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EU security practices in Eastern Europe: extending European peace or managing risks?

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EU security practices in Eastern Europe: extending European peace or managing risks?

Mădălina Dobrescu *

Abstract

This paper captures the contradictions at the heart of the European Union's (EU) security approach in Eastern Europe and reveals their implications in practice. The EU's security approach towards the states at its Eastern borders has been characterized by pervasive ambiguity, oscillating between inclusiveness and a normative/duty narrative and a securitizing perspective that advances a threat/risk narrative. Caught between these diverging narratives and the practices they inspire, the EU's policy instruments struggle to achieve their goals and make positive impact on the ground. The paper takes as a case-study one of the EU's iconic policy instruments in Eastern Europe, the EU Border Assistance Mission to Moldova and Ukraine (EUBAM). The mission's attempts to act both according to a normative/duty and a threat/risk narrative have resulted in EUBAM undermining its own efforts and can be expected to generate negative consequences for peace and stability in the region. The paper concludes that the one lesson that the EU must draw form these past experiences is that it needs to mainstream conflict resolution principles in all its policies towards countries affected by conflicts. The Union's engagement with the countries of the Eastern Partnership is carried out through a myriad of different policies and an even more complex web of policy tools. Understanding what the implications of these various instruments for the conflict settlement prospects in the region are would ensure that the EU makes the best use of its resources and avoids contradictory policies.

Key words: European Union; security; Eastern Partnership; civilian missions; conflict resolution

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Introduction

This paper captures the contradictions at the heart of the European Union's (EU) security approach in Eastern Europe and reveals their implications in practice. It aims to show how otherwise successful policy instruments can be undermined by a lack of vision and strategy, as well as a failure in the EU's implementation of a comprehensive security concept. The EU's security approach towards the states at its Eastern borders has been characterized by an ambiguity of perception (friendly vs threatening), intent (inclusion vs exclusion) and patterns of interaction (joint ownership vs hierarchical governance). While membership in the European Neighbourhood Policy (ENP) and the Eastern Partnership (EaP) formally excludes these countries from potential membership, some of them border the enlarged European Union and have high hopes of joining the 'European family' in the future. They constitute a so-called 'grey zone' of states which are not offered the perspective of becoming members even in the long term but are strategically relevant and geographically proximate to the EU so as to be included in an enlargement-like approach. However the push and pull of the EU's approach cannot always be reconciled and often results in ineffective policies which have the potential of undermining years of hard work on the ground.

The paper takes as a case-study one of the EU's iconic policy instruments in Eastern Europe, the EU Border Assistance Mission to Moldova and Ukraine (EUBAM). While EUBAM is generally considered to be one of the EU's most successful projects in the region, its activities have not escaped the Union's double security narrative. Using Christou's (2010) dichotomy of the EU's normative/duty and threat/risk security narratives, this paper aims to show how the tension between these two narratives and the practices they inspire can undermine the EU's policy tools on the ground. The mission's attempts to act both according to a normative/duty and a threat/risk narrative have resulted in EUBAM undermining its own efforts and can be expected to generate negative consequences for peace and stability in the region. The broader risk is that the mission will end up reinforcing a conflict it was meant to address and contributing to the entrenchment of the status quo. This would run counter to its core objective of contributing to the peaceful resolution of the Transnistrain conflict, in its role as one of the Union's main instruments for addressing regional conflicts.

The paper opens with a brief account of the EU's double security narrative in Eastern Europe, followed by a concise background to EUBAM's operation, mandate and envisioned contribution to conflict settlement. It continues with an analysis of the paradoxes raised by some of its activities from the perspective of the dominant security narratives: the normative/duty and threat/risk logics. Having highlighted the ways in which EUBAM risks becoming a status quo instrument, in contradiction to its fundamental responsibility to promote conflict resolution, the paper concludes with some remarks on how the EU could address this challenge and the potential impact of the crisis in Ukraine.

The EU's security narratives in Eastern Europe

The EU's ambiguous approach towards its neighbours has long been noted as the main reason for the Union's limited impact on the states at its borders. Sometimes described as an 'integration-security dilemma' (Tassinari 2005), the tension at the core of the ENP stems from a perception of the neighbourhood as both a space to be infused with EU norms and values and as a source of threats. On one hand, the EU has aimed to extend its own systems of governance to its partners in the neighbourhood in an attempt to foster stability and security and integrate these states to a limited degree into the broader Union. On the other hand, the instability and insecurity emerging from the neighbourhood has been managed with the help of a series of security policies which have reinforced the EU's borders and the notion of 'fortress Europe' (i.e. the Schengen visa regime). This paradox at the heart of the ENP has produced ineffective practice, undermining the EU's best efforts at reform and stability in the neighbourhood. The security environment in the EU's Eastern Neighbourhood is characterized by political instability, economic volatility and weak governance which in turn breed transnational criminal activity, corruption, illegal immigration and even terrorism. In addition, the region is the source of several long-simmering conflicts whose potential for spillover into the EU cannot be neglected and whose mere continued existence questions the EU's efficacy as a security actor.[1] While the EU has deployed a wide range of policy tools to address these issues, its approach has failed to bring about peace, stability and prosperity in the Eastern Neighbourhood. At the root of this failure lies the double security narrative built into the EU's initiatives to the East and the inconsistent and deeply contradictory practices it has generated.

One side of the EU's security narrative in Eastern Europe is the so-called 'normative/duty' logic which is premised on a perception of the neighbourhood as 'friendly' and 'cooperative'. Emphasizing the need to extend the European peace process in order to avoid the emergence of a new 'Iron Curtain' in Europe, the EU aims to advance its norms and values further into Eastern Europe and thus ensure the stability and prosperity of the region. The normative/duty model is thus driven by a sense of responsibility towards the neighbours who are invited to gradually partake in some of the benefits of the Union, in the absence of formal membership though. While the EU envisages the projection of the European model beyond its borders to the East, it wants to achieve this within a new logic of 'more than partnership but less than membership'.[2] It has been argued that this is the EU's dominant approach in relation to the Eastern Neighbourhood, which in turn rests on three interrelated dimensions: 1. The EU as the primary contributor to the European peace; 2. The EU as a value community, centred on a set of core norms (democracy, human rights, freedom, equality, the rule of law); 3. The moral imperative for promoting these values in the neighbourhood as well as on a global scale, the so-called civilizing element of the normative great power: the EU is perceived to be a successful project, the Eastern neighbourhood needs to improve its security and welfare, thus the EU has the moral obligation to help.[3]

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[1] George Christou, (2010). "European Union security logics to the east: The European Neighbourhood Policy and the Eastern Partnership". *European Security, 19*:3, 413.
[2] Christou, "European Union security logics", 416.
[3] R. Bengtsson and O. Elgström (2012). "Conflicting Role Conceptions? The European Union in Global Politics", *Foreign Policy Analysis, 8*:1, 98.

In terms of the types of interactions that characterize the normative/duty narrative, there is an assumption of equality and equity that underlines the notion of 'partnership'. The commitments that the EU and the neighbours make are mutual and based on the principle of joint ownership. Rather than the EU dictating the terms of the agreement, the relationship is founded on a shared security agenda where the priorities of both parties are equally important. Thus, the division between the inside and the outside becomes blurry and, even though the neighbours are not to be formally incorporated into the Union, they enjoy an important degree of integration.

The flipside of the normative/duty security logic is what has been described as the 'threat/risk' narrative. It conceives of the neighbourhood as an EU adjoining territory which, while not representing a military threat, poses a variety of security challenges: local conflicts, illegal trafficking, organized crime, terrorism etc.[4] Hence, the European Security Strategy's proclamation that 'building security in our neighbourhood' is one of three strategic objectives for the EU.[5] As opposed to the normative/duty narrative, the concern here is not with promoting EU values or extending the European peace project, but with containing the risks associated with weak governance in Eastern Europe and making sure they do not spillover into the EU. In this sense the ENP has been conceived according to a utilitarian logic, seeking to deal with specific EU security concerns that revolved around issues of cross-border trafficking and unregulated immigration.[6]

Rather than seeing itself as having an emancipatory duty, the EU under a threat/risk narrative considers that it is a matter of strategic interest for the Union to 'better' the neighbours. This approach is exclusionary and aims at keeping the threatening others outside which is why the inside/outside division is strengthened. As a result of the asymmetrical nature of the relationship, the agenda and priorities are set solely by the EU and the neighbours are merely recipients rather than equal partners.

The next section looks at the circumstances surrounding EUBAM's deployment, its tasks and activities and its proposed contribution to the settlement of the Transnistrian conflict.

EUBAM– securing the Eastern flank

After the dissolution of the USSR, tensions between the newly created state of Moldova and the autonomous region of Transnistria escalated into a military conflict that was concluded by a ceasefire in July 1992. Since then Transnistria has been a de facto autonomous entity although it is not recognised under international law as independent. The EU's involvement in the Transnistrian conflict since 2003 and the progressive stepping up of its interest and actions have been triggered by the enlargement process which brought Moldova at its borders, the EU's increased capability to contribute to stabilisation through the CFSP and CSDP and the Orange revolution in Ukraine which encouraged more EU involvement.[7] Thus,

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[4] R. Aliboni. (2005). "The Geopolitical Implications of the European Neighbourhood Policy", *European Foreign Affairs Review, 10*:1, 1.

[5] K. Smith. (2005). "The outsiders: The European neighbourhood policy", *International Affairs, 81*:4, 760.

[6] E. Barbé and E. Johansson Nogués. (2008). "The EU as a modest 'force for good': The European Neighbourhood Policy". *International Affairs, 84*:1, 86.

[7] Nicu Popescu, "The EU Special Representative for Moldova" (Eurojournal.org, 2005), 33.

following the inclusion of Moldova in the ENP in 2004 and the signing of the Action Plan in February 2005, the EU sought to increase its profile in the Transnistrian conflict through the appointment of an EU Special Representative to Moldova with a mandate for conflict resolution and the opening of a European Commission delegation in Chisinau. At the end of 2005 the EU decided to launch EUBAM, a mission which, although not undertaken in the context of the CSDP, was meant to 'play an important role in building preconditions for seeking a peaceful settlement of the Transnistrian conflict' by 'reducing the risk of criminal activities such as trafficking in persons, smuggling, proliferation of weapons and customs fraud'.[8]

EUBAM is to be regarded as a novelty in the EU's civilian crisis management toolbox. At the time of its deployment it not only had an innovative mandate merging border monitoring and capacity-building, but represented a unique case of a mission which was neither a distinct CSDP mission (although the EU Council exercises political oversight), nor an exclusively EC-managed operation (due to the participation of EU Member States).[9] The mission came about as a result of a joint request by the Presidents of Moldova and Ukraine to High Representative Javier Solana and President of the EC Jose Manuel Barrosso for assistance in capacity building for border management on the entire Moldovan-Ukrainian border. There was agreement at the Commission level and among the member states to respond positively to what was considered a 'unique request' and, as a consequence, EUBAM was established as an EC project.

A Memorandum of Understanding (MoU) was signed between the European Commission and the governments of Moldova and Ukraine in October 2005 which set out the mission's mandate and tasks. According to the MoU, the overall objectives of the mission were: contributing to the implementation of the EU ENP Plans with Moldova and Ukraine and the Council decisions on Moldova and Ukraine; developing appropriate operational and institutional capacity in both countries in order to provide for effective border control and surveillance; contributing to the resolution of the Transnistrian conflict by reducing the risk of illicit activities and security threats; improving transnational cooperation on border management.[10]

EUBAM was launched on 30 November 2005 with an initial mandate for two years. For the first six months the mission was financed by the European Commission through the RRM (a total budget of €4 million), in addition to co-financing in kind from member states who provided the majority of personnel through the

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[8] European Commission, "Solana and Ferrero-Waldner to launch Border Assistance Mission in Odessa 30 November", Press release, 29 November 2005, available at: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/05/1488&guiLanguage=en , accessed on 15 March 2011.

[9] George Dura, "The EU Border Assistance Mission to the Republic of Moldova and Ukraine" in *European Security and Defence Policy: the first ten years (1999-2009*), Giovanni Grevi, Damien Helly and Daniel Keohane eds. (EU Institute for Security Studies, 2009): 282.

[10] European Commission, Government of the Republic of Moldova and Government of Ukraine, "Memorandum of understanding between the European Commission, the Government of the Republic of Moldova and the Government of Ukraine on the European Commission Border Assistance Mission to the Republic of Moldova and to Ukraine", available at: http://europa.eu/legislation_summaries/foreign_and_security_policy/cfsp_and_esdp_implementation/ps0002_en.htm, accessed on 5 April 2012: 7-8.

secondment of border guards and customs officials.[11] Subsequent phases of the mission saw both an increase in the number of personnel and an enhanced budget. The MoU emphasised the advisory nature of EUBAM by making it clear that the mission's staff will not have the authority to enforce the laws of Moldova and Ukraine and thus will lack any executive powers. EUBAM's headquarters are in Odessa and the mission has six field offices on the Moldovan-Ukrainian border and in Odessa Port.[12] Since EUBAM is a Commission-run operation and the EC lacks operational capacities, it works with an implementing partner (UNDP from 2005 until 2013 and the International Organization for Migration since 1 December 2013).

Over the years the scope of the mission's activities has been significantly enlarged and now ranges from supporting the reform of the border and customs services in Moldova and Ukraine towards increased modernisation and effectiveness, as well as capacity building of these services, to contributing to organised crime prevention, fighting corruption and helping Moldova and Ukraine to approximate the border and law enforcement standards of the EU, particularly through Integrated Border Management (IBM). As already mentioned, the mission is also mandated to contribute to the settlement of the Transnistrian conflict. Being a purely advisory mission which lacks executive powers, EUBAM is not involved in the political negotiation process, but is expected to contribute to conflict settlement 'by strengthening border control and border surveillance in Moldova and Ukraine, thus reducing possible security threats originating from this region' (Transnistria).[13]

Despite the mission's responsibility to address the Transnistrian conflict and to make a positive contribution to its resolution, several years into its operation it has not been able to make a significant contribution in this direction. On the contrary, it can be said to have inadvertently become an instrument supportive of the status quo rather than conflict settlement. This is not a consequence of the mission failing to perform its mandate or other mission-related shortcomings for that matter, but rather the unfortunate result of the EU's ill-designed and at times contradictory policies in the Eastern Neighbourhood, as well as a flawed conflict settlement format and difficult circumstances on the ground. EUBAM is a good example to illustrate the contradictions inherent in the EU's security policy in the East and some of the consequences that can follow from such paradoxes. On one hand, the mission can be said to be firmly situated within the normative/duty narrative, with many of its activities being directed at fostering good relations between neighbours and promoting intra-regional economic integration, as well as with the EU. On the other hand, recent developments point to some of the mission's tasks acquiring the inflections of the threat/risk narrative.

The next section looks at some of the mission's activities from the perspectives of both the normative/duty narrative and the threat/risk narrative and reveals the inherent tension between them.

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[11] European Commission, "Information Note to the Council on the adoption of financing decision for the establishment of an EU Border Assistance Mission to Moldova and Ukraine under the EC Rapid Reaction Mechanism for €4 million", RELEX/A4 REG PA (05) D/700815, 27 October 2005: 2-3.

[12] EUBAM, "European Union Border Assistance Mission to Moldova and Ukraine Brochure" (2008), available at http://www.enpi-info.eu/library/content/eu-border-assistance-mission-moldova-and-ukraine-brochure, accessed on 4 April 2012: 7-9.

[13] European Commission, "Memorandum of Understanding": 7.

It also underlines the potential for such contradictions to undermine not only the effectiveness of EUBAM's current operations, but also the progress that the mission had achieved over the years in terms of confidence building between conflict parties.

EU security narratives and EUBAM

While EUBAM is not strictly a CSDP mission, but a hybrid operation, the functions it performs are those typical of other Border Assistance Missions under the CSDP and thus it can be considered a foreign policy instrument. Its complex mandate has included from the very beginning tasks directed at improved border management in the region and contributing to the settlement of the Transnistrian conflict. More recently, EUBAM has also been tasked with providing assistance with the implementation of the Association Agreement by Moldova (and potentially Transnistria), including the DCFTA and visa liberalisation in those areas related to border management and cross-border trade. These new provisions, however, appear increasingly incompatible with previous attempts at conflict settlement. While in the past the mission has strived to facilitate freedom of movement and economic relations between Transnistria and Moldova, as well as connect both to the EU market, now these same links are being severed due to Moldova's obligations under (and Transnistria's refusal to take part in) the Association Agreement.

The normative/duty narrative in EUBAM's activities

Within the spirit of the normative/duty security narrative, EUBAM has worked hard to facilitate international cooperation and information exchange between Moldova, Ukraine and other international partners, as well as with Transnistria proper. One of its most prominent initiatives in terms of promoting EU norms and values has been in the fight against corruption. The mission has been involved in efforts to develop an anti-corruption strategy which was well received by the Moldovan and Ukrainian partners. In addition, it has provided advice on improving procedures in order to reduce the opportunities for corruption and offered recommendations aimed at strengthening ethical conduct and public confidence (EUBAM Annual Report 2005/06, 13; EUBAM Annual Report 2007, 10; EUBAM Annual Report 2008, 14).

With regard to activities meant to directly address the conflict resolution dimension of its mandate, EUBAM has actively promoted a number of confidence-building measures and thus has been able to facilitate dialogue between the Moldovan and Transnistrian parties on several border related issues, such as border control, the resumption of passenger and freight railway traffic and border demarcation. Initially, the only operational activity of the EUBAM with a conflict settlement potential was the mission's involvement in monitoring the implementation of the Joint Declaration (JD) on establishing effective border control on the Moldovan-Ukrainian border. Essentially, the JD 'provides a legal framework for companies based in the Transnistrian region of the Republic of Moldova to perform import and export business, while maintaining the integrity of the customs territory of the Republic of Moldova under the control of the Chisinau authorities'.[14] By registering with the Moldovan authorities, Transnistrian businesses can operate legally, thus contributing to increasing Moldova's customs revenues and curbing

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[14] EUBAM, "Progress Report 2005-2010. Main achievements in border management by the partner services in five years of EUBAM activity (EUBAM Phase 8 Action Plan Ref#2.8.1)", available at: http://www.eubam.org/en/, accessed on 3 June 2011.

smuggling and illegal cross-border activity. In addition to improving Moldova's oversight of foreign trade activities from Transnistria, the JD has provided Transnistrian businesses with significant incentives for operating within the legitimate Moldovan legal framework: by adhering to the framework set up by the JD, Transnistrian operators enjoy a system of trade preferences such as lower tariffs or duty free on the goods they export.[15] This is because, under these conditions, Transnistrian exporters enjoy the Autonomous Trade Preferences (ATP) regime granted to Moldova by the EU. The number of Transnistrian companies that have registered with the State Register Chamber of Moldova has increased steadily from 380 in 2007, 498 in 2008, 596 in 2009, 681 in 2010, 767 in 2011, 769 in 2012.[16] In 2012 the Moldovan government amended legislation which regulated registration of Transnistrian economic operators and reimbursement of customs duties for imported goods (Decrees No 815 as of 2 August 2005 and No 1001 as of 19 September 2001 were amended by Decree No 258 as of April 2012) to allow Transnistrian companies which are not registered with Moldovan authorities to also clear goods with the Moldovan Customs Services without having to pay customs duty and VAT.[17] As a result of these sustained measures, almost all Transnistrian exporters are currently registered with the Moldovan authorities and more than 50% of Transnistrian exports now go to the EU.[18]

The normalisation of the customs regime over the entire Moldovan territory (including Transnistria) and a decrease in the level of cross-border criminal activity were expected to contribute significantly to the settlement of the conflict in light of what is perceived to be one of the facilitating conditions of the dispute. Thus, one of the main factors impeding a settlement of the conflict in Transnistria are allegedly the vested interests of the leaders of the de facto 'Dniestr Republic' and their Russian, Ukrainian and Moldovan cronies together with whom they control the economy and benefit from illegal activities such as smuggling and human trafficking .[19] In view of this, EUBAM's efforts towards the re-implementation of the customs protocol between Ukraine and Moldova which aims at ensuring that Transnistrian companies engage in legal trading activities under the control of the Chisinau authorities, seems to be a good conflict settlement strategy. By contributing to curbing illegal cross-border activities, the mission hopes to reduce incentives for political and business leaders connected to Transnistria to maintain the status quo. Also, by offering Transnistrian companies access to the EU market, it was hoped that Transnistria and Moldova can both move closer to the EU and avoid a scenario in which Moldova proper integrates into the EU, while the breakaway region is left behind or, more likely, moves towards Russia.

EUBAM's efforts towards confidence-building were key to achieving a series of breakthroughs in Moldova's relations with breakaway Transnistria. Thus, on the issue of the resumption of railway traffic

[15] EUBAM, "Annual Report December 2008- December 2009. European Union Border Assistance Mission to Moldova and Ukraine" (2010): 14, available at http://www.eubam.org/en/, accessed on 4 April 2012.

[16] EUBAM Annual Reports 2007, 2008, 2009, 2010, 2011, 2012, available at http://www.eubam.org/en/.

[17] EUBAM, "Annual Report 1 December 2010 – 30 November 2011. European Union Border Assistance Mission to Moldova and Ukraine" (2012): 15, available at http://www.eubam.org/en/, accessed on 12 November 2012.

[18] Nicu Popescu and Leonid Litra, "Transnistria: A bottom-up solution", Policy Brief No. 63, European Council for Foreign Relations, 2012: 8.

[19] Steven Woehrel, "Moldova: Background and US Policy", Congressional Research Service Report, 23 April 2014: 2; Alina Doroftei and Oazu Nantoi, "The ENP and Conflict Resolution in Moldova", Institute for Public Policy Moldova, Crisis Management Initiative, March 2009: 13.

through Transnistria, the mission's work proved instrumental. In 2008 a joint expert group was created to explore this possibility and while being an initiative of the EU Special Representative (EUSR) to Moldova, EUBAM's presence and its input into customs-related issues were requested at the consultations between the European Commission, the EUSR and the Moldovan and Transnistrian railway authorities.[20] In 2009 EUBAM came up with a technical proposal regarding Transnistrian cargo imports, which aimed at strengthening control by Ukrainian services of the Transnistrian segment of the Moldovan-Ukrainian border. Enhanced control of the border was hoped to encourage Transnistrian economic operators to engage in legitimate trade.[21] On 10 September 2010 a meeting between the railway representatives of Russia, Ukraine and Moldova marked a breakthrough in passenger railway traffic in the region through the agreement to resume the Chisinau-Odessa train as of 1 October 2010. The following year some progress was made on the issue of freight traffic, with EUBAM holding separate bilateral meetings with Chisinau, as well as organising a trilateral meeting with Moldovan and Transnistrian customs and railway representatives (November 2011) in order to identify potential solutions. The mission had earlier proposed several technical measures for the resumption of rail freight traffic through Transnistria which had been agreed to in principle by Chisinau.[22] The full resumption of railway traffic through Transnistria was eventually agreed upon in March 2012 and was the direct result of a positive constellation in political relations between Chisinau and Tiraspol, itself a consequence of the change in political leadership in Transnistria. However, this would not have been possible without the preparatory work of EUBAM, which not only made concrete proposals on technical issues, but more importantly, maintained regular contact between the Moldovan and Transnistrian parties and contributed to increased trust and willingness to cooperate of these actors. Thus, the expert meetings organised by the mission in January-February 2012 which aimed to involve stakeholders in the settlement of customs and railway issues were well placed to lay the ground for the agreement of a protocol on the joint customs control in April 2012. The protocol was developed by experts on both sides and was in line with EUBAM's technical proposals.[23]

EUBAM also deployed considerable efforts in order to include Transnistrian representatives in the process of border demarcation. On 17 March 2009 an expert meeting between Moldovan, Transnistrian and Ukrainian representatives took place, resulting in agreement over the general competences of short term experts (STE) involved in the work of the Joint Moldovan-Ukrainian Border Demarcation Commission and a series of EUBAM recommendations for the demarcation process (that the parties should use the same mapping systems; that the processes should be accelerated and that demarcation of the Central Transnistrian section should begin).[24] In 2010 the border demarcation process advanced even further, with the Commission agreeing the necessary working arrangements with representatives from Transnistria. A demarcation group of Moldovan and Ukrainian experts, with the participation of EUBAM's Short Term Expert (STE), defined the future sites for border signs and preliminarily marked about 120km

[20] EUBAM, "Annual Report European Union Border Assistance Mission to Moldova and Ukraine 2008", 9, available at http://www.eubam.org/en/, accessed on 4 April 2012.
[21] EUBAM, "Annual Report December 2008- December 2009", 14.
[22] EUBAM, "Annual Report 1 December 2010 – 30 November 2011", 25.
[23] EUBAM, "Annual Report 1 December 2011 – 30 November 2012. European Union Border Assistance Mission to Moldova and Ukraine" (2013): 15, available at http://www.eubam.org/en/, accessed on 15 November 2013.
[24] EUBAM, "Annual Report December 2008- December 2009", 15.

of the border.[25] The work was continued in 2011, when the demarcation of 314km of the Transnistrian segment of the Moldovan-Ukrainian border was completed and several points where the border was incorrectly traced were identified.[26]

In 2011 the mission participated at the conference 'Wider Confidence Building in the Transnistrian Conflict Settlement Process' where it presented its technical proposals for confidence-building measures and mediated a working-group meeting between customs representatives from Chisinau and Tiraspol, the first official engagement of this kind between the parties since 2001.[27] As part of the high-level conference 'Developing Confidence Building in the Transnistrian Conflict Settlement Process' held in June 2012 in Germany, EUBAM put forward its ideas on the potential resumption of road freight traffic through Transnistria and the proposal was reportedly received well by representatives from Chisinau and Tiraspol. An important issue on which the mission offered its input in the context of the 5+2 negotiations on the settlement of the Transnistrian conflict was the Transnistrian registration plates. EUBAM's proposal was that passenger and commercial vehicles registered in Transnistria be allowed to take part in international road traffic 'towards compliance with the relevant international agreements and conventions in this field' and subsequently be encouraged to re-register through a joint registration mechanism and technical inspections.[28]

The threat/risk narrative in EUBAM's activities

This rapprochement between conflict parties is now seriously undermined by Moldova's establishment of a DCFTA with the EU and visa liberalisation under the broader Association Agreement. This is somehow ironic given that both the DCFTA and visa liberalisation are meant to be inclusive instruments which bring the Eastern neighbourhood closer to the EU. However, Moldova's particular situation – an internal conflict and a secessionist entity on its territory which claims independence – complicates the picture. In this case, the measures required for the implementation of the DCFTA and visa liberalisation can potentially deepen the dividing lines between conflict parties and contribute to the exclusion and alienation of communities in conflict areas.

Perhaps unsurprisingly, Transnistria has opposed the initialling of the Association Agreement, most likely for fear of facing Russian retaliatory measures should it accept the DCFTA together with Chisinau.[29] Moldova tried to include Tiraspol in the DCFTA negotiations, inviting Transnistrian leaders to take part in discussions and providing them with full information, but they declined to actively take part in the talks and only assisted as observers. There are a series of negative consequences that could affect Tiraspol should it choose not to be part of the DCFTA. As Moldova is committed to start the implementation of the AA as soon as it is ratified by the Moldova parliament, the EU has agreed to extend the ATP regime for Transnistria until the end of 2015 to allow it to complete the implementation of EU acquis required by the

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[25] EUBAM, "Annual Report 1 December 2009 – 30 November 2010. European Union Border Assistance Mission to Moldova and Ukraine" (2011): 19, available at http://www.eubam.org/en/, accessed on 1 May 2012.
[26] EUBAM, "Annual Report 1 December 2010 – 30 November 2011", 26.
[27] EUBAM, "Annual Report 1 December 2010 – 30 November 2011", 26.
[28] EUBAM, "Annual Report 1 December 2011 – 30 November 2012", 16.
[29] Woehrel, "Moldova: Background and US Policy", 6.

DCFTA; if Tiraspol fails to do this, it could incur significant costs on Transnistrian companies which trade with the EU[30] and would as a result be excluded from the DCFTA. Following this, the EU could decide to either continue ATP regime or return to a non-preferential regime. The latter option would involve increased EU import tariffs and a decrease in the region's GDP.[31]

It does not appear likely that Transnistria will want to adopt the new trade regime, given that this would entail adopting Moldovan and/or EU legislation, abolishing and/or reducing tariffs, reforming competition policy and guaranteeing intellectual property rights, all of which requires a degree of control and enforcement of rules by Moldovan authorities that Tiraspol finds politically objectionable.[32] Experts argue that an exclusion of the Transnistrian region from the implementation of the DCFTA could create a customs barrier that is likely to 'pose a potentially insurmountable obstacle to re-integration'.[33] For its part, EUBAM has been cooperating with its Moldovan and Ukrainian partners to help them towards approximation with EU rules and practices in trade-related areas, particularly the customs regime. By assisting Moldova in fulfilling the necessary conditions for the completion of the DCFTA, the mission is ironically reversing some of the achievements of its past work towards enhanced economic relations between Moldova, Transnistria and the EU. While this cannot be imputed to EUBAM itself, it is an unfortunate consequence of a deeply flawed negotiation process combined with unexpected recent developments in Ukraine and the region at large. Nonetheless, the fact remains that all the 'technical input' that the mission had hoped would contribute to the Transnistrian conflict settlement process is now likely to contribute to an entrenchment of the status quo or, even worse, an escalation of the conflict. As things stand at the moment, Transnistria seems to be on an irreversible path that leads to Russia: in December 2013 Shevchuk has submitted a bill to change the Transnistrian constitution in order to introduce Russian legislation and even to give it priority over Transnistrian legislation.[34]

Apart from the DCFTA, another factor which could affect the Transnistrian regime is Moldova's visa-free travel agreement with Schengen zone countries which went into effect in April 2014. In preparation for the visa-free regime, as part of the Moldova-EU Action Plan for Visa Liberalisation, Chisinau opened six territorial migration offices along the Nistru river.[35] This was meant to show the EU that it has robust border management practices and can fully control its borders, including the unrecognised internal border with Transnistria. Moldova hopes that this new set of circumstances will encourage Transnistrians to request Moldovan passports and thus integrate in Moldova to a certain extent.[36] Already more than half of the Transnistrian population has sought biometric Moldovan passports as a result of this change in travel conditions for them, according to Moldovan officials.[37] In an attempt to make the new travel

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[30] The EU has become a more important export market in Transnistria than Russia and Ukraine. Stefan Wolff, "The Transnistrian issue: Moving beyond the status-quo", Report prepared for the European Parliament's Committee on Foreign Affairs, 2012, 19.

[31] Paul Ivan, "Transnistria – Where to?", Policy Brief, *European Policy Centre*, 13 March 2014, 3.

[32] Ivan, "Transnistria – Where to?", 3.

[33] Wolff, "The Transnistrian issue", 11.

[34] Ivan, "Transnistria – Where to?": 3.

[35] Ivan, "Transnistria – Where to?": 3.

[36] Ivan, "Transnistria – Where to?": 3.

[37] Woehrel, "Moldova: Background and US Policy": 6.

restrictions more palatable to Transnistrians, Moldovan authorities have also made legislative changes so that holders of foreign passports (Russian or Ukrainian) from Transnistria are no longer fined for overstaying in Moldova.[38]

As much as Moldova and EUBAM are trying to make these measures palatable to the Transnistrian population, it is difficult to ignore the boundary drawing potential of these new border practices. EUBAM has always been clear about the importance it bestows upon controlling illegal immigration in the region and the particular challenge posed by the internal border between Moldova and Transnistria, which Chisinau did not monitor (or even acknowledge) until recently. As a result, the mission has always tried to reconcile the importance of maintaining the internal border fluid in order to encourage travel and communication between the two banks of the Nistru river with the necessity of ensuring control of migratory flows and trade from Transnistria. Thus, in response to a series of initiatives by the Moldovan Ministry of Interior directed at enhancing the control over the Transnistrian segment of the Moldovan-Ukrainian border, EUBAM prepared a White Paper which sought to propose a number of measures that could facilitate such control (i.e. intelligence-led activities of mobile units (inland controls) and cooperation mechanisms between the relevant structures in Chisinau and Tiraspol) while at the same time protecting the freedom and rights of travellers and supporting the confidence-building process between the right and left bank of the Nistru River.[39]

It would be however naïve to think that the opening of the migration offices along the internal border has not had a negative impact on the already fragile but slowly consolidating confidence between parties. Despite Chisinau's gestures of goodwill, the new realities on the ground as a result of the implementation of the visa liberalisation requirements are likely to entrench and widen the divisions between Tiraspol and Chisinau. While Transnistrian citizens are likely to seize the opportunity of having a Moldovan passport that gives them the right to travel freely in Europe, those most likely to do this are young people who grew up in a Transnistria that had no links with Moldova. They will probably not be willing to integrate in Moldova, but rather speculate on the pragmatic benefits of having a Moldovan passport. On the other hand, the authorities in Tiraspol have already offered a sample of the growing rift Chisinau's implementation of the visa-free regime is creating between the breakaway region and Moldova: using the establishment of the migration offices as a pretext, the Transnistrian KGB asked Chisinau to remove all its public administration institutions from Bender, a town in the security zone, while on a different occasion and using a different reason, they announced restrictions on OSCE Moldova staff wishing to enter Transnistria.[40] In Russia, the reaction to Moldova's expected signing and implementation of the visa-free regime has been deeply negative and potentially menacing: Russian President Vladimir Putin argued that this amounted to an external blockade of Transnistria .[41]

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[38] Ivan, "Transnistria – Where to?": 3.
[39] EUBAM, "Annual Report December 2009- December 2010. European Union Border Assistance Mission to Moldova and Ukraine" (2011): 19, available at http://www.eubam.org/en/, accessed on 4 April 2012.
[40] Ivan, "Transnistria – Where to?": 3.
[41] Dumitru Minzarari, 'Crimea Crisis Exposes Severe Deficiencies in Transnistria Negotiations Format', Eurasia Daily Monitor, 11:67 (2014).

Recent developments point to the conflict settlement process being severely undermined by what is seen as another instance of 'fortress Europe'. By assisting Moldova with strengthening control on its internal border with Transnistria, EUBAM is demolishing its own past efforts at making this border as porous as possible in order to facilitate freedom of movement and people-to-people contacts between conflict parties. By requiring Moldova to reinforce this (unrecognised) border the EU is buttressing an important dimension of the conflict. And as the implementer of this policy on the ground, EUBAM risks contributing to the entrenchment of the conflict.

Conclusion

This paper has showed how one of the EU's civilian missions deployed in the Eastern Neighbourhood has inadvertently contributed to promoting the status quo in the Transnistrian conflict and in some cases even fuelled growing tensions. The challenge of reconciling the EU's security narratives has resulted in EUBAM undertaking activities contrary to a conflict resolution ethos. While the precise implications of this for the Transnistrian conflict are difficult to grasp, there are a few developments that suggest a growing gap between the government in Chisinau and the de-facto authorities in Tiraspol. The implementation of the DCFTA with the exclusion of Transnistria will most certainly create a customs barrier and will severe important economic ties in the absence of which reintegration of the secessionist entity into Moldova seems improbable at least.

The fact should not be neglected that the ongoing conflict in Ukraine plays an important role in the recent deterioration of relations between Moldova and Transnistria. The effect of the crisis in Ukraine cannot be dissociated from the impact of EUBAM's and the EU's policies. However, it cannot be disputed that the contradictions at the heart of the EU's security approach have independently undermined the conflict resolution process. In anything, the situation in Ukraine is likely to exacerbate these developments. One of the difficulties of the new geopolitical realities in the region will be local perceptions towards the EU. Under current circumstances, a 'West vs Russia' framing of the situation seems to be unavoidable, which is likely to be highly detrimental for the EU's involvement in these regional conflicts and will most likely preclude the Union from engaging concretely with Transnistria. This would undermine the important progress of EUBAM in Transnistria. With tensions in Ukraine continuing to escalate, Moldova is accelerating its engagement and integration with the EU. In practice, this amounts to significant reforms and legal and institutional approximation with the EU, a process which, if not reciprocated in the separatist territory, will surely deepen the already existing divisions. Caught between its commitments to the EU and conflict settlement, Chisinau could now discover that these two objectives might have become incompatible. If this realisation is to be confirmed, the choice for Moldova will not be a difficult one. As two experts point out, the Moldovan leadership is not willing to sacrifice the country's progress and achievements on its quest to European integration for the sake of reintegration with Transnistria: 'if state functionality and EU integration cannot be reconciled with reintegration, then reintegration is considered to be the less important goal'.[42]

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[42] Popescu and Litra, "Transnistria: A bottom-up solution", 4.

These prospects are not encouraging for the EU's civilian missions in the region. The question of how these foreign policy tools can truly and effectively contribute to conflict resolution is becoming increasingly topical in light of the recently deployed EU civilian mission in Ukraine. While there are no short-term remedies, the one lesson that the EU must draw form these past experiences is that it needs to mainstream conflict resolution principles in all its policies towards countries affected by conflicts. The Union's engagement with the countries of the Eastern Partnership is carried out through a myriad of different policies and an even more complex web of policy tools. Understanding what the implications of these various instruments for the conflict settlement prospects in the region are would ensure that the EU makes the best use of its resources and avoids contradictory policies.

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