



NEXT4EU perspectives on Moldova's EU integration

The Status of Transnistria and Neutrality: Major Obstacles for Moldova's EU Accession and little Incentives for Reforms

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The Republic of Moldova is a potential target of Russian aggression. In particular because Russian armed forces protect the internationally non-recognised state of Transnistria on Moldovan territory and Russia is financially supporting it by providing free gas supplies. Since the beginning of Russia's full-scale war against Ukraine, tensions between the Russian speaking minorities¹ in Moldova and the central government as well as Russian interference with local elections and Russian economic warfare against Europe, including Moldova, as well as the Transnistrian assembly's recent call for Russian support have further fuelled fears of Russian aggression (Ertel/Plotka 2024). 61 percent of Moldavans consider Russia as a threat. In autumn 2022, however, only 32 percent considered direct Russian military action against their country to be very or somewhat likely within 12 months (Centre for Insights in Survey Research 2022: 50-51). The Moldovan army would not be capable of defending the country against a Russian invasion, due to its limited size and defunding during past decades (Minzarari 2022).

Therefore, security concerns are one of the major drivers behind the application for EU membership, tabled by the pro-European government of President Maia Sandu in March 2022, while modernisation and economic development are others. Adopted in December 2023, the new National Security Strategy of the Republic of Moldova classifies the Russian Federation as a threat and defines joining the EU as a national security objective (The President of Moldova 2023).

EU-Moldova Security Cooperation

Before 2022, in the area of Common Foreign and Security Policy (CFSP), Moldova participated in two EU missions (EUTM Mali and EUMAM RCA), seminars and courses on Common Security and Defence Policy (CSDP) under the Eastern Partnership (EaP) and the regular „EU-Moldova Consultations on Security and Defence“. The Association Agreement (2014) aims furthermore at convergence in the area of CFSP, focusing on “conflict prevention, crisis management, regional stability, disarmament, non-proliferation, arms control and export control”. Since February 2022, both partners hold the EU-Moldova High-level Political and Security Dialogue, and the EU provides 87 million Euro of the European Peace Facility to support the army of the Republic of Moldova with defensive equipment. Additionally, the EU has deployed the “EU Partnership Mission (EUPM) Moldova” to enhance “the resilience of the security sector” (Art. 2 (1) of the Council Decision (CFSP) No. 2023/855) and it assists the border management authorities (European External Action Service 2023).

During the enlargement process, CFSP and CSDP do not belong to the prioritised accession criteria but are gaining

importance due to the full-scale Russian invasion of Ukraine. None of the nine reform steps which Moldova had to complete before receiving a positive vote on EU accession negotiations addressed these areas (European Commission 2022). On cluster 6 “External Relations”, half of the Commission's analytical report of 2023 covers trade policy, while chapter 31 on foreign, security and defence policy summarises that the country is “moderately prepared” (European Commission 2023b: 51). Based on this assessment, the European Commission (2023a: 15) concludes that “[t]here is scope to further enhance cooperation” in this area. However, two major obstacles for Moldova in its accession process are not addressed: the separatist region Transnistria and the neutrality clause in the Moldovan constitution.

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The example of Cyprus shows that after accession, political momentum for conflict resolution vanishes quickly. However, raising the Transnistria issue is very unpopular in Moldova, and political parties gain little or nothing by doing so.

Reintegrating Transnistria

Although Joseph Borrell and Oleg Serebrian, Moldovas Deputy Minister in Charge of Reintegration say otherwise, a reintegration of Transnistria is a precondition before Moldova can join the EU. In article 8(2) of the Association Agreement, both parties underlined their commitment to find a sustainable solution for the Transnistrian issue in order to ensure regional stability. Accession under the status quo would make part of the EU's territory occupied by what had been the Russian 14th Guards Army, which was merged with Transnistrian soldiers. A situation hardly tenable, which would further accelerate geopolitical tensions. The example of Cyprus shows that after accession, political momentum for conflict resolution vanishes quickly. However, raising the Transnistria issue is very unpopular in Moldova, and political parties gain little or nothing by doing so.

The reason behind this are the strong mutual dependencies that guarantee a certain equilibrium. Most importantly, a reintegration of the region would put an extremely high financial burden on Chişinău. Transnistria is part of the free trade area established between the EU and Moldova under the “Deep and Comprehensive Free Trade Agreement” of 2014 and economically dependent on the access to the EU Internal Market. The right bank of Moldova is dependent on cheap electricity generated in Transnistria by using gas

¹ For details see Ertel/Plotka (2024).

provided “free of charge” by Russia. In turn, selling electricity is a major source of income for Transnistria. The high level of interdependence complicates any debate on reintegrating Transnistria, as repercussions from any changes could reduce support for political parties advocating reform.

The situation might change in January 2025, when the contracts on Russian gas transit to Transnistria via Ukraine end. Currently, it is very unlikely that Ukraine is willing to prolong these. When the provision of cheap gas to Transnistria ends, it will lose this source of income and electricity prices in the other parts of Moldova will rise. Thus, two interrelated factors making any changes to the status of Transnistria unpopular will cease to exist and Russia will further lose leverage over the region. Most notably Russia has not reacted to the call of Transnistrian deputies for further support, which stopped short of demanding the regions' annexation to Russia. This could significantly facilitate the process of reforming the status. Nevertheless, the Moldovan government has to work on a solution as Russian soldiers on EU soil are not acceptable. Considering the significant economic and political fallout from any attempt to address the issue, a long-term strategy is needed which reintegrates Transnistria into Moldova, mitigates the negative economic effects and wins citizen support for the proposed solution.

Neutrality in a Defence Alliance?

A second major obstacle to Moldova's EU accession is the country's permanent neutrality which directly affects the country's participation in the CSDP and the EU's role as a future security provider for Moldova. Article 11 of the Constitution of the Republic of Moldova stipulates that the country is permanently neutral and does not allow for “stationing of any foreign military troops on its territory”. According to article 142 only a “referendum with the vote of the majority of the registered citizens with voting rights” may change this provision. In 2014, the Moldovan Constitutional Court ruled that the Moldova's participation in exercises, trainings, civilian and military missions of the EU does not violate the principle of neutrality as none of these activities means “joining any military structure” (Moldovan Constitutional Court 2014).

The current government's pro-European course is, however, considerably driven by security considerations and it is seeking EU membership and closer cooperation with NATO. The current government and President Maia Sandu are even willing to discuss NATO membership, if the Moldovan citizens would wish so (RFE/RL's Romanian Service 2023). Meanwhile, the majority of citizens still supports neutrality. A poll of autumn 2022 shows that 59 percent of Moldovans consider neutrality as the best means to guarantee the country's security. Just 9 percent think that protection by the EU is the best means and 7 percent

protection by NATO (Centre for Insights in Survey Research 2022: 48).

Therefore, a referendum to change the constitution and abandon Moldova's permanent status of neutrality has little chances of being successful. However, retaining neutrality clearly limits Moldova's participation in CFSP. To join the EU, the country needs an opt-out from those provisions affecting the status of neutrality. Three countries in the EU, Austria, Ireland, and Malta, have negotiated such provisions, while Denmark ended its optout from CSDP in 2022, Finland joined NATO in 2023 and Sweden in 2024.

Debates with decision-makers in Chişinău revealed different approaches to the challenge: Some see the accession process as a window of opportunity to change the debate, expecting that citizens will value EU membership higher than neutrality. Thus, EU membership will allow for aligning with the Western defence alliance. Others are aware of the task but hope that there will be a solution during the accession negotiations. This is needed as the mutual assistance clause of article 42 (7) Treaty on European Union (TEU) has turned the EU into a defence alliance: It gives governments even less freedom to decide on their assistance to an attacked EU member state than they have under article 5 NATO Treaty.

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For Moldova, the threat to territorial integrity is real, the country cannot expect to be protected for free, and security policy is a major driver of the EU accession process. Thus, the “wait-and-see” approach of Austria, Ireland, and Malta is no solution for Moldovan neutrality.

Austria, Ireland, and Malta: the “Wait-and-see” Approach

Three neutral member states of the EU have chosen different ways to align their national obligations with European law: Austria is a vague case, as no provision in EU law guarantees the countries' status of neutrality. The maintenance of Austrian neutrality is exclusively based on the country's own interpretation of article 42 (2) TEU, which says that EU policy may not violate Austrian neutrality (Senn 2022). For Austria, which is an island in NATO, such a free-rider approach might be tenable. However, it remains to be seen what happens when the European mutual assistance clause is triggered.

Ireland has sought stronger safeguards to protect its status of neutrality under European law. The provision under article 42 (2) TEU, the so-called Irish clause, has been

included in European primary law to protect Irish neutrality. Before ratifying the Treaty of Lisbon, the European Council even guaranteed Ireland that it can choose the scope and nature of assistance under article 42 (7) TEU. However since the 1950s, the Royal Air Force (RAF) polices the Irish airspace as the country lacks own capabilities to do so (Ledwidge 2023). Thus, Ireland has long been a free rider of NATO protection.

To safeguard its neutrality, Malta follows an approach similar to the Austrian one. However, other than Austria, the country at least notified the EU and its member states in unilateral declaration No. 35 annexed to its accession treaty that “its participation in the European Union’s common foreign and security policy does not prejudice its neutrality” and the veto in the European Council is a means of last resort to protect Maltese neutrality.

All three existing approaches to safeguard neutrality are based on two assumptions: First, NATO and EU provide security for free to the neutral countries since a threat to their territorial integrity was merely theoretical when they agreed upon the provisions in EU law. Second, it is a political, not legal question what will happen, when article 42 (7) TEU is triggered. There exists not even a procedure on how to activate the mutual assistance clause. For Moldova, the threat to territorial integrity is real, the country cannot expect to be protected for free, and security policy is a major driver of the EU accession process. Thus, the “wait-and-see” approach of Austria, Ireland, and Malta is no solution for Moldovan neutrality. Therefore, the government has to work on solutions for either ending the country’s neutrality or finding an arrangement under European law to maintain neutrality, while obtaining reliable security guarantees.

Already in 2014, the Constitutional Court had ruled that “the process of European integration of the Republic of Moldova not only complies with the constitutional identity of the country, [but] any other adverse orientation is unconstitutional a priori” (Moldovan Constitutional Court 2014). However, the ruling did not end the political debate on the course of the country’s foreign policy. Whether a referendum on EU accession together with the next presidential elections (IPN 2024) will put an end to this debate is more than unlikely. Especially the issues of Transnistria and the country’s neutrality bear the potential to revive controversial political debates. Therefore, the government should not rush into shutting down the debate, but work more for getting different parts of society on board for its pro-European course. This is the only option that Moldova has.

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