

LEGAL PERSPECTIVES ON THE UNIFICATION OF THE REPUBLIC OF MOLDOVA WITH ROMANIA. WILL THE HISTORY REPEAT ITSELF?

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Abstract

The Great Union of 1918 has represented a fundamental step in the foundation of the contemporary Romanian state, whereas for Bessarabia it was a chance to retake its direction of evolution towards the west. Unfortunately, the history has separated it once again in 1944, in order to become an independent state named the Republic of Moldova, after a soviet era. Unionist tendencies were registered on both sides of the Prut river ever since 1991, and have augmented in the last years due to the worsening economic situation. This paper aims to make a legal analysis on a possible unification of the Republic of Moldova with Romania, taking into account, particularly, the EU member statute of Romania and the existence of a separatist region – Transnistria, as well as an autonomous territorial unit – Gagauzia, on the territory of the Republic of Moldova.

The place where the Romanian nation has appeared has always been at the crossroads of interests between the eastern and western nations and represented the key or the gate that separated Europe from Asia. From ancient times, the nomadic tribes went through this space onto their way to Europe, while in medieval ages, this territory was considered a „gatekeeper of Christendom”. Thus, the geographical position of the birthplace of the Romanian nation was *a priori* a less favourable for the existence of a strong and independent state. The relationships of dependency with Turks and Habsburgs during the reign of Stephen III of Moldavia and Michael the Brave have increased during the 17th-18th centuries, with a new actor coming on the European stage – the Russian Empire. The annexing of Bukovina and Bessarabia (Austria 1775, Russian Empire – 1812) represented a hard blow for the „young” Romanian states that were in the process of centralisation as well for the ethnical Romanian population. The effect of that annexation is still being felt nowadays as only the southern part of Bukovina belongs to Romania.

Russian annexation of Bessarabia

The history of Bessarabia begins in 1812, when the Russian Empire gave this name to the territory annexed between the Dniester and the Prut rivers, as a result of the end of the Russian-Turkish war of 1806 – 1812 and the concluding of the Bucharest peace treaty on May 16/28, 1812. Therefore, the annexation of Bessarabia is the first issue that should be analysed from a legal standpoint.

The International Statute of the Principality of Moldavia as well as of Walachia was established through the „treaties” concluded with the Sublime Porte (Ottoman Porte or Ottoman Empire). The body of those „treaties” were reconstituted and presented by the Moldavian and Walachian delegations at the negotiations of peace at Focsani, called „Capitulations”. According to these Capitulations, Moldavia was considered a free territory without being subordinated to the Ottoman Empire with a condition – not to act against its interests¹. At the same time, traditions, rights and prerogatives of Moldavia wouldn't be harmed by the Porte. These provisions were reaffirmed by the Moldavian ruler, Dimitrie Cantemir, when at the Lutsk negotiations of peace he insisted that the Final Act of the negotiations should include expressions referring to „old customs of Moldavia” like „state borders”, „autonomy from Turks”, „internal organisation” etc. These expressions represent nothing else than „the principles established by the „Capitulations”, meaning that Moldavia is a free land that is redeemed annually through various amounts of money advanced to the Porte”².

Accordingly, we can ascertain that the Ottoman Empire had no right to dispose of the territory of Moldavia during the Bucharest peace negotiations, and cede it to the Russian Empire. Consequently, nor the Russian Empire had a right to the annexation of Bessarabia, an abusive process, performed with the violation of national rights of the people that populated that land. It should be mentioned that at the time, the European powers were feuds. France, England, Austria and Prussia were pursuing their own interests using small states as figures on a chess board. Despite certain rumours regarding a betrayal on the Turkish side of negotiators³, that issue is less important for the resulted legal outcomes.

¹ Giurescu, C., „Capitulațiile Moldovei cu Poarta Otomană. Studiu istoric”, Bucharest, 1908.

² Caragea, A., „Epoca renașterii naționale”, Bucharest University, 2003, p.33.

³ For additional information, please consult Vasilos, V., „Marile Puteri și Anexarea Basarabiei la 1812”, at http://utm.md/meridian/2012/MI_3_2012/14_Art_Vasilos_Anexarea_Basarabiei_la_1812.pdf last accessed at 15.11.2018.

After the annexation, Bessarabia became a relatively autonomous region of the Russian Empire between 1812-1828⁴, while in 1828 it gained the statute of a tsarist colony directly subordinated to Moscow⁵. In 1873, Bessarabia lost its privileged statute and was transformed into an ordinary tsarist guberniya⁶.

The Union of Bessarabia with the Kingdom of Romania

The Kingdom of Romania, at the beginning of the First World War, represented a small country that faced two strong and opposite European powers as neighbours: Russia and Austria. After a short period of neutrality, Romania engaged in the war, siding with the Entente Powers, as a result of the decision taken at the Crown Council, despite there being some opposing voices⁷. One of the reasons which has justified the decision was the liberation of Transylvania and Bukovina, and the simultaneous giving up on Bessarabia. In the author's opinion, a key factor that influenced that decision was the national Romanian movement in Transylvania and Banat that has generated numerous student communities, especially abroad, one of the most famous ones being – „Școala Ardeleană” (Transylvanian School). With regards to Bessarabia, the things were different, mainly because of the Moscow's policy of denationalisation and repopulation of this territory with Armenians, Greeks, Jews etc. According to some statistics, the percentage of ethnic Romanians in Bessarabia had dropped from 86 in 1816 to 56 in 1910⁸. That circumstance will play an important role in understanding how unification with Romania was made on March 27, 1918.

In Bessarabia, a general state of chaos and anarchy created by Russian revolution was felt once the Russian soldiers were retreating from the front, in a completely confusing way, accompanied by actions of robbery and marauding against the civil population. At the same time, it may be said that the fall of the tsarist regime facilitated a national movement promoting Romanian culture, but one of the main aims of that movement was to obtain autonomy and independence from the Russian Empire. First calls appeared within the reunions of professionals and soldiers. Thus, on April 18, 1917, The Moldovan soldiers' reunion of Odessa

⁴https://www.nationalmuseum.md/ro/timetape/xix_1812_1828/perioada_autonomiei_relativ_e_a_basarabiei_in_cadrul_imperiului_rus/ last accessed at 15.11.2018.

⁵https://www.nationalmuseum.md/ro/timetape/xix_1828_1864/suprimarea_autonomiei_basarabia_o_noua_colonie_tarista/ last accessed at 15.11.2018.

⁶ https://www.nationalmuseum.md/ro/timetape/xix_1864_1905/epoca_reformelor_si_consecintele_lor/ last accessed at 15.11.2018.

⁷ Agrigoroaiei, I., in „România. Marea Unire 1918-2018”, coord. Scurtu, I., ed. Tipo Moldova, Iași, 2017, p.15.

⁸ Calafeteanu I., Moisuc V.-P., „Unirea Basarabiei și a Bucovinei cu România” in „România. Marea Unire 1918-2018”, coord. Scurtu, I. ed. Tipo Moldova, Iași, 2017, p.220.

decided to claim that „Bessarabia should not act like a subordinate country, but in a free way...The language of teaching in all schools should be the language of the people (Moldovan)... Moldovans should not be taken into military service abroad of Bessarabia.”⁹. In a similar way, in the „Manifesto of the Committee of Moldovan Teachers” it was mentioned that „after the Russian revolution overthrew the old government that was guilty of oppressing the people, the Moldovans from Bessarabia and over the Dniester River were finally free, after a long period of waiting, to decide their own fate”¹⁰.

A description of the general state of facts in Bessarabia in the autumn 1917 was made by the Romanian Consulate in Ismail, by means of a report addressed to the I.I.C.Bratianu. According to this report, „under the old regime, ethnical Romanians from Bessarabia registered a poor cultural movement aimed at cultivating in their minds a sense of love for language and nation...considering the interferences of the Russian state with the aim of denationalisation of all non-Russian subjects of the Empire, the ethnical Romanians from Bessarabia were refraining from openly showing their feelings and that was the reason why it was hard to create a large national Romanian movement, because of the harsh regime that did not allow it...Once the freedom in Russia obtained, all the enslaved nations of the large Empire awakened, and felt that it was the moment to impose their right to existence...Romanian ethnics of Bessarabia, led by the same feelings, have revived and founded the „National Moldovan Party”. The program of the party aims at, *a priori*, unification of all Moldovans from Bessarabia and Podolia and the most suitable way of achieving this is – the autonomy of Bessarabia”¹¹.

In order to establish an effective control over the situation created in Bessarabia, the military took initiative. On October 7, 1917, the Central Moldovan Committee sent a telegram to the commanders of military units to gather the Assembly of Moldovan Military¹² in Chisinau, on October 20th. In its resolutions, the Assembly established: „to declare the territorial and political autonomy of Bessarabia”, the nationalisation of the Moldovan army, organisation of elections and creation of a legislative body – „Sfatul Tarii” for the governance of Bessarabia¹³.

Sfatul Tarii began its activity on November 21, 1917. It brought together representatives of various committees and parties, as well as ethnic and national minorities. The first meeting was attended by the following speakers: I. Inculeț (elected president), P. Halippa (on behalf of the National Moldovan Party),

⁹ Calafeteanu I., Moisuc V.-P., „Unirea Basarabiei și a Bucovinei cu România” in „România. Marea Unire 1918-2018”, coord. Scurtu, I. ed. Tipo Moldova, Iași, 2017, p. 29.

¹⁰ *Ibidem*, p.30.

¹¹ *Ibidem*, p. 44.

¹² Each military company was requested to delegate two soldiers and one officer.

¹³ *Ibidem*, p.59.

P. Erhan (on behalf of the Peasants' Party), lt. Cotoros (on behalf of the Moldovan Soldiers Committee), Al. K. Schmidt (the mayor of Chisinau city), V. Tantu (on behalf of the organisational bureau of Sfatul Tarii), mr. Dobrovolschi (on behalf of the Council of deputies, workers and soldiers of Bessarabia), mr. Lutenco (Ukrainian Rada representative), mr. Luzghin (on behalf of the Judiciary), mr. Neselson (on behalf of the labor and soldiers' councils of Chisinau), G. Pantea (on behalf of the Central Moldovan Soldiers Committee), mr. Matkievici (the representative of the Ukrainian fraction in Bessarabia), mr. Cogan (on behalf of the revolutionary socialists), E.Alistar (on behalf of the Cultural League of the Moldovan Women in Bessarabia), G. Mare (on behalf of the Moldovan soldiers from the front), N.E. Grinfeld (on behalf of the Russian social-democratic party), mr. Pomorski (on behalf of the national polish party), mr. Sinadino (on behalf of the Greeks), mr. Stoianov (on behalf of Bulgarians and Gagauzians), S.L. Covarski (the representative of proletarian Jews united in Bund party), representatives of the press „Cuvânt moldovenesc”, „Glasul Ardealului”, „Soldatul moldovan”, representatives of students and the church¹⁴. Consequently, it should be said that this body was greatly representative of the people living in Bessarabia, as it involved representatives from almost all the ethnic groups, guilds and professional organisations. As a result of the first session, the main course of action was established – Bessarabia to be an autonomous republic within the Federative Russia.

On December 2, 1917, the new legislative body, Sfatul Tarii, declared Bessarabia – the Moldovan Democratic Republic within the Russian Federal Democratic Republic. In the declaration of Sfatul Tarii it was mentioned that „before the convocation of the national people's assembly of the Moldovan Republic, which will be elected by the whole population in a rightful and secret way, according to the proportionality system, the highest forum of the Moldovan Democratic Republic is Sfatul Tarii, made up of the representatives of all the revolutionary democratic organisations of different nations and the representatives of the *zemstva* and counties”¹⁵. The main reason mentioned in the declaration was the lack of an effective control of Russian central authorities and the lack of capacity to face the pressure of the revolution simultaneously with carrying out war actions.

The Moldovan Democratic Republic, a recently created state, after almost 100 years of foreign dominations, being in the middle of revolutionary processes in the Empire, was in an urgent need of support in order to obtain and maintain control over all strategical objects, taking into consideration that its territory was

¹⁴ *Dare de seamă asupra lucrărilor Sfatului Țării, 21 noiembrie 1917*, in journal „Ardealul (Transilvania)”, Chișinău, nr. 9, November 26, 1917.

¹⁵ *Declarația Sfatului Țării, 2 decembrie 1917*, in journal „Cuvânt Moldovenesc”, nr. 110, December 6, 1917.

„besieged” by Russian military groups that generated chaos and panic among civilians. To this end, the General Directors Council of the Moldovan Republic¹⁶ asked for help the Romanian Government, by requesting to urgently send an Transylvanian regiment, request that was approved on December 24, 1917.

Since the Transylvanian regiment could not stop the anarchy and faced a strong resilience from Bolshevik troops, Romania sent new forces, driven by the Entente and supported by the Central powers, in a large enough number, aiming to restore the public order. The purpose of entering Bessarabia by the Romanian troops shall become a matter of dispute. However, according to several historical documents, among which *Iasi Minister's of France Diplomatic Note to the French Consul in Chisinau*¹⁷, mentioning that the purpose of entering Bessarabia by the Romanian troops is only a military one, aiming to ensure the normal functioning of the Russian-Romanian front back, according to the rules applicable to all belligerent states. Moreover, even the *Sfatul Tarii Declaration of Independence of the Moldovan Republic*¹⁸ mentions the role played by the Romanian army in improving the public order and the fact that „there is no other aim than this. All the rumours that the Romanians come to take this territory and rule over it do not match the truth and are dispersed by the enemies of our Republic. The fact that Romanian troops do not interfere with our independence and rights obtained through revolution is confirmed by France, England and America, by their testimonials, as well as the declarations of the Romanian representatives”.

On March 27, 1918, Sfatul Tarii declared the unification with Romania. One of the most important reasons that formed the basis of that decision was the threat coming from the Ukrainian Republic that intended to occupy Bessarabia and incorporate it into its territory. Ukrainian intentions are proved by some historical documents such as: *the Telegram of the Minister of Foreign Affairs of Ukraine to the German, Austro-Hungary, Turk, Bulgarian and Romanian Governments, the Diplomatic Note of the Government of the Moldovan People's Republic to the Republic of Ukraine, The Minutes of the Sfatul Tarii session of March 16, 1918*¹⁹. At the same time, the unification was also legally founded. The pertinent arguments can be found directly in the *Declaration of Unification of Bessarabia with Romania*, „Moldovan Democratic Republic (Bessarabia)... ruptured by Russia from the old Moldova, one hundred years ago, based on the historical and national rights, taking into consideration the principle of self-determination of nations, from today onwards,

¹⁶ Who played the role of Government, being approved on December 7, 1917, led by Pantelimon Erhan.

¹⁷ Consulted and available in Calafeteanu I., Moisuc V.-P., „*Unirea Basarabiei și a Bucovinei cu România*” in „*România. Marea Unire 1918-2018*”, coord. Scurtu, I. ed. Tipo Moldova, Iași, 2017, p. 144.

¹⁸ Calafeteanu I., Moisuc V.-P., „*Unirea Basarabiei și a Bucovinei cu România*” in „*România. Marea Unire 1918-2018*”, coord. Scurtu, I. ed. Tipo Moldova, Iași, 2017, pp. 148-150.

¹⁹ All consulted and available in Calafeteanu I., Moisuc V.-P., „*Unirea Basarabiei și a Bucovinei cu România*” in „*România. Marea Unire 1918-2018*”, coord. Scurtu, I., ed. Tipo Moldova, Iași, 2017.

unites with her mother, Romania". The Declaration was promulgated by the King of Romania on April 9, 1918. The international recognition of the unification of Bessarabia with Romania came with the signing of the Paris Peace Treaty by France, the United Kingdom and Italy. Russia was not present at the negotiation process and that was considered a ground of non-signing the treaty by the United States.

A couple of legal arguments upon the legitimacy of the unification can be found in the correspondence between the government of Romania and the government of the Republic of Ukraine during 13 April – 19 June 1918. The most complex ones are written in the *Response of the Romanian Government to the Diplomacy Note of the Government of Ukraine of May 5th, 1918*, which are demonstrating that Bessarabia is not a separate province but a half of the old Moldova, that Russia ruptured in 1812. Therefore, „from a historical and geographical point of view, the so-called province of Bessarabia was always been a Romanian land which formed an integral and indivisible part of the Moldavian Principality". Moreover, this *Response* discards any doubts regarding the competence and status of Sfatul Tarii to act as a representative body and have the power to decide the unification as follows: „It should be considered as a principle of legality of this kind of assemblies [Sfatul Tarii] that it should perform universally accepted acts and recognised in a manner that would appear to be the legal expression of the nation and the decisions of that body were adopted in the virtue of the principle of self-determination of the nations. From that point of view, it is beyond any doubt that after the fall of the tsarist regime, Sfatul Tarii governed openly and publicly Bessarabia, without any interruptions and in an independent way, functioned as a representative legal body and supreme authority in Bessarabia, without anyone challenging its rights and legitimacy...".

Republic of Moldova – an independent state

Events that followed after 1940, namely the occupation of the territory of Bessarabia by the U.S.S.R., its liberation by the Axis Powers and the creation of the Moldovan Soviet Socialistic Republic once the war was completed are of a high complexity and need to be examined in a separate extensive analysis that exceeds this paper. However, it is important to mention that „without any challenge or justification and in a flagrant contradiction with previous political commitments, especially those contained in provisions assumed by the London Conventions for the Definition of Aggression (July 3, 1933) and the Soviet-Romanian Pact of Mutual Assistance of 1936, the Soviet Union has submitted an ultimatum to the Romanian Government, on June 26, 1940, for an immediate evacuation of Bessarabia and the

North Bukovina”²⁰. That action could not happen without a preliminary agreement between Germany and the U.S.S.R., which resulted in the Secret Protocol to the Ribbentrop-Molotov Pact, condemned, even „formally”²¹ by the Russian Federation.

On February 10, 1947, with the consent and under pressure of the victorious Main Powers of the WWII, Romania and the Soviet Union signed a border treaty (as a part of the Paris Peace Treaty) according to which the common border was „fixed in conformity with the Soviet-Romanian Agreement of June 28, 1940”, even that no such agreement existed, as the Romanian Government only responded to the ultimatum by a note which mentioned that „in order to avoid the grave consequences which could happen resulting from the use of force and opening of the hostilities in this part of Europe, is compelled to accept the evacuation conditions, as these are mentioned in the soviet note”²².

The Soviet period in Bessarabia (the Moldavian Soviet Socialist Republic created by U.S.S.R. on August 2, 1940) continued after the end of WWII until August 27, 1991, when the Republic of Moldova claimed its independence. With regards to its territory, the Republic of Moldova in comparison with Bessarabia no longer possessed the Romanian districts Hotin, Ismail and Cetatea Alba (ceded to the Ukrainian SSR) but gained a territory named Transnistria (an artificially created state by the U.S.S.R. in 1924 – the Autonomous Moldavian Socialist Soviet Republic, with the purpose to afterwards claim the territory of Bessarabia and form an union in a single Moldavian state). The fact that Transnistria (vastly populated by Russian and Ukrainian ethnics) „woke up over night” as a territory within the Republic of Moldova as a key factor in triggering the Moldovan-Russian War of 1992, and because of which the Republic of Moldova is currently facing territorial integrity issues.

Legally speaking, it is substantial to analyse the *Declaration of Independence of the Republic of Moldova*. Thus, the *Declaration* reminds that the acts of dismemberment of 1775 and 1812 were contrary to the historical and people’s rights and to the legal statute of the Principality of Moldova. Also, it underlines that „without consulting the people of Bessarabia, North Bukovina and the Hertza region, occupied by force on June 28, 1940, as well as the people of A.M.S.S.R. (Transnistria) created on October 12, 1924, the Supreme Council of the U.S.S.R., violating its constitutional prerogatives, on August 2, 1940, adopted the „U.S.S.R. Law related to the creation of the Moldavian Union S.S.R.” , while its Presidium had issued on November 4, 1940, „the Decree regarding to the Ukrainian-

²⁰ Dobrinescu, F., Tompea, D., „România la cele două Conferințe de Pace de la Paris” in „România. Marea Unire 1918-2018”, coord. Scurtu, I., ed. Tipo Moldova, Iași, 2017, p. 49.

²¹ <https://www.svoboda.org/a/1813249.html> last consulted on 17.11.2018.

²² Dobrinescu, F., Tompea, D., „România la cele două Conferințe de Pace de la Paris” in „România. Marea Unire 1918-2018”, coord. Scurtu, I., ed. Tipo Moldova, Iași, 2017, p. 51.

Moldovan border”, normative acts which were designed to justify, in absence of any real legally basis, the dismemberment of these territories and the membership of the new republic to the U.S.S.R.”. Consequently, once these facts were recognised, nothing should have impeded the unification with Romania. Besides, at that moment the official state language was Romanian (from August 1989), the national flag was (Romanian) the tricolor and the national anthem was (Romanian) „Deșteaptă-te române” (engl. tr. Awaken, Romanian!). Nevertheless, it appears that there was no political will to promote the idea of unification right after claiming the independence or even instead of it.

Is the unification possible today?

The Constitution of the Republic of Moldova provides at art. 1 that it is a sovereign, independent, unitary and indivisible state, while the art. 2 mentions that national sovereignty resides with the people of the Republic of Moldova. At the same time, art. 32 par. (3) underlines that „ The law shall forbid and prosecute all actions aimed at denying and slandering of the State and people, instigation to sedition, war of aggression, national, racial or religious hatred, incitement to discrimination, territorial separatism, public violence, or other manifestations encroaching upon the constitutional order.”. Moreover, art. 41 par. (4) provides that „ Parties and other socio-political organisations, whose objectives or activities are engaging in fighting against political pluralism, the principles of the rule of law, sovereignty, independence and territorial integrity of the Republic of Moldova are declared unconstitutional.”. Finally, it is important to look at art. 142 par. (1) that stipulates „ The provisions regarding the sovereignty, independence and unity of the state, as well as those regarding the permanent neutrality of the State may be revised only by referendum with the vote of the majority of the registered citizens with voting rights.”²³.

Thus, according to art. 142 par. (1) of the Constitution of Republic of Moldova, the provisions of art. 1 could be modified if the citizens decide it by way of referendum. Hence, the legislator provided for an instrument which in a case of necessity can trigger the process of unification. At the same time, according to the provisions of art. 32 par.(3) and art. 41 par. (4), it is prohibited to promote activities that would deny the State, national sovereignty and independence, as well as the constitutional order taken by natural persons or political parties. It is most likely that in a case of expression of a people’s will to unify, through a referendum, those provisions could be modified or even lose their value and become obsolete. However, those provisions are part of the supreme law of the Republic of

²³ Constitution of the Republic of Moldova, consulted and available on <http://www.presedinte.md/eng/constitution>, last accessed on 17.11.2018.

Moldova. Under these circumstances, a question may be raised: How is it possible to take actions in support of revisions of constitutional provisions regarding state independence and sovereignty (a eventual unification) since such actions are prohibited?

Notwithstanding, in practice the unionist ideas are promoted in the Republic of Moldova by several organisations ie *Tinerii Moldovei* and *ODIP*, which alongside with other organisation established ie *Blocul Unitatii Nationale* (engl tr. Block of the National Unity). Moreover, the unification ideas are also promoted by political parties like PNL (National Liberal Party) (that included the policy of unification in its political program)²⁴ and Liberal Party, whose leader – Mihai Ghimpu, while in office of President of the Parliament and *ad interim* the President of the Republic of Moldova, was declaring himself an unionist²⁵.

Moreover, we shall note the policy of Romania related to the grant of the Romanian citizenship and the role it plays in implicitly promoting the idea of unification. In this way, according to the Romanian Law on citizenship „The persons who acquired the Romanian citizenship by birth or adoption and have lost it for reasons non-imputable to them or this citizenship has been revoked without their consent, as well as their descendants to the third degree, can apply to reacquire or can be granted the Romanian citizenship, having the possibility to maintain the foreign citizenship and to establish their residence in the country or to maintain it abroad, if they comply with the conditions stipulated [afore mentioned provisions].”²⁶. These provisions clearly target the citizens of the Republic of Moldova, descendants of the citizens of Romania who lived within the territory of Bessarabia (Great Romania) during 1918 – 1940. According to some statistics²⁷, during 1914 – 2014, approximately 445.000 Moldavian citizens reacquired the Romanian citizenship, while by 2018²⁸ the number became close to 1 million. The fact that a very large number of Moldavian nationals acquire the Romanian citizenship could be regarded as a beginning of a process of national cohesion of all Romanians and could play a key role in achieving the unification.

Accession to the European Union has meant for Romania a transfer of a part of its sovereignty to the first. According to the art. 148 par. (1) of the Constitution of Romania, „Romania's accession to the constituent treaties of the European Union, with a view to transferring certain powers to community institutions, as well as to

²⁴ http://pnl.md/?page_id=1556 last accessed at 17.11.2018.

²⁵ <https://www.hotnews.ro/stiri-esential-6115295-mihai-ghimpu-daca-spun-vorbesc-limba-romana-asta-nu-inseamna-sunt-pentru-unirea-moldovei-romania.htm> last accessed at 17.11.2018.

²⁶ <http://www.migrant.ro/citizenship-law> last accessed on 17.11.2018.

²⁷ <https://cetatenie.ro/noutate/Statistica-Cati-cetateni-moldoveni-au-obtinut-cetatenie-romana-pana-in-prezent> last accessed on 17.11.2018.

²⁸ https://adevarul.ro/cultura/patrimoniu/un-milion-moldoveni-cetatenia-romana-1_58df4b7e5ab6550cb8de564a/index.html; http://stiri.tvr.ro/aproape-1-milion-de-ceta-eni-moldoveni-au-obtinut-ceta-enia-romana-in-ultimii-10-ani_829497.html#view last accessed on 17.11.2018.

exercising in common with the other member states the abilities stipulated in such treaties, shall be carried out by means of a law adopted in the joint sitting of the Chamber of Deputies and the Senate, with a majority of two thirds of the number of deputies and senators.”. Simultaneously with the entry into force of the Lisbon Treaty, these attributions refer mostly to the economical and social sectors, common security and foreign policy. Meanwhile, Romania remained a sovereign, independent, unitary, indivisible and National State where national sovereignty resides with the Romanian people. Accordingly, the citizens of Romania have the same rights (like Moldavian citizens) to decide upon the unification with the Republic of Moldova.

Consequently, I would like to refer to the provisions of the Helsinki Final Act of 1975, that allows for changing of state’s frontiers, according to the norms of international law, by peaceful means and agreements. Therefore, if the Moldavian citizens shall decide to unify with Romania, and the Romanian citizens shall accept that, the unification shall be possible and accepted as legal, according to international law.

The situation becomes a little bit more complex if we keep in mind that the Republic of Moldova „hosts” on its territory an Autonomous Territorial Unit of Gagauzia and *de jure* Transnistria which *de facto* is a self-proclaimed Pridnestrovian Moldavian Republic and is not controlled by the central Government of Chisinau.

The legal status of Gagauzia is provided by the Law No. 344 of 23.12.1994²⁹. According to art. 1 par. (4), „In case of change of the status of the Republic of Moldova as an independent state the people of Gagauzia have the right of external self-determination.”. Taking into consideration that the people living in Gagauzia have expressed several times their attitude against the unification with Romania^{30,31}, the consequences which may result in an eventual unification can have a major impact that could generate the separation of this territory and making an attempt to create a new state.

In the case of Transnistria, things are much more difficult. The fact that Transnistria is a part of the Republic of Moldova is recognised by the international community, including the Russian Federation³² by submitting its position in the

²⁹ <http://www.e-democracy.md/files/elections/law-special-legal-status-gagauzia-23-12-1994-en.pdf> last accessed on 17.11.2018.

³⁰ https://adevarul.ro/moldova/politica/gagauzia-fost-unirii-romania-irina-vlah-cei-fac-declaratii-despre-unire-nu-vor-primiti-gagauzia-1_5a44f2cdd7af743f8dcf480f/index.html last accessed on 17.11.2018.

³¹ <https://www.ziarulnational.md/gagauzii-speriatii-de-unirea-r-moldova-cu-romania-ce-le-cer-autoritatilor-de-la-chisinau-turciei-rusiei-dar-si-organizatiei-natiunilor-unite/> last accessed on 17.11.2018.

³² <https://regnum.ru/news/1471548.html> last accessed on 17.11.2018.

*Ilaşcu Case*³³. Paradoxically, in the same case, the European Court of Human Rights established that the Russian Federation maintains a *de facto* control over Transnistria. The issue of Transnistria is not singular in the ex-soviet space. Similar self-proclaimed republics appeared in Georgia (Abkhazia and Southern Ossetia), in Azerbaijan (Nagorno-Karabakh) and more recently in Ukraine (the Donetsk Popular Republic and Lugansk Popular Republic). The phenomenon of frozen conflicts is a very complex one and until now there were no solutions found in order to solve it. However, small progresses were registered in the case of Transnistria, due to the negotiations of the 5+2 format that allowed for concluding some minor agreements that would facilitate the wellbeing of the people³⁴.

Speaking from an international law standpoint, in the case of Transnistria it is important to mention the instrument of succession of the states. I have previously mentioned that in 1940, the U.S.S.R. made some territorial changes to Bessarabia, by ceding some lands to the Ukrainian S.S.R. and incorporating the A.M.S.S.R. (Transnistria) created in 1924. Consequently, Transnistria (except for the city of Bender lost in 1992 in the war) has never been a territory belonging to the Principality of Moldova, Bessarabia or Great Romania (1918-1940). As I pointed before, Transnistria just „woke up over night” when the Republic of Moldova was claiming independence and tried to obtain its own independence. Similar to 1992, the ethnic component of the population is mainly formed by Russians and Ukrainians and does not have anything in common with the Romanian culture and values. Therefore, if the citizens of Republic of Moldova shall decide to unify, it is almost certain that tensions in Transnistria shall resume, escalate and further result in a new armed conflict and a request of recognition of its independence, which, in this case, could be obtained.

The European Union does not have an official position on the subject of unification of the Republic of Moldova with Romania. This issue exceeds the competences of the EU and represents an internal matter on both states, according to the principle of non-intervention in the internal affairs of the states. At the same time, the European Union supports the aspirations of the Republic of Moldova in terms of European integration and does not exclude its accession³⁵. Moreover, the EU also supports the reintegration of the Republic of Moldova, especially by extending the provisions of the DCFTA over Transnistria³⁶.

³³ [https://hudoc.echr.coe.int/eng#{"fulltext":\["ilascu"\],"documentcollectionid":\["GRAND CHAMBER"\],"CHAMBER":\["CHAMBER"\],"itemid":\["001-61886"\]}](https://hudoc.echr.coe.int/eng#{) last accessed on 17.11.2018.

³⁴ https://noi.md/md/news_id/257377. las accessed on 17.11.2018.

³⁵ Emerson M., Cenușă, D. „*Deepening EU-Moldova Relations. What?why? and how?*” second edition, ed. Rowman & Littlefield International, London, 2018, p.13.

³⁶ <http://dcfta.md/acordul-de-liber-schimb-in-partea-stanga-a-nistrului-cu-pasi-mici-spre-integrarea-economica> last accessed on 17.11.2018.

Conclusions

The transfer of a part of the territory of the Principality of Moldavia from the Ottoman Empire to the Russian Empire was an act contrary to international law. Overcoming the consequences of this act became possible in 1918, when Sfatul Tarii, the representative and legislative body, claimed the independence of the Moldavian Democratic Republic and, afterwards, the unification with Romania. The reasons for claiming unification, however, were mainly military and political rather than based on an awareness of the unique character of Romanian nation. That land was ruptured once again in 1940, by the law of force applied by the U.S.S.R. that made territorial changes whose effects are felt even today. Per consequence, if the issue of unification became a real subject of a discussion, the conflicting actions in Transnistria may easily erupt again.

Beside the fact that premises for unification existed in 1991, (see the Preamble of the Declaration of Independence of the Republic of Moldova, were the Parliament condemned the acts of dismemberment of the territory), when the Republic of Moldova declared its independence, it still hasn't happened. I can assuredly affirm that, on the one side, a strong popular desire is required from the Moldavian people and, on the other side, Romania may play a significant role by means of its policy on the acquisition of citizenship.

Romania is a member state of the European Union, which is currently in the process of creating a closer union among its nations. This proves to be a most favourable chance for Romanians, or where a rapprochement between the Romanian people and other European nations exists, it is only logical and natural that Romanians should not be separated for historical reasons³⁷.

Bibliography

Agrigoroaiei, I. „Basarabia de la unire la integrare”, in „România. Marea Unire 1918-2018”, coord. Scurtu, I., ed. Tipo Moldova, Iași, 2017

Anghel, I.M., „Politica externă a României cu privire la Basarabia reflectată în activitatea diplomaților săi”, ed. Universul Juridic, București, 2016

Calafeteanu I., Moisuc V.-P., „Unirea Basarabiei și a Bucovinei cu România” in „România. Marea Unire 1918-2018”, coord. Scurtu, I. ed. Tipo Moldova, Iași, 2017

Caragea, A. „Epoca renașterii naționale”, Universitatea din București, 2003

Emerson M., Cenușă, D. „Deepening EU-Moldova Relations. What?why? and how?” second edition, ed. Rowman & Littlefield International, London, 2018

³⁷ Anghel, I.M., „Politica externă a României cu privire la Basarabia reflectată în activitatea diplomaților săi”, ed. Universul Juridic, București, 2016, p.19.

F. Dobrinescu, D. Tompea, „România la cele două Conferințe de Pace de la Paris” in „România. Marea Unire 1918-2018”, coord. Scurtu, I., ed. Tipo Moldova, Iași, 2017

Giurescu, C., „Capitulațiile Moldovei cu Poarta Otomană. Studiu istoric”, București, 1908

Vasilos, V., „Marile Puteri și Anexarea Basarabiei la 1812”

The Constitution of Romania

The Constitution of Republic of Moldova

Law No. 21/1991 on Romanian citizenship

Law No. 344 of 23.12.1994 on the legal statute of Gagauzia

Dare de seamă asupra lucrărilor Sfatului Țării, 21 noiembrie 1917

Declarația oficială a Sfatului Țării din Chișinău de unire a Basarabiei cu România, 27 martie 1918

Declarația Sfatului Țării, 2 decembrie 1917

Declarația Sfatului Țării, 24 ianuarie 1918

Hotărârile adunării ostașilor moldoveni din Odesa, 18 aprilie 1917

Înțelegerea Sovieto-Română din 28 iunie 1940

Manifestul Comitetului profesorilor și învățătorilor moldoveni, 3 mai 1917

Nota ministrului Franței la Iași, Saint-Aulaire, către consulul Franței la Chișinău, Sarret, 15 ianuarie 1918

Notă trimisă de guvernul Republicii poporane moldovenești, Republicii Ucrainene, 16 martie 1918

Procesele verbale ale primului Congres al soldaților moldoveni, 20-28 octombrie 1917

Răspunsul guvernului român la nota guvernului Ucrainei din 5 mai, 19 iunie 1918

Rezoluțiile primului Congres ostășesc moldovenesc, 25 octombrie 1917

Telegrama Comitetului Central moldovenesc ostășesc adresată comandanților de unități pentru convocarea adunării militarilor moldoveni la Chișinău la 20 octombrie, 7 octombrie 1917

Telegrama trimisă de Sfatul Țării Guvernului Român, 22 decembrie 1917

Telegrama trimisă de Sfatul Țării, guvernului român, 22 decembrie 1917

Telegramă trimisă guvernului român, de Sfatul Țării din Chișinău, 1 martie 1918

<http://dcfta.md/acordul-de-liber-schimb-in-partea-stanga-a-nistrului-cu-pasimici-spre-integrarea-economica>

http://pnl.md/?page_id=1556

https://adevarul.ro/cultura/patrimoniu/un-milion-moldoveni-cetatenia-romana-1_58df4b7e5ab6550cb8de564a/index.html; http://stiri.tvr.ro/aproape-1-milion-de-cetateni-moldoveni-au-obtinut-cetatenia-romana-in-ultimii-10-ani_829497.html#view

https://adevarul.ro/moldova/politica/gagauzia-fost-unirii-romania-irina-vlah-cei-fac-declaratii-despre-unire-nu-vor-primiti-gagauzia-1_5a44f2cdd7af743f8dcf480f/index.html

<https://cetatenie.ro/noutate/Statistica-Cati-cetateni-moldoveni-au-obtinut-cetatenie-romana-pana-in-prezent>

[https://hudoc.echr.coe.int/eng#{"fulltext":\["ilascu"\],"documentcollectionid":\["GRANDCHAMBER","CHAMBER"\],"itemid":\["001-61886"\]}](https://hudoc.echr.coe.int/eng#{)

https://noi.md/md/news_id/257377

<https://regnum.ru/news/1471548.html>

<https://www.hotnews.ro/stiri-esential-6115295-mihai-ghimpu-daca-spuvorbesc-limba-romana-asta-nu-inseamna-sunt-pentru-unirea-moldovei-romania.htm>

https://www.nationalmuseum.md/ro/timetape/xix_1812_1828/perioda_au_tonomiei_relative_a_basarabiei_in_cadrul_imperiului_rus/

https://www.nationalmuseum.md/ro/timetape/xix_1828_1864/suprimarea_autonomiei_basarabia_o_noua_colonie_tarista/

<https://www.svoboda.org/a/1813249.html>

<https://www.ziarulnational.md/gagauzii-sperati-de-unirea-r-moldova-cu-romania-ce-le-cer-autoritatilor-de-la-chisinau-turciei-rusiei-dar-si-organizatiei-natiunilor-unite/>