
THE FUTILY OF THE NEGOTIATIONS ON TRANSNISTRIA

Liliana Popescu*

*National University of Political Studies and Public Administration, 6 Povernei Str., 010648,
Bucharest, Romania*

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Abstract

The main content of the paper is that these negotiations prove not to have the role of a means to find solutions to the conflict. If one looks at the maximal acceptable solutions of both sides – the so-called ‘red lines’ – realizes that the content of each side’s red lines does not intersect the other side. The Transnistrian self-proclaimed authorities target, minimally, the status of a privileged part in a would-be loose confederation with the right-bank of Nistru of the Republic of Moldova. The Moldovan authorities’ purpose is to keep Transnistria a part of the Republic of Moldova, endowed with a large autonomy, but still subordinated to Chisinau. Under these circumstances, the red lines of the two negotiating parties do not overlap at all; they are disjunctive. Thus, the negotiations on Transnistria seem rather to mimic the function of a means to find a solution to the Transnistrian problem. They have other functions.

Keywords: Republic of Moldova, Russian Federation, frozen conflicts, negotiations, Transnistria

1. Introduction

The present paper was written as a result of a frustration related to understanding the intricacies of the situation related to the *status-quo* of the Transnistrian separatist republic. More and more signs appeared lately that the new leadership in Tiraspol intends to adopt the Russian ruble in parallel with the Transnistrian ruble [Interfax News, *Transnistrian president supports parallel use of local, Russian currencies*, 15.03.2013, online at: <http://www.interfax.co.uk/russia-news/transdnjestrian-president-supports-parallel-use-of-local-russian-currencies/>]. There have been many negotiations and many initiatives put forward, ever since the 1991 declaration of independence by Tiraspol. As the putative foreign minister of the self proclaimed republic declared, so many years have elapsed that a new generation of people has grown up in the *de facto* quasi-state *Pridnestrovian Moldovan Republic* [interview with Nina Shtansky, alleged minister of foreign affairs of

* E-mail: liliana.popescu2008@gmail.com

Transnistria, 03. 10.2012, <http://tiras.ru/voennoe/35820-pridnestrovskiy-gambit.html>]. What are the dimensions of the conflict? What solutions were put forward? Can a solution be reached in principle? These are questions to be discussed in the paper. The latter one is, however, the main research question of this paper and it is developed in the second part 3 of this article. The attempt to understand the meaning of institutionalized multilateral negotiations requires a combination of methods of analysis. The research methods employed in this paper are situated in a multidisciplinary area, from historical study to hermeneutical analysis of document contents as well as of political actions. The main conceptual framework comes from the theory of negotiations. The paper is divided in four parts – the present short introduction, the second part which is a historical brief presentation of the conflict coordinates, the third part which contains the main argument of the paper and its originality, and the final conclusions.

2. The Transnistrian negotiations and their regional background

The separatist leaders in Tiraspol declared its independence on the 25th of August 1991, in anticipation of the declaration of the Republic of Moldova's independence. The Republic of Moldova declared independence on 27 August 1991. After a few months of acute war between the Moldovan militias and incipient military force on one side, and the former Soviet military force stationed in the eastern part of the Republic of Moldova, a ceasefire document was signed, on the 21st of July 1992. It is significant to note that the *Convention regarding the principles of the peaceful settlement of the armed conflict in the Nistrean zone of the Republic of Moldova* was signed by Snegur and Yeltsin – the convention is sometimes called 'The Yeltsin–Snegur Convention' – both heads of state, respectively, the Republic of Moldova and the Russian Federation.

Thus, the ceasefire was not signed between the president of Moldova and the leader of Transnistria, but by the heads of two very asymmetrical states: Moldova and Russia. This observation leads to the another one: the political entity situated beyond the Nistru River, which is legally part of the Republic of Moldova from the international law viewpoint, has an ambiguous, fuzzy position in the regional international relations. 'Transnistria', to use the Latin rooted-name for 'the land beyond Nistru' is called by authorities in Chisinau 'the territories on the left bank of Nistru' and by the self-proclaimed authorities in Tiraspol (capital of Transnistria) *Pridnestrovian Moldovan Republic (Pridnestrovskaya Moldavskaya Respublika)*, PMR. It is not called, simply, Nistrean Republic, but 'the Moldovan Nistrean Republic', which indicates that its link to Moldova is important. At the above mentioned Convention, the self-proclaimed PMR was represented by Russia – a sign that Transnistria is an extension of Russia. However, it is a political entity declared independent and claims to be recognized as a separate state, though no state has recognized so far Transnistria as a state, not even Russia. A Unified Control

Commission was established (*Comisia Unificată de Control*, in short CUC), as part of the truce, composed of representatives of the Republic of Moldova, of Transnistria, and of Russia. Peace keeping troops were assigned to guard the concord – the main part of the Russian XIVth Army. Conventional armament belonging to Russia has been stationed on the Transnistrian region. Given the ambiguity of Transnistria's status – legally it does not exist, but de facto it functions like a quasi-state, its leaders declared independence but the entity carries in its name 'Moldovan' – we may ask a simple question: what is the purpose of this ambiguity? Up until now the lack of clarity has accompanied this issue, as well as the process of negotiations.

Starting with the 1992 truce, the negotiation process between the parties in conflict has been directed towards: (a) the definition of the status of Transnistria, and (b) making a decision with respect to the Russian military contingent based in Transnistria [1]. Among the main changing dimensions of the negotiations the following can be identified: the regional context, the larger international context, domestic political games, the political strength of each player relative to the others, and the negotiation format – which reflected the influence degree of certain political entities (states or organizations). Referring to the latter aspect, the first organization to become involved in the negotiations was OSCE, which established its offices in Chisinau in early 1993. That very year represented a turning point in the history of the Transnistrian negotiations because, subsequent to the Yeltsin – Snegur Convention of 1992, the first format of negotiation was a multilateral one, a 4-member negotiations format, comprising the Republic of Moldova, Romania, Russia, and Ukraine. Shortly, Romania was excluded from the negotiations format and replaced by OSCE – hence, the Russian Federation being represented twice: as a state and through the OSCE as well.

The Republic of Moldova and the Russian Federation signed an Agreement regarding the juridical regime, the ways and terms of the Russian military withdrawal from Transnistria, on the October 21st 1994. We now know that even today the withdrawal did not happen, despite a slow beginning of the process after the Istanbul OSCE Summit at the end of 1999. After 1994, the format of the negotiations changed to a pentagonal, the 5-members multilateral negotiations, comprising the Republic of Moldova, the separatist self-proclaimed Transnistrian republic, the Russian Federation, Ukraine and OSCE. ***Russia was substituted by the new leadership in Tiraspol as a proxy in the negotiations***, Russia herself taking the role of a mediator, together with Ukraine and OSCE.

An important date in the relationship between Moldovan officials and the separatist officials is represented by the 'Memorandum referring to the principles of normalizing the relationship between the Republic of Moldova and Transnistria' (1997). The most conspicuous elements of this document are the fact that the expression 'common state' is used and the veto powers for Transnistria in foreign affairs. The sovereignty of the Republic of Moldova was endangered in this way, despite the fact that the status of this document from the viewpoint of international law is debatable. The Memorandum was signed by the head of the Moldovan state, Petru Lucinschi, and the head of the separatist self-

proclaimed Transnistria, Igor Smirnov. One can notice yet another ambiguity, added to the previous ones already underlined. Russia and Ukraine are named warrant states, which are assisted by OSCE and with the support of the CIS (Point 1 in the Memorandum of 1997). ***The role of proxy has been overtaken completely by the authorities in Tiraspol.***

During the Fall of 2003, the special adviser of president Vladimir V. Putin, Mr. Dmitri Kozak, drafted a document meant to be signed by the two sides – the Russian Federation and the Republic of Moldova – the so-called Kozak Memorandum. It was meant to take a step further, to implement the provisions of the Memorandum signed by Chisinau and Moscow's proxy, Tiraspol, in 1997. The signing of the Kozak Memorandum would have federalized the Republic of Moldova, endowing both Transnistria and Gagauzia, together, the power to block decisions in parliament, with the right to be represented disproportionately in comparison with their population, to legalize the right of the Russian troops to station for another 15 years [2].

Meanwhile, a series of non-governmental organizations and experts got involved and reacted to the unclear, confusing, and trouble-creating situation of the separatist self-proclaimed republic. Ever since summer 2003, expert Oazu Nantoi proposed a strategy [N. Oazu, '3D' strategy — from 'extremism' to consensus?, Arhiva ADEPT, October 31, 2004, online at: <http://www.e-democracy.md/en/monitoring/politics/comments/200411031/>] inspired from the international experience, called 3D Strategy – involving demilitarisation, decriminalisation and democratisation of the eastern regions of Moldova. The idea was presented in the non-governmental milieu in Moldova but also to the think-tank and governmental affiliated specialists in Brussels and Washington in 2004. The interest of the western experts and representatives proved to be high.

The contexts of these evolutions are important. Year 2003 was the year when Russia was supposed to withdraw her troops from the Republic of Moldova according to the Istanbul commitments of 1999. Romania was making important steps in her negotiations with the EU, which formally ended by the end of 2004. The largest enlargement of the EU happened in 2004. A number of central east European countries became NATO members in the years 2000s. In this context, another solution plan was launched by another Kremlin specialist, Mr Belkovsky, Director of the Institute for National Strategy, in June 2004: Russia would agree with the uniting of the Republic of Moldova with Romania, if Transnistria was recognized as a separate, independent, state. But year 2004 was the year in which Romania, under Chief-Negotiator Vasile Puscas, finalized the negotiations for Romania to become EU member. The issue of uniting Moldova and Romania is a very complex one and it is not being discussed here. It is noticeable, however, the Kremlin enhanced activism around this period of time – years 2003-2004, when both NATO and EU enlarged eastwards.

It is important to note that Vladimir Voronin, the Moldovan Communist Party leader was the one to refuse the signing of the Kozak Memorandum and to decide to engage Moldova in deeper relations with the EU. The Action Plan committing Moldova to reform, under the European Neighbourhood Policy

(ENP) was signed in February 2005. Moreover, Voronin openly declared at the Istanbul NATO Summit in June 2004 that he wanted the Russian troops out from Moldova, saying that he fully supported NATO requirement referring to the evacuation of the Russian troops and armament from the territory of the Republic of Moldova [1]. The European Union made significant changes in its policy towards neighbours in this period 2003 – 2004 and set up of the ENP, in preparation of the ‘big bang’ eastwards enlargement. EU took a more active interest in the Transnistrian conflict.

Against this background, after the signing of the Action Plan EU – Republic of Moldova (PAUEM) in the beginning of 2005 (valid for a period of three years, 2005 - 2008), the EU and the USA agreed to participate as observers in the Transnistrian negotiations. Thus, the format of negotiations changed, again, into the 5+2 formula. The two parties involved, Moldova and Transnistria, were accompanied by OSCE, Russia, and Ukraine as mediators, and EU as well as the USA got the position of observers in the negotiations.

At the end of 2004 important changes occurred in Ukrainian politics, bringing to power a pro-western political formation and leaders, Viktor Yushchenko and Yulia Tymoshenko, despite the attempts to fraud the presidential elections in favour of the Russian backed candidate, Viktor Yanukovich. The new president, Yushchenko, became active in the issue of the Transnistrian conflict, proposing a plan structured in seven steps in order to give a solution to the post-Soviet conflict situated at the South-Eastern border of Ukraine (April 2005). Yushchenko’s plan (sometime called ‘the Poroshenko plan’, after his security adviser) essentially included provisions for the organization of democratic elections for the Supreme Soviet in the breakaway republic of Transnistria. Yushchenko’s initiative was praised by many, including OSCE and EU, because it showed the Ukrainian president’s interest in finding solutions to the conflict, in getting involved in the regional issues in the sense of democratization. The Moldovan NGO representatives bitterly criticized the Yushchenko Plan, to the extent that it was proposing organizing democratic elections by a profoundly undemocratic leadership in Tiraspol. Surprisingly, it may appear, the Moldovan officials agreed with this criticism of the Yushchenko plan [2]. The basic question and objection at the same time was: How can a profoundly undemocratic leadership (Tiraspol) organize democratic elections?!

Emboldened by the improved relations between the Republic of Moldova and the EU, and encouraged by the success of the pro-European Orange coalition, the Moldovan Parliament voted, and president Voronin promulgated, at the end of July 2005, the ‘Law referring to the fundamental provisions of the special juridical status of the localities situated on the left bank of river Nistru (Transnistria)’. This was a move that upset the Russian and Transnistrian part. It was a turning point – on the par with the refusal to sign the Kozak Plan – and it indicated a determination of Chisinau to be proactive in relation to the situation, to the separatist left-bank republic. It probably triggered, together with the setting up of EUBAM, the process of preparation of the referendum organized by Tiraspol at the end of 2006.

The regional and international context created as a result of the EU eastwards expansion, together with this unprecedented impetus of the Moldovan authorities led the Tiraspolian leaders, Russian citizens, to initiate more decisive political actions. Formal negotiations, in the 5+2 format, were halted in March 2006. Meanwhile, the Transnistrian leaders organized a referendum in the Fall of 2006, a very significant one, asking the left-bank Nistru Moldovans the following questions: „Do you wish the continuation of the policy of independence and the subsequent union with Russia?” and „Do you believe it would be possible to give up the independence of the Pridnestrovian Moldavian Republic and to unite with the Republic of Moldova?” [3].

The referendum in Transnistria has been inspired by the referendum held in Montenegro earlier on, in which Montenegrans voted independence from Serbia, writes Armand Gosu. „Most probably, the idea of organizing a referendum belongs to Moscow and not to Tiraspol.” [3]

The format 5+2 functioned briefly, between 2005 and early 2006. „When Ukraine invited the European Union’s Border Assistance Mission (EUBAM) to curb Transnistria’s massive contraband in Ukrainian territory from 2006 onward, Moscow and Tiraspol responded by shutting down the 5+2 negotiating format for six years.” [4] Tiraspol agreed to resume informal negotiations in 2010 [Center for Eastern Studies, *Transnistria presents conditions for renewing negotiations with Chisinau*, 02.03.2011, online at: <http://www.osw.waw.pl/en/publikacje/eastweek/2011-03-02/transnistria-presents-conditions-renewing-negotiations-chisinau>]. Informal talks in the 5+2 format took place in mid February 2011 in Vienna and formal talks resumed in 2012 (13-14 July, Vienna) [Library of the European Parliament, *Talks resume – advancing towards a settlement on Transnistria?*, online at: <http://libraryeuroparl.wordpress.com/2012/07/23/talks-resume-advancing-towards-a-settlement-on-transnistria/>]. The breakaway Transnistrian region already had a new president (elected on 11 December 2011), Yevgeny Shevchuk – Russian citizen, like his predecessor, Igor Smirnov.

Between 2005 and 2012, when formal talks were resumed, a number of changes occurred in the region. Among the main ones the following deserve to be considered: the opening of the EUBAM mission at the border of the Republic of Moldova and Ukraine (the Transnistrian sector) at the end of November 2005, the signing of the a joint customs protocol between Moldova and Ukraine (December 2005) that limited the export of goods from Transnistria to Ukraine to the legal ones [V. Socor, *Ukraine steps in to close Europe’s biggest blackhole*, online at: <http://politicom.moldova.org/news/10352-eng.html>, 8.03.2006], the eastward enlargement of the EU in 2007 (Romania and Bulgaria) therefore EU becoming a direct neighbour of the Republic of Moldova, the Georgian-Russian war in August 2008 and the formal recognition by Russia of South Ossetia and of Abkhazia as independent states, the change of power in the Republic of Moldova (2009), the change of power in Ukraine in 2010 (that brought the candidate supported by Moscow as president, Mr. Yanukovich), the change of leadership in Tiraspol (end of 2011), the start of negotiations between EU and Republic of Moldova for an Association Agreement, the finalization of a

DCFTA between EU and Ukraine (awaiting to be signed), the coming back to Kremlin of Vladimir V. Putin for a third mandate (May 2012).

3. The two non-intersecting red lines

The resumed talks in February 2013 in Lviv, the first under OSCE Ukrainian chair, broke down, even though they avowedly approached only non-political issues. The formal discussion of the political aspects is vetoed by Moscow and Tiraspol [interview with Nina Shtansky, online at: <http://eurodialogue.org/Nina-Shtanski>]. The ‘legal basket’ (read political) includes demands of Tiraspol to attain Chisinau’s *de facto* recognition of Transnistria’s separation from Moldova [4]. The demands included in the Lviv negotiation round were: separate, distinct license plates for Transnistrian road vehicles on Moldovan and international roads; the use of Tiraspol airport for international civil aviation services; acceptance of Transnistrian-licensed shipping on Nistru; recognition of Transnistrian-issued ‘university’- level diplomas; acceptance of Russian and Ukrainian passports when presented by Transnistrian residents to Moldovan authorities. All are very pragmatic and specific demands – rather aimed at maintaining the status quo.

Resuming the 20+ years history of the conflict generated by the separatist movement of Tiraspol, certain observations can be made. *First*, the negotiations did not comprise in the initial phase representatives of the separatist territory Transnistria. The truce of 1992 was signed by the Republic of Moldova and Russia. An interpretation of this fact may point to the following: (a) fundamentally, the conflict is an *interstate conflict*, between the Russian Federation and the Republic of Moldova (former Soviet Republic of Moldova) – an idea widely discussed in Moldova in early 2000s – see the writings of Oazu Nantoi, Igor Botan etc; it is *not an ethnic conflict*, as it has often been presented but an inter-state conflict; (b) the two sides are *abruptly asymmetric states*; (c) Transnistria does not act autonomously, but acts rather as a *proxy for Moscow*; Tiraspol is just an outpost of the Kremlin. Secondly, Romania has been removed from the negotiations in 1993, given her temporary weakness and post-Cold War transition. The allegations and scare regarding ‘the imminence’ of the union between Romania and the Republic of Moldova were added to this. However, *Romania returned to the negotiation table as European Union member*, in a strengthened position precisely because of her EU membership. Thirdly, the 5+2 format of negotiations indicates that the issues underlying the conflict are of interest to the EU as well as to the USA, but their presence as observers also say that they do not want to enhance their status for the moment; the stake, in the end, is a post-Soviet region. The Transnistrian so-called ‘frozen conflict’ involves the political and economic interests of two giants: the EU and Russia, and at the same time interests of particular EU member states, including Germany – an economic giant in itself. The evolution of the relationship between the EU, and particularly of Germany, and Russia in the last three years

(beginning perhaps with the Meseberg process) is witnessing the presence of an emerging (or perhaps continuing) Eurasian tango scene [5].

The Transnistrian *de facto* quasi-state, as well as of the other *de facto* quasi-states in the post-Soviet space, challenge the Westphalian order and the international law. The functioning of a *de facto* quasi-state, not recognized by any other state in a formal way, is gradually changing into a formal subject of international law [M. Meyer and C. Borgen, *Thawing a Frozen Conflict: Legal Aspects of the Separatist Crisis in Moldova: A Report from the Association of the Bar of the City of New York*, online at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=920151]. In a sense, Transnistria is a *de facto* extension of Russia, led by Russian citizens and benefitting from a wide range of freedoms derived from the lack of constraints of the international law, and endangered by the legalist approach required by the EU. This situation seems to be welcome by various actors – states and non-states, regional and international, European and non-European [L. Vdovîi, M. Opriş and A. Mogoş, *Transnistria - Europe's hub of smuggling and trafficking*, Journalistic Investigations Center, online at: <http://www.investigatii.md/eng/index.php?art=221>].

One question we may ask is whether the sides involved in the conflict coincides with the sides who are negotiating. The formal *sides* in the Transnistrian negotiations are the Republic of Moldova and the self-proclaimed Pridnestrovian Moldovan Republic (PMR), even though fundamentally, the sides in conflict seem to be two asymmetrical states, the Republic of Moldova (RM) and the Russian Federation (RF). The conflict is related to the loss of and to the refusal to loose influence in a post-Soviet republic. If we approach the issue of the conflict, some other actors may appear on the scene. Depending on how one looks at the situation, Ukraine may have a stake in the conflict. The initial Moldovan Autonomous Soviet Socialist Republic set up by USSR in 1924 was an Ukrainian territory; also, the military and political presence of the RF in the South-Western part of Ukraine cannot comfortable for Kyiv. Romania also has a stake, to the extent that majorities on both banks of Prut have related identities, speak the same language (that is, Romanian, even though, for political reasons, some call it Moldovan), have many important cultural and historical ties in common; also common aspirations. The EU also has a stake in the conflict, at least because of security reasons. Transnistria is within an approximately 100 km distance east of the EU border. The EU also would feel more secure if surrounding countries harmonized their legal frameworks with the European (*acquis communautaire*) and consolidated the rule of law. The process of Republic of Moldova's law harmonization with the EU started in the 1990s, but accelerated after the signing of PAUEM in 2005.

Thus, (a) the sides that have a stake in the conflict are many and diverse; (b) fundamentally, the sides of the conflict are two extremely asymmetric states, RM and RF, and (c) the negotiations involve formally RM and Transnistria as main negotiators only, plus three mediators and two observers. Whereas points (a) and (c) above are noncontroversial, point (b) might be. Here are a few arguments in favour of this idea: the truce of 1992 was signed between RM and

RF; the military and ammunition guarding Transnistria are mainly Russian; the leadership – president and government members – in Tiraspol are Russian citizens (living in this extension of RF called Transnistria); the currency (which can be used only on the Transnistrian territory) is called ruble and has the picture of general Suvorov on it, and leaders in Tiraspol are talking officially about the possibility to adopt the Russian ruble in view of joining the Eurasian Union; the Russian flag is displayed on government buildings in Tiraspol, the official flag of Transnistria carries the symbols of USSR,. In addition, the referendum in 2006 created the background, invoked in appropriate moments, of the legitimacy for a possibly *de jure* unification of Transnistria with RF.

The most interesting element of these particular negotiations is the discussion over the *meta-condition* of any negotiation, which is not fulfilled in this case. The meta-condition, that is the condition of possibility for any negotiation, is that the sides involved in negotiations must want to find a solution to the **issue** at stake. There are arguments in favour of the idea that one side might not want to find a solution, given the fact that it prefers to preserve the status quo. Time goes by, the *de facto* quasi-state develops and institutionalizes itself, new generations are growing up in the *de facto* entity, the international community gets used to the presence of this ‘actor’, Transnistria, in the political landscape of the region. Supposedly, the issue at stake, framed in neutral terms, is: finding a commonly agreed solution to the status of the separatist territory on the Nistru left-bank. If we look at the context of the negotiations, at the declarations of top RF officials (both in Kremlin and in Tiraspol) as well as their actions, we may note that this meta-condition is not met. The RF side in negotiations seems not to be willing to find a commonly agreed solution. The power asymmetry between RF and RM finds expressions in this area. The perception and viewpoint of RF’s leaders is that this is not the way in which Russia acts in relation to her former subordinate parts (that is, former Soviet Socialist Republic of Moldova). It is conceivable that even the choice of acting by using Tiraspol as proxy is part of the same self-perception of Kremlin leaders [6]. Russia is too important a state, too strong a power to act directly and interact formally with such an asymmetrically weak state like the Republic of Moldova. Besides, there are more tactical advantages to using Tiraspol like a proxy than disadvantages. The constraints of international law as well as the international public opinion represent other important factors in Moscow’s decision to act through proxy Transnistria. Besides, the relative weakness of post - Cold War Russia in international relations, might exacerbate her leaders’ reactions in cases of asymmetries of power.

The main contention of this paper is related to the so-called ‘*red lines*’ of the two main negotiating sides. The red lines define in any negotiations the maximum concessions that one side is ready to accept as an outcome of the negotiations. Some authors use the term Zone of Possible Agreement (ZOPA) [T. Alfredson and A. Cungu, *Negotiation Theory and Practice. A Review of the Literature*, FAO Policy Learning Programme, January 2008, online at: http://www.fao.org/docs/up/easypol/550/4-5_Negotiation_background_paper_

179EN.pdf]. Each side defines very well its red lines as a main part in preparing the negotiations. Therefore, the red lines of the Transnistrian negotiations need to be identified. They can be identified by looking at the declarations and, more importantly, to the actions of the two sides. Discussing the issue of the new foreign affairs conception of the separatist region, the president of Transnistria, Yevgeny Shevchuk stated that the new document must strengthen the independence of the republic and the process of getting closer to Russia, legitimated by the September 2006 referendum [R. Benea, *Uniunea Europeana este incurajata de evolutia reglementarii transnistrene*, online at: <http://www.europalibera.org/content/article/24611160.html>, 11.06. 2012)].

The public declarations of the separatist leaders abound in assertions of this kind. Independence is declared to be their goal [A. Gramada, *Tiraspolul și-a schimbat liderul, dar atitudinea și-o va schimba?*, Centrul de Studii Est Europene si Asiatice, online at: <http://www.cseea.ro/publicatii/view/brief-analysis/tiraspolul-537i-a-schimbat-liderul-dar-atitudinea-537i-o-va-schimba>]. The discourses embedded in the actions of the leaders in Tiraspol, however, tell another story: the process of getting closer to Russia is a priority. However, the red line of Tiraspol, and thus of RF, is not independence, but rather a loose confederation between the two banks of Nistru, in which Tiraspol could veto any foreign policy issue and Chisinau would be kept captive. The Republic of Moldova, under the RF red line, would be ‚Transnistri-sized’ as a number of analysis commented over the last years [7, 8]. The would be confederation would reflect, in a diminished way, the asymmetry existing between RF and RM. RF prefers a *de facto* solution that advantages her. The second best solution would be a *de facto* separation of Transnistria. However, these are just hypothesis that are not going to be tested or argued for in this paper.

The position of the Republic of Moldova, on the other side, is the aspiration to have an independent, integral country – defined in the frontiers of the former Soviet Socialist Republic of Moldova that is, including Transnistria. RM’s red line is defined by the July 2005 fundamental Law regarding the status of the Nistru left bank territories. The Moldovan authorities made clear, be they Communists, like Voronin, be they AIE representatives, like Vlad Filat, that the integrity of the Republic of Moldova is a non-negotiable issue. Moreover, the federalization is also ruled out. The maximal concession Moldovans are accepting is a special status for Transnistria, a large autonomy, as defined in the 2005 law. This is RM’s red line.

Comparing the two red lines of RF and RM, one can draw the conclusion that they do not intersect each other. There is no overlapping zone between the two areas of acceptable solutions of the two parts. To the extent that RF’s red line is a loose confederation that gives them veto powers in foreign affairs (thus impeding an independent RM), and RM’s red line is integrity, without even accepting the federalization, involving a special autonomy for Transnistria, the negotiations are bound to fail, because there is nothing that can be agreeable between the two parties, in principle. There is no ZOPA to be identified. This conclusion is accompanied by empirical evidence pointing to the same direction.

In the light of this conclusion, declarations of this sort seem to be misleading: “This operation in its existing format is the main guarantee of continuity of the political process of conflict-resolution. Our peacekeeping force is the guarantor of achieving a solution acceptable to both Transnistria and Moldova.” [9]

The finding that there is no ZOPA to be identified in the Transnistrian negotiations leads the research into another direction. To the extent that there are no overlapping fundamental goals of the two sides, the negotiations cannot have the function to solve the conflict. They must have certain functions, otherwise there would be no process of negotiations. But, in the absence of the possibility of reaching a commonly agreeable solution, the Transnistrian negotiations cannot have the function of solving a problem. This conclusion adds to the observation above, that the meta-condition of having the will on both sides to solve the conflict is lacking in this case.

In the negotiation theory, there are two main approaches to negotiations: bargaining and problem-solving [10]. It seems that the latter approach is completely inappropriate for the analysis of the Transnistrian negotiations; only the bargaining approach could be used, in principle. The key consequences of the impossibility, in principle, to reach a solution in this conflict are the following: (a) any expectation in terms of solving the conflict ought to be forgotten, left aside, unless the international context changes significantly; (b) the main function of the negotiation process is not to solve the conflict by finding a mutually acceptable solution; (c) one hypothesis is that the main function of the Transnistrian negotiations is to keep the bargaining process afloat, in order to further a situation which plays to the advantage of one side more than to the other. Meanwhile, the Republic of Moldova politicians are struggling, before every elections, to show their citizens how committed they are to solving the conflict. Transnistrian authorities declare, for the time being, that the Russian ruble is going to become their currency, as part of a wider move to join the Eurasian Union.

4. Conclusions

In any battle it is important to acknowledge the state of fact, before proceeding to finding the most appropriate means to fight for one’s cause. This is valid for all sides involved, particularly for the aggressed ones. The present paper is trying to contribute to the acknowledgement of the state of facts with regard to the Transnistrian negotiations. The analysis above shows that *these negotiations cannot have, in principle, a solution*, because the red lines of the two sides do not intersect at all. The two sides have disjunctive claims. Therefore, these negotiations do not have the function of finding a solution to the status of the separatist self-proclaimed republic on the left bank of Nistru. They must have other functions and these are to be further explored in a separate paper.

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