect the latter, their efforts to overcome the former will continue to be in vain.



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