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ENHANCING THE EU'S ENGAGEMENT WITH SEPARATIST TERRITORIES

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Twenty-five years after the end of the Soviet Union, a number of separatist conflicts caused by the decline and fall of that state are still painfully unresolved. These conflicts created a series of de facto states strung across the post-Soviet map that lie in the shadows of international sovereignty, with governments that exercise control of their domestic affairs but are recognized by almost no other sovereign states.

These separatist statelets have defied predictions that they would disappear and show every sign of persisting into the foreseeable future. In 2008, two of them, Abkhazia and South Ossetia, made a further step away from Georgia, their Soviet-era metropolitan state, when Russia recognized them as independent countries. Meanwhile, Moldova's breakaway region of Transnistria remains isolated and unrecognized but elected a new leader in 2016 and continues to exist as a separate political entity.

The core political position of most of the world, including the European Union, is that these lands are still the sovereign territories of their Soviet-era states; that the territorial integrity of these countries must be respected; and that the statelets' de facto secession violates the rights of internally displaced people who fled these lands during earlier conflicts.

This firm international stance on sovereignty does not, however, resolve a host of day-to-day issues with regard to these

territories. They are home to hundreds of thousands of people who do not deserve to lose their fundamental rights just because the status of the territory they live in is undetermined. These people go to work and school and want to travel abroad, just as the residents of recognized states. Moreover, these people have chosen institutions and leaders that are now long established but have no formal international status. Choosing the right kind of interaction with these de facto officials is difficult for international actors but essential to resolve the protracted conflicts.

The enduring presence of post-Soviet separatist territories continues to pose a challenge for the EU. The union has been modestly successful in Abkhazia, maintaining some leverage there and keeping open a few connections for the Abkhaz with the wider world, without compromising the EU's relationship with the government in Tbilisi. That experience may offer useful lessons, in particular with regard to Transnistria. Both situations require creative EU engagement that



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balances the demands of the metropolitan state that claims sovereignty over the separatist territory, the people of that territory, and wider international interests.

THE EU'S POLICY IN THE CAUCASUS

In December 2009, the European Union approved a non-recognition and engagement policy (NREP) for Abkhazia and South Ossetia. This policy endorses engagement in these territories at multiple levels while explicitly ruling out recognition of their sovereignty. The NREP was launched in the wake of the August 2008 Russian-Georgian War over South Ossetia. After that conflict, Russia recognized both South Ossetia and much larger Abkhazia as independent states. Paradoxically, however, Moscow's step has made both places more internationally isolated.

The EU's strategy had been conceived long before its launch, but it took a long time for all EU member states to agree to it and for it to be coordinated with actors on the ground. Although designed for both territories, the policy has been implemented only in Abkhazia. South Ossetia has a much more overt Russian military presence than Abkhazia, has kept its border closed, and has strongly resisted almost all forms of interaction with the outside world.

The NREP concept was the brainchild of the then EU special representative for the South Caucasus, Swedish diplomat Peter Semneby. The broad regional mandate of the special representative still allows that official to visit Abkhazia and South Ossetia and interact with their de facto authorities.

A nonpaper articulating the vision behind the NREP was approved but never published, meaning that the policy's public profile has never been very high. The main published document that sets out the policy is a 2010 report by Sabine Fischer of the EU Institute for Security Studies (EUISS). The report says that the new policy "aims at opening a political and legal space in which the EU can interact with the separatist regions without compromising its adherence to Georgia's territorial integrity."

What the policy does not seek to do is as important as what it does tackle. The policy does not try to resolve the EU's often-turbulent relationship with Russia in the South Caucasus or explicitly solve the conflicts there. It seeks only to enhance the EU's engagement and leverage on the regional level. In the words of one EU official, "at the end of the day, the policy is there to keep channels open, to keep options open."

The policy's two pillars, non-recognition and engagement, are both indispensable. The first has been broadly successful. When Russia recognized Abkhazia and South Ossetia, Moscow explicitly hoped that the move would set off a chain reaction of other recognitions. Announcing Russia's act of recognition in August 2008, the then Russian president, Dmitry Medvedev, mentioned Kosovo, which had declared independence from Serbia six months earlier and been recognized by many countries. He declared, "Russia calls on other states to follow its example" in recognizing Abkhazia and South Ossetia.

However, the West's countercampaign against recognition has succeeded, as Russia's stance is currently supported by only three other UN members, Nauru, Nicaragua, and Venezuela, none of which has any direct connection to the region. This must count as a disappointment to Russia, which even failed to persuade its close ally Belarus to recognize the two entities. Belarusian President Alexander Lukashenko said that in 2009, former EU foreign policy chief Javier Solana had personally threatened him with punitive sanctions if he recognized Abkhazia and South Ossetia.

The choice of words used or not used regarding these conflicts is important. While the EU backs a policy of non-recognition, its officials do not use the word "occupation" to describe the current status of Abkhazia and South Ossetia (although the European Parliament has done so, as have certain EU member states and the United States). EU officials say that formal use of this term is unhelpful because it suggests that Russia has fully taken over the two territories and therefore denies any useful role for the Abkhaz and South Ossetians.

The second pillar of the EU's policy, engagement, is based on the premise that the EU has a legitimate interest in places that risk being white spots on the map of Europe—regions that are beyond the remit of international law. As a result, the EU pursues activities in the territories in consultation with the Georgian authorities, but not in full coordination with them. This direct interest is expressed in a positive sense—the inhabitants of these places should have rights to work and study in Europe and not live in isolation from the world. It is also meant in a negative sense—these territories are potential sources of conflict, criminality, and political instability for Europe.

WORKING WITH GEORGIAN CONCERNS

In Abkhazia, the EU's initial intentions for engagement included ambitious plans to rebuild infrastructure and rehabilitate the railroad running between Abkhazia and western Georgia, which has not been operational since 1992, thus reconnecting the territory to international transportation links.

Implementation of the EU's strategy was complicated by the Georgian government's launch of its own "Strategy on Occupied Territories: Engagement Through Cooperation" in January 2010. Much of the language of the strategy, devised by then minister of reintegration Temuri Yakobashvili, echoed that of the EU's policy, talking of the importance of the "de-isolation" of the two territories.

However, Tbilisi's ambitions were more limited than the EU's. The Georgian government at the time strongly promoted the idea of a neutral travel document that the Abkhaz could acquire to travel abroad. The idea was innovative but unsuccessful—almost no Abkhaz took up the identity papers. A major practical reason was that people in Abkhazia would have had to travel to Georgian-controlled territory to acquire the document—something that is politically or socially difficult for most members of this small society. As a result, most Abkhaz travel abroad on Russian passports—and many still face restrictions on entry into the EU.

International interaction with these territories was also circumscribed by Georgia's 2009 law on occupied territories. That law, which is still in place, forbids any economic activity with the breakaway territories without the written authorization of the Georgian government; declares all officials in the entities illegal; and requires international organizations working there to coordinate all their activities closely with the Georgian authorities.

This law and other restrictions imposed by the Georgian government stem from concerns that international engagement in Abkhazia could lead to what they call a process of "creeping recognition" or "de facto sovereignty" in which the territory builds up a kind of state capacity that makes it eligible for de jure recognition. These concerns are shared by other governments embroiled in separatist disputes such as those in Azerbaijan, Moldova, and Ukraine.

Allowing engagement with a former adversary is a painful issue for citizens of countries that have lost territory, especially when this entails cooperation with a de facto separatist government. Those who warn about creeping recognition point to the example of Kosovo, where heavy international engagement was the precursor to Kosovo's recognition as a sovereign state by dozens of countries in 2008. However, most scholars concur that Kosovo was an exceptional case and that the example of Cyprus, where intense engagement with the separatist territory in the north since 2003 has helped mitigate conflict, is more instructive.

Georgia's United National Movement party of former president Mikheil Saakashvili made the topic of creeping recognition and allegations that engagement with Abkhazia was a concession to Russia into a persistent issue, even as the minority party in the parliament after its electoral defeat in 2012. The Georgian Dream government that came to power in Tbilisi in that year adopted a more permissive attitude toward engagement in Abkhazia. As a result, low-level economic activity across the boundary line between Abkhazia and western Georgia is now fairly strong, and Abkhaz visit western Georgia to gain access to healthcare.

Since 2012, greater trust has developed between de facto Abkhaz officials and Tbilisi, thanks in part to the appointment of veteran civil-society activist Paata Zakareishvili to run the ministry responsible for the breakaway territories, whose name he changed from the Ministry of Reintegration to the Ministry of Reconciliation. In the 2016 parliamentary election, Georgian Dream won a much stronger mandate than it had four years before, giving it a fresh chance to pursue a more proactive engagement strategy toward Georgia's breakaway regions without fear of a domestic backlash. The EU can leverage this mandate by proposing a more ambitious program of activities for Abkhazia.

THE EU'S LOW PROFILE IN ABKHAZIA

Since 2008 and in the framework of the NREP, the EU has provided almost €40 million (\$42 million) of funding for projects in Abkhazia or involving Abkhaz partners, according to an EU official. These projects have included supporting local NGOs, improving healthcare and education, repairing water facilities, rebuilding houses in Abkhazia's southern Gali district, and working to find missing persons.

Despite this large sum, the EU's visibility has remained low in Abkhazia. That is in part because several of the more ambitious ideas considered by the EU have not come to fruition. For example, a project to establish a European information house in Abkhazia was about to be realized when the 2008 war occurred and has never been implemented.

Moreover, many of the EU's ongoing projects have been carried out by other partners, such as the UN Development Program. The EU also did not widely publicize its role in funding a project that has had great resonance among local people. This was a project undertaken by the International Committee of the Red Cross (ICRC) to exhume bodies from both sides in the 1992–1993 war for reburial. In May 2016, the ICRC reported that between 2013 and 2015, its forensic experts had recovered 162 sets of human remains, and that they had so far identified half of these and handed them over to the families of the deceased. This process healed many lingering psychological wounds from the conflict.

The EU's low visibility means that most ordinary Abkhaz, and even some de facto officials, are unaware that the union is investing in their region. A discourse persists in Abkhazia, which it is hard to shift, that the territory is the undeserving victim of a policy of isolation by the EU.

This discreet EU profile has been eclipsed by what the International Crisis Group described in 2010 as Abkhazia's "deepening dependence" on Russia. Since that year, Moscow has poured money into the territory, supporting half of its budget, rebuilding its infrastructure, and paying almost all of its pensions and social benefits. Abkhazia's capital has changed from a semiruined city into a much more normal-looking Caucasian town, with shops, traffic, and economic activity.

The political price for this investment has been growing de facto Russian control of many Abkhaz institutions, in particular the security services. A new bilateral alliance and strategic partnership treaty signed in 2014 between Moscow and the de facto Abkhaz authorities pledged more Russian money for Abkhazia while giving Moscow a formal role in security policies.

Growing Russian assertiveness has narrowed the space for EU engagement in Abkhazia—even though the two elements could be compatible. The EU should respond to this narrowing space in two ways: first, by putting more funds and creativity into implementing the NREP; and second, by reminding member states of their commitment to a policy that some of them may have forgotten.

A FOCUS ON EDUCATION

Expanding educational opportunities for the Abkhaz has been a constant theme of the EU's engagement policies. Foreign scholarship schemes have been one of the unqualified successes of European engagement with the states of the former Soviet Union. To encourage young people in Abkhazia to study abroad in the same manner should be a relatively uncontroversial way of educating a group who will as a result be more professional and ready to engage with the outside world in their careers.

However, this has not come to pass. The 2010 EUISS report made the point that “in a society as small as Abkhazia, 80 or 100 scholarships could make a significant difference.” Several students from Abkhazia have studied in Brussels. Two Chevening scholarships are available, allowing Abkhaz students to study at British universities. This is currently the limit of official educational opportunities for young Abkhaz, although some find ways to study in Europe on an individual basis.

Ambitious ideas for education have proved harder to implement than anticipated, for both external and domestic reasons. On the foreign side, it transpires that even education is a politically controversial field. For an Abkhaz student to study abroad, he or she needs a foreign passport. Given the failure of the neutral passports scheme, that means that a European government needs to grant a visa to the Abkhaz holder of a Russian passport—something that not every government is prepared to do.

A formal exchange program with EU universities involving large numbers of students requires the authorization of the diplomas of Abkhazia’s university—officially called the Abkhaz State University—which is not currently possible without Georgian approval. This raises the question of how ready the university is to see its students take part in such a scheme. After years of isolation, Abkhazia’s university lags behind in international standards. Many of its staff are underpaid, resources are few, and English-language proficiency is poor. That means that even if the demand side of the problem is addressed and better mechanisms are established to enable students to study abroad, there will still be a supply-side issue of an insufficient quantity of students. This calls for an EU policy that seeks to invest in educational institutions on the ground as well as provide opportunities for academic exchanges with European countries.

LESSONS FOR TRANSDNIESTRIA

Many of the issues that apply to Abkhazia also apply to Transdniestria, the territory that de facto broke away from newly independent Moldova in 1992. In many ways, the

situation in Transdniestria is more favorable than that in Abkhazia. The conflict in 1992 was brief and lacked an element of ethnic animosity. Very few people were internally displaced, in contrast to the conflicts in the Caucasus. There is plenty of traffic and interaction between residents of the two banks of the Dniester River, which divides the two sides of the dispute. People in Transdniestria—which does not share a border with Russia, their big political patron—use Moldovan documents to travel to and trade with the outside world.

Yet the conflict is no nearer resolution. In 2016, the so-called 5+2 international negotiating format that consists of Moldova, Transdniestria, the Organization for Security and Cooperation in Europe, Russia, and Ukraine, with the EU and the United States as observers, was revived after a two-year pause. Progress was slow, in large part due to disputes over some of the same everyday issues as in the Abkhazia conflict, specifically the international status of diplomas from Transdniestria’s university and of Transdniestrian license plates.

As in Georgia, many Moldovan officials are reluctant to make concessions on these points out of fear that doing so will constitute creeping recognition of Transdniestrian sovereignty. These concerns were set out in an open letter signed by Moldovan experts and civil-society leaders in August 2016. It called on the government in Chişinău to resist what it termed international pressure to make compromises, warning that “any concessions that would exceed the limits of the territorial-administrative autonomy in the composition of Moldova should be dismissed or suspended immediately.” The letter insisted that the Moldovan government ensure that all activities undertaken in Transdniestria comply with Moldovan legislation and explicitly state the implementing partners’ “non-recognition of the legitimacy of decisions taken by the Transnistrian separatist authorities.”

This approach, widely shared in Moldovan society and official circles, poses a challenge to the EU as it seeks to work with and in Transdniestria. In particular, this applies to Transdniestria’s accession to the EU’s agreement with

Moldova on a Deep and Comprehensive Free Trade Area (DCFTA). This deal will give the territory's exports the same tariff-free access to EU markets as other Moldovan goods.

Transnistria's agreement to join the DCFTA accord is widely seen as a political success. However, it may fail if the territory does not enact the necessary economic reforms in 2017 to make its economy comply with DCFTA standards. That in turn is difficult if the EU does not provide technical assistance to Transnistria, including to its government and parliament. The territory is currently eligible to apply for technical help, but for domestic political reasons there is little uptake so far on making use of EU schemes.

This politically delicate context suggests that for the sake of all actors involved, it would be beneficial for the EU to adopt a non-recognition and engagement policy for Transnistria analogous to the one it has for Abkhazia. A public policy statement would allow for deeper engagement in Transnistria in a clear framework that is politically acceptable to all sides. The non-recognition part of the strategy would provide reassurance to Chişinău, while it would not prove so controversial in Tiraspol given that no country, not even Russia, has recognized Transnistria as independent.

CONCLUSION

Seven years on, the EU's non-recognition and engagement policy in the South Caucasus remains constrained by political realities. It was never allowed to get off the ground in South Ossetia, while bigger ambitions for engagement in Abkhazia were never realized. Yet the policy is still extremely valuable for providing a framework that allows for international engagement with Abkhazia while explicitly reassuring the Georgian government that the EU will not recognize the sovereignty of a breakaway territory—an example that can also usefully be applied in the different context of Moldova and Transnistria.

The strong mandate won by the Georgian Dream government in Georgia's 2016 parliamentary election provides an opportunity for Tbilisi to give the green light to enhanced international engagement in Abkhazia. Cooperation on educational projects should be a special priority. In pursuing engagement with Abkhazia, the EU should not forget its political goal of maintaining leverage in this conflict region and should make its activities more visible. Greater visibility will serve to remind EU member states of the importance of the policy that they have endorsed and refocus their attention on this combustible region.

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