

**THE VULNERABILITIES OF INTERNATIONAL POLICE  
COOPERATION IN THE CONTEXT OF TRANSNISTRIAN  
CONFLICT**

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| <b>Abstract:</b>                                 | <i>International police cooperation is a platform of exchange of information between different law enforcement agencies and organizations.<br/>The Republic of Moldova has been progressively involved in international police cooperation after its independence. Transnistrian conflict is one of the long-standing frozen conflicts in Europe, which causes constant friction and increase the vulnerabilities for security and for normal work of police entity, covering whole territorial competences.<br/>Moldova is one of the countries of Eastern Partnership (EaP) which declared European path of integration with EU, but since the conflict drags on compromise becomes more difficult.</i> |
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**Introduction**

The subject of international cooperation among police agencies or law enforcement agencies has taken a significant importance, in particular for non-EU countries which have aspiration for European integration. This circumstance has only accelerated the extension of international legal framework since independence of the Republic of Moldova.

This need for international cooperation is apparent since police agencies and law enforcement bodies realized that for criminals and other motivated offenders to leverage technology to conduct different operations at greater distances become easier. The speed of adaption of a legal framework to new "modus operandi" of offenders is very slow, because the countries have varied political systems for

adopting and enforcing laws. Different level of professionalism of police officers and different level of economic empowerment to fund public safety and national security operations is one of crucial dimension.

The international police community is offering guidance to national police agencies on how to promote the best tools of exchanging information and contributing for investigation and justice. The lack of economical stability, unsolved conflicts, new technologies, political instability, corruption, money laundering<sup>1</sup> activities, the use of technology for criminal scope, smuggling are the main vulnerabilities to the national, regional, and international security.

International police cooperation moves away from traditional approach and focuses to build global security architecture. Serious and organized crime severely affects economic development in Europe and beyond. Crime has a direct negative impact on the quality of life of citizens in the EU and manifests in the shape of social exclusion, unemployment, inequality, sense of insecurity and the increased vulnerability of some groups to exploitation or recruitment<sup>2</sup>.

According to EU SOCTA 2021, a key characteristic of criminal networks, once more confirmed by the pandemic, is their agility in adapting to and capitalizing on changes in the environment in which they operate. Obstacles become criminal opportunities and may be as simple as adapting the narrative of a known modus operandi<sup>3</sup>.

The shape of criminal landscape is very complex, especially for the countries where continue to be protracted conflicts.

### **The case of the protracted Transnistrian Conflict**

In 1992, after Transnistrian conflict, this region so-called "Moldovan Republic of Transdnistria" is not effectively controlled by constitutional authorities of the Republic of Moldova. Also, the Republic of Moldova never recognized officially de facto authorities as a state entity<sup>4</sup>.

Defining and assessing vulnerabilities within international police cooperation is context-specific and person-specific perspective. Such exercise helps for a scoping review and contributes to adapting national policies, to increase a dynamic work, the trust in the police and justice, assuming more responsibility for tackling criminality around the world.

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<sup>1</sup> *Interpol's Annual Report for 2020*,  
file:///C:/Users/User/Downloads/Annual%20report%202020\_EN\_i.pdf (05.10.2021)

<sup>2</sup> *EU SOCTA 2021, European Union Series and Organized Crime Threat Assessment*,  
file:///C:/Users/User/Downloads/socta2021\_1.pdf (05.10.2021)

<sup>3</sup> *Ibidem*

<sup>4</sup> *Hotărârea Curții Constituționale nr. 14 privind interpretarea art. 11 din Constituția Republicii Moldova*, 2 mai 2017, p.131, <https://constcourt.md/public/ccdoc/hotariri/roh1402052017rof1d14.pdf> (05.10.2021)

In light of the above, a group of individuals from the region assumed illegally” management responsibilities of administration” of Transnistrian region, violating the constitutional provisions and other legal acts.

Evolutions have lately occurred, and by its actions, maintaining by force the power and administrating illegally military and paramilitary structures were created (which is similar to armed rebellion<sup>1</sup>), including by using foreign military contingent supporting de facto authorities from Transnistrian region.

In 2020, the statistical data shows that about 317 565 people who are the holders of the Moldovan citizenship<sup>2</sup>, residing on the left bank of Nistru river.

However, foreign forces clearly recognize and promotes an unexplained positive image of so-called Transnistrian ”justice system” and ”legislation” which, beside the completely void and unconstitutional nature, do not ensure the respect for international standards in the field of rule of law, security and human rights.

In the context of pseudo-activity of its independence, ”Moldovan Republic of Transdnistria” created in parallel a so-called legal framework, against the principle of sovereignty and territorial integrity of the Republic of Moldova. Such actions as adoption of ”Constitution”, ”state attributes: coat of arms, flag, hymn”, creating so-called ”authorities of state power” (legislative, executive and justice), that are improper attributions of constitutional bodies.

During 30 years of independence of the Republic of Moldova, so-called leaders from ”administration in the region” usurps the official qualities of the appointed and elected state public servants and officials based on the Constitution of the Republic of Moldova and legal framework. Their actions falls into the crime ”usurpation of official qualities/attributes”<sup>3</sup> according to criminal legislation of the Republic of Moldova. This situation can be used to so-called administration, of so-called ”Ministry of Interior”, including their staff who realize the police activity and justice. Moreover, such situation is referred to unconstitutional and separatist entity.

Furthermore, ”usurpation of official qualities/attributes” consists in the fraudulent appropriation of official qualities/attribution/function that the offender has no right to possess or to exercise.<sup>4</sup> This means that the right to use an official quality/attribution belongs exclusively to the person who is invested with this quality/attribution, and its usurpation affects this authority, disturbing the normal way of the public authorities’, public institutions’ or other legal public entities’ activity<sup>5</sup>.

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<sup>1</sup>Art. No. 340, *Codul penal al Republicii Moldova*, adoptat prin Legea 985/2002, ”Monitorul Oficial”, No. 72-74

<sup>2</sup> Statistical data, March 1<sup>st</sup>, 2020, State Register of population, Public Services Agency

<sup>3</sup> Art. No. 351, *Codul penal al Republicii Moldova*

<sup>4</sup> Alexandru Bordodac, *Manual de drept penal*, Partea specială, Chişinău, 2004, p. 555

<sup>5</sup> Gh. Diaconescu, C. Duvac, *Tratat de drept penal*. Partea Specială, C.H.Beck, Bucureşti, 2009, p.352-253; Sergiu Brînză, Vitalie Stati, *Tratat de drept penal*, Partea Specială, Vol. II, Chişinău, 2016, p. 1073

According to national criminal law, in particular article 351 of the Criminal Code, the crime "usurpation of official qualities/attributes" must be accompanied by other crimes to hold accountable. For this reason, the chapter XIV from the same Code "crimes against justice" establish the list of crimes that can be associated to usurpation. Following this idea, such as illegal arrest and detention, constraint to make statements, falsification of evidences, abduction of people, prosecution of innocent person and conviction by intention, other.

In this vein, the legal norm incriminates usurpation of official qualities/attributes contains two cumulative actions, no right uses of official qualities/attribution and the exercise action associated to this quality/attribution<sup>1</sup>.

Thus, the illegal character of the phenomenon attempts directly the law enforcement environment and obviously the so-called "police activity and police entity, including staff actions" in the region are unconstitutional.

Hence, Moldovan authorities strongly reject any attempts of direct cooperation between police or law enforcement agencies with unconstitutional and unlawful so-called police bodies. The systematic abuses and persecutions, to which individuals living in the Transnistrian region are subjects, prove that constant appeals to European Court for Human Rights. Foreign effective control and decisive influence in the region were established previously by the Court in its case-law.

The cooperation between law enforcement agencies with so-called "police" or other de facto structures from the transnistrian region can not be legal. The basic arguments can be proven by the jurisprudence of the European Court of Human Rights (ECHR) in several cases, such as *case Filin versus Moldova and Russian Federation*<sup>2</sup> when due to interaction with unconstitutional authorities, the victim was handed over by the Moldovan police to unconstitutional authorities, after that put in prison. Consequently, the states were found guilty for violation of European Convention of Human Rights. However, the most important element is the fact that ECHR mentioned that Moldovan authorities has no instrument to control the actions of so-called authorities from transnistrian region<sup>3</sup>.

Similarly, an other relevant case is *Negruta versus Moldova and Russian Federation*<sup>4</sup>. Too, the cooperation between law enforcement agencies under constitutional umbrella and unrecognized law enforcement bodies from de facto transnistrian region by arresting the victim on the controlled territory of the Republic of Moldova and after its transfer to uncontrolled territory for investigation and justice, were found violation of human rights. Likewise, in this

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<sup>1</sup> Tudorel Toader, *Drept penal. Partea specială*, Curs universitar, București, 2002, p. 247

<sup>2</sup> *Affaire Filin c. République de Moldova et Russie, Arrêt du 17 septembre 2019*, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-195848%22%5D%7D> (05.10.2021)

<sup>3</sup> *Ibidem*

<sup>4</sup> *Affaire Negruta c. République de Moldova et Russie, arrêt du 17 septembre 2019*, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-195847%22%5D%7D> (05.10.2021)

case, the jurisprudence of ECHR established that the Republic of Moldova has any control on the transnistrian region.

Therefore, the observations mentioned above explain the vulnerabilities of international police cooperation in the context of Transnistrian conflict.

## Conclusions

The main forms of cooperation between law enforcement agencies are: joint activities in order to draft tactics and strategies for prevention and combating criminality, joint prosecution and special investigative activities, exchange of experience, development and realisation of common and complex operations, coordination activity of operative bodies for prevention, crime detection, investigation of crimes, arrest of suspects and its localization, creation of common extradepartmental bodies (commissions, groups) in order to solve certain tasks.<sup>1</sup>

The term of vulnerabilities is often used across studies, policies, security system, focusing to identify the needs and weaknesses. Future identification of these vulnerabilities must bridge these gaps and emphasize the challenges related to vulnerability context.

Despite to the different format of international police cooperation in which police operate, all partners are encouraged to share similar complex challenges, based on trustworthy partnership.

For a variety of reasons, lack of personal data protection, the safe environment for police officers, unconstitutional military and paramilitary structures in transnistrian region, the deterioration of human rights in the region, the international police cooperation on the territory of transnistrian region cannot be realized within a legal framework. From this perspective, constitutional law enforcement agencies cannot have any professional interaction and cannot develop special investigative activities, common investigations or prosecution with unrecognized bodies. This mapping emphasizes the real vulnerability defined within security context.

Following this context, the officials also are limited to travel for purpose of their duties to operate in the region, to create joint investigation team, to use special investigative measures or to share this information, to authorize the access to databases of the police or other law enforcement bodies, that raise other vulnerability for international police cooperation.

Thus, the exchange of information between police bodies cannot be assumed with so-called Transnistrian administration, considering these circumstances a subject of vulnerabilities.

The international police cooperation is based on trustable partnership and reciprocity. Each state who are involved in the international police cooperation

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<sup>1</sup> *Cooperarea internațională a organelor de drept în prevenirea și combaterea criminalității transnaționale, Materialele Conferinței științifico-practice internaționale al Academiei „Ștefan cel Mare” a MAI, Fundația „Hans Seidel”, Chișinău, 2009, pp. 228-229*

should fulfil the preconditions arising in the area of data protection<sup>1</sup>, to cooperate to exchange information and providing advice and support in individual criminal investigations<sup>2</sup>, support to tackle international crime, facilitating networks and supporting regional operations<sup>3</sup>.

Undoubtedly, the main principles established by legal acts of international police organizations and execution of their duties are national sovereignty, respect for human rights, neutrality, and constant and active cooperation<sup>4</sup>.

Knowing that the transborder organized crime is an increasing threat to the security and stability on regional and international level and bearing in mind all above mentioned vulnerabilities it is very important active cooperation among similar police entities abroad to exchange lessons learned and to avoid the export of criminality from unsolved conflict territories.

Acknowledging the necessity to further develop and improve the international cooperation, the wide-range of these vulnerabilities are crucial to be assessed in time and to be prevented by strengthening national and regional framework, to tackle creation and development of, "comfort zone" for criminals.

Efficient platform of cooperation means to serve the legal interest of citizens and creation of a secure environment in the world.

Despite the fact that the Criminal Code of the Republic of Moldova does not have a special rule for „separatism" which would include all subsequent criminal actions that created and maintain by force and illegally the regime and "self proclamation of independence".

By join and constant efforts in preventing and combating crime, the successful international police cooperation increase the capabilities of law enforcements agencies to intervene with expertise, new technology, operational and strategic support, funds to manage the risks, threats and vulnerabilities in security sector, designing and building the stronger environment and security architecture.

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<sup>1</sup> *Decision of the Committee of Ministers on the Fulfillment of the Preconditions Arising from the PCC SEE in the Area of Data protection in the Republic of Moldova, signed on 9 April 2014,* file:///C:/Users/User1/Downloads/2014\_04\_CoM\_Decision\_Data\_Protection\_Moldova.pdf (05.10.2021)

<sup>2</sup> Art. no. 4, *Agreement on Operational and Strategic Cooperation between the European Police Office and the Republic of Moldova, signed on 18 December 2014,* <https://mfa.gov.md/en/content/justice-and-home-affairs> (05.10.2021)

<sup>3</sup> *Annual Report 2019,* SouthEast European Law enforcement Center, <https://www.selec.org/wp-content/uploads/2020/05/SELEC-Activity-Report-2019.pdf> (05.10.2021)

<sup>4</sup> *Constitution of ICPO-Interpol,* file:///C:/Users/User-1/Downloads/Constitution%20of%20the%20ICPO-INTERPOL-EN.pdf (05.10.2021)

## Bibliography

### Books

1. *Cooperarea internațională a organelor de drept în prevenirea și combaterea criminalității transnaționale, Materialele Conferinței științifico-practice internaționale al Academiei "Ștefan cel Mare" MAI, Fundația "Hanss Seidel", Chișinău, 2009*
2. Bordodac, Alexandru, *Manual de drept penal*, Partea specială, Chișinău, 2004
3. Brînză, Sergiu; Stati, Vitalie, *Tratat de drept penal*, Partea Specială, Vol. II, Chișinău, 2016
4. Diaconescu, Gh.; Duvac, C., *Tratat de drept penal*. Partea Specială, C.H.Beck, București, 2009
5. Toader, Tudorel, *Drept penal*. Partea specială, Curs universitar, București, 2002

### Documents

1. *Codul penal al Republicii Moldova*, adoptat prin Legea 985/2002, "Monitorul Oficial", No. 72-74
2. *Agreement on Operational and Strategic Cooperation between the European Police Office and the Republic of Moldova, signed on 18 December 2014*, <https://mfa.gov.md/en/content/justice-and-home-affairs>
3. *Annual Report 2019*, SouthEast European Law enforcement Center, <https://www.selec.org/wp-content/uploads/2020/05/SELEC-Activity-Report-2019.pdf>
4. *Constitution of ICPO-Interpol, adopted by the General Assembly at its 25th session (Vienna - 1956)*, file:///C:/Users/User-1/Downloads/Constitution%20of%20the%20ICPO-INTERPOL-EN.pdf
5. *Decision of the Committee of Ministers on the Fulfillment of the Preconditions Arising from the PCC SEE in the Area of Data protection in the Republic of Moldova, signed on 9 April 2014*, file:///C:/Users/User1/Downloads/2014\_04\_CoM\_Decision\_Data\_Protection\_Moldova.pdf
6. *Hotărârea Curții Constituționale nr. 14 privind interpretarea art. 11 din Constituția Republicii Moldova*, 2 mai 2017, p.131, <https://constcourt.md/public/ccdoc/hotariri/ro-h1402052017rof1d14.pdf>
7. *Jurisprudence of European Court for Human Rights, cases Filin versus Moldova and Russian Federation, Negruța versus Moldova and Russian Federation*, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-195848%22%5D%7D>

### Websites

1. <https://www.dcaf.ch/>
2. <https://www.constcourt.md/>
3. <https://www.echr.coe.int/>

4. <https://www.europol.europa.eu/>
5. <https://www.interpol.int/>
6. <http://www.justice.gov.md/>
7. <https://www.selec.org/>
8. <https://statistica.gov.md/>