



Separatism in Moldova: Political and Legal Aspects of a 'Frozen Conflict'

September 29, 2006; 2:00 p.m. - 4:00 p.m.
Washington, DC

Event Summary

At a Kennan Institute seminar* on September 29, 2006, David Kramer, deputy assistant secretary of state for European and Eurasian affairs; Elizabeth F. Defeis of Seton Hall University; Christopher J. Borgen of St. John's University; Mark A. Meyer of the New York City Bar Association; and William Hill of Georgetown University gave their assessments of the Transnistrian separatist conflict in the Republic of Moldova. In discussing the legal issues involved in the conflict, as well as the political and diplomatic issues, panelists agreed that the United States, the European Union, and Russia all had roles to play in the solution to the conflict.

David Kramer began by laying out the position of the United States government on the Transnistrian conflict, highlighting three principles. First, the United States fully respects the territorial integrity of Moldova. Second, it considers Transnistria part of Moldova. Third, it considers separatism unacceptable. Kramer stated that Moldova has the right to choose whether to allow foreign troops to remain on its territory, and the U.S. will continue to stress the need for Russia to fulfill its Istanbul commitments to withdraw its troops. He also called for the resumption of the "5+2" negotiations on Transnistria. Kramer added that he was cautiously optimistic about reintegrating the breakaway region into Moldova for several reasons, including improved border control, the implementation of the new customs regime between Moldova and Ukraine, and the high-level attention being given to the Transnistria conflict in the United States.

Elizabeth Defeis described the role of the legal assessment team sent to Moldova by the New York City Bar Association. The team met with high-level officials in Moldova and the Transnistrian region, as well as with experts and policy makers in the United States, with an aim toward producing a comprehensive legal assessment of the situation based on current international law. The team was led by Mark Meyer, and included Defeis and Christopher Borgen, among others.

Borgen summarized the Bar Association's findings. In preparing this report, the team sought to answer three questions: 1) Does Transnistria have a legal right to secession? 2)

What exactly is the current legal status of Transnistria? 3) What is the legality of the actions of third parties in the conflict?

There is no general right to secession under international law. However, past examples have shown that entities claiming that a secession would be legal must meet three conditions. First, the group must constitute "a people." Second, the group must be able to prove that it is suffering serious harms. Third, the group must have no other solution to the problem other than to secede. The study argues that none of the three conditions are met in the Transnistrian case. Therefore, according to Borgen, the region has the status of being under a belligerent occupation by a belligerent group, which is a de facto regime. As a de facto regime, it does not have the legal right to change the underlying economic structure of Transnistria, which it has been doing by selling assets that belong to the Moldovan government.

Mark Meyer followed by outlining what contribution he believes the New York Bar Association has added to the discussion of the "frozen conflict." According to Meyer, the report and its discussion of the rule of law have "empowered the Moldovan government to understand that it indeed has an arsenal of weapons that it can use in international forums to bring pressure on third-party states to adhere to international law and to resolve the conflict." He also discussed the legal implications of the commercial activities of the self-proclaimed Transnistrian government.

William Hill talked about the need to find a way forward to ending this conflict. Instead of focusing on the past, Moldova needs to make itself more attractive to residents of Transnistria, so that they can imagine reintegrating their region into the Moldovan state. Panelists agreed that reforms and a higher standard of living in Moldova were a necessary component to ending the conflict. Hill argued that there need to be "carrots" as well as "sticks" in the policy adopted by the United States and the European Union.

*The event was cosponsored by the Moldova Foundation, East European Studies and the Kennan Institute, Woodrow Wilson Center
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