

JURIDICAL EVALUATION OF THE PEACEKEEPING OPERATIONS IN TRANSNISTRIA IN CONFORMITY WITH THE INTERNATIONAL LAW

1. BASIC TERMINOLOGY AND CONCEPTS IN INTERNATIONAL PEACEKEEPING OPERATIONS

At present, a generally accepted system of terms and concepts pertaining to peacekeeping operations has been defined in international practice. These terms and concepts describe different types of peacekeeping operations and characterize actions undertaken in the framework of these operations. Moldova has not officially adopted yet the terminology regarding peacekeeping operations. Lack of clarity in the above-mentioned terminology creates problems in a successful implementation itself of the peacekeeping operations in Moldova. Also, certain difficulties arise as a result of the fact that all terminology and concepts concerning peacekeeping operations have been elaborated and formulated in English and it is not always possible to keep all the nuances of the English “original” in the Romanian language.

For the state authorities of the Republic of Moldova, involved in the peacekeeping operations on the left bank of the Nistru river, a study and classification of this terminology is of a special practical importance. An incorrect or imprecise interpretation of terms leads to a misunderstanding or confusion in the process itself of the peacekeeping operation development, since this terminology reflects essential features of these operations and plays an important role in their planning and development.

1.1. “War and Operations-Other-Than-War”

Peacekeeping operations involve both political activity and the use of an armed force, and they differ in a number of fundamental aspects from classic warfare and traditional combat. They pertain to a broad group of armed forces actions that have come to be known as "operations-other-than-war." In recent years, such operations have become increasingly common in international practice. In order to define such operations clearly, it is first necessary to identify some of the features of “*classic*” warfare. Currently there are several hundred definitions for the concept of “war”. From those definitions the most important for our purposes are those describing the missions and goals for using an armed force during the course of a war. Therefore, we will understand war to mean conflict between the armed forces of two or more states or coalitions, with this conflict being conducted in order to achieve certain political goals. In a war (and this is a fundamental characteristic of “classic” wars), armed forces are intended for:

- ◆ defeat and elimination of the enemy's armed forces and the command systems which control them;
 - ◆ destruction of the military-economic and economic potential of a state, as well as such other material elements of a state's power that allow it to wage armed combat;
 - ◆ access and occupation of part or all territory of the enemy state.
- In "classic" warfare, armed forces carry out such “traditional” military operations as:
- ◆ attack;

- ◆ defense;
- ◆ operations of the various armed services.

The achievement of some or part of these goals deprives the enemy of the ability to conduct combat actions and forces him either to accept the political conditions put forth by the victor, or to capitulate.

In recent years, international practice has seen broad use of the term “*operations-other-than-war*”. Perhaps a more accurate description would be: “the use of armed forces for purposes other than war”. Such operations include:

- ◆ various peacekeeping operations;
- ◆ international police operations, such as eradicating international criminal groups, combating terrorism, piracy, illegal arms and drug traffic, etc.;
- ◆ legal interventions.

Unlike “classic” warfare, these operations do not have as their goal the seizure or occupation of an enemy's territory, or the destruction of his political, economic or military-economic structures, or, in most cases, the defeat of an opposing side's armed forces. With rare exception these operations are not carried out against states, but rather against forces, organizations or movements, which lack state status or structures. In the great majority of cases, such operations pursue limited goals that have already been strictly defined before an operation begins. Many such operations are conducted through the joint efforts of several states and at the mandate of an international organization.

When using an armed force for a purpose other than war, in addition to traditional operations, such as defense, offense, etc., troops mainly carry out “non-traditional” operations not typical of “classic” wars.

Such “non-traditional” operations would include: separating the combatants; monitoring cease-fires and/or compliance with other conditions of political agreements; controlling the weapons of the hostile sides; disarming combat formations; providing demilitarized and buffer zones; various forms of monitoring of territory (setting up checkpoints, patrolling, etc.); maintaining law and order; halting any violations of armistice agreements; humanitarian activities; restoration of civilian structures and institutions; assisting in the conduct of negotiations between the warring sides, and so forth. In other words, “non-traditional” operations of armed forces are a combination of police actions, counterinsurgency operations, peacekeeping and the functions of occupation-force organs.

1.2. Peace Operations

At present, no single, strictly coordinated terminology exists that would describe peacekeeping operations. However, despite some differences, the definitions in use to today have much in common and reflect the specifics of various types of peacekeeping operations. Virtually every well-known classification divides these operations into three groups:

- ◆ those which employ primarily non-force methods of armed forces actions (such as various forms of monitoring) in order to fortify political and diplomatic efforts to settle a conflict;

- ◆ those which combine political methods with active operations by an armed peacekeeping force that does not, however, conduct any combat operations;
- ◆ those which involve the use of force, including combat actions, to compel peace, in concert with political efforts, or even without them.

Peacekeeping is a common term for various types of activity carried out: to resolve conflict; to prevent conflict escalation; to halt or prevent military actions; to uphold law and order in a conflict zone; to conduct humanitarian actions; to restore social and political institutions whose functioning has been disrupted by the conflict; to restore basic conditions for daily living. The distinctive feature of peacekeeping operations is that they are conducted under a mandate from the UN or regional organizations whose functions include peace support and international security. English-language sources call these operations “peace operations” (USA) or “peace support operations” (NATO). Peace operations are subdivided into the types as follows:

Operations (or Actions) to Preserve Peace. English-language sources refer to such operations as “military support of diplomacy” (USA), or “conflict-prevention missions” (NATO). The goals of these operations are:

- ◆ preventing the deterioration of a situation in an internal or international conflict zone and preventing armed actions;
- ◆ solving conflicts.

Non-force political and diplomatic methods play the primary role in the achievement of these goals, and include: mediation, helping to organize negotiations, developing and implementing compromise solutions to the conflict as a whole, or to individual components of the conflict situation (preventive diplomacy).

“*Good offices*” are actions taken by a state, an international organization, or prominent state political or public officials, to help the parties in an armed conflict, whether international or domestic, establish direct contact for the start of negotiations that would settle the conflict. These offices stop short of actually conducting the negotiations between the sides.

Mediation is the conduct of negotiations by a state, an international organization or prominent state political or public officials in order to halt the conflict or regulate some of its aspects (prisoner exchanges, defense of innocent civilians, etc.). The mediator conveys the offers from one party in the conflict to another. In addition, the mediator may also make its own recommendations about possible modalities of conflict resolution. In conducting such operations, the role of peacekeeping forces consists of:

- ◆ establishing and maintaining contacts between the opposing armed parties in order to establish and build trust;
- ◆ providing for the security of political structures that perform peacekeeping functions;
- ◆ preventing and halting incidents that could draw in the armed groups of the opposing sides and thus disrupt the process of peaceful settlement;
- ◆ acting as the guarantor of cease-fire agreements.

One important use of armed forces for preserving the peace is the *preventive deployment* of collective (or international) peacekeeping forces in zones of possible or actual escalation of tension. Such a deployment may also play a significant political and psychological role in the peaceful regulation process, since a peacekeeping force is viewed as a guarantor that neither of the opposing sides will achieve a military victory by suddenly violating an armistice, breaking off negotiations, etc.

Peacemaking operations are conducted with the mutual consent of the combating sides, or at their request. For example, the parties may decide, independently or under pressure from international organizations or individual states, to cease military actions, but they are unable to do so without help from the world community and international peacekeeping forces. Among the goals of such operations are:

- ◆ helping stop military actions;
- ◆ organizing the negotiation process.

The political aspect of these operations consists of arranging contacts, either direct or through intermediaries, for purposes of stopping fire, or for a separation of the armed combating sides, as well as to prepare and initiate negotiations to bring the conflict under control. In this process, the armed peace force performs the following basic missions:

- ◆ separating the combatant sides, establishing demilitarized or buffer zones along the lines of contact between the two sides;
- ◆ monitoring cease-fires;
- ◆ assisting in the development of the military dimension of armistice or cease-fire agreement;
- ◆ preventing and suppressing attempts to resume combat actions;
- ◆ facilitating contacts between combatant field commanders, or between such commanders and government troops, in order to resolve specific problems in halting combat actions in various local zones and establishing peace there;
- ◆ preventing incidents which could disrupt the cease-fire;
- ◆ maintaining law and order in the zones of separation between the combating sides;
- ◆ guarding strategic and important objectives, such as reservoirs, power stations, factories, damage to which would represent a threat to the people;
- ◆ assisting with the conduct of humanitarian actions, including providing for their security.

Peacemaking operations are generally initiated when the combatants agree to halt their fire, and they usually conclude when armistices are signed.

Peacekeeping Operations are also conducted with the consent of one or all sides of the conflict and can be divided into two categories. The first includes operations that are a sort of logical or practical continuation of peacemaking operations. After an armistice has been signed, negotiations begin in order to bring about the peaceful settlement of the conflict.

The second category includes operations conducted to implement a previously signed agreement. One such example would be the NATO operation being carried out in Bosnia subsequent to signing of the Dayton Agreement. In this case, the goal of the operation, including its military aspect, is assuring implementation of the terms of the agreement by all parties involved in the conflict. The peacekeeping forces perform the following missions:

- ◆ provide the military dimension of cease-fire agreements, armistices or other peaceful conflict resolution methods, including a system of cease-fire lines, demilitarized and buffer zones, and various types of special-status regions;
- ◆ assist in the exchange of territories, if such is called for by peaceful treaty;
- ◆ help set up refugee dislocated person camps;
- ◆ maintain law and order and help organize the activities of civilian authorities within their zones of responsibility;

- ◆ investigate complaints and pretensions in regard to armistice violations or violations of conflict settlement agreements;
- ◆ organize, if authorized, the collection and monitoring of certain categories of weapons, primarily heavy weapons.

As a rule, peacekeeping operations last as long as there exists the possibility that armed combat might resume or that any other form of conflict might arise.

Peace Enforcement operations involve the use of an armed force, or the threat of such use, in order to compel combatants to cease their fighting and seek peaceful methods of conflict settlement. Such operations might include combat actions taken by a peacekeeping force in order to separate and disarm the opposing sides. These operations might be directed at all combating parties, or at a single party that refuses to halt the military actions. On a practical level, peace enforcement actions include:

- ◆ carrying out international sanctions against the opposing sides, or against the side that represents the driving force in the armed conflict;
- ◆ isolating the conflict zones and preventing arms deliveries to the area, as well as preventing penetration of the area by armed formations;
- ◆ air or missile strikes on positions of the side that refuses to halt its combat actions;
- ◆ rapid deployment of peace forces to the combat zones in numbers sufficient to carry out the assigned missions.

Upon successful completion of these missions, i.e., after cessation of military actions, the peace force switches over to actions that are typical of peacekeeping or peacemaking.

It must be noted that a number of peace enforcement operations conducted under a UN mandate have taken the form of “classic” warfare, such as the UN operation in Korea during the 1950-53 war, and Desert Storm, conducted against Iraq.

Peace-Building Operations represent the whole aggregate of actions and measures that may be undertaken once the military phase of a conflict concludes. Their purpose is to prevent any renewal of the conflict. In addition to military security measures, such as those taken during peacekeeping operations, peace building includes:

- ◆ restoring social and political structures and institutions capable of preventing renewal of the conflict;
- ◆ restoring trust between the combating sides;
- ◆ providing at least a minimal guarantee that the population will survive;
- ◆ resolving problems of refugees and other categories of people who have suffered during the conflict.

Generally speaking, both civilian and military peacekeeping forces take part in peace-building operations. The military's specific job is to effect a final demobilization of the now former combatants' armed formations.

Humanitarian Actions, in whatever form or on whatever scale, are a part of almost all peace operations. In addition, they are carried out independently from other efforts aimed at ending the conflict. Humanitarian actions are undertaken to provide relief and to support the survival of the civilian population who have fallen victim to military actions. Very often these actions are conducted through the joint efforts of peacekeeping forces and international organizations, both governmental and non-governmental. Humanitarian actions generally include:

- ◆ delivering food, medicine, medical personnel, tents and other necessity items;

- ◆ setting up medical facilities, refugee camps, food distribution points, schools and other institutions for those who suffered in the conflict;
- ◆ evacuating certain groups of the population, such as children, from conflict zones;
- ◆ restoring basic survival support systems, such as water lines, sewers, food storage facilities, power supply stations, etc.

The first responsibility of peace forces is to protect those who are performing the humanitarian missions, as well as to guard equipment, food, medicine and other material items. In practice, however, it is most often the military themselves who carry out the bulk of the humanitarian work.

International Police Operations are carried out by one state on the territory of another state and are clearly defined among operations other-than-war. Police actions, in contrast to peacekeeping operations, are usually conducted pursuant to the decision of a state's national leadership, rather than a decision taken by various international organizations, although the latter is also possible. It has often been the case that one country conducts such operations without the consent of the host country. The goal of international police actions is to suppress criminal activity that has an international character, eradicate criminal communities and terrorist organizations, to free hostages, etc. Examples of such operations might be actions by the American armed forces to combat the Latin American drug trade; Israeli operations to destroy terrorist bases in Lebanon; etc. The legal aspects of such operations are very poorly developed. In several instances they could be classified as interference in the internal affairs of a sovereign state. The criteria used to differentiate between national liberation forces engaged in a lawful struggle, on the one hand, and terrorists and separatists, on the other, are very vague.

1.3 Terminology Used in Peacekeeping Operations Documents

Peacekeeping Forces are civilian and military personnel designated by the national governments of the countries participating in the peace operation. These personnel are placed at the disposal of the international organization under whose mandate the given operation is being conducted. Generally, peacekeeping forces are made up of national contingents under international command. Each national contingent is assigned either a zone of responsibility or specific functional duties.

Zone of Responsibility is the sector of territory in the host nation that is designated for a specific national contingent of a country participant at the peace operation. This contingent bears responsibility for executing the missions of the peacekeeping operation within the geographical boundaries of its sector.

Demilitarized Zones and Security Zones are areas defined either by the mandate or the operations plan. Special conditions are imposed for these areas. For example, deployment of the combatant armed forces in this area may be prohibited, and/or positioning of combatant weapons in these areas may be prohibited or restricted. As a rule, no combatant armed formations or weapons may be located in a demilitarized zone. Less strict restrictions may be placed on security zones. For example, heavy weapons may be prohibited here. Perhaps combat formations will be permitted in such an area, but with no weapons whatsoever. These zones are usually established along the combatant's engagement lines, in areas of particular strategic importance, or in areas where the fighting was especially fierce.

The Mandate of peacekeeping operations is the legal basis for the deployment and actions of the peacekeeping force. Generally, it formulates the goals and missions of the peacekeeping force; size and structure of the international armed force that will carry out the operation; definition of the command and control system for the operation; etc. Most peacekeeping operations mandates have been UN Security Council resolutions.

Status-of-Forces Agreement is concluded between the UN (or other organization under whose mandate the peace operation is conducted) and the country on whose territory the peacekeeping force is deployed. It defines the basic rights, immunities and privileges of the peacekeeping personnel, and it also governs:

- ◆ financial problems;
- ◆ issues of peacekeeping personnel troop movement across the territory of the host country; rules for the use of transport centers, including airfields and ports;
- ◆ nature of coordination between peacekeeping personnel and the local armed forces, special forces, etc.;
- ◆ conditions and rules for employing local personnel;
- ◆ conditions for use of electricity, water, other services, and payment for these services;
- ◆ issues of civil and criminal liability of peacekeeping personnel;
- ◆ other practical legal issues, etc.

The more detailed the status-of-forces agreement is, the fewer problems arise for the peacekeeping forces.

The Operations Plan is a very important document that defines the specific actions to be taken by the peacekeeping force as it carries out the mandate. The plan takes the form of a directive from the commander of the peacekeeping forces and contains the following:

- ◆ command and control structure for the peacekeeping force; procedures for assigning operational, administrative and civilian personnel; the degree of authority which the various levels of command enjoy;
- ◆ detailed description of the operational missions of the peacekeeping force as a whole and of its primary subunits;
- ◆ areas of responsibility for the various national contingents;
- ◆ rules on information;
- ◆ relationships between the peacekeeping units and the government and local authorities in the host country;
- ◆ security of the peacekeeping contingent;
- ◆ rights and procedures for the peacekeeping force in the conduct of searches and seizures of weapons and military equipment from private individuals;
- ◆ relationships with the mass media, as well as other practical issues.

Rules of Engagement. One of the most important principles of international peacekeeping operations is restraint in the use of force or weapons. This principle is usually formulated as follows: weapons may be used only under extreme circumstances, when there is no other way to protect the life and health of service personnel. Much significance is attached to the creation, adoption and observance of the “rules of engagement”. These rules strictly govern all instances involving the justifiable use of weapons, as well as the restrictions and rules for their use. The key elements covered in the rules of engagement are the following:

- ◆ rules for carrying and storing weapons;

- ◆ definition of the possibilities and rules for the justifiable use of weapons, including: self-defense of personnel, defense of peacekeeping posts and facilities, support of other peacekeeping subunits, enforcing compliance with the conditions of demilitarized and buffer zones, and prevention of violent flare-ups that threaten the life of the population.

2. PEACEKEEPING OPERATIONS IN THE FRAMEWORK OF THE UN

The main objective of the United Nations is to maintain international peace and security. To this end the United Nations must take effective collective measures for the prevention and removal of threats to peace and for the suppression of acts of aggression or other breaches of peace (UN Charter, Art. 1). Peacekeeping involves a UN presence in the conflict zone with the consent of all parties concerned. This implies a deployment of military and/or police forces, and in many cases of the civil personnel as well. Peacekeeping operation is a technique that offers measures of conflict prevention, as well as of peace building.

UN Charter is a legal basis for the Organization's actions. Peacekeeping operations are not specifically mentioned in the UN Charter, however international practice has required this form of settlement of conflicts that threaten international peace and security. These operations could be referred to Chapter VI of the Charter that provides for a peaceful settlement of disputes. They represent an action undertaken by the Organization that enjoys all prerogatives exercised by the Organization, as an instrument of settlement of disputes and as an act of the Organization's authority performed with a view to ensuring international peace and security.

Without being mentioned in the UN Charter, over a period of time, there have been elaborated many definitions of these operations. As a matter of fact, there is no unanimously accepted definition. However, generally speaking, peacekeeping represents prevention, limitation, moderation or settlement of intrastate or interstate hostilities, by involving a third party authorized by an international organization. These actions are organized and conducted by the international community, using multinational military and police forces, as well as the civil personnel to support political process of conflict settlement and to restore peace. Peacekeeping operations represent an action of collective security, authorized by international organizations, performed by consent of the parties involved, called to sustain a negotiated cease-fire and to contribute to the creation of the necessary conditions for supporting diplomatic efforts to bring a lasting peace in the conflict zone and to prevent the appearance of new interstate or intrastate conflicts, as well as to ensure security and respect for human rights; provide assistance for mitigating consequences of the armed conflicts.

It is considered that peacekeeping operations in the framework of the UN normally fall into two broad categories:

- ◆ observer missions;
- ◆ peacekeeping forces.

Types of peacekeeping operations. The UN practice knows three types of peacekeeping operations:

Level 1. Very limited activities of military unarmed or lightly armed forces with little or no freedom of movement:

- ◆ observer missions;
- ◆ interposition forces.

Level 2. Usually it is applied in conflicts between a community and a state, unlike conflicts between states and requires a higher level of training and heavier armament than that used for the Level 1 actions:

- ◆ preventive deployment of forces;
- ◆ internal measures of conflict settlement;
- ◆ assistance to interim authorities;
- ◆ ensuring or limiting free movement.

Level 3. Requires a higher operational involvement due to a greater risk and a thorough coordination of all military efforts:

- ◆ sanctions;
- ◆ peace enforcement.

Peacekeeping forces perform the following missions:

- ◆ monitoring cease-fire agreements;
- ◆ demobilization of combatants and their reintegration into society;
- ◆ protection of non-combatants;
- ◆ disarmament and weapons destruction;
- ◆ protection and repatriation of refugees and displaced persons;
- ◆ humanitarian assistance;
- ◆ providing assistance in creating the government structure, civil police forces, law-enforcement and judicial institutions;
- ◆ ensuring respect for human rights;
- ◆ monitoring free elections;
- ◆ creation of security zones;
- ◆ imposing and observing embargos;
- ◆ use or threat to use military force in order to ensure the fulfillment of the UN mandate.

Characteristics of operations. International practice and theoretical debates distinguish the following characteristics:

- peacekeeping operations have a multinational and temporary character and are generally set up by consent of the parties involved in the conflict;
- impartiality of peacekeeping forces is strictly necessary for carrying out the mandate's provisions. Peacekeeping forces cannot intervene therefore in favour of one of the sides involved in the conflict;
- these operations are sanctioned by the UN Security Council. However, there have been exceptions – operations authorized by the UN General Assembly. Generally speaking, the launch of an operation supposes consent of the international community. Yet, the Security Council is responsible for these actions, particularly with regard to the mandate of the operation;
- military and civil personnel is involved in peacekeeping operations. Composition of the personnel depends on the gravity of the conflict and is determined by the mandate.

Military personnel is voluntarily provided by the UN member states at the request of the Secretary General. The military contingent that performs the operation is under the

Secretary General's command. The Secretary General is directly responsible for the operation and has to report periodically to the Security Council about the latest development of the situation. The Force Commander is appointed by the UN Secretary General, by the approval of the Security Council. The Force Commander gives orders. Any misunderstandings regarding the mandate are brought to the attention of the Security Council by the Secretary General. The military contingent is set up by the Secretary General after consultations with the Security Council, by respecting the principle of a proportional geographical representation. This personnel is considered to be in the respective country's service, but has the status of the international personnel under the UN authority. Military personnel can participate at such operations as part of multinational units, or in separate detachments, either as part of a unit or as a separate one. The degree of military equipment of these troops is different:

- ◆ unarmed observer missions;
- ◆ peacekeeping forces, lightly armed, mainly for legitimate defense;
- ◆ due to an increasing role of peacekeeping forces in conflict zones, these forces should be equipped adequately to local conditions, a requirement stipulated in the mandate of the operation;
- ◆ military personnel can use weapons only in situations explicitly specified in the mandate of the operation.

Civil personnel is recruited either from the UN Secretariat framework or from different UN member states and follows the rules set for the UN Secretariat employees. At present, the civil component of the personnel becomes important in an increasing number of fields (civil police, personnel for monitoring elections, experts in human rights). Due to the fact that such operations are considered to be a UN subsidiary body, its personnel enjoys the UN status, privileges and immunities, stipulated in Article 105 of the UN Charter and in the Convention on the UN privileges and immunities. There can be added some other specific provisions to the existing ones, stipulated in the agreement with the host country, which may refer to the status of the operation and of its personnel. Peacekeeping operations should have a solid financial base. For this purpose there are used mainly contributions of the UN member states.

UN Mandates. According to the UN Charter the Security Council is the authority to take actions for maintaining international peace and security. The authority of the Security Council takes the form of a mandate or resolution. The Security Council resolutions are usually a result of a political compromise. The mandate provisions are based on the UN Charter principles, on the results of negotiations with the parties involved in the conflict, including the government of the hosting country, as well as with the governments of countries that may eventually participate at international peacekeeping operations.

The UN forces do not have the right to take actions that are not stipulated in the Security Council resolution. Thus, a very careful reading and a unanimously accepted understanding of this document is required in order to reach an agreement with regard to the actions expected from the nations and the forces concerned. However, neither provision of the mandate can contradict or outrun the basic human right for self-defense of each person or to observe international law rules and the human rights principles in every operation.

Mandate content. Mandates for actions stipulated in Chapter VII specifically outline that the Security Council takes actions in accordance with its authority as laid down in

Chapter VII for ordering such actions. Similarly, the mandate to take any actions by a coalition is ceded to the latter specifically with reference to Chapter VII.

Generally speaking, mandates envisage:

- ◆ role of the peacekeeping force;
- ◆ launching peacekeeping operations;
- ◆ goals and functions to be performed;
- ◆ size of the operation or mission;
- ◆ appointment of the commander, of any special mediators and their terms of reference;
- ◆ general financial and logistical provisions;
- ◆ term of the mandate;
- ◆ terms or conditions that the host country intends to set for the deployed peacekeeping forces or mission;
- ◆ status, privileges and immunities of the mission or peacekeeping force personnel;
- ◆ protection of humanitarian actions in the wartime;
- ◆ protection of civilians;
- ◆ exercising pressure on the parties involved in order to reach national reconciliation sooner than in terms agreed upon.

A wrong implementation of the last three functions can lead to the loss of the neutrality status by the peacekeeping forces.

3. PEACEKEEPING OPERATIONS IN THE FRAMEWORK OF THE OSCE

The section on peacekeeping in the Helsinki Document (1992) can, indeed, be considered as one of the most innovative concepts to have emerged from Helsinki Summit. Despite the fact that negotiations of this section proved long and at times difficult they resulted in a comprehensive text, which has opened the door for the OSCE, as well as for other organizations to enter into a totally new area of activities. It allows the OSCE as a regional organization to initiate peacekeeping operations and if it is the case to involve other European or transatlantic organizations in these operations.

The section on peacekeeping forms part of the chapter of the Helsinki Document on "early warning, conflict prevention and crisis management, peaceful settlement of disputes" (paragraphs 17-56). It is divided into a number of sections: the first paragraphs deal with the general principles of CSCE peacekeeping, followed by paragraphs on the chain of command, the Head of Mission, financial arrangements and concludes with cooperation with regional and transatlantic organizations.

The very first paragraph of the section defines peacekeeping as an operation element of the CSCE conflict prevention and crisis management capability. It stresses the complimentary character of peacekeeping and the political process of dispute resolution whereby the first should be seen as supporting efforts to reach a political solution. During the negotiations it was felt important to underline that peacekeeping can never be an end in itself, but will support political efforts of crisis management.

The following paragraph is an equally important one, as it describes the broad range of peacekeeping activities. According to this paragraph, peacekeeping can range from small-scale observer and monitor missions to larger deployment of forces, which could have a variety of tasks, monitoring of cease-fire being the most obvious one.

Paragraphs 19-21 focus on the relationship with the UN and state that the CSCE peacekeeping operations will take place within the framework of chapter VIII of the UN Charter. Moreover, the CSCE was declared a regional arrangement in the sense of the Chapter VIII of the UN Charter. The full text of paragraph 25 of the Helsinki Document reads as follows: "Reaffirming the commitments to the Charter of the United Nations as subscribed to by our States, we declare our understanding that the CSCE is a regional arrangement in the sense of Chapter VIII of the Charter of the United Nations. As such, it provides an important link between European and global security. The rights and responsibilities of the Security Council remain unaffected in their entirety. The CSCE will work together closely with the United Nations especially in preventing and settling conflicts". Therefore the CSCE can be considered as a regional arrangement in the sense of Articles 33, 52 and 53 of the UN Charter.

The President of the Security Council noted in a statement dated 18 January 1993 "the importance ... to consider the CSCE a regional arrangement in the sense of Chapter VIII of the United Nations Charter ... The Council welcomes the role of the CSCE, together with the European Community, in the actions required to carry out the pertinent resolutions of the Council". The UN Secretary General in "An Agenda for Peace; preventive diplomacy, peacemaking and peacekeeping" pointed out that regional arrangements had, in many cases a potential that should be utilized in serving functions such as preventive diplomacy, peacekeeping, peacemaking and post-conflict peace-building and pleaded for regional actions as a matter of the decentralization, delegation and of cooperation with the UN in these fields.

The following paragraphs, up to 25, sum up a number of other general principles of the CSCE peacekeeping:

- ◆ paragraph 22 – the CSCE peacekeeping operations will not entail enforcement actions;
- ◆ paragraph 23 – peacekeeping operations require the consent of the parties directly concerned;
- ◆ paragraph 24 – peacekeeping operations will be conducted impartially.

From thereon the first chapter on peacekeeping deals with the general set-up of such peacekeeping operations. It is important to note that decisions to initiate peacekeeping operations can only be taken by consensus by the CSCE Council of Ministers or by the Committee of Senior Officials. The Committee will also exercise political control over the operation. According to paragraph 30, a decision to initiate peacekeeping operations should only be taken when all parties concerned have expressed their will to cooperate – *inter alia* – an effective and durable cease-fire has been established.

Peacekeeping operations should be based upon a clear and precise mandate. Based upon this mandate, terms of reference, which define practical modalities and determine requirement for personnel and other resources, should be worked out. Finally, it is important to note that personnel to an operation will be provided by participating states (which does not exclude the support of international organizations, if required) and that parties concerned will be consulted about which countries would contribute personnel.

The second chapter deals with the chain of command, in particular with the role of the Conflict Prevention Center in Vienna and set-up of *ad hoc* group established at the Conflict Prevention Center.

Another difficult problem was created by the last sentence of paragraph 39, which deals with the composition of the *ad hoc* group. A number of countries, including the EC members, wanted to limit the composition to the CSCE Troika and to countries providing personnel. It was feared that otherwise the door would be opened to the participation of countries directly involved in the conflict that could frustrate the operation from the very beginning. The actual wording of this sentence could seem not ideal, but represents a compromise formulation and reads as following: "The *ad hoc* group will, as a rule, consist of representatives of the preceding and succeeding Chairmen-in-Office, of the participating States providing personnel for the mission and of participating States making other significant practical contributions to the operation".

Paragraphs 46-45 refer to the Head of Mission, who will have operation command in the area. The Head of the Mission will be responsible to the CSCE Chairman-in-Office, though he will consult and also guided by the *ad hoc* group in Vienna.

The section on financial arrangements (paragraphs 46-51) lays down the principle of cost of operation sharing by all member states according to the scale of distribution. Within the same chapter it is mentioned that a start-up fund may be established.

Finally, the peacekeeping text focuses on cooperation with regional and transatlantic organizations. The basic principle, as expressed in paragraph 52, stipulates that the CSCE may benefit from the resources and possible experience and expertise of such organizations as the EC, NATO and the WEU and could therefore request them to make their resources available in order to support it in carrying out peacekeeping activities.

Upon the proposal of the Russian Federation delegation, a subsequent sentence was added in the very last stages of negotiations, which refers to the peacekeeping mechanism of the CIS. This mechanism is based on the agreement, signed in Kiev on 20 March 1992 on "Groups of Military Observers and a Joint Peacekeeping Force in the Commonwealth of Independent States". Article 6 of that agreement specifies that the States Parties to this Agreement may, pursuant to their obligations under the United Nations Charter and other international accords and upon agreement with each other, give consent to the participation of the Peacekeeping Group's military and civilian personnel in peacekeeping efforts undertaken by the CSCE structures in accordance with the Security Council's decisions. The Republic of Moldova, along with other nine states, signed this agreement.

4. RUSSIAN PEACEKEEPING OPERATION IN THE FORMER USSR AREA

For a better understanding of the peacekeeping operation on the territory of the Republic of Moldova we consider appropriate to review and to underline the main features of the peacekeeping operation undertaken by the Russian Federation on the territory of the former USSR.

Since the collapse of the USSR the Russian military has participated in four peacekeeping operations beyond Russia's borders but within the confines of the former USSR: Tadjikistan, Moldova, and two separate peacekeeping operations in Georgia (Southern Ossetia and Abkhazia).

Before describing these conflicts and the role which the Russian military has played as peacemakers, it is important to mention that Russia has not accepted yet a doctrine for peace operations, which complies with the current guidelines set forth by the United Nations:

- ◆ consent and invitation of the conflicting parties;
- ◆ impartiality of the peacekeeping force;
- ◆ use of force only in self-defense.

Just like every other regional power, Russia is concerned with maintaining and keeping the peace along and near its borders (an argument less relevant in case of Moldova); to respond to real and often imaginary threats to its security. Russia asserts that it is its responsibility to maintain order within the confines of the former USSR. What is missing is a detailed explanation of “ why” and “how” they intend to maintain, or in some cases, restore the peace. History is replete with an untold number of peaceful declarations, which were used as a pretext for armed, and often one-sided, use of force. In the area of peacekeeping operations, where cease-fires are sometimes measured in minutes, it is probably more useful to examine actions than official policies and statements.

Southern Ossetia. The Russian Army conducted its first peacekeeping operation in Southern Ossetia, an autonomous region of the Republic of Georgia.

While Georgia stepped on the independence path, there was a strong opposition in Southern Ossetia on the issue of separation of Georgia from the URSS that led in December 1989 to violent clashes. In January 1990 the Soviet Ministry of the Interior troops were deployed in Georgia performing the task of preventing violence. Relying on the "Center's" support the Southern Ossetia Parliament decided, in September 1991, to raise the status of the region to the level of an autonomous republic, but in December 1991 the Georgian Supreme Soviet declared this decision void. The next month Michail Gorbaciov, President of the USSR, declared void both decisions, but was not able to propose a compromise decision. The conflict broke again in 1991 when the Georgian Parliament authorized the use of police units for enforcing the decision of the Ossetia autonomy abolishment. Ossetians responded with a call to arms, successfully defending the city of Tshinval for more than a year– the Ossetian capital besieged by the detachments of the Georgian national guard "Mhedrioni". During the fightings over 500 people were killed and approximately 110.000 Ossetians fled to Russia (mainly to Northern Ossetia), while 10.000 Georgians escaped to the nearest regions of Georgia. At a referendum in January 1992 as much as 99 per cent of the Ossetians voted for the region's joining the Russian Federation and for the re-union with the Northern Ossetia. Russia preferred a less radical way. In June 1992 the Russian President Boris Eltin and the Chairman of the Georgian State Council Eduard Shevardnadze decided to launch a peacekeeping operation in Southern Ossetia under the auspices of the Russian Federation. The agreement stipulated the deployment of trilateral peacekeeping forces in Ossetia, among which a Russian battalion, one Georgian and one of the Ossetian police forces. At the middle of July 1992, 1500 soldiers of common peacekeeping forces were deployed around the Tshinval city. Contrary to the international practice, soldiers of the combatant sides were included in the peacekeeping force. Peacekeepers established their command point on the territory of the Russian base of the 292d helicopter regiment in Tshinval. It was clear from the very beginning that the Russians were in control of the situation. For instance, when the Georgian Minister of Defense, Tenghiz Kitovani, suggested that 1500 soldiers were too much for that operation and that the Russian contingent, comparing to the other two, was too big (60 per cent). His words have been merely ignored.

It is important to mention that the combatant sides agreed upon a political settlement of the conflict prior to the deployment of the peacekeeping forces. Eltin-Shevardnadze

simply stipulated that they would use a combined peacekeeping force to restore the order. Thus, the peacekeeping forces entered the territory of Ossetia for restoring a semblance of order. Their mission was to separate the warring sides, to clear up roads, remove mines, to break the siege of Tshinval and assist in the repatriation of refugees. The original peacekeeping "mandate" was given for two months, but since the parties involved were unable to reach an agreement on the Southern Ossetia's status, they extended it indefinitely. The situation today remains very tense and despite claims of a "Russian peacekeeping success", the warring sides are no closer to a political settlement.

Abkhazia. An even more adamant Abkhazian demand for sovereignty distracted Georgia from the conflict in Southern Ossetia, and explains part of the Russian success there.

The conflict in Abkhazia, strategically located on the Black Sea in the northwestern region of the Republic of Georgia, began with social unrest and the attempts by the local authorities to separate from Georgia. It escalated into a series of armed confrontations in the summer of 1992 when the Government of Georgia, concluding that the railway and certain communication links had to be protected, deployed 2,000 Georgian troops in Abkhazia. Fierce fighting broke out on 14 August 1992 when the Georgian troops entered Abkhazia, resulting in some 200 dead and hundreds wounded. The Abkhaz leadership abandoned the Abkhaz capital of Sukhumi and retreated to the town of Gudauta. To be noted that the relations between the Abkhaz and the Georgians have been tense for decades. Historically, the Abkhaz attempted many times to separate from Georgia. Most recently, in August 1990, the Abkhaz Supreme Soviet declared Abkhazia a sovereign republic of the Soviet Union independent of Georgia. This decision was immediately declared void by the Georgian Supreme Soviet. As a compromise for remaining in the Republic of Georgia, the Abkhaz were given disproportionate representation in the Supreme Council of Abkhazia. At that time, of the total population in Abkhazia of 540,000, only about 18 per cent were Abkhaz. The majority was Georgian (about 47 per cent), and others included Armenians (about 18 per cent) and Russians (about 13 per cent). In December 1991, a new Supreme Council was elected, which allocated 28 seats to the Abkhaz, 26 seats to the Georgians and 11 seats to the remaining 35 per cent of the population. However, this did not solve the conflict. The Abkhazian minority was not satisfied with the disproportionate representation.

The scenario was similar to that in Ossetia, except that in this conflict, a host of various representatives from Russia aided the Abkhazians in their fight against Georgia. There were units of the Russian Army, quartered in Abkhazia, providing equipment and expertise to the Abkhazians. Russian veterans living in Abkhazia also provided their services. Russian Cossacks and mercenaries also aided the Abkhazians.

During the course of fighting there were signed three separate cease-fire agreements, with each one broken in turn. The fourth cease-fire was successful largely because the Russian supported Abkhazians were successful in defeating the Georgian military and driving most of the Georgian population from Abkhazia. The Russian military helped to sign each of the separate cease-fire agreements, while the unofficial Russian military presence helped to undercut these accords. The events surrounding the third broken cease-fire is a good example of the dual and inefficient policy of Russian peacekeeping.

Prompted by continuing reports of escalating combat, and concerned for the welfare of the many Russians living in Abkhazia, the Russian political leadership encouraged the warring sides to sign a cease-fire. Russia, Georgia and Abkhazia signed the agreement in

Sochi on 27 July 1993. The cease-fire agreement provided for "disarmament by both sides, to be accompanied by a prompt withdrawal of Georgian troops from Abkhazia and the return of the legitimate government to the capital city of Sukhumi". It established a tripartite commission made up of Russian, Georgian and Abkhazian authorities to monitor the cease-fire and the removal of military armaments. Since they had not agreed upon the political status of Abkhazia, however, neither of the warring sides wanted to disarm. Both sides began to accuse each other of violating the agreement. Sensing weakness in the Georgian defense, which was split because of the conflict in Ossetia, the Abkhazians began to attack the Georgian military in Sukhumi. The Abkhazians went on the offensive, using armored equipment and artillery that, under the agreement, had been rendered unusable for combat and given up for safekeeping to Russian units stationed in Abkhazia. This equipment could not have turned up in the possession of the Abkhaz side without the knowledge of the Russian military command. Why didn't the Russians demand that Abkhazian forces halt their attack? Granted, there was only a small Russian contingent in Abkhazia, but the silence from the Russian Defense and Foreign Ministries raises questions concerning Russian intentions. Only after the Abkhazians were successful in running the Georgian army and most of the Georgian population out of Abkhazia, the Russian government threaten the Abkhazians with economic sanctions. During a press conference on 18 September 93, Russian Defense Minister Pavel Grachev attempted to explain the Russian position in the Abkhazian conflict. After the warring sides had broken the cease-fire, he personally visited the front lines to try and stabilize the situation. Since the Abkhazians were winning the battle, they were not interested in negotiations. According to Grachev, there were insufficient Russian forces on the ground to take effective measures and stop the conflict. The Georgian government refused to allow the deployment of two Russian divisions to separate the warring sides. The Georgians wanted to reinforce the Russian airborne battalion, located in Sukhumi, thus preventing the Abkhazians from taking this key objective. Minister Grachev replied that, "Russian forces temporarily stationed in Abkhazia are to maintain strict neutrality, and international peacekeeping forces are to be used to enforce the cease-fire. A Russian military contingent could be used only after consultations with the UN". This comment illustrates the ambiguity of Russian peacekeeping policy in Abkhazia, and in general. General Grachev was ready to deploy more than two divisions of Russian soldiers to separate the warring sides without any sort of UN sanction, yet he could not spare a battalion to strengthen the defense of the key Georgian position in Abkhazia.

The situation in Abkhazia remains volatile. Russian and U.N. representatives have made a number of attempts to find a political solution to the dilemma of respecting the territorial integrity of Georgia while at the same time recognizing the independence of Abkhazia. The Georgian government demands the repatriation of the 300,000 Georgians driven out of Abkhazia. The Abkhazian authorities, that have already assumed control of these territories, are reluctant to readmit a potential partisan force. Neither side is ready to compromise.

It is worth mentioning that even in the cease-fire agreement reached on 3 September 1992 there was already an appeal to the United Nations and the CSCE to assist in the implementation of the peace settlement. In a related development, on 10 September 1992, the Security Council asked the Secretary-General to inform the Council periodically of the developments in Abkhazia.

Tajikistan. Russian involvement in the Tajik civil war cannot be even classified as a peacekeeping operation. Although the Russians have labeled their involvement as a peacekeeping operation, the Russian military has been anything but impartial toward the ex-communist, conservative and anti-Islamic regimes of Rakhmon Nabiev and Imamali Rakhmonov. As in the case of the other peacekeeping operations Russian military forces have played a key role in the development and outcome of this conflict.

Local Islamic leaders were not satisfied with the 1992 elections, which had chosen Nabiev, the former communist first secretary, as president of Tadjikistan. Even though they succeeded in removing him from power, the opposition's victory was short-lived. In November 1992, using substantial military power (which could have only come from the Russians), the ex-communists attacked the capital city of Dushanbe, forcing the “Islamic fundamentalists into the countryside”. The new Tajik leader I. Rakhmonov, developed a close relationship with the Russian military forces stationed in Tajikistan. He clearly understands that “without the assistance of these Russian forces, the current leadership would not last two days”. In order to quell the growing dissatisfaction and doubts among Russians, the Russian government and military began to portray the Tajik situation in its darkest colors. They claimed that Russian military forces have an obligation to protect ethnic Russians living in Tajikistan and the entire southern border of the CIS from the deadly spread of Islamic fundamentalism. As the Tajik defense minister depicted it, "an Islamic fundamentalist victory in Tajikistan would extend to the gates of the Kremlin". Russian military forces, combined with Uzbek and Kazakh troops, are keeping the ruling clan in power and trying to prevent the opposition from crossing the border from neighboring Afghanistan back into Tajikistan.

5. PLACE AND ROLE OF THE PEACEKEEPING OPERATION IN THE SETTLEMENT OF THE TRANSNISTRIAN CONFLICT

Perhaps the most controversial Russian peacekeeping mission has taken place along the eastern boundary of the Republic of Moldova (in this paper we use the notion of “peacekeeping operation” regarding the Russian operation in the Eastern region of Moldova for linguistic and practical purposes and not for classifying it as a real peacekeeping operation). On a thin sliver of land to the East of the Nistru River, a portion of the local population politically manipulated, in response to what they perceived as a push towards Moldova’s unification with Romania and the loss of Russian cultural identity, on 2 September 1990 proclaimed an “Independent Dniester Republic”¹. To power was brought a puppet totalitarian regime with a very well defined mandate – safeguard of the Russian Federation’s interests in this part of Europe.

In order to adequately understand the issue of the peacekeeping operation on the territory of Moldova it is necessary to place it in the historical framework of the events that happened on the country’s territory, especially during the armed phase of the conflict in the Eastern region of the republic.

¹ Постановление второго чрезвычайного съезда народных депутатов всех уровней Приднестровского региона. Сб. Документов II-го съезда народных депутатов всех уровней Приднестровского региона. С. 13-16.

Events of the final few months of 1991, in particular armed clashes between the Moldovan police and armed formations of the rebel region and the seizure of arms from Russian military arsenals have created an extremely tense situation.² Since December 1991 it was difficult to determine the status of the Russian 14th Army.³ The 14th Army Commander has announced his intention to become Commander of the Armed Forces of the Dniester Republic and to transform the 14th Army into the nucleus of the separatist regime's armed forces. In addition, paramilitary forces potential in the region have grown with the arrival of Slavic volunteers and "Cossacks" from the Don region.⁴

Tiraspol authorities deployed substantial military force, infantry combat vehicles (BMPs) and "Grad" multiple rocket-launching systems in the zone. Raiding a military depot near Tiraspol, in obvious collusion with garrison personnel who guided them through a minefield protecting the depot, Dniester guardsmen and Cossacks carted away 1,100 Kalashnikov assault rifles along with 1.5 million cartridges, 1,300 grenade and mortar rounds, and 30 portable rocket launchers in military trucks.⁵

Fighting escalated in mid-March 1992 when the Dniester Republic Guards attacked Moldovan police units in three villages in Dubasari region in an attempt to eliminate the last remaining Moldovan police presence on the left bank of the Dniester.⁶ Reaction to the fighting came rapidly. On 15 March the Ukrainian Foreign Ministry issued a statement expressing concern about the involvement of Cossack volunteers from the Don region in the armed conflict in Moldova. The statement described Cossacks fighting on the side of the rebel region as "mercenaries," whose involvement violated international legal norms.⁷ The following day, the Ukrainian Foreign Minister called for a cease-fire and offered his services to mediate the conflict.⁸ Meanwhile, fighting continued, the initiative being in rebels' hands. Moldovan police were no match for the attackers' firepower, logistics, and military professionalism. At the same time, mass demonstrations in Chisinau criticized President Snegur and his government for not declaring a general mobilization.

The same day, Snegur announced a unilateral cease-fire but it did not stop the conflict. In Chisinau protests multiplied, especially as it became more evident that Russia was supporting Tiraspol regime. On 18 March the Moldovan government protested the Russian State Bank's decision to open accounts in the self-proclaimed State Bank of the Dniester Republic.⁹

² "Moldova Suverană", 9,12 November 1992

³ Decretul Preşedintelui Republicii Moldova cu privire la declararea drept proprietate a Republicii Moldova drept proprietate a Republicii Moldova a armamentului, tehnicii militare, altor bunuri militare care aparţin unităţilor militare ale Armatei Sovietice, dislocate pe teritoriul republicii. - "Moldova Suverană", 15 noiembrie 1992.

⁴ "Moldova Suverană", 10 March 1992, "Moldova Suverană", 5 March 1992.

⁵ "Moldova Suverană", 17 March 1992

⁶ "Moldova Suverană", 3 March 1992.

⁷ Declaraţie a ministerului de externe al Ucrainei. - "Moldova Suverană", 19 March 1992.

⁸ Declaraţie a ministerului de externe al Ucrainei. - "Moldova Suverană", 20 March 1992.

⁹ "Moldova Suverană", 19 March 1992.

At the Helsinki Foreign Ministers' conference, Moldova protested the activities of rebel forces operating on the left bank of the Dniester River.¹⁰ They were supported by the Romanian government, which issued a statement in this regard.¹¹ On 24 March, following the CSCE meeting in Helsinki, the Foreign Ministers of Romania, Moldova, Russia, and Ukraine issued a joint statement saying they would continue their efforts to resolve the conflict in Moldova and announced the creation of a quadripartite mechanism of political consultations for solving the Moldovan conflict.¹²

None of these diplomatic moves put an end to the fighting, which in the last week of March escalated from sporadic raids into large-scale fighting. On 26 March Igor Smirnov signed a decree ordering partial mobilization of men under age of 45. In response on 29 March Snegur declared a state of emergency throughout the Moldovan Republic and called on Dniester separatists to surrender their arms and acknowledge the Moldovan government's authority.¹³ He also ordered Moldova's security forces to "disarm and liquidate the illegitimate armed formations", which were backing the new "pseudo-state". Snegur told the Parliament on 31 March that the time for negotiations had run out, and that it had become obvious that the Tiraspol leadership were not interested in resolving the conflict in a peaceful manner. On 30 March, Snegur warned that the government would take "all necessary measures" to restore its authority in the breakaway region and threatened to take back the offer to grant the region the status of a "free economic zone". The Tiraspol leadership responded by a call to arms and appealed to Russia for protection. The Russian Foreign Ministry issued a statement calling on Moldovan authorities and all parties concerned to act strictly in accordance with the norms of international law and to respect human rights and the rights of ethnic minorities. At the same time, President Yeltsin, within 48 hours, signed a Decree on 1 April that placed the 14th Army and several other units deployed in Moldova under the Russian jurisdiction.¹⁴ This decree was labeled by a Moldovan Deputy Defense Minister as illegal, stressing that all forces in Moldova, except for those on the left bank of the Dniester, had been placed under the legal jurisdiction of Moldova.¹⁵

Subordinating these troops to Russia's control allowed the use of them in a more efficient way. Statements of some leading Moscow officials proved that Yeltsin was considering the use of these troops in the conflict. Thus, Russian Foreign Minister Andrei Kozyrev was quoted by ITAR-TASS on 1 April as saying that Russia "will be protecting the rights of Russians in other states of the CIS. This is top priority. We shall be protecting their rights firmly and will be using powerful methods if needed."

Ukraine's reaction was swift and strong. On 29 March, Presidium of the Ukrainian Supreme Council issued a statement warning that escalation of the Moldovan conflict

¹⁰ "Moldova Suverană", 29 March 1992.

¹¹ "Moldova Suverană", 10 March 1992.

¹² Declarația ministerilor afacerilor externe ai Republicii Moldova, Federației Ruse, României și Ucrainei. - Moldova Suverană, 28 March 1992.

¹³ Decretul președintelui Republicii Moldova cu privire la declararea stării excepționale pe întreg teritoriul Republicii Moldova. - Moldova Suverană, 29 March 1992.

¹⁴ Decretul președintelui Rusiei. - Moldova Suverană, 3 April 1992.

¹⁵ "Moldova Suverană", 23 May 1992.

could have dangerous consequences for the republic's neighbors, especially Ukraine. Experts from the ministries of foreign affairs of Moldova, Romania, Russia, and Ukraine gathered in Chisinau on 31 March to discuss a possible solution to the conflict. The participants declared that they would be guided by the Helsinki Conference decisions and that they would seek peaceful resolution while preserving Moldova's integrity. These talks continued on 1 April but did not lead to a breakthrough in resolving the conflict. The same day special Moldovan police units attacked Tighina.

The same day, in a short communiqué from the Romanian Defense Ministry on 1 April rejected speculation in both the Russian and Romanian media about Romanian military involvement in this conflict.¹⁶ On the contrary the Russian Vice President Aleksandr Rutskoi addressed the opening session of the Russian Congress of People's Deputies on 6 April and urged lawmakers to take a stand on the question of sovereignty for the breakaway Dniester Republic. In a strongly nationalistic speech, he argued that the Congress had to act to defend Russians throughout the former Soviet Union. The Supreme Security Council of Moldova labeled the decision adopted by Russian Congress as a rude interference into internal affairs of the Republic of Moldova and a flagrant violation of the UN Charter's provisions and norms.¹⁷

Commander of the 14th Army, Major General Yuri Netkachev, told Moldpres on 6 April that his troops were ready to act as a buffer force in the region, but only with the consent of those states directly and indirectly involved in the conflict. His comments were echoed by Colonel General Boris Gromov, First Deputy Commander of CIS Ground Forces who favored setting up UN-style CIS peacekeeping forces in the republic, and suggested that the 14th Army might be used for that purpose.

Moldovan President Mircea Snegur told at a press conference in Chisinau on 7 April that statements by Rutskoy made during his visit of the breakaway region of Moldova that the battle for Moscow would start from Transnistria and that the Russian Army had the duty to defend Transnistria were "irresponsible." Snegur mentioned that if Russia recognized the "Dniester Republic", it should also recognize Tatarstan and Chechenya.¹⁸

The situation in Moldova continued to be very unstable. On 9, 10 and 11 May more violations of the cease-fire were reported, as a result of the rebels attempt to attack two bridgeheads over the Dniester River held by Moldovan police. President Snegur appealed via the UN Security Council upon the international community to intervene and stop the Russian aggression in Moldova, which hampered Moldova's search for a political solution to the country's problems.¹⁹

A day or two later, Major-General Netkachev, the 14th Army Commander, retracted his statement, in which he said he had lost control over some of his troops. A strange statement if we take into account that some units of the 14th Army with all their ammunition openly moved under the jurisdiction of "Dniester Republic". So did, for instance, the engineers' battalion No. 66 deployed in Parcani village, which led to the

¹⁶ "Moldova Suverană", 4 April 1992.

¹⁷ Ședința Consiliului Suprem al Republicii Moldova. - Moldova Suverană, 11 April 1992.

¹⁸ "Moldova Suverană", 7 April 1992.

¹⁹ Mesaj al președintelui Republicii Moldova adresat Secretarului General al ONU. - Moldova Suverană, 26 May 1992.

decision of the Russian Defense Ministry to expel it from the 14th Army.²⁰ As a result in the rebels' hands were passed 1321 Kalashnikov assault rifles along with 1.5 million cartridges, 155 Makarov and TT guns, 1,300 F-1 and RGD-5 grenade and mortar rounds, and 30 portable rocket launchers.²¹

On 22 May, however, an unidentified Russian military spokesman acknowledged that "soldiers had been ordered out of the barracks to 'defend' Russian speaking areas". Meanwhile, on 25 May the U.S. State Department declared that it found reports of the 14th Army involvement in Moldova as disturbing and urged the proposed peace plan to be put into effect.²²

On 27 May, President Yeltsin told a Russian audience in Barnaul, Siberia, "not to worry that there will be a war. We are going to withdraw the 14th Army to Russian territory and will not let Russia be dragged into war." Yeltsin's comment was received skeptically in Moldova whose officials pointed out that he had failed to keep previous promises of non-interference. This interpretation appeared to be well founded when, on 27 May, General Pavel Grachev, Russia's Defense Minister, told the media representatives that the 14th Army "may be withdrawn following a special bilateral agreement, [but] only after the conflict in the area has been defused." However, on 27 May, contradicting his Defense Ministry's statements, President Yeltsin acknowledged that some of the Russia's 14th Army troops had joined the "Dniester Republic" but said they had done so on their own initiative and not on his orders.²³

In June, Yeltsin offered to withdraw the 14th Army from Moldova, but his plan encountered heavy opposition from Russian military officials. They claimed that over half of the army's personnel were local inhabitants who wanted to defend their "homeland" and that even if this were not the case, there were no apartments in Russia for servicemen, should they be returned. Adding to this uncertainty over the withdrawal of the 14th Army, General Pavel Grachev charged that "political mistakes made by Moldova's political leaders in the Dniester region had exacerbated the situation" and demanded that Moldovan President Snegur order a unilateral cease-fire. Grachev conspicuously failed to mention that several cease-fire agreements signed in the recent past had been violated by Dniester-based, Russian forces trying to eliminate Moldovan bridgeheads on the left bank of the river. He further warned Moldovan politicians that "should they initiate military action against the Dniester region and Russian 14th Army units, he would find it difficult to restrain the military units subordinated to him." Graciov went on to reassure the Russian population living in Moldova that they had no need to worry, as Russian forces would not leave them "in the lurch."²⁴

To provide some sense of objectivity to the assessments of the situation and a more credible source of information, a quadripartite Joint Group of Military Observers was set

²⁰ "Izvestia", 21 iulie 1992.

²¹ "Moldova Suverană", 17 martie 1992.

²² "Moldova Suverană", 30 June 1992.

²³ "Moldova Suverană", 23 May 1992.

²⁴ "Moldova Suverană", 25 June 1992.

up. This group, established in Moldova, consisted of 25 officers from Russia, Ukraine, Moldova and Romania. In three consecutive weeks it has concluded that almost all violations of the cease-fire in Eastern Moldova were the fault of the Dniester forces.²⁵

The remarks of the Russian Foreign Minister Andrei Kozyrev in the 7-8 June edition of the French publication, *Le Monde*, fueled the controversy. When asked if Moldova's Dniester area "would someday become part of Russia," Kozyrev said he "would not rule that out." He also recommended that Ukraine, Moldova, and the Baltic states accept the creation of certain "regions of their territories which would have a special status" and "very close links, privileged links, with Russia."²⁶ In its turn, on 23 June Radio Ukraine reported a change in Ukraine's position toward the Moldovan conflict. President Kravchuk called for the left bank of the Dniester to be given the status of an autonomous republic within Moldova. This was the first time Kiev had recognized or supported the "Dniester Republic's" calls for federalization of Moldova.²⁷

A Russian "government source" told journalists on 24 June that "the order for the 14th Army to engage Moldovan forces was given by the High Command in Moscow, although the aim was to make a show of force rather than to wage war."²⁸ Commanders on the ground had admitted two days earlier that some of the 5,000 soldiers of the 14th Army stationed in the area of Tighina had participated in the May fighting. They attempted to make clear that their troops participated in the fighting on their own initiative without orders from above, but said the actions were justified by existing circumstances. Moldovan President Mircea Snegur responded by telling *Moldpres* on 23 June that "our state is being destroyed by the Russian military, Cossacks, and mercenaries".

Shortly after, airborne forces Commander, Major General Aleksandr Lebed, was named to replace Major General Netkachev as Commander of the Russian 14th Army in Moldova. Lebed - a hard-line advocate - in his conference on 1 July called the right-bank city of Tighina "an inalienable part of the 'Dniester Republic'" and said that the "Dniester Republic" itself was just a small part of Russia."

On 3 July President Yeltsin held talks with Moldovan President Snegur in the Kremlin in an attempt to defuse the conflict. During the meeting they agreed on a sequence of steps designed to settle the conflict: implementing a cease-fire, creating a demarcation corridor between the forces, introducing "neutral" peacekeeping forces, granting a "political status" to the left bank of the Dniester and ultimately, scheduling bilateral negotiations on withdrawing Russia's 14th Army.²⁹

These talks prepared the ground for the Moscow meeting held on 6 July where the CIS heads of state agreed to create and deploy what they called a joint "peacemaking" force of between 2,000 and 6,000 soldiers in Eastern Moldova within the next few weeks. This force, consisting of soldiers from Russia, Ukraine, Belarus, Romania and Bulgaria, would

²⁵ "Moldova Suverană", 2 June 1992.

²⁶ *Ibidem*

²⁷ "Moldova Suverană", 24, 27 June 1992.

²⁸ RFE/PL. Research Report, vol. 1, nr. 36, 11 September 1992, p. 46.

²⁹ "Moldova Suverană", 7 July 1992.

have the mission to enforce and monitor a cease-fire and keep the forces of both sides in the Dniester region separated.³⁰

On 7 July Colonel General Vladimir Semenov, Chief of Ground Forces for the Russian Army, arrived in Moldova to sign a cease-fire with Moldovan First Deputy Minister of Defense, Pavel Creanga and the “Dniester Republican Guard” Commander, Stefan Kitsak. The cease-fire was to become effective at midnight on 8 July.³¹ Only a day later, at a meeting called to assess compliance with the cease-fire agreement, it was determined that Moldovan forces had complied completely with the cease-fire provisions, but the “Dniester” forces had committed numerous violations.³² The “Dniester Republic” Supreme Soviet then turned down an offer from the Moldovan government for four governmental seats for “Dniester” representatives, and instead, proposed that Russia and Ukraine assume duties as “protecting powers” to represent the “Dniester Republic.”

Despite continuing controversies, on 21 July in Moscow Presidents of the Republic of Moldova and the Russian Federation signed the “Convention on principles of peaceful settlement of the armed conflict in the Dniester region of the Republic of Moldova.”

The course of events during the armed phase of the conflict in the Eastern regions of Moldova eloquently demonstrates a direct participation of the Russian Federation in military operations. The signature of the Convention between the Republic of Moldova and the Russian Federation comes to prove again that the war was conducted between Moldova and the Russian Federation, the Tiraspol puppet regime being just an instrument of fulfillment of Russian’s interests in South-East Europe in general and in this territory in particular. Russian officials have successfully taken over from the GKCP member Lukianov and the “Soiuz” group of the Supreme Soviet deputies the strategy of creation on the territory of Moldova of two state-like units: on the left bank of the Dniester river and in the Gagauz region, where separatist actions were carried on under a secret guidance of the Communist Party.³³

And if Russian officials have never recognized Russia’s direct involvement in the war against Moldova, though, there were made enough statements that prove it, while the the separatist leaders, being less interested in disguising the truth, on 18 February 1993 handed over to General Lebed the symbolic keys of Tighina, as reported by Transdniester media, for his merits in “introducing into the city the 14th Army before the peacekeepers arrival.”

Russia as a successor of the Soviet Union has never accepted a diminution of its role in the former USSR area. Russia is interested in stopping the centrifugal tendencies and a decrease of its influence in this territory. This fact was eloquently proved during the signature of the Convention by the Russian President who “expressed his hope that in the nearest future the Republic of Moldova will find the possibility to become a full-fledged member of the Commonwealth of Independent States”³⁴. In the context of the

³⁰ “Moldova Suverană”, 9 Juny 1992.

³¹ “Moldova Suverană”, 2 Juny 1992.

³² Ibidem.

³³ “Moldova Suverană”, 20 June 1992.

³⁴ “Moldova Suverană”, 23 July 1992.

peacekeeping operation and in accordance with the international law provisions and international organizations' practices (the agreement of parties involved in a conflict regarding the national contingents of the international peacekeeping force) it would ideally mean the agreement of Moldova and the Russian Federation on the participation of one or another country in this operation and exclusion of Dniester leaders from this process. And if the Russian Federation found efficient instruments for creating a puppet regime that efficiently implemented Russia's ideas of influence in the region, why can not Russia find other no less efficient instruments to have the separatist authorities keep silence in the peacekeeping operation issue and to make them comply with the norms of international law in this field. Unfortunately, the Russian Federation's position, as well as a number of mistakes of the Moldovan leadership in the Dniester conflict issue, in general, and in that of the peacekeeping operation, in particular, makes difficult, though not impossible, the involvement into the conflict of international peacekeeping forces without the Transdnister authorities consent.

In the course of the armed phase of the conflict the republic's leadership addressed to the international community with an appeal to contribute to putting an end to the conflict. As a result the UN, CSCE, NATO, as well as the USA, Great Britain and other countries demanded Russia to withdraw the 14th Army from Moldova. A firm and consequent position in this regard, constant and unambiguous appeals for the international community's involvement would have made impossible such an easy manipulation of the situation by the Russian Federation and its puppet. A striking change of the position of Moldovan leadership and the signing of the Convention of 21 June 1992 allowed Russia to continue its role of a puppet regime manipulator and to keep its military presence in Moldova not only through illegal deployment of the 14th Army on the territory of the Republic of Moldova, but also in accordance with the Convention's provisions of launching a peacekeeping operation.

The Convention's provisions regarding the peacekeeping operation in the Eastern region of the country glaringly run counter to the provisions of the international law and practices and documents of the above mentioned international organizations. Being members of the UN and CSCE both Moldova and Russia have violated these organizations' provisions by agreeing to create trilateral peacekeeping forces with the participation of Moldova, Russia and Transdnistria – parties directly involved in the conflict. Also, there were not specified in the Convention the operation's time limits, though, in accordance with the same organizations' practices peacekeeping operations have a clearly temporary character with clearly defined objectives, since the idea of peacekeeping operations is to serve as a complimentary instrument to political methods of settling conflicts, while peacekeeping operations are meant to support political efforts of conflict settlement.

The idea of an international peacekeeping operation was launched during the meeting on 17 April 1992 of Foreign Ministers of Moldova, the Russian Federation, Ukraine and Romania.³⁵ Heads of these states at their meeting on 25 June in Istanbul agreed on the necessity to examine the issue. At the same time they mentioned that "they would greet a more active peacekeeping role of the UN in the process of settlement of the conflict in the

³⁵ "Moldova Suverană", 21 March 1992.

region of the left bank of the Dniester river of the Republic of Moldova.” They also expressed their satisfaction with the UN Secretary General’s decision to send to Moldova an evaluation mission.

Thus, there can be spotlighted two diametrically opposed approaches of tackling this problem. First, that of the Moldovan leadership (at least until signing the Convention) that required a massive involvement of international organizations in the peacekeeping operation in Moldova and, secondly, that of the Russian leadership that, though joined some declarations, like the one quoted above, was not interested in the internationalization of the conflict settlement process since the involvement of international organizations would have diminished Russia’s role or would have deterred it from orchestrating the conflict and in a longer term would have undermined Russia’s interests in the region. On 6 April 1992 the Russian Foreign Minister proposed to the Moldovan President to give to the 14th Army a mandate of a peacekeeping force.³⁶ Shortly after Maracuta made public the news that some Russian top leaders were considering a possibility of participation of Russian troops as disengagement force even without Moldova’s leadership consent.³⁷

On 6 June in Moscow during the meeting of the CIS Heads of state and government the country’s leadership gave up, for the first time, by accepting the decision to deploy in the region joint peacekeeping forces of Moldova, Russia, Ukraine, Romania, Bulgaria and Belorussia. On his return to Chisinau, President Snegur declared that “in the current situation we got back to the Istanbul decision to create a disengagement force. During the Moscow meeting there was made a proposal that would be presented to the Parliament – the legislative forum would address to Romania, Bulgaria, Russia, Ukraine, Byelorussia asking those states to create a disengagement force together with the Republic of Moldova.”³⁸

On 7 July 1992 the Parliament of Moldova by a majority vote adopted a decision to address to the parliaments and heads of the above mentioned states with a proposal to accept the participation in the peacekeeping operation in the Eastern regions of Moldova.³⁹ Not surprisingly, not all those states accepted the offer, thus Russia fully realized its objective – the elimination from the process of the conflict settlement not only international organizations but also of other states, first of all Romania, which by its participation could have insisted on a real and adequate mechanism of the conflict settlement.⁴⁰ Unfortunately, Moldovan leadership that from the very beginning was involved in a war, where it was outrun military, economically, politically, diplomatically and psychologically fell into another extremity – peace by any means. Once stepping on this path, it gave up in almost all possible aspects, including the peacekeeping one. “The Bendery campaign” was won by Russian media. A perspective of "Russian tanks on Chisinau streets", vividly outlined before the Chisinau politicians' eyes, seemed to be

³⁶ “Moldova Suverană”, 7 March 1992.

³⁷ “Moldova Suverană”, 1 July 1992.

³⁸ “Moldova Suverană”, 9 July 1992.

³⁹ Ibidem.

⁴⁰ “Moldova Suverană”, 2 July 1992.

inevitable after all the events that happened and especially on the appointment of the new Commander of the 14th Army. It was not possible to count on the Russian parliament's compassion, or on the support of Russian "democrats".

Here it seems appropriate to open some brackets and mention two moments. Firstly, for the Republic of Moldova the proposed alternative was (or at least should have been) much more attractive than the peacekeeping operation imposed by Russia. The implication of Romania, Ukraine, Bulgaria and Belarus could have limited the possibilities of the Russian Federation and the separatist leaders to implement their objectives. Secondly, and yet, the implication into the peacekeeping operation in Moldova of such states as Romania, Ukraine and Bulgaria, let alone Russia, contradicts to the basic provision of the international law and the UN/OSCE practice in this field – impartiality of the peacekeeping forces. It is obvious that all these states have interests in Moldova. And we would like to stress that in this context talking about interests we do not necessarily use this term with a negative connotation. It is doubtless that the neighboring countries with century-old historic ties and common borders had and will have interests in the territory of their neighbors. This is also true for the relations of the Republic of Moldova with its neighbor states. But, in this regard we should distinguish the peacekeeping operation from the process of the conflict settlement. And if the participation of the above mentioned states in the peacekeeping operation contradicts the international law norms, then their participation to the process of a conflict settlement would be perfectly acceptable. A creation of a representative working group for the elaboration of a status for the Eastern part of Moldova under the auspices of an international organization with a mandate to solve security problems should become a priority objective of the country's leadership. Even in the case when an implication of the interested states (Russia, Ukraine, Romania, Bulgaria) formally does not contravene the international law norms, from the moral point of view, it would be normal for these states to refrain from participating in the Transnistria status elaboration process (the author is fully aware of the fragility of moral arguments in international relations and does not insist on this idea).

Thus, by signing the 1992 Convention, the Republic of Moldova and the Russian Federation, as in the case with the common state idea, have introduced a new "notion" in the history of international law – peacekeeping forces created by the parties involved in the conflict. If making an abstraction from the international law norms, we mention that such a "solution" contravenes even a normal logic – parties that yesterday were looking at each other through back-sight of machine guns cannot today ensure peace and monitor it.

Another trap in which Moldova can get and which is skillfully stretched by Russia is the idea of placing the peacekeeping operation under the Commonwealth of Independent States' mandate and thus under the mandate of the same Russia. It is true that the CIS was recognized by the UN as a regional structure and it seems that in accordance with the UN Charter it can be involved in the peacekeeping operations. But what escapes from some analysts view is the fact that the CIS was not granted the mandate to deal with problems of regional security. At the moment in Europe only the OSCE has this mandate and thus is the only regional organization that has the right to intervene and to take part in the Transnistrian conflict settlement. That is why declarations of some Moscow officials

that deployment of peacekeeping operations on the territory of the former USSR under the CIS mandate would be an ideal solution are at least incorrect.

Conclusions:

1. The peacekeeping operation in Moldova is illegal, since it is not carried on in accordance with the international law norms, under a mandate of an international or regional security organization.
2. The peacekeeping operation in the Eastern region of the country contravene the international law norms and international organizations provisions (UN/OSCE): a) impartiality of peacekeeping forces, b) non-involvement of conflicting parties in the operation, c) multinational character of these forces, d) a temporary character of such operations.
3. The Russian Federation is insisting more and more on being granted some special rights of a peace guarantor on the territory of the former USSR. The Russian authorities, guided by the policy of “accomplished facts” work out basic principles of the Russian peacekeeping forces usage in the CIS area. The Republic of Moldova is a testing range of these principles, as well as of the international community’s reaction to these ideas.
4. The Moldovan leadership’s mistakes in the Transnistrian conflict settlement and in the peacekeeping operation issues, an ambiguity of its position mislead international organizations and the international community, letting Russia to get more ground in this field.
5. We cannot exclude the possibility of obtaining by Russia, which at the moment is skillfully manipulating the international public opinion and efficiently using the global and European course of events a long-awaited mandate of a security force in the CIS area and thus the legitimization of the operation in Moldova.
6. The current peacekeeping operation has a negative influence on the domestic situation, since it does not support the efforts of a sustainable peaceful settlement of the conflict and on the contrary, strengthen the Russian Federation’s (and the puppet regime’s) position of preserving the division of Moldova and strengthen the position of the separatist regime itself.
7. The peacekeeping operation in Moldova, as well as those in Georgia and Tajikistan, created a negative precedent in international practice – an involvement in such operations of parties engaged in the conflicts.
8. The peacekeeping operation does not only contravene the international law, but also is inefficient. The deployment in the security zone of military contingents and equipment, restrictions for military observers, etc. imposed by Tiraspol regime come to support this affirmation and contravene both the essence of

peacekeeping operations and the provisions of the 1992 Convention and other related documents.

Suggestions:

1. To initiate actions of involvement of the international community in the settlement of the Transnistrian conflict and placement of the peacekeeping operation under a mandate of an international organization qualified to deal with security problems (UN, OSCE).
2. To submit an official request to these international organizations to put on their agenda the question of the peacekeeping operation in Moldova and to ask these organizations to start negotiations with the member states regarding their participation in this operation with military or civil contingents, as well as their availability to contribute financially to this operation.
3. To issue a political declaration regarding Moldova's withdrawal from the present peacekeeping operation that contravenes the norms of international law and its endorsement by Moldovan political forces.
4. To denounce the Convention regarding the principles of peaceful settlement of the armed conflict in the Transnistrian region of the Republic of Moldova in accordance with Article 8 of the Convention.
5. To elaborate and to present a firm position of the Republic of Moldova regarding the creation of peacekeeping forces in accordance with the international law norms.
6. To renounce to participate in whatever position to the future peacekeeping operation under an international organization mandate except that of the host country, party to the armed conflict.
7. To monitor the process of negotiations and creation of the peacekeeping force in order to assure their neutrality and impartiality. In this context it would be necessary to undertake actions that would assure non-participation to the operation of such regional powers with interests in Moldova like: Russia, Romania, Ukraine, Bulgaria, Turkey.
8. In the context of the peacekeeping operation to declare the country's negative attitude towards the Russian Federation's actions to legitimize its own peacekeeping operations on the territory of the former USSR or their placement under a CIS mandate. Here there could be initiated some consultations with Georgia for presenting a common position in this regard in the framework of international organizations.

9. To replace the State Commission on the settlement of the Transnistrian dispute with a special body that will have a necessary authority to elaborate and to coordinate the state policy in the Transnistrian issue. One of the first steps of this body should be the elaboration of a clear state position that will include concrete actions regarding the settlement of the conflict and its afterwards endorsement by the Government and the Parliament. To involve international experts in this process along with national bodies and experts.

10. To transform the security zone into a demilitarized one and to extend it, simultaneously with the 14th Army withdrawal, on the entire territory of the left bank of the Dniester river and monitoring of this provision's accomplishment by international peacekeepers.

Finally, we would like to stress once again that a peacekeeping operation even the one conducted in a strict conformity with the norms of international law, is not a goal in itself, but only an instrument to impel the settlement of the conflict in the Eastern region of the country. As mentioned in the Helsinki Final Document, peacekeeping operations have a complimentary character of the political efforts to solve conflicts where peacekeeping operations are supposed to “support political efforts to settle” a dispute.