



ENC ANALYSIS

Devolution in Moldova:

Gagauzia and Transnistria in Focus.

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Introduction

The processes of decentralization in contemporary unitary states represent a pervasive phenomenon. Their development means a retreat from the strictly unitary state model, since it does not take into account regional interests. A special status is granted to regions that are different from the main territory of the country along ethnic characteristics, due to historical background or because of geographical isolation. The devolution trend is very popular in European unitary states, where the depth and the elements of asymmetry are very different. An example is Gagauz Yeri in Moldova, which is considered to be a successful case in the resolution of ethno-political conflicts in the post-Soviet space. However, there is an unresolved political conflict in Moldova with the separatist region of Transnistria, opening up new challenges for devolution.

At the dawn of its independence, the Republic of Moldova embarked on a search for the magic formula that could guarantee the territorial integrity of the state while solving the problems with the breakaway regions. Continuous disputes over the territorial structure of the Republic of Moldova were very important for Gagauzia, as well as for the so-called Pridnestrovian Moldovan Republic or Transnistria. The issue over the status of two regions affected the political, historical, economic, social, and even international relations in the Republic of Moldova. The interest for studying this case is determined by the fact that geographically and culturally the Republic of Moldova is located in the area of confrontation between Russian and European discourses, which puts its population in a serious geopolitical dilemma. The question of devolution in Moldova creates a complex and multi-layered discourse unfolding between the main political forces, which has an impact on the mood of the society and forms a certain trajectory in relation to the development of the process. The complexity in studying this case is the fact that throughout its existence the Republic of Moldova has turned into a vehicle to satisfy the personal and group vested interests of several hundred people who succeed regularly in governance and obtain their dividends, promoting and/or contrasting particular decentralization models.

Theoretical background

Given the complexity of the devolution process and the ambiguity of its interpretation in the political discourse shaped in the Republic of Moldova, and due to the speculations regarding the projects of federalization of the state, it is necessary to consider the theoretical basis for clarifying the subject of the study.

In the legal literature the notion of 'devolution' is traditionally used to refer to 'the transfer or transition from one person to another of a right, liability, title, estate, or office, transference of property from one person to another' (Black, 1990: 453). In the political

context, devolution means 'the process of transferring power from central government to a lower or regional level' (Robertson, 2002: 144). Specifying the concept of devolution, Vernon Bogdanor (2001: 2) points to the three elements that make up the process: 'the transfer to a subordinate elected body, on a geographical basis, of functions at present exercised by ministers and Parliament'. The developments preceding the referendum in Scotland in 2014 boosted 'further devolution' options while rethinking devolutionary measures and introducing the concept of the 'devolution max,' which would be tantamount to 'independence lite' – almost complete independence without secession. Swirling around full fiscal autonomy, the debate on the notion of the 'devolution max' narrowed to the 'full devolution of all powers with the exception of defence and foreign affairs' (Buchanan, 2012).

In fact, it is not easy to give an unambiguous definition of devolution as the term is used loosely in political science and in the administrative and legal practice on a par with the concept of decentralization. The concept of devolution is just making its way into the lexicon of politicians and academics of the Republic of Moldova and only few experts in the field of local public administration use the term occasionally and in particular to characterize the features of regionalization in the UK. Characterizing the process of power transfer to regions, the political elites and academic community of the Republic of Moldova use the term 'decentralization,' which is a rather broad term and requires greater concretization.

Decentralization is a common important feature that makes it sometimes difficult to distinguish federalism from devolution. V. Bogdanor (2001: 3) very clearly defines the difference, noting that 'devolution is to be distinguished from federalism, which would divide, not devolve, supreme power between Westminster and various regional or provincial parliaments'. Comparing devolution and federalism through the example of the UK and the US, Sandra Day O'Connor (2001: 502) states in her report that: 'Federalism represents a true division of power, whereas devolution is simply a delegation.' Devolution denotes namely the *transfer* of certain powers from the higher to the subordinate institutions, and it marks the maximum limit of decentralization a unitary state may reach up to, without turning into a federation.

As a rule, devolution acquires asymmetrical forms depending on the specific needs of self-rule in each individual region. Taking into consideration significant differences in the development of Moldovan regions requiring devolution measures, it is necessary to further explore the essence of 'asymmetrical devolution'. Asymmetry assumes the existence of status and other political differences between regions in the state, as well as differences, conditioned by ethno-cultural, socio-economic, natural, and geographical factors. Additionally, asymmetry can be observed in the process of power-sharing itself: some regions follow the path of devolution from the centre to the periphery and are thus parts of the state, under its jurisdiction; others follow the integrative way of devolution, when the process involves the resolution of an existing territorial conflict and reintegration of the state offering broad powers to separatist regions in return. In case significant progress is

made following the integrative path of devolution, it could be transformed into centre-periphery devolution. (Or the failure of centre-periphery devolution could lead to separatism and resorting to integrative devolution will be needed to avoid secession).

The other issue is regional preferences and regional economic and financial capacity, which often do not coincide. Levels of economic development and respective income levels are different; as concerns economic profile, it is an example of regions-donors and recipients. Ray Hudson (2005: 623) argues that: 'The success of some regions in "winning" may be directly related to the failure of others in "losing".' The uneven economic development increases disparities between different regions: rich regions tend to get free of the poor in the hope of an independent prosperity and the poor believe that the cutting loose will make them rich. Also, devolution of power in one region could be perceived as discrimination against others, which, in turn, may entail a chain reaction possibly falling into uncontrolled escalation. While studying negative aspects of possible deepening scenarios of the devolution process, it is necessary to consider the concept of "creeping devolution," which, in the author's opinion, is an irreversible process of power transfer, when it is no longer possible to find the best solution within the unitary state. At best, federalization follows or, at worst, in case of serious separatist movements in devolved regions, it leads to state fragmentation.

Secession sentiments are fuelled with a tough position of the central authorities on the issues of implementation of self-rule in the regions that only reinforces the threat of separatism. Steven C. Roach (2007: 450-451) hypothesizes on the possibility 'to justify secession by removing the stigma and mystique that comes with proscribing such a right', using it 'as a long-term strategic tool for controlling or managing the aspirations for secession'. It is interesting to note that it worked in Gagauzia when the region was granted – together with the autonomous status in 1994 – a right "to secede" in the event that the Republic of Moldova loses its sovereignty. Legal enshrinement of devolution, however, does not provide permanent protection against separatism, but rather offers a flexible solution to the conflict, which, however, cannot completely protect from what Hurst Hannum (1998) defines as 'the spectre of secession'. Indeed, devolution is viewed both in the context of separatism and as a remedy from the secession pressure, preserving the unity of the state. The view taken is that devolution is not identical with separatism. Unlike the latter, it develops within the state as a whole and does not carry a destructive potential. However, as previously noted, in its extreme manifestations, defined here as 'creeping devolution', it can actually be transformed into separatism.

When theory meets reality: Gagauzia and Transnistria compared

The Moldovan example represents a unique case of having frozen and thawed conflict zones represented by Transnistria and Gagauzia, respectively. In order to understand the specifics of the discourse on the possible future design of devolution models with or without Transnistria and further shaping the territorial structure of the country, it is necessary to consider Gagauzia and Transnistria in a comparative perspective (Table 1).

Gagauz Yeri, more commonly known as Gagauzia, is a place in Moldova where the Gagauz people live. The Gagauz are a small Turkic-speaking Christian people who settled in Southern Bessarabia some hundreds of years ago and their national consciousness developed here. Today's Swiss-cheesed territorial autonomyⁱ granted on the principle of ethnicity, with the population of 134,535 people, resembles a Matryoshka, where the Gagauz, being an ethnic minority in Moldova (4.6%), constitute 83.8% and have also other minorities within its territory (Population and Housing Census, 2014). In contrast, the so called Pridnestrovian Moldovan Republic, which in fact is a breakaway region of Moldova stretched along the left bank of the Dniester river and known as Transnistria, is an artificially created supra-ethnic community,ⁱⁱ echoing its short-lived interwar predecessor, the Moldovan Autonomous Soviet Socialist Republic (MASSR). The population of Transnistria has always been ethnically diverse with no dominant ethnic group and its ethnic composition has remained relatively stable since the 1990s. According to the Statistical Yearbook (State Statistics Service, 2017: 19), issued by the Transnistrian authorities, the population is mainly divided in three almost equally sized groups: Russians (33.8%), Moldovans (33.2%), and Ukrainians (26.7%).

In the beginning of the 1990s, two separatist movements were linked by the language issue and the fear of re-unification with Romania that made the highly Russified Gagauz and Transnistrians natural allies. Having started at about the same time, these conflicts gained unequal development, being different by nature. On August 19, 1990, the Gagauz declared the independence of the Gagauz Republic. On September 2, 1990, Transnistria followed, also proclaiming independence.

The conflict that erupted in the southern part of the Moldovan Soviet Socialist Republic at that time had the potential to become a bloody ethnic conflict, but it was stopped in time. Having existed for a little over four years alone, on December 23, 1994, the Gagauz Republic entered the constitutional field of the Republic of Moldova. The Law on the Special Legal Status of Gagauzia (hereinafter, the 1994 Law) recognized Gagauz Yeri as an autonomous territorial unit with a special status of self-determination (Registrul de stat, 1994). The Gagauz case in Moldova could be positioned as legislative devolution where some law-making powers are transferred to a regional legislature, Halk Topluşu (The People's Assembly). According to the 1994 Law, devolved areas primarily include: science, culture, education; housing management and urban planning; health services, physical culture and sports; local budget, financial and taxation activities; economy and ecology; labour relations and social security. However, Stefan Wolff (2007: 4) highlighted 'the lack of clarity about the nature of competences'.

The peaceful settlement of the Gagauz conflict won great approval in the international community. The outcome was favourable for both parties of the conflict and made it a win-win game. 'For Chişinău, this agreement settled the lesser, but nonetheless important, of the two secessionist movements that threatened the Moldovan state's viability. For Gagauzia, the agreement set the terms for extensive cultural, political, and social autonomy within Moldova' (Chinn and Roper, 1998: 87).

The Transnistrian conflict, purely political in nature, resulted in a bloody civil war, which Chişinău authorities managed to stop, but the problem itself is still unresolved, representing a serious threat to the territorial integrity and security of the state. The Transnistrian de facto independence from the very beginning caused strong oppositions in Chişinău, putting forward counter-proposals in the form of a draft law on the special status of Transnistria within the Republic of Moldova, similar to the Gagauz. However, Transnistria rejected these proposals. 'Transnistria's leadership has consistently regarded the Gagauzian autonomy as falling too far short of their aspiration for full statehood' (Roper, 2001: 101). To the present day a compromise on the issue of settlement of the Transnistrian problem has not been reached, and de facto Pridnestrovian Moldovan Republic operates as a separate entity: a breakaway region with the capital in Tiraspol, having its own political institutions, currency, ID and license plate numbers, not recognized by the international community. It is worth mentioning that since Transnistria is not recognized, its international operations, including foreign trade, travel, and postal service directly depend on Moldovan rules and procedures.

To the question 'What do you think, why the Gagauz conflict has been resolved, and the Transnistrian is still a problem?' a civil society representative, lawyer Ion Manole, in an interview with the author, replied that the important role belongs to Russia which, being interested in both conflicts, agreed to give up Gagauzia in exchange for the preservation of its direct and indirect presence in a wealthier (from the perspective of resources and industry) and strategically more important Transnistrian region. This explanation resembles a gambit in chess, when a small sacrifice is accepted to take on the attack and get more.

Today the two regions have together less than 6,000 square kilometres and less than 700,000 inhabitants, with the population in Transnistria exceeding three times the population of Gagauzia. Territorially the regions also differ substantially. When looking at the map of Gagauzia, its territorial fragmentation is evident: it combines multiple enclaves. The Transnistrian territory is integral, undivided, strategically extended along the bank of the Dniester and the border with Ukraine, giving the region an extra geostrategic potential.

Both regions are experiencing similar problems, associated with a certain isolation that in Transnistria is particularly acute in connection with its status of the unrecognized state. In these circumstances, regions are seeking external support to maintain and strengthen their own identity. An integral part of the latter remains Russian influence and Russian language, which is used extensively. As a result, the geopolitical preferences of the Gagauz and Transnistrians are leaning towards a pro-Russian foreign policy orientation. Theoretically there is an alternative in Gagauzia to Kremlin propaganda through the dialogue, although weak, with the central authorities, and through connections with Turkey, which also has a huge influence in the region. In contrast, there is a tendency that only propaganda from the Kremlin has a strong impact on people living in Transnistria.

The presence of Russian military, firmly established in the Transnistrian region since the armed hostilities, has been a constant subject of the discourse over the dubiousness of the neutral status of Moldova and the impossibility of finding a compromise, due to unfulfilled Istanbul agreements on the 'early, orderly and complete withdrawal of Russian troops from Moldova' (OSCE, 1999: 49-50). One of the main concerns regarding the Russian military presence is due to the fact that a huge amount of equipment and ammunition has been stored in Transnistrian warehouses. There is no foreign military contingent in Gagauzia; however, we should not exclude the fact that in the event of a dangerous exacerbation of relations with the centre, forces and equipment from Transnistria could possibly be deployed.

Socio-economic differences of the regions are quite large. The Gagauz Autonomy is considered the most disadvantaged region in the country, highly dependent on Chişinău for its economic viability. Its economy is based predominantly on the agrarian sector with a small industrial potential. Transnistria, in turn, is characterized by a more advanced industrial sector. As stated in the European Union Joint Analysis (European External Action Service, 2016: 26):

Industrial production is unevenly distributed across the country. More than 56% of the production value is generated in Chişinău alone even though only 23% of the population lives in Chişinău. The share of the Southern Region, including Gagauzia, represents less than 7%. Unfortunately, important industrial resources are situated in the Eastern regions of the country which are not controlled by the constitutional authorities.

The Gagauz consider Moldovan statehood as the key to the existence of the Autonomy, whereas Transnistria categorically insists on its own statehood and does not identify itself with the Republic of Moldova. That is why Transnistria has always been in the spotlight. Gagauzia attracts the attention of Chisinau mostly before elections and/or when the situation in the region is heating up. The adoption of the 1994 Law was a difficult compromise for both parties, and the Law was adopted mostly under the external pressure. Since then, a full-fledged dialogue between the centre and Gagauz Autonomy has not existed, and the level of trust between the parties remains low. Major claims of Comrat to Chişinău remain unchanged throughout the years: insufficient securing of the devolved powers of Gagauzia in the constitution, resulting in poor functioning of the 1994 Law; the lack of the Gagauz Autonomy representation in the central authorities, except the Başkan, and a prohibition on the creation of regional parties; the lack of a clear separation of powers and an independent dispute resolution mechanism between the Autonomy and the central authorities; and disproportionate distribution of finances, including the assistance of external donors. Any 'devo max' initiative of Gagauzia is perceived in Chişinău as a threat and separatism. On the other hand, any proposal of the central government for the modernization of the legislation regulating the status of Gagauzia is perceived a priori as an attempt to cut down or deprive the status of Autonomy.

It took 20 years to formalize the cooperation between the Moldovan Parliament and the Halk Topluşu of Gagauzia. The first working group was established after the referendum held in Gagauzia in February 2014 (on the foreign policy vector and on possible independence of Gagauzia in case Moldova progresses on its European path and even unites with Romania (Rinna, 2014). The referendum was declared illegal by the central authorities, because foreign policy issues are not within the competence of Gagauz Autonomy. Nevertheless, it helped to draw the attention of central government and the international community to the problems of Gagauz Autonomy. Pirkka Tapiola mentioned that the EU delegation was the one to insist on establishing the working group to address the issues of integrating the 1994 Law into the legislation of Moldova as should have been done long ago (Surdu, 2015). The second attempt to conduct such a dialogue was made in 2016. Thus, representatives from both sides met regularly to track the degree of implementation of the constitutional provisions relating to the special status of the Autonomy, including necessary legislative changes (Surdu, 2016).

However, the impression that the government acts on the basis of conditions set by external donors and patrons, rather than following a specific political course, is quite alarming. Politicians make all public statements in the presence of foreign partners (usually donors) for raising funds and benefits. Thus, meetings of the working group revealed that the positions of the parties are incompatible and even diametrically opposed on many aspects. In addition, their opinions demonstrated a complete lack of understanding of the model and principles of functioning of the territorial autonomy. After almost a year of its existence, the working group has prepared just three draft laws, none of which parliament has allowed to be considered at the session. These are good grounds to hypothesize that the reforms did not take into account the specifics of the transferred powers, demonstrated by their vagueness, and that adopted laws often simply do not work. In practice, Gagauzia is unable to legislate on its own in the devolved areas and it only adapts national laws to local conditions. Different views on the Gagauz autonomous rights granted, from Comrat and Chişinău, give Tiraspol once again the right to question the viability of such a devolution model in Moldova.

Table 1. Gagauzia and Transnistria compared

GAGAUZIA	TRANSNISTRIA
Conflict with ethnic connotations	Pure political conflict
Ethnic identity	Civic identity
Ethnic breakdown akin to matryoshka doll	Three main ethnic groups almost equally-sized
No historical precedent for the Gagauz state formation	Creation of MASSR in 1924

Peaceful solution / Unfrozen zone	Civil war / Frozen zone
Territorial autonomy through devolution	Breakaway separatist region (<i>de facto state</i>)
'Swiss cheese' territory	Contiguous territory
Multi-vector foreign influence: Russia, Turkey	Single-vector foreign influence: Russia
No military presence	Russian military presence
Undeveloped, non-industrialized, rural region	Industrialized region (almost all Moldova's industry in this territory)
Region-recipient	Possible region-donor
Weak but constant dialogue with Chişinău	Open confrontation with Chişinău
'Unitary community' vision	'Unity of communities' vision
Weak bargaining power (Gagauz gambit)	Strong bargaining power (including external support from Russia)
Centre-to-periphery devolution path	Integrative path of devolution
'Win-win' outcome	'Lose-lose' outcome

Conclusion

The process of devolution is associated with certain difficulties. Despite the fact that nobody argues for the need for decentralization in Moldova, in practice, due to ignorance of intricacies and peculiarities of this complex process, its implementation takes place in different ways, often accompanied by an opposite trend – centralization. The central authorities are quite reluctant to accept the idea of powers transfer and there are a number of reasons. First of all, there is the fear that devolution is the first step towards eventual secession of a region. Also, devolution could increase the risk of interference of foreign interests in regions' affairs. Meanwhile, reluctance to rights to self-rule can also increase that risk significantly, serving as a catalyst for a serious conflict, followed in the worst case by the final fragmentation of the state. In a broader regional perspective, the Moldovan case is thus illustrative of how the devolution process could be "tutored" from outside the country, e.g. events, currently developing on a similar scenario in neighbouring Ukraine.

Giving up Transnistria could not be the best solution; on the contrary, it would encourage other separatist tendencies in the region and serious international complications are inevitable. Both Russia and Ukraine, not to mention Western Europe, would hardly approve the final fragmentation of Moldova. It is naive to imagine that Moldova will rapidly

join the EU just because it gives away a small breakaway region. It is really dangerous to think the Gagauz and the Bulgarian minority in Moldova would not be encouraged to act immediately, getting violent and fighting for their independence too. Moldova's problems will only rise. Transnistria's annexation by Russia would be a nightmare for Ukraine, which would oppose this in every possible way, fearing to lose the Odessa oblast with its exit to the Black Sea (that could become one more huge strategic loss for Kiev). On the other hand, ethnic Hungarians living in Romania will be watching Moldova and Romania to unite and hypothetically have Gagauz Autonomy incorporated into united Romania; that will give them the green light to demand similar rights. The EU does not desire complications and tensions along its borders.

A universal devolution model does not exist: every decision is unique and should be based on local realities. If the government is able to find a solution acceptable to the majority in the regions and in the country, then the separatist aspirations of the regions will be significantly weakened. The general principles for effective solutions should be clear 'rules of the game' and well-defined mechanisms of power sharing.

Recommendations

- Devolution should be part of national policy and it should not be limited to listing of transferred powers on paper. The successful implementation of devolution requires effective political leadership, functioning democratic mechanisms, and a clear course towards the country's decentralization along with the harmonization of all legislation.

- Transnistria's ideal would be existence as a separate state. In reality, that is not plausible. Although separatist leaders get internal pressure from extreme factions, they would likely consider as the best option an agreement with the central authorities that provides a level of autonomy slightly lower than complete independence. In order to make it happen, a certain pressure may be necessary from the outside on both sides, which would make them understand that they have more to lose than to gain in the future, keeping the deadlock.

- Given the fact that there are obvious differences in the regions' historical, geographical, socio-cultural, and economic conditions as well as development potential, asymmetrical devolution design appears to be the most appropriate model when considering the reintegration of the Republic of Moldova without changing the unitary character of the state.

ⁱ Gagauz Yeri is not geographically contiguous due to the fact that the territory of the Autonomy was determined by the will of the citizens themselves in the 1995 referendum and some villages were not incorporated in the Gagauz Yeri (See Hotarîre Parlamentului nr. 406, 1995).

ⁱⁱ Transnistrian identity is not based on a concrete ethnic group; on the contrary, it connects different ethnic groups with different ethnic histories and ethnic characteristics into one supra-ethnic community, which is a social construct based mostly on a common Soviet past and Soviet legacy preservation, on a traumatic experience of the 1992 war, and on *de facto* independence.

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