

Special Status: Can the Moldovan-Transnistrian Conundrum be Resolved by Consociational Democracy?

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Introduction

There is broad agreement among scholars and policy makers¹ that a settlement of the conflict over Transnistria will need to respect the sovereignty and territorial integrity of Moldova while according the Transnistrian region a “special status”. Yet, relatively little thought has been given as to what such a special status actually means. The purpose of this paper, therefore is twofold: first, we identify in broad terms the various dimensions of what may (and may not) be special in a future relationship between Chisinau and Tiraspol and in the broader context of a final political settlement of the Transnistrian conflict; second, based on an application of contemporary consociational theory, we sketch out a number of options available to the Sides’ negotiators and their international partners that could give concrete meaning to such special status arrangements. In doing so, we draw on our own analysis of the conflict, past proposals for a settlement of the conflict, and the substantial comparative experience of conflict settlement experiences elsewhere.

Our paper is structured as follows. We start with a brief overview of the background to the Transnistrian conflict and its management to date. This is followed by a discussion of what the dimensions of special status would need to be given our assessment of the conflict and the context in which it takes place. Having thus established a more comprehensive picture of the Transnistrian conflict in its various dimensions, we turn to consociational theory and explore what insights it may offer on substantive special status arrangements. Mapping this more theoretical and conceptual discussion onto an empirical comparative analysis of existing proposals for a settlement of the conflict, we then reaffirm the utility and relevance of a consociational perspective for conflict settlement in the Transnistrian case and outline the basic parameters of a feasible special status settlement for the Transnistrian conflict.

Background: The Transnistrian Conflict and Its Settlement Process to Date²

As the Soviet Union dissolved and newly independent states emerged from its ruins from late 1991 onwards, many of these successor states and their citizens looked to an uncertain future, in several cases leading to protracted struggles for control of political, economic and military assets between old and emerging elites. Moldova was no different in this respect: disconnected from their former imperial ally in Moscow, facing the loss of political and economic power, and in their view threatened by an increasingly aggressive campaign of Romanization and possible unification with Romania promoted by the Popular Front of Moldova, elites in Tiraspol, the soon-to-be-capital of Transnistria, refused to recognise

¹ This agreement extends across the so-called 3+2 (OSCE, Russia, Ukraine as mediators/guarantors and US and EU as observers) and the Government of Moldova. In private conversations, Transnistrian officials at times also indicate that they are aware of these basic parameters within which a settlement has to be found.

² In this section we are drawing primarily on interviews and conversations over the past ten years with a variety of senior government officials and local experts in Moldova and Transnistria, officials from the British, German, Russian and Ukrainian embassies in Chisinau, the EU Special Representative to Moldova and his staff, the EU Delegation, and personnel from the OSCE Mission to Moldova. Recent scholarly overviews include Sanchez (2009), Sherr (2009), Quinlan (2008), Crowther (2007), and Protsyk (2006). For earlier background analyses, see (Kolstø and Malgin 1998), Neukirch (2001), Roper (2001), Vahl and Emerson (2004), and Popescu (2005, 2004).

Moldova's sovereignty and sought to assert first their continued union with Moscow, then their own independence. Further radicalisation on both sides eventually triggered open conflict. Initially aided by staff and equipment supplied by the Soviet/Russian 14th Army stationed on the left bank, Transnistrian irregulars expelled Moldovan security forces from the areas on the left bank, captured the city of Bender on the right bank, and have retained effective control of these areas ever since. Intense, though short-lived, the fighting ended soon after the arrival of Russian General Alexander Lebed, taking over as commander of the Russian forces stationed in Transnistria. Lebed asserted overall control over the Russian and Transnistrian forces. A ceasefire in July 1992 provided for the establishment of a Russian—Moldovan—Transnistrian peacekeeping force, stationed to this day in a buffer zone along the Nistru valley and overseen by the so-called Joint Control Commission.³

The conflict with Transnistria, thus, created three distinct, yet clearly inter-connected issues that need to be addressed as part of a lasting settlement: the status of Transnistria, the status of Bender,⁴ and the presence of Russian troops on the left bank of the Nistru.

In addition to these three issues, the broader context of the Transnistrian conflict and its settlement also includes Gagauzia, a small, non-contiguous autonomous area in southern Moldova. Here, similarly to Transnistria, significant opposition arose to Moldova's Romanisation from the late 1980s onwards. In fact, Gagauzia's (unrecognised) declaration of independence preceded that of Transnistria. Yet, in contrast to Transnistria, violence in Gagauzia was nothing more than sporadic. Moreover, less than two weeks after its own declaration of independence, six of the twelve Gagauz deputies in the Moldovan parliament voted in favour of Moldova's declaration of independence, while the others abstained. OSCE mediation paved the way to a settlement in 1994 (taking effect in 1995) according to which Gagauzia was granted constitutionally protected autonomous status within Moldova. While there have been significant problems with the implementation and operation of the autonomy statute, Gagauzia nonetheless serves as a reference point for the Transnistrian conflict. While Chisinau is keen to point out that Gagauzia demonstrates the feasibility and viability of a conflict settlement within Moldova, Tiraspol is weary of having a status that does not exceed that of Gagauzia. In turn, there are some, albeit a minority, in Gagauzia who would not accept a status for their autonomous area that is lower than that of Transnistria. Limited links between Komrat and Tiraspol exist, but they hardly amount to a strategic alliance.⁵

The events in the years following Moldovan independence, formally declared on 27 August 1991, thus in many ways shaped the dynamics of the Transnistrian conflict for the next two decades. Locally, they established the self-proclaimed *Transnistrian Moldovan Republic* (*Pridnestrovskaya Moldavskaya Respublika*) which quickly built up and consolidated its institutions and functions like a state in all but formal international recognition. Since 1992, the existence of Transnistria has given rise, on both sides of the Nistru and in neighbouring

³ This ceasefire agreement, officially entitled 'Agreement on the Principles of a Peaceful Settlement of the Armed Conflict in the Transnistrian Region', also establishes Russia as an official party to the settlement process. This agreement, as well as other official documents and proposals drawn on in this paper, are available online at: <http://www.stefanwolff.com/projects/official-documents-and-proposals>.

⁴ Bender, historically part of Bessarabia, located on the right bank of the Nistru, and scene of some of the heaviest fighting in 1992, is now located in the so-called buffer zone and under the authority of the Joint Control Commission, but effectively controlled by Transnistria. During the Soviet period, Bender was one of the four 'republican cities' in Moldova, i.e., a district of its own.

⁵ Observations in the foregoing paragraph are based on personal impressions and conversations with Gagauz, Moldovan, OSCE and EU officials over several years. Between 2004 and 2009 I regularly visited Komrat as part of a project run by the European Centre for Minority Issues on clarifying the competences accorded to Gagauzia in the 1994/5 settlement. In August 2008 I was part of a mission with the EU Special Representative to Komrat to help the local political parties overcome a deadlock after parliamentary elections in Gagauzia earlier in the year. See also Sato (2009), Roper (2001), Quinlan (2008), and Protsyk (2005).

Ukraine, to powerful political and economic interest groups with an interest in the preservation of this status quo. Especially in Transnistria economic and political interests, and thus stakes, are highly personalised.

Similarly to the original conflict, an identity dimension continues to exist, and arguably has hardened over the past two decades of separation. For some time now, there has been a growing sense of separate identities: a Transnistrian one oriented towards Russia and Russian culture, and a Moldovan identity in which Transnistria is less and less a significant element as orientation towards the EU becomes more important, not least since the inception of the Union's European Neighbourhood Policy and its Eastern Partnership that delivers a number of tangible benefits to Moldova.⁶ This is heightened by the fact that Romanian and Russian, respectively, have become the dominant languages and that, as a consequence, bilingualism, or rather the ability of Russian to function as a lingua franca, is generationally limited. At the same time, and despite the fact that Transnistria is an ethnically plural society, with ethnic Moldovans, Russians and Ukrainians constituting each around 30% of the local population, there are no significant inter-ethnic tensions in Transnistria itself. In fact, as early as 1993, the CSCE Mission to Moldova's Report No. 13 asserted a 'distinct Transdnestrian feeling of identity' anchored in language (Russian), geography (natural separation from the rest of Moldova by the River Nistru), history (Transnistria as part of the Russian empire, rather than historic Bessarabia), and a perception—rightly or wrongly—to have been at the receiving end of a Moldovan attempt to resolve the dispute by force in 1992. This common identity has meant that the political and economic system of Transnistria has acquired a degree of legitimacy. This is grounded in part also in the fact that the overall situation in Moldova is popularly perceived to be as bad, if not worse, than in Transnistria. All major political players in Transnistria remain strong advocates of Transnistrian independence, an objective widely shared among the Transnistrian population.⁷

On the right bank, a pro-Romanian section of the political spectrum, especially on the centre-right, drives, and thrives on, an anti-Russian platform, partly laying all blame on Russia for the conflict and its persistence, partly indicating a willingness to accept Transnistria's secession and thereby gaining full integration into Euro-Atlantic structures, possibly through unification with Romania. In the same way in which centre-right parties reject the legitimacy of any Transnistrian claims, the centre-left, dominated by the communist party of Moldova, is more open to the idea of concessions to Transnistria as part of a settlement, including some form of federalisation and power sharing, without, however, a clear, consistent, and coherent vision of a future common state or strategy how to achieve it. This division within the Moldovan political spectrum and the serious alienation between two blocs following the contested 2009 parliamentary elections, preclude, for the time being, essential bi-partisanship in Chisinau's approach.

Beyond Moldova, the Transnistrian conflict in its early stage also firmly and formally established the role of Russia as one of the key power brokers in the conflict, and arguably the one who holds the key to its eventual settlement. Russia's centrality in the settlement process derives from the terms of the 1992 ceasefire agreement, its close links with the Transnistrian side and the latter's economic dependence on Russia. At the same time,

⁶ On the role of the EU, the ENP, and the Eastern Partnership in Moldova and in relation to the conflict in Transnistria, see, for example, Gheorghiu, Nantoi, and Popescu (2004), Popescu (2005, 2004), and Sasse (2009, 2008).

⁷ In the September 2006 referendum on independence, 97% of those voting declared themselves in favour. While there is likely to have been a degree of falsification of these results, there is nonetheless significant support of the Transnistrian leadership's independence agenda and a credible alternative in terms of a different vision and political movement or party to represent it has yet to emerge.

Russia still maintains approximately 1,200 troops in Transnistria, officially as guards of Soviet-era military installations and equipment. Russia is also fundamentally opposed to Moldova joining NATO, and, arguably, without reassurances in a settlement against Moldovan membership in the transatlantic alliance it is highly unlikely that Russia will support a settlement.⁸ On the other side, Romania, too, remains a significant player, but in a different way. Links between sections of the Moldovan political class and Romania serve as 'confirmation' to Transnistria that there is no real protection against Romanisation, while the nature of links with Romania equally divides right-bank political parties and has so far prevented a joint approach towards Transnistria.⁹

These factors, in turn, have seriously impeded the effectiveness of the negotiation process. The OSCE, as the leading international organisation involved, has been engaged since almost immediately after a cease-fire was achieved in 1992, with the current mission established in February 1993 and opening offices in Chisinau in April the same year and in Transnistria two years later. The negotiation format is such that the OSCE, Ukraine and Russia act as co-mediators for the (on and off) negotiations between Transnistria and Moldova, while the US and the EU joined this process in 2005 as observers. Multiple proposals for a settlement of the conflict have yet to lead to tangible progress towards a settlement.

Following the 2010 Russian-German Meseberg Memorandum, there were some concrete signs of possible (an actual) progress towards a settlement. By mid-November 2010, five meetings between the parties in the 5+2 format had taken place since the beginning of the year, and consensus had been achieved to take stock of previously signed agreements and begin work on elaborating a system of guarantees for a future settlement. Also during 2010, tangible progress to improve relations between the parties was made, including in the areas of railway transportation (re-opening of the Chisinau-Tiraspol-Odessa line), export procedures (especially for products of Transnistria-based companies via Moldova), movement of goods (across the Nistru and in both directions), and restoration of landline telephone communication between Moldova and Transnistria.

A two-day 'Review Conference on Confidence-building Measures in the Transdnistria Settlement Process' took place at the George C. Marshall European Center for Security Studies in Garmisch-Partenkirchen, Germany, on 9 and 10 November 2010, to assess progress in relation to confidence building and discuss ways to intensify the engagement between the parties in existing working groups.¹⁰ Similar meetings have since occurred annually, the latest at the end of October 2013, all of them creating opportunities for leaders and senior officials from the Sides to engage with each other in formal and less formal settings.

Building on the 2010 momentum, 2011 saw a major breakthrough with the official re-opening of the 5+2 talks in September. By December, the political landscape in Transnistria had fundamentally changed. The long-time president of the region, Igor Smirnov, was comprehensively defeated and did not even make it into the second round of elections. To the surprise of many, the winner in the second round was not the candidate backed by

⁸ Two excellent earlier studies on Russian policy vis-à-vis Moldova are Litvak (1996) and Neukirch (2001). On Russia's 'neighbourhood policy' more generally, see Averre (2009) and Galbreath (2008).

⁹ There is relatively little coverage of the Romanian dimension of the Transnistrian conflict in the English-language academic literature, but see Csergo and Goldgeier (2004), Heintz (2005), Kaufman and Bowers (1998), and Pop et al. (2005).

¹⁰ At present, there are eight working groups: Economy and Trade; Health; Agriculture and Environment; Railroads; Infrastructure (roads) Development; Demilitarisation and Security (including law enforcement cooperation); Humanitarian Aid; Education and Science. These are expert working groups dealing with specific confidence-building measures, co-chaired by a Moldovan and Transnistrian representative.

Russia and the main opposition party Renewal (*Obnovleniye*), which in turn is backed by, or arguably the political front of, the region's major economic player, the Sherriff conglomerate of companies. Rather, the winner was Yevgeni Shevchuk, a former speaker of the Transnistrian Supreme Soviet (parliament) and one-time leader of *Obnovleniye*. Shevchuk's electoral victory and the more open-minded approach he and his chief negotiator, Nina Shtanski, took, including more direct contact between senior Moldovan and Transnistrian officials, created additional momentum in the 5+2 talks. Thus, in April 2012, the parties reached an OSCE-mediated agreement on the "Principles and Procedures for the Conduct of Negotiations" and on a comprehensive agenda.

Since then, however, no real progress towards a settlement has been made, and the period between December 2011 and April 2012 now appears more like a brief interlude conveying a lot of false hope in an otherwise bankrupt process. Explanations for this sobering assessment are manifold, but not the focus of this paper. They include a re-assertion of Russian control (after the parliamentary and presidential elections a Medvedev-Putin transition/rotation), an increasing dependency of Transnistria and Transnistrian authorities on Moscow, a growing sense of frustration among international parties and observers in the settlement talks, and a more and more obvious disillusionment on the Moldovan side about the prospects of any settlement in the near future and more determined orientation towards Brussels, even at the cost of leaving Transnistria behind.

While this might suggest that a settlement ending in separation rather than reintegration is now more feasible, this would be a misjudgement of the situation in our view. For different reasons, as noted above, the 3+2 are firmly committed to a settlement short of separation. Russia may, at the moment, favour the status quo, but if that should prove unsustainable would prefer reintegration rather than ending up with a second Kaliningrad-type exclave without the convenience of direct access, among other complicated and costly issues. The OSCE, Ukraine, EU and US equally have no interest in a poorly governed and potentially ungovernable space, politically unstable, economically destitute, and controlled by a mix of local crime lords and Russian business and political interest groups. As a consequence, the challenge remains to think more systematically and creatively about 'special status' as a conceptual framework for the settlement of the conflict.

The Dimensions of Special Status

In order to gain a comprehensive picture of the various dimensions that special status needs to involve so that a negotiated settlement of the Transnistrian conflict can offer a sustainable prospect for the future, we need to briefly consider what characterises the current context of this conflict. Based on the foregoing analysis of the conflict and its broader context, three broad sets of issues can be identified.

First, there is an institutional dimension to the conflict at the domestic level. At its core, the Transnistrian conflict revolves around the relationship between Tiraspol and Chisinau (the territorial status of Transnistria and the powers of decision-making that this entails). This is the central issue of contention, and as such has received significant attention in the past. Central to the conflict though it may be, these future territorial institutional arrangements also need to take account of a number of other, less frequently considered aspects, including the very boundaries of the Transnistrian entity (does it include the city of Bender or not?) and the wider question of the territorial construction of the Moldovan state (what is the relationship between Komrat and Chisinau in a future Moldova, and between Komrat and Tiraspol?). The question of the number of other entities with some form of, albeit different, "special status" will affect the future territorial construction of the Moldovan state and also

require considering how these the territorial entities will be represented at the centre and how they will participate in the political process of the state as a whole.

Second, there is an identity dimension to the Transnistrian conflict. While it would be wrong to see this through the lens of traditional ethnic conflict paradigms, it is equally obvious that over more than two decades of separation more distinct identities and orientations have developed on both banks of the river. Without unduly generalising, the growing sense of separate identities can be captured in a Transnistrian orientation towards Russia and Russian culture, and a Moldovan one in which Transnistria is less and less a significant element of national identity as relations with Western Europe and in particular the EU have become more important. That said, there is nonetheless an appreciation on Transnistria also of the fact that access to the EU market are essential for the region's economic development, but this is balanced, to a much greater degree than on the right bank by a cultural orientation to the east and an increasing, at least rhetorical, commitment to Eurasian integration. From the perspective of conflict context, this means that proper consideration needs to be given how such different identities can be accommodated and protected in a negotiated settlement and how they can be given appropriate space to develop in the future within the Moldovan state.

Third, there is a wider regional and international dimension to the conflict. The ceasefire in July 1992, which ended a short, but intense period of fighting between Moldovan forces and their Russian-backed Transnistrian opponents, provided for the establishment of a Russian—Moldovan—Transnistrian peacekeeping force, stationed to this day in a buffer zone along the Nistru valley and overseen by the so-called Joint Control Commission. This ceasefire agreement, officially entitled 'Agreement on the Principles of a Peaceful Settlement of the Armed Conflict in the Transnistrian Region', also established Russia as an official party to the settlement process, long before the establishment of the current (5+2) format of the settlement process. With remnants of the former 14th Army still present in the Transnistrian region, a significant number of Russian passport holders living there, and a (post-Soviet) conception of Moldova as a whole being part of its "near abroad", Russia has significant stakes in the conflict and several "red lines", including future Moldovan NATO membership. More recently Russia has also promoted the idea of a Eurasian Union as a counterweight to the European Union more vigorously. This raises important issues for Moldovan sovereignty in the context of a settlement, including the country's relationship with Western institutions like the EU and NATO, but also of its relations with Russia. In turn, consideration needs to be given what a special status for Transnistria means in this context both in the sense of its influence on Moldovan foreign policy decisions and in terms of its own "foreign relations" with both Russia and Western institutions.

Thus, special status can be conceived of in term of the range of governance arrangements for a political-institutional relationship between Transnistria and the rest of Moldova, mechanisms to protect and promote individual and group rights and identities, options for addressing the wider regional and international dimensions of the conflict, and the necessary guarantees in domestic and international law to make a settlement sustainable.

Based on the discussion in the preceding section, we conceive of governance arrangements as having two dimensions: where which powers are exercised (i.e., determining the levels of governance and the relationship and distribution of powers between them) and who makes what decisions and how (the institutions and mechanisms of governance). Framed in the kind of conflict settlement perspective elaborated above, settling the Transnistrian conflict is about determining the form of *territorial construction of the overall state* with different options for self-governance, including consideration of the status of Bender and Gagauzia

within Moldova and relations among these entities (including Transnistria) and between them and the centre. It is further about deciding the *distribution of powers* between the centre and the region/s. Establishing viable governance arrangements also concerns the *institutions of the central state*, including formal representation and participation of the Transnistrian region in legislature and/or executive institutions (i.e., forms of power sharing). Finally, for achieving effective and efficient government and a functioning, predictable, and stable political process it is essential that the overall set of institutional arrangements agreed by the immediate disputants also incorporates a range of *mechanisms for policy coordination and future dispute resolution*.

In order to take account of the *identity dimension* of the Transnistrian conflict, key issues concern language, education, cultural policy and the use of symbols. Specifically in the context of the Transnistrian conflict, safeguards need to be put in place in the event of Moldovan unification with Romania.

In relation to the wider regional and international context of the Transnistrian conflict, consideration needs to be given to securing Moldova's sovereignty and territorial integrity, including Moldovan and Transnistrian *external relations* with international organisations and individual states. These concern issues around Moldova's alliance arrangements, the presence of foreign troops, and economic and trade relations, among others.

A liberal consociational perspective on the Transnistrian conflict

How can we make sense of these empirical observations in a more systematic conceptual way and offer a theoretically grounded perspective on how to address them practically? On the one hand, there is John Stuart Mill's scepticism with regard to the possibility of democracy "in a country made up of different nationalities" (Mill 1861:230)—perhaps the best-known and most widely cited scholarly reflection on a phenomenon empirically all too often observable as violent ethnic conflict. On the other hand, there is a distinct perspective within a broad range of contemporary conflict management theories (and practice) that offers a radical counter-point to Mill's scepticism, "consociational democracy" which is prominently associated with the work of Arend Lijphart, as well as more recently with that of John McGarry and Brendan O'Leary.

Lijphart began to examine this particular type of democratic system in greater detail for the first time in the late 1960s, when making reference to the political systems of Scandinavian countries and of the Netherlands and Belgium (Lijphart 1968, 1969). He followed up with further studies of political stability in cases of severely socially fragmented societies, eventually leading to his ground-breaking work *Democracy in Plural Societies* (Lijphart 1977).

Lijphart was interested in why, despite their fragmentation, fractured societies maintained a stable political process, and identified the behaviour of political elites as the main, but not the only, reason for stability. These characteristics, more or less prominently, were exhibited by all the classic examples of consociationalism: Lebanon, Cyprus, Switzerland, Austria, the Netherlands, Belgium, Fiji, and Malaysia. Some of these consociations have succeeded, such as in Switzerland, Austria, the Netherlands, and Belgium, and others have failed, like Lebanon, Cyprus, Fiji, and Malaysia. Lijphart also established conditions conducive to consociational democracy. These included overarching, i.e. territorial, loyalties, a small number of political parties in each segment, segments of about equal size, and the existence of some cross-cutting cleavages with otherwise segmental isolation

In his contribution to Andrew Reynolds's *The Architecture of Democracy* (Lijphart 2002:39–45), Lijphart also offered a substantive revision of his original approach, now describing power sharing and autonomy (i.e. grand coalition government and segmental autonomy) as primary characteristics, while relegating proportionality and minority veto to “secondary characteristics” (2002:39). Yet, in relation to his grand coalition requirement, Lijphart maintains his earlier position that such executive power sharing means “participation of representatives of all significant groups in political decision making” (2002:41).

Subsequent developments of consociational theory, especially by John McGarry and Brendan O’Leary (McGarry 2006; McGarry and O’Leary 2004a; 2004b; O’Leary 2005a; 2005b), whilst acknowledging the importance of Lijphart’s work, have made one important modification in particular in this respect.

Northern Ireland and its 1998 Agreement, the corner stone of much of McGarry and O’Leary’s work “highlights six important weaknesses in traditional consociational theory” (McGarry and O’Leary 2004b:5). These are the failure to address the role of external actors; the trans-state nature of some self-determination disputes and the necessary institutional arrangements to address them; the increasing complexity of conflict settlements in which consociational arrangements form an important element but require complementary mechanisms to deal with “the design of the police, demilitarization, the return of exiles to their homes, the management of prisoners, education reform, economic policy, and the promotion of language and other group rights” (2004b:13); terminological and conceptual inaccuracies, primarily associated with Lijphart’s grand coalition requirement; the merits of preferential proportional electoral systems, i.e. STV; and the allocation of cabinet positions by means of sequential proportionality rules, i.e. the d’Hondt mechanism. In dealing with these weaknesses, McGarry and O’Leary offer both refinements¹¹ of, and advancements to, traditional consociational theory.

A number of McGarry’s and O’Leary’s advancements of consociational theory are directly relevant to the case of Moldova. For example, observations on external actors bring consociational theory in line with an established debate in international relations on the role of third parties in conflict resolution. In the case of the 1998 Agreement for Northern Ireland, McGarry and O’Leary highlight three dimensions: cross-border institutions which formalise co-operation between the Northern Ireland Executive and the Irish government (the so-called North–South Ministerial Council) and renew British–Irish inter-governmental co-operation (the British–Irish Inter-governmental Conference); the explicit recognition by the two governments of the right to self-determination of the people in Northern Ireland and the Republic.

These arrangements have earlier precedents in the history of conflict settlement in Northern Ireland, but they are not unique to this case alone. Institutions of cross-border cooperation have been utilized as part of comprehensive peace settlements elsewhere as well – for example, in South Tyrol and Bosnia and Herzegovina – and exist, of course, in less conflict-prone situations as part of arrangements between sovereign states and/or substate entities – for example, in the EU’s Euroregions.

¹¹ The refinements relate, first, to the technical side of consociational institutions, where the authors recommend STV instead of List-PR as an electoral system as it militates against the proliferation of micro-parties. Second, McGarry and O’Leary elaborate the usefulness of sequential proportionality rules, such as the d’Hondt mechanism or the Sainte-Laguë method, in the allocation of cabinet positions in order to avoid protracted bargaining between parties and increase parties’ incentives to remain part of cross-communal coalitions. Interesting though they are, these refinements are not the focus of our paper.

The positive support given by both Italy and Austria to the Autonomy Statute for South Tyrol has been crucial in the process of facilitating the accommodation of South Tyroleans within wider Italian society, and in diffusing what could have otherwise become a protracted violent conflict. With regard to Bosnia and Herzegovina, we find the opposite to be true. Here, the relevant kin states, namely Croatia and Serbia pay little more than lip-service to the agreements that established their neighbour, and consciously or otherwise, encourage separatism that could still bring about the collapse of state structures in Bosnia and Herzegovina. In the Transnistrian case, the relevance for relations with Romania, Ukraine, and Russia is clearly obvious.

As far as the possibility of future status changes are concerned, such possibilities are not unique to Northern Ireland or indeed the 1998 Agreement. Since 1994, the people of the Autonomous Republic of Gagauzia in Moldova have had a one-off opportunity to exercise their right to (external) self-determination if Moldova were to join Romania. The Comprehensive Peace Agreement for Sudan of 2005 offered the people in the South a referendum on independence after six years (cf. Weller 2005), while the Bougainville Peace Agreement (2000) includes a clause that envisages a referendum on independence to be held in Bougainville after ten to fifteen years. Crucially, in all these situations and including Northern Ireland, the signatory parties have committed to respecting the outcome of these referenda.

Liberal consociationalists also support the principle of asymmetric devolution of powers, i.e. the possibility for some self-governing entities to enjoy more (or fewer) competences than others, depending on the preferences of their populations (cf. McGarry 2007). This means that contemporary consociationalists thus prefer what O'Leary refers to as "pluralist federations," in which co-sovereign substate and central governments have clearly defined exclusive competences (albeit with the possibility of some concurrent competences) whose assignment to either level of authority is constitutionally and, ideally, internationally protected, in which decision making at the centre is consensual (between self-governing entities and the centre, and among elites representing different interest groups), and which recognize, and protect the presence of different self-determined identities (O'Leary 2005b).¹²

In order to protect individuals against the abuse of power by majorities at the state level or the level of self-governing entities, liberal consociationalism offers two remedies – the replication of its core institutional prescriptions within the self-governing entity, and the establishment and enforcement of strong human and minority rights regimes at both the state and sub-state levels.

Special Status: the options

Having outlined both the particular context of the conflict over Transnistria and having specified a framework, grounded in contemporary consociational conflict settlement literature, these two so far separate strands of our argument can now be brought together and synthesised into a more concrete set of recommendations of how to achieve a sustainable settlement for the Transnistrian conflict.

We do this in two steps. First, we examine a range of existing settlement proposals in order to (1) reaffirm empirically the relevance of the consociational approach which we have established theoretically and conceptually in the preceding section, and (2) determine where

¹² This preference for pluralist federations, however, remains context-dependent, and is not per se part of liberal consociational thinking. In some circumstances, e.g. where ethnic communities are not ethnonationalist (i.e. demanding their own governance institutions), it is quite possible that a unitary state with power sharing at the centre will suffice as a mechanism to settle conflicts.

past proposals exhibit sufficient overlap to indicate possible consensus on a future negotiated settlement. We develop this latter aspect of our comparative analysis more systematically in the second part of this section into a set of specific settlement recommendations.

In so doing, we will focus on the kind of political-institutional relationship between Transnistria and the rest of Moldova, a relationship determined by specific governance arrangements and secured in domestic and international law. Based on the discussion in the preceding sections, we focus our comparative analysis and settlement recommendations on *territorial construction*, the *distribution of powers* between the centre and the self-governing entities (including Bender and Gagauzia), *power-sharing arrangements* at the centre, and *mechanisms for policy coordination and future dispute resolution*. The two key issues internationally revolve around the presence of foreign troops and Moldovan demilitarization and neutrality (the Russian dimension), as well as the possibility of Moldovan unification with Romania (the Romanian dimension). These aspects also need to be factored into any calculations of designing a settlement for the conflict between Moldova and Transnistria. For each of these dimensions, guarantees need to be established in domestic and in international law to entrench the settlement in a sustainable way.

A Comparative Analysis of Past Settlement Proposals

Past settlement proposals for Transnistria broadly fall into two broad categories: those that are concerned with *how* to get to a settlement¹³ and those that are aimed at the *what* of the actual settlement provisions. It is the latter set of proposals that I shall focus on, including 'Report No. 13 of the CSCE Mission to Moldova' (1993, hereinafter 1993 CSCE Report), the 'Russian Draft Memorandum on the Basic Principles of the State Structure of a United State in Moldova' (2003, hereinafter the Kozak Memorandum), the 'Proposals and Recommendations of the Mediators from the OSCE, the Russian Federation, and Ukraine with regard to the Transdnistriean Settlement' (2004, hereinafter mediator Proposals), and the 'Plan for the Settlement of the Transdnistriean Problem' (2005, hereinafter the Ukrainian Plan, also known, respectively, as Yushchenko or Poroshenko Plan).¹⁴ As required by the 2005 Ukrainian Plan,¹⁵ the Parliament of Moldova passed a law 'On Fundamental Regulations of the Special Legal Status of Settlements on the Left Bank of the River Nistru (Transnistria)' on 22 July 2005 (hereinafter the Moldovan Framework Law). This law reflects the current legal framework in Moldova; subsequent attempts by the then communist-led government in

¹³ These include in chronological order the January 1996 'Joint declaration of the presidents of Moldova, the Russian Federation and Ukraine', the June 1996 'Memorandum on the bases for normalisation of relations between the Republic of Moldova and Transdnistriean' (also known as the Snegur-Smirnov Agreement), the identically titled 1997 Moscow Memorandum (also known as the Primakov Memorandum) and the accompanying 'Joint statement of the Presidents of the Russian Federation and Ukraine' (1997) in this context, the 'Agreement on confidence-building measures and development of contacts between the Republic of Moldova and Transdnistriean' (1998, also known as the Odessa Agreement) and the accompanying 'Joint Statement of the mediators: Russia, Ukraine and the OSCE' (1998), the 'Joint Statement of Participants in the Kiev meeting on issues of normalisation of relations between the Republic of Moldova and Transdnistriean' (1999) the '3D strategy & action plan for the settlement of the Transdnistriean conflict' (2004), and the 'Odessa Citizens' Initiative' (2005). In varying detail, these lay out short-, mid-, and long-term steps towards a settlement and at times its broader framework, highlighting a general commitment to respecting, in a settlement, Moldova's territorial integrity in the borders of 1992 and a commitment to exclusively peaceful means to achieve a settlement.

¹⁴ These labels in reality denote somewhat different documents. The original Yushchenko Plan 'Towards a settlement through democracy' was a broad statement of seven key principles, reflecting similar ideas in the Kozak Memorandum from two years earlier. These were presented at a GUUAM meeting in Chisinau in April 2005. What then became the Ukrainian Plan examined here in greater detail is in fact a roadmap or implementation strategy for Yushchenko's seven principles drafted by the Secretary of the Ukrainian National Security and Defence Council, Petro Poroshenko, and approved by the Council, at a session chaired by Yushchenko, in May 2005.

¹⁵ The relevant provisions in the plan are as follows: 'In order to establish the preconditions for restoring Moldova's territorial integrity, the Parliament of Moldova, in conformity with the provisions of the Moldovan Constitution, and acting no later than July of 2005 - shall enact the "Law on the Basic Provisions of the Status of the Transdnistriean region of the Republic of Moldova (Transdnistriean)", which shall legally fix the provisions of Transdnistriean's special status agreed upon earlier.'

Moldova to revise this law in response of the Transnistrian rejection of 'the infamous 2005 law' have not yet resulted in a new law. However, current Moldovan thinking has moved on somewhat from the 2005 Moldovan Framework Law and is captured in a 2007 package proposal for a 'Declaration concerning principles and guarantees of the Transnistrian settlement' and, appended to it, a 'Draft Law on the Special Legal Status of Transnistria' (hereinafter the Moldovan Package Proposal).¹⁶ These six documents, then, reflect the breadth of current official proposals for a settlement of the conflict over Transnistria. Comparing them in detail in the following section serves two purposes: to offer an overview of existing, albeit at times contrasting, views on how best to settle the conflict, and to establish where a minimum consensus exists among these proposals. This, in turn, will form the basis of the subsequent section in which I outline a possible framework for a sustainable settlement.

Territorial state construction

All six of the proposals compared here envisage a territorial approach as part of an overall settlement. The 1993 CSCE Report and the 2005 Ukrainian Plan take the route of 'special status', the 2003 Kozak memorandum and the 2004 Mediator Proposals take that of reconstituting Moldova as a federal state with Transnistria as a federal subject. While the 1993 CSCE Report notes the need to address the status of Bender and Gagauzia,¹⁷ it sees these two issues outside its mandate at the time, but nonetheless thereby implicitly acknowledges the need for some form of territorial pluralism¹⁸ in Moldova. Without going into great detail, the Report makes a rather interesting proposal: dismissing the idea of a three-unit federation (Transnistria, Gagauzia, and the rest of Moldova), it suggests 'to subdivide the country into eight to ten regions (one or two of them being Transdnistria, one the area around Bendery, another one the preponderantly Gagauz-inhabited area around Comrat)'.

The 2004 Mediator Proposals and the 2005 Ukrainian Plan make no mention of either Gagauzia or Bender but are designed in such a way that the kind of territorial pluralism hinted at in the 1993 CSCE Report is not ruled out *per se*.¹⁹ In other words, granting Transnistria 'special legal status' as in the Ukrainian Plan or designating it a 'subject of the Federal State' as in the Mediator Proposals does not mean that there could not be other territorial entities within Transnistria with similar status.

Only the Kozak Memorandum specifically mentions Gagauzia (but notably not Bender) as a 'subject of the federation', but makes a crucial distinction by designating Transnistria not merely a subject of the federation but also 'a state entity within the federation'.²⁰ While formally designating Moldova a 'federal republic', the Kozak Memorandum envisages only

¹⁶ This 2007 Draft Law reflects the outcome of discussions with experts of the Council of Europe's Venice Commission at a workshop hosted by EU Special Representative Kalman Mizsei on 19 December 2007 in Brussels at which the then Moldovan Minister for Reintegration, Vasile Shova, presented a draft of the law.

¹⁷ The CSCE Report was published in 1993, two years before the settlement of the Gagauz conflict. In contrast to later proposals, it did therefore not have the benefit of being able to refer the Gagauzia's special status.

¹⁸ I borrow the term 'territorial pluralism' from John McGarry and Brendan O'Leary (O'Leary and McGarry 2010, McGarry and O'Leary 2010); see also McGarry, O'Leary and Simeon (2008).

¹⁹ The Mediator Proposals, for example, note that the 'status of each of the federal subjects is determined by the Constitution and laws of the Federal State.'

²⁰ The Ukrainian Plan refers to Transnistria as 'a special administrative-territorial unit in the form of a republic within the Republic of Moldova', similar to the designation of Gagauzia in the 1995 settlement. The use of the term 'state entity' (*государственное образование*) in the Kozak Memorandum is more ambiguous and if read in connection with the vast competences and potential veto powers gained by Transnistria under the proposals implies more of a confederal than a federal relationship.

two subjects of the federation—Gagauzia and Transnistria—and ‘federal territory’, defined as ‘territory of the Federation outside the territory of the Subjects of the Federation.’²¹

The 2005 Moldovan Framework Law in relation to Transnistria, as its title suggests, refers only to Transnistria, but with two important qualifications absent in this explicit form from all other provisions. First, it defines Transnistria specifically as ‘settlements on the left bank of the River Nistru’. Second, it includes a provision to the effect that the ‘settlements on the left bank of the Nistru river can join or leave Transnistria on the basis of local referenda, carried out in accordance with the legislation of the Republic of Moldova.’ The first of these provisions excludes Bender from Transnistria, the second requires local referenda before Transnistria is properly constituted as a special-status territory. Nothing in the 2005 Moldovan Framework Law affects the existing status of Gagauzia. In terms of territorial state construction, the Moldovan proposal thus foresees a ‘double federacy’ arrangement with two self-governing territories (Transnistria and Gagauzia) within an otherwise unitary state.

This latter point is also clearly reflected in the 2007 Moldovan Package Proposal. This also defines Transnistria as ‘an administrative-territorial unit [with special legal status]²² in form of a republic within the Republic of Moldova’. In contrast to the 2005 Framework Law, Transnistria’s territorial extent is not explicitly confined to settlements on the left bank of the Nistru, nor is there a requirement for local referenda to constitute Transnistria. However, the Moldovan Package Proposal requires the ‘elimination ... of the special arrangements for the functioning of the security zone ... and transfer of monitoring functions in the area to the civilian authorities of the Republic of Moldova and Transnistria’, which, at least, raises the question of the status of Bender, and quite possibly implies a Moldovan claim to restore the city to its control.

The distribution of powers

This issue is dealt with in relative extensive detail in three of the six past proposals. The 2005 Ukrainian Plan, and the 2005 Moldovan Framework Law which emerged from it, are rather brief. Among the seven provisions that the Ukrainian Plan lists for inclusion in the Framework Law subsequently passed by the Moldovan parliament, only four assign specific competences to Transnistria: to pass and apply its own constitution, have and use, alongside those of Moldova, its own insignia, participate in Moldovan foreign policy-making, and establish and maintain foreign relations in the economic, scientific, technical, and humanitarian spheres.²³ The 2005 Moldovan Framework Law also almost verbatim adopts another proposal in the Ukrainian Plan that a law, jointly drafted by a special committee of the Moldovan parliament and deputies from the Transnistrian legislature, on the Special Legal Status of the Transdnestrian Region of Moldova (Transdnestria) ‘shall include clauses that would divide powers and competences between the central authorities of the Republic of Moldova and the authorities of Transnistria’. Thus, the only pre-determined competences to be enjoyed by Transnistria according to the Moldovan Framework Law are the region’s participation ‘in the conduct of Moldova’s foreign policy on issues affecting its interests’ and its ‘right to establish and maintain foreign relations in the economic, scientific, technical,

²¹ McGarry and O’Leary (2010, 254) use the term ‘federacy’ for such arrangements, noting that ‘the grant of self-government is constitutionally guaranteed and cannot be revoked by the centre unilaterally’ and that it ‘normally applies to a part of the state’s territory, and normally a small part (in population)’, thus setting it apart from both devolution (lack of constitutional guarantee) and federation (application to the entire territory). Elazar (1991) defines federacy in similar terms as a relationship ‘[w]hereby a larger power and a smaller polity are linked asymmetrically in a federal relationship in which the latter has substantial autonomy and in return has a minimal role in the governance of the larger power. Resembling a federation, the relationship between them can be dissolved only by mutual agreement.’

²² This bracketed phrase is only present in the Draft Law.

²³ The other three provisions relate to the fact that under the terms of the settlement the ‘Republic of Moldova is the sole subject of international law’, that Transnistria’s special status will take ‘the form of a republic within the Republic of Moldova’, and that ‘Transdnestria’s official languages will be Moldovan, Russian, and Ukrainian.’

and humanitarian spheres'. While absent from the CSCE Report, similar provisions were included in the Kozak Memorandum and the Mediator Proposals.

The CSCE Report, the Kozak Memorandum, and the Mediator Proposals all offer detailed lists of competences assigned to Chisinau and Tiraspol (as well as Komrat in the Kozak Memorandum), respectively. The CSCE Report and the Kozak Memorandum additionally include a list of areas of mixed jurisdiction or joint competences.

The Kozak Memorandum goes farthest in terms of empowering the federal subjects, especially if one considers that it assigns residual authority to the subjects of the federation (i.e., all competences not designated as federal or joint are automatically assigned to the subjects of the federation). A similar tendency of privileging Tiraspol vis-à-vis Chisinau, including by giving it residual authority, is apparent in the Mediator Proposals, while the CSCE Report is more cautious in this respect. The Mediator Proposals also include a specific reference to the fact that 'laws and other normative legal acts of Transdniestria must not contradict the laws of the federal state' and that 'in case of such contradictions the law of the federal state applies.'

The 2007 Moldovan Package Proposal establishes two very specific lists of powers to be enjoyed by Chisinau and Tiraspol, respectively, without, however, clearly resolving the issue of residual authority. The Moldovan Package Proposal does not foresee any joint competences. Similar to the Mediator Proposals, there is also a provision establishing the supremacy of the Moldovan constitution and legislation in cases where Transnistrian laws, including its constitution, contradict respective Moldovan law.

Power-sharing arrangements

None of the proposals examines options for local power sharing in Transnistria, but they all make a few suggestions considering power sharing at the centre.

The CSCE Report of 1993 was unequivocal in its assessment that 'a special status for Transnistria will not resolve every problem. In addition to it, a proportional representation of Transdniestria in the Moldovan parliament and some central key bodies (such as the top courts and some central ministries) must be assured', specifying the latter as Foreign Affairs, Defence, and Security. On the one hand, this is quite an insightful observation and proposal, reflecting a careful approach to the question of self-rule vs. shared rule in order to give Transnistria a stake in Moldova as a whole and thus balancing the potentially centrifugal dynamics of territorial self-governance alone.²⁴ On the other hand, however, doing so by merely relying on rules of representation (who makes decisions) rather than also on those of participation (how are decisions made) over-estimates the degree to which representation in central government structures and courts alone can deliver meaningful power sharing at the centre.

Additionally, what is required, and explicitly included in the Kozak Memorandum and the Mediator Proposals, are specific rules for participation in central decision-making.²⁵ The Kozak Memorandum details both representation and participation rules: in the Senate (the upper house of the federal parliament), the distribution of seats is to be 4-9-13 for Senators elected, respectively, by the legislatures of Gagauzia and Transnistria, and by the lower

²⁴ The dynamic of self-rule vs. shared rule is explored in greater detail in O'Leary (2005b). On incentivising elites from federated entities to participate in the political process at the centre, see Weller (2008) and Weller and Wolff (2005).

²⁵ McGarry and O'Leary refer to this as 'joint consent across the significant communities, with the emphasis on jointness' (McGarry and O'Leary 2004, 15) 'meaningful and cross-community executive power sharing in which each significant segment is represented in the government with at least plurality levels of support within its segment' (O'Leary 2005a, 13).

house of the federal parliament, itself consisting of 71 deputies elected by a single-district PR-List system. A similar system is to be put in place for the appointment of judges to the Federal Constitutional Court—one, four and six, respectively, nominated by the three legislatures, and requiring subsequent Senate confirmation. Other representational power-sharing arrangements proposed pertain to the appointment of one deputy prime minister each from Gagauzia and Transnistria, and their proportional representation among senior ministerial officials at the federal level.

As far as the participatory dimension of power sharing in the Kozak Memorandum is concerned, significant veto powers are proposed for the subjects of the federation in two areas. Changes to the constitution require federal constitutional laws to be adopted by a two-thirds majority in the lower house and a four-fifths majority in the upper house. The appointment of officials of federal executive organs in Gagauzia and Transnistria requires the latter's consent. Otherwise, for all federal ordinary and organic laws an absolute majority of votes is required in both houses. A veto by either the Senate or the President can be overcome by a two-thirds majority in the House of Representatives. In addition, for a transitional period until 2015 the Kozak Memorandum requires decisions of the constitutional court to be carried by a majority of nine (out of eleven) judges, while the threshold for Senate approval of federal organic laws is set at three-quarters.²⁶

The Mediator Proposals are far less detailed in its power-sharing provisions than the Kozak Memorandum and leave many regulations for further specification by federal laws, thus keeping open the possibility of both representational and participatory power sharing without specifically requiring them. Its only explicit proposals relate to the two-thirds majority necessary in both chambers of the federal parliament for the passage of constitutional laws and the three-fifths majority necessary in both chambers of the federal parliament to overcome a presidential veto, as well as a consent requirement on the part of the federal subject concerned for any change to its exclusive competences.

The Ukrainian Plan mentions something akin to power sharing only in passing in its requirement for the joint drafting of the 'Law on the Special Status of the Transdnestrian region of the Republic of Moldova' by Moldovan and Transnistrian parliamentarians. This, of course, leaves open the possibility of including relevant provisions for power sharing (in terms of representation and/or participation) into such a law.

The 2005 Moldovan Framework Law, similar to the Ukrainian Plan, mentions no other power-sharing arrangements, but does, as the Moldovan Package Proposal of 2007, include a provision according to which the final Law on the Special Legal Status of Transnistria is to be negotiated between delegations from Chisinau and Tiraspol. Both Moldovan documents link this to a requirement of prior democratisation in Transnistria ('alignment of the democratic standards of Transnistria to the nationwide standards of the Republic of Moldova', according to the Moldovan Package Proposal). Otherwise, the 2007 Moldovan Package Proposal goes significantly further when it comes to power-sharing arrangements. It proposes to 'set a quota for representation of Transnistria in the nationwide Parliament of the Republic of Moldova' and to have separate electoral rolls for the first two legislative terms following a settlement of the conflict. In addition, any changes to the powers assigned to Transnistria in the 2007 Moldovan Package Proposal can only take effect with the consent of the public authorities in both Transnistria and the Republic of Moldova. Finally, the Moldovan Package Proposal also mandates Transnistrian representation in the Moldovan government (the Transnistrian head of government to be *ex officio* one of the Moldovan deputy prime

²⁶ The Russian original states: "федеральные органические законы утверждаются Сенатом большинством в 3/4 голосов от установленной численности Сената".

ministers), in the Supreme National Security Council (*ex officio* membership for the Head of Transnistria and the Chairman of the Transnistrian parliament), in the Constitutional Court, in the Supreme Court of Justice, and in the Ministry of the Interior and Prosecutor-general's office.

Mechanisms for policy coordination and dispute resolution

All six proposals examined here are relatively brief in this respect. The 1993 CSCE Report and the 2005 Moldovan Framework Law are completely silent on this matter. The Kozak Memorandum, while in most other aspects clearly the most detailed of the proposals, adds little on policy coordination and dispute resolution. It calls for consultation between the federal government and the governments of federal subjects in relation to international treaties potentially affecting joint competences.

The Mediator Proposals suggest the creation of federal state institutions 'for effecting coordinating procedures between the bodies of the Federal State and Transdniestria' and that disagreements between the federal state and one of its subjects over the exercise of powers should be arbitrated by the constitutional court if no other solution can be found. This role for the constitutional court is reconfirmed in the 2007 Moldovan Package Proposal.

For the implementation period of the settlement, the Mediator Proposals suggest that 'contested questions that arise shall be resolved with the assistance of the existing negotiating mechanisms and newly created conciliation mechanisms.' This latter idea of a separate conciliation mechanism recurs in the Ukrainian Plan, proposing that 'In order to facilitate the overcoming of possible disagreements over the Parties adherence to or interpretation of the Law on the Special Status of the Transdniestrian region of the Republic of Moldova (Transdniestria), a Conciliation Committee shall be set up' with the participation of two representatives each from Chisinau and Tiraspol, one from each of the mediators (Russia, Ukraine, and OSCE) and one from each of the observers (US and EU).

The Russian dimension

Demilitarization, neutrality, and the presence of foreign troops on Moldovan soil are the key aspects of the Russian dimension—they concern both Russian demands for the future international status and military capabilities of Moldova, as well as a continuing, albeit small, Russian military presence in Moldova outside its peacekeeping responsibilities. Except for the 2005 Ukrainian plan, all past proposals address at least some of these issues; however, not in considerable detail.

The 1993 CSCE Report considers demilitarization from both a pragmatic and a confidence-building perspective, noting that 'Moldova, unable to defend herself in any case against any of her neighbours in the purely theoretical possibility of an armed conflict, could very well live without any significant armed forces' and emphasizing that the 'absence of any army would foster confidence in the central Government's willingness to respect the rights emanating from a special Transdniestrian status.' It also 'recommends that Russia speed up the withdrawal of her 14th Army from Moldova.'

The Kozak Memorandum, unsurprisingly, has nothing to say on the presence of Russian troops in Transnistria but defines the Federal Republic of Moldova that it proposes, amongst others, as 'neutral, demilitarized state.'

The Mediator Proposals, too, are fairly limited in their level of detail, suggesting merely that 'measures to enhance military transparency and trust are to be implemented, in particular, gradual reduction of military capacity, up to demilitarization.'

The 2005 Moldovan Framework Law says nothing about the country's future neutrality (or not), but interprets demilitarization exclusively to refer to Transnistria and the withdrawal of Russian troops from there, placing the latter in the context of Russian commitments at the 1999 OSCE Istanbul Summit. What is particularly important in this context, as it minimized from the outset any realistic chance of progress towards a settlement on the basis of this Law and went significantly beyond any stipulations in the Ukrainian Plan from which it partly draws its legitimacy, is that demilitarization and Russian withdrawal (together with fulsome democratization in Transnistria) are conditions to be met before 'the process of negotiations will go in order to develop together and pass the organic Law of the Republic of Moldova "On Special Legal Status of Transnistria".'

The Moldovan Package Proposal of 2007 explicitly refers to Moldova as a neutral and non-aligned state with no deployment of foreign military bases or facilities and specifically mentions a Russian commitment to withdrawal of troops and armaments. Additionally, there is a provision to establish 'an international mission under OSCE mandate to monitor the Parties' demilitarisation process and to assist in the creation of joint armed forces.'

The Romanian dimension

Apart from the 2005 Moldovan Framework Law, all other proposals examined are unanimous in offering to Transnistria an option of secession from Moldova if the latter opts to unite with Romania. According to the Kozak Memorandum, the Mediator Proposals, the Ukrainian Plan, and the 2007 Moldovan Package Proposal, this option can only be exercised following a referendum in Transnistria.

Guarantee mechanisms

As early as 1993, the CSCE Report acknowledged that 'Some of the Mission's interlocutors claim that "international guarantees" are needed to buttress any agreement on special status for Transdnistria' and considers that 'the conclusion of an agreement under the auspices of the CSCE could enhance the trust of both sides in its duration and reliability.' This general idea of an internationally mediated, and therefore presumably more resilient agreement later on translated into the 5+2 format in which Russia and Ukraine are not only mediators but also guarantor states. The issue of guarantees, however, is more widely reflected in subsequent proposals as well, with its notion broadened to include domestic guarantees as well.

The Kozak Memorandum foresees the status of Transnistria (and Gagauzia) as federal subjects anchored in the new constitution of Moldova. This constitutional guarantee of arrangements is further strengthened by the fact that changes to the constitution require a two-thirds majority in the lower house and a four-fifths majority in the upper house, while constitutional court decisions in the transitional period require a supporting vote from nine of the eleven judges.

The Mediator Proposals envisage 'an integrated system of guarantees for complying with and enforcing agreements' reached in the course of the settlement process. Registration of any agreements with the OSCE and depositing them with the guarantor states are seen as necessary international guarantees, while legal safeguards are envisaged (without specific detail to their nature or content) to 'provide for legislative enactment of all agreements reached as a result of the Transdnistriean settlement negotiation process.' Among the economic guarantees, the Mediator Proposals suggest 'measures of economic support and coercive measures involving economic and financial leverage on that party which does not adhere to the agreements achieved.' Military guarantees, to be implemented with the consent of the parties, are also considered necessary, especially in the form of 'an

appropriate multinational military contingent and multinational unarmed observers', possibly involving the OSCE and the two guarantor states.

The Ukrainian Plan also proposes a specific system of guarantees, including the parallel legal entrenchment of Transnistria's status in the legislative order of both Moldova and Transnistria and an 'Agreement between the Republic of Moldova, the Russian Federation, Ukraine and the OSCE, regarding the guarantees of Moldova's adherence to the Law on the Special Legal Status of the Transdniestrian region of the Republic of Moldova', i.e., an international, multilateral guarantee. Perhaps most remarkably, the Ukrainian Plan includes the following final provision:

Should either of the Parties fail to adhere to the provisions of this Plan, the Russian Federation, Ukraine, and the OSCE reserve the right to take relevant international legal steps, based on commonly recognized norms and principles of international law.

As part of the guarantee mechanisms, all of these proposals also include a right of Transnistria to secede in case of Moldovan unification with Romania (specifically referred to as a 'political guarantee' in the Mediator Proposals, and as part of a 'system of guarantees' in the Ukrainian Plan).

The 2005 Moldovan Framework Law notes that 'the Law of the Republic of Moldova "On Special Legal Status of Transnistria" shall be accompanied by the adoption of a system of internal guarantees'. The 2005 Law itself requires a three-fifths majority in parliament for amendments, while the future special-status law for Transnistria will have the status of an organic law.²⁷

The 2007 Moldovan Package Proposal, similarly, goes to some lengths to specify 'legal, political, and economic guarantees for the population of Transnistria.' Importantly, it includes a definition of guarantees as follows:

By 'mechanisms of guarantee' the Parties, mediators and observers understand set of measures and documents aimed at achieving a political settlement having regard for interests of the parties to the conflict in unconditional observance of the norms and principles of international law, and respect for the sovereignty and territorial integrity of the Republic of Moldova.

According to the 2007 Package Proposal, Moldovan economic guarantees would extend to recognising and accepting Transnistrian 'economic agents' within the Moldovan legal and economic framework. Politically, Transnistria's right to secession is again specifically guaranteed. Legal guarantees are established as the future 'Law on the Special Legal Status of Transnistria', its anchoring in the Moldovan constitution, the parallel consent requirement for any changes to Transnistria's special status, and the constitutional, legislative and judicial protection for all forms of property. The Moldovan Package Proposal also offers additional guarantees for Transnistria concerning wages, pensions, and other social benefits, employment in law enforcement and judicial institutions, and reconfirms the inclusion of relevant provisions in the 'Law on the Special Legal Status of Transnistria' and the latter's anchoring in the Moldovan constitution.

²⁷ In the 1994 constitution, special status on the basis of organic laws was foreseen for both Gagauzia and Transnistria, and the respective laws would have required a three-fifths parliamentary majority for amendment. In 2003, the relevant Article 111 of the constitution was amended and currently only refers to Gagauzia.

Elements of a Sustainable Settlement

The past proposals for the settlement of the Transnistrian conflict discussed in the previous section offer a wide range of different mechanisms to address the multiple and complex problems involved. The purpose of examining them in the previous section was not to point out their weaknesses or analyse why they have failed to gain significant traction, but rather to identify the areas in which principal consensus exists among mediators/guarantors and observers of the process and build on this in developing elements of a sustainable settlement; that is, offer a set of options consistent with the existing consensus (see Table 1).

A secondary purpose of this analysis was to reaffirm the relevance and utility of a consociational perspective for the settlement of the conflict. What follows now thus combines the empirical and theoretical insights gained so far into a set of proposals for a future negotiated conflict settlement that would be both feasible (i.e., acceptable to all the parties involved in the negotiations) and viable (i.e., offering a reasonable prospect of a sustainable settlement within a functioning Moldovan state).

Territorial state construction

There is considerable agreement across the existing proposals that the Transnistrian conflict requires some sort of territorial self-government as part of the political-institutional arrangements to be set up by a settlement. None of the proposals excludes such an option to be extended also to other areas in Moldova, notably Gagauzia (where it has existed since 1995) and Bender. Given the different local and local-centre dynamics in each of the three areas, in combination with the general reluctance on the part of Chisinau to federalise the country as a whole, a multiple asymmetric federacy arrangement would seem the most appropriate form of territorial state construction. This would have several advantages: first, the existing arrangement with Gagauzia could remain untouched; second, Chisinau and Tiraspol could directly negotiate the substance of Transnistria's settlement (e.g., as foreseen in the various past proposals); and third, the remainder of the territory of Moldova would remain largely unaffected in terms of existing governance structures. Such arrangements are not uncommon: devolution in the United Kingdom (although not properly a federacy arrangement because of a lack of constitutional entrenchment), the arrangements for Greenland and the Faroer Isles in Denmark, the five regions with a special autonomy statutes in Italy, and the autonomous communities in Spain all serve as relatively successful examples.

As for the future status of Bender, several options could be considered. Bender could become another special-status region in Moldova, it could become formally part of Transnistria, or return to its Soviet status as a republican city. A fourth, but perhaps less likely option, would be for Bender to gain some kind of special status within Transnistria. Resolving Bender's status along those lines could either be one aspect of the negotiation process between Chisinau and Tiraspol, or put to a local referendum, i.e., giving the population of Bender a voice and a choice in determining their city's future. There is some recent experience with the referendum option that could be drawn upon: the disputed states along the north-south dividing line in Sudan, and the disputed territories in Iraq, notably Kirkuk. In Moldova itself, the boundaries of the Gagauz autonomy were determined by local referenda in 1994, while a similar process led to the establishment (and subsequent enlargement) of the Autonomous Region of Muslim Mindanao in the Philippines.

A transitional period from the current status to that determined by a future settlement could be considered useful for Bender. In other words, if the parties decide to have the status of Bender determined by a referendum, or even if they reach agreement on it as part of their

negotiations, for a transitional period the city could be administered either independently, for example by the OSCE and/or the guarantor states and/or observers, or by the Joint Control Commission. This could ensure the parties and the citizens of Bender and create conditions either for a referendum to take place and/or for a permanent arrangement to be established.

The distribution of powers

All the past proposals discussed earlier recognise the importance of distributing powers clearly between state and sub-state entities, but differ in the level of detail and nature of their approach. Especially in post-conflict settings, it is potentially problematic to operate with exclusive and joint competences in the way in which the CSCE Report, the Kozak Memorandum, and the Mediator Proposals do. Rather than having two lists of exclusive competences (one for Chisinau and one for Tiraspol/Komrat/Bender), a multiple asymmetric federacy arrangement as proposed above would lend itself more to clearly defining the competences of the federated entities (which would be different in each case) while leaving all others (i.e., anything not specifically assigned to an entity) to the centre. This would also address the problem of residual authority, leaving it at the centre. At the same time, it would not preclude mentioning a few specific competences for the centre (such as defence, fiscal and currency policy, citizenship) as long as this is understood as an open-ended list including all but those powers specifically assigned to an entity. This is the pattern of distributing powers in a number of comparable cases, including Belgium (e.g., Brussels), Italy (e.g., South Tyrol) and Ukraine (Crimea). In Moldova itself, this model currently applies to Gagauzia.

It is also worthwhile considering the notions of primary and secondary legislative competences, implicitly reflected in the Mediator Proposals. This distinction has its source in the legal boundaries to which they are confined. Primary legislative competences (i.e., the areas in which Transnistria/Gagauzia/Bender enjoys exclusive powers) would then only have constraints in the Moldovan constitution and the country's international obligations. Secondary legislation, that is legislation in areas of potentially concurrent/joint/shared competences, would be constrained by framework legislation in which Chisinau determines the basic principles of legislation while the federated entities make the detailed arrangements as they are to apply in their territories. As there are normally also provisions for additional delegated powers (i.e., areas in which the centre has exclusive legislative competence but delegates this to the entity), the notion of tertiary legislative competence might be useful constraining local legislation in two ways. First, it is only in specifically 'delegated' policy areas beyond the stipulations of a constitutional or other legal arrangement defining entity competences in which such competence could be exercised. Second, entity legislation would have to comply with a range of particular constraints specified in individual cases of delegated legislative competence, as well as with the more general constraints imposed on primary and secondary competences.

Especially if there was a transitional period from the current state of affairs to a permanent settlement, a distinction, as applied in UK devolution settlements, could also be made between devolved, reserved and excepted powers, signifying legislative competences that are enjoyed immediately by the sub-state entity (devolved), those that can be devolved at a future time (reserved), and those that are exclusive to the centre (excepted). By immediately assigning core competences to Transnistria, this would signal a commitment by both sides to a federacy arrangement, while at the same time allowing for a gradual devolution of further powers, for example in relation to developing administrative capacity.

Power-sharing arrangements

At the centre, power-sharing arrangements can be established qua representation and participation rules across the three branches of government (executive, legislature, judiciary) and the civil service.

Executive power sharing is often seen as central among power-sharing arrangements and taken to include representation in the executive, in this case of representatives of the territorial entities concerned (i.e., Transnistria/Gagauzia/Bender). Representation of particular segments of society, including those defined on the basis of territory, can be achieved in different ways. Most relevant for the proposed multiple asymmetric federacy would be through a formal arrangement that makes the heads of the federated executives members of the central cabinet (and has a similar requirement for line ministries). Moldova already has experience with this mechanism in relation to Gagauzia. It would guarantee a minimum of representation without the need for unwieldy, overblown executives, and it would serve as one mechanism for policy coordination (see below). In line with the Kozak Memorandum, heads of federated executives could be given deputy prime ministerial positions, and meaningful representation of the federated entities at the centre could be further increased by creating a special ministry (or ministries or ministerial offices) to deal with affairs of the entities (similar to the UK Secretaries of State for Scotland/Wales/Northern Ireland or the Minister for London between 1994 and 2010).

As far as legislative power sharing goes, a multiple asymmetric federacy arrangement would not require a bicameral system as foreseen in the Kozak Memorandum or the Mediator Proposals. Representation of the entities can be ensured through the choice of an electoral system that results in proportional outcomes. In the case of Moldova, because of the proposed territorial state construction, open or closed List-PR in a single state-wide constituency (possibly with threshold exemptions for regional parties), plurality single-member (e.g., 'first-past-the-post' or Alternative Vote) or preferential multi-member constituencies (e.g., Single Transferable Vote) would all result in reasonably proportional outcomes.

In terms of the effective participation dimension of power sharing, the parties could agree the use of qualified and/or concurrent majorities for parliamentary decisions in specific areas (either pre-determined or triggered according to a particular procedure), thus establishing a limited veto power for territorial entities even in the absence of an upper house. Such an arrangement, however, would also require that members of parliament 'designate' themselves as representing a particular territorial entity (i.e., Transnistria/Gagauzia/Bender). This could be done on a voluntary basis, but in order to contribute to a stable political process should only be done once at the beginning of a legislative term and be fixed for its duration. If necessary, specific arrangements could be crafted for a transitional period.

Judicial power sharing could be assured through mandatory representation of judges nominated by the legislative bodies of the federated entities in the highest courts, especially the constitutional court and/or the supreme court. In each of the entities, a regional branch of these courts could be established, serving as highest-instance court for matters pertaining to the legislative framework of the entity in question, while still being part of the unified judicial system of Moldova. Similar to the proposals in the Kozak Memorandum, a transitional period could require qualified majorities for decisions to be adopted in the Constitutional Court, even though the threshold of nine out of eleven judges proposed by Kozak seems excessively high.

In order to strengthen links between the centre and the federated entities, giving the latter a stake also in the political process of Moldova as a whole, proportional representation, including at senior levels, could be required for the civil service. For a transitional period, this could also include differential recruitment in order to overcome historically grown imbalances.

Mechanisms for policy coordination and dispute resolution

As noted above, existing proposals are relatively silent on this important dimension of sustainable conflict settlement, yet to the extent that there is consensus it extends to two particular areas. First, there is a recognised need for judicial review and arbitration, including considering the constitutionality of legislation for the implementation of existing agreements and potentially involving the Constitutional Court as ultimate arbiter. While it is clearly important to have procedures judicial review and arbitration in place, other mechanisms might be useful to prevent recourse to such ultimate mechanisms. This is another area where some, at least implicit, consensus exists in the form of establishing specific conciliation mechanisms to deal with the interpretation and implementation of a settlement agreement.

In addition to conciliation mechanisms, which are normally invoked after a difference cannot be resolved in another way (but before taking the matter to a court), joint committees and implementation bodies could be established to find common interpretations for specific aspects of agreements and regulations and to coordinate the implementation of specific policies at national and regional levels, including the joint drafting of implementation legislation. This is clearly foreseen in the Ukrainian Plan and the Moldovan Framework Law and should form part of an eventual settlement agreement.

Co-optation, already operated in the case of Gagauzia and included in the 2007 Moldovan Package Proposal, is a very useful mechanism for policy coordination, ensuring that the 'special circumstances' of each of the federated entities would be borne in mind in the process of national law and policy-making. In addition, the Crimean example, with a Representative Office of the President of Ukraine which acts, in part, as a coordination mechanism with oversight, but no executive powers, is worthwhile considering. A further, or alternative, mechanism that might prove useful (also as a power-sharing mechanism) is the establishment of specific ministries or ministerial offices dealing with entity affairs at the centre, implicitly reflected in the Mediator Proposals.

These different mechanisms can be scaled up or down, including reflecting specific needs during a transitional period as deemed necessary. In particular, during these early stages of implementation of a settlement, international participation in some of these mechanisms (e.g., an international presence in the Constitutional Court) or particular bodies with international participations, such as the Conciliation Committee proposed in the Ukrainian Plan (and implicit in the Mediator Proposals).

The Russian dimension

How to deal with the questions of demilitarization, neutrality and the presence of foreign troops could be the most decisive issue to determine whether a negotiated settlement for Transnistria will be possible. It will require an international agreement, rather than merely an arrangement between Chisinau and Tiraspol. At the same time, it could also be an area where a 'grand bargain' among all the parties involved can be achieved, linking these three issues to those of the territorial integrity and sovereignty of Moldova, thus including interlocking protections for all sides involved.

As a model for such an arrangement, the 1991 'Agreement Concerning the Sovereignty, Independence, Territorial Integrity and Inviolability, Neutrality and National Unity of Cambodia' should be considered. Here, the nineteen states participating in the Paris Conference on Cambodia signed, among others, this agreement in which Cambodia committed itself to a wide range of principles for its future domestic and international conduct, including to 'maintain, preserve and defend its sovereignty, independence, territorial integrity and inviolability, neutrality, and national unity', to entrench its 'perpetual neutrality ... in the ... constitution', 'refrain from entering into any military alliances or other military agreements with other States that would be inconsistent with its neutrality', and 'refrain from permitting the introduction or stationing of foreign forces, including military personnel, in any form whatsoever, in Cambodia, and to prevent the establishment or maintenance of foreign military bases'. In return, the other signatory states undertook 'to recognize and to respect in every way the sovereignty, independence, territorial integrity and inviolability, neutrality and national unity of Cambodia.'

While the situation in Cambodia in, and prior to, 1991 was clearly different from that in Moldova, this Agreement is highly relevant as it addresses the core issues of the Russian (and in a sense the Romanian) dimension of the conflict, could easily be modified to include demilitarization and exclude constraints on a future unification of Moldova and Romania, while at the same time providing an international anchor for Moldova's sovereignty (thus emphasising that Moldova is the sole subject of international law) and territorial integrity. Under such an arrangement, to put it bluntly, Moldova would gain a Russian commitment to its sovereignty and territorial integrity in exchange for agreeing not to join NATO.

The Romanian dimension

Similar to what already exists in the settlement for Gagauzia and has been widely accepted in relation to Transnistria, the latter should have an option of seceding from Moldova in case of unification with Romania. If Bender were to become another federated entity within Moldova, it too should have an option to decide in a referendum at that time—whether to join Moldova in uniting with Romania or, if Transnistria opts for secession, to join Transnistria. The latter would potentially raise new questions for the status of Bender within an independent Transnistria that would be subject to negotiation between the sides (possibly determining options before a referendum in Bender itself). In either case, independent statehood for Bender should not be an option.²⁸

Guarantee mechanisms

The Transnistrian conflict has many different dimensions, all of which require specific mechanisms for their implementation and operation, some of which, in turn, will need guarantees (and guarantors) for the parties to commit to them. This need for multiple guarantees is recognised, albeit in different detail, across all proposals examined above.

From this perspective, one can think about three different types of guarantees. First, in/formal agreements, i.e., usually legally non-binding arrangements for a whole settlement or specific provisions that detail how parties envisage operation and implementation of settlement provisions. For example, the parties should agree a range of principles that determine their mutual conduct in terms of coordinating legislation and policy. This could include the creation of consultation bodies and a determination of their working procedures. Another option might be to make the currently existing Working Groups permanent or extend their existence into a transitional period, both with appropriately amended mandates and terms of reference.

²⁸ The way in which the Romanian dimension of the conflict is handled would have to be synchronised with the approach taken to the Russian dimension, as indicated in the previous section.

Second, the different federated entities will all require their settlements to be entrenched in legislation and the constitution. This has already been accomplished for the status of Gagauzia: a constitutional anchoring of the status of Gagauzia as a special entity in Moldova (currently Article 111 of the constitution) and an organic law (dating back to 1995) that specifies, among other things, the competences of Gagauzia. This could be applied to settlements for Transnistria and possibly Bender. At present, changes to his law require a three-fifths majority in parliament. This could be strengthened, in line with suggestions in the Kozak Memorandum and the Mediator Proposals, by requiring the consent of the parliament of the respective entity for any changes to its status or competences.

Third, 'hard' and 'soft' international guarantees will be useful not only to entrench any settlement internationally but also commit external parties to a settlement. This could take two forms in the case of the Transnistrian conflict. On the one hand, achieving a settlement in the current 5+2 format would involve Ukraine and Russia as guarantor states, with OSCE as the lead mediator and the US and EU as observers. This is clearly foreseen in a number of past proposals. In addition, a bilateral (Moldova-Russia) or multilateral treaty (involving all states parties involved in the 5+2 format), along the lines of the 1991 Cambodia Agreement referred to above could prove useful and effective in assuring the parties.

While the conflict parties clearly are eager to achieve built-in or additional guarantees for any settlement and while the mediators and observers in the 5+2 process have acknowledged and accepted this, all actors also need to be realistic about what guarantees can deliver. They can promote compliance and/or deter from non-compliance with the provisions of a settlement by a variety of political means (dispute avoidance and non-judicial dispute resolution, positive and negative 'conditionality', peacekeeping) and judicial means (through constitutional and lower-order courts, as well as international courts such as the International Court of Justice, the Permanent Court of Arbitration, or the European Court of Human Rights). However, guarantees are not an end in itself, but are there for a purpose: to make things work, to help bridge a gap in trust, to create a safe environment in which institutions can prove their worth, to offer opportunities to revisit and revise earlier agreements. In other words, guarantees can help implement and operate an agreement, they cannot replace an agreement.

Conclusion

This paper has focused on the content of a sustainable settlement for the Transnistrian conflict in Moldova. Identifying the dimensions of an envisaged 'special status' and utilising liberal consociational theory of conflict settlement as a framework, we have demonstrated both the suitability of this particular approach to conflict settlement and that existing proposals are consistent with this framework. Comparing six of these existing proposals that reflect the breadth of current thinking among all relevant parties to the conflict, we identified areas of consensus and difference about four aspects of a future settlement (territorial state construction, distribution of competences, power sharing, policy coordination and dispute resolution), the conflict's two external dimensions (Russian and Romanian), and the domestic and international legal entrenchment of settlement provisions (guarantee mechanisms). On this basis a proposal for a multiple asymmetric federacy arrangement was developed that would be negotiated within the current 5+2 format of talks and entrenched in domestic legislation and the constitution and in a multilateral international treaty.

While the case of the Transnistrian conflict in Moldova has many distinct features, it is not wholly unique among contemporary self-determination conflicts. Many of these involve similar territorial disputes and have implications beyond the immediate locality of the

conflict, including external powers with significant stakes in the outcome. Elaborating elements of a settlement for the Transnistrian conflict in Moldova does not create a blueprint for similar conflicts elsewhere, but it can assist in conceptualising settlement frameworks and how specific issues can be addressed within them. Beyond positive local and regional implications, this is where an important part of the significance of a settlement for Transnistria lies as it helps to understand better, and deal more effectively, with the domestic and international politics of self-determination.

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Table 1: A Comparative Summary of Provisions in Past Settlement Proposals for the Transnistrian Conflict

	Territorial State Construction	Distribution of Powers	Power Sharing	Policy Coordination/ Dispute Settlement	Russian Dimension	Romanian Dimension	Guarantees
CSCCE Report (1993)	<ul style="list-style-type: none"> Special status for Transnistria, possibly for Bender and Gagauzia, possibly regionalised state 	<ul style="list-style-type: none"> Exclusive and joint competences listed in detail 	<ul style="list-style-type: none"> Proportional representation for Transnistria in parliament, top courts and key ministries 		<ul style="list-style-type: none"> Complete demilitarization; Russian withdrawal 	<ul style="list-style-type: none"> Option for Transnistrian Secession 	<ul style="list-style-type: none"> International guarantees, especially CSCE mediation of a agreement
Kozak Memorandum (2003)	<ul style="list-style-type: none"> Two federacy arrangements: Moldova-Transnistria and Moldova-Gagauzia 	<ul style="list-style-type: none"> Exclusive and joint competences listed in detail; Residual authority with federal subjects 	<ul style="list-style-type: none"> Pre-determined number of seats for Transnistria and Gagauzia in Constitutional Court and Senate; Qualified majorities in Senate and Constitutional Court during transition period 	<ul style="list-style-type: none"> Consultation on international treaties affecting joint competences 	<ul style="list-style-type: none"> Moldova as a neutral, demilitarized state 	<ul style="list-style-type: none"> Option for Transnistrian Secession 	<ul style="list-style-type: none"> Constitutional entrenchment of status, combined with qualified majorities necessary for constitutional amendments
Mediator Proposals (2004)	<ul style="list-style-type: none"> Federal State with Transnistria as a federal subject 	<ul style="list-style-type: none"> Exclusive and joint competences listed in detail; Residual authority with federal subjects 	<ul style="list-style-type: none"> Two-thirds majority in both houses of parliament for constitutional laws 	<ul style="list-style-type: none"> Federal state institutions to effect policy coordination; Disagreements over competences to be arbitrated by Constitutional Court; Disagreements over implementation to be resolved in existing negotiation format or separate conciliation mechanism 	<ul style="list-style-type: none"> Reduction of military capacity up to demilitarization 	<ul style="list-style-type: none"> Option for Transnistrian Secession 	<ul style="list-style-type: none"> Integrated system of international, domestic, economic, military and political guarantees, including enforcement mechanisms
Ukrainian Plan (2005)	<ul style="list-style-type: none"> Special status for Transnistria 	<ul style="list-style-type: none"> Division of powers to be established in organic special-status law 	<ul style="list-style-type: none"> Joint drafting of special-status law 	<ul style="list-style-type: none"> Conciliation Committee with international participation to resolve disputes over compliance with/ interpretation of special-status law 		<ul style="list-style-type: none"> Option for Transnistrian Secession 	<ul style="list-style-type: none"> Domestic legal and multilateral international guarantees; Guarantor states and OSCE entitled to further international legal steps in case of non-compliance
Moldovan Framework Law (2005)	<ul style="list-style-type: none"> Special status for Transnistria 	<ul style="list-style-type: none"> Division of powers to be established in organic special-status law 	<ul style="list-style-type: none"> Joint drafting of special-status law 		<ul style="list-style-type: none"> Transnistrian demilitarization and Russian withdrawal as preconditions for settlement 		<ul style="list-style-type: none"> A system of internal guarantees to accompany the special-status law
Moldovan Package Proposals (2007)	<ul style="list-style-type: none"> Special status for Transnistria 	<ul style="list-style-type: none"> Division of powers to be established in special-status law 	<ul style="list-style-type: none"> Joint drafting of special-status law Proportional representation for Transnistria in parliament Representation in government, Constitutional and Supreme Courts, Security Council, Prosecutor-General's Office and Interior Ministry 	<ul style="list-style-type: none"> Disagreements over competences to be arbitrated by Constitutional Court 	<ul style="list-style-type: none"> Moldova as a neutral, non-aligned state Russian withdrawal No foreign military bases or facilities in Moldova 	<ul style="list-style-type: none"> Option for Transnistrian Secession 	<ul style="list-style-type: none"> A system of internal legal, political and economic guarantees International mission under OSCE mandate to monitor demilitarisation and creation of joint armed forces