

OSCE DYNAMICS IN THE “FROZEN CONFLICT” IN MOLDOVA

Presentation by Neil BRENNAN, Deputy Head of the OSCE Mission to Moldova in the seminar *“Frozen” conflicts in Europe - the approach of democratic security: the case of Transnistria*

Friday, 12 September 2003

Mr. Secretary General, Ministers, Ambassadors and colleagues, please allow me first to again thank the Council of Europe for the opportunity to speak today on the behalf of the OSCE. I would also like to thank our host, the Government of Moldova, for elaborating the theme of this seminar – All of the frozen conflicts under discussion here are in the OSCE region. Some of them occupy considerable attention from the OSCE, including the one here in Moldova. Thus, the Organisation appreciates all efforts to focus international attention on their resolution. In the case at hand, the OSCE Mission to Moldova recognises that the attention and support of the international community are essential elements in bringing this conflict to resolution. I will elaborate more on the need for coordinated international attention in my presentation, but it is in this context that we are most thankful to the Council of Europe and the Government of Moldova for today’s forum.

My colleagues and I have been asked to speak on the dynamics of the conflict frozen in Moldova since 1992. You have heard yesterday and today from representatives of the two sides to the dispute some of the history, and context of this problem. Minister Sova and Mr. Slobodaniuk have also indicated some of their present concerns and the impediments to progress. They have also outlined some of the prospects for resolution. Thus, what I have decided would be most helpful to add to the discussion is to speak only on what the

OSCE perceives as the necessary dynamics of a positive settlement to the Transdniestrian conflict.

After some careful consideration, I have grouped these dynamics under five headings. I will first name these, and then I will elaborate briefly on each: Before I do so, I take note that several of these ideas were raised in our discussions yesterday. As a result, although I speak only with respect to the Transdniestrian conflict, perhaps this summary of the essential elements of a successful settlement might equally be applicable to the other frozen conflicts under debate:

The dynamics I will elaborate upon are as follow:

1. Immediacy – A settlement in Moldova must be in the immediate, not distant future – The time for settlement is now
2. Acceptable – A settlement must be acceptable to all sides
3. Harmonised – A settlement must be harmonised with OSCE and other international standards of law and democracy
4. Sustainable – A settlement must provide for a sustainable Moldovan state
5. Supported – A settlement must include clear indications of support from the international community for Moldovan reunification and reintegration

1. Immediacy – The time for resolution in Moldova is now

Yesterday Dr. Lynch spoke of the concept of a hurting stalemate – when both sides are suffering to such an extent that, no matter their political desires, they are forced to come to agreement. When this moment arrives in a dispute is hard to judge, I suspect. But, we in the OSCE are charged with monitoring certain facts and tendencies in Moldova. And

we took careful note of the statement made last Friday by the Moldovan chairwoman of the Tourism Development Department (DDT). She declared at a session of the national committee to combat trafficking that 10,000 residents of Moldova are leaving the country every month and they do not intend to return home. These 10,000 departures are in addition to the unofficial figure of over 500,000 Moldovans now working abroad. These departures and other socio-economic plights including large scale human trafficking are driven by a downward economic spiral that has been ongoing since 1992. It is well understood among experts in the economic sphere, and repeated here yesterday, that this downward spiral will be difficult if not impossible to reverse without first resolving the Transdniestrian problem. Among other things, a country which is not internally stable and which does not have control over all of its borders cannot encourage investment, for example. Moldova now has the distinction of being referred to as the 'poorest country in Europe' and not without reason. Frankly speaking, Moldovans on both sides of the Dniestr deserve better than to live in this economic plight. Many Transdneistrians also deserve better than to live in an atmosphere charged by the 'discourse of fear' mentioned yesterday. (I digress to note that I found it very troubling to hear so many young people speak in this room last evening and this morning in a way that makes it obvious this discourse of fear has been transferred to the next generation, especially on the left bank of the Dniestr River. I take note though, of Mr. Slobodaniuk's reference to the need for full demilitarisation in a reunification process.) All Moldovan residents deserved a better life years ago - and they definitely deserve better today. I think we could all agree on this. But it is an important point to note because there are analysts who now vehemently oppose settlement efforts on the argument that the time is not right for solution. They

argue that it would be better to wait for a possible change in the geopolitical sphere, maybe in the next five to ten years, which, if it happens, might yield a better deal. But here we must ask, for who would this glorious deal of the future be better? As we all know too well, Moldovans today are voting with their feet for a personal deal that sees them having to leave their homes, their families, and often their children to live and work abroad. In our work we encounter divided families throughout the country and we ask what this means for the future of all of Moldova.

In the OSCE we believe there is a moral imperative upon us all to act now for the people of Moldova. We have a responsibility to make every effort to help remove those obstacles which prevent the residents of this country from being able to improve their lives. As President Voronin noted yesterday, the Transdnistrian conflict is the biggest impediment to the Moldovan Government in improving the lives of all residents and in pursuing its foreign policy objective of closer integration with EU structures.

In the OSCE we have been involved for over ten years to bring this problem to conclusion – And last year in Kiev, for the first time in ten years, both sides to the dispute and the three mediators agreed to a basis for final solution. And for the first time we have experts from both sides working now on a joint constitution, based on President Voronin's initiative. In addition, and as a result of this, there is a momentum today in the international community to speak openly of support for all of Moldova in the implementation of a settlement agreement once the two sides achieve this objective.

From this, the OSCE believes we also have a practical imperative to act now – We must take advantage of the attention we have today from those countries and organisations

represented here today. I can only say to the two parties, you have their attention, and we are confident of their support. The OSCE will assist – but you simply must not wait.

2. Acceptable

Although the OSCE is adamant that the time for resolving the Transdnistrian conflict is now, this does not mean that the organisation will endorse and eventually assist in implementing just any form of settlement. No settlement could ever be envisioned as desirable, let alone sustainable that does not have the endorsement of the majority of Moldovan society. Thus, a settlement agreement by its very nature must, first and foremost, be acceptable to the two sides to the dispute. The OSCE is well aware of the wide range of interests and concerns which must be considered and resolved before a comprehensive settlement is possible. A settlement must be fair and equitable to the societies on both sides of the Dniestr in all respects: For example, the political process it embraces must give fair rights to representation to all residents of the country; economic empowerment, opportunities and resources must be equally shared, and settlement cannot be followed by undue retroactive demands of reimbursement. In fact, post settlement economic stability will be a cornerstone of successful reintegration of the country. Agreements and assurances are also necessary in the social and cultural spheres, among others. Education and language are two important subsets of these issues which will require clarity toward instilling mutual confidence among the population.

Following the elaboration of these issues in a constitutional framework, President Voronin's initiative envisages a period of public debate, to be followed by a nation wide referendum. This means that there will be a chance for all of Moldova to say whether the settlement is acceptable to them. And informed public debate in this process must not

only be welcomed but encouraged. Only an informed citizen may make a truly valid choice. Ultimately therefore, Moldovan residents of all stripe and standard may make a decision on whether they agree with this settlement or not based on what may be very subjective criteria – the question may simply be, ‘‘Is the country which this settlement envisages a country where I can live and prosper, and be confident in the future for my children?’’

There is one other dimension to the concept of acceptability of a settlement that I would speak on - and that is the acceptability of a settlement for the international community. Here the interests of Moldovan society and the international community may directly intersect – but this intersection falls under the next heading – that of harmonisation.

3. Harmonised

A harmonised solution to the OSCE, and here I would presume also for the other two mediators, the Council of Europe, the EU, and perhaps also the United Nations – is one which must be fundamentally in accordance with international law and standards of democracy. Earlier I spoke on subjective criteria being the basis for a decision of acceptability for Moldovans – but for the international community what is more appropriate to be able to judge the acceptability and quality of a settlement will be the objective criteria we have accumulated in international law and practice – And here I refer to both soft and hard law - especially with respect to human rights and freedoms and proper functioning of democracy.

For the international community, and thus the OSCE, we will compare the settlement proposed with the full range of OSCE standards and principles. OSCE commitments with respect to elections, minority issues and the media – all will be considered. I would

equally expect that the full range of the Council of Europe's undertaking for all member states will be complied with in any proposed state structure. In particular, I think we may find instructive the Council of Europe Framework Convention on National Minorities and the Charter on Regional and Minority Languages. Conveniently, taken together the foregoing form the core of one of the three EU Copenhagen criteria – an important pillar which must be secured by any prospective member state.

With this harmonisation in hand, the international community may rest assured that the very best legal standards we have at our disposal for managing the relationship between the state and its citizens are in place in Moldova. The residents of the country may take confidence from the same conclusion.

On this point, allow me to observe that there has been a recent call from a wide variety of Moldovan NGOs for demilitarisation, democratisation, and decriminalisation as part of resolving the Transdnestrrian problem. We could not agree more! And we believe that the best framework for achieving these objectives is the legal one I have just outlined.

4. Sustainable

It may be trite, but necessary, to add to this list of dynamics the fact that a settlement worthy of support in implementing cannot be one that sows the seeds for its own demise. It must be capable of sustaining itself. I will speak on two elements of sustainability - and thus the avoidance of demise. The first is structural and the second economic.

Structural sustainability relates to the nature of a constitution, and in the current discussions in Moldova, we are talking about a federal constitution. All constitutions are constantly in evolution – In a federal state this is especially so as the relationship between the federal and regional authorities change through time to meet new, unexpected, or

changing circumstances. In my home country of Canada we refer to our federal constitution as a living tree capable of growth. But growth has its limits. And a constitution must provide sufficient clarity in terms of division of powers that a dispute over the exercise of authority between the levels of government cannot lead to a collapse of the whole. Sufficient thought must be given to division of powers that disputes are avoided, to the extent possible, and properly managed through a legitimate exercise of authority where this is not possible. In this respect, for example, one element of a sustainable state structure must be a dispute resolution mechanism in the form of a constitutional court.

As to economic sustainability – here the issue is much more simple. A clear division of competencies must be matched with adequate access to resources for authorities to be able to exercise the functions they are entrusted with. For example, a central authority that has the responsibility to maintain an army but that only has simple taxing authority will soon fail in its responsibilities to maintain an army, which is expensive. If this were to occur across the board or in several key sectors, then the essence of the state may cease to exist by operation of fact.

For the OSCE, we are working to support a settlement which we can rest assured will not see us re-entering the Moldovan arena sometime in the future because we supported an inherently flawed settlement today.

5. Supported

The dynamic of support is also one that requires little explanation – If we expect any settlement in Moldova to be successful, the international community must be prepared to

express its support for implementation of that settlement. We can help bring to life a new vision of a state, but we must also give it some sustenance before seeing it off on its own. There will be a wide range of tasks to be done in the reunification and reintegration of Moldova – these tasks will require resources, both human and financial and coordination. The OSCE is ready to play its role. The Organisation is ready to cooperate with all the international community represented here today – Most importantly, we are especially prepared to continue our work with the residents of Moldova in helping them decide on their future as a reunited country.

Thank you.