

Stenograma

Dl Ion Creanga - good afternoon dear colleagues. Today we will spend the fourth meeting of our working group. As we have mentioned at the past meeting today we will have international experts and we will talk about “Subjects of Federation”. At this meeting are present international experts, who will display us their opinions about “Subjects of Federation” ”and they will give question on subjects. In your name I want to greet the national experts and I want to thank them for founding the time to come in Republic of Moldova and for being with us in searching the solution which we are trying to find inside the reglementation of Transnistrian referendum. I would like to offer the place to Mr. Oleh Protsyk to introduce his colleges – international experts. After that we will convene how to proceed, how to go on and we will begin our effective activity inside the round table.

Mr. Protsyk, please:

As we promised we invited very competent experts and not two but three, and I will introduce them very shortly:

Mr. Marc Weller –Director of European Center of minority issues, Germany, specialist in international law and conflictology. He worked as an expert of juridical issues for many governments and international organizations, in particular to the problems of Chiprus, he is also director of the big project of Carnegie foundation, this problem he will discuss latter, our activity is possible due to this project.

Professor John Mc GARRY-political scientist and chief of research department of national and democracy related to issues of QUEENS University from Canada. His interests are the solutions of the ethnic and national conflicts, political process in the northern Island, and problem of ethnically divided communities, societies.

He is an author and editor on 10 books of ethnical problem of reglementation of ethnical conflicts. The last one is the conflict in the Northern Ireland. He is also the author of many articles leading to the ethnical reglementation conflict of scientific magazines.

Professor Stefan Wolf - Bath University from England. His academic interests are related to the problems of secure stability, self determination of ethnical group, also the problem of state organization .He has many publications on this topic and more then 20 titles in magazines and newspapers.

Msr. Ion Creanga - thank you Mr. Protsyk, for this good introduction, very detailed of the experts. Now I would like to give the word to Mark Weller to present information related to the activity of the Center, which he is leading...

Mr. Marc Weller - thank you chairman. Welcome to all of you. It is a like for me to be for the first time, here in Republic of Moldova. As director of European Center of Minority issues, but also as director of Kerneighen Foundation project. This project is based on Cambridge University in England, and it will be the pleasure for me to explain you why do we organize this meeting. Include the cooperation with the chairman of the delegation. In fact, I should open you an apology for its only now, at the fourth meeting I have the possibility to join you. The essence of this meeting, of course from the beginning was to provide an opportunity for all of you to meet, to bring the expertise on contemporary problems relating to the political situation in this country. And also to meet an environment where you have an opportunity to exchange views between scholars and the experts from other countries, which have more experience according to the region conflicts. High level of experience can be a truth favor through discussions making evident perspectives from other disciplines and countries. These meetings may also offer an opportunity to the Joint Constitutional Committee and to the Minister of reintegration in turn. Opportunities to listen different opinions and the options. I have the benefit of the stenographic record of the last meeting and of two background issues, those have guided your discussions. I have noted that both papers and the discussion has been wide-ranged and interesting indeed, and for us as your colleges who were mach from the beginning for comments and discussions it is a challenge to engage with all issues you are raised. In order to be able to pick up on many of the issues you have addressed we have agreed with the chairman four principal topics for discussion for today. In this way we hope to address the problems and issues you've raised on the past 3-4 months. Focusing on four points of discussion specifically of the problems of subjects of the federation. If it is convenient for the chairman I shall comment the discussion with short intraductional presentation on self-determination and federalism and territorial unity of state.

Mr. Ion Creanga- first of all I want to make a small commentI would like to thank you Mrs. Director for your attribution, and for your availability to cooperate with us, for your present here in order to discus the subject of interest for us. According to the activity plan, I would like to propose the following: till 15.00 we will have your representation Marc Weller, which will discus us about federation. At 15.00 we will have a coffee break. After the break Professor John Mc Garry will speak about the subjects of federation, after that will have again a questions and answers, we will discus in details this problem. And then Professor Stefan Wolf will speak about the division of competences between subjects of federation. And we will conclude about the conclusion and general problems, which may appear in frame of this discussion. I hope you are not against these kinds of proposals. Thank you very much; know I want to offer the word to Mr. Marc Weller on his presentation on the subject prepared by him.

Mr. Marc Weller - thank you very much. With your permission I will speak less than 40 min. Also because you will hear me again at the end of discussion – on the topic fourth. I'd like to begin. The initial issues that I observed at the background papers were the link at concept between the doctrine of self-determination and federalism. In principles this relation isn't determinate strictly, with the exception of some things, as you know the legal rights of self-determination as entitlement to secession and statehood is very narrow framed in international law. It is more than like ethnic cooks or entities are **very poorly defined the rights of auto determination and separatism.**

Exactly, we can say that this definition refers to the territorial units and colonies. The right of self-determination in the sense of secession and independence can't be cleaned by entities that simply obtained an effective control over territory and then wish to proclaim themselves as state. Whether or not this unity represents a nation or national ethnic groups. There are practically no colonies axes on self-determination in the world, that's why the right of self-determination, in the sense of secession, we can meet less and less in the world. The only case is Palestine, The Western Sahara, and under recently is continue in the Est Tiumoru. Outside of this quite narrow list, self-determination in the sense of succession, only applied where the Constitution gives an express entitlement to secession. And I'll address this problem later. Succession is also possible where the Central Government and the opposing units are agree on secession.

And under the relation to the dissolution of Chehoslavachia, so we know that Transnistria is not a colony. We know that any settlement that the Joint Constitutional Commission was negotiate were not the sign to Transnistria an express right of secession and self-determination. And we know that the government and the Chisinau were not agreed to dissolution of the state and the secession of Transnistria. There is no entitlement for an entity for Transnistria to claim the doctrine of self-determination in the sense of secession. That is why the international community and in particular the OSCE favors and supported the position of the Moldovan Government. Because no other states are not wishing to give birth to the precedents that will enlarge the definition of self-determination.

It is careful that at present exists the real situation that Transnistria has obtained effective control on much of the territory. Transnistria is attending to claim that the facto situation should translate in a legal one. In particular it is trying to claim that any negotiations about the future Constitution would be negotiation between two sovereign entities. And this leads me to the second issue I was going to address – the issue of process of negotiations. It is a reflection of determination of the international community not to assign any legal farce to Transnistrian claim of statehood and to support the conduct of discussions about these problems in the form of the Joint Constitutional Commission. This form represents a victory for the Government from Chisinau and represents an acceptance, in principle, that a solution to this conflict needs to be found within the legal frame existing in the state of Moldova.

But we have to take into consideration and it's also true that the whole discussion is interdicted as well at political level involving also the international actors such as some outside governments and OSCE. It can be noticed that this represents the internalization of an internal problem of Moldova. In my view such objectives are not motivated. Giving the bases of the international system against succession and international role in these discussions can only support the position of Moldova. Transnistria controls the territory and wants to continue this control. International involvement is helpful to settle through the Constitutional compromat. You will see the preference when you compare the initial memorandum that was prepared with Russian facilitation in 2003. Memorandum that suppose that there are 2 entities enjoying together in an equal contract, that quite rapidly afterwards the OSCE responded with its own memorandum that is also not satisfactory for Moldova but which is very important objects proceed from the unity of sovereignty of the state of Moldova. And this leads me to my third principal point. Later Professor Mac Garry will talk with much greater detail with the subject of federation and some types of federation.

I'll just mention 3 ways in which federations have been generated their start - in ways that have not been productive to the territorial integrity of the state. You will see however, that these are different cases to proposals that have been developed by the Government of Moldova and Joint Constitutional Commission.

There is one type of what we call the temporary federation. This a circumstance when you have two entities each of which are rather already a state or they have a right to become a state under previous Constitutional law. This is the case of Serbia and Montenegro, who have concluded what is more a confederation than a federation, maintaining the right in future to separate. It is clear that such resolution would not be accepted for you proposed within the context of Moldova. Another type of case is co-transitional federation. Here you have an agreement by entities to remain within the state for a certain period and the agreement itself for a referendum after some years of independence. This is the case of Sudan. Nobody is suggesting such arrangement for Moldova. Instead what is likely to be suggested is an indissoluble federation. This is the typical resolution to succession conflicts around the world. Worthy to say that entities that claim self-determination and independence, that claim is internationally rejected and the entity gives up with suggested claim and instead it is accommodated within a federal type structure.

In some such instances the settlement contain an express provision which declares that the secession can't be possible in future. Both the Russian draft and the OSCE memorandum contain already such a clause although in directly. For they say that secession can only be possible for Transnistria should have its territorial change when Moldova for example will join Romania. So, secession is only being possible if Chisinau decides to dissolve the federation. But it isn't directly stipulated.

In conclusion to this point if federal arrangement doesn't imply an entitlement of self-determination of the federal units the only exception would be when in federal constitution will clear be determined and specified the right for secession as was the case of former socialist republic of Yugoslavia and the USSR. In all other cases secession is not an option. Finally let me deal with the issue of allocation of sovereignty within the federal arrangement. This too is an important issue that could be legged to claims to self-determination or secession by a federal unit. And a drafting federal type Constitution when one wants to be pointing things that could undermine the stability of the Constitution. You've seen the difference again between the Russian drafting document and the OSCE draft in this respect. The Russian draft proposes that federation would be composed of two states like entities, each of which seems to be the baler of sovereignty. Any type of settlement would need to examine the opposite approach when the OSCE draft already contains the provisions.

It is necessary to insist that there is a provision in the federal type of Constitution that assigns sovereignty to all the people of Moldova in the whole. It's also useful to clarify that the parts of federal units are derived from an agreement signed by the Center. Dr. Wolf will speak about the competencies of legal parts and again as good example as you are you would probably want to see principal legal parts looking in the Center and involved to other levels of Government.

The other issue that you highlighted in your discussions for last 3 months related to the supremacy of the legal order of the state itself. It is true that the federal type of state assigns considerable power self-governments to the federal units. It is necessary to insure the legal supremacy of the overall legal order of the federative state. So that, any specific feature of other territorial governing would be based on the general judicial provisions of the federation. Part of these provisions or federal judicial orders must be the key principles of democracy and human rights. So that, the exercise of democratic principles and of human issues even within the federal units is of concern to the overall states. Especially if Constitution arrangements also involve some of the international support on monitoring in the immediate face of its application. It would be helpful to build a mechanism to make sure that full democratic achievement of practices and human rights can also be enforced in the other entities such as Transnistria.

Let me conclude, the federal arrangement as a resolution to the dispute of this kind assured conditions provided to the following rules:

Number one: The agreement should not be based on a treaty between two sovereign entities instead it should be an arrangement of a constitutional kind that can include international elements.

Number two: The arrangement must not assign the source of sovereignty in the federation to the individual federal units.

Number three: The Constitution should not stipulate the deliberate right for self-determination to any federal unit.

From your perspectives, you should avoid the use of the word “self-determination” in the Constitution, if you can, unless there is a provision which confirm that **inhaling** become part of the federation all the entities have exercised and exhausted any claim to self-determination they may have.

I congratulate you... Number four is the final one: There might not be an expressed right on secession, instead one could try and see some provisions which would forestall some possible secession.

I’ve spoken about four lessons, which should be avoided in the case of a federal agreement. Professor John Mc Garry will in a positive way address you about the way of creating a federation that encourages the unity of the states.

I thank you for you patience and I especially thank you – Mr.Chairman.

Mr. Ion Creanga – we thank you Mr. Marc Weller for your presentation, which is very deep in means of secession and federation problems and of the possible avoidance of some terms in the future Constitution. I hope you have regenerated the reaction of our colleagues to ask you some questions in order to have some discussions on your presentation. Mr. Professor V. Popa you are welcome.

Mr. Victor Popa – I’ve enjoyed very much your speech, because I think you are perfectly right in what you’ve said. We expressed the same opinion in the discussions we had. The subjects should not have some elements of sovereignty; we cannot speak about self-determination, because those who have this right of self-determination cannot be considered subjects. If we constitute a federation, which really implies a constitutional settlement, only I don’t know if the honorable experts can understand that the conflict from the Republic of Moldova is a little bit different from the other conflicts that were interethnic, caused by the entities. We didn’t have and we don’t have an ethnic conflict. The conflict was inspired by Russia, which has geopolitical and geostrategical interests, I mean the location of the 14th Army, the military basis from Transnistria. As a result, there are some other states implied in this conflict, not only Russia. NATO does not wish to have such a strong military basis at its borders, but we, who live in the Republic of Moldova have an interethnic conflict and we are fighting between ourselves, though the biggest problems are solved somewhere else and some projects, some memorandums are trying to be enforced for us. We can’t even say the word “entities”, at least, here, two entities, because on the right bank of the river there are about 1 million of Russians, Ukrainians, while on the other bank there are about 250 thousand, that is one quarter of number which is here. It’s

evidently that it is trying to be implemented here and Kozak memorandum. As far as I've understood OSCE doesn't support this memorandum, because it provides the right to abandon the federation, we exposed our position about how we see the federation from this point of view. We are not afraid of the word federation, but we don't want a federation based on ethnic principle, but on a territorial one. In conclusion, I would like to say that we should consider that when we dwell on models of state organization, we always think that we are causing a precedent, but precedents, in their turn, are very dangerous sometimes. Iraq is a precedent today but many people do not like this precedent. By my mind we should create a federation in such a way that other minorities from other regions and states would say "if it was possible in Moldova why isn't possible to do the same in our country?" The aim of my speech was to express the position of some of our experts regarding to this problem.

Mr. Boris Negru – I shall not comment, I was listening with great attention the speech of Mr. Director and just want to say that I enjoyed it very much. I have paid attention to some essential moments, which could be subject of discussion.

You have noticed very correctly the fact that Transnistria isn't a colony and evidently can't pretend to the right of self-determination. But in our conditions Republic of Moldova is a colony, we mean the Russian colony, because de iure we were liberated, but de facto we can't speak about the independence. You have mentioned that Transnistria have obtained the control over a territory. It wasn't Transnistria properly to obtain the control over a territory, but Russia managed to maintain control on the left side of the Dniester. And here we are talking about the other problem you've risen - the negotiation process; to resolve this problem equally means first of all not to include in negotiations those who are directly interested and involved in the problem created in the Republic of Moldova. I mean that Russian Federation can't be accepted at the table of negotiations, because it practically had unleashed the war with us in 1992. In 2003 we are already witnesses of an attempt of neo colonization by the memorandum of Kozak. It's evident that you have attracted attention to the Memorandum of the OSCE, and I agree with many provisions of the Memorandum, but, in principle, it is an example of the attempt to please more the minority than majority. Because, to say honestly, our Constitution, specifies in the article 142, that the problem of federalism can be solved with a single condition - if the people of Moldova accepts it by referendum. Nobody asked us... and properly speaking we can see here a will to create a negative juridical precedent, when the federation can be formatted on somebody's insistence. That's why; I consider that I'll support the idea of federalization, as well as my colleague Mr. V. Popa, but not in conditions when we are simply forced to have a federation. More than 3 millions of inhabitants are disregarded and are taken into the consideration only 750 thousand of inhabitants. But there, as well, as my colleagues corrected me, not all consider so.... in conclusion, I beg my pardon for abuse, if those who take part in negotiations from Moldavian side will take into consideration your conclusions, everything will be normal, but in

principle, we are being here absolutely uninformed, for example what the Ministry of reintegration does, nor about the created projects, we don't know the level of the work of the so called Mixed Commission for elaborating the new Constitution. Even, on the papes we were given it is written – “The group of experts of the delegation of Republic of Moldova in the Mixed Constitutional Commission”.

Thank you for attention.

Mr. Ion CREANGA – Thank you, Mr. Professor, I think I'm obliged to correct your excessiveness; it's exaggerated a bit, and is subjective expressed. Everybody was informed from the very begining. For example, Chapter II of the project of the Constitution was published, and you have it. Memorandum was published as well. So you haven't expressed correctly. I want to mention that principles of the international law concerning the resolution of the conflicts like in Transnistria were really respected. It will be sufficient to resolve it by decentralization; it would be the most optimal solution in the case of the Republic of Moldova. But we are in such political situation, that federalization is the variant of solution which permits us to find a way out of the impasse, to start the negotiations with the left-bank of the Dniester. Silence, dear colleagues... A concluding remark and we'll go to coffee brake.

Mr. Marc WELLER – I know, that it's a crime to keep distinguished colleagues away from coffee, more longer than it's necessary, that's why I'll be very, very brief... First of all I should like to congratulate and to appreciate the Chairman's openness and having made himself available to this expert's group, which already shows the will to be engaged and to listen the opinions... I think that it's very encouraging; there'll also be opportunities for further discussions of this kind. We've heard that this isn't the interethnic conflict, and I entirely agree, but what is precisely why it's the conflict that involves entities defined through wider territorial control. And although we may regret, that this situation has reason, it is not realistic to close our eyes to this fact. I think it is an opportunity that has been created by the establishment of the Joint Constitutional Commission to settle these rather difficult disputes through constitutional means. As an outside observer, I can tell you that I can see no other way of settling as then through a federative type arrangement. But at the same time we must differentiate the type of federation that is supported by the public, which involves Transnistria, which gives them also the certain interests to remain in this unit, and also, the arrangements must be of a kind that excludes the risks of future secession. That is possible and can be achieved. We are here to contribute somehow, with our ideas in the modality how it can be done. It is my impression that the government is responsive to this kind of discussions and that nothing could be done to increase the risk of territorial separation. After the brake we'll have to hear more precise ideas as to how one encourage integration.

Mr. Ion CREANGA – Thank you. Dear colleagues, now we'll go for a coffee break.

Break.

Mr. Ion CREANGA – now, dear colleagues, we are feeling better and that's why after this pause I offer the word to Professor John Mc Garry to present us a report about the federal governmental project and subjects of federation. Silence please... Please... Professor....

Mr. Serghei COBANEANU – I beg your pardon, I have a question to Mr. Director ... I marked... You have mentioned 3 types of federalization

1. Temporary federation – you've mentioned that it isn't good for Moldova.
2. Transitional federation
3. Indissoluble federation

I regret, but I don't remember your personal position, Mr. Director, on these 3 types of federation, which of them is the best, more convenient for Republic of Moldova

Mr. Ion CREANGA – can you concretize? Because it'll take too much time to speak about these 3 forms.

Mr. Serghei COBANEANU – which forms on his opinion, is the most rational, acceptable for the Republic of Moldova?

Mr. Marc WELLER – Thank you, Mr. Cobaneanu for the utile question. Yes, this occasion allows me to clarify some things, to do some conclusions... I was saying that there are 3 special types of federation: three special types of federation that are unique because they address in an unusual way the issue of self-determination of the constitutive parts. There is the fourth type of federation, which is the ordinary federation, which we normally find, outside of the context of the settlement of the possible conflicts. Clearly for neither Moldova, nor the international community the temporary federation of sovereigns, like Serbia or Montenegro could not be accepted. Similarly, the transitional federation, which is established only for internal period of some years before the referendum on secession, as in Sudan and Beulaville, would not be accepted in this context. Instead the only options available in case to have an ordinary federation, which doesn't expressly addressed the usual self-determination and insists therefore on territorial unity or possibly to try to negotiate for indissoluble federation. But in principle, in a federal arrangement, in ordinary federation also emphasizes the continuous territorial unity of that federation even if there is no special clause on indissolubility. We can give here an example as a Cyprus agreement a few weeks ago. When the North joint into estate union and the South wouldn't accept this on a condition of indissolubility. Taking into consideration, that we don't confront

with an interethnic conflict, in this case is more acceptable the variant of ordinary, named normal federation. And Professor Mc Garry, I know, has some ideas as how one can real force continuing type of unity of such federation.

Mr. Ion Creanga – Thank you, Mr. Director. I think that we won't interrupt and will offer a word to Professor Mr. Mc Garry, please...

Mr. John Mc GARRY – Thank you, Mr. Chairman. I'll am going to speak about two different things. First and foremost I'll speak about subjects of federation, and certainly about the ways, juridical modalities that keep together this federation.

My colleague, Mr. Weller, has concentrated on legal ways referred to the juridical modalities of prevention of secession. I'd want to focus on political ways, modalities to hold the state together, in integrity. So, first of all, the federal subjects. The modality is to give the status of federal law to Transnistria, leaving Moldova the same as it is now. The United Kingdom is the model of this, which does not have own Parliament. At the same time Scotland and Northern Ireland do have their own Parliament. And the degree of autonomy that Scotland and Northern Ireland have is substantial. This degree includes control on health care and education. One difficulty, is however, that the British arrangement is not of federal nature, federal character. I mean by this that Scotland and Northern Ireland parts are not guaranteed in a Constitution, and the British Parliament can deprive them of this degree of autonomy. Regarding to the Northern Ireland, the British Parliament had already effectuated such actions, which impair the degree of autonomy in 1972 and a several times since 1999.

Many people in Moldova of course can welcome this kind of modality, when the autonomy can be deprived, if there were no convenient for Transnistria. Transnistria is more likely to insist on a federal arrangement. Federal arrangements are usually constitutional guaranteed, so they, I mean autonomies can't be deteriorated without their concern of the subjects themselves, this is also what the international community appears to support here. There is another difficulty with the British model. I refer in particular to the situation when Scottish parliamentarians, Scottish members of Parliament in the British Parliament have a say over local matters in England. At the same time, Englishmen from British Parliament have no say over local matters in Scotland. If this was accepted here it would mean that Transnistrian members of the moldavian legislature will have a say over local matters in Moldova, and no vice-versa. These are some things that people should consider. I should point out that this problem has not caused difficulties in the United Kingdom. How had the British solved the problem in Britain? They reduced the number of Scottish representatives in the British Parliament.

Another way to avoid such a problem, and it leads me to the second option, is transformation of the state into federation. In a federation there are federal subjects,

which cover up all the state territory, and there is a supreme item, the federal Government. A question then appears – how many federal subjects? Minorities, usually insist on two subjects, one for them, and one for the rest of the state. This is what Quebec wants, this what the Kurds in Iraq want, this is what Turks in Cyprus want and this is what the people in Transnistria want. There is a difficulty with the federation that includes two federal subjects. In practice it has been difficult to operate. The examples of federations with two federal subjects that are becoming apart. And there I refer to the Eastern and Western Pakistan in 1971, to the case of Malaysia in 1974, to the case in 1993 of Czechoslovakia and probably of Serbia and Montenegro in the near future. Why do they not work? Because every issue puts one unit against the other, and there is no opportunity to create an alliance or a coalition among the different units. Different modalities of alliances, regrouping in structure of the federation give them the force. So this approaches me to the number three of the federal modality. This is a federation in Moldova that includes more than two federal units. For example, model in which Gagauzia is a federal subject also.

It is probably hard to ensure that Moldova and Transnistria should have more power than Gagauzia. The only alternative is to defied Moldova itself into a number of federal subjects in concern the negotiation process about the centralization. Of course there are no guarantees that parties will be successful on the state territory. We also require polemical parties to ameliorate their organization on territories. But possibly that Transnistrians, wouldn't like this provision.

My second mechanism is to require the President to become President with all support of the federation. For example in Algeria, the President must obtain the majority of voices “pro” in the country, and then he must win in the most of country and different regions. This means that President candidates will have to appeal to different groups in the state rather than just to a whole group. Another integrated mechanism is called power share or commune execution of forces. This ensures that the governmental structures, including that legal have representatives from all of the country's different groups of federation. And it also ensures that these groups must have the certain measures of their protection from legislation that they don't like. There are different ways to implement this. A solution would be the collective presidency, or you can have a parliamentary system, in which the government is assured by the coalition from different parties. This, I mean separation of forces provides also more active involving of minorities in legislative activity. Minorities can be given the right of “veto” over certain measures. At the same time this model of separation of forces also gave birth to many problems, in some cases minorities were given too much power and this is to be avoided as it can cause problems when the majority does feel ignored. I'll give you one example of these difficulties, this is the Cyprus power share settlement in 1960. Turkish Cypriots were only 18% of population. But under the 1960 Constitution there was a Turkish separate. Turks had their vice president, whose

power share was equal to that of the president. This caused reactions of bewilderment among the Greek Cypriots, so it's important that executive power to be proportional, governmental part to include representatives proportionally. It means that the majority should have a majority of positions, so, in this case the Turkish Cypriots also had the right for "veto" over every basic measure. This right for "veto" was used by Turks, and it resulted in political stagnate, crises situation. That's why I think it's better to offer minorities right for veto only over certain cases, clauses and not over everything. For example, their clauses, that refers over their culture.

It is important to point out some of the difficulties in power share. I'll close my comments with a remark and I am open to any question, I am ready to answer it. I would like to thank you for attention.

Mrs. Ion Creanga-I would like to thank you Mrs. professor for your suggestions which are really described the mechanism, which can be used in a certain parties ,but at the same time our colleges have any question. Please Mrs. Teo Cirnati....

Mrs.Teo Cirnati-thank you Mrs. Professor for your presentation on this federation subjects, for examples, that you have given to us. But I didn't remember from your discussion what did you propose for Republic of Moldova, to solve the conflict of Republic of Moldova. But I didn't understand one thing, when is used at the level with "Cypriots " and transnistrians, because Transnistria is a territory from left side of the Nistru, where live more nationalities and ethnics groups, for example the biggest part are occupied by Moldavian people, more then 40%. So am I, but I can't say that I am from Transnistria, that I am a transnistrian, because I am a romanian-moldovian, according to my nationality. That's why i can't understand the logic here...Finely which are the criteria of differences?

Mr. John Mc Garry - yes I know that Transnistria includes more groups. Generally in the part of Kurds of Iraq also are more ethnic's communities and groups. Also and Revekul Canadian includes more communities .You asked me which will be the method, the perfect case for me in the case of Republic of Moldova. I think that government should reflect the population, in other words must include proportional the component of the populations in this way. If Transnistria will have 15 % from all population, it may be very useful for transnistrian to have 15 % of government functions, representing in this way sure all transnistrian communities, and not only this one.

Transnistrian government must include and to be represented by his population. It must include sure, Moldavians, Russians, Ukrainians.....

Mr. Ion Creanga - thank you for your answer. Please Mrs. V.Zubco.....

Mr. Valeriu Zubco – it is easy to expose some opinion regarding the solution of such a conflict because I think here is a problem of conflictology. I think that here exist strife, but this problem is not specific only for Republic of Moldova, it is also the Canada's case. We'd like to know which are those legal mechanisms used today in Canada for stopping of this process of secessionism from the Canada of Boteko, referendum was loosed?

Mr. John Mc Garry - sometimes it seems people think that Canada is ruined, but at the same time it is the oldest state in the world. This state lasted since 1867, since a long time when...the Americans started their Civil War. At the same time, Canada has not such a Civil War. From this point of view, Canada is a remarkable successful case. Referendum case took place in 1995 and this referendum was nearly won by secessionists. But in our days secessionism is unpopular. The reason why secessionists almost won the referendum in 1995 is because center of Canada was nearly to recognize Quebec as a destined society. This was a measure that I think would be damaged. Canada had survived over and above 100 years thanks to the mechanisms of receiving the competencies to common exercise mandate about which I was spoken before. Canadian Government is represented both by French speakers and by English speakers. The bureaucracy or office workers are also represented of both communities. In the Judicial system from those 9 supreme lawyers 3 of them must be French speakers. Canada also has concern to promote 2 languages. It has 2 official languages. These are the two measures, which help Canada to keep together.

Mr. Valeriu Zubco – I am sorry, but you did not answer at my question. I asked you about mechanisms. But if you have said such things, I can bring you some our examples, for example in the Republic of Moldova the majority of civil servant speak Russian language, the President of the state speaks Russian language, the Vice-President also speaks Russian language, one of them. We wish to know which are the mechanisms that are useful in order to stop the possible secession in the future in Canada?

Mr. John Mc Garry - First of all, Canada has not relied on mechanism of avoiding the process of secessionism. Perhaps certainly secessionism to be unpopular, through accommodating the national minorities in Quebec. Actually it is not recognized by Canadian Government, that actually Quebec can separate, if it wants to. Regarding to the question of referendum, it is a clear question and this question is approved, of course, by the majority.

Mr. Ion Creanga -Thank you Mr. Professor Please, Mr. Cobaneanu, your question...Only at subject please and questions to be more clear.

Mr. Serghei Cobanescu – Let's come back to Moldova. I haven't any doubts about the professionalism of the professor. We are convinced that he knows the problem according to his report. He is familiar with demographic point in Moldova - the percentage of inhabitants from Transnistria. And at the same time I want to read the point a) the subjects of the federation and here I need to know, if it is possible, have Mr. Professor some definite proposals for the Republic of Moldova regarding to federalization of our country? Which would be the subjects of the federation?

Mr. John Mc Garry- In my opinion, in the case of Republic of Moldova has to be more than two subjects of federation. It's better to have three.

Mr. Valeriu Mosneaga- It is a proposal that is stipulated in the Kozak Memorandum. And these two subjects can block Chisinau.

Mr. John Mc Gregor – Not necessarily this depend on the mode of elaboration, it is important how it is written in the Constitution. Three federal subjects may have different sides, which may have the different power in the frame of legislative federation; so the representatives from Transnistria and Gagauzia might be fewer in number, than Moldavian representatives. Anyway, I think that it's better to have more subjects of federation than just a few.

Mr. Serghei Cobanescu – and which principles we implement here?

Mr. Boris Negru-more gagauzian people live in Chisinau than in Gagauzia.

Mr. John Mc Garry –yes, if you said that many gagauzian people live in Chisinau than in Gagauzia, than this may be territorial principle. I wish to stress, that if we speak about 3 federal subjects, this did not mean that all those 3 units must be representatives in equal parts, equal presentation in the federal center.

Mr. Teo Cîrnăţeanu-if we speak about Mixed Constitutional Committee for the draft elaboration of new Constitution, let it see which is the percentage of Gagauzy Russian, and Moldavian people?

Mr. Ion Creanga- on the base of principles which were put at the creation and choosing of the members for Joint Constitutional Committee there were not national nor another kind of principles. It was offered by the Parliament in order to set up a Common Committee for the elaboration of new Constitution.

Mr. Boris Negru- if it is possible only one question, very briefly... Our situation is similar to the one if, for example more than 2 millions Turkish people from Germany would like to create a federation in Germany. The same story is with the Republic of

Moldova. Newcomers appeared here 50 years ago and want a federation. This is the real situation.

Mr. Ion Creanga-thank you for questions. Let us to offer the speech to the next speaker to Professor Stefan Wolf, with the reference to distribution. Thank you Mr.Mac Garry. It was very useful report. I want to suggest not making a break because at 17 o'clock we have to cancel our meeting. Now, professor Mr.Wolf will present us his report.

Mr. Stefan Wolf - Thank you Mr. Chairman. I want to focus on three different issues. First of all, I wish to say a few words about how to divide competence between the federal Government and the subjects of federation. Secondly, I will say about how to exercise these competencies in democratic way through transparency and the normal activity as regards to distribution of the mandate, thus using the correct distribution between the subjects. And finally, I want to share some views about how to coordinate activity between the institutions.

In order to start, it is necessary to know how to divide competencies between different governmental levels. Looking at other examples of federation models, what do we find? We see in the Constitution stipulations, which assigns specific competencies to different governmental levels. Basically, there are two different ways of doing that. First of all, all competencies that exist can be listed very specifically in relation to the level of government that is to exercise them. This is, as I understand, the Kozak Memorandum and the 2004 OSCE provision. The other way of assigning competencies is to make sure that one level of government has its specific list that regards to the competencies to be exercised by this level of government. They must give all other competencies that are not in this specific list to the other level of government. In practice that would mean that you would either have the situation in which the federal government exercises all the powers not specifically allocated to those levels of the federative subjects. In my opinion this may be the preferable solution for the Republic of Moldova. Another option would be to do exactly the opposite way to give a specific list of competencies to the federal governments to give all other competencies to the federal subjects. The second point that I want to make evident is how to exercise competencies at different levels of government in a democratic way. This refers very much to the institutional design and this involves designs both of international organization and structure at the horizontal level and at the vertical one. One recognized principle of organizing a democratic state powers between legislative, executive and the judicial system. In my view this should be done in the Republic of Moldova at the level of the federal government as well as at the level of all subjects of the federation. As Moldova will, perhaps, become a federation, it is very important to memorize that the Parliament of the Republic of Moldova will have two different chambers, it will be a house of representatives and a senate. In my

view it is also very important that the population directly selects both of these chambers and to avoid that members of senate, are elected within the democratic elected of the subject of the federation. The second important point is to make sure that the senate, which is the representative of the federal subjects to avoid the situation when the senate has the excessive power to block the decision, takes by the lower chamber. In my view, right of veto of house of senate should be restricted to those areas in which the competencies of the federal subjects and joint competencies speak about those. I think it is clear to all of you that a Federal Moldova will be quite a complex of the different institutions. That's why it is very important to make certain mechanisms to implement, to be able to coordinate between the activities of different institutions and make sure this way is to resolve the problem that appear between these institutions - to solve the problem in the best way, successively and peacefully. One mechanism that has been proposed by both Kazak Memorandum and by OSCE is the institution of the Constitutional Court and the Supreme Court. These are very important but not the only bodies of the coordination experience from other federal states from the world shows that very important mechanisms are also those that lay, for example, on the conception bases, institution of the joint commission, in which members of the two chambers of the federal Parliament are represented. Both commissions that are established to implement laws that attract joint competencies are also very important institutions, to make the functioning of federal system possible. I hope I gave you an idea about the importance of the design of institutions in future federal Moldova.

Mr. Ion Creanga-We would like to thank you for your suggestions. At the elaborating of the following subject we have risen the same problems. Nevertheless we still have a long way to negotiate these ideas with our colleagues from Tiraspol as many cases they have a contradictory approach regarding the way to choose the senate and different competencies, how to deal in a constitutional way problems which are very important for the constitutional construction of the state.

Dear colleagues, I think that we must reserve 10-15 minutes for questions and answers in such a way that we may fix a time for today's roundtable. I ask you... Please Mr. Teo Cîrnat

Mr. Teo Cîrnat- I have a question to Mr. Director, who is the director of the center who is dealing with minority issues. For solving a problem, refer to the future federation it is important that political parties to be uphold both at the left hand of Nistru, in Gagauzia, and in Moldova. I want to mention that in Republic of Moldova also there are opposition parties who support other ideas, I want to say that they don't support the idea of federalization but support an idea of maintenance of a single state. The solution to proposed to settle the Transnistrian problem is to isolate, to demilitarize, to democratize, decriminalize this territory. The Transnistrian regim is

the criminal one. Because till now neighbor from the left hand of the river Nistru is a criminal neighbor, but in the present we treat them as a mates. How do you see this problem?

Mr.Creanga – Silence please dear colleagues. Mr. professor will answer your question. I think we should make our questions more clear.

Mr. Marc Weller – I ask you to formulate your questions so as I have the possibility to answer briefly and clear, as Professor Mc Garry could answer the question. He was able to answer a complicate question with a sentence with value that nobody could expired which was than three is more than two. I guess the answer to your question will be the following – position of the European Union and of other international actors is to see the real situation, that at present in Transnistria the power is owned by a certain group, which keep this power for more than 10 years. There has been an attempt to some extent somehow to isolate Transnistria with a view to join the negotiation process. This is the process regarding the European institutions, but only lead to a constitutional change in Moldova as a whole, but part of the settlement that will be reached and insist on universal application of democracy and human rights within entire federation. So, that federal settlement would not only imply a certain area of recognition of local self-government for Transnistria. But it was on a contrary insisting on the application of the European style requirements for human rights and democratic practices. So, that the changes wishing in Transnistria would be achieved hard, with a very constitutional settlement we were spoken about.

Mr. Ion Creanga – we would like to thank you Mr. Director. There are also different opinions inside our group of experts, between the members of our committion but I think that by changing the opinions we'll find the optimal variant for solving the problem.

Please, Mr. Valeriu Zubco your question...

Mr. Valeriu Zubco- Mr. Director, can you tell us which would be those criteria in your opinion be used for creating federal legislative structure of bicameral parliament?

Mr. Marc Weller- do you refer to the modality of the parliament and to the number of representatives? Do you mean the mode of election?

Mr. Valeriu Zubco- yes...

Mr. Marc Weller – And size?

Mr. Ion Creanga – He means the problem that has appeared in context of the Memorandum, which proposed as a variant for Transnistria, Gagauzia and Moldova-in special for senate.

Mr. Stefan Wolf - as for senate, if we speak more about the role of the senate there are two basic models, according to which the members of the senate can be determined. The first I would call American model, which gives an equal member of representatives to each federal unit, regardless of the number of people, of the size of each of the federal subject and I don't think that this would be a propriate for Republic of Moldova. I would propose to follow more closely that I would call the German model. The membership of the senate is dependent to some extent of the actual population of each of the federal subject.

Mr. Ion Creanga - this more close to reality in our case. If it depends on the number of population, than it would be acceptable. Looking through all the versions, which were proposed this is the optimal one.

Mr. Igor Botan – For me it was very interesting to hear all those three presentations, I have the following questions to the experts, do they know a similar conflict to our which parameters of this conflict I will list. All elite and all leaders of Transnistria are the citizens of Russian Federation, the transnistrean army was equipped and assisted by Russian Federation Army, the hottest part of the conflict was between Republic of Moldova and Russian Federation the cessation of the strife was signed by the President of the Republic of Moldova and this conflict was closed by the agreement, also by the President of Russian Federation, the economic support, especially gas supply is rather cheap, for several times cheaper for Transnistria then it is provided for the Republic of Moldova. Nevertheless in this conditions Russia is the main guarantor state to solve the conflict. So, I come again to my question, from your practice did you actually meet or do you know about similar kind of conflict and which would be the proposals applied for solving the conflict?

Mr. Stefan Wolf- first of all, I think it is important to realize that no conflict is exactly like any other conflict. And therefore it is also not possible to transpose a settlement that was developed for one conflict in one corner of the world to the conflict in the different mode of the world. What is possible is to look at different dimension of the conflict with which Moldova is faced at the moment and to look at how is such dimension have been resolved in other conflict. Some of exercise subjects that have tried to address today is how can stable federations be constructed and maintained. The other important point that you addressed and which distinguishes the conflict in Moldova from other conflicts is the strong role and interest that the another state explains. But that needs to be addressed inseperated to some extent from the question of constructing of a viable federation. It is very important to use here the role of

international organizations. I am not just thinking here of the OSCE, where Russia is a member, but also of the organizations of the European Union or other more available of international judicial procedures of agreements. Important point that I want to underline however is that situation that you have described at the beginning has not make the current conflict in Moldova impossible to resolve. And it doesn't mean that federation isn't applicable in the case of the Republic of Moldova. It only means that when constructing the federation, the point have to be born in mind, you must take in consideration all the stated opinions, ideas.

Mr. Ion Creanga -Thank you very much Mr. Professor. Our time reserved for today meeting was exhausted. With this occasion please, allow me to bring a lot of thanks to experts for the contribution they have made by their presentations, through your presence, your sincerely answers which were offered to us, I hope we'll collaborate in the future because we are at the beginning of negotiation process we think this is a rather difficult process and we hope to obtain a optimal solution for satisfying the interests and positions of all people of the Republic of Moldova. Thank you very much to the experts and also to our national experts for the goodwill to participate to roundtable. Thank you a lot... See you soon... We will announce you when the following meeting take place.

Good-bye.