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## MOLDOVA'S FOREIGN POLICY STATEWATCH

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# OWNERSHIP RELATIONS BETWEEN THE REPUBLIC OF MOLDOVA AND UKRAINE

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Moldova's Foreign Policy Statewatch represents a series of brief analyses, written by local and foreign experts, dedicated to the most topical subjects related to the foreign policy of Moldova, major developments in the Black Sea Region, cooperation with international organizations and peace building activities in the region. It aims to create a common platform for discussion and to bring together experts, commentators, officials and diplomats who are concerned with the perspectives of European Integration of Moldova. It is also pertaining to offer to Moldova's diplomats and analysts a valuable tribune for debating the most interesting and controversial points of view which could help Moldova to find its path to EU.

### NEXT TOPICS TO BE COVERED:

*Visa liberalization regime  
for Moldova*

*The impact of new Russian  
regional foreign policy on  
Moldova*

**T**he establishment and maintenance of good neighborhood relations is a major purpose for any state. This desideratum plays a crucial role for the Republic of Moldova because of its geographical situation and political, social and economic problems facing the country. However, the bilateral Moldovan-Ukrainian relations have passed through several difficult stages after the dismantling of the USSR instead of evolving. The lack of compromise, different strategic goals and major economic interests damaged the development of sincere relations between the two countries. One of the thorniest issues in the bilateral relations refers to the settlement of ownership relations between the Republic of Moldova and Ukraine. The conditionality often invoked by both sides in order to start this process revealed a lack of compromise between the two regarding this issue.

## The state ownership issue

The issue regarding the settlement of ownership relations between the republic of Moldova and Ukraine like the issue concerning the delimitation and demarcation of borders between the two sides is a historical issue emerged on the bilateral agenda after the USSR dismantling. Diverse institutions and companies that were under the RSSM jurisdiction and the republican trade unions made important investments into different resorts in the USSR.<sup>1</sup> The major investments into the construction of these resorts were made on the Black Sea coast.

After the USSR collapse the juridical status of these institutions became the main controversial issue on the bilateral agenda of the two countries. The way this process evolved was to the Republic of Moldova detriment because it meant the delay in the recognition of the Moldovan properties in Ukraine. As a result, some constructions were destroyed or even privatized. Ukraine, in its turn, continued in '90 building the hydro energetic unit at Dnestrovsk, although the ownership relations in the region of the dam had not been defined. Another idea that has to be emphasized in the wake of the negotiations on this issue between the parts is the fact that these discussions were not cordial because the process of properties recognition was significantly delayed. This is an indication of the lack of trust among the political decision-makers. Moreover, both sides conditioned, at different stages, the bilateral relations by the signing and compliance with previously assumed commitments.<sup>2</sup>

The first document on this issue – the Agreement between the Government of the Republic of Moldova and the Ukrainian Government concerning the reciprocal recognition of the rights and settlement of the ownership relations – was signed only in July 1994.<sup>3</sup> But this agreement came into force only in 2001 because of the procrastination of the document ratification by the Ukrainian Parliament. Thus, in 2001 the RM Parliament conditioned the ratification of the Border Agreement by the ratification of the agreement signed in 1994 concerning the mutual recognition of rights and the settlement of the ownership relations by the Ukrainian Parliament.<sup>4</sup> As a result of the procrastination of this process, a substantial number of properties out of those 140 claimed by the Moldovan authorities were destroyed.

Later, out of those 113 properties remained on the Ukrainian territory, Moldova's title to 47 of them was acknowledged.<sup>5</sup> Some of them are the children's health resorts "Sergheevka", "Moldova" in Truskavet, etc. Meanwhile, the Ukrainian title to two properties out of three on the Moldovan territory was acknowledged as well. But, as a matter of fact, the main Ukrainian claim – defining the ownership relation in the Dnestrovsk dam region – was not settled.

The 2006 year had a double connotation in terms of bilateral relations between

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1 <http://www.mfa.gov.md/interviuri-md/478726/>, Relațiile dintre Republica Moldova și Ucraina: viziunea diplomației moldovenești

2 <http://www.mfa.gov.md/interviuri-md/478726/>, Relațiile dintre Republica Moldova și Ucraina: viziunea diplomației moldovenești

3 Acordul între Guvernul Republicii Moldova și Guvernul Ucrainei privind recunoașterea reciprocă a drepturilor și reglementarea raporturilor de proprietate din 11 august 1994, Kiev

4 Victoria Boian, în „Evoluția politicii externe a Republicii Moldova (1998-2008)”, Chișinău, Cartdidact, 2009, p. 41

5 [www.interlic.md/2010-02-03/ruslan-bolbocean-pina-in-prezent-au-fost-recunoscute-doar-47-de-obiecte-din-cele-113-asupra-carora-p-14376.html](http://www.interlic.md/2010-02-03/ruslan-bolbocean-pina-in-prezent-au-fost-recunoscute-doar-47-de-obiecte-din-cele-113-asupra-carora-p-14376.html)

the countries: on the one hand it meant the acknowledgement of Moldova's title to 47 properties on the Ukrainian territory but, on the other hand the relations between Moldova and Ukraine became rather strained. The Ukrainian side set as a precondition for the improvement of the relations the compliance with the taken commitments within the Border Agreement.

Finally, on 1 February 2010 in Kiev, the Moldovan and Ukrainian governments signed the Protocol regarding the introduction of some amendments to the 1994 Agreement.<sup>6</sup> The adopted amendments enlarge the list of examined properties including enterprises that on 1 December 1990 were subordinated to the Union-Republican ministries.<sup>7</sup>

## Trade unions property

If, by comparing, we can say that the situation concerning the acknowledgement of rights to state ownership of the Republic of Moldova in Ukraine is going on quite slowly, then the situation regarding the acknowledgement of title to properties of the Moldovan trade unions in Ukraine is a catastrophic one. On the Ukrainian territory there is over 28% of the total of properties that belonged to the RSSM trade unions. Only in the case of 7 resorts there were established Moldovan-Ukrainian limited liability corporations. These are the sanatoriums "Patria", "Orizont", „S.Lazo”, „Zolotaia Niva” and the health resorts „Plai”, „Solnečinii Bereg” and „Litoral”.

Although they were built and maintained on public money, after the USSR collapse, the Republic of Moldova lost its title to some well-known resorts like Koblevo, Zatoka and Sergheevka. There are several reasons for this situation.

Firstly, during all negotiations, the Ukrainian authorities separate the issue of state ownership recognition from those of the trade unions properties. For these reasons, the decision-makers in the Moldovan trade unions have to make efforts on their own in order to obtain the acknowledgement of these social complexes.

Secondly, the public local administration bodies from Ukraine are now administering properties from the social-cultural sphere that used to belong to the Republic of Moldova trade unions. In order to obtain their acknowledgement, the trade union heads have to present documents in order to prove that they were built by them. But the Ukrainian side claims that the presented materials are not sufficient to prove their title. Thus, for the ownership recognition, the trade union leaders have to apply to the Ukrainian courts but this is a very insecure solution to obtain the claimed enterprises.

Thirdly, many of the properties that are the subject of this litigation were sold several times, initially by local public authorities from Ukraine, thus making the likelihood

6 PROTOCOL între Guvernul Republicii Moldova și Cabinetul de Miniștri al Ucrainei referitor la operarea unor modificări în Acordul între Guvernul Republicii Moldova și Guvernul Ucrainei privind recunoașterea reciprocă a drepturilor și reglementarea raporturilor de proprietate din 11 august 1994, 1 februarie 2010, Kiev

7 [www.interlic.md/2010-02-03/ruslan-bolbocean-pina-in-prezent-au-fost-recunoscute-doar-47-de-obiecte-din-cele-113-asupra-carora-p-14376.html](http://www.interlic.md/2010-02-03/ruslan-bolbocean-pina-in-prezent-au-fost-recunoscute-doar-47-de-obiecte-din-cele-113-asupra-carora-p-14376.html)

of obtaining their recognition null, because the last purchasers will be considered the legal owners.

Finally, during the Soviet Union times, these properties were administered by the USSR Union Council of trade unions. Afterwards, the Council transmitted, by a special decision, the title to the Republic of Moldova. But, nowadays, the Ukrainian Public Property Fund does not acknowledge our ownership right, claiming that these properties had a union subordination and not a republican one.<sup>8</sup>

## Prospects

The state ownership recognition process is rather hard. Although the 1994 Agreement stipulates the acknowledgement of these rights, the situation is far from being clarified. Even if there is a disproportion between the properties claimed by the Republic of Moldova and Ukraine on the other state territory, the Ukrainian side obtained, practically, all properties according to the 1994 Agreement. The last unsettled issue of Ukraine on the Republic of Moldova territory is to define the ownership relations in the Dnestrovsk dam region. Due to the strategic energetic importance of this property for Ukraine, it would be appropriate if the Republic of Moldova authorities bring to the negotiations table the issue of the trade union title recognition as well together with Ukraine claims.

The main priority is to link the issue of ownership with the problem of Dnestrovsk dam region in order to maximize the number of health resorts and other properties attributed to Moldova. At the same time, it is imperative to keep in the same package the both forms of Moldova properties – the state and the Trade Unions objects - for not allowing alienation of the Moldova's Trade Unions health resorts.

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<sup>8</sup> [www.investigatii.md/index.php?art=296](http://www.investigatii.md/index.php?art=296), Patrimoniul moldovenesc din Ucraina, o mină de aur pentru o mână de oameni