

# THE OSCE, MOLDOVA AND RUSSIAN DIPLOMACY IN 2003

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There are few ministers of foreign affairs who will jump at the occasion of chairing the Organisation on Security and Co-operation in Europe (OSCE). With 55 member states, each with veto power, the organisation is of such nature that progress-through-consensus is like wading through liquid asphalt. A challenge, indeed. In late 2002, Netherlands Minister of Foreign Affairs Jaap de Hoop Scheffer established a large Task Force within his ministry to help him through the 2003 chairmanship. With the benefit of hindsight one can say that he has done reasonably well. At the end of the 'Netherlands year' the 11<sup>th</sup> Ministerial Council, 1-2 December 2003 in Maastricht, adopted a strategy against threats to security and stability; a document on the fight against trade in humans; on tolerance and non-discrimination and an action plan on the position of Roma and Sinti.

In one respect, however, The Netherlands have had less success. They had hoped to make progress in bringing one of Europe's 'frozen conflicts' closer to a resolution: the Transnistria issue. Transnistria is the quasi-independent eastern slice of Moldova, in-between Dnestr (Nistru) river and the border of Ukraine. For two obvious reasons, the Task Force at the ministry in The Hague had selected Transnistria as the most 'promising' 'frozen conflict' in terms of the probability of making progress. First, because of its significance to the EU, where only a few years separate us from the moment when Moldova will border EU member state Romania. And second because some progress had been reached during 2002.

The efforts of the Dutch, however, resulted in a tense confrontation at the ministerial meeting in Maastricht. The Netherlands were praised, but Russia was entirely isolated vis-à-vis other OSCE member states. Bitter words were spoken, negotiations seemed to have entered a cul-de-sac. Did the Netherlands chairmanship fail? And if so why? Did De Hoop Scheffer naively step in a Russian trap? Or was the situation perhaps one of Russian failure? And if so, what does this say about Russian diplomacy under Putin?

## THE TRANSNISTRIA PROBLEM

A few years from now, Moldova will border the European Union. The country is excessively poor, with a GNP equal to 1.8 per cent of that in the EU. It is instable and its population is on the run.<sup>1</sup> After a short civil war in 1992, the country's slice of land to the east of Dnestr (Nistru) river seceded. Now the regime of Igor Smirnov in Tiraspol rules over a population of

630,000 (less than Amsterdam) on 12 percent of the official territory of the Republic of Moldova. Smirnovs regime is generally seen as illegitimate and as a clan condoning and profiting from illegal trade in weapons, contraband, drugs and human beings. Moreover, Smirnov profits from the fact that his 'statelet' provides 90 per cent of Moldova's energy output and over one third of its industrial production. His rule is supported by Russia and by criminal interests in Transnistria but also in Russia, Ukraine, and in 'West bank' Moldova.<sup>2</sup>

The Russian role in maintaining the status quo is indeed crucial, both in terms of diplomacy and military force. Diplomatically, because the resolution of the conflict is in the hands of the so-called OSCE-5: the governments in Chişinău (capital of Moldova; President Voronin) and Tiraspol (Transnistria; 'President' Smirnov), with Ukraine, Russia and the OSCE as intermediaries and 'guarantors' for the implementation of a hoped-for political agreement. Russia enjoys a disproportional degree of influence, acting both inside the OSCE as one of the member states and crucial agents in the negotiation process, and outside the OSCE as the region's hegemon. Russia can make or brake the Smirnov regime in Tiraspol. Further, Russia is crucial within the 'Joint Peacekeeping Force' that since 1992 controls the security zone to the east and west of Dneestr river; within this force troops from Transnistria and Moldova proper are secondary. For more than a decade the OSCE Mission in Chişinău has worked to reach significant progress. This of course is seriously hampered by the opaque, fuzzy conflict regulation formula. It is also hampered by the manifold interests that are at stake.

Igor Smirnov has much to lose, as have his sons and other members of his clan: power and wealth. At issue for Vladimir Voronin, Moldova's President, is that his country cannot hope for economic recovery – let alone integration with the EU – until after Smirnov and his regime have been removed from Transnistria. At the same time it is imperative for Voronin to remain on speaking terms with Smirnov's protector in the Moscow Kremlin, Vladimir Putin. The situation in Transnistria allows Russian diplomacy to keep a grip on Moldova. Then there is Romania, the western neighbour and EU member state to be. The Romanian government would of course like to see a friendly regime in Chişinău ruling over a reunited Moldova. But Romania is not a partner in the OSCE-5 negotiations and during 2003 has trusted the good will of the Netherlands chairmanship. Finally there is the European Union. It is in its interest that the instability and source of crime so close to its future eastern border is removed.

In the February 2001 parliamentary elections, the desperate situation in Moldova contributed to a landslide victory of the communist party CPM. Since then the CPM controls 71 of 101 seats. Two months later parliament elected Vladimir Voronin as President of the country.<sup>3</sup> Because of his cordial relations with Russian President Putin, some expected a quick break through in the Transnistria issue. It did not come. Progress was extremely slow.

In July 2002 the three negotiators OSCE, Russia and Ukraine presented Voronin and Smirnov with a draft agreement (the so-called Kyiv Document) introducing the federal idea for future Moldova. Half a year later, in February 2003, President Voronin suggested that a new federal constitution be written jointly with the Tiraspol regime. By 1 February 2004 a referendum

would have to take place in all of Moldova on the new constitution; a new federal parliament would have to be elected within the year to follow. President Smirnov, however, insisted on a *confederation* instead of a federation. He demanded that the new state formation would have to be based on an agreement between two equal states. Chişinău and the OSCE went for an asymmetric federation.

In the meantime, The Netherlands had taken over the OSCE chair. The Task Force in The Hague was in frequent consultation with both the Javier Solana's European Council office in Brussels and the State Department in Washington DC. The EU provided support by pressuring the parties to reach agreement.<sup>4</sup> On 27 February the EU and the US jointly announced a visa boycott against 17 members of the Transnistria leadership including Igor Smirnov and his sons; they were accused of 'continued obstructionism'.<sup>5</sup> The impossibility to enter either the EU or US had immediate effect. Some of the Russian military equipment was removed from Transnistria and, at least until the Summer of 2003, the OSCE negotiations made slow progress. A Joint Constitutional Commission (JCC) started its work, with representatives from Chişinău and Tiraspol and with EU and Council of Europe advisers. By the end of the Summer this commission reached a first agreement, on part of its chapter on civil rights.<sup>6</sup> But Claus Neukirch of the OSCE Mission in Chişinău concluded in October that a break through was not in sight. The work in the JCC stalled, and decisive action by the OSCE, Russia and Ukraine was badly needed.

At this stage it should be pointed out that Transnistria is not an issue for the OSCE alone. Geopolitical issues are involved that raise deep concerns in Russia. Since 'September 11' the United States have a military presence in the Caucasus and Central Asia – and there are no plans to leave. In addition, the US has been insisting that NATO countries will refrain from ratifying the adapted Conventional Forces in Europe Treaty (CFE2) for as long as Russian troops, bases and ammunition remain in Transnistria and Georgia (the so-called Istanbul commitments of 1999).<sup>7</sup> In May 2004 the Baltic states enter NATO, and before that date Russia wanted to have CFE2 ratified. The Russian leadership resents the fact that NATO refuses to apply CFE to these new NATO member states; as a result NATO will be able to station weapons at the shores of the Baltic sea while Russia itself is prohibited from doing so.<sup>8</sup>

#### AN EU CONSOLIDATION FORCE?

Russian policy makers are concerned as well about what they see as the EU advancing on former Soviet territory. In its 'new neighbourhood' document of March 2003, the European Commission suggested the deployment of 'EU civil and crisis management capabilities' in Transnistria as soon as a political solution had been reached, with or without intensified EU efforts.<sup>9</sup> Both The Hague and Brussels were engaged in intense consultations during 2003 about the modalities of a multinational consolidation force to be deployed immediately after a political settlement. The problem was how to sell the idea to the Russians.

In both capitals such consolidation force was seen as a logical next step in the strategy to 'unfreeze' the conflict. After a certain hesitation, in June the Netherlands Chairmanship circulated an informal paper to Russia and other OSCE members, suggesting the replacement of the Joint (Russian-Moldovan-Transnistrian) Peacekeeping Force by an OSCE Peace Consolidation Force that would be 'outsourced' to the European Union. In its paper the Task Force wrote that 'it could be explored further whether the EU is willing to carry out a peace consolidation operation in co-operation with other interested parties, if so desired.'<sup>10</sup> In other words, the ball was in the Russian court to come out and declare themselves an 'other interested party' in an OSCE Consolidation Force implemented by the EU. The immediate reaction of the Russian Ministry of Foreign Affairs (MID) was negative.

And yet, Russian diplomats might well have been worried over the slow pace of progress in the negotiations concerning the Transnistrian problem. After all, an agreement before the year 2003 was out would for Russia solve several problems at once, not the least of which was the CFE2 ratification issue. There were reasons to believe that the Netherlands OSCE Chairmanship and Russia had a common interest in a political solution to 'Transnistria' that could be confirmed at the Maastricht Ministerial of December.

It was not to be. Why? Various sources have blamed the slow pace of negotiations on the fact that for Russia they were conducted by MID. Moldovan President Voronin as well was convinced that progress would ensue only if his colleague Putin would take the lead. And he did. The informal Chairmanship paper arguing for an EU-led Multinational OSCE Consolidation Force was the trigger that got the Russian President involved. In Moscow the proposal 'was real dynamite'.<sup>11</sup>

Thus the diplomatic playing field changed without the OSCE diplomats being aware. Russia, after all, has *two* governments. MID is one of a select group of ministries – the 'power ministries' such as Defense, Internal Affairs, Emergencies – directly subordinated to the President and his office, the Presidential Administration. The 'lesser ministries' (primarily those concerning the economy) come under the chairman of the government, Russia's prime-minister.

#### PUTIN INTERVENES

In the Summer of 2003 Putin tasks his confidant Dmitri Kozak with a speedy solution for the Transnistrian issue. Kozak, then 45, is First Deputy Chief of the Presidential Administration and very close indeed to the President. He is a respected legal specialist with no experience in diplomacy. His nickname is *Cheshire Cat* ('The broader the smile, the less he believes his own words'). Without informing the OSCE, Kozak starts shuttle diplomacy between Chişinău and Tiraspol. Later, diplomats of MID will say that they have not been informed about the details of his activities. The official 'OSCE-5' negotiations continue as usual, so that from Summer 2003 there are in fact two partly overlapping negotiations circuits. It is not know

whether or not MID and the Presidential Administration co-ordinate their activities. But one thing is for sure: the OSCE is left in the dark.

This is the situation when on 11 September the OSCE negotiating team arrives in Moscow for talks at the Ministry of Foreign Affairs. The team consists of Ambassador Adriaan Jacobovits de Szeged, the OSCE CiO's special representative for Moldova; Daan Everts, Head of the OSCE *Task Force* at the ministry in The Hague, and Ambassador William Hill of the OSCE Mission in Chişinău. To their surprise they find that MID is now prepared to discuss the idea of an EU-led Consolidation Force. But the disillusionment follows soon and without mercy. After leaving Moscow and waiting for plane connections home, they find out about Kozak's shuttle diplomacy. The three diplomats are stunned. A day of talks at MID – and not one of the Russian partners had even mentioned Kozak's activities.

For some weeks after Kozak has been found out there are sporadic meetings between him and the OSCE team. Occasionally, Kozak allows the team to view parts of the text that he is preparing. But MID refuses to consider the Chairmanship request to involve Kozak directly in the 'OSCE-5' negotiation format. Perhaps its career diplomats felt marginalized by the Presidential Administration? From the perspective of the Chairmanship, the issue turns irrelevant when on 11 October (the day Holland beat Moldova 5-0) Kozak declares that he throws up his efforts to bring the impossible Smirnov and Voronin together. Putin's intervention seems to have failed.

OSCE negotiations continue, and on 28 October the Russian MID, Ukraine and the Netherlands Chairmanship reach agreement on a proposal to Smirnov and Voronin. After several details have been smoothed out, on 14 November Ambassador Hill visits the Russian Embassy in Chişinău for the Russian signature to the document. Instead of a signature he receives from Dmitri Kozak, present in the Embassy, a 'Memorandum on the Basic Principles for the State Structure of the United State'. The day after this so-called Kozak Memorandum is made public and presented officially to all parties concerned.<sup>12</sup> It is to be signed in an official ceremony on 25 November in the presence of Russian President Putin. On 18 November Russian Minister of Foreign Affairs Ivanov telephones his Netherlands colleague De Hoop Scheffer asking for his support of Kozak's settlement.<sup>13</sup>

By mid-November Moldova is just six weeks away from the moment when all Russian troops and equipment have to be removed from Transnistria. At Istanbul in 1999 Russia had agreed to withdraw troops and equipment by the end of 2002, and in December 2002 the OSCE under Portuguese Chairmanship had granted one year delay. The Kozak Memorandum now defines the future 'Federal Republic Moldova' as a 'neutral, demilitarised state' without any reference as to how this situation is to come about.<sup>14</sup> The Memorandum has no less than 15 transitional articles, making one thing perfectly clear: the proposed new Constitution will have full force only from 2020. Not one of these 15 articles refers to the presence of Russian troops. But within days after the Memorandum has been made public Transnistrian President Smirnov demands that Russia guarantee (by treaty) the continued presence of its troops for

30 more years.<sup>15</sup> For Voronin this is an unpleasant surprise.<sup>16</sup> Russian Defence Minister Sergei Ivanov, however, grants Smirnov two-thirds of his demand. On 21 November Ivanov states that as a guarantee for the intended federation, Russian troops will remain in Transnistria for 20 years. This guarantee is included in a secret version of the Kozak Memorandum, subsequently initialled by President Voronin.

Mid November is busy time for OSCE diplomacy. During the week of the 17<sup>th</sup>, attention is increasingly focussed on Georgia, where President Shevardnadze is under pressure to resign. One of the demands of the opposition concerns an end to Russian military presence in their country. Following demonstrations and international pressure, on 23 November Shevardnadze agrees to step down. That day, too, the Netherlands OSCE Chair decides to reject the Kozak Memorandum. Voronin is visited by the US Ambassador and receives a telephone call from Javier Solana. Their message is simple: 'don't do it'. Demonstrations in Chişinău add to the pressure, demanding the resignation of Voronin. Sometime during the night of 24 November Voronin calls Moscow to cancel Putin's visit. The solemn signing ceremony is off.

#### A FEDERAL MONSTROSITY

The federation that was to have come into being would have consisted of two 'subjects' with their own territory (Transnistria, named the 'Moldovan Dnestr Republic', and Gagauzia) and a large remainder area, the 'federal territory' ruled from Chişinău. Each of the two subjects would have its own parliament, government and judiciary – but in the 'federal territory' these functions would be exercised by the federal state institutions. Thus, the Kozak proposal had a certain resemblance to the British construction, albeit that the United Kingdom is not a federation, not even an asymmetric one. Parliament and government of its core area (England – or Moldova between Prut and Dnestr, so-called Bessarabia) would double as federal institutions. But other than Scotland or Wales, Transnistria, one of federal Moldova's 'outlying districts' with just 12 per cent of the country's territory, would have a stranglehold on the federation.

Until the year 2015, federal organic bills (concerning joint competencies of the subjects and the federation) would require approval by 75 per cent of the members of the federal Senate. In the 26-seat Senate, Gagauzia would have 4 seats, Transnistria 9 and the rest of Moldova 13. Even with the support of Gagauzia's 4 Senators, Chişinău would not be able to reach the required 20 votes. Moreover, the Memorandum ruled that federal Senators were to be elected by the parliaments in Tiraspol and Gagauzia, and by the federal Chamber of Deputies in Chişinău. But Kozak's transitory articles stipulated that only from the year 2020 the 71 deputies in the Chamber would be elected in one undivided constituency including all of federal Moldova. Until that year, they would be elected in three separate constituencies, one for each of the two 'subjects' and one for the 'federal territory'. By this devious method, until 2020 Transnistria would have its own representatives in the lower house and thus would be able to add to its influence in the election of the Senate. In all affairs declared to be 'joint competencies' (and they were many!), Transnistria would have a blocking minority of Senatorial seats. The catalogue of joint competencies – and the secret deal on continued

military presence of Russia – were among the main reasons why all OSCE actors apart from Russia had objections.

In the end the interference by Putin and Kozak resulted in a diplomatic defeat for Russia. In a period of just a few days Moscow's Presidential Administration had to swallow the successful resistance of two former Soviet republics against manipulations that were meant to perpetuate the Russian grip. Worse still, NATO countries could now be expected to further postpone ratification of CFE2. Kozak blamed Voronin for a lack of 'political courage'.<sup>17</sup> Less than a week later in Maastricht, Foreign Minister Igor Ivanov spoke bitter words against The Netherlands, the USA, OSCE and the Council of Europe: 'If we really want the OSCE to play a dignified role in solving problems, we cannot allow her to change into an instrument of separate states'.<sup>18</sup> What he had in mind, of course, was the torpedoing of the Russian Memorandum by the EU, US and Romania. But perhaps the persons who should take these words to heart were Dmitri Kozak and Vladimir Putin who had recklessly tried to short-circuit a difficult and complicated problem.

#### RUSSIAN FAILURE

This contribution cannot answer all questions concerning the bizarre episode of Kozak's meddling in Moldovan affairs. What made Voronin decide to cancel the signing of the Memorandum, affronting Putin in the process? Opinions are divided. Perhaps he feared a 'Georgian scenario', perhaps he was swayed by pressure from the part of the EU and US, possibly both. Of more interest is the question what made him decide to initial Kozak's constitutional model in the first place. It would, after all, turn him into the hostage of his arch rival, Igor Smirnov. The opposition in Chişinău has a simple answer: Moldova's president is a figurehead of the Kremlin, more Russian indeed than the President of Russia. Other explanations are somewhat more plausible. It is possible that Voronin expected the Russian leadership to reward his loyalty by removing Smirnov from Tiraspol. Another possibility is that he acted in the expectation that he, and not Smirnov, would win OSCE-monitored elections that would have to take place in Transnistria.

And then there is the question what the Netherlands OSCE year teaches us about Russian diplomacy. It seems that the Transnistria issue had low priority in Moscow up to the moment when President Putin decided to intervene. He tasked one of his confidants who was to sort the matter out in a couple of months. It is an attitude that seems typical for the Presidential Administration, where increasing numbers of young and loyal security officials show an inclination to overestimate their abilities. How else to explain that the task of hammering out a deal goes to an amiable and able legal specialist lacking in experience in diplomacy? The Ministry of Foreign Affairs, directly subordinate to the Presidential Administration, could do little else than keep the OSCE in suspense.

Kozak's negotiation error was quite serious. Trained negotiators make instrumental use of time pressure to reach their goal – forcing the other party to maximal concessions. But this of course works only if the time pressure is experienced by that other party. From the point of view of the Presidential Administration, the opponents were the OSCE chair (the Maastricht

ministerial was set for 1-2 December) and the government of Moldova. But neither Netherlands Minister De Hoop Scheffer nor Moldovan President Voronin experienced significant time pressure, the first having been clumsily shoved aside by Kozak. Time pressure, in fact, existed only for the Russian side that wanted to reach a new settlement for preserving its military presence on Moldovan territory and that aimed to have CFE2 ratified in the process. By their amateurish diplomacy, Putin and Kozak harmed the interests of Russia.

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**SUMMARY:** Chairing the OSCE during 2003, Netherlands Minister of Foreign Affairs Jaap de Hoop Scheffer aimed to contribute to a federal solution to the Transnistria 'frozen conflict' in Moldova. After a year of negotiations, however, at the Maastricht Summit of 1-2 December, Russia, the United States and other major OSCE players engaged in acrimonious recriminations over the failure to reach results. This failure interfered with Russian interests in the issue of the ratification of the CFE2 Treaty and the withdrawal of forces and ammunition from Transnistria. *Kto vinovat'?* – Who was to blame? In this article the author traces the history of negotiations on Transnistria during 2003, culminating in the secret interference of the Presidential Administration's First Deputy Chief Dmitry Kozak, *The Cheshire Cat* for those who now him well. His secretly prepared Memorandum contained a detailed outline of a new federal structure for Moldova in which 'Chişinău' would have been made hostage to the Smirnov regime in Tiraspol. It was to be signed on 25 November in Chişinău in the presence of Russian President Putin. At the very last moment Moldova's president Voronin cancelled the Putin visit and signing ceremony. The author concludes that through its ill conceived and unprofessional intervention, the Presidential Administration inflicted considerable harm on Russia's diplomatic reputation and on its interests. Foreign Minister Ivanov had to pick up the pieces.

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## NOTES

<sup>1</sup> Approximately 14 per cent of the population has left, 10.000 are leaving every month. Claus Neukirch, 'Coming closer to a solution in Moldova?' Paper, 23 October 2003. Some 300,000 Moldovans by now have Romanian (and thereby, within a few years, EU) citizenship. International Crisis Group, 'Moldova: No Quick Fix', Chisinau / Brussels (*ICG Europe Report* No. 147) 12 August 2003, p. 1.

<sup>2</sup> 'Moldova: No Quick Fix', p. 5-7.

<sup>3</sup> See John Löwenhardt, Ronald Hill & Margot Light, 'A wider Europe: the view from Minsk and Chisinau', *International Affairs* (London) 77, 3 (July 2001), pp. 513-28.

<sup>4</sup> European Council, 'Declaration by the Presidency on behalf of the European Union regarding the Transnistria conflict in Moldova', 15272/02, 4 December 2002.

<sup>5</sup> European Council, 'Moldova: Council adopts restrictive measures against the Transnistrian leadership', 6679/03, 27 February 2003.

<sup>6</sup> Neukirch, 'Coming closer to a solution in Moldova?'

<sup>7</sup> See the statement of Assistant Secretary of State Stephen G. Rademaker on 12 February 2003, at [www.usembassy.md/en-ambassador24.htm](http://www.usembassy.md/en-ambassador24.htm), and Zdzislaw Lachowski, 'The Adapted CFE Treaty and the Admission of the Baltic States to NATO', Stockholm (SIPRI), December 2002.

<sup>8</sup> Oleg Zorin, Gennadi Sysoev, 'Rossiia gotovit nastuplenie na OBSE', *Kommersant Daily*, 1 December 2003.

<sup>9</sup> European Commission, 'Wider Europe – Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours'. Brussel (COM2003-104) 11 March 2003.

<sup>10</sup> 'Food-for-Thought-Paper Peace Consolidation Mission Moldova', no date, no place.

<sup>11</sup> Netherlands diplomat, interview 22 Januari 2004.

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<sup>12</sup> 'Memorandum Ob osnovnykh printsipakh gosudarstvennogo ustroistva obedinnogo gosudarstva', RIA Novosti Moldova, 17 November 2003.

<sup>13</sup> MID Edinaia novostnaia lenta, 2661-18-11-2003.

<sup>14</sup> 'Memorandum Ob osnovnykh printsipakh gosudarstvennogo ustroistva obedinnogo gosudarstva' art. 3.1.

<sup>15</sup> News item, OSCE Mission in Moldova, 21 November 2003, quoted by Michael Emerson, 'Should the Transnistrian tail wag the Bessarabian dog?', Centre for European Policy Studies, Brussels, 25 November 2003.

<sup>16</sup> 'Pochemu ne byl podpisan Memorandum po pridnestrovskomu uregulirovaniu', transcription of TV interview with Voronin on 26 November 2003, Moldova-1 TV. *Logos Press*, 28 November 2003.

<sup>17</sup> *RFE/RL Newslines* 26 November 2003.

<sup>18</sup> 'Vystuplenie Ministra inostrannykh del Rossii I.S. Ivanova na 11-om zasedanii SMID OBSE', Maastricht 1 December 2003, [www.mid.ru](http://www.mid.ru) (2771-01-12-2003)