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KURTSKHALIA Alexander

THE ASPECTS OF INTERNATIONAL LAW IN THE REGULATION OF TERRITORIAL CONFLICTS: THE CASE OF THE REPUBLIC OF MOLDOVA AND GEORGIA

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PhD THESIS IN LAW

PhD supervisor:	**POALELUNGI Mihai, habilitated doctor of law, associate professor**
Guidance Commission:	**BALAN Oleg, habilitated doctor of law, university professor**
	SÎRCU - SCOBIOALĂ Diana, habilitated doctor of law, university professor
	DORUL Olga, doctor in law, associate professor

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ȘCOALA DOCTORALĂ ÎN DREPT, ȘTIINȚE POLITICE ȘI ADMINISTRATIVE A CONSORȚIULUI INSTITUȚIILOR DE ÎNVĂȚĂMÂNT, ACADEMIA DE STUDII ECONOMICE DIN MOLDOVA ȘI UNIVERSITATEA DE STUDII POLITICE ȘI ECONOMICE EUROPENE „CONSTANTIN STERE”

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KURTSKHALIA Alexander

ASPECTE DE DREPT INTERNAȚIONAL ÎN REGLEMENTAREA CONFLICTELOR TERITORIALE: CAZUL REPUBLICII MOLDOVA ȘI GEORGIA

PROFILUL: 552 – DREPT PUBLIC

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TEZĂ DE DOCTOR ÎN DREPT

Conducător de doctorat: **POALELUNGI Mihai, doctor habilitat în drept, conferențiar universitar**

Comisia de îndrumare: **BALAN Oleg, doctor habilitat în drept, profesor universitar**

SÎRCU_SCOBIOALĂ Diana, doctor habilitat în drept, profesor universitar

DORUL Olga, doctor în drept, conferențiar universitar

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Domeniul de studiu. Lucrarea fundamentează un studiu complex în sfera dreptului internațional și european public, fiind axată pe reglementarea conflictelor teritoriale, în special asupra cazului Republicii Moldova și Georgiei.

Structura tezei: introducere, 4 capitole, concluzii generale şi recomandări, bibliografia din 348 surse, 183 pagini text de bază.

Cuvintele-cheie: conflict teritorial, diferend, reglementare, drept internațional, operațiuni pacificatoare, negocieri, ordine juridică internaţională, integritate teritorială, organizații internaționale, regimuri separatiste, aplicarea dreptului internațional în dreptul intern, gestionarea conflictelor.

Scopul şi obiectivele cercetării. Scopul tezei constă în abordarea complexă a raporturilor din sfera dreptului internațional în materia conflictelor teritoriale, cu privire specială asupra conflictelor teritoriale din Republica Moldova și Georgia, analizate prin prisma prevederilor legislaţiilor naţionale, instrumentelor internaţionale, opiniilor doctrinare şi practicii judiciare în domeniu. Obiectul de cercetare al tezei este axat pe cercetarea ştiinţifică a legislaţiei din domeniul dreptului internațional public şi pe relevarea semnificaţiei acesteia în materia conflictelor teritoriale.

Noutatea şi originalitatea ştiinţifică. Teza conţine o serie de concluzii şi recomandări ştiinţifice, care vin să completeze problematica juridică în domeniul reglementării conflictelor teritoriale pe baza exemplului Republicii Moldova și Georgiei, însoțită de perfecţionarea cadrului normativ-juridic internaţional în materia conflictelor teritoriale.

Problema ştiinţifică importantă soluţionată constă în investigarea complexă a conflictelor teritoriale, cu privire specială la cazul Republicii Moldova și Georgiei, ceea ce a permis elucidarea principalelor probleme juridice și politice ce afectează reglementarea conflictelor teritoriale și identificarea celor mai reușite soluții de perfecționare a normelor dreptului internaţional în materie.

Semnificaţia teoretică. Rezultatele investigaţiei sunt benefice dezvoltării continue a ştiinţei dreptului internaţional și european public, mai ales prin abordarea complexă a reglementărilor internaționale și naționale privind conflictele teritoriale din Republica Moldova și Georgia. Rezultatele şi concluziile, ce reflectă soluţiile teoretice degajate, servesc drept suport pentru perfecţionarea legislaţiei la acest capitol.

Valoarea aplicativă. În baza cercetărilor realizate, s-a constatat existenţa unor carenţe şi omisiuni de ordin teoretico-normativ. Pentru înlăturarea acestor neajunsuri, au fost formulate concluzii şi recomandări menite să îmbunătăţească calitatea cadrului normativ din sfera de reglementare a conflictelor teritoriale, cu precădere a celor din Republica Moldova și Georgia. Drept rezultat, au fost relevate recomandări practice a căror implementare poate influenţa în mod decisiv existenţa şi consolidarea legislaţiei în domeniu.

Implementarea rezultatelor ştiinţifice. Rezultatele cercetării au fost expuse în articole ştiinţifice, fiind discutate şi evaluate în cadrul conferinţelor de profil naţionale şi internaţionale.

ANNOTATION

Kurtskhalia Alexander, „The aspects of international law on the regulation of territorial conflicts: the case of Republic of Moldova and Georgia", PhD thesis in law. Specialty: 552.08. International and European public law. Chisinau, 2022.

Field of study. The paper includes a complex study in the field of international and european public law, being focused on the settlement of territorial conflicts, with a special focus on the case of the Republic of Moldova and Georgia.

Structure of the thesis: introduction, 4 chapters, general conclusions and recommendations, bibliography from 348 sources, 183 basic text pages.

Key words: territorial conflict, dispute, settlement, international law, peace operations, negotiations, international legal order, territorial integrity, international organizations, separatist regimes, application of international law in domestic law, conflict management.

Purpose and objectives of the research. The purpose of the thesis consists in the complex approach of the reports from the field of international law in the field of territorial conflicts, with special focus on territorial conflicts in the Republic of Moldova and Georgia, analyzed through the provisions of national laws, international instruments, doctrinal opinions and judicial practice in the field. The research object of the thesis is focused on the scientific research of the legislation in the field of public international law and on the discovery of its significance in the field of territorial conflicts.

The novelty and the scientific originality. The thesis contains a series of scientific conclusions and recommendations, which complement the legal issues in the field of territorial conflicts settlement based on the example of the Republic of Moldova and Georgia, together with the improvement of the international normative-legal framework in the field of territorial conflicts.

The important scientific problem solved consists in the complex investigation of the territorial conflicts, with special regard to the case of the Republic of Moldova and Georgia, which allowed the elucidation of the main legal and political problems affecting the settlement of the territorial conflicts and the identification of the most successful solutions for improving the norms of international law in material.

Theoretical significance. The results of the investigation are beneficial to the continuous development of the science of international and European public law, especially through the complex approach of international and national settlement regarding territorial conflicts in the Republic of Moldova and Georgia. The results and conclusions, reflecting the theoretical solutions, serve as support for the improvement of the legislation in this chapter.

Application value. Based on our research, it was found that there are numerous theoretical and normative deficiencies and omissions. To overcome these shortcomings, conclusions and recommendations were formulated aimed at improving the quality of the regulatory framework in the area of territorial conflicts, especially those in the Republic of Moldova and Georgia. As a result, practical recommendations have been revealed whose implementation can decisively influence the existence and consolidation of the legislation in the field.

Implementation of scientific results. The results of the research were presented in the texts of the scientific articles, being discussed and evaluated at national and international conferences.

АННОТАЦИЯ

Курцхалия Александр, «Аспекты международного права в отношении урегулирования территориальных конфликтов: на примере Республики Молдова и Грузии». Диссертация на соискание ученой степени доктора юридических наук. Специальность: 552.08. Международное и европейское публичное право. Кишинев, 2022.

Область исследования. Статья основывается на комплексном исследовании в области международного публичного права, уделяя особое внимание урегулированию территориальных конфликтов, на примере Республики Молдова и Грузии.

Структура диссертации: введение, 4 главы, общие выводы и рекомендации, библиография из 348 источников, 183 основных текстовых страниц.

Ключевые слова: территориальный конфликт, спор, регулирование, международное право, миротворческие операции, переговоры, международный правовой порядок, территориальная целостность, международные организации, сепаратистские режимы, применение международного права во внутреннем праве, урегулирование конфликтов.

Цель и задачи исследования. Цель дипломной работы состоит в комплексном подходе к докладам из области международного права в области территориальных конфликтов с особым акцентом на территориальные конфликты в Республике Молдова и Грузии, которые анализируются с помощью положений национальных законов, международных документов, доктринальных мнений и судебной практики в этой области. Объект исследования дипломной работы направлен на научное исследование законодательства в области публичного международного права и выявление его значения в сфере территориальных конфликтов.

Новизна и научная оригинальность. Диссертация содержит ряд научных выводов и рекомендаций, дополняющих правовые вопросы в области урегулирования территориальных конфликтов на примере Республики Молдова и Грузии, а также совершенствование международной нормативно-правовой базы в области территориальных конфликтов.

Решаемая важная научная проблема заключается в комплексном расследовании территориальных конфликтов, особенно в случае Республики Молдова и Грузии, что позволило выявить основные правовые и политические проблемы, затрагивающие урегулирование территориальных конфликтов, и выявить наиболее успешные решения для совершенствования норм международного права в неважно.

Теоретическое значение. Результаты исследования полезны для постоянного развития науки международного и европейского публичного права, особенно благодаря комплексному подходу международных и национальных нормативных актов по территориальным конфликтам в Республике Молдова и Грузии. Результаты и выводы, служат поддержкой для улучшения законодательства в этой главе.

Прикладное значение. На основании проведенного исследования было выявлено наличие теоретических и нормативных недостатков и упущений. Для преодоления этих недостатков были сформулированы выводы и рекомендации по улучшению качества нормативно-правовой базы. В результате были выявлены практические рекомендации, реализация которых может оказать решающее влияние на существование и консолидацию законодательства в этой области.

Внедрение научных результатов. Результаты исследования были представлены в текстах научных статей, обсуждались и оценивались на национальных и международных конференциях.

LIST OF ABREVIATIONS

par. - paragraph

art. - Article

CE - Council of Europe

ECHR - European Convention on Human Rights

ECtHR - European Court of Human Rights

GUAM - international organization with the name composed of the first letters of the member countries (Georgia, Ukraine, Azerbaijan and Moldova)

G.D. - Government decision

JPSCJ - Judgment of the Plenum of the Supreme Court of Justice

etc. - (et caetera) and so on

ex - former

lt. - letter

M.O. - Official Monitor

mun. - municipality

no. - number

NB - our note

NATO - North Atlantic Treaty Organization

ILO - International Labor Organization

UN - United Nations

OPEC - Organization of the Petroleum Exporting States

OAS - Organization of American States

OSCE - Organization for Security and Cooperation in Europe

cit.w. - cited work

pnt. - point

p. - page

RM - Republic of Moldova

DMR - Dniester Moldovan Republic

MSSR - Moldovan Soviet Socialist Republic

et al. - and others

c.u. - conventional units

EU - European Union

USSR - Union of Soviet Socialist Republics

vs. - versus

vol. - volume

INTRODUCTION

The topicality and importance of the approached problem. The issue of war and peace is the fundamental problem of contemporary international relations. Armed conflicts and acts of terrorism represent a serious threat to the security, safety, and peace of the population. International terrorism and threats to peace can only be stopped using legal means.

Successful management of relations under international law is an exclusive attribute of states and, at the same time, it is a fundamental right of the citizens of any democratic state. In other words, deficiencies in the organization and functioning of international law can lead to the human rights violations.

It is well known that public international law is the instrument for carrying out the foreign policy of states. The analysis of international political processes allows us to conclude that the heterogeneity of states at the international level is the source of contradictions in the creation and application of international law.

The topicality of the work consists of investigating the results and statistics of the ECtHR, according to which the number of applications submitted against the Republic of Moldova and Georgia is very high. Thus, in 2018, Moldovans addressed the ECtHR 2.5 times more often than the European average. In this regard, the Republic of Moldova is ahead of Germany, Spain or the Netherlands, the countries with a much larger population. In 27 judgments (82%) of the 33 pronounced against the Republic of Moldova in 2018, the ECtHR found that Republic of Moldova violated the ECHR [17, p.2].

By the end of 2020, 1054 applications from the Republic of Moldova were still pending [18, p.2]. However, it can be noted that so far there is no interstate dispute between the Republic of Moldova and the Russian Federation about the role of the ECtHR. We give an example of the fact there are currently 5 (five) interstate Georgia vs. Russia cases in the ECtHR on Abkhazia and South Ossetia issues, respectively 8 (eight) cases Ukraine vs. Russia [203] on issues of annexation of Crimea and armed conflict on separatist regions.

By way of comparison, we emphasize that a statistic almost like that of the Republic of Moldova can be found in Georgia. According to the 2019 statistics taken from *The Report of European Standards of Human Rights and their influence in Georgia* [167, p.18], the most common types of violations found by the ECtHR in Georgia are mistreatment, inadequate investigation of mistreatment and deaths, illegal detention, detention in inadequate conditions, etc.

Relevant in this context are the interstate cases Georgia vs. Russia under Article 33 of the Convention. Thus, in the period 2009-2021, the ECtHR issued 4 (four) decisions on interstate Georgia vs. Russia cases. The most recent is the ECtHR decision of 21 January 2021 [292], in

which the Court ruled that the Russian Federation violated: Article 1 of the ECHR by illegally extending jurisdiction over Abkhazia and South Ossetia during the active phase of hostilities and after their cessation; Article 2 ECHR, by non-compliance by Russia with the procedural obligation to effectively investigate the events that occurred both during the active phase of the hostilities and after their cessation; Article 2 of Protocol No. 4 by prohibiting Georgian citizens to return to their homes in Abkhazia and South Ossetia.

Problems of the international law in the settlement of territorial disputes in the Republic of Moldova and Georgia have been treated relatively little in the domestic specialized doctrine. The scientific approach to this issue has always been a topical issue, with special theoretical and practical interest, especially due to the many cases of application of the legal rules governing it. By choosing to investigate this controversial topic, with reference to the fact that there is insufficient bibliographic material in Moldovan and Georgian law, we will contribute to the formation of legal doctrine in the field subject to research.

The complexity of the study consists in the fact that the research of the aspects of international law regarding the settlement of territorial conflicts in the Republic of Moldova and Georgia obliges us to analyze the material both from the perspective of public international law and from the branches of law with which the institution is associated. In this context, the relations of international law in the settlement of territorial conflicts is disputed between several fields of law, such as humanitarian law, international criminal law and international customs law, but also between the related fields, such as conflictology and the theory of international relations.

The specificity of the problem viewed in the paper consists of the fact that the examination of the aspects of the settlement of territorial conflicts in the Republic of Moldova and Georgia will be made from the position of the presence of international law relations and with reference to a determined circle of subjects. The criminal liability of states will be disregarded, because the legal source of the emergence of such responsibilities is attributed to the field of international criminal law and may represent the subject of research for prospective studies.

The need and topicality of scientific investigation of the problem of resolving territorial conflicts in the contemporary world are determined, in our view, by a few important steps.

A first step in this direction is the theoretical approach to territorial conflict. In our view, such research must provide an integral picture of the concept and phenomenon of “territorial conflict”, as well as of the defining features that it has acquired in the contemporary period. At the same time, special attention should be paid to the forms and means of resolving territorial disputes, including in particular “settlement” and “regulation”.

The complexity of the system of international relations also imposes the need for scientific evaluation of the “control” and "management" of territorial conflicts, as well as the legitimacy of the means of resolving them in the contemporary period.

Given that the key feature of territorial conflict is the use of force or the threat of its application, the second important step that needs clarification in the new circumstances of international law is the legal classification of the use of force as a means of resolving territorial conflicts.

The research of the aspects of international law in the settlement of territorial conflicts keeps its actuality due to the fact that in the practical activity appear many difficult situations that require an answer. In this context, it is obvious that a complex scientific investigation of the subject would be incomplete if it did not include case studies, which would elucidate the most important problems and particularities of the process of resolving concrete conflicts, which could represent the phenomenon of territorial conflict. For our study, as a research sample have served the most representative territorial conflicts in the ex-Soviet space: Transnistria, Abkhazia and South Ossetia

In order to solve these issues, we will examine the issues subject to research from a scientific-practical perspective, in the light of international normative acts, national legislation and specialized legal literature.

The aim and objectives of the thesis. Based on the above, the purpose of this doctoral dissertation is to conduct a complex and in-depth study on the settlement of international law in the field of territorial disputes, especially on the most important legal issues affecting the settlement of territorial disputes in the Republic of Moldova and Georgia.

To achieve this goal, the following **research objectives** were outlined:

- analysis of the concept, essence, structure of the territorial conflict and identification of the forms of its manifestation in the contemporary period;

- presentation of regulations of international law in the field of territorial conflict resolution;

- detailed analysis of the causes of emergence and evolution of territorial conflicts in the Commonwealth of Independent States, especially in the Republic of Moldova and Georgia, in order to elucidate the main legal and political deficiencies that burden the process of resolving them;

- elucidation of the problems of applying international law in resolving territorial conflicts, in order to assess the efficiency and argue the need to connect it to international realities in the contemporary period;

- study of the application of international law in domestic law in the Republic of Moldova and Georgia in order to resolve territorial conflicts in these states;

- analysis of the contribution of international security and peacekeeping organizations to resolving territorial conflicts in the Republic of Moldova and Georgia;

- approach to peacekeeping operations as a factor in regulating territorial conflicts in the Republic of Moldova and Georgia;

- research of the particularities of the application of the rules of international law in the context of territorial conflicts in Transnistria, Abkhazia and South Ossetia;

- assessment of the role of the jurisprudence of the European Court of Human Rights in resolving cases concerning separatist regimes in the Republic of Moldova and Georgia;

- elaboration of conclusions on the phenomenon of international conflict as a whole, of the problems of their solution and formulation of suggestions and recommendations regarding the optimization of the international legal framework and of the practical activity in the field.

Methodological and theoretical-scientific support of investigations. The methodological support of scientific research consists of a set of theories and concepts specific to the field of research of public international law, materialized as a tendency in the content of the doctoral thesis through the methods of analysis: a) *logic* (deductive, inductive, specifying, etc.), consisting in the use of legalities, categories and logical reasoning with reference to the analysis of doctrinal opinions held by various authors and the synthesis of regulations on international law on the regulation of territorial disputes in the Republic of Moldova and Georgia; b) *systemic*, manifested by researching the legal norms that regulate territorial conflicts; c) *historical*, used for researching the causes and occurrence of territorial conflicts in the Republic of Moldova and Georgia, starting from the period prior to the proclamation of state independence until now; d) *synthetic*, consisting in the general expression of the particularities of international law regarding the regulation of territorial conflicts in the Republic of Moldova and Georgia, in order to improve the national legislations in the field; e) *quantitative method*, used to study and systematize the normative and doctrinal, as well as national and international basis regarding the regulation of territorial conflict, resulting with conclusions and the possibility of elucidating appropriate solutions to regulate existing conflicts, but also preventing and resolving possible ones.

The scientific novelty of the obtained results. The innovative element is the support of any scientific research, being the indispensable component of the present scientific approach. The doctoral thesis includes a complex scientific investigation and an in-depth monograph dedicated to the study of contemporary international conflict and the particularities of the process of resolving it. In the local literature, the relations of international law regarding the regulation of

territorial conflicts have been little researched, while the doctoral thesis is a scientific exploration of the issue in this field.

The scientific novelty of the paper derives mainly from the successful combination of legal and political aspects of the studied problem and the presentation of an integrated vision on the international conflict as: phenomenon, type of international relationship and subject of legal regulation.

In particularly, starting from the essence of the phenomenon of territorial conflict, from the practice of other states and international bodies in the field of resolving them, and by reference to the international legal framework, the paper highlights the worst issues affecting the resolution of territorial conflicts in the Republic of Moldova and Georgia, and outlines the viable solutions to overcome them.

The important scientific problem that was solved by the elaboration of this paper lies in the multidimensional *research* of the regulations of international law on territorial conflicts in the Republic of Moldova and Georgia, as well as the *elucidation* of difficulties in applying the relevant legislation, which has *the effect of formulating* a scientific basis for international law relations in this segment of research, as well as the *formulation* of proposals *law ferenda*, in order to *improve* the existing regulatory framework and the correct *application* of legislation by states.

In order to solve the scientific problem, a complex analysis of the peculiarities of territorial conflicts regulation has been carried out, having as an example the case of the Republic of Moldova and Georgia, which allows to develop the solutions to optimize international law.

Analyzing the scientific international law publications related to the regulation of territorial conflicts in the Republic of Moldova and Georgia, we have found that some topics in this paper, such as: strategies and tactics for resolving Transnistrian and Georgian territorial conflicts through international law, territorial integrity of states in the framework of legal and geopolitical dimensions, peacekeeping operations as a factor of regulating territorial conflicts in the Republic of Moldova and Georgia, so far they have been approached tangentially in the specialized doctrine. The insufficiency of the literature on this field of research is felt theoretically and practically.

The theoretical importance of the paper. The doctoral thesis is a monographic investigation of a theoretical and applied nature in the pages of which a complex examination of the regulation of territorial conflicts is carried out, focusing especially on the territorial conflicts in the Republic of Moldova and Georgia. At the same time, taking into account that the paper is elaborated in framework of the specialty of public international law, and the research subject is

based on a complex field of approach, the research subject has been analyzed in terms of international law.

The applicative value of research. In addition to the theoretical-scientific dimension of the issue in the sphere of territorial conflicts settlement, the participants of the public international law relations face real difficulties related to the adoption of the most appropriate measures in the internal legal order. Thus, the solutions with applicative value proposed in the paper aim to improve the legal framework in the field of territorial conflict regulation, especially in the Republic of Moldova and Georgia.

The results of the investigations are beneficial to the continuous development of the science of public international law and, in particular, are likely to contribute to amplifying and extending theoretical knowledge on the phenomenon of territorial conflict and effective means of resolving it through the example of the Republic of Moldova and Georgia.

In general, the research is beneficial for theoretical lawyers and career, specialists in the field of international relations, people interested in the specifics of international peacekeeping activity and its impact on the practical resolution of territorial conflicts.

Especially, the paper is of particular interest to employees of national and international structures in the field of maintaining international peace and security (ministries of defense, internal and foreign affairs, international officials, diplomatic and military corps, etc.) concerned with preventing territorial conflicts and regulating those already arisen for their final consumption.

From an applicative point of view, the paper can serve as a scientific support for making changes to the texts of existing international treaties / acts or for drafting new acts (international legal norms) on the definition of territorial conflict and regulation of the process of resolving it.

The thesis is a safe monographic source for researchers in the fields concerned with the issue of resolving territorial conflicts. The results obtained can serve as benchmarks in further research of the issue, at the level of monographs, doctoral theses, scientific studies, etc. The results obtained can be useful for the teaching process, in the elaboration of university courses, textbooks, theoretical and practical supports, used in different levels of training in the study of public international law and the theory of international relations.

Approval of the research results. The paper is developed within the Doctoral School in Law, Administrative and Political Sciences of the consortium formed by the Academy of Economic Studies of Moldova and the University of European Political and Economic Studies “Constantin Stere”, at Profile 552 - Public Law, Specialty 552.08 - International and European Public Law.

A considerable volume of the doctoral thesis content is reflected in scientific articles published in various scientific journals, in Romanian and English, some of these journals being indexed in international databases (Scopus, HeinOnline, EBSCO Host, CEEOL, Science Direct).

Various aspects of the research, accompanied by practical conclusions and proposals, were presented and discussed at the international scientific conferences. Other important aspects of the dissertation were reflected in scientific articles. These results are useful for the students concerned with the issue of territorial conflicts in terms of international law in the context of developing bachelor's and master's theses.

Summary of thesis compartments. This paper consists of an introduction, four chapters, conclusions and recommendations, bibliography.

Chapter I, entitled "The general situation in the field of territorial conflict regulation from the perspective of public international law", has a theoretical character and is devoted to scientific analysis in the field of research, especially to scientific publications in recent years. The doctrinal and legal definition of the territorial conflict is presented with the detailed analysis of the concept, structure and forms of its manifestation. A synthesis of scientific materials on the regulation of territorial conflicts was made in the light of the norms of international law. In this context, a characterization of the legal sources of regulation in the field of territorial conflict resolution is performed. The research problem and the directions for solving it are formulated.

Chapter II, entitled "The specifics of the emergence and evolution of territorial conflicts in the Republic of Moldova and Georgia", is the central section of the thesis. Extensive research is done on the causes of the emergence and evolution of territorial conflicts on the territory of the Commonwealth of Independent States - the case of the Republic of Moldova and Georgia. An increased attention has been paid to strategies and tactics for resolving territorial conflicts in the Republic of Moldova and Georgia through international law. The issue of the territorial integrity of states on the international, legal and geopolitical dimensions has been extensively addressed.

Chapter III, entitled "Symbiosis of cooperation between states and international organizations in resolving territorial disputes in the Republic of Moldova and Georgia", requires a special scientific and practical interest, being devoted to the application of international law in domestic law of the Republic of Moldova and Georgia. In this context, the role of international treaties in the regulation of territorial conflicts, the contribution of international security and peacekeeping organizations in the regulation of territorial conflicts in the Republic of Moldova and Georgia are analyzed.

A special role belongs to the controversies in the theory and practice of public international law regarding peacekeeping operations as a factor in regulating territorial conflicts in the Republic of Moldova and Georgia, which is why a separate paragraph is devoted to this topic at the end of the chapter.

Chapter IV of the paper is entitled "The application process of international law rules in resolving territorial conflicts of the Republic of Moldova and Georgia." An important role in the elaboration of this compartment is given to the particularities of application of the norms of international law in the context of the territorial conflict in Transnistria and the specificity of the application of the norms of international law to the regulation of territorial conflicts in Abkhazia and South Ossetia. At the end of the chapter, the role of the jurisprudence of the European Court of Human Rights in resolving cases concerning separatist regimes in the Republic of Moldova and Georgia are highlighted providing concrete examples from judicial practice.

The "General conclusions and recommendations" section is a generalization of the arguments, ideas and findings presented during the scientific investigation, main results obtained, as well as nuances of all proposals made in the field under research.

1. THE GENERAL SITUATION IN THE FIELD OF TERRITORIAL CONFLICT REGULATION FROM THE PERSPECTIVE OF PUBLIC INTERNATIONAL LAW

One of the main dimensions of the territorial conflict is represented by the way of legal settement at the international level in relation to each historical stage of humanity. The continuous presence of territorial conflicts in international relations is approached as the natural state of peoples and the subject of study of public international law on the one hand and as negative consequences on the states on the other. The modern processes that are developing in international relations reflect tendencies for intensification of the structural and systemic transformations of the components of the world order that affect the entire system of international relations.

The scientific paradigm on the territorial conflicts study is in a continuous process of development. The extensive, diversified and concentrated bibliographic spectrum in the legal and political field highlights a controversial scientific approach to the framework for regulation of the territorial conflicts. This creates difficulties in estimating and identifying indicators for measuring the dynamics of territorial conflict resolution, a task that falls under public international law.

A critical exploration of the interaction of public international law theories, political science, and security studies provides insights into the strengths and weaknesses in developing approaches to territorial conflict analysis and understanding how to combine efforts to resolve them at this stage.

1.1. Synthesis of scientific materials on the regulation of territorial conflicts through the international law point of view

During the historical evolution, the problem of territorial conflicts has been a subject of both theoretical and practical concern since ancient times. In this sense, the laws of Hammurabi (1792-1750 BC) which reflect some ways of resolving conflict situations are relevant. Also, the visions of Cicero (106-43 BC) deserve attention, who proposed the division of violence into "right" and "unjust", respectively, developing the idea of "just war".

In the same vein, we should mention the contribution of Thomas D'Aquino (1225-1274) on the need for "authorized competence", i.e. the sanction of the state for the war [137, p.194], but also the contribution of Nicolas Machiavelli (1469-1527) to the development of conflict theory, who in his work "The Principles" emphasized that territorial conflict is a universal feature of society, explaining it by the vicious nature of man.

The causality of conflicts was also reflected by Thomas Hobbes (1588-1679) who, in his work "The Leviathan" founded the concept of "war of all against all", arguing that the main cause of conflict lies in man's tendency to compete and desire to be equal. with other peers or their superiors [279, p. 332].

The theme of war and peace has been a concern as old as science itself. However, it has been not until the 1950s that territorial conflict research emerged as an autonomous scientific discipline - irenology (which studies the ways and means of peacekeeping) and, respectively, polemology (which studies war as a sociological phenomenon) [196, p. 104] - in order to analyze the various aspects of territorial conflicts, as well as the conditions necessary to achieve the peace.

Attempts to create a special science to investigate the peace have been noted after the First World War, when the world became aware of the enormous damage caused by wars, in addition to the United Nations and the International Court of Justice, other institutions for international relations research appeared (in the USA and Great Britain), which aimed to study conflicts and wars, revolutions and civil wars, as well as the conditions for the establishment of lasting world peace.

As the object of this paper is to investigate the aspects of international law on the regulation of territorial disputes (the case of the Republic of Moldova and Georgia), naturally, we aim primarily to investigate norms, institutions and categories of public international law. We have also noticed that general public international law studies contain approximately the same information, the same topics, both for authors from Georgia and the Republic of Moldova, as well as for foreign ones.

The subject of public international law usually starts from a classic general model of presentation that begins with a brief history of international relations and continues with the history of the doctrine of public international law, the sources of international law, treaty law, topics, territory and population in law, international law, international liability, in some places about the principles of international law and a special part dealing with special branches, such as international human rights law, diplomatic and consular law, international criminal law, space law, international flows, etc.

Although, in the main, specialized textbooks do not explicitly address the issue of territorial conflict regulation in terms of international law, the authors indirectly approach related issues when analyzing the particularities of conflict resolution in public international law and international humanitarian law.

It is almost impossible to have a good understanding of the regulation of territorial disputes in the light of the rules of international law without placing the evolution of

international law in international society. The set of states and other entities engaged in international relations (international governmental organizations, national liberation movements, contested state entities, etc.) governed by the norms of public international law form the international society [107, p. 58]. The process of establishing and applying the norms of public international law within the international society is the international legal order.

Because international obligations are frequently violated, war is seen as a means of conquering and oppressing other peoples at the disposal of strong states eager to expand their territories. Such conduct embodied a violation of the fundamental rules and principles of international law, which led to the establishment of an objective liability of the aggressor for his actions threatening or violating peace and security or for instigating and initiating a war. Thus, it has seemed necessary to impose precise sanctions enshrined in the norms of international law for the punishment of those guilty of violating international obligations stipulated in international treaties.

The field of territorial conflict research in the light of international law has become a scientific concern for many authors. The aspects of international law regarding the regulation of territorial conflicts in the Republic of Moldova and Georgia have been analyzed by foreign authors, such as: B. Magyar, R. Martín de la Guardia, R. González Martín, C. García Andrés, S. Markedonov, W. Czapliński, Ch. Waters, M. Rudnicki, A. Kleczkowska, M. Maciąg-Świontek, C. Tosi etc.

The geostrategic interests of the Russian Federation in the post-Soviet space, especially in the Caucasus, form the field of research for B. Magyar [192, p. 24]. It examines the interests and geostrategies of the Russian Federation in maintaining its sphere of influence in the Caucasus, especially in Georgia. In the view of the author B. Magyar, the Russian Federation is trying to keep Georgia in its sphere of influence by recognizing the independence of Abkhazia and South Ossetia, as well as by imposing its influence in the area as a result of the war of August 7, 2008.

It is worth to mention the research conducted by the Spanish R. Martín de la Guardia, R. González Martín and C. García Andrés who believe that the US interests in the Caucasus are considered a threat to national security by the Russian Federation [300]. The authors are interested in the ways and strategies to achieve the objectives of the Russian Federation in the Caucasus. Thus, the geostrategic interests of the Russian Federation in the Caucasus have been studied in the light of confrontations with the interests of the West represented by the USA, NATO and the EU.

The problem of unrecognized states, but functional in the post-Soviet space, is posed in the work of the researcher S. Markedonov, “De facto state: political phenomenon in the post-Soviet space” [331, p. 24]. In the mentioned work, the author subjects to research the creation of

de facto republics in the context of the collapse of the USSR, the ethnopolitical self-determination of the years 1980-1990, as well as the transformation of international law after the end of the Cold War. The author gives his own definition of de facto states, classifies unrecognized entities, explains the similarities and differences between them, as well as the collisions between their legal and political approaches.

In his research, S. Markedonov concludes that de facto post-Soviet states such as Abkhazia, South Ossetia, Transnistria, Nagorno-Karabakh and, more recently, the Donetsk People's Republic, from a formal legal point of view, do not exist for the international community. However, this does not nullify their real participation in the socio-political processes and conflicts in Eurasia. Many of the most important events in the territory of the former Soviet Union are, to one degree or another, related to these entities.

No less interesting is the monograph “Unrecognized Subjects in International Law” [99, p. 88] written by Polish authors W. Czapliński and A. Kleczkowska. They investigate the phenomenon of international legal recognition of the state (especially the problems of unrecognized states). The geostrategic role of the Caucasus area and, respectively, the interests of the Russian Federation and those of the West in this area are highlighted.

The analysis of Russia's geostrategic interests in the post-Soviet space, especially in the Caucasian states, Ukraine and the Republic of Moldova, also includes the research of Ch. Waters [287, p.92], who considers that in order to keep the former union republics in its sphere of influence, the Russian Federation uses the support of separatist areas.

Unlike the relations between the Russian Federation and the West after the collapse of the USSR considered being favorable, the current relations, resulting from the annexation of The Crimean Peninsula have become tense. In this context, the Eastern European and the Caucasian space have become the arena of confrontations of interests between the West and the Russian Federation. This confrontation, according to M. Bliev [59, p. 31], leads to the emergence of a new geopolitical competition, which contributes to reshaping the sphere of influence of the great powers in the Eastern European space.

The interests of the Russian Federation in relation to the post-Soviet states, especially those in the Caucasus area, are also analyzed by C. Tosi [301]. In his studies, C. Tosi subjects to research the independence of Abkhazia, a "partially independent" state, recognized by the Russian Federation, Nicaragua, Venezuela, Nauru, Tuvalu and Vanuatu, but not by the international community. The same author studies the strategies of maintaining the sphere of influence of the Russian Federation by creating conflict zones in the post-Soviet space, especially in Transnistria, Abkhazia, South Ossetia and the Carabakh Mountain.

Currently, the domestic situation in Georgia is an interesting subject of a lot of research and analysis. Discussions of international law on the origins of the Georgian-Ossetian military conflict is the theme of the monograph “Aspects of international law on the conflict in Abkhazia and South Ossetia” [236] written by Polish author M. Rudnicki. In this paper, a legal analysis of territorial conflicts in Abkhazia and South Ossetia is performed. The monograph focuses on the study of the legal character of international institutions for the legal recognition of Abkhazia and South Ossetia. The author concludes that the lack of a decisive position in international law with regard to banned states leads to many problems that destabilize the situation in the region and significantly impede Georgia's independence from the influence of the Russian Federation. The author of the monograph has noted that unrecognized states are political structures that require a completely different approach compared to issues of traditional international law.

Despite many scientific efforts, M. Rudnicki concludes that it is very difficult to determine the geopolitical situation of the Caucasus, because there are many doubts about how to manage the documents issued by the Abkhaz or Ossetian authorities. Therefore, despite the fact that many legal issues surrounding the territorial disputes in Abkhazia and South Ossetia have been discussed in M. Rudnicki's research, they are still open and unresolved.

Some international law controversies in the South Ossetia region have been investigated by M. Maciąg-Świontek in the scientific article “International legal aspects of the dispute over South Ossetia” [191, p. 121]. The article considers the international legal aspects of the conflict in South Ossetia. Mainly, attention is paid to the origins of the Georgian-Ossetian conflict. The geopolitical situation that developed around South Ossetia after the "five-day war" and also the role of international organizations in resolving the Georgian-Ossetian conflict have been analyzed. Moreover, the institution of international legal recognition of South Ossetia, manifested by the people's right to self-determination and secession, has been examined in detail.

Among the Moldovan authors who analyzed the issue of territorial conflict regulation through the prism of international law, we highlight the authors A. Burian, V. Arhiliuc, V. Gamurari, N. Osmochescu, D. Cazacu, O. Bontea, A.-M. Comşa, O. Serebrian, D. Bencheci, V. Cerba, A. Cresniov, V. Ţalalungă, T. Anton, M. Garaz etc.

Thus, in scientific articles entitled “The Transnistrian Conflict - The Prospects of its Resolution. A view from Kishinev” [62, p. 9-39] and “Решение приднестровского конфликта - главный фактор сохранения национальной идентичности Молдовы” [306, p. 29-35], A.Burian draws attention to the legitimacy of peaceful and military means to resolve the conflict in Transnistria as an intrinsic requirement of an organized society, whose absence would create arbitrariness and abuse. Highlighting the need for the prevalence of peaceful means in resolving

the Transnistrian crisis, the researcher details such important aspects as the legitimacy of diplomatic, jurisdictional and coercive means.

With regard to the legitimacy of military means of resolving crises in the listed scientific articles, A. Burian concludes that a collective military intervention carried out without the approval of the UN is not so illegal as if it does not meet such conditions as: to be absolutely necessary, to be the only means of restoring legality, in relation to the principles of international law, to be proportionate to the aim pursued, not to be determined by the satisfaction of their own economic, political, legal or other interests of the intervening states in the invaded territories.

In the context of the stated issue, A. Burian studies the methods and procedures for resolving conflicts in the foreign policy of states. Starting from the perception of conflict as a danger and a means to achieve certain goals, in the scientific publication "Methods and procedures for resolving conflicts in the foreign policy of states" [4, p. 39-46], the researcher has identified several distinct strategies: management, stopping and resolving conflicts, each with its own role and peculiarities.

Another work that is important for understanding the process of resolving international conflicts in the contemporary world is written by V. Arhiliuc [2], in which the author investigates the issue of collective security of states and preventive diplomacy. Along with the presentation of the origin and distinctive features of the collective security of states, the researcher makes a historical description of its evolution, emphasizing the peculiarities of the League of Nations and of other contemporary organisations, determined by the UN. In essence, it provides an integral picture of the pre-established schemes (political and legal) for the reaction of the international community to possible international conflicts that may arise, emphasizing, in particular, the particularities of the measures that form the so-called preventive diplomacy and highlighting some issues from the collective security system.

Researcher D. Cazacu [6, p.56-63] also has made a significant contribution, analyzing in detail the process of resolving a political conflict. Justifying the need for a political regulation of the conflict, the author develops the main phases and principles of the given process, focusing on such moments as conflict prevention, management and resolution. At the same time, the researcher analyzes the place and role of the third party in resolving the conflict, as well as the particularities of conducting negotiations between the subjects directly or indirectly involved in the conflict. His work represents fundamental research in this field.

A well-grounded presentation on the issue of state sovereignty in the context of international conflict resolution and international community intervention in internal conflicts has been witnessed by researchers V. Gamurari and N. Osmochescu (Sovereignty and international law. Current theoretical and practical issues, Chisinau, 2007) [34], which touches

on the topic in light of case studies on the Transnistrian conflict. In particular, the researchers draw attention to the violations admitted by the peacekeeping forces in the context of the humanitarian interventions carried out, which is of distinct importance for the present research.

The role of negotiations in the process of settling the Transnistrian conflict is reflected in the works written by V. Gamurari [124, p. 11-20], who reveals the essence, features and conditions for the effectiveness of negotiations as a peaceful means of settling the Transnistrian conflict. In his turn, O. Bontea directs his interest to imperfect forms of international negotiations, emphasizing that their source is non-compliance with the rules of international law, which practically distorts the very essence of the process of diplomatic regulation of international conflicts.

Thus, in the monograph "Theoretical-practical study on international disputes and the law of international treaties" [3], O. Bontea has developed such aspects as: the essence and particularities of the principle, the historical evolution of the international legal framework, variants of interpretations and its practical application. Beyond this, practically all the works of the author O. Bontea include a detailed and reasoned exposition of the peaceful means of resolving international disputes, regulated by the norms of contemporary international law.

Closely related to the topic of the regulation of the Transnistrian conflict is the doctoral thesis elaborated by A.-M. Comsa (*Peacekeeping operations as a factor in regulating ethnopolitical conflicts from the perspective of public international law*) [10]. In the nominated paper, the author has analyzed the phenomenon of peacekeeping operations as a factor in the regulation of ethno-political conflicts from the perspective of public international law, defining the cause-and-effect relationship between the organization and conduct of peace operations and the practical resolution of territorial conflicts worldwide and territorial conflict in Transnistria. The author emphasizes in particular that peacekeeping operations are practically necessary for settling, resolving or at least freezing conflicts, thus providing real opportunities for the parties involved to review their own actions and policies and to organize their contacts in order to establish a consensus and maintain peace relations. From the perspective of the present doctoral thesis, the research conducted by A.-M. Comșa shows a distinct importance, especially considering the fact that peacekeeping operations are an important element of international conflict management as a means of resolving them.

It is also of interest to O. Serebrian regarding the polemology of the Caucasian space exposed in the work "Russia at the Crossroads. Geohistory, Geoculture, Geopolitics" [246]. The morpho-political split of the Russian Federation, according to the author, is reinforced by economic, territorial, demographic losses as a result of the collapse of the former USSR and, in order to maintain its influence in the post-Soviet space. There are created the conflict situations

in the eastern part of Moldova and Georgia supporting separatist movements in Abkhazia and South Ossetia.

The Moldovan researcher O. Serebrian also has analyzed the size of the Russian factor in the post-Soviet geopolitics of the Black Sea region. Thus, in the monograph entitled "The Geopolitics of the Black Sea Region" [245], the author has highlighted the advantages and disadvantages of Caucasian states from the perspective of geopolitical cooperation with the Russian Federation.

These and other points are investigated in works devoted to the problem of the conflict regulation in Transnistria. In this sense, it is worth mentioning such authors as: V. Cerba (*Legal analysis and consequences of the signing of the Moldovan-Russian ceasefire agreement of 1992 on the Dniester: existing problems in the process of settling the Transnistrian conflict*) [7, p. 4-11], V. Chelaru (*Reassessment of conflicts the post-Soviet space from the point of view of mediation between the parties*) [79, p.561-571], D. Bencheci (*The political crisis in Transnistria and its consequences for the regulation of the Transnistrian conflict*) [54, p.212-216], V. Ţaralungă (*Configuration of the Transnistrian conflict in international humanitarian law*) [262, p.28-42], A. Cresniov (*Economic relations between unrecognized and partially recognized states (on the example of Transnistria, Abkhazia and South Ossetia)*) [97, p.414-419], T. Anton (*Frozen conflict in the eastern regions of the Republic of Moldova. The effectiveness of the peacekeeping operation*) [1, p.180-184], M. Garaz (*Legal evaluation according to the norms of international law and the process of peacekeeping in the Transnistrian conflict*) [127].

The issue of territorial conflict regulation has been widely studied by Georgian authors through the publication of monographic studies, scientific articles, treatises, and collections of materials. The most famous Georgian authors who analyzed the territorial conflicts in Georgia through the prism of international public law are G. Gabrichidze, G. R. Ketsbaia, R. Dursunov, D. Khetsuriani, M.A. Makhalkina, H. M. Djantaev, L. Alexidze, A. Kuhianidze, T. Diasamidze, K. Khutsishvili, I. Gutkaradze, R. Dekanozova, G.Sh. Kasamadze, A. Abashidze, V. Mgaloblishvili, A. Bartsits, N. Samkharadze etc.

Analyzing the Georgian doctrine in this area, let us turn to the consolidated textbook "International Public Law" edited by Professor of Georgia, Doctor of International Law G. Gabrichidze [117]. The author has carried out a multi-aspectual study of the concept, object and system of international law; the relationship between domestic law and international public law; means of peaceful regulation of international disputes; aspects of responsibility in international law; international human rights law; the law of international relations; the law of international organizations; UN; Commonwealth of Independent States; the right to collective security; international legal framework for countering terrorism, etc. Almost all nominated chapters

demonstrate the consequences of territorial conflicts and the role of international organizations in maintaining and promoting international peace, security and stability. However, in such chapters as the law of international organizations, the United Nations, the Commonwealth of Independent States, collective security law, humanitarian law and the international legal framework for combating terrorism, a more detailed analysis of the stated topic is presented, the author refers, in particular, to: legal status of international organizations; the procedure for resolving territorial conflicts within the framework of the UN, OSCE and CIS; international political and military organizations; the legal status of the UN, the importance of the General Assembly and the Security Council, the legal status of specialized UN agencies; The status of the CIS, military-political cooperation within the CIS, typology of international security, disarmament, typology of terrorism, the activities of universal international structures and the role of regional organizations in combating the terrorism.

In his doctoral dissertation, the Georgian writer G. R. Ketsbaia [157] has analyzed the current problems of regulating relations arising in international conflicts of a local nature. Increased attention is paid to the law of armed conflicts and the methods of conflict regulation in Abkhazia. The whole issue is approached in the light of the principle of respect for the territorial integrity of Georgia, indicating the reasons for the outbreak of the armed conflict in Abkhazia.

In the scientific publication “International legal status of Abkhazia and South Ossetia” Georgian researcher R. Dursunov [108, p.42-49] seeks to clarify the international legal status of Abkhazia and South Ossetia. The corresponding legal doctrines from Georgia, the Russian Federation, Abkhazia and South Ossetia and their compliance with the current international law are analyzed. The author's main task is to analyze the Georgian problem and determine the real international legal status of these territories, which is the key to understanding the institution of recognition of states in international law. The presented analysis is based on official regulations, international legal doctrines and documents, including UN resolutions.

It is worth paying attention to the scientific article "Russia's recognition of the independence of Abkhazia and South Ossetia in the context of international law: a view from Georgia", in which the Georgian author D. Khetsuriani [343, p.26-36] examines the legal nature of the decrees of the President of the Russian Federation of August 26, 2008 on the recognition of the independence of the separatist regions of Georgia – Abkhazia and South Ossetia. The article concludes that these legal acts contradict not only the generally recognized norms and principles of international law, but also the constitutional law of the Russian Federation.

Scientific significance for the field of international public law in Georgia is manifested in the paper “International Law and Georgia, from Antiquity to Present: Selected Papers Published in 1957–2012” [47]. The author of this paper, L. Alexidze, is a leading expert in international law

in Georgia. Therefore, this collection is a very valuable tool for studying international law issues that Georgia faces during the Soviet Union and after a year of independence.

An important role in the study of this topic was played by the scientific publication “Abkhazia, Transnistria and South Ossetia in the foreign policy of Russia in 1991-2008” [193, p.62-68], written by M. A. Makhalkina. The nominated author discusses the issue of Russia's interaction with Abkhazia, South Ossetia and Transnistria in the period from 1991 to 2008. The paper examines the problem of the functioning of unrecognized states (partially recognized in the international arena) on the example of Abkhazia and South Ossetia. In the article, the author proves and substantiates the reasons for the deterioration of relations between Russia and Georgia and Moldova. Based on the study, there are drawn conclusions that substantiate Russia's position in the conflict in Georgia and South Ossetia in 2008. There should be emphasized that the Russian line is also revealed in the issues of international legal recognition of unrecognized states.

The quasi-state problem was developed by Georgian researchers in various studies of international law. As the Georgian practice shows, the processes of formation and development of new states are much more complicated than the transition from one social system to another, since they affect, in particular, rather controversial issues of nation formation and the interests of world political actors. In this context, the lack of theoretical and legal understanding of the formation of unrecognized states is caused by the politicization of research discourses. For example, in many scientific publications the Georgian-Abkhazian and Georgian-Ossetian conflicts are transferred exclusively to the Russian-Georgian confrontation. Other doctrinal sources, on the other hand, present Abkhazia and South Ossetia as independent political actors, despite not being recognized by the international community. This approach to territorial disputes is typical for official diplomacy, but unacceptable for the analysis of international law.

Attention is also drawn to the doctoral thesis in law "The right of the people of the Republic of Abkhazia to self-determination and restoration of state sovereignty: legal and constitutional analysis", developed by the Georgian researcher A. L. Bartsits [304]. The study is based on international legal norms governing the principles of international law, including the right of peoples to self-determination. In this article, A. L. Bartsits exposes his own opinion on how to implement the principle of self-determination of the Abkhaz people, the system of legal relations in the process of realizing the right of peoples to self-determination, ways of restoring the sovereignty of Abkhazia.

An important scholarly work on Georgian law is his doctoral dissertation on “Russia’s Recognition of Independence of Abkhazia and South Ossetia – Causes of Deviation from Russian Traditional Recognition Policy”, which has been defended in Tbilisi by researcher N.

Samkharadze [238]. In this article, the author has concluded that the recognition of the independence of Abkhazia and South Ossetia by the Russian Federation in August 2008 has undermined the stability in the Caucasus and undermined Georgia's prospects. From a structural point of view, the article consists of 4 chapters, in which the author analyzes important aspects of public international law, such as: a) self-determination, separation and recognition of states in international law; b) recognition of new states after 1945 by USSR; c) legal issues of recognition of Abkhazia and South Ossetia by the Russian Federation; d) relations between Georgia and the Russian Federation in the period 1991-2008 viewed through the prism of international law.

Concluding the historiographical study of the researched problem, we would like to mention that the historiography of the study problem is complex, a fact noted by the existence of contradictory approaches on mechanisms for territorial conflicts regulations through the public international law according to the interests of those studying the issue. In this regard, we highlight the approaches of researchers from the former Soviet states, where there are territorial conflicts, especially Republic of Moldova and Georgia, but also the conflict analysis school in the Russian Federation. We also point out that the territorial conflicts have become the subject of academic research for security science, and in recent decades various security study centers have been created in the United States, Great Britain, Israel, Canada, Germany, etc.

1.2. Territorial conflict - concept, structure and forms of manifestation

Addressing the issue of resolving international conflicts necessarily requires a primary multilateral approach to the very concept of a conflict, clarifying its essence, characteristics and distinctive character in relation to other similar categories, such as: “dispute”, “conflict situation”, “trial”, “crisis”, “war” [149, p.72] are terms that are often found in literature and international acts.

Etymologically, the word “conflict” comes from the Latin word “conflictus” and means “collision”, “disagreement” [62, p.9-39]. According to another opinion, the term "conflict" comes from the Latin verb confligo, ĕre - "to fight", "to combat", with the substantive participle of “conflictus” meaning collision, shock, but also quarrel, coming together for a battle [99, p.88]. Numerous dictionaries define conflict in terms similar to violence, for example: dissension, friction, dispute, quarrel, controversial situation, hostility, divergence, scandal, violence or moral pressure, struggle, war.

The meaning of the concept of conflict is often reduced to armed conflict, even if its scope is much wider. In this sense, one of the most common definitions of a conflict is a misunderstanding between two or more parties. Each party undertakes everything to defend its point of view, to achieve its goal or to be accepted, and to prevent the other party from doing so

[286, p. 217]. From another point of view, conflict is understood as a manifestation of open antagonism between two individual or collective entities with currently incompatible interests [231, p. 102].

The first theorists in this field have argued that the phenomenon of conflict is predominantly detrimental to social functioning, thus focusing on the causes and means of conflict resolution [163, p. 113]. More recently, researchers have suggested that, on the contrary, conflict is a beneficial phenomenon under certain circumstances. From this point of view, conflict is perceived as a natural part of the communication process and does not necessarily include only negative aspects. Its positive effects include: increased motivation for change; help to identify problems and solutions; increased cohesion of the group after the general resolution of the conflict; developed creativity [286, p. 201]. Thus, even if in everyday language a negative connotation is attributed to the conflict, the problematic does not consist in the presence of conflicts, not in the one that poses a threat to peace, but in its violent forms that spread unjust systems that brings benefit only to one of parties involved inclined to seize power and impose their own interests. This attitude can easily develop patterns of thinking and behavior aimed at total conquest.

In the doctrine of international law, various opinions are expressed regarding the peculiarities of the creation and application by states of the norms of international public law in the field of resolving territorial conflicts. Romanian and Moldovan researchers G.Geamănu, V. Duculescu, D. Popescu, C. Andronovici, S. Scăunaș, O. Balan, N. Osmochescu, V. Gămurari etc., scientists from Georgia - L. Alexidze, G. Gabrichidze, G. R. Ketsbaia, N. Samkharadze, G. Hatidze, as well as the French doctrinaires A. Pellet, L. Duguit, P. M. Dupuy and others unanimously support the idea that the norms of international law in the field of resolving territorial conflicts are formed in the process of cooperation between states at the local and regional levels.

Researcher J. Distefano emphasizes that conflict is a part of our existence to a greater extent than we would like to accept. It is an inevitable part of the environment, which is the stimulator of life and the activator of the social environment, and, therefore, it cannot completely disappear from our lifes [107, p. 92]. Confirming the thesis, N. Shaw-Malcolm has noted that the conflict originates in the essence and nature of political relations as power relations, which presuppose the supremacy of some and the subordination of others, giving rise to clashes and confrontations. Accordingly, confrontation, conflict and struggle cannot be excluded from the history, just as we cannot abolish the supremacy and subordination in human relations [248, p. 53].

For his part, D. Björgvinsson comes to the conclusion that eliminating conflict as a phenomenon in social relations is practically impossible, at least in the foreseeable future. And this is undesirable, because the conflict maintains the tone and vitality of the system of social life, being a manifestation and form of its natural development [56, p. 131]. Moreover, attempts to suppress conflicts and collisions that took place everywhere and always, sooner or later ended in more destructive outbreaks. On the other hand, there are no means that could replace conflict in its social functions. Consequently, conflict as a phenomenon is inevitable. Thus, in order to limit and reduce costs and other negative manifestations, the conflict should be civilized, integrated into the system of social values, social relations and political institutions.

From the perspective of international law, a conflict is viewed as a special relationship between two or more subjects - peoples, states or groups of states, between which, directly or indirectly, confrontation occurs in the spheres of economic, political, territorial, national, religious or other interests. Accordingly, international conflicts are a variety of international relations between different states based on conflicting interests [195, p. 72]. In this sense, E. Leblich has specified that any international conflict presuppose political relations between two or more subjects, which in an acute form reproduce the contradictions between them [185, p. 34]. On the other hand, the conflict is the result of confrontation between states, which, relying on their own resources, strive to achieve goals both to ensure their security and to expand [304, 15].

Both in the theory of international law and in international documents, the term “conflict” is used unevenly, given the fact that many similar terms are used to name dissensions between states: dispute, conflict situation, crisis, war, etc.

The events of the last decades have led to the fact that the concept of conflict, in particular, armed conflict, has begun to be used very often. However, this category does not have a clear and specific definition, which makes it difficult both to understand this phenomenon as a whole and to determine the most effective ways and methods of its solution. Therefore, clarification of the essence of the international conflict is especially relevant and timely. To do this, it is necessary to clearly distinguish between this concept and categories such as dispute, situation, trial, and crisis.

In this doctrine, it has been mentioned that a dispute means an appeal made in international justice or international arbitration, and a dispute is defined as “a misunderstanding, a confrontation between two or more states that have reached the stage where the parties formulated claims or counterclaims and which constitute an element of disturbance of relations between them” [137, p. 203] and “misunderstanding, disagreement or litigation between two or more states regarding a right, claim or interest” [134, p. 142].

In the UN Charter and other international documents, along with the notion of dispute, there is also the notion of situation, which implies a state of affairs that "may lead to international friction or may cause a dispute" (Article 34). These two notions are not identical. In the case of a dispute, the conflicting claims between the parties are clearly defined, while in the case of situations, they do not crystallize, since they can only cause a dispute.

From what has been said, we can see that not every misunderstanding or disagreement between states ultimately takes the form of a dispute, which involves the formulation of diverging demands or opinions (in the form of protests, etc.) on an issue facing by those states. In this case, the main feature of the situation is the presence of contradictions (incompatibility of goals, interests), and of a dispute - the formulation of specific claims by the subject, which are rejected by the opposing party. Of course, conflicts are also characterized by contradictions, but they are not decisive. According to the researcher C. Ryngaert [237, p. 75], in order to be able to talk about a dispute, there must be at least two conditions: the requirement of one state to another state to act or not to act in a certain way, the demand is rejected by another state; basing this claim on the title of international law or on the law of the claimant state based on international law.

In practice, however, the situation is more complex as states often have reciprocal claims, each is referring to the rules of support or reject such claims, or denying the existence of such rules. In fact, it is about creating a relationship between two opposite wills, a relationship that, in its development, knows certain distinct phases, respectively, a statement, a protest, a reaction to the statement or a protest.

In this regard, the statement of the authors W. Mansell and K. Openshaw is relevant. They have argued that any conflict is marked by a certain prehistory, namely economic, political, ideological and other contradictions that have generated and determined the development of the conflict [196, p. 64]. At the same time, however, such contradictions cannot always lead to the conflict, given that the contradictions between states only sometimes are developed into a conflict. In other words, these contradictions remain outside the conflict, persisting in various forms throughout the development of the conflict. It is possible that these contradictions will generate new ones, which will play a more significant part for the dynamics of the conflict. However, the contradictions remain only the prehistory of the international conflict.

The creation of an objective problematic situation, the essence of which lies in the emergence of contradictions between the subjects, is called "pre-conflict" in conflictology and presupposes a latent period in the development of a conflict situation. This period also includes: awareness of such situation; attempts of subjects to solve it in non-conflict ways; the emergence of a pre-conflict situation (the subject's perception of danger). Accordingly, it can be stated that

the concept of a pre-conflict situation corresponds to the categories of a dispute and situation in international law. At the same time, at the stage of an international dispute, if the parties have formulated their claims, presented them to each other (or only to one party) and they have been mutually rejected (or only by one party), the conflict does not arise automatically.

The rejection of the claims does not indicate an aggravation of the situation, given that the parties may try to resolve their contradictions by non-conflict methods. In doctrine, they are called peaceful means and are divided into two categories: jurisdictional means and non-jurisdictional means (diplomatic means). In this sense, G. Hernandez [146, p. 41] argues that an international dispute is moving into a pre-conflict stage, when one of the parties (or both) realizes that its interests are under direct threat. The conflict itself begins from the moment of the first confrontation between the parties, which does not involve the direct use of force. It can consist of verbal threats, ultimatums, sanctions and other non-constructive measures taken to solve the problem when the contradictions between the parties have escalated to the maximum.

Therefore, we can conclude that the notion of dispute differs from the notion of international conflict, the transformation of the dispute into international conflict depending on the degree of intensification of contradictions and conflict in the behavior of the parties. The boundary between the dispute and the international conflict is determined by the presence or absence of the conflicting behavior of the parties in the form of active clashes and confrontations.

In accordance with the above, the international conflict is defined as a situation of maximum aggravation of contradictions in the sphere of international relations, expressed in the behavior of their parties, subjects of international law, in the form of active clashes and confrontations (armed or unarmed) [144, p. 95]. From another point of view, it presupposes one of the forms of manifestation of interstate contradictions at the stage of their significant exacerbation, when the parties take open actions in relation to each other to achieve their interests using all possible means that can be applied in consideration of the international situation [63, p. 33]. In other words, an international conflict is a direct confrontation between states.

Research in this area can confirm a different vision of the difference between dispute and conflict. In this regard, researchers K. Walter and A. Ungern-Sternberg [286, p. 262] distinguish two criteria: the duration and nature of the contradictions. In their opinion, disputes are short-term disagreements that can be easily resolved by finding the solutions that at least partially meet the interests and needs of the parties, while conflicts are long-term phenomena that are associated with the existence of a problem (deep-rooted contradictions, non-negotiable and resistant to regulation (based on incompatible interests)). Both types of disagreement can exist

on their own, but they can be combined. Thus, short-term disagreements can be drawn into a longer conflict, for example, the struggles that take place in war.

For our part, we believe that the criteria established to distinguish between the conflict of the dispute are of little importance. Undoubtedly, conflicts are often of much longer duration and are based on various contradictions that are difficult to resolve. However, despite this, we believe that the features in question do not sufficiently characterize the essence of the conflict. In fact, definitely, there are also short-term conflicts that cannot be considered disagreements due to the intensity and destructive behavior of the parties. As for the incompatibility (non-negotiable) contradictions underlying conflicts, this also does not stand up to criticism.

As some researchers in this field argue, specific contradictions are not always the basis of a conflict. Only in the case of a “genuine conflict”, the opposition of interests exist objectively being realized by the parties of the conflict. But besides this, there are “incorrectly assigned conflicts”, “hidden conflicts”, “false conflicts”, etc. [149, p. 82] Accordingly, sometimes it can happen that the sources of the conflict lie not in the sphere of reality, but in the perception of the participants. Suspicions based on traditional mistrust or prejudice allows the parties of the conflict to perceive their actions towards each other as a threat, even when they are not.

Thus, the foregoing prompts us to support the position of the researchers outlined above about the distinction between conflict and dispute, especially since it is closer to the idea contained in the UN Charter itself. In this sense, the provisions of Article 33 of the UN Charter are relevant, which contain the expression: “the prolongation of a dispute may endanger the maintenance of international peace and security.” Accordingly, it is clear that the category of the dispute is compatible with the category of peace, in other words, the dispute occurs in peaceful conditions.

Regarding the prolongation of the dispute, we believe that it is more about the aggravation of the situation and not just the extension of the dispute over time. It is a rather important moment, because in the case of admitting this aggravation, the situation becomes (according to art. 40 of the UN Charter) already "a threat against peace" with the possible violation of peace (committing an act of aggression).

By analogy, we can draw a conclusion that the conflict is likely to endanger or pose a threat to international peace and security (even if it is not expressly mentioned in the contents of the UN Charter), which, in this way, requires an appropriate reaction from the international community.

Therefore, the main distinction that can be deduced from the content of the UN Charter is that the international dispute involves relations between different subjects that do not pose a

danger to international peace and security, while international conflict is a threat to peace or even a violation of it.

The specialized doctrine has revealed the idea that the essence of the conflict lies mainly in the behavior of the parties and in its intensity [241, p. 52]. To develop this idea, it should be mentioned that in the theory and practice of international relations in recent years, more often the conflict is identified or reduced exclusively to an armed conflict. It is seen as an armed struggle or clash between organized groups within a country or between countries to achieve political or military goals, even if its scope is much wider.

Of course, in light of the above, we can say with certainty that these are two distinct categories. Thus, the most acute and dangerous form of international conflict is manifested in the phase of armed struggle.

An armed conflict is a higher stage of the conflict as a result of unresolved contradictions between the subjects of international relations. It is especially noticeable and appears to be autonomous if other phases of the conflict are latent. At the same time, an armed conflict is not the only, inevitable and obligatory phase of the development of an international conflict, since such extreme actions can be avoided.

The practice of international law shows that a conflict can exist and develop in relatively peaceful conditions, without the direct use of force. So, marking the apogee of the development of the conflict, an armed conflict may not be its last phase. Armed battles may end under certain conditions, but the conflict itself may continue and develop for quite a long time in peaceful conditions. At the same time, it is possible that over time it will again degenerate into the phase of armed clashes.

It should be noted that an international conflict is often equated with an international crisis, although the relationship between them is the relationship between the whole and the party. In this context, an international crisis is a possible phase of an international conflict. This can happen as a logical consequence of the development of the conflict, as its phase [221, p. 31], which means that the conflict has reached the limit in its development that separates it from military confrontation, from war.

In a broad sense, a crisis means a national or international situation in the context of which the values, interests or priority goals of the parties involved are threatened [63, p. 24]. The dictionary defines a crisis as a “key moment”, “turning point”, “sudden change”, “transitional state”, “critical moment that interferes with the evolution of international life, relations between states, system, regime or government” [137, p. 217]. Such moments, occurring in domestic or international area, are characterized by an exacerbation of contradictions, the appearance of manifestations of tension, and a change in the balance of power.

In general, the crisis is characterized by a sharp aggravation of the situation. The sudden nature, unpredictability and speed of development of relations, the impossibility of their manipulation are the distinctive features of a crisis situation, namely, they hide its special danger. But at the same time, a crisis does not only mean deterioration in relations.

Taking into account the fact that a way out of the crisis can be achieved in two ways: either military actions are initiated, marking the beginning of an armed conflict, or tensions are reduced and the crisis is resolved diplomatically [248, p. 101]. It becomes quite clear why in practice the international community often operates with the concept of crisis. Consequently, the crisis makes the development of an international conflict very complex and difficult to manage, in most cases accelerating its escalation.

Without presupposing the essence of the conflict, conflicting situation can serve as a background and a prerequisite for the emergence of an international conflict. At the same time, it is important that a global, regional, subregional, group or bilateral conflict, directly or indirectly, in latent or explicit form, is present in the process of generating and unfolding any international conflict, regardless of place and time, the parties involved or fixed proportions. Therefore, we believe that the problem of conflict is very important in the context of modern international relations, which requires special attention from the international community.

The extent to which it will focus its efforts on reducing conflicts in certain areas and regions of the globe depends largely on the effective prevention and avoidance of international conflicts, especially military ones. We believe that this moment should become a priority direction of the policy of the international community in the field of regulation and ordering of international relations.

We will reiterate the idea that conflicts are ordinary in the system of international relations, taking into account the diversity of states, as well as their interests. There are researchers that highlight some of the positive functions of conflicts, such as: a) prevention of stagnation in international relations; b) stimulating the creativity in search of a way out of difficult situations; c) determining the degree of discrepancy between the interests and goals of states; d) preventing the emergence of larger conflicts and ensuring the stability by institutionalizing low-intensity conflicts [242, p. 114; 231, p. 63]. Accordingly, conflicts at this level of social interaction are inevitable.

However, other authors argue that only contradictions are normal and natural for international relations. Their resolution through an international conflict is not only unnecessary, but also unacceptable, harmful, destructive [286, p. 217]. The transformation of contradictions into conflicts demonstrates a low level of political culture, inability or unwillingness to resolve contradictions in civilized ways and means.

From our point of view, it is normal for the system of international relations to have disputes, disagreements and situations that may give rise to them, since such forms of manifestation of contradictions between states and other subjects of international law require constructive measures for regulation and, more importantly, does not entail serious consequences, irreparable damage that an international conflict can cause. But at the same time, the role of conflicts in the stabilization of interstate and international relations cannot be denied.

Given the fact that the modern conflict has undergone radical transformations, diversifying and expanding on a global scale, having complex (in terms of the parties, tactics and deployment strategy) and extremely dangerous character. The international community is increasingly resorting to military measures to impose its governance and resolution [117, p. 214], which has marked the emergence of other types of conflicts that in fact legitimize the use of force in international relations. Thus, *we consider that territorial conflicts are currently not a form of confrontation between various actors, but also serve as the means of streamlining international relations, the means of coercion and sanctions against actors that do not comply with the international legal framework. It remains to be seen how much this, in turn, corresponds to the norms of modern international law and is within their limits.*

The events unfolding at the international level in the last two decades indicate the formation of the practice of using the conflict (resorting to force) as a means of sanctions, coercion to comply with international norms. Of course, in this aspect, the conflict implies new features and, accordingly, the need to comply with certain requirements formulated by international legal norms (which we will talk about in other sections of the thesis).

Causes of territorial conflicts. Several points of view are expressed on the causes of the outbreak of territorial conflicts. It is mentioned that a territorial conflict arises from disputes through which one state claims the territory of another state and both refuse to reach a consensus on the cession of territories [47, p. 122]. Territorial conflicts can also arise from political movements for the national liberation of territories under foreign occupation, which after the First World War have turned into an annexation and nationalist movement, with the help of which one state tries to return the lost territories in favor of another state [143, p. 86]. Another cause of territorial conflict is succession, which consists of a border conflict, as a result of which the region is separated from the state as a result of a change of government. Multinational states are disintegrating and internal borders become new international borders that can become vulnerable.

Territorial conflicts can be initiated to ensure control over other governments that are not associated with changing borders, but influence the government in order to establish control over the state through certain influencing factors. Examples of this are when the USSR has invaded

Hungary in 1956, Czechoslovakia in 1968, Afghanistan in 1979, or the Americans when they have invaded Panama, Iraq and Afghanistan or financed the Arab Spring to overthrow regimes unfavorable to American interests in Syria, Egypt, Tunisia and Libya, civil wars break out.

Dynamics and structure of territorial conflicts. The dynamics of a territorial conflict directly depend on the subjects of the conflict, their position in the system of international relations, the interests they pursue and their conflicting behavior. For the most part, it is the behavior of the parties that determines the forms of conflict development and directly the reaction that follows from the international community.

It can be considered that from a structural point of view, the dynamics of a territorial conflict includes five phases. Such as systematization of territorial conflicts that can be found in the work of the Georgian author G. Gabrichidze in the book "International Public Law" [117, p. 211-214].

According to the cited author, *the first phase* of a territorial conflict presupposes the establishment of political relations, marked by subjective and objective contradictions, as well as economic, international, legal, military, diplomatic relations corresponding to these contradictions, expressed in a more pronounced form or not.

The second phase of a territorial conflict involves determination of interests, goals, strategies and forms of resolving conflicts by the parties of the conflict. Mutual practical actions are taken to resolve conflicts of interest and reach a compromise.

The third phase of the conflict is about the escalation of the struggle to a more acute political level - an international political crisis, which may include relations between direct participants, states of the region, several regions, the most developed states of the world, and the involvement of the UN. Here we see an opportunity to refer to the opinion of the English researcher G. Hernandez [146, p. 93], who in his work “International Law” has pointed out that in the third phase of a territorial conflict, it is possible to establish a global crisis which gives the conflict increased visual acuity and can lead to the use of force by one of the parties.

The fourth phase of a territorial conflict is considered to be an armed conflict, which begins in a reduced form (purpose, territory, proportion and degree of development of military operations), which in certain situations can be escalated to more complex forms with the use of high-performance modern weapons and the participation of allies in hostilities. According to L. Alezidze [47, p. 153], this phase of the conflict, viewed from a dynamic point of view, includes several sub-stages that mark the escalation of hostilities.

The fifth phase of the territorial conflict is the stage of regulation, which includes a gradual reduction and decrease in the intensity of the conflict, the use of diplomatic means, the

search for mutual compromises, a reassessment and correction of national-state interests. This stage can be initiated under the influence of a third party.

In the book "Resolving Conflicts in the Law" [133, p. 95], the authors C. Giorgetti and N. Klein believe that without diminishing the significance of these stages, the following aspects are important for conflict resolution: the stage of escalation (increasing the intensity of conflicts); peak phase (launching and deploying the worst violence); decay phase (reducing confrontations before their elimination and accepting an armistice); the stage of conflict resolution (the fulfillment of the conditions of the armistice). Namely these moments of the conflict development are crucial for the intervention in the conflict resolution.

As it can be seen from the above mentioned, the development of the territorial conflicts is quite difficult to fit into a specific scheme. It is difficult to predict the complexity of the real development of such moments as the transition of the parties from cooperation to confrontation, the change in interests, goals and strategies during the conflict, the use of various combinations of peaceful or military means, the degree of involvement of other participants. In other words, the process of the development of a territorial conflict involves not a simple transition from one phase of the conflict to another, but complex dialectical relations in political sphere and of other nature between the parties in relation to objective and subjective contradictions, interests and goals pursued during the conflict.

Typology of armed conflicts. As mentioned above, one of the main features of territorial conflicts is the use of military potential and physical violence by the parties during the confrontation. The special impact of this category of conflicts has led to the formation of a separate branch of public international law - humanitarian law (the law of armed conflicts) [185, p. 322] in order to regulate the methods and means of conducting armed conflicts.

Based on the sources of humanitarian law, three types of armed conflicts can be distinguished: a) international armed conflicts between states governed by The Hague Conventions [87] and mentioned in Common Article 2 of the Fourth Geneva Conventions of 1949 [89; 90; 91; 92] and in Article 1 of Additional Protocol I of 1977 to the Geneva conventions [41, p.184-253]; b) wars of liberation from colonial domination, foreign occupation and wars against racist regimes stipulated in Article 1 (4) of Additional Protocol I of 1977; c) Non-international armed conflicts stipulated in Common Article 3 of the Fourth Geneva Conventions of 1949 and in article 1 of Protocol II from the Geneva Conventions. *From our point of view, these conflicts can be divided into two broad categories: international armed conflicts and non-international armed conflicts governed by international humanitarian law*.

An international armed conflict is an armed confrontation between various subjects of international law (states, coalitions of states, national liberation movements, etc.). As a legal

concept, international armed conflict is first mentioned in Common Article 2 of the 1949 Geneva Conventions, which states that it includes “all cases of declared war or any other armed conflict that may arise between two or more High Contracting Parties, even if the state of war is not recognized by aby party” (interstate conflict).

National liberation movements as a special category of international conflicts have acquired this quality after the Second World War. If earlier these conflicts were defined as internal, then, according to Additional Protocol No. 1 of 1977, armed conflicts in which peoples fight against colonial rule and foreign occupation and against racist regimes, exercising their right to self-determination, are international armed conflicts.

A non-international armed conflict (internal conflict) is an armed confrontation between anti-government armed forces and state armed forces (army, police, etc.) carried out on the territory of the state [107, p. 87]; or, in having as example another opinion [149, p. 119], it is armed resistance carried out within the territory of the state, between the government and organized armed rebel groups.

In conventional humanitarian law, an armed conflict without an international or domestic character is defined as an exception to an international armed conflict, in this way: “in the event of an armed conflict not of an international character and arising in the territory of one of the High Contracting Parties shall apply” (Common Article 3 of the Fourth Geneva Conventions of 1949). According to the same article, non-international or internal armed conflict includes civil wars, wars of religion, wars for political change and wars of secession.

The legal definition of a non-international armed conflict can be found in Article 1 of Additional Protocol II to the 1949 Geneva Conventions, according to which it is a conflict “occurring in the territory of a High Contracting Party between its armed forces and dissident armed forces or organized armed groups that, under the direction of the responsible command, exercise control over part of its territory.” The same Protocol provides (in Article 1 (2)) exceptions to the qualification of a situation as an internal armed conflict, namely: situations of internal tension and internal unrest, such as acts of public disorder, sporadic and isolated acts of violence, and other similar actions that do not represent armed conflicts.

After 1990, a new type of armed conflict appeared - the destructive conflict, which is an internal conflict, but of a special kind. The term “destructive conflict” has been used to refer to a situation of an armed conflict in which state structures have been severely damaged so that there are no longer any authorities to exercise power or provide minimal public services [56, p. 102]. In essence, destructive conflicts are characterized not by the purpose of the war, but by their form, by the absence or disintegration of the entire structure in the state (civil, social, military and religious). The most relevant example of a destructive of identity conflict is the conflict in

Rwanda in 1994 [163, p. 62]. In modern international relations, one can often witness the so-called internationalization of internal conflicts, that is, the transformation of internal conflicts into international ones.

Internationalized internal conflicts are a separate type of conflict that has arisen after World War II as evidence of the process of transformation of interstate relations into international relations. In modern studies, the term "internationalized armed conflict" means: military actions within the state, which acquire an international character; conflict between two internal groups, each of which is supported by different states; direct military actions between two states carrying out military intervention in an internal armed conflict to support the parties of the conflict; and conflict with foreign intervention in support of rebel groups fighting against the government [237, p. 48]. So, this category includes those conflicts that are initially internal in nature, but due to the support of the rebel forces provided by other states and / or due to the direct intervention of another state or states, they acquire an international character.

The most relevant examples of internationalized conflicts are the conflicts unleashed in the Black Sea region (in Transnistria, Nagorno-Karabakh, South Ossetia and Abkhazia) after the collapse of the USSR, which can also be called civil-international conflicts, thereby emphasizing the external influence at the beginning and their widespread consequences and implications for the international system [300, p. 82]. The conflict that arose as a result of NATO intervention in the armed conflict between the Federal Republic of Yugoslavia and the Kosovo Liberation Army in 1999 can also be included in this category.

By their essence, internationalized conflicts turn out to be particularly complex, requiring a difficult qualification. If it is a direct armed intervention of the third state, the qualification depends on the party in favor of which the third state intervenes.

If the military actions are conducted at the request of the host government in order to support it in the fight against one or more non-state armed groups, the conflict remains internal. This qualification is logical, since in this situation there is no armed confrontation between two or more states, which is a requirement for qualifying the conflict as international law. On the contrary, the qualification becomes more difficult when the armed intervention of a third state is carried out in favor of non-state actors and against the state government.

In such a situation, a minority of the doctrine argues that such a conflict is international [288, p. 98]. However, the majority is of the opinion that such a conflict is divided into various conflict relations. Thus, hostilities between the government forces of a territorial state and an armed group in opposition still qualify as an internal armed conflict, while hostilities between the same government forces and the forces of a third state constitute an international armed conflict. This complex qualification is also considered logical considering the definitions of international

and internal armed conflict, but in such cases the applicable law may vary depending on the forces involved in the same armed conflict.

The intervention of a third state in favor of an armed opposition group can also be indirect, under the economic, financial, strategic forms and etc. For this reason, an armed conflict can be characterized as international, since the armed group enjoys this support and can be compared to the de facto organ of a third state.

Based on the conceptual-theoretical framework study, we systematized different visions and scientific approaches of the territorial conflict, of the armed conflict and of the ways of solving the territorial conflicts. The analysis of the concepts referring to the territorial conflict denotes the dualistic, controversial aspect, as well as the emotionally negative connotation of this phenomenon.

1.3. Regulations of international law in the field of territorial conflict resolution

The process of creating and applying the norms of public international law is marked by the mandatory participation of states as primary subjects endowed with universal legal personality. Under the fundamental principle of pacta sunt servanda, states agree to abide by the same rules.

In the foreground, we understand that, by its universal character and purpose, the United Nations is the most important international organization that has developed the fragile system created by the League of Nations in the interwar period. The organization has been created to establish a new world order, both in terms of ensuring peace and eliminating power in international relations, and in terms of economic, social, cultural and humanitarian development.

The first attempt to create a common and permanent intergovernmental organization is the League of Nations, whose Covenant, the Covenant of the League of Nations, has been drafted and adopted at the Versailles Peace Conference on June 28, 1919 [213], the first part of the signed treaties has been signed by the winners with Germany, Austria, Turkey and Hungary.

The Covenant of the League of Nations is based on two important provisions, on the one hand, the commitment of non-aggression and mutual assistance and, on the other hand, the freedom to resort to war only after the exhaustion of peaceful means of settling international disputes.

The principle of collective security, enshrined in the Covenant of the League of Nations, is, in comparison with other previously known security systems such as the balance of power, military-political alliances, etc., an important progress in the idea of establishing peace and limiting the use of military force [117, p. 64]. According to the Covenant, collective security has

two functions: to prevent or suppress, through joint action, based on previous commitments, any aggression against associated states and to encourage the peaceful regulation of disputes.

In accordance with the Covenant of the League of Nations, the member states have undertaken certain obligations not to resort to war, i.e., if a dispute arises between them, they will refer it to arbitration or court proceedings or the Council. The Covenant also created a new means of resolving disputes - *international justice* (article 14). At the same time, the Covenant has made a legal separation between legal and illegal wars and has proclaimed the principle that a war between two states affects the entire international community, represented by the League of Nations, and ceases to be a private problem of the belligerent states.

Articles 10 and 12 of the Covenant prohibit the war of aggression with the aim of territorial change or obtaining political advantages, and provide the measures that could be taken against the state which, in violation of these provisions, resort to war contrary to its commitments: breaking immediate cessation of any relations with the State concerned, the cessation of all forms of communication, financial relations, etc., and ultimately - the armed intervention of the Member States to repel the aggression. Detailing these principles, however, the Covenant contained rather cumbersome mechanisms, which has made the collective intervention difficult in some concrete cases.

According to the Covenant, war is considered illegal in four cases: when the state declares war on the basis of arbitration, an unanimous report of the Council or a decision of the General Meeting of the Society after a three-month moratorium; when the Council or the Assembly failed to take an unanimous decision by the required majority on the situation presented to it; when the state considers the dispute to be its own internal affair and the Council confirms this; if a state that is not a member of the Society has been involved in a conflict that have not accepted the preliminary procedures provided for in the Covenant, the “classical” right to resort to war is applied to states that are not members of the Society.

Thus, it can be seen that, although war has been prohibited in principle, the detailed provisions have been only procedural, limited and subject to the preconditions under which the peace procedures have been mandatory, which is still a huge step forward from the previous situation.

Considering that for a long time the trend of international law has been to outlaw the war of aggression, we consider that the Covenant of the League of Nations has taken an important step in this direction, so that the participating States assumed certain obligations, including those not resorting to war. The Briand-Kellogg Pact of August 27, 1928 [60] has been an addition to the Covenant of the League of Nations.

The Paris Treaties of 1919-1920 played an important role in shaping the norms of international law on the regulation of territorial disputes. The Paris Treaties marked the dismemberment of the Habsburg Empire and the emergence of new independent states within the international community [154, p. 42]. Through the Paris Treaties, a universal organization was created with the aim of maintaining peace, restricting the use of war, and respecting international law [47, p. 72]. The outbreak of World War II has marked the final fall of the Versailles system.

The Geneva conferences of 1925 and 1929 have made a significant contribution by adopting in 1925 the *Protocol prohibiting the use of asphyxiant, toxic or similar gases in war and bacteriological (biological) weapons* [219], and in 1929 a new codification has been introduced to improve the fate of the wounded and sick in marching armies.

The *Eastern Security Pact* of 1925 in Locarno has developed the institution of collective security, the goal of which is to create a system for preventing aggression and repelling it through cooperation with other states.

In order to strengthen common security and peace, it is necessary to define aggression as clearly as possible, given that states have the right to independence and security, to the protection and inviolability of their territories and to the development of their own institutions [117, p. 95]. The definition of aggression has been formed through the Convention for the Definition of Aggression, concluded on July 5, 1933 in London between the USSR and other states [88], among which we can mention Romania (other participating states were Afghanistan, Estonia, Latvia, Persia, Poland, Turkey) in Conference on Disarmament and has entered into force on February 17, 1934. This document is of historical importance as it is based on the Briand-Kellogg pact, which prohibits any aggression. The document actually unites three agreements, which are generally called "Convention for the Definition of Aggression." The first convention has been signed in the form of a regional non-aggression pact on July 3, 1933 by representatives of Romania, Estonia, Latvia, Poland, Turkey, Iran, Afghanistan and the USSR. The second convention has been signed on July 4, 1933 in the form of a general non-aggression pact with the same content of the Little Understanding or the Little Entente (a defensive political organization, an alliance between Czechoslovakia, the Kingdom of Yugoslavia and the Kingdom of Romania), Turkey and the USSR, and the third convention has been signed on July 5, 1933 years between the USSR and Lithuania.

In the light of the Convention Defining Aggression, concluded in London on July 5, 1933, an act of aggression is considered: „declaration of war upon another State; invasion by its armed forces, with or without a declaration of war, of the territory of another State; attack by its land, naval or air forces, with or without a declaration of war, on the territory, vessels or aircraft of another State; naval blockade of the coasts or ports of another State; provision of support to

armed bands formed in its territory which have invaded the territory of another State, or refusal, notwithstanding the request of the invaded State, to take, in its own territory, all the measures in its power to deprive those bands of all assistance or protection.

We understand that all the catastrophic consequences of the two world wars have imposed on states an unanimous opinion about the war, namely its final exclusion from the life of the international community. As a result, the first step towards achieving this goal has been the prohibition of the use of force and the threat of force, a principle enshrined in paragraph (4) of Article 2 of the UN Charter.

The most fruitful period in terms of the creation of new international organizations is considered to be the period immediately after the Second World War, when the United Nations and 17 other specialized UN agencies have been created (for example: Universal Postal Union (UPU), International Civil Aviation Organization (ICAO), International Labor Organization (ILO), World Health Organization (WHO) or financial and banking institutions: International Monetary Fund (IMF), International Bank for Reconstruction and Development (IBRD), cultural and scientific organizations: United Nations Educational, Scientific and Cultural Organization (UNESCO) and etc.).

At present, the United Nations is the most important international organization that developed the system formed in the interwar period by the League of Nations. The United Nations is guided by a number of principles, such as: sovereign equality between all UN member states, the principle of good faith in fulfilling its obligations, non-use of force or threat of use of the force, non-interference in the internal affairs of other states, all these principles are adopted taking into account the coercive measures that can be taken by the UN in the event of a threat to international peace and security. The Charter is a dynamic document, the practice of which is constantly being improved. Of course, the major changes made in 1945, from the adoption of this document, have greatly influenced how the UN Charter is applied now.

A picularity of the post-World War II period is the creation of regional bodies of political and military cooperation (for example, the North Atlantic Alliance). The international community, at that time, has pursued the goal of strengthening solidarity between states, constant consultations and coordination of their actions to maintain international peace and security in accordance with the principles enshrined in the UN Charter.

Significant progress has been made in the codification of international law under the auspices of the United Nations. The organization seeks to initiate studies and make recommendations to the General Assembly with a view to promoting the progressive development and codification of international law (article 16 of the Charter). Thus, the *International Law Commission* [229] has been established by Resolution No. 174 of 1947 as a

subsidiary organ of the General Assembly with the aim of formulating and systematizing international law in areas where there is significant jurisprudence, precedent or doctrinal opinion.

The Organization for Security and Cooperation in Europe (OSCE), the international security organization, has played a key role in shaping international regulation on territorial dispute resolution. The organization was established in 1973 as the Conference on Security and Co-operation in Europe (CSCE). The OSCE is currently focusing on conflict prevention, crisis management and post-conflict reconstruction. It is made up of 57 participating countries from Europe, the Caucasus, Central Asia and North America, covering the northern hemisphere "from Vancouver to Vladivostok".

The OSCE Mission to Georgia was established in November 1992 with headquarters in Tbilisi. The mandate of the mission expired on 31 December 2008 [210]. In the Republic of Moldova, the OSCE mission was established in October 1993, with the aim of facilitating the regulation of the Transnistrian conflict. The mission is mandated to collect information on the military situation in the Transnistrian region, to coordinate financial and technical assistance to facilitate the withdrawal and destruction of weapons and ammunition [211]. The mandate of the OSCE Mission to the Republic of Moldova is renewed annually by all 57 OSCE participating States, including the Republic of Moldova.

An important component of international law is the definition and clarification of *responsibility* for those actions that may threaten international peace and security, create and maintain an atmosphere of war, resort to tension conducive to the use of force or threat of the use of force, and generate conflict and military confrontation. Responsibility for such actions must be clearly stated in the system of international law, so that its *preventive* functions are successfully performed and the peace and security of peoples are fully guaranteed.

Scientific researches over the years have shown that the responsibility for the aggression must be embodied in specific sanctions established by the norms of international law. These sanctions must include the obligation of the aggressor state to bear the consequences of its illegal actions in various forms, which can range from covering up material damage to the most severe sanctions permitted by international law.

Research conducted over the years has shown the need for responsibility for the war of aggression to be embodied in precise sanctions enshrined in the rules of international law. This responsibility refers to the obligation of the aggressor State to bear, in various forms, the consequences of its wrongful acts [236, p. 141], which can range from compensation for material damage to the severest sanctions permitted by international law.

A decisive role in this regard has been played by the adoption by the International Law Commission in 2001 of the Draft Articles on responsibility of states for illegal international acts

(the so-called Draft Articles), a draft annexed to UN General Assembly resolution 56/83 [226], although the work of the codification process itself has begun in 1955. It has taken about 46 years to develop this draft, with an impressive number of governments participating in the process opposing the articles prepared by the Commission. This document is the result of long-term work, during which a number of basic provisions of international liability law as one of the main branches of international law, including the formulation of its principles and norms, have been developed.

The International Law Commission has developed outstanding projects in areas such as recognition of states and governments, jurisdictional immunities of states and their properties, jurisdiction over crimes committed outside the national territory, succession of states and governments, treatment of aliens, right to asylum, law of treaties, regime of territorial waters, regime of open sea, diplomatic relations and immunities. The efforts of this commission, as well as of other commissions of the General Assembly, that have been created subsequently, have been seen in the elaboration and conclusion of many conventions codifying international law in various fields, such as: diplomatic relations (*Vienna Convention of 1961*); consular relations (*Vienna Convention of 1963*); international treaties (*Vienna Convention of 1969*); the law of the sea (4 *Geneva Conventions of 1958* followed by the *Montego Bay Convention of 1982*).

It is appreciated that the *1969 Vienna Convention on the Law of Treaties* [281] represent a reference document for the study of the topic "Norms of international law in the field of regulation of territorial dispute". It has been adopted on May 23, 1969 at the UN Conference on the Law of Treaties with the participation of 110 states and has entered into force on January 27, 1980. The importance of this international document lies in the fact that it represents a major step in the process of codifying the norms of international law governing the conclusion of treaties, conventions or other agreements between states and their entry into force (Part II of the Convention), in which the treaties and agreements are interpreted, applied and complied with (Part III of the Convention), rules concerning the amendment, suspension and termination of treaties, defects of consent (Articles 48, 49, 50, 51 and 52), and nullity of the treaties (Part V of the Convention).

There should be mentioned the fact that the Vienna Convention codifies the notion of imperative norm (*jus cogens*) and reaffirms the fundamental principle of public international law *pacta sunt servanda*, i.e. the principle of good faith observance of a lawful treaty (art. 26), the principle of free consent and the principle of non-retroactivity of the treaty (art. 29). The Convention also reaffirms the principles of international law embodied in the UN Charter such as: the principle of equal rights of peoples and their right to decide their own destiny, the principle of sovereign equality of states, the principle of non-interference in the internal affairs of

states, the principle of prohibition of threat with force or the use of force and the universal principle of human rights and fundamental freedoms for all.

The 1969 Vienna Convention has been followed by the United Nations Convention on the Law of Treaties concluded between States and international organizations, as well as between international organizations in 1986. In addition to these two conventions, the *Convention on the Succession of States in Respect to Treaties* [95] has been adopted that represents a contribution to the process of codification of international legal norms through international conventions. This convention has been adopted on 23 August 1978 by the Plenipotentiary Conference on the Succession of Treaty States, held in Vienna at two sessions, respectively, in 1977 and 1978, and entered into force on 6 November 1996.

It should be noted that despite the persistent efforts of states to comply with the norms and principles of international law (to maintain peace and security throughout the world), unfortunately, some local and regional conflicts have continued to disrupt the pacifist climate. We believe that the most recent example is the conflict in Ukraine, where the faith of the population has turned into a bloody conflict. In terms of international law, differences between different situations and regions require constant adaptation of working methods and cooperation. For this reason, we believe that respect for human rights must be reaffirmed in a variety of international legal documents adopted by the UN and regional organizations.

In 1949, the Council of Europe was created, with ten member states as its founding members, thus taking the first step towards realizing the idea of a united Europe. Its first legal achievement was the adoption of the European Convention on Human Rights in Rome on November 4, 1950.

We consider that another important document in the study of the subject of research is *the Declaration on the Principles of International Law on Friendly Relations and Cooperation between States*. The declaration was adopted by UN General Assembly Resolution No. 2625 (XXV) on 24 October 1970 at the XXVth (1970) jubilee session of the United Nations General Assembly. By adopting this document, a reference point was formed in the development of public international law, and in particular in the regulation of relations between states in terms of resolving territorial conflicts. We consider that another important document in the study of the subject of research is *the Declaration on the Principles of International Law on Friendly Relations and Cooperation between States*. The declaration was adopted by UN General Assembly Resolution No. 2625 (XXV) on 24 October 1970 at the XXVth (1970) jubilee session of the United Nations General Assembly. By adopting this document, a reference point was formed in the development of public international law, and in particular in the regulation of relations between states in terms of resolving territorial conflicts.

The correlation between territorial disputes and international criminal jurisdiction. Further, we consider it necessary to highlight the link between territorial disputes and international criminal jurisdiction. It should be noted that international law includes, since the nineteenth century, rules agreed upon by two or more states that have been intended to prosecute and punish certain acts that they consider to be crimes committed in territories under their jurisdiction or in areas outside their jurisdiction by any state (such as the high seas), for example, piracy, transportation of slaves, women and children trafficking, drug trafficking and others.

In the twentieth century, such norms have expanded including acts of genocide, terrorist attacks against civil aviation, maritime traffic, against internationally protected persons. This is what is called international criminal law; we are not under international jurisdiction, but under the rules by which states agree to treat certain acts as crimes and inflict punishment within their domestic jurisdiction.

Recognition of the idea of international criminal justice has come a long and difficult way, as many obstacles have arisen to the establishment of *ad hoc* tribunals and, in particular, to the establishment of the International Criminal Court. Predicted by some specialists, the idea of an international criminal court as a permanent institution with general competence, although on the UN agenda since 1953, could only be realized after 45 years, due to obstacles that have been more related to the political will rather than challenging the idea of an international criminal justice system.

After the Second World War, the idea of creating an International Criminal Court, with the exception of special experience, by creating at that time *ad hoc* tribunals (Nuremberg and Tokyo), never has left the project stage. In 1948, the *Convention on the Prevention and Punishment of the Crime of Genocide* [93] has stipulated that those responsible for this serious crime must be brought before an international criminal court. In the same year, the UN General Assembly has called on the International Law Commission to study the possibility and feasibility of creating such institutions.

On July 17, 1998, the Statute of the International Criminal Court has been adopted by the Diplomatic Conference of Plenipotentiaries in Rome and has entered into force on July 1, 2002. The aim of the negotiations has been to create a balanced and modern text to harmonize legal requirements of the various existing legal systems around the world and the establishment of an international criminal court, which, by exercising jurisdiction over those responsible for serious crimes, should supplement the system of instruments available to the United Nations to maintain peace and security around the world.

We want to emphasize that the international justice and the mechanisms that set it in motion composed of courts and arbitration are a very important way of applying international

law, influencing the creation and development of international law, and for achieving and strengthening international public order [117, p. 104]. In this sense, the most important international court with general jurisdiction is the International Court of Justice, which is one of the 6 main bodies of the United Nations, along with the General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council and the Secretariat.

There should be noted the fact that, from the terminological point of view, *international jurisdiction* is understood as an arbitration or judicial body created by agreement between states or other subjects of international law to resolve international disputes that have arisen or may arise [237, p. 117]. The role of international courts, among others is the following: resolution of international disputes, interpretation of international law, application of existing international law, determination of applicable international law and new rules of customary law, influence on the process of creating international law, fulfillment of the function of international law regulating international relations.

The most important role in the regulation of territorial conflicts is played by the UN Charter [264]. The Charter is a treaty establishing the United Nations, signed at the United Nations Conference on International Organization in San Francisco, USA, on June 26, 1945. The signatory members of the UN Charter declare that the obligations of the United Nations prevail over all other obligations of other treaties. Most countries in the world have ratified the UN Charter. A notable exception is the Holy See, which has chosen to remain a permanent observer and therefore did not sign the Charter.

Regulation on international armed conflicts. The right of states to use armed force as a means of resolving disputes between them has had a slow but decisive evolution, from the admission of the right to war in the first historical epochs to the universal recognition of the right to peace.

The rules for international armed conflict have been developed as a result of balancing military needs with humanitarian interests. International law contains rules aimed at protecting individuals who do not directly participate in hostilities or have refused to do so, such as civilians, prisoners of war and other detainees, the wounded and sick, as well as limiting the means and methods of fighting, including tactics and weapons, in order to avoid unnecessary suffering and destruction.

All normative acts of international law that govern armed conflicts are generally recognized as customary law. We emphasize that the rules of customary international law apply to both international and domestic armed conflicts, but again there are differences between the two regimes.

It should also be noted that treaties and conventions under the international humanitarian law do not contain a definition of armed conflict. This lack is easy to explain since the elaboration of The Hague or Geneva Law has not required the development of a definition that would limit the application of international humanitarian law. Consequently, in international jurisprudence, it becomes necessary to propose a definition of an armed conflict. This has been provided by the Appeals Chamber of the International Tribunal for the Former Yugoslavia in the Tadič case [218], which considers that armed conflict means any use of armed force between states or armed violence between government authorities and organized armed groups or between such groups in the state. International humanitarian law applies from the outbreak of such an armed conflict and extends after the cessation of hostilities until the conclusion of peace or, in the case of internal armed conflicts, a peaceful regulation of the conflict is achieved.

Important moments in the process of international regulation of territorial conflicts are the Peace Conferences of 1899 and 1907. The first consolidation of the principle of the peaceful regulation of international disputes in international law documents are reflected in *The Hague Conventions* of 1899 and 1907, which systematize and improve diplomatic procedures, the recognition of arbitration in the category of peaceful means and the institutionalization of international jurisdiction have been successful.

Thus, at the Hague Conference of 1899, the *Convention on the Regulation of International Disputes* [86] has been adopted and the Permanent Court of Arbitration has been established in The Hague. Article 1 of the Convention stated: "to prevent, as far as possible, the use of force in relations between states, the Signatory Powers agree to make every effort to ensure the peaceful regulation of international disputes" and Art. 2 of the Convention states that "the Signatories have agreed that in the event of a serious confrontation or misunderstanding, before resorting to arms, they may, as circumstances permit, resort to the good offices or mediation of one or more signatories". *We believe that since the provisions of the Convention do not oblige states to bring their policies in line with the text of the document, we can conclude that it is purely declarative in nature*.

The Second Hague Peace Conference of 1907, with a broader codification of the means for the peaceful regulation of disputes between states, has adopted the *Convention on the Peaceful Regulation of International Disputes* [87] which contained more detailed provisions on good offices and mediation (Articles 2-8), International Commissions of Inquiry (Articles 9 -36), international arbitration, including the arbitration procedure (Articles 37-90), and at the same time created conditions for the creation of a new means of peaceful regulation - international reconciliation. *Despite this fact, the Convention also has not provided for an obligation to*

resolve international disputes by peaceful means, but only recommended the use of peaceful means, so that resorting to peaceful means and to any of their means was unnecessary.

In other words, the Conventions of 1899 and 1907 have not raised the issue of prohibiting war as the means of resolving disputes. Among the merits of the two conventions, there is the fact that they have codified some of the rules of war, such as those relating to the armed forces, the theater of war, the means of waging war, including the prohibition of weapons and methods of combat, military occupation, and those on persons protected in armed conflict, which are still applied today (with some modifications).

As already mentioned, the international law relating to armed conflict is traditional in nature and, in accordance with the provisions of Article 38 (1) (b) of the Statute of the International Court of Justice, international custom "as evidence of general practice" recognized by law is the source of the international law. Moreover, the international humanitarian law has established a surrogate principle, also known as *The Martens Clause*.

The Martens Clause has been first provided for in the preamble to the Fourth Hague Convention of 1907 on the Laws and Customs of War on War, and has been later found in Article 1 (2) of Protocol I to the Geneva Conventions. *The Martens Clause* states that in cases not provided for by international treaties, "civilians and combatants remain under the protection and authority of the principles of international law, as evidenced by established customs, principles of humanity and the requirements of public conscience." Consequently, customary law coexists with customary law in international humanitarian law, both of which are of equal importance in terms of knowledge and observance.

No state can invoke the absence of the status of a state party to a treaty, the object of which are the rules of international humanitarian law, in case when they are violated in the course of its armed operations, since the customary rules regarding international and non-international armed conflicts are opposite regardless of whether it is a party to such an agreement.

1.4. Development of the research problem and solutions

The norms of international law on the regulation of territorial disputes are constantly being improved. Due to the fact that the object of scientific research of this study is specific, the evolution of social relations in this area determines the need for constant adaptation. Thus, the views and concepts of international law on the regulation of territorial conflicts: the case of the Republic of Moldova and Georgia must be reformulated in accordance with new social, economic and regulatory trends in this area.

The realization of the theoretical study contributes to the solution of the main ***research problem***, namely: the need to strengthen the regulatory framework in the field of international law in the context of the regulation of territorial conflicts, on the example of territorial conflicts in the Republic of Moldova and Georgia.

To solve the problem of the scientific research, an in-depth analysis of the provisions on territorial conflicts, especially in the Republic of Moldova and Georgia, has been carried out, which has had the effect of formulating a scientific basis for international law relations in this research segment in order to improve the regulatory framework and the correct application of legislation by states. The findings and recommendations of this document serve to support the optimization of the regulatory framework in the area of interest.

The need to adapt and update the research problem outlined above has contributed to the formation and completion of the ***purpose*** of this article, namely: an integrated approach to international law in the context of territorial conflicts in the Republic of Moldova and Georgia from the point of view of national legislation and doctrinal opinions.

Solving the research problem will make it possible to clearly define the legal norms that will be applied to the regulation of international legal relations when resolving territorial conflicts, for example, in the Republic of Moldova and Georgia, especially in relation to: the causes of the emergence and evolution of territorial conflicts in the Commonwealth of Independent States, the strategies and tactics of resolving territorial conflicts with the help of international law, the territorial integrity of states, the application of international law in domestic law in the Republic of Moldova and Georgia, the effects of international treaties, the contribution of international security organizations and peacekeeping organizations to the resolution of territorial conflicts in the Republic of Moldova and Georgia, the peacekeeping operations as a factor of the regulation of territorial conflicts in the Republic of Moldova and Georgia, the peculiarities of the application of international law in the context of the territorial conflict from Transnistria, the peculiarities of the application of international law in the context of the territorial conflict in Abkhazia and South Ossetia, the role of the jurisprudence of the European Court of Human Rights in resolving cases concerning the separatist regimes in the Republic of Moldova and Georgia.

The main focus of the research for obtaining the doctoral degree is the regulation of international law relations in resolving territorial conflicts in the Republic of Moldova and Georgia.

The identification and configuration of the circumstances that have been the basis of the research has helped us to elucidate from a scientific point of view the general concept, structure and forms of manifestation of territorial conflict, as well as the aspects of applicable international

law in the field of territorial conflict resolution of theoretical-practical optimization of legislation in the field.

To develop the main direction of the research, as well as to solve advanced scientific problems, the article has been structured in accordance with the research priorities, such as: the specific emergence and development of territorial conflicts in the Republic of Moldova and Georgia (Chapter 2), the symbiosis of cooperation between states and international organizations, the regulation of territorial disputes in the Republic of Moldova and Georgia (Chapter 3) and the process of applying by the Republic of Moldova and Georgia the norms of international law in resolving territorial disputes (Chapter 4).

The creation of the research area is determined by the fact that legislation of the of international law on the regulation of territorial conflicts, including the legislation of the Republic of Moldova and Georgia, should be the subject of scientific research and should be compared with the doctrinal opinions expressed in this segment of the research.

The study of the regulatory framework for the regulation of international legal relations in the resolution of the territorial conflicts in the Republic of Moldova and Georgia as a research area is an important step in the development of the field of public international law having a strong impact on improving the regulatory framework in this area.

In the Republic of Moldova, the research of international legal relations in resolving the territorial conflicts is a novelty, despite the fact that there are normative acts and specialized literature that can serve as a scientific-practical basis for the development of this research area.

The importance of the research direction in the formation of the theoretical basis of the legal education system in the Republic of Moldova and Georgia is undeniable. Thus, an opportunity has been created to study a wide category of doctrinal sources and legal norms in the field of regulation of international legal relations in resolving territorial conflicts, regulatory gaps have been identified, ideas and solutions proposed in the literature have been analyzed. Such scientific research is timely and contributes to the progress of legal sciences in general.

In addition to the theoretical and scientific dimension of the issues in the field of regulation of international legal relations in the regulation of territorial disputes in the Republic of Moldova and Georgia, both states face real difficulties in applying the most appropriate measures in the domestic legal order. Thus, the scientific problem solved in this article contributes to the improvement of legislation in this area in order to apply it in practice.

On the basis of the studies carried out, it has been established that there are shortcomings and omissions of a theoretical and normative nature, as well as the absence of works on the topic under study. To eliminate these shortcomings, there are formulated the conclusions and recommendations aimed at improving the quality of the regulatory framework for regulating

international legal relations in resolving territorial conflicts. As a result, practical recommendations have been identified, the implementation of which can decisively affect the existence and strengthening of relations between states in terms of resolving territorial conflicts.

1.5. Conclusions to Chapter 1

Studying the issue of territorial conflicts in terms of the concept, structure and forms of manifestation in the contemporary world, we can draw the following important conclusions which mark our theoretical contribution to understanding this phenomenon:

1. This scientific approach will constitute a scientific basis for a complete and objective presentation, for the first time, of the peculiarities of the creation and application by states of international law in the field of territorial conflicts through the development of legal instruments for assessing the contribution of states to the progressive development of international law and, consequently, to the strengthening of the international legal order, which allows theorists and practitioners to clarify the shortcomings in the international system, respectively, allows to promote concrete solutions to fill the gaps, ultimately contributing to the improvement and efficiency of international law.

2. By its essence, the territorial conflict presupposes a situation of maximum aggravation of contradictions in the sphere of national and / or international relations expressed in the behavior of the subjects in the form of active confrontations and clashes (armed or unarmed).

3. Territorial conflicts are currently not only a form of confrontation between different subjects, but also serve as the means of grading international relations, the means of coercion and sanctions against subjects that do not comply with the international legal framework. It remains to be seen to what extent this, in turn, corresponds to the norms of modern international law and is within their limits.

4. The complex process of forming the norms of international law in the field of resolving territorial conflicts is characterized by significant participation of states. Going beyond the scope of this research, we consider it necessary to mention that the process of creating norms of international public law in the field of resolving territorial conflicts is not limited to the conclusion of treaties by states and the recognition of generally accepted practice. Today, the role of international organizations in the process of international “legislation” is strengthened.

5. Despite the fact that states make a significant contribution to the process of creating and enforcing normative acts on the regulation of territorial disputes, there are too few scientific works in the doctrine of the Republic of Moldova and Georgia, as well as in the regional doctrine, defining the role of states by individualizing their contribution in the formation of the customs, the conclusion of bilateral and multilateral agreements.

In turn, the international regulatory framework in terms of the creation and application by states of the norms of public international law, which has been developed mainly until the middle of the twentieth century, requires adaptation to the context of the new realities marked by an active presence of many state formations that are not recognized by the international community.

6. To identify the specifics of resolving a territorial conflict, it is necessary to identify the dynamics of the conflict, to concretize the phases that remain in its development, which will make it possible to assess the danger of escalating the conflict and, finally, to develop tactics and strategy for controlling this process and prevention of an extreme aggravation of the situation, the occurrence of irreparable consequences both for the parties to the conflict and for other subjects of international law.

7. A key moment in the dynamics of a territorial conflict is an act of aggression, which not only marks a significant aggravation of the conflict, but also has a pronounced legal character, in fact, presupposes a serious violation of the international norms and principles. In the modern period, an act of aggression can cause a sharp reaction from the international community, which especially affects the process of managing and resolving territorial conflicts.

2. SPECIFIC OF THE APPEARANCE AND EVOLUTION OF TERRITORIAL CONFLICTS IN THE REPUBLIC OF MOLDOVA AND GEORGIA

The Republic of Moldova and Georgia are derivatives of the former Soviet republics, caught in a seemingly endless territorial conflict; the states where such factors as inter-ethnic tensions, Russian troops, Soviet-era weapons depots, smuggling, money laundering and corruption are present. While the historical perspective is important in any policy discussion in Moldova, the origins of the territorial conflict in these two states can be found in more recent events. Although some see the roots of the conflict stretching back more than a century, the root causes are found in the relatively recent policies of the transition from the USSR to the post-Soviet era. Chapter two of the thesis makes a thorough analysis of the causes of the emergence and evolution of territorial conflicts in Georgia and the Republic of Moldova, addresses strategies and tactics for resolving them and analyzes the legal and geopolitical dimensions of territorial integrity.

2.1. Causes for emerging and evolution of territorial conflicts within the Commonwealth of Independent States: the case of the Republic of Moldova and Georgia

Taken as a whole, the phenomenon of separatism was determined by the process of the USSR dissolution. The disintegration of the USSR and the emergence on its territory of 15 new independent states created for Russia an absolutely new geopolitical and geostrategic situation. Thus, Russia found itself "pushed into the depths of Eurasia", a fact perceived as inadmissible for the country that for centuries played a major role both in international and European politics.

The borders of Russia are now restricted to what they were at the beginning of the 19th century in the Caucasus, in the middle of the same century, in Central Asia, and what was around in 1600 to the West, immediately after the reign of Ivan the Great. At the same time, the Russian Federation aspires to regain the status of superpower. The Russian influence is currently growing in three directions - towards Central Asia, the Caucasus and the West, respectively to the Baltic States and Eastern Europe.

According to the researcher E. Pain, until 2020 the priority for Russian strategy will be the reconstruction of the Russian state and the reimposition of Russian power on the international arena [214, p. 14]. In order to achieve its goal, Russia uses in its relations with the former Union republics various pressures of political, economic and military character. From this perspective, the Republic of Moldova, Georgia, Ukraine, Armenia are the key to the most sensitive regions for Russia's security aspirations. Thus, the Russian Federation puts pressure on its borders for geostrategic, geopolitical and geoeconomy reasons [192, p. 23].

On the other hand, the interest of the US, NATO and the EU for the Republic of Moldova, Georgia, Ukraine and other post-Soviet states resides in the fact that they serve as a tool to constrain and stop Russia's interests and influence. The intention of the European Union to integrate into its sphere of influence the Republic of Moldova is determined, first of all, by the formation of a stable economic and political area, which would ensure the stability at the EU's eastern borders. Adherence to the European and Euro-Atlantic structures of Georgia and Ukraine would mean reducing the influence of the Russian Federation in the area and, respectively, extending the influence of the EU and NATO (which is already not accepted by the Russian Federation) in the East-European and South-Caucasian areas.

The collapse of the USSR was accompanied by a series of ethnical and ideological local armed conflicts. These consequences stem from historical facts (in particular, the national policy of the USSR) and the gradual disintegration of the political, social and economic spheres [195, p. 55]. Among the many conflicts of that time, those in Chechnya, Transnistria, South Ossetia, Abkhazia, Nagorno-Karabakh and Tajikistan reached the largest dimensions and had the deepest impact over the changes made to the initial situation [305, p. 133].

Each of the conflicts has its own unique characteristics that make it different from the others, and there are quite significant differences between the situations present in the individual conflict zones. Despite these differences, there is a striking similarity between the origins and development of conflicts (starting from the "hot" phase to the normalization and stabilization of the process), the positions they occupy in the regional policy, as well as their short and long term consequences for the affected areas and their surroundings. In connection with this, the doctrine affirmed that the Russian Federation took part in the creation of these conflicts and used them as tools in the fight for influence and control outside its borders [149, p. 102].

The causes and nature of the Transnistrian conflict. The study of the Transnistrian conflict in the context of approach to the problem of solving contemporary international conflicts is necessary for several reasons. First of all, this is a relevant example of internal conflict that due to the intervention of the third party has become an internationalized conflict, the intervention being as pronounced (in the course of armed struggles and in the negotiation process), as tolerated and even neglected by the international community [121, p. 52]. Secondly, under the pretext of mediating the negotiation process, the third party contributes substantially to the perpetuation of the conflictual state (being its main generator). Thirdly, the Transnistrian conflict emphasizes how powerful states circumvent modern international law in pursuit of their own interests (by registering serious violations of international principles, such as non-interference in the internal affairs of states, sovereign equality of states, non-aggression principle, principles of negotiations, etc.) [125, p. 89]. These and other points emphasize the

relevance of the Transnistrian conflict in highlighting the political and legal problems of the process of resolving contemporary international conflicts.

Historically, the Transnistrian conflict has its origins in the phenomenon of separation. Thus, on September 2, 1990, in the city of Tiraspol, the so-called II extraordinary congress of the deputies of the Soviets of different levels from the Dniester localities was held, during which the Pridnestrovian Soviet Socialist Republic was proclaimed. The Congress chose the provisional Supreme Soviet of the Pridnestrovian Soviet Socialist Republic of Moldova in charge with President Igor Smirnov and decided that a portion of territory on the left bank of the Dniester River together with the city of Bender, the right bank and several other villages should be a part of the Soviet Socialist Republic of Dniester in the composition of the Soviet Union.

The anti-constitutional congress in Tiraspol took place despite the fact that its chairmen have been repeatedly accused by the Presidency of the Supreme Soviet of the Moldavian Soviet Socialist Republic that it has personal legal and political responsibility for the possible negative consequences in case of adopting unconstitutional decisions [53, p. 241].

As a matter of urgency, also on the same day of September 2, 1990, the Supreme Soviet of Moldavian S.S.R. headed by President Mircea Snegur adopted Decree no.247 "Regarding the extraordinary II congress of Soviet deputies of different levels from certain Dniester localities" [27].

On the basis of article 97 of the Constitution (Fundamental Law) M.S.S.R., the Supreme Soviet of the Soviet Socialist Republic of Moldova declared as an unconstitutional body the so-called Congress II of the deputies of the Soviets of different levels from certain Dniester localities which took place on September 2, 1990 in the city of Tiraspol. Also, the Supreme Soviet of M.S.S.R. has declared invalid all the taken decisions, regarding the proclamation of the Soviet Socialist Republic of Dniester and the formation of its supreme body, adopted at the so-called Congress II of the deputies of the Soviets of different levels from some Dniester localities. As a basis, it was indicated that the aforementioned decisions contradict articles I - 4, 57, 70, 71, 92, 97, 125, 127 of the Constitution (Fundamental Law) of the Moldovan S.S.R and cannot have legal effects.

By the same Decree no. 247 of 02.09.1990, the Supreme Soviet of the Moldovan S.S.R. warned all the leaders and deputies of the local Soviets, the deputies from the districts of Camenca, Dubasari, Grigoriopol, Ribnita and Slobozia, as well as from the cities of Bender, Dubasari, Ribnita, Tiraspol - participants of the Tiraspol Congress, that if the newly formed illegitimate bodies will try to perform their functions, Moldovan S.S.R. will have to apply criminal penalties, declare an exceptional status and introduce a special form of administration of the named territories.

In order to put an end to the conflict, the Supreme Soviet of the Moldovan S.S.R. asked the Government of the U.S.S.R. to take measures to withdraw from the territory of the Moldovan S.S.R. the regiment of the Ministry of Internal Affairs of the U.S.S.R. within 24 hours. At the same time, the Supreme Soviet of the Moldovan S.S.R has obliged the Ministry of Internal Affairs of the Moldovan S.S.R, the State Security Committee of the Moldovan S.S.R and the Moldovan S.S.R Prosecutor's Office to ensure on the territory of the regions and cities concerned the proper execution of the Moldovan S.S.R. legislation.

Without taking into account the Decree of the Supreme Soviet of the Moldovan S.S.R. no.247 from 02.09.1990, on August 25, 1991, the "The Transnistrian Republic" proclaims its complete independence renaming itself into the Dniester Moldovan Republic [311].

On August 27, 1991, the Parliament of the Republic of Moldova adopted the Declaration of Independence of the Republic of Moldova [30] which also included Transnistria. At that time, the Republic of Moldova did not have its own army, the Armed Forces of the Republic of Moldova was created by the Decree of the President of the Republic of Moldova no.193 of September 3, 1991. The Parliament of the Republic of Moldova has asked the USSR government to "start negotiations with the Government of the Republic of Moldova to terminate the illegal occupation of the territory of the Republic of Moldova and to withdraw Soviet military troops from the territory of the Republic of Moldova".

Following the Declaration of Independence of the Republic of Moldova, the Fourteenth Army of the military district of Odessa of the Ministry of Defense of the USSR ("Fourteenth Army"), whose headquarters has been situated in Chisinau since 1956, remained on the territory of the Republic of Moldova [21]. Since 1990, however, significant transfers of equipment have been reported: among other things, large quantities of equipment have started to be withdrawn from the territory of the Republic of Moldova.

During 1991, the Fourteenth Army consisted of several thousand soldiers, infantry, artillery units (especially equipped with an anti-aircraft system), armored vehicles and aviation (including aircrafts and combat helicopters) and had several ammunition depots, one of the largest European ammunition depots being located in Colbasna, in Transnistria.

Apart from the armament of the Fourteenth Army, the DOSAAF, “The Voluntary Association for the Assistance of the Army, Aviation and Fleet” (ДОСААФ – Добровольное общество содействия армии, авиации и флоту), located on the territory of the Republic of Moldova, which was a state organization, created in 1951, with the purpose of preparing the civilian population in case of war, had ammunition deposits too.

After the proclamation of the independence of the Republic of Moldova, the equipment of the DOSAAF located on the part of the territory controlled by the Government of Moldova

passed into its possession, and the rest of the goods, located in Transnistria, in the possession of the Transnistrian separatists.

On September 6, 1991, the so-called "Supreme Soviet of the Dniester Moldovan Republic" adopted an ordinance whereby it placed under the jurisdiction of the "Dniester Republic" all public institutions, enterprises, organizations, militia units, the prosecutor's office, judicial bodies, KGB units and other organs located in Transnistria, with the exception of military units of the Soviet Armed Forces. The officers, non-commissioned officers and other soldiers of the military units stationed in Transnistria were called "to demonstrate civic solidarity and to mobilize to defend the so-called" Dniester Republic" along with the workers, in the case of the invasion of the troops of the Republic of Moldova". Subsequently, on September 18, 1991, the "President of the Supreme Soviet of the Pridnestrovian Moldavian Soviet Socialist Republic" decided to place the units of the Soviet Armed Forces located in Transnistria under the jurisdiction of this "Republic".

The Russian Federation plays a major role in the development of Transnistria at different levels: political, military, economic, investment and energy. Thus, in March 1992, the separatists in Transnistria began to fight against the armed forces of the Republic of Moldova and the conflict ended with the ceasefire and the de facto independence of Transnistria in July of the same year. Transnistrian forces were well organized and armed, and they fought under responsible command [101, p. 33]. The 4th Army of the former USSR intervened in the conflict in its last stage supporting the separatists and remained in Transnistria ever since.

Although there were confrontations with violence between the separatist forces and the Moldovan police forces, it is only since March 2, 1992, after the attack on the police station in Dubasari, being under the control of the legitimate forces, it is allowed to talk about a series of hostilities, and namely to classify the situation as armed conflict.

According to the Canadian researchers M.Dembińska and F.Mérand, the Tiraspol enclave is considered by the Russian Federation to be a strategic stronghold near NATO and the Balkan region. It is a warehouse of arms trafficking (and other criminal activities) between this internationally unrecognized entity and other conflict regions, including the Balkans, the Middle East, and the Caucasus. Russia's support plays another role in parallel, but connected - it makes from the region a source of permanent instability and, therefore, it gives the Russian Federation a pretext to intervene through "mediation" in Moldovan affairs [106, p. 19].

In another opinion, expressed by the author N. Shevciuk, separatism in the eastern districts of the M.S.S.R. was provoked by the radical policy of the leadership of the People's Front of Moldova and was created at the order of the Union Center to keep the Soviet Socialist Republic of Moldova within the USSR and not to admit the union with Romania [251,

p. 106].The idea was adopted by N. Danilov, according to which the romanianism and the unionist wishes of certain leaders of the Republic of Moldova poured water at the mill of the separatists causing the conflict between the two banks of the Dniester [100, p. 24].

Also, in the East-European specialty literature, there is the opinion that the Pridnestrovian Moldavian Republic appeared as a result of the 1989 Transniestrian regional movement against the desovietisation, romanianization and political independence of the Moldovan people's front in the M.S.S.R. Respectively, separatism was a reaction to the exit of the M.S.S.R. from the U.S.S.R. and to the achievements of the new state of the Republic of Moldova in the plan of national rebirth [309, p. 272]. As the “Transnistrian conflict”, there were labeled events that took place between the summer of 1989 until March 2, 1992, and when the conflict escalated into a real war, it was also called “armed conflict of 1992” or “war on the Dniester” [347, p. 79].

According to the Russian and Transnistrian authors, the conflict in Transnistria was generated by the aggression of the Moldovan armed forces towards the Pridnestrovian Republic of Moldova. It is believed that the Republic of Moldova is guilty of escalating the armed conflict on the Dniester [252, p. 85]. Transnistrian forces were assisted by the 14th Army of the former USSR, as a result, Chisinau failed to take control over the cities of Bender and Dubasari [335, p. 37].

On July 21, 1992, the fighting ended with Moldova signing a ceasefire agreement (Agreement on the principles of peaceful regulation of the military conflict in the Transnistrian region of the Republic of Moldova [44]), which, paradoxically, was counter-signed by Russia and not by Transnistria. The agreement provided for the establishment of a peacekeeping force including the Moldovan, Russian and Transnistrian forces, the gradual withdrawal of the 14th Army and the establishment of a free economic zone in Bender. As a result of Russia's official intervention, Transnistria became effectively separated from the rest of Moldova, and the conflict turned into a "frozen" one. So far, Transnistria is not recognized by the international community.

Although there have been a number of initiatives that have tried to bring peace in Transnistria, they have failed, and Russian troops are still present in the region in a capacity of peacekeeping forces. Transnistria undertook an initiative to strengthen the statehood, while at the same time having no recognition as a state from the international community and little chance of obtaining such recognition. In the case of the withdrawal of Russian peacekeeping troops, a return to the conflict could be possible. Therefore, a conclusion can be drawn that a situation of armed conflict has existed and continues to exist in the Transnistrian region and that international humanitarian law should be applied.

The doctrine lists the causes that, according to the researchers, determined the leaders of the separatist movement in Transnistria to resist, including the military, to the legal authorities of

the Republic of Moldova. These causes are: territorial-statutory, geopolitical, cultural-linguistic, socio-economic, socio-ideological and ethno-demographic.

Thus, the main cause that determined the appearance and evolution of the conflict in Transnistria is the *territorial-statutory* cause. Most authors are of the opinion that the outbreak of the conflict between the leaders of the Transnistrian region and the constitutional authorities of the Republic of Moldova had the main objective the seizure of part of the territory of the Republic of Moldova, in order to create the preconditions for designating the status of the separatist formation as a quasi-independent state [131, p. 88].Another group of researchers emphasized that the emergence and evolution of the conflict in Transnistria is caused by geopolitical causes. These factors were manifested by the creation of a platform of political pressure in order to maintain the Republic of Moldova in the sphere of influence of the Russian Federation, in order to prevent the alleged union with Romania, to create for this purpose the Russian enclave at the Moldovan-Ukrainian border [283, p. 31].

The cultural-linguistic causes of the conflict in Transnistria were manifested by the dissatisfaction of the minority (Russian speakers) with the introduction of the Moldovan language as a state language and the need to adapt to the new situation, perceived subjectively as a loss of social status they were accustomed to [106].The socio-ideological causes of the emergence and evolution of the conflict consisted of the resistance of the Soviet-type nomenclature to the processes of democratization, as well as their attempts to maintain their status within the old system on the territory of the region [139, p. 19].The ethno-demographic causes were manifested by the tendency to mobilize and engage the labor groups from the large industrial enterprises of the left bank of the Dniester in the struggle against the legal authorities of the Republic of Moldova, that were formed, in general, as a result of the migration of the workforce from the slave republics of the USSR [205, p. 426]. Finally, the socio-economic causes were related to the redistribution of economic resources in the Transnistrian region.

The phenomenon of separatism in the Republic of Moldova is different from that of Georgia. The term *Transnistria* itself is more a political notion than geographical. In the specialized doctrine, the researcher *V. Ungureanu* asks the question of whether there would exist ethnic antagonisms between the right and left inhabitants of the Dniester. The same author concludes that some ethnic contradictions are missing and even if some voices promote the idea of contradictions, there is no argument in this regard [273, p. 119].The majority of the Russian-speaking population lives on the right side of the Dniester, which excludes from the beginning the issue of incompatibility of coexistence of ethnic minorities or violation of their rights. There is no religious divergence within the country, because both the inhabitants of the right bank of the Dniester River and those on the left bank are mostly Orthodox Christians.

To implement the reintegration policy of the Republic of Moldova, the Parliament of R.M. adopted the Decree no. 117-XVI of 10.06.2005 “On the initiative of Ukraine in the problem of the regulation of the Transnistrian conflict and on the measures for democratization and demilitarization of the Transnistrian area” [24]. In the nominated decree, the Moldovan legislator stipulated that for the uprooting of the mentioned abuses, a large and complex process of democratization of the monitoring area by the international community is required, which must include the following measures:

- the liquidation of the political police (of the so-called Ministry of State Security);
- the reform of the so-called legislative power in the Transnistrian area;
- the release of political prisoners from prisons in the Transnistrian area, in accordance with the decision of the European Court of Human Rights of July 8, 2004;
- the removal of obstacles for the free activity of political parties, non-governmental organizations and mass-media of the Republic of Moldova on the Transnistrian area;
- the conduction of elections of the Republic of Moldova in Transnistria under the exclusive aegis of an International Election Commission mandated by the OSCE;
- the exercise of the right to participate in the electoral process in the area only on the basis of the confirmation of citizenship of the Republic of Moldova.

Later, in accordance with the Parliament Decree no. 117-XVI of 10.06.2005, the Parliament of R.M. adopted Law no.173 of 22.07.2005 on the basic provisions of the special legal status of localities on the left bank of the Dniester (Transnistria) [32]. According to art. 3 paragraph (1) of the Law of the R.M. no. 173/2005, within the composition of the Republic of Moldova, the autonomous territorial unit with special legal status Transnistria was constituted. In art.4 of the Law of R.M. no. 173/2005 it was stipulated that Transnistria is an inalienable part of the Republic of Moldova and, within the limits of the powers established by the Constitution and other laws of the Republic of Moldova, it solves the problems in compliance with its competence. It was also mentioned that the supreme body of the legislative power in Transnistria is the Supreme Council, empowered with the right to adopt laws of local importance and other normative acts within the limits of its competence. The Supreme Council is elected on the basis of free, transparent and democratic elections. The preparation and conduction of elections in the Supreme Council of Transnistria would be done with the OSCE agreement, by the International Election Commission under the OSCE mandate, monitored by the Council of Europe and in accordance with the legislation of the Republic of Moldova.

A norm of major importance in the Law of R.M. no. 173/2005 provides that the fundamental law of Transnistria cannot contravene the Constitution of the Republic of Moldova. The courts, the prosecutor's offices, the Department of Information and Security and the

Department of Internal Affairs of Transnistria are part of the single system of courts and the unique system of law enforcement authorities of the Republic of Moldova and carry out their activity under the legislation of the Republic of Moldova (art.4 of the Law).

The official languages in Transnistria are the Moldovan language, based on the Latin spelling, the Ukrainian and Russian languages (art.7). Transnistria has the right to establish and maintain, in the manner provided by the legislation of the Republic of Moldova, external relations in the economic, technical, scientific and humanitarian fields (art.9). The adoption of the Law of the Republic of Moldova on the special legal status of Transnistria will be accompanied by the adoption of a system of internal guarantees that will be formed on the basis of the negotiation process (art.12 of the Law R.M. no.173/2005).

Methods and means of operation of the secessionists in the Republic of Moldova and Georgia.

One of the means of operation of the secessionists in the Republic of Moldova and Georgia is *misinformation*. The right to information is a fundamental one, because the exercise of the freedoms of thought, opinion, belief, implies also the need to ensure the possibilities of receiving data and information on the social, political, economic, scientific and cultural life of the state [149, p. 106].

The media are prone to misinformation by their very function. Often, there is disseminated selectively only information that interests, frightens or shocks the public [106, p. 19]. Clearly violating the right of the population to be informed, misinformation became the most powerful weapon of separatist regimes [149, p. 111]. All the media are controlled by repressive structures in the territory of the separatist regions. Every attempt to reveal the truth is harshly punished by separatist forces.

Misinformation served as a decisive means in triggering the armed conflict in the Transnistrian region of the Republic of Moldova. Starting with 1992, the misinformation process that took place on the two banks of the Dniester River was a major one. The premeditated secessionists were spreading the information about the possible reunification of the Republic of Moldova with Romania or about Chisinau's intention to force the foreign nationals from the country to speak and write only in Romanian [151, p. 88], which presents only a few examples from the misinformation arsenal widely used by to the perpetrators for stirring up spirits among the population.

Another form of misinformation in Transnistria was actively promoting the idea that Romania itself intends to aggressively attack the region, which reveals the desire to maintain the active phase of the conflict and to inspire a sense of danger from outside [251, p. 107]. Thus, with the beginning of the first military confrontations on the left bank of the Dniester, most of

the sources of mass information in Transnistria (television, radio, press, etc.) began to disseminate actively erroneous information about the fact that the armed forces from Chisinau, being equipped with weapons from Romania, will attack the region.

Another means of the secessionists' actions in the viewed regions is the **referendum** or rather the **pseudoreferendum**. The participation of the population in the decision-making process is an essential feature of a democracy. For these reasons, referendums are widely applied nowadays.

Following the evolution of several separatist movements in the post-Soviet space, it is seen that pseudoreferendum is a systematic method applied by secessionists to justify its intentions. Such a practice has also been used in Transnistria, since from 1989 until now, the numerous pseudoreferendums have taken place in the Transnistrian region.

The culminating moment is that the idea of achieving a territorial secession on the left bank of the Dniester was conceived in Tiraspol much earlier than the alleged proclamation of the region's independence on September 2, 1990. This fact transforms the pseudoreferendum into a means of separatists in order to achieve their intentions [186, p. 409].

Next, it will be refered only to some of the pseudoreferendums, which, in our opinion, have been the basis of the secession of the districts on the left bank of the Dniester. The first referendum in this regard was aimed at forming the "Dniester Soviet Socialist Republic of Moldova", being held in 1989. According to the data presented by the separatist leaders in the region, 95.8% of the participants voted in favor of forming such an entity.

On July 1, 1990, a "local referendum" was held in Bender, where two topics were addressed: "1) On the national flag of the Moldovan Soviet Socialist Republic in Bender; 2) Regarding the entry of Bender city in the composition of Transnistria (in case of its separation from the rest of the territory of the Republic of Moldova)".

The third election in Transnistria took place on December 1, 1991, considered the first "referendum" on the alleged independence of the "The Pridnestrovian Moldavan Republic". According to the data published by the event organizers, 97.7% of the participants supported the proposed objective.

The presence of Russian armed forces in the region is another sensitive and decisive issue for the Tiraspol regime. This issue was submitted to a referendum on the left bank of the Dniester on March 26, 1995.

The fifth referendum in the Transnistrian region was held on September 17, 2006, and two issues were put to the vote: the region's independence abroad and the region's accession to the Russian Federation. 97.2% of the participants voted "pro" the proposed objective.

In the doctrine, there can be met the opinion that the issue addressed by Transnistria through the referendum of September 17, 2006 is confused and a priori does not meet the legal conditions for holding a referendum [205, p. 424]. It is confusing because the population has been called to vote for the independence that presumes the possibility to decide their own fate without the involvement from outside and, at the same time, to join a state.

The nature of the Transnistrian conflict. From the perspective of the regulation process of the Transnistrian conflict, its nature is important. In the specialized literature, different opinions were exposed to this chapter, the conflict being seen either as an interethnic one (ethnopolitical [182, p. 69]) or as a political one [106, p. 19]. In an attempt to clarify this dilemma, French researchers L. Delcour and E. Tulmets have expressed the view that the qualification of the Transnistrian conflict as an interethnic one is unfounded, and its political character does not resist criticism, as it is not based on an ideological confrontation. As a result, it was thought that the Transnistrian problem originated in an intercultural conflict, which after November 1989 got a pronounced geopolitical character [294, p. 143].The idea was developed by the Romanian author Th.Tudoroiu, according to which the central factor in the Transnistrian conflict is the Moscow administration, which, taking into account the enlargement of the EU to the East, has the interest to strengthen its control in the western area of the CIS including the Republic of Moldova [272, p. 22]. For this purpose, it was considered that the Transnistrian regime will be maintained until the authorities of the Russian Federation will feel certain that the Republic of Moldova has become controllable and subordinate [182, p. 70].

The nature of the Transnistrian conflict is also regarded in another aspect. In a first approach, it is claimed that there is an internal conflict between the armed forces of the Republic of Moldova and the paramilitary formations of the separatist regime (a position also promoted by the international community, including the OSCE, a subject involved in the process of regulation of the Transnistrian problem).

In this context, we emphasize that the legal definition of the internal armed conflict (not having an international character) is designated in art.1 of the Additional Protocol II of the Geneva Conventions of 1949, according to which this is the conflict " which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory".

On the other hand, there are multiple arguments that would allow to qualify the situation as an internationalized armed conflict. In this regard, the Polish authors W. Czapliński and A. Kleczkowska argue that the Transnistrian conflict began as an internal conflict between the central authorities of the MSSR and the local authorities in the Transnistrian region from the

point of view of international law. During the years 1989-1992, the conflict was an internal one, and from June 1992, after the outbreak of hostilities and the involvement of the 14th Russian Army, it gained an international character [99, p. 88].

It is confirmed in the context that the involvement of a third state in an internal armed conflict through a local rebel group, either through its own armed forces, leads to the transformation of internal armed conflicts into international conflicts - "internationalized internal conflicts", if there is an effective control from the third state over the respective parties of the conflict. In the case of Transnistria, the Russian government confirmed to the ECHR that at least one battalion of the 14th Army had joined the separatists. So instead of preventing the aggression on the Dniester, the Russian army provided Tiraspol with weapons and forces to go into the offensive and provided the necessary assistance to secure victory. Moreover, its current location on the territory of Transnistria supports the viability of the Moldovan Transdniestrian Republic and makes reintegration more difficult, preventing the definitive regulation of the conflict.

As an argument, the German researchers considered that the participation in the conflict both latent and open of the military units subordinated to the Russian Federation was an act of armed aggression against the Republic of Moldova and became one of the decisive factors that determined the scenario of force development of the conflict. At the same time, maintaining the illegal Russian military presence in Transnistria is a real obstacle to its peaceful regulation [63, p. 28]. Hence the correct name of the armed clashes should be "the Moldovan-Russian war for independence", because this was not only an internal conflict, as it is alleged, but a war between the Russian Federation and the Republic of Moldova. The Moldovan state was fighting for the defense of independence and territorial integrity.

Without the recognition and promotion of this truth, there is no chance for the recovery of the territory from the east of the Republic of Moldova. This truth was stated by a group of Spanish authors in the monographic work "Post-Soviet conflicts: from the separation of Transnistria to the dismemberment of Ukraine". The authors pointed to the existence of direct evidence demonstrating that the Transnistrian conflict has as direct subjects the Republic of Moldova and the Russian Federation. These proofs are: (a) the direct involvement and participation of the 14th Army against the forces of the Republic of Moldova; (b) conclusion of the Ceasefire Agreement by the Republic of Moldova (M. Snegur) and the Russian Federation (B. Yeltsin); (c) the economic, financial, political and military support of the Tiraspol regime by the Russian Federation [300, p. 93]. In the view of the Spanish researchers, the qualification of the Transnistrian conflict as an internal conflict is the most convenient option for the international community, because it does not require intervention and involvement.

The complex nature and essence of the Transnistrian conflict were reflected in the plenary meeting by the authors A. Osipov and H. Vasilevich. According to these authors, the epicenter of the contradictions between the parties of the conflict is the legal and political status of Transnistria. Thus, the Republic of Moldova aspires to obtain the respect of its territorial integrity and the realization of the right to self-determination of Transnistria in the form of an autonomous republic, whose competences will be limited by the legislation of Moldova. For its part, Transnistria seeks to respect the territorial integrity of the republic in the form of an agreement on common competence with the leadership of Chisinau, the existence of common state borders and the realization of the right to self-determination in the form of a self-governing state with the preservation of its own rights of a sovereign state, except competences of foreign policy and security to be common. From a political point of view, the purpose of Moldova is to extend the Chisinau jurisdiction over the territory of Transnistria, and the purpose of Tiraspol - to maintain its independent state status [212, p. 22]. So, both sides opt for territorial integrity of the common state, but each of them has its own vision on its achievement.

Another important moment concerns the presentation of the point of view regarding the possibility of recognizing the statehood of Transnistria. Arguments in favor of proclaiming Transnistria's independence were brought by a group of researchers who, starting from the historical past of the region, finds that Transnistria has never been a part of Moldova [247, p. 79]. From the perspective of international norms and international legal precedents, the authors emphasize that Transnistria declared its independence before the Republic of Moldova and, "what is more important" did it based on the results of a referendum [152, p. 21]. So, by the time Moldova left the USSR, Transnistria had already separated and administered its territory independent of Chisinau.

On the other hand, regarding the recognition of the state, it is claimed that according to international recognition rules, only the government that exercises effective control over the territory enjoys it. The formal recognition of the state implies the correspondence to all the requirements stipulated by the international norms, and namely, national territory, civilian population and state power, requirements that are met by Transnistria [286, p. 293]. At the same time, the nominated researchers emphasize that the political existence of the state does not depend on its recognition by other states. Moreover, the region has a fully recognized internal sovereignty, even if it does not have sufficient capacity to achieve the external one.

Contrary to the stated conclusions is the opinion of other experts, who argue that the effective control by the Pridnestrovian Moldavan Republic of the Transnistrian part of Moldova constitutes a de facto regime and can be regarded as analogous to the control by an occupying

power. It can be concluded that there is the presence of a de facto political, economic, military and other control exercised by the Russian Federation over the Transnistrian region [180, p. 49].

Despite the military nature of the occupation regulated by international norms, the occupation of the Transnistrian territory (regarded as an administration regime) does not have a military character, in other words, it has a civil one, the deployed Russian troops serving only as a guarantee of the region's security. As for the means by which the regime in question was instituted, then these are certainly military ones, because, no matter how we perceive the events of 1992 (as direct production of the occupation, or maintenance of the long-established occupation), they involved the use of force and the conduct of military operations [192, p. 24].Therefore, the case of Transnistria is an atypical example of occupation, generated not so much by the violation of the international principle of non-aggression (which, as a rule, is the source of the occupation regimes), but by the violation of the principle of non-interference in the internal affairs of another state [205, p. 424].

According to the Declaration on the principles of international law on the relations of friendship and cooperation between states in accordance with the UN Charter, since 1970 [192, p. 26], the principle of non-interference in the internal affairs of another state includes the prohibition of armed intervention or other forms of threats against of another state, the prohibition of use or encouraging the use of measures of an economic, political or any other nature in order to compel to another state, the prohibition of the application of force to deprive the people of their right to national identity, the prohibition of organizing, supporting, instigating, financing or tolerating armed terrorist activities, the prohibition of intervention in internal battles in another state.

At the same time, the Declaration on the inadmissibility of intervention and interference in the internal affairs of the states from 1981 [104] is relevant, according to which the form of intervention act is produced, directly or indirectly, openly or less openly, or the field in which they act does not change its illicit character, whether it be economic, political or social-humanitarian. At the same time, the interpretations of international jurisprudence given to the principle in question are also important.

According to the International Court of Justice (the case regarding "Military and paramilitary activities in and against Nicaragua" [65], unilateral military interventions or providing support for secessionist movements, without the support of the Security Council, are by their essence illegal, as they can give rise to the most serious abuses.

Taking these details into consideration, in the legal doctrine, it was concluded that the Russian Federation intervened illegally in the internal affairs of the Republic of Moldova (thus violating the principle of non-intervention), by blatantly defying its sovereignty and territorial

integrity, because it supported and determined the creation and maintenance of a de facto regime in the Transnistrian region of the Republic of Moldova [99, p. 89]. Moreover, the continuous illegal intervention of the Russian Federation can be traced also through the process of negotiations carried out during several years in order to resolve the conflict which determines its "frozen" character [300, p. 93]. These moments determine a reconceptualization of both "occupation" and "intervention" as legal institutions of international law.

The role of the external factor in maintaining and solving the Transnistrian conflict. The development of events during the armed phase of the conflict demonstrates quite eloquently the direct participation of the Russian Federation as part of the military operations. Moreover, the signing of the Agreement between the Republic of Moldova and the Russian Federation on the ceasefire in the Transnistrian region, it proves once again that the war was waged between these two states, the Tiraspol regime being only an instrument for achieving Russian goals in the south-east of Europe [192, p. 27]. The Tiraspol regime is led by a small group of Russian citizens, having an army, which is *de facto* the same Russian army led by officers, that consist of Russian citizens equipped with arms and ammunition illegally offered by Russia [101, p. 35].

These moments were confirmed by the European Court of Human Rights (ECHR) in the decision pronounced on the case "Ilascu and others against the Republic of Moldova and the Russian Federation" [5]. Although the Court has exposed itself to particular issues, the arguments relied upon are relevant to understanding the issues of conflict initiation and the role of the Russian Federation in its development and maintenance.

In reality, the geostrategic and political interests of the Russian Federation in Transnistria have and continue to have a considerable role in the evolution of the conflict. Viewed from a broader perspective, Russia remains a power involved to a greater or lesser extent in initiating and conducting more conflicts in the region, as well as in the negotiation process. Similarly, Russia also participates in the Transnistrian conflict along with its immediate active participation in its initiation and deployment. It was also active in the negotiation process, launched after the cessation of military actions since 1992, officially intervening with the mission of peace maintenance in the region.

For the purpose, in July 1992, the Russian Federation imposed the "unique" format of the peacekeeping troops, and in May 1997 – the pentalateral format of the negotiation process (Republic of Moldova, Transnistria, Russia, Ukraine and OSCE). The pentalateral format of the negotiation process was established by signing on May 8, 1997, the "Memorandum on the normalization of relations between the Republic of Moldova and Transnistria" [332].

In this connection, critical opinions were expressed, arguing that the format of the peacekeeping operation contradicts the OSCE and UN standards because it provides for the

participation of Russia, Transnistria and Moldova with their troops. Decisions within the Unified Control Commission are to be adopted by consensus, which means that the Republic of Moldova is permanently in the minority position [156, p. 55]. In addition to the fact that this model legislates the existence of the Transnistrian army, it transformed the peacekeepers into a protective shield, behind which the Transnistrian regime had strengthened [300, p. 95].

Through these two mechanisms, the format of the peacekeeping troops and the negotiation process imposed with the acceptance of the leadership of the Republic of Moldova and despite the commitment made to "condemn the separatist in all forms of manifestation and not to support the separatist movements", Russia blocks any progress towards conflict resolution [63, p. 32]. This is because, the massive economic, informational and political support of the Transnistrian regime, including the illegal presence of Russian troops on the territory of Moldova, speak of the fact that Transnistria is *de facto* under the occupation of the Russian Federation.

In such circumstances, in November 2003, the "Memorandum on the basic principles of the state-building of the unified state" appeared, also known as the "The Kozak Memorandum" [333]. Over time, this new Russian plan has become one of the most controversial scenarios for the regulation of the Transnistrian conflict.

According to the provisions of the document in question, the Transnistrian problem was to be definitively solved by "transforming the state organization of the Republic of Moldova in order to build, according to a federative principle, a unique independent and democratic state, defined in the territory of the Moldovan RSS borders of January 1, 1990".

The new single state named "The Federative Republic of Moldova" included two federal subjects: "The Pridnestrovian Moldavian Republic" and "The Territorial-Autonomous Formation Gagauzia", which was to be gradually created over a long period of time, until 2020, according to a constitution elaborated and adopted jointly, and "based on the principle of territorial unity and unique principles of organization of state power, of unique defense (for the transitional period), customs, currency."

The subjects of the federation were endowed with extremely wide prerogatives, including the right of veto with the practical possibility of blocking the adoption of decisions of cardinal issues, both in the federal bicameral parliament and in other state structures. Chisinau and Tiraspol addressed the Russian Federation with the "proposal to provide security guarantees", according to which the Russian Federation had to be situated on the territory of the future federation until 2020, based on a Moldovan-Russian bilateral agreement, "peacekeeping forces that will not exceed 2000 people."

The "Kozak Memorandum" caused disturbances in the Moldovan society, scandalizing the international community [220, p. 44]. The opposition forces in the Republic of Moldova encouraged and supported by the European institutions, the OSCE, the EU, the Council of Europe and the US formed a common front against this project and in defense of the Constitution. Thus, the Chisinau authorities had to refuse to sign the Kozak Memorandum.

In the western specialized doctrine, it was mentioned that the Russian Federation bears full responsibility for the state of affairs in Transnistria, given that it has armed, supported militarily, politically, economically and financially the separatist regime, led by Russian citizens [192, p. 28]. After signing the agreement on the principles of peaceful regulation of the armed conflict in the Dniester region of the Republic of Moldova on July 21, 1992, Russia may be considered part of the conflict rather than a mediator and guarantor.

Legal analysis of the Moldovan-Russian ceasefire agreement in the Dniester Region on July 21, 1992: significance and consequences. The document is officially called "Convention on the principles of peaceful regulation of the armed conflict in the Transnistrian region of the Republic of Moldova" and was signed in Moscow, by the presidents Boris Elten and Mircea Snegur in the presence of the Transnistrian leaders. The agreement provided an immediate cessation of fire, the creation of a "security zone", the establishment of peacekeeping forces consisting from Russian, Moldovan and the separatist region militaries.

The Moldovan-Russian ceasefire agreement of July 21, 1992, is a bilateral act, suspending hostilities and transferring the interstate dispute from its active phase, "hot", in a latent phase, "frozen" [344, p. 77]. The purpose of this document was to put an end to the military confrontations in the Dniester Region.

The conflicting parties in the Dniester Region were the Russian Federation, as an *aggressor*, and the Republic of Moldova, as a state *subjected to this aggression*. Gradually, the Russian Federation shifted its emphasis and began to define the conflict in the Dniester Region as a strictly internal one, not interstate. Thus, the Moldovan-Russian dispute in Transnistria became known as the "Transnistrian conflict".

According to the doctrines from the Russian Federation, the parties of the conflict in the Dniester Region would be the Republic of Moldova, on the one hand, and Transnistria, as a separate entity, on the other [235, p. 59]. This is also one of the reasons why the Russian Federation, and then also Ukraine, and Germany, and sometimes the OSCE, have advocated for "the agreements between the parties involved in the conflict" as well as for the "1 + 1" negotiation format conducted between the legitimate power of Chisinau and the illegal regime of Tiraspol.

One of the most vulnerable and contradictory elements of the Agreement, from the point of view of the legal and political consequences, seems to be the creation of an institutional (departmental) mechanism for fulfilling the tasks of the document (the provisions of Article 2). In this context, it is important to note that in addition to the lack of a proper international mandate for the peacekeeping mission, the mandate of this mission is contradictory and unfounded, as it claims to have (but does not) the status of a peacekeeping mission.

With regard to "military observer groups" and their strengthening, the Agreement makes only one reference to the fact that these groups, having already been created at the time of the conclusion of the document in accordance with "the previous agreements, including four-party", will be used by the Commission in its activities. And the Agreement signed only fixes the existence of these powers, thus selectively propagating its action not only on the future events but also on the previous ones (in other words, establishing the retroactive character of its action, its legal effects).

As regards the empowerment of the additional categories of armed forces - the "military contingents created on a voluntary basis", distinct from the "groups of military observers", the Agreement clearly states that the sole purpose of these powers is to fulfill the measures specified in Article 1, and namely: a) cessation of fire and of all military actions; b) withdrawal of military personnel and other military units, military equipment and armament from the area of military actions. Thus, it can be assumed that with the complete fulfillment of these measures, the empowerment of the "military contingents" expires and they must be abolished. Further, with regard to "military contingents", it is specified that their location and use "shall be carried out in accordance with the decisions of the Control Commission by consensus". However, in accordance with international standards of conducting peacekeeping forces, it is necessary to apply the principle of neutrality (non-participation, impartiality) and place them under the commandment of a single military command.

In the case of the Agreement of 1992, the military contingents created even on voluntary principles by the former apriori enemies could not correspond to the principle of neutrality. The mechanism for the adoption of the decisions of the Control Commission on the basis of consensus is not clear. It must lead the military contingents transmitted in its subordination in order to establish a ceasefire in the security zone and to withdraw the units. Also, it is not clear what will happen in the event of the outbreak of new military confrontations, and the consensus within the Control Commission is not possible.

A considerable legal error in the Agreement is the lack of a clear and precise definition of the parties. There are a number of parties specified in the Agreement: "the parties of the conflict" (art.1), "the parties participating in the fulfillment of the present Agreement" (art.1 paragraph

(2)), "three parties - participants in the regulation " (art. 1 paragraph (1)), "the parties" (articles 6, 7, 8), "the contracting parties" (art. 8). The situation arises when the responsibility for the fulfillment of the Agreement falls on the shoulders of the various parties involved with a permanently changing configuration. At the same time, the fate of the Agreement, in accordance with its provisions, is decided by the "parties" and "the contracting parties", i.e. with a high probability by the Republic of Moldova and the Russian Federation.

The situation becomes even more complicated when the Agreement places certain commitments for the Republic of Moldova and the Russian Federation without using the term "parties" (art.4 paragraph (1)), and when the document refers, without great explanations, to the existence of the so-called "previous four-party agreements", which, of course, presuppose the existence of these four parties (art.2 paragraph (1)).

Many obscurities arise due to the statements about the units of the 14th Army of the Russian Federation, not too organic in the content of the document (art.4). Irish authors K. O'Reilly and N. Higgins esteem that the "trilateral" Moldovan-Russian-Transnistrian military contingents introduced into the conflict zone under the 1992 Agreement should be considered only conventionally as "peacekeeping forces" [207, p. 63]. According to the English researchers T.Hoch and V.Kopeček, the Transnistrian case is the only case in the world when the peacekeeping force in the security zone was made up of the representatives of the parties involved in the fighting actions. This peace format does not correspond to the generally accepted international peacekeeping rules, such as: granting the mandate of an international security organization (UN, OSCE), impartiality, non-involvement of the belligerent parties, assuring the multinational character, establishing a specific term, etc [149, p. 112].

The role of Ukraine as a guarantor country deserves attention in this context. Of course, this must be understood from the internal situation of the state, knowing that since 2014, Ukraine is marked by a deep crisis due to the conflict triggered by the annexation of Crimea by the Russian Federation and the reaction of the Donbas and Luhansk regions. Starting from this, the role of Ukraine in the regulation of the Transnistrian conflict must be seen in two ways: until 2014 and after this year.

In principle, from the perspective of the situation until 2014, Ukraine is a country interested in the regulation of the conflict and the reintegration of the Republic of Moldova, because this situation creates a discomfort resulting from the illegal export of the Transnistrian products, the increase of the organized crimes, as well as maintenance the tension in border areas, etc.

Despite these moments, Ukraine did not join the EU and US decision to introduce traffic bans on its territory for the leaders of the Transnistrian regime [159, p. 79]. At the same time,

Ukraine allowed crossing its airspace to Russian military aircraft that fly to Tiraspol without the permission and customs control of the Republic of Moldova [99, p. 97]. From this perspective, it is not excluded that this guarantor country, like the Russian Federation, will interpret the eastern districts of the Republic of Moldova as an area of their own interests, which in fact contravenes the interests of the Republic of Moldova. In this regard, the researcher A. Osipov argues that "if these countries had had a sincere and strong political will to contribute effectively to restore the territorial integrity of the Republic of Moldova, it is indisputable that through a joint effort they could have accomplished this. Therefore, it can be concluded that both the Russian Federation and Ukraine are states with their own interests in the Transnistrian area and, therefore, cannot in principle be impartial and objective mediators [212, p. 22]". According to another opinion, belonging to the authors R.A.Tatarov and A.S.Franz, Ukraine's participation in the negotiation in the past involved promoting a neutrality strategy towards Russia, which contributed to perpetuating the uncertainty situation in the Transnistrian problem. The inability of the parties participated in a 5 + 2 format made the negotiation process inefficient [263, p. 16].

After 2014 (marked by the start of hostilities in eastern Ukraine), the role and position of Ukraine in relation to the Transnistrian conflict have changed, as Ukraine has become an open opponent of the Russian Federation. Ukrainian authorities are very interested in supporting the Republic of Moldova in solving the conflict in Transnistria [122, p. 15].

Another active participant in the negotiation process is the Organization for Security and Cooperation in Europe (OSCE), which in 1993 sent a mission to the Republic of Moldova with the aim of contributing to the negotiation process regarding the regulation of the Transnistrian conflict. Like the Ukrainian side, the OSCE is interested in preserving the territorial unity and inviolability of the borders of the Republic of Moldova [158, p. 55]. Despite the role of this organization at the international level, the contribution of its mission in the Transnistrian conflict is limited only to the reduction of contradictions between the authorities of the Republic of Moldova and the Transnistrian officials.

Despite the fact that the OSCE is constantly insisting on the evacuation of the troops and ammunition of the former Russian 14th Army from the territory of the Republic of Moldova, this effort remains ineffective, in particular, because of the OSCE's financial dependence on the significant membership dues of the Russian Federation [222, p. 97]. Therefore, the impression is created that the OSCE is acting as an observer and consultant to the parties in conflict, which is afraid to upset one of the parties, which makes it less effective in resolving crises in the separatist regions.

Since 2005 the status of observers of the negotiation process has been recognized by EU and US representatives on the basis of an OSCE protocol on the rights and obligations of

observers in the negotiation process (Odessa, September 26-27). The enlargement of the EU since 2007 (by the accession of Bulgaria and Romania) has brought it quite close to the conflict, which made the new regional security context of the EU seriously affected, which means the EU's interest in getting involved in conflict resolution.

The EU's dependence on Russian energy resources makes it extremely cautious in its actions. Obviously, if the Transnistrian regime had not been created and supported by Russia, then the EU and the US, with their political and economic potentiality, would have acted more actively, ensuring the security of the eastern border of NATO and the EU, the reunification of Moldova and geopolitical stability in the area [147, p. 85]. However, the EU and the US act more cautious since Russia wants to reaffirm itself in the former Soviet space as a regional superpower.

The causes and nature of territorial conflicts in Georgia. The maintenance of frozen conflicts is a geopolitical priority for the Russian Federation, as these are very important regional control levers, the monitoring or even armed involvement of this power in these conflicts being ensured by the conclusion of bilateral agreements [221, p. 14]. Overall, Georgia can be considered a geopolitical "bridgehead" for the development of regional businesses and the promotion of economic interests targeting local markets, exploitation of mineral resources in the area, use of labor force, etc.

Speaking of the causes and nature of territorial conflicts in Georgia, it should be noted that Central Asia and the Caucasus are often considered as a whole, as a single region. Thus, according to the researchers T.Hoch and V.Kopeček, there are five reasons for NATO's interest in this area: 1) the geographical and geostrategic location of the region; 2) the role of the Central Caucasus for Eurasian security; 3) total non-exploration of the gas reserves in the Caspian Basin; 4) presence of problems regarding the threat and spread of the weapon of mass destruction; 5) not admission of the hegemony of a power in the area [149, p. 79].

The Caucasus is one of the most difficult regions in the world, with unresolved conflicts, inconsistent sections of state borders, strategically important transport routes, oil and gas reserves that intersect with local, separatist, national and global interests of different states, cultures, ethnic and religious groups [52, p. 113].The geo-economic and geopolitical location of the Central Caucasus states serves as a link for all other interests. The region is the border of the European common space, an economic center, and a transport corridor. The Caucasus is the bridge between Europe and Asia, an important element in trade relations between the Orient, the US, and NATO, as well as between North and South [345, p. 1049].

Throughout history, the South Caucasus has been a buffer zone, or an area of influence of the great powers - Russia, Turkey and Iran - each with its own interests. Therefore, the main

interests of the US and NATO in the area are to keep Russia at the periphery of these interests and not to allow the fortification of Russia's presence in the Caucasian area. On the other hand, Russia is interested in not admitting NATO presence in the South-Caucasian space, which, according to Moscow, is the area of its exceptional interests [241, p. 47]. The foreign presence in the area, especially the location of the western military contingent in the region, will weaken the Russian influence in these states, and in the end it will neutralize it.

The withdrawal of Russian military bases from Georgia, as well as the decrease of the military personnel in the area, caused a considerable loss of political interests of Russia in the region. In this context, Russia can be considered the main US and NATO competitor in this area [340, p. 21]. Its policy and actions in the region can be described as the main factor influencing NATO policy.

Both NATO and the Russian Federation having common interests in the region become competitors. In order to increase the influence in the region, both actors use influence methods, but the methods are different. The US intends to increase its influence through the method of cooperation and economic principles, hoping to broaden the commercial aspect and the extension of security in the region. For its part, the Russian Federation does not support the self-development of the Caucasian states and continues to invest huge sums in order not to lose control in the region [312, p. 384].

The roots and causes of the Georgian conflict are not found in South Ossetia and Abkhazia, but rather in Europe. Since the late 1990s, the enlargement of the European Union and NATO in Central and Eastern Europe has been seen by Russia as undermining its influence in the region [334, p. 520]. At the beginning of 2008, the West's recognition of Kosovo's independence from Serbia, a traditional ally of Russia, prompted Russia to rethink its strategic position in relation to Western powers.

In the Soviet period, the Caucasus region inherited potential and strong nuclear structure. South Caucasian states, especially Georgia, have deposits such as uranium. The Sukhumi Institute of Physics and Technologies can be considered one of the dangerous objects of the USSR which, at present, due to the conflict with Abkhazia cannot be controlled [241, p. 65]. Also, the Medzamore nuclear power plant (Armenia) could lead to a catastrophe similar to Chernobyl, with an impact on Turkish markets [204, p. 55]. NATO allies are also concerned that states such as Iran, Iraq and Pakistan may demand to explore this area in the region. Thus, the South Caucasian space has an important role in the US, NATO and EU policy.

The strategic importance of Georgia also lies in the fact that one of the two routes that cross the North Caucasus and reaches the Black Sea passes through its territory. The significance of Abkhazia is even greater, because it is situated on the Black Sea coast, and there is the port of

Sukhumi on its territory. On the other hand, the Baku - Tbilisi - Ceyhan, and Baku - Supsa petroleum pipeline system, as well as the NABUCCO (Baku - Erzurum) gas pipeline were designed to pass through Georgia [209, p. 36]. Georgia also owns several ports on the Black Sea (Sukhumi, Poti, Supsa, Kulevi and Batumi) which have become very active in exporting oil to the EU. Russia does not control supply routes, as it is with the northern Caucasus routes (Baku - Novorossiysk).

In geoeconomic terms, Georgia is located on the shortest route connecting Europe with Asia, and this territorial proximity has been transposed in other projects such as TRACECA (Transport Corridor Europe-Caucasus-Asia) and INOGATE (Interstate Oil and Gas Transport to Europe), projects in which the Western economic functions and interests are visible in the economic development of the state [48, p. 271]. Georgia is an essential energy corridor to the West and, along with other transit states, is required to guarantee the safety of oil and gas pipelines which start from the Azerbaijan area.

The pipelines are of great importance for the European Union, as they reduce dependence on Russian supplies and do not cross the Russian territory. The Baku - Tbilisi - Ceyhan oil pipeline has a total length of 1768 kilometers, of which 249 kilometers cross Georgia. The project cost $ 3.9 billion, 70% of the costs were financed by third parties - the World Bank, the European Bank for Reconstruction and Development, operating credit agencies in seven countries and a syndicate of 15 commercial banks [204, p. 56].

Therefore, beyond the energy significance of Georgia's position, it should be mentioned the importance of this country from the perspective of the access of the great powers to Iran and Syria, countries with a major geopolitical weight in the Arab world, with close military and nuclear partnerships with the Russian Federation and a significant economic, human and military potentiality. Besides, Russian experts have admitted that Armenia and Iran are the strategic partners with which the Russian Federation manages to oppose Western geopolitical plans in Asia [303, p. 133]. Despite the coincidence of Russian and Iranian plans on Caspian energy resources, Iran maintains a balanced bilateral relationship with Georgia, showing the same interest in positioning Georgia as a hub for energy transport. Also, the US has a clear interest in diversifying the routes of access to the Persian area for both emergency situations (military interventions) and for establishing a bridgehead for controlling the Russian Federation's relations with Iran and Syria [57, p. 427].

In Georgia's specialized doctrine, it was mentioned that the reason for the war between Georgia and Russia is not the protection of Russian citizens, but the direct opposite value orientations and foreign policy priorities based on them [126, p. 6]. Thus, Georgia aspires to the Euro-Atlantic structures and sees itself in the future as a member of NATO and the European

Union, while Russia is hostile to NATO and opposes Georgia's joining the European Union. Georgia chose western liberal democracy as its political ideal, while Russia relies on high-power ideas, considering itself as the main pole in the post-Soviet space, and this is the main conflict between Georgia and Russia.

The Russian leadership has always supported the separatists in Abhaz and Ossetia. Hidden under the guise of a peacemaker and mediator, Russia illegally supplied machine guns, tanks, combat helicopters and jets against Georgia [241, p. 49]. Such a policy has led to a military confrontation between Russia and Georgia and to a heightened complication of the geopolitical situation throughout the Caucasus region, including the North Caucasus.

Another serious cause of the conflict between Georgia and Russia is the Russian desire for monopoly control over the energy resources of Caspian and Central Asia, which Georgia undermines. From Russia's point of view, the one who controls Georgia controls the transit of oil and gas from the Caspian and Central Asia to the West. The essence of Russia's neo-imperialist aspirations is that it must regain its dominance in the territory of the former USSR and, first of all, in Georgia, for the monopolistic control of energy resources and pumping billions of euros from the European Union by arbitrarily setting of speculative prices for oil and gas. During the war, Russia succeeded in demonstrating its ability to paralyze the strategic communications activity in Georgia, laying the main railway line and bombing in close proximity of the Baku-Tbilisi-Ceyhan oil pipeline, which is a kind of threat to the rest of the world.

Since neither Georgia nor Russia have achieved their goals by military means and the conflict between them persists, the possibility of a new round of military confrontation and invasion is not eliminated from the agenda. The situation in the Caucasus region is deteriorating due to growing tensions around the Iranian nuclear program and the threat of a military force. According to some opinionse from the doctrine, Georgia's problem is that NATO does not provide Georgia security guarantees in case of a threat with the direct invasion of Russia. Therefore, the closer Georgia is to NATO, the greater is the threat of an armed attack from Russia and the more acute is Georgia's security issue [190, p. 24].According to another opinion, the causes of the outbreak of conflicts in Georgia were of internal origin. The role of Georgian nationalism, of President Gamsakhurdia, was a fatal one and only then Russia directly involved. As an example serves Transnistrian conflict, in which the Russian Federation has been involved from the very first days [253, p.1382].

In Georgia, Moscow has supported the part of Abkhazia and Ossetia, but it can be noticed that it still wants to develop relations with the Georgian authorities. The border in those regions are frozen and it will not be resolved soon, but we see normalization in other aspects, which gives us hope that what happened in 2008 is not going to be repeated [81]. For comparison, in

Transnistria, it can be seen that the Russian Federation did not recognize the Tiraspol regime when it had the possibility, and Moscow closed its eyes when Transnistria built economic relations with the EU. It is possible that Russia does not have such great intentions towards the Republic of Moldova, but at least it does not manifest itself through aggressive military interventions.

The main cause of the Russian-Georgian conflict is the maintenance of Georgia's territorial integrity. Since Georgia's admission to the United Nations in July 1992 [230], numerous UN Security Council resolutions signed by Russia have reaffirmed Georgia's territorial integrity. They include the disputed territories of Abkhazia and South Ossetia [96, p.110]. Thus, on the one hand, the European Parliament together with the Tbilisi authorities have declared that the two Georgian enclaves will remain under the control of the Tbilisi regime forever [111]. Separatist leaders in Abkhazia and South Ossetia, on the other hand, declare that their republics will be "forever" with Russia [341, p.34].

The second cause of the conflict in Georgia is the control of the energy resources movement. The territory of Georgia and its infrastructure are important for the transportation of oil and gas from the Caspian Sea. Since Russia's monopoly on oil supplies has been removed, with the flow of Baku-Tbilisi-Ceyhan oil pipeline in flux, Russia is making efforts to prevent Georgia's integration into the European community.

The third cause of the Georgian conflict is the expansion of NATO. The war with Georgia was the opportune moment for the reaffirmation of Russia's regional power. Georgia was the perfect and preferred place for Russia to respond to NATO enlargement. Under the leadership of President Mihail Saakashvili, Georgia was firmly oriented towards the West and, although seeking accession to the European Union and NATO, did not gain admission in either time, which could have changed the face of the war situation between Russian and Georgian. In addition, due to its small size and strategic location directly adjacent to the North Caucasus region of Russia, Georgia was an excellent bridge for Russia for planning its military power.

The fourth cause of the conflict in Georgia is the inability of the parties to institutionalize state legal relations under conditions of dismantling the Soviet system.

The fact that a series of ethnic conflicts took place throughout the former USSR speaks of certain objective causes of them, of a legacy that the newly independent states received from the communist regime. This also refers to conflicts in other post-communist multinational states.

Understanding the causes, manifestations, and consequences of ethnic conflict has been a concern for political decision-makers and public opinion in the post-Soviet period and is a real challenge for contemporary researchers. Understanding these causes is also important to avoid political interpretations as much as possible.

2.2. Strategies and tactics for the regulation of territorial conflicts in the Republic of Moldova and Georgia in the light of international law

Thorough conflict resolution is impossible not only without removing the objective bases of confrontation of the conflicting parties, but also without identifying the subjective divergences between the participants of the conflict and the international community participating in its resolution. In this context, the Transnistrian conflict should be regarded as a politico-territorial and international one, taking into account the dynamics of the changes of the geopolitical interests of the hyper-powers at regional and continental level.

The parties involved in this international conflict are: The Republic of Moldova and the Russian Federation, the latter using the separatist regime from Tiraspol as a tool to achieve their long-term geopolitical goals in southwestern Europe - part of the former Soviet Union.

But even in the case of a more constructive approach to the Transnistrian problem by Moscow, it is impossible to find a super-special status of the Transnistrian region, whose adoption will resolve the conflict automatically. Its regulation must be found in a well thought out strategy, on the basis of which the Moldovan authorities will make consecutive efforts coordinated with the partners from abroad, aimed at eliminating the separatist regime and rebuilding the country.

This is a gradual process that will take quite a long time, as it will be necessary to find a mutually acceptable and balanced platform to eliminate negative stereotypes, which stay insistently in the consciousness of the inhabitants of the Transnistrian region.

The strategy of the Moldovan state must contain intermediate and long-term objectives, aimed at the unconditional and obligatory application of the norms and principles of international law in the conflict resolution process. In order to achieve this objective, it is necessary from the very start to eliminate the foundation of the Transnistrian conflict, built by Russia, based on its true nature and its content.

In this respect, the Transnistrian conflict is determined not so much as a struggle of the central power and of the separatist border regions, but as a result of the aspirations from outside, aimed at the territorial division of the Republic of Moldova and the weakening of the country's sovereignty, a process actively supported by Russia.

There is no doubt that the fate of the Transnistrian region must be decided in Chisinau, in strict accordance with the norms and principles of international law, and the mediators and guarantors must help it to find a mutually acceptable scenario on this basis. The final decisions of such decree - the agreement of the parties involved in the conflict regarding the special status of the districts of the Republic of Moldova on the left bank of the Dniester and obtaining autonomy within the Moldovan state. For now, in case when the current international security system has

reached its limits, the current reality has discovered the acute need to look for new and more perfect methods of international conflict management and resolution techniques. Based on these systemic premises, the most appropriate strategy for the Republic of Moldova would be resolution of the Transnistrian conflict, based on the following essential principles:

Firstly, the international principle of inviolability of borders and respect for sovereignty, territorial integrity of states should remain a basic one in solving the Transnistrian political-territorial conflict, the principle of ensuring stability and security, inclusively at regional level. Arbitrary and willful attempts to counter this principle, the right to self-determination of peoples and the creation of their own statehood, based on "regional identity", should be examined as a deliberate action against the peace and tranquility of all the countries of the given region.

The negotiation process must be based on and result from the unconditional respect for the territorial integrity, independence and sovereignty of the Moldovan state, which is recognized by the international community as such.

Secondly, the methods and means used by the state to restore its territorial integrity must first of all be aimed at ensuring the security of the country, its constitutional system, real independence, creating the premises for strengthening the state's sovereignty, economic development, consolidation of the political status, inclusively on the international arena, maintaining the geopolitical balance and stability at regional level.

Thirdly, taking into account the nature of the Transnistrian conflict, as well as the international nature, its regulatory methods must be based on political mechanisms and diplomatic means, available to the Member States of the international negotiation process of the five parties, as well as multilateral organizations (UN, EU, OSCE). The key element of seeking an acceptable format for restoring territorial integrity must become the pro-active position of the Moldovan state, which should be based on a well-thought-out strategy and effective cooperation with foreign partners interested in stabilizing the situation in this part of southeast Europe and not only with Russia.

Fourthly, the core of the efforts to restore the territorial integrity of the state must be the interests of certain concrete people, who live on both banks of the Dniester. Only when the conflict resolution becomes more profitable then the continuation of hostilities, some progress will be registered.

In this respect, it is necessary that the process of peaceful regulation be taken out of the exclusive sphere of politics and diplomacy, and a realistic and pragmatic active work should be carried out in order to overcome alienation, but also to strengthen the confidence of large population groups and civil society. In this direction, the work of the state-owned media organizations should be activated in order to prepare and provide information relevant to the

media, which are privately owned, including the media from Russia and other foreign countries. This activity should greatly increase the chances of advancing towards restoring the territorial integrity of the country.

Fifthly, with the formation of the approach system in resolving political, territorial and international conflicts, it should be apparent to the maximum in the specificity of the evidence and dynamics of the modern international system, which reflects the contradictions of the process of forming a new world order after the end of the cold war. The multipolar world, globalization and regionalization cause both positive tendencies towards life, which support the stable world order, and manifesting the ambitions of hyper powers under the pretext of creating a new security and stability system, especially in the Eurasian space.

Effective internationalization of the conflict resolution process regarding the participation of the international community in this process must be ensured. In this regard, Russia's intentions to play the key role of peacemaker, as well as the intermediary role through its more active involvement, and also the role of the most important international structures must be balanced in order to regulate the separatist crisis. It is necessary to exclude situations or reduce the risk of using the Transnistrian conflict by some participants of the regulation process to strengthen their status and to maintain its political influence on the international arena.

Sixthly, because of its limited geopolitical possibilities, the Republic of Moldova can create real premises for restoring its territorial integrity only by convincing diplomatically Russia that it would have its own interest in resolving the Transnistrian conflict with the direct and effective support of international partners. A key element of this strategy must become the definitive abolition of the idea that the Transnistrian conflict has an ethnic character, which will allow the negotiation process to become more constructive and to identify clearly the parties of the conflict.

The main efforts of moldavian authorities to resolve the Transnistrian conflict must be directed to convince Moscow that its current policy of supporting separatism in the Republic of Moldova and, in general, of the Transnistrian conflict is not profitable for Russia in the long run and does not meet the strategic objectives of the foreign policy of its state. Only Russia's awareness of the possibility of achieving long-term geopolitical objectives in the south-east of Europe, of restoring its influence in the Republic of Moldova and Transnistria, only it can cause the leaders of this country to adopt an constructive attitude to the regulation of the Transnistrian conflict.

If this constructive option is refused, only the realization by Russia of the loss of political capital on the international arena can force Moscow to make concessions and to lead a positive policy for the regulation of the Transnistrian conflict.

Seventhly, in order to reduce the risk of direct confrontation with Russia, it is necessary, as actively as possible, to use the possibilities of public diplomacy and civil society institutions aimed at changing the wrong perception of Russian society (including the elite) and the Western one that the Transnistrian conflict is an ethnic one. The lack of progress of our state in this direction can only be explained by an inconsistent and superficial policy of the successive Moldovan governments, without being actually involved in the elaboration of a complex and argued strategy for conflict resolution.

Eighthly, in parallel with the efforts of informing the international public opinion on the true nature of the Transnistrian conflict as a political, territorial and international conflict, the Government should draw the attention of the Russian and international public opinion on the Russian financial and economic aid, on the military, political and moral support provided, which ensures the survival of the separatist regime for thirty years.

In addition, the active foreign policy of the Republic of Moldova must lead Russia to the conclusion that it is not in its interest to play with separatism, especially when the former metropolis faces similar challenges in its own regions, such as the North Caucasus, the Kaliningrad region, the Far East with its uncontrolled migration flows and with premises for separatism.

Ninthly, in parallel with those mentioned above, further efforts should be made to reduce the dependence of the Tiraspol regime on Russia and, of course, the conditional reforms should be taken in order to attract Moldovan and international investments in the economic and social development of the region. This policy should help to create democratic institutions on the left bank of the Dniester, as well as the possibility for constructive negotiations between the political leaders of the two banks.

The main causes, which prevent the regulation of the Transnistrian conflict. Trying to draw a parallel between the studied conflicts (Georgian and Transnistrian) and, taking into account the theoretical parts developed in the work, it should be noted that these conflicts, being different, nevertheless have some common features that practically confirm the current problems of the regulation of the territorial conflicts in Republic of Moldova and Georgia. In both cases, the actual subjects of the conflict do not coincide with the official ones. In the case of the Transnistrian conflict, an official part of the conflict is Transnistria. In reality, however, the conflict broke out between the Republic of Moldova and the Russian Federation. Regarding the conflicts in Georgia, officially, parts of these conflicts are considered to be Georgia, Abkhazia and South Ossetia, while in reality the conflicts are between Georgia and the Russian Federation.

In both conflicts, influential powers from the international arena are involved, a fact that mainly denotes their position in solving international conflicts. At the same time, we could

consider that this is the pursuit of hyper powers own interests of economic, military, geopolitical and geostrategic nature.

In both cases there were serious violations of the norms of international law: in the case of the Abkhaz-Georgian conflict, the principle of non-aggression in international relations was violated. In our view, in the case of the Transnistrian conflict, the violation of the principle of non-intervention, the principle of respecting the sovereignty and territorial integrity of the states and the principles of conducting negotiations can be attested. In none of the cases, an adequate reaction of the international community has been registered, attracting responsibility and sanctioning. Both conflicts raised the question of the practical efficiency of the international legal norms in the field and of the main international structures responsible for peace and security in the world. In both cases, the military forces of the hyper powers continue to be situated on the territory of the opponent in conflict, which is likely to keep the conflict in a latent form.

Over the years, the authorities of the Republic of Moldova have failed to develop an adequate and effective strategy for the regulation of the Transnistrian conflict. The Moldovan authorities continued to act impulsively and uncertainly, relying entirely on the support of one or another partner, resting the responsibility for the actions taken and their results on the latter.

The lack of an active and well-defined policy of the Republic of Moldova in the Transnistrian problem, which is facing the active resistance of the Russian Federation, is one of the main causes that prevent the regulation of the Transnistrian conflict [106, p.21]. Consequently, for more than five years, the parties of the conflict, but also the international mediators and observers, have failed to create real premises for solving the Transnistrian problem, in accordance with the norms and principles of international law.

The Russian Federation is constantly using the strategy to impose the international community the background of the alleged ethnic confrontation between Chisinau and Tiraspol through Transnistrian leaders. In approaching the specialized doctrine of the Russian Federation, the separatist regime, as the spokesperson of the interests of the "threatened ethnic group" (the so-called "Transnistrian people"), has the legal right to participate in the negotiation process at international level as a party with full rights [121, p.53].

In this way, Russia wants to convince the other parties of the negotiation process that the Transnistrian conflict has an inter-ethnic character and thus, to justify the presence of Russian troops on the territory of the Republic of Moldova as a mediator and guarantor. This, in accordance with the Kremlin's strategies, should give some legitimacy not only to the demands of the separatist regime, but also to justify the existing "peacekeeping" army in the Dniester security zone.

Namely in this direction, Russia's basic diplomatic efforts to impose in the process of negotiating the equal status of the separatist regime in Tiraspol are directed. Such an approach to the conflict nullifies the accusations made to Russia, as this country is actually another party involved in the conflict, which, by virtue of this fact, is an international one and can be reduced, in fact, to Russia's co-operation with the UN member country.

The tendency of the EU and US representatives, supported by the OSCE in order to advance it as a key objective of the multilateral negotiation format, to intensify the dialogue and the concrete cooperation between Chisinau and Tiraspol, speaking of the fact that the West also perceives the conflict as an ethnic one, as well as the tendency of the EU and the United States of America to perceive simplistically the nature of conflicts in the post-Soviet space. But most likely the West, especially the United States, as we have shown above, is simply wasting time, wishing not to aggravate relations with Russia, which has no less priority (say as Iraq, Afghanistan, North Africa) than Moldova [128, p.28]. However, direct discussions between the Government of the Republic of Moldova and the separatist regime in Tiraspol, whose existence depends entirely on Russia, are meaningless, at least as long as Russia will not consider it necessary to make concessions or at least to change its current strategy. Until Kishinev does not destroy these models of international perception of the situation around the Transnistrian conflict, Russia can count on the success of applying these ideas in practice.

Tactics of Transnistrian conflict resolution. The most favorable option for ending the Transnistrian conflict is its solution. The political-territorial regulation of an international conflict means the elimination of the causes that led to its emergence, that is, in eliminating the contradictions of the interests of the subjects in conflict [192, p.29]. This requires considerable effort because self-conflict is practically impossible. Therefore, a priority method of regulation of such conflicts can become their regulation, i.e. limitation of open conflict, cessation of any actions of the leadership of the Republic of Moldova, to be qualified as a violation of the rights of national minorities, reducing the level of tension between parties, escalating tensions, diminishing the level of hostility in relationships, refusing each participant to take unilateral actions and moving to a compromise solution to the problem.

According to the opinions expressed in the specialized doctrine, the concrete way of solving the Transnistrian conflict must be the balance of a series of political agreements and negotiations, which will lead to its completion. Thus, according to researcher V. Serzhanova, the tendency of the Republic of Moldova during a sufficiently long period to force Tiraspol to accept a certain variant for normalizing the situation in the eastern districts of the country with the support of international partners has not produced real results. For this reason, it is necessary to focus attention on the negotiation strategy, on the transfer of the negotiation process from the

status of the Transnistrian region, considered by Russia to be so-called ethnically in a specific field of application of the principles and norms of international law [247, p. 77].

In order to the Transnistrian dispute to be resolved, the balance and flexibility of positions must be respected, which means, on the one hand, the possibility of demonstrating a commitment to clearly defined principles for conflict resolution, openness to systemic interaction, and on the other hand, not to admit an open confrontation with its opponents, the cooperation which is anyway necessary for the realization of national interests [186, p.407]. The use of such a balanced strategy is possible if it is based on the analysis of the prognosis with multiple variants.

Russian authors N. Romashkina and S. Rastoltsev believe that a solution to the Transnistrian conflict is impossible without removing the objective grounds of the conflict opposition, but also without revealing the true, hidden interests that generate the subjective divergences of the conflict participants and the international community, which participate in the regulation of this [235, p. 59]. In this context, it is necessary to move step by step towards a reasonable compromise, whereby each step will be carefully thought out and directed towards creating optimal conditions for definitive regulation of the conflict with the separatist regime.

In the opinion of the Romanian researcher M. Buclis, the principle of "realistic conflict regulation" should be creatively applied when constructing the negotiation process, coming from the understanding of the impossibility of solving the conflict at the moment, avoiding the relatively long period of coordination of many questions. Therefore, in the Romanian author's view, the main methods of conflict resolution are negotiations and mediation [61, p.54].

In order to make the most active use of the negotiations in the regulation of the Transnistrian conflict, we consider it is necessary to use six basic elements:

1) To insist on objective criteria for evaluating the nature of the Transnistrian conflict based on the concepts and norms of international law;

2) To insist on the priorities of the objective interests (vital, which are not related to the policy) of the inhabitants on both sides of the Dniester and of the Republic of Moldova, in general, in order to establish the approaches to the conflict resolution;

3) To focus on the interests and object of the negotiations and not on the statements of the official positions made by the parties involved in the conflict resolution;

4) To focus on the essence of the negotiations and not on their form, the negotiations in which the most emotional representatives of the parties express their positions. To take prompt and constructive reaction to possible challenges within the tripartite commission. Exclusion from the negotiation process of such discussions;

5) To attract for cooperation in solving the Transnistrian conflict of the leadership of the Gagauz autonomy in the context of the positive experience gained during the period of existence of Gagauz Yeri as autonomy;

6) Develop mutually advantageous variants based on the clearly formulated principles of international law. At the same time, it is necessary to review and take joint decisions in order to solve humanitarian and social problems in the eastern districts of the Republic of Moldova, in order to strengthen the trust between the citizens on both banks of the Dniester. However, these actions, in agreement with international partners, should not lead to the amplification of the separatist regime. Only rehabilitated social and economic relations can contribute to a responsible approach in the negotiation process;

7) Taking into account the weaknesses existing in the Moldovan peacekeeping operations and the lack of a systematic concept in this direction, it is appropriate to develop and adopt the Transnistrian conflict resolution strategy and to restore the territorial integrity of the Republic of Moldova;

8) There is a need for fundamental research in the field of conflictology, the involvement of scientists, specialized in international affairs, specialists in the natural sciences, experts of the main non-governmental institutions in order to strengthen the government's strategy by scientific evaluations.

Strategies and tactics for the regulation of territorial conflicts in Georgia. Analyzing comparatively the circumstances of the conflict in Transnistria with that of Abkhazia, we can see that, unlike the Republic of Moldova, Georgia has consolidated the status of Abkhazia as an occupied territory with all subsequent consequences and respects this regime, except for the provision of humanitarian assistance provided by international humanitarian law [98, p.52]. In other words, Georgia has fulfilled all the conditions regarding Abkhazia as occupied territory, which is under the full protectorate of the Russian Federation.

As regards South Ossetia, there was a plan for the reintegration of Georgia proposed by former President M. Saakashvili. Initially, this plan was successful because many Georgians live in South Ossetia, and the plan put forward by M. Saakashvili had an aim to create immediately adequate living conditions for the population in the occupied territory [255, p.28]. The plan was not implemented because the Russian Federation did not allow the implementation of these peaceful constructive intentions.

In the doctrine, it was mentioned that Georgia's policy, that consists of sanctions imposed on and isolation of Abkhazia, is a big mistake. Each new threat from Tbilisi reinforces the pro-Russian feeling in people from Abkhazia. On the other hand, Abkhazia must open its borders so

that the population can travel freely in other states, and to inform people about European ideas and values [302, p.48].

Peaceful regulation of territorial conflicts in Georgia is possible only if it is economically and politically advantageous for Abkhazia and South Ossetia to be part of a Georgian state. This can become real in the case of democratization of public life, overcoming the crisis and accelerated economic development of Georgia. Restoring Georgia's territorial integrity through peaceful means may be slower in time, but from a historical perspective, it is the most fruitful way.

An alternative to the peaceful regulation of conflicts in Georgia is a military force. This path is full of vices, as the resumption of hostilities in the area of Georgian-Abhazian conflict is contrary to the interests of the international community and threatens to destabilize the situation not only in Georgia but also in the neighboring regions of the Caucasus.

Changing the current situation requires an effective interaction of all parties involved in the conflict. All parties should recognize the presence of the conflict between Georgia and Abkhazia. The adoptions of normative documents that aggravate the situation in Abkhazia only worsen the conflict situation and delay the prospect of its resolution. The Georgian leadership should recognize the Republic of Abkhazia as a necessary and active participant in the conflict resolution process. A significant step in this direction could be the conclusion of an agreement on the non-use of the armed forces between Abkhazia and Georgia [307, p.9].

In Abkhazian society, there is a view that the conflict with Georgia was resolved after the Russian Federation left the sanctions regime. This view is erroneous, as such a formulation of the situation does not allow analyzing objectively and adequate of all future problems and challenges that Abkhazia will face [280, p.118]. In this regard, a public discussion on what means the "sustainable peace" and the price of unresolved conflict is necessary.

Most of the inhabitants of Abkhazia and South Ossetia have received Russian citizenship and are no longer considered citizens of Georgia. Thus, the Georgia Law no.431-Пс of 23.10.2019 concerning the occupied territories [319] can be applied for the imposition of fines or the detention of residents who have previously entered Abkhazia and South Ossetia from the Russian Federation. We are of the opinion that such uncertainty can create abuse of the law, even if the Georgian government considers that these people are de facto citizens of Georgia and not of the Russian Federation and, therefore, do not fall under the aforementioned law. Thus, the law can prevent them from crossing the conflict lines.

The strategy of territorial conflict resolution adopted by the Georgian leadership correlates with the interests of the European Union, but discredits the European initiative for the citizens of Abkhazia, thus creating restrictions on cooperation and contact between the European

Union and Abkhazia. In this regard, it becomes necessary to position the strategy as an independent initiative which does not establish as the main objective "restoring territorial integrity" of Georgia [181, p.322]. The practice shows that the Georgian leadership is trying to discredit all possible Abkhazian attempts to communicate independently with EU countries. Aware of this, Abkhazia should manifest collaboration abroad.

Through its actions, the Georgian Government promotes the tactic of "declaring an objective and moving in the opposite direction from it". Georgia declares the need to maintain territorial integrity and return Abkhazia and South Ossetia, but forcing international isolation of these territories, Georgia strengthens their separatism [153, p.85]. The attempt by the Georgian authorities to prevent foreign investments from entering Abkhazia and South Ossetia leads to a doubling of the Russian monopoly in the economy of these republics. In this way, the isolation of Abkhazia and South Ossetia from the Western influence does not promote democratization, but, on the contrary, leads to further alienation of these republics from the rest of the world and leaves only one option - the proximity to the Russian Federation.

Essential tactics for resolving territorial conflicts in the Republic of Moldova and Georgia. The cooperation between the Republic of Moldova and Georgia in the field of mutual assistance in resolving territorial conflicts has been carried out on several levels. Thus, on March 2, 2005, the President of the Republic of Moldova, Vladimir Voronin, and the President of Georgia, Mikheil Saakashvili, signed in Chisinau the Declaration No. 350 dated March 2, 2005 against “Black Holes” of Europe [15]. The text of the joint declaration states that the Republic of Moldova and Georgia "reaffirm the need to ensure full respect for the territorial integrity and sovereignty of all states, as well as the inviolability of international borders." On this basis, „both states will work to eliminate the threats to peace and security that come from aggressive separatism.” The signatories of the declaration concluded that the conflict zones and the separatist territories have become "black holes", being supported from the outside; these territories function as shelters for criminals, in which mass contraband enriches some of their corrupt leaders.”

According to the Declaration, the presence and direct involvement of foreign military units in the Republic of Moldova and Georgia were the main catalyst for the conflicts in Transnistria, Abkhazia and South Ossetia. The evacuation of foreign military forces from both states as soon as possible is in the common interest of the entire region. At the same time, it was indicated that good relations with the Russian Federation are an important priority for the Republic of Moldova and Georgia.

The signatories of the Declaration also concluded that the aggressive separatism in the Republic of Moldova and Georgia has created favorable ground for the imperial ambitions of those who do not want the Republic of Moldova and Georgia to be free and prosperous. That is why, „armed separatism is not just a term, but a criminal activity, it is not only our personal matter, but the problem of the whole of Europe."

Through the Declaration, the Republic of Moldova and Georgia reaffirmed the importance of adopting measures against armed separatism, so that both states have the possibility of integration into the European Union. To this end, the Republic of Moldova and Georgia will undertake joint diplomatic actions in the international arena against aggressive separatism, antipode of democracy, quintessence of totalitarian forms, terrorism, mass violations of human rights, human trafficking, arms and drug contraband, illegal trade and money laundering, transnational corruption.

Expressing our point of view, we consider that Declaration No. 350 of 02.03.2005 against the "Black Holes" of Europe signed in Chisinau on March 2, 2005, between the President of the Republic of Moldova and the President of Georgia, is a necessary and defining step in regulating territorial disputes in both states. We note that Declaration No. 350 of 02.03.2005 is only a commitment of mutual support assumed by the presidents of two states (Republic of Moldova and Georgia) in the context in which, on March 2, 2005, President Mikheil Saakashvili paid an official visit to the Republic of Moldova. Unfortunately, until now the Declaration no. 350 of 02.03.2005 has not been consolidated by concrete acts and actions in legal and material terms.

We believe that the strategies of the Republic of Moldova and Georgia for resolving the conflicts in Transnistria, Abkhazia and South Ossetia need to be based on the following **key tactics**:

First of all, the principles of territorial integrity and inviolability of the state borders of the Republic of Moldova and Georgia must be respected. The territorial integrity and inviolability of state borders are the main rules that must be observed in the process of resolving political and territorial conflicts. The second principle that must be observed is the principle of ensuring stability and security, including at the regional level. Arbitrary and voluntary attempts to oppose these principles must be regarded as deliberate acts against the peace and security of nations.

Secondly, the methods and means used by the Republic of Moldova and Georgia to restore territorial integrity must be aimed primarily at ensuring the security of the country, its constitutional system, real independence; creating the premises for consolidating state sovereignty, economic development; strengthening political status, as well as in the international arena; maintaining geopolitical balance and stability at the regional level.

Thirdly, the methods of the regulation of territorial conflicts in the Republic of Moldova and Georgia must be based on the political mechanisms and diplomatic means available to the member states of the international negotiation process. The key to finding an acceptable format for the restoration of territorial integrity must become the pro-active position of the Republic of Moldova and Georgia, a position based on a well-thought-out strategy and effective cooperation with foreign partners.

Fourthly, the interests of the people of Transnistria, Abkhazia and South Ossetia must be at the core of the efforts to restore the territorial integrity of the Republic of Moldova and Georgia. Only when the regulation of territorial disputes becomes more profitable than the continuation of hostilities, the progress will be made [135]. The work of state media organizations should be activated in this direction to prepare and provide a relevant information to the media. This activity should considerably increase the chances of advancing towards the restoration of the territorial integrity of the states of the Republic of Moldova and Georgia.

Fifthly, the effective internationalization of the conflict resolution process in Transnistria, Abkhazia and South Ossetia must be ensured in terms of the participation of the international community in this process. In this sense, the intentions of the Russian Federation to play the key roles of peacemaker and mediator must be fully balanced, as well as the negative intentions of some international structures that fuel the separatist crisis in order to maintain its political influences on the international arena.

Sixth, due to limited geopolitical possibilities, the Republic of Moldova and Georgia can create real premises for the restoration of their territorial integrity only through negotiations with the authorities of the Russian Federation and with the direct and effective support of international partners. A key element of this strategy must be the abolition of the ethnic concept of the conflict, which will make it possible to transfer the negotiation process into a more constructive direction and clearly identify the parties to the conflict.

The efforts of the Republic of Moldova and Georgia to resolve territorial disputes must be aimed at convincing the Russian Federation that its current policy of supporting separatism in Transnistria, Abkhazia and South Ossetia is not beneficial to Russia in the long term and does not meet strategic foreign policy goals of this state. If this constructive option is rejected, only the realization by the Russian Federation of the loss of political capital in the international arena can force Moscow to make concessions and pursue a positive policy of the regulation of the territorial conflicts.

Seventh, in parallel with efforts to inform the international public about the true nature of the conflicts in Transnistria, Abkhazia and South Ossetia as politico-territorial and international conflicts, the Governments of the Republic of Moldova and Georgia should draw public attention

of the Russian and international public to the financial and economic assistance, to military, political and moral support provided by Russia to ensure the survival of separatist regimes for thirty years.

In addition, the active strategy of the Republic of Moldova and Georgia should be aimed at reducing the dependence of the Tiraspol, Suhumi and Tskhinvali regimes on the Russian Federation. The Russian Federation must be led to the conclusion that it is not in its interest to fuel the separatism, especially when Moscow faces similar challenges in its own regions, such as the North Caucasus, the Kaliningrad region and the Far East.

Although the hostilities between the governments of the Republic of Moldova or Georgia with the separatist authorities are frozen, the prospects for a political solution that would respect the territorial integrity of these states remain unclear.

A complex of domestic and international developments could favor the reintegration efforts of the Republic of Moldova and Georgia. Taking advantage of these opportunities depends on the ability to coordinate internal efforts to resolve frozen territorial conflicts with international developments where the outcome of the war in Ukraine plays a key role.

2.3. Territorial integrity of states on international, legal and geopolitical dimensions

Regardless of the form of state structure, government or political regime, states remain legally equal, having the same rights as subjects of international law relations. Taking into account the analysis that was carried out in the present scientific approach, we emphasize that the state structure adopted by each nation can determine and influence the way of exercising sovereignty. It can determine the surrender of some attributes of sovereignty or it can limit the sovereignty to a degree that it would not affect the interests of the state and the people.

States intentionally and consciously delegate some of their sovereignty to international organizations, supra-state structures or jointly exercise certain powers within a state, in order to manage jointly certain fields with other states and to harness certain ideas, values, projects through international cooperation [20, p.146]. Thus, the integration of the state in certain international or regional structures does not cancel its sovereign character.

In modern conditions, the notion of the principle of territorial integrity is unquestionable which is true and fixed in the Constitutions of most states. For several centuries, the territory is the main criterion of the state. In international law, it has been stipulated that the principle of territorial integrity means full sovereignty of the state throughout its territory [248, p.103]. This principle is one of the most important in international law and regulates relations between states.

In contemporary interstate relations, the principle of territorial integrity is related to ensuring the security of the state, guaranteeing the protection against external invasions on its

territory and forced changes of its territorial borders. Therefore, according to the UN Statute, the states are obliged to respect the territorial integrity of each Member State and not to take any actions which represent a threat to their territorial integrity.

In international law, the idea was established that the principle of territorial integrity of the state means full sovereignty over its entire territory. This principle is one of the most important in international law and regulates relations between states [237, p.65]. Of course, the principle of territorial integrity serves as a basis for the existing world order. To revise or question it means putting the world into the brink of conflict, which will not only undermine the foundations of international tensions but may also lead to the advent of "chaos in the world".

Unchanged borders and territorial integrity are the guarantors of the stability of both national and international relations. The conquest and independence wars of the twentieth century determined the international community to recognize territorial integrity as a basic principle and its acceptance at the international level and in national laws.

Currently, territorial problems are some of the most acute problems of the system of relations between states, but also within them. They are directly related to the establishment of sovereign power in states in a certain region of the world or to the preservation of a people's independence, a declaration of its geopolitical identity and civilization [140, p.21]. The unity of the constitutional space and its combination with the territorial and state integrity of the modern states constitutes the basis of the activity of all structures and institutions of the state power.

The current state of the legislative norms in the field of sovereignty, territorial integrity and self-determination shows that, as in the past, the geopolitical factor has an influence on one principle or another, and their fulfillment depends on the will and commitment of the states, their essence and not on the use of interpretations exclusively for the benefit of one of the parties [56, p.113]. At the same time, this means that the attention of the international community and the strict respect by its members of the territorial integrity of the states will depend to a large extent not only on the geopolitical distribution of forces but also on the fate of the new global order formation.

Applying the principle of territorial integrity, first of all, implies the existence of internationally recognized borders. If there is no such basis, then the principle itself ceases to work. Precisely for this reason, in the practice of international relations, there is the rule that the states would refrain from recognizing the new country if it had territorial problems, because it actually involved that the state recognized it during an unresolved conflict.

The territorial integrity of the state is ensured by the unity of the state power system. The unity of the state power is guaranteed by the Constitution, which defines a single territorial, political and legal space of the country, the building principles of the state, central and local

power systems, which give the state the form of an integral unit. Thus, in accordance with Article 3 of the Constitution of the Republic of Moldova [12]. *(1) The territory of the Republic of Moldova is inalienable; (2) The borders of the state of the Republic of Moldova are established by organic law, respecting the unanimously recognized principles and norms of international law*. Also, in Article 11 of the Constitution of R.M. it is stipulated that *(1) the Republic of Moldova proclaims its permanent neutrality; (2) The Republic of Moldova does not allow the deployment of military troops of other states on its territory*. Regarding the administrative-territorial status of the localities in the Transnistrian region, in the Constitution of the Republic of Moldova (art. 110 para. (2)), it is regulated that *special forms and conditions of autonomy may be assigned to the localities on the left bank of the Dniester in accordance with the special statute adopted by the organic law*.

Similar regulations are found in the Constitution of Georgia, adopted on August 24, 1995 [323]. Thus, in article 1 of the Constitution it is stipulated that *Georgia shall be an independent, unified and indivisible state, as confirmed by the Referendum of 31 March 1991, held throughout the territory of the country, including the Autonomous Soviet Socialist Republic of Abkhazia and the Former Autonomous Region of South Ossetia*. Also, in Article 2 of the Constitution, it is indicated that *(1) The territory of the state of Georgia shall be determined as of 21 December 1991. The territorial integrity of Georgia and the inviolability of the state frontiers, being recognized by the world community of nations and international organizations, shall be confirmed by the Constitution and laws of Georgia.* (2) *The alienation of the territory of Georgia shall be prohibited. The state frontiers shall be changed only by a bilateral agreement concluded with the neighbouring State.* (3) *The territorial state structure of Georgia shall be determined by a Constitutional Law on the basis of the principle of circumscription of authorisation after the complete restoration of the jurisdiction of Georgia over the whole territory of the country.*

After the adoption of the Statute of the United Nations (UN) [264] on June 26, 1945, the legal protection of territorial integrity, the inviolability of states and the self-determination of the peoples intensified substantially. The fixation in a series of UN resolutions and their subsequent approval in the international treaties and agreements of the states made the law on territorial integrity and the right to self-determination to have much greater authority contributed to their strengthening and to wider recognition.

Under modern conditions, the principle of territorial integrity and the inviolability of borders must be respected in order to ensure global peace and security of states. But in practice, the realization of these principles is closely linked to the political interests of the states, which, after reaching their goals, violate these principles [237, p.126]. There should be mentioned that the current international community does not have effective tools - legal norms and mechanisms

for their implementation by which the resolution of the separatist conflicts could be directed and accompanied by a system of sanctions against offenders.

Attempts to change the borders of states without their consent have always been an expression of aggression, which has often led to war. But even today, it is not possible to avoid armed conflicts between states about territorial disputes. In this context, a threat to the security of states and their territorial integrity represents ethnic, regional and local conflicts, which violate stability not only in a particular country but also can cause a conflict situation in the region and throughout the world.

An important right that contributes to ensuring the territorial integrity of states on the international, legal and geopolitical levels is the right of the people to self-determination until separation. The right of peoples to self-determination means the right of ethnic communities recognized by the international community to determine their status until the formation of an independent sovereign state if their existence is threatened by the incumbent nation [290, p.22].

In the specialized literature there are two approaches to the right of the people to self-determination, namely: the right of the people to independence and the right to internal self-determination [163, p.19]. The choice of approach depends on each situation, but today, in most cases, the right to self-determination with declaring independence is blocked by the obligation to maintain the territorial integrity of the states. The right of peoples to self-determination until the separation has given rise to a special type of conflict, which is based on the desire of ethnic minorities to realize their right to self-determination in the form of an independent state formation.

Analyzing the current state of the norms of law in the field of sovereignty, territorial integrity and self-determination, it is necessary to conclude that, as in the past, the geopolitical factor exerted its influence in favor of one or another principle, and its realization depended on the will and the commitment of the subjects in regard to the essence of international law [140, p.19]. At the same time, under the conditions of globalization and the emergence of a new type of threats to national and international security, international law as a civilized landmark in relations between states becomes much more necessary than before.

In order to gain the international recognition of Transnistria's independence, Russian doctrines employ the right of the people to self-determination, emphasizing that in the case of Transnistria the right of the people to independence and the right to internal self-determination should be respected. In the same context, insisting on the principle of equality of subjects within a "common state", the Tiraspol authorities are trying to "institutionalize" the regional identity of Transnistria as a distinctive one.

As an argument for Transnistria's regional identity is used the historical fact of the creation of the Moldavian Autonomous Soviet Socialist Republic (MASSR) on October 12, 1924 by the Central Ukrainian Executive Committee, as an "autonomous" territorial entity on the left bank of the Dniester River in the composition of the Ukrainian SSR [284, p. 141]. The establishment of the respective Moldovan unit was initiated by military leader Grigore Kotovsky and included the Transniestrian rayons of today's Republic of Moldova, plus the Ananiev, Balta, Bârzula, Codâma, Cruteni, Ocna Roșie and Pesceana rayons in the current Odessa region of Ukraine [308]. Initially, the official capital of the autonomous republic was proclaimed "the temporary occupied city of Chisinau", and from 1929 until the abolition of the autonomous republic (1940), the capital was in the city of Balta.

By the creation in 1990 of the "Dniester Moldovan Republic", the revival of this social-political project took place, this time it was called "the Transnistrian people". Analyzing more deeply the nature of this "new regional community", it can be understood that there is no difference between the pseudo-idea of the regional identity of "Transnistrians" and the old idea about the "Soviet people" which also claimed a supranational status.

Despite the fact that the Russian-speaking groups, initiated by Transdniestria's leadership, are considered to be an independent supranational community, this is to the detriment of the majority ethnic group, that of the Moldovans, as well as other ethnic and cultural minorities living on the shore of the left bank of the Dniester. This is the reason why the leadership of these Russian-speaking groups in Transnistria supports the actions of the Russian Federation in Georgia and considers that the former metropolis must carry a similar policy to the eastern borders of the former USSR, as regards the self-proclaimed "Transnistrian republic" [290, p.23].

In context, the ideologies of anti-Moldovan separatism in Transnistria are increasingly insisting on the recognition of the right of the "Transnistrian people" to establish their own political status in the form of independent and sovereign state or a state with a special status within the Republic of Moldova [251, p.106].

To generalize, we argue that the main problems that face the regulation of contemporary conflicts often prove to be of the nature of those mentioned above. This can be explained by the fact that, in essence, the conflict triggering and resolution in most cases is confined to the conflict management policy, promoted by the great powers of this world, who recognize and adhere to international legal norms, but de facto act according to their own interests. In our view, the only solution that can destory the effect of such a policy is the international legal framework optimization and capacity building of the main international structures, which will not admit in any case fighting and preventing any unilateral and unauthorized reactions that represent the possible challenges of the contemporary world.

2.4. Conclusions to Chapter 2

As a result of the complex study of the causes of emergence and evolution of the territorial conflicts in the CIS area, we can formulate the following important conclusions, by which we want to elucidate a number of deficiencies in the field.

Taking into account the fact that the international territorial conflict implies the situation of maximum aggravation of the contradictions in the sphere of international relations, expressed in the form of active confrontations and clashes (armed or unarmed) of parties of the conflict, we conclude that its solution is much more difficult and complex in comparison with the regulation of international disputes.

Due to its severity, the international territorial conflict needs to be finalized both by political-diplomatic means and, in some cases, by the use of force (another criterion that differentiates it from the international dispute). Despite the fact that an effective conflict resolution is possible only if both parties analyze their contradictions and decide on mutually acceptable solutions, however, the special role of third parties in the conflict resolution process cannot be denied, which only has to contribute to the proximity of the parties and their determination to sit at the negotiating table.

The intervention of the third parties in the resolution of the conflict is a necessary, as well as complicated moment, because, depending on the interests pursued, the third party can contribute to both the resolution of the conflict and its aggravation or, at least, its maintenance. The intervention can take place both in the context of the negotiations and through the use of force in order to stabilize the situation and bring it under control, so that the diplomatic negotiations can be initiated. In both cases, the intervention of third parties entails certain risks, that is to say, it can generate certain political and legal problems. In this respect, the most serious problem lies in the distorted role that the third party can play in the negotiation process. By its vicious conduct, the third party can pursue the realization of their own interests to the detriment of the interests of the parties of the conflict, thus seriously violating the norms of international law.

Regarding the Transnistrian conflict, we emphasize that, essentially, the cause of the failure to resolve this conflict does not lie in the impossibility of the parties (of the Republic of Moldova and Transnistria) to agree on mutually advantageous solutions, but in the implication of Russia as a "third party" and its efforts to implement its own interests in the region. Respectively, the solution of the conflict may consist either of removing Russia from the negotiation process and the peacekeeping mission (at the moment practically unrealistic and impossible), or accepting the model proposed by this country for conflict resolution, which is known to

contravene all aspects of interests of The Republic of Moldova as a sovereign and independent state (also unattainable solution).

Taken as a whole, the Transnistrian conflict eloquently demonstrates that the process of managing international conflicts is only apparently carried out according to the unanimous legal framework established and recognized by the international community. *De facto*, this process is dominated by the stronger states, which seek to satisfy their own interests. This fact also denotes the inefficiency of international structures to apply the international legal framework to the great powers of the world, being unable to influence them and even more to sanction them.

Speaking of peaceful measures to resolve international conflicts using such coercive measures as retaliation, repression (embargo and boycott), break of diplomatic relations, it should be mentioned that despite their priority over the use of force in resolving conflicts, they are likely to exacerbate the relationships between the parties of the conflict, which are already in tension. That is why, it is preferable to apply these measures only in the form of sanctions imposed by the international community (the relevant organizations in the field).

Following the analysis of the facts related to the Transnistrian conflict and the international legal framework in this field, it can be concluded that this conflict is an international one. The central point in this determination is that the role of the Russian Federation comes to the involvement of a third party in conflict, leading to internationalization. This implies that the whole corpus of international humanitarian law should be applicable to the conflict, thus offering a more expansive protection regime to those involved in and affected by the conflict.

The evolutions related to the Transnistrian regulation process clearly show the support of separatism by the Russian Federation, which has, in fact, a triple status: a state that encouraged the outbreak of separatism and which, in fact, controls the Transnistrian region of the Republic of Moldova in military, economic, financial aspects etc.; as mediator in the process of negotiations and guarantor of the agreements reached; a party directly interested in conflict resolution. These moments prove persuasively that the Transnistrian conflict is an international conflict, all the more since all decisions are taken by Russia on behalf of Transnistria.

The fact that an international legal regime, especially an expansive legal regime, can be considered to be applicable in the Transnistrian region is all the more significant, given the region's status as a *de facto* state that has no obligations and the possibility to apply the international standards and norms, leaving the population of the region without any international legal protection. The regime of international humanitarian law would provide a certain level of protection for the population, prescribing war crimes, such as rape, murder and torture, protecting civilian goods, and providing an option for criminal prosecution of alleged offenders.

The confrontation between the state of the Republic of Moldova and the separatist region of Transnistria is essentially a political-territorial conflict and is the result of unconstitutional actions to usurp power in the territory on the left bank of the Dniester. Regarding the nature of the conflict, it is not only a political and territorial one, but also an international one, by virtue of the active involvement from the beginning of the Russian Federation and of the geopolitical interests of other states, which are now participating in the process of solving it. The final aim of the initiators of the political-territorial conflict are the resources, the state power, the position of the governmental institutions, the political status of the big social groups, the territories, the regions, the values and symbols that underlie the political power in the social structure.

Generalizing, we argue that the main problems that face the regulation of contemporary conflicts often prove to be of the nature of those mentioned above. This can be explained by the fact that, in essence, the conflict triggering and resolution in most cases is confined to the conflict management policy promoted by the great powers of this world, which recognize and adhere to international legal norms, but *de facto* act according to their own interests. In our view, the only solution that can destory the effect of such a policy is the optimization of the international legal framework and the strengthening of the capacities of the main international structures, which will not admit in any case fighting and preventing any unilateral and unauthorized reactions that represent the possible challenges of the contemporary world.

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3. SYMBIOSIS OF THE COLLABORATION OF STATES AND INTERNATIONAL ORGANIZATIONS IN THE RESOLUTION OF TERRITORIAL CONFLICTS IN THE REPUBLIC OF MOLDOVA AND GEORGIA

The Republic of Moldova and Georgia are actively collaborating in the field of territorial conflicts with both world countries, especially those of the European Union, and with international security organizations, such as the United Nations, the OSCE, the Council of Europe, etc. This indicates that the Republic of Moldova and Georgia are plenipotentiary subjects of international law, active subjects of international relations on a universal and regional scale, which enjoys authority in the international community and makes great efforts to maintain peace, protect its citizens, guarantee, and respect values, human rights, which is the goal of contemporary public international law.

The war in Ukraine highlights the importance and need for cooperation between states and international organizations in ensuring international security and regulation of the territorial conflicts by preventing conflict escalation and securing peace, the internationalization of life in today's society and the interdependence between states and international organizations.

The reference chapter makes an in-depth analysis of the international law norms usage in the domestic law of the Republic of Moldova and Georgia, the contribution of states and international organizations for security and peacekeeping in the territorial conflicts management in the Republic of Moldova and Georgia, but also assesses peacekeeping operations as a factor in territorial conflicts regulation in these countries

3.1. Applying the norms of international law in the domestic law of the Republic of Moldova and Georgia

Clarifications on the relationship between international law and domestic law. In conditions of aggravation of international relations, the main role in their regulation belongs to international law. While promoting the idea of European integration of the Republic of Moldova and Georgia, we must realize that the building of the European Community from the very beginning raises the issue of delegating a part of national sovereignty by the member states of the European Union. From the very beginning, this construction was exposed to a great danger of the outbreak of territorial conflicts.

According to international law, the sovereignty defines the limits within which a state sets its own prerogatives and constitutional priorities. This rule is enshrined in the UN Charter [264], Article 2 of which enshrines the principle of the sovereign equality of states.

At the international level, the sovereignty cannot be absolute. International law is a system of obligations through which states agree to restrict their freedom of action and, ultimately, their own domestic political autonomy [291, p.85-86]. The unanimously recognized importance of modern international law has reached such a level that we believe that there is no state that would not take it into account, since it has colossal social significance.

In general, the international law does not say anything about the form and method of incorporating its norms into the internal law of the state. The conditions for the application of international law internally are left to the discretion of states, which make different decisions in this sense [196, p. 54]. For example, the Community law, through its directives, is imposed on Member States, but also allows them to choose freely the means to implement it (Article 189 (3) of the Treaty establishing the European Economic Community) [271].

The 1969 Vienna Convention on the Law of Treaties [281] contains the same provisions. Thus, Article 26 sets out the principle of *pacta sunt servanda*, and Article 27 speaks about the supremacy of international law in relation to domestic law, there is not a single provision that does not define the ways of applying international law in the legal order of states.

The Member States of an international organization decide for themselves how the provisions of the acts adopted by this organization have a "direct impact" on the internal order of states. The sanction for non-compliance by a member state with the rule of a mandatory act of an international organization is the same: the guilty state bears international responsibility.

Like the norms of domestic law, the norms of international law come from different sources, but, unlike the sources of domestic law, the sources of international law have a less strict systematization [56, p.78], which is explained by the lack of a mechanism at the international level. There is no constitutional mechanism, that is, the legislative body, whose task is to create the norms of international law, and, in addition, there is no judicial system with mandatory competence for their interpretation.

The analysis of the question of the sources of international law has a starting point in Article 38 of the Statute of the International Court of Justice [257], which provides that the Court, whose mission is to resolve disputes in accordance with international law, applies: international conventions, international custom, general principles of law recognized by civilized countries, judgments and doctrines of the most qualified specialists in the field of public law.

We want to emphasize that the relationship between public international law and domestic law is one of the main problems of the philosophy of law, but, at the same time, it has a special practical significance [248, p.89]. International public law and domestic law of states are two different systems of norms and two types of law with different rules, sources and methods. However, the two systems are intertwined through states that are the creators of both

international law and domestic law and which ensure their application both internally and internationally.

After the state accepts the norms of international law on the basis of free expression of will, they become binding and must be applied throughout its territory and for the entire population. Thus, the norms of international law acquire a legal value equal to the value of the norms of the internal law of states.

The connection between the two systems of law - international and domestic - has risen in the doctrine of international law (*G. Distefano, A. Kjeldgaard-Pedersen, N. Shaw-Malcolm, etc.*) the question of which of these systems may have precedence over the other.

In *the dualistic concept*, international law and domestic law are systems with different fields of application. The rules of international law have no value under domestic law, just as the rules of domestic law have no value under international law, they apply whether they are agreed or not. On the other hand, *the monistic concept* supports the existence of a single legal order, consisting of domestic law and international law. Adherents of these theories (especially in Italy and the United Kingdom) are divided. However, when it comes to which of the two systems should prevail: the domestic or the international, some declare the absolute primacy of international law, others - the primacy of domestic law, up to the denial of international law [163, p.103].

From the perspective of historical evolution, the primacy of international law is supported especially by Kelsen's normative school. The supremacy of international law was upheld by the International Court of Justice in its Advisory Opinion of 26 April 1988 in the case of the "Compatibility of the Previous U.S. Law with the UN Headquarters Agreement on the Bureau of the Palestine Liberation Organization in New York" [293, p.63], which invokes "the fundamental principle of the pre-eminence of international law over domestic.

This is the problem of the connection of the international law with the domestic law and is the subject of theoretical debate between two orientations: dualistic and monistic.

The superiority of the norms of international law over all other legal norms is an indisputable principle of the legal system of states. In terms of historical evolution, the rule of international law is particularly supported by the Kelsen normative school [55, p.44]. Based on the concepts of natural law, it supports the existence of a universal order that transcends domestic legal orders, the latter being based only on the competence attributed to states within the framework of the universal order.

The primacy of international law has been reaffirmed by the International Court of Justice in its Advisory Opinion of April 26, 1988 in the "Case of compatibility of previous U.S. law. with the O.N.U. regarding the Office of the Palestine Liberation Organization in New York"

[293, p.63], which refers to the "fundamental principle of international law that this law has priority over domestic law."

The primacy of domestic law is usually supported by the school of legal functionalism, inspired by the philosophical concepts of Hegel [196, p.113], which argue that the norms of international law practically do not exist, they are only a projection in the field of international relations of the norms of domestic law, which should ensure at the national level, relations between states being essentially relations of force.

Expressing our point of view, we believe that there are significant differences between international law and domestic law, international law, although closely related to the internal law of the states, but have a number of important features. The main aspects that determine the differences between public international law and the domestic law of the states refer to: the object of regulation of international law, the method of developing its norms, the subjects of this law and the system of application and authorization of its norms.

The norms of international law are created by the states, usually in a negotiation process that takes place in the multilateral framework of international conferences or in the bilateral framework, and they are also the recipients of these norms. Thus, international law has a coordinating character between sovereign states. And, domestic law is considered the right of subordination, in which the state manifests itself as the highest political power, prescribing certain behavior to those who obey it.

The opinion of the researcher G. Hernandez is interesting, international law says nothing about the form and way of including its norms in the domestic law of the state. The conditions for the application of the international law internally are left to the discretion of states, which make different decisions in this sense [146, p.41]. A similar opinion is expressed by the author C. Giorgetti, who has pointed out that international law is satisfied only with the confirmation of its priority in relation to national legislation and leaves the states free to choose the means to ensure the implementation of this principle [134, p.83]. In the same context, specialized doctrine expresses the view that the states that, on the basis of sovereignty, have full and absolute jurisdiction, will have the task of ensuring in their own legal order the rule of international law. Consequently, if States do not take the necessary measures to ensure the domestic application of international law, there may arise the international responsibility [144, p.72]. Thus, *we can conclude that, on the one hand, international law establishes its supremacy, on the other hand, it also imposes sanctions on states guilty of non-compliance.*

In the international legal order, as a rule, there are no government bodies (government, ministries, etc.), which apply the rules of law and control their implementation, since they exist within states [237, p.32]. Usually, the application of international law is made by the specialized

bodies of states, while states are obliged in accordance with the international law of a fundamental nature to comply with international treaties and other norms of international relations (*pacta sunt servanda*).

In some areas, however, some treaties may endow the bodies of international organizations or other specially created structures with some powers to control the application of these treaties, but none of these bodies or structures, due to their functions and composition, can be assimilated to the internal organs of states, they do not have their own administrative power [291, p.87]. The international law also lacks a structural system of courts - the legal authority or legal power - with general and binding jurisdiction to sanction violations of legal norms [196, p.64]. In general, the international courts do not have sufficient jurisdiction over certain categories of lawsuits or violations of international law, and their jurisdiction is usually optional, and proceedings are considered only with the explicit consent of each of the participating States.

Article 27 of the 1969 Vienna Convention on the Law of Treaties states that a State cannot invoke its domestic law in order not to comply with a rule of international law, which is an accepted international obligation. We note that the role of domestic legal norms is important in the process of forming international law, especially in establishing citizenship, in determining the latitude of the territorial sea or in the legal position of the state in international affairs, human rights, international transport, and the fight against drugs, terrorism or pollution.

Some contradictions in this doctrine underline the fact that the interdependent relationship between international law and domestic law is implemented differently in each country through heterogeneous practices that go beyond the meanings and solutions of monistic or dualistic theories. The constitutional prescriptions, jurisprudence of different states, special laws constitute such a heterogeneous practice characterized by the predominant presence of decisions based on *the supremacy (primacy) of the international law*, but without eliminating the duality of the two legal systems [56, p.92]. For example, in the countries such as Norway or Sweden, which are traditionally dualistic, or in Ireland, Great Britain, Australia or Denmark, a concluded treaty becomes applicable by incorporating it into domestic law.

According to the paragraph 5 of Article 4 of the Constitution of Georgia [83], “the legislation of Georgia shall comply with the universally recognized principles and norms of international law. An international treaty of Georgia shall take precedence over domestic normative acts unless it comes into conflict with the Constitution or the Constitutional Agreement of Georgia.”

Regarding the observance of international law and international treaties, the Constitution of the Republic of Moldova contains similar provisions in the paragraph (1) of Article 8. From

the interpretation of these articles, we can observe the supremacy of international law over our domestic laws.

We note the priority of the public international law over domestic law in several constitutional texts, namely: the paragraph (4) of Article 5 of the Constitution of Bulgaria [58, p.33] states that “international agreements take precedence over the norms of domestic law that contradict them”; Article 10 of the Constitution of the Czech Republic [58, p.42] states that: “ratified and promulgated international treaties concerning human rights and fundamental freedoms and binding on the Czech Republic have immediate and priority effect on laws”; Article 55 of the French Constitution [82] provides that: “treaties or agreements ratified or approved regularly have, after publication, a higher authority than that of laws, provided that each agreement or treaty will be applied by the other party”; and the German Constitution [58, p.89] contains a similar provision in Article 10, which states: “general rules of public international law are part of federal law. They are above the law and directly create the rights and obligations of the residents of the federal territory ”; as well as the Italian Constitution [58, p.101], Article 10 of which states: “the Italian legal order complies with the generally recognized rules of international law”; Part (4) of Article 15 of the Constitution of the Russian Federation [84] provides that "if an international treaty of the Russian Federation establishes rules other than those provided for by the law, then the rules of the international treaty prevail."

There should be drawn a conclusion that the supremacy of international law in relation to the domestic law of the states is an imperative of our time, which corresponds to the aspirations of human civilization for peace, security and prosperity. Thus, in most countries of the world, the text of an international treaty becomes an integral part of the system of national law, having direct legal consequences.

The direct effect of international norms is solely due to two factors: a) they are aimed at the specific recipients - private, natural or legal persons; b) for application in the domestic legal order of the states that have adopted them, they do not require any acts of implementation or transposition. In this regard, Article 1 of the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms provides that “The High Contracting Parties recognize for any person under their jurisdiction the rights and freedoms set forth in Section I of this Convention”.

The application of the international human rights regulations in the Republic of Moldova. The formation and strengthening of the Republic of Moldova as an independent, democratic and civilized state with the status of a subject of international law, there have been determined the internationalization of national law, especially in the field of protection of human rights and fundamental freedoms.

The influence of the international law on the domestic law has become even more decisive after the adoption of the Constitution of the Republic of Moldova on July 29, 1994, in Article 1 (3) of which it is stated that "human dignity, his rights and freedoms, the free development of the human personality, justice and political pluralism are supreme values and are guaranteed."

According to the Article 4 of the Constitution, entitled "Human rights and freedoms", the constitutional provisions on human rights and freedoms are applied together with international acts in this area on the basis of the principle of priority of international norms. Thus, the interpretation and application of constitutional provisions on human rights and freedoms is carried out "in accordance with the Universal Declaration of Human Rights, covenants and other treaties to which the Republic of Moldova is a party". In case if "there are inconsistencies between the pacts and treaties on fundamental human rights, to which the Republic of Moldova and its domestic laws are party, international regulations have priority."

To clarify the content of the above norms, the Constitutional Court of the Republic of Moldova has adopted Resolution No. 55 of October 14, 1999 on the interpretation of certain provisions of Article 4 of the Constitution [22], which has noted that the competent legal bodies, including the Constitutional Court and the courts, within their competence, have the right to apply the norms of international law when considering specific cases in cases established by law.

Also, in the operative part of the judgment, the Court has concluded that in accordance with Article 4 of the Constitution of the Republic of Moldova not only the fundamental human rights and freedoms constitutionally enshrined, but also the unanimously recognized principles and norms of international law are guaranteed, being mentioned in Article 8. The expression "unanimously recognized principles and norms of international law" means principles and norms of international law of a general and universal nature. In addition, the Court has emphasized that the unanimously recognized principles and norms of international law, as well as ratified international treaties and those to which the Republic of Moldova has joined, constitute an integral part of the legal framework of the Republic of Moldova and become norms of its internal law.

Regarding the issue of non-compliance of the domestic legislation with the norms of human rights protection, the Constitutional Court of the Republic of Moldova establishes that in the event of the inconsistencies between the international pacts and treaties on fundamental human rights and the domestic legislation of the Republic of Moldova, law enforcement bodies are obliged to apply international rules.

Thus, it is the recognized norms and principles of international law (*jus cogens*) and norms in the field of international human rights law that constitute the instruments that have direct application in the domestic legal order of the state.

In the descriptive part of Decision No. 55 of October 14, 1999 on the interpretation of some provisions of Article 4 of the Constitution of the Republic of Moldova, the Constitutional Court established that, in accordance with the theory and practice of international law, the unanimously recognized principles and norms of international law and the established norms of international law, which are general and universal. The unanimously recognized norms and principles of international law have legal force for the Republic of Moldova, since it has expressed its consent to be bound by the relevant international instruments.

Also, the Constitutional Court of the Republic of Moldova, by Resolution No. 55 of October 14, 1999, indicated through the phrase "other treaties to which the Republic of Moldova is a party" of Art. 4 paragraph (1) of the Constitution of the Republic of Moldova, that by the virtue of the provisions of the Vienna Convention on the Law of International Treaties, concluded on May 23, 1969 and ratified by the Parliament of the Republic of Moldova by Decision No. 1135 of August 4, 1992 means that international treaties ratified by the Republic of Moldova, including international treaties to which the Republic of Moldova has joined, which has entered into force for the Republic of Moldova.

The term "pact" used by the legislator in Article 4 of the Constitution of the Republic of Moldova refers to a kind of international treaty. The concept of "treaty" is general and includes all types of international agreements - treaty, agreement, pact, convention, declaration, communiqué, protocol, etc. Regardless of the name, these acts have the same legal force.

Following these motivations, the Constitutional Court of the Republic of Moldova has decided that, by Art.4 of the Constitution of the Republic of Moldova not only the fundamental human rights and freedoms enshrined in the Constitution are guaranteed, but also the unanimously recognized principles and norms of international law.

The 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms has been the first multilateral international treaty developed within the Council of Europe and is the main instrument for the protection of human rights. The Republic of Moldova has become a member of the Council of Europe and on July 13, 1995 has signed the Convention for the Protection of Human Rights and Fundamental Freedoms. The Convention has been ratified by the Parliament of the Republic of Moldova together with Additional Protocols No. 1, No. 4, No. 6 and No. 7 of September 12, 1997 [25]. The Government of R.M. has signed Protocol No. 12 of November 4, 2000, which, however, has not yet been ratified [19, p. 13]. Protocols No. 13 and No. 15 have been ratified on October 18, 2006 and, respectively, on August

14, 2014, and most recently, on March 17, 2017, the Republic of Moldova has signed Protocol No. 16 [16].

The Statute of the Convention for the Protection of Human Rights and Fundamental Freedoms in the Legal System of the Republic of Moldova is enshrined in paragraph (1) of Article 4 of the Constitution, which provides that the provisions of the Constitution on human rights and freedoms should be interpreted and applied in accordance with the Universal Declaration of Human Rights, Covenants and other agreements to which the Republic of Moldova is a party.

The direct applicability of the Convention is also confirmed by criminal legislation. Thus, paragraph (5) of Article 7 of the Code of Criminal Procedure of the Republic of Moldova [9] provides that if, during the consideration of the case, the court finds that the applied national legal norm contradicts the provisions of international treaties in the field of fundamental human rights and freedoms to which the Republic of Moldova is a party. The court will apply international norms directly, motivating its decision and informing the body that adopted the relevant national norm and the Supreme Court.

Therefore, it is important to note that the courts are obliged to directly apply international conventions if their provisions contravene the domestic law. In case of doubts about the compliance of a law with the Constitution, the courts are obliged to file a claim for unconstitutionality with the Constitutional Court of the Republic of Moldova in accordance with the provisions of paragraph (3) of Article 7 of the Code of Criminal Procedure of the Republic of Moldova.

The Constitution of the Republic of Moldova in article 4 paragraph 2 proclaims the primacy of international law only in the field of human rights. We believe that this is not enough, since there is a need for a direct constitutional provision on the priority of international law in all areas, namely on the basis of existing practice and the doctrine of the universal application of the rule of international law in relation to national law.

We believe that the Constitutional Court should interpret paragraph 2 of Article 4 of the Constitution of the Republic of Moldova, providing that in any case or situation, the principle of direct application of norms of international law and treaties to which the Republic of Moldova is a party of all state bodies, persons with positions of responsibility, as well as citizens of the Republic of Moldova.

It should be noted, however, that in Resolution No. 55 of October 14, 1999, the Constitutional Court of the Republic of Moldova has confirmed that an international norm may be declared unconstitutional even if “the Constitution or national laws do not establish the

principles and guarantees provided for by international treaties, or if treaties guarantee rights broader than the Constitution."

The Article 19 of the Legislation of the Republic of Moldova No. 595 of 24.09.1999 on international treaties [29] states that the Republic of Moldova will faithfully observe international treaties in accordance with the *pacta sunt servanda* principle. At the same time, the law stipulates that the Republic of Moldova will not refer to internal provisions to argue for non-compliance with the treaty to which it is a party.

We want to emphasize that in the case of the Republic of Moldova, agreements with other states are concluded on the basis of principles and norms unanimously recognized by international law, as provided in domestic legislation, therefore there can be no problem of non-recognition or violation of such rules. Or, the concept of sovereignty in international law is no longer absolute, one of the principles of international law (although not yet finally recognized) is the recognition of the rule of law in international relations, jurisdictional practice and doctrine.

There should be noted the fact that the legislation of the Republic of Moldova does not contain a norm that would directly provide for a reference to international norms in court proceedings, but there is also no norm that would prohibit a judge from doing this. If we are talking about the sphere of human rights, we refer to paragraph 2 of Article 4 of the Constitution of the Republic of Moldova declaring the priority of international law over national law, suggesting that the courts of the Republic of Moldova can defend their position, including through the norms of international law.

In order to clarify the importance of the European Convention for the national legal framework, as well as to explain the procedure for its application by national courts in the process of administering justice, the Plenum of the Supreme Court of Justice of the Republic of Moldova has adopted Decision No. 3 of 09.06.2014 "On the application of certain provisions of the European Convention on Human Rights and Freedoms" [26].

In the respective Decision, the Plenum of the SCJ the Republic of Moldova has offered a number of explanations aimed at ensuring human rights and fundamental freedoms by national courts, taking into account the status of the European Convention as an international treaty in the internal law of the Republic of Moldova. Thus, it has been emphasized that, by acceding to the Convention, the Republic of Moldova has assumed the obligation to guarantee the protection of the rights and freedoms proclaimed by it to all persons under its jurisdiction.

The Plenary session has confirmed that the European Convention is an integral part of the domestic legal system and, accordingly, should be applied directly like any other law of the Republic of Moldova, except that the Convention has priority over other domestic laws that contradict it. The Plenary has noted that the main task with regard to the application of the

Convention rests with the national courts and not with the European Court of Human Rights; in the case of legal proceedings, the national courts must check whether the law or the act to be applied and which should regulate the rights and freedoms guaranteed by the Convention, and which are compatible with the provisions of the Convention. And, in case of incompatibility, the court must directly apply the provisions of the Convention, noting this fact in the decision.

Also, in the Decision of the Plenum of the SCJ of R.M., the term of applicability of the conventional norms in the process of the domestic jurisdiction has been emphasized, which indicates that the provisions of the Convention and its protocols are binding on the Republic of Moldova only from the moment of their entry into force, that is, from September 12, 1997. Thus, the provisions of the Convention apply only to violations (or alleged violations) after that date and cannot be retroactive. However, it does not apply to violations (or alleged violations) that are of an ongoing nature, as they constitute a factual and legal situation that has begun before the date of entry into force of the Convention and continues after that date.

Symbiosis of the international law and domestic law in Georgia. The legal system of Georgia has undergone radical transformations in the 1990s. Although the general directions of reforms have been the same as in the entire post-socialist space (ideological and political pluralism, market economy, expansion of individual rights and freedoms and strengthening of their guarantees), constitutional development certainly has had its own peculiarities.

Despite the European orientation of legislative development, the constitutional system of the Georgian state is still closely linked with the legal systems of other states in the post-Soviet space. This relationship can be seen in the structure of the legal system, in legislative technique, in legal thinking and culture, and over time the differences increase.

According to the researcher *K. Makili-Aliyev*, the Republic of Moldova, Georgia and the Republic of Azerbaijan are three relatively new states that are at the third level of development of constitutional law and its interaction with international human rights law [329, p.5]. It is noteworthy that the post-Soviet past is united in the legal systems of these states. However, the process of historical development of the relationship between the norms of national and international law in these states is different.

The great scientist-researcher from Georgia *A.A. Kuratashvili* has developed many scientific works on the relationship between national law and international law. The author has come to the conclusion that Georgia has built its internal law on the basis of international standards, international customs and fundamental principles of international law. According to A.A. Kuratashvili, the principle of self-determination of peoples has become the main catalyst for the implementation of a large number of international norms in modern constitutions and acts of independence of various states [170, p.19]. This principle has been once the only legal basis

for starting the process of decolonization and the formation of new independent states. In the same context, *K. Makili-Aliyev* stated that the influence of the constitutional law of powerful states on the formation of recognized principles of international law has a great influence [194, p.14], given the penetration of neoliberal thought into the letter and spirit of the rules and principles stated in the UN Charter.

Another Georgian author, *G. Hatidze*, in his paper on the legal foundations of UN peacekeeping operations, noted that the norms of international law often turn into international customs and act as binding norms for the internal law of states [143, p. 85]. Thus, there is a process of equivalence between international customs and constitutional norms of states at the national level.

Because of the events in Georgia in the early 1990s, the government has been unable to control two of its regions - Abkhazia and South Ossetia. Both territories, self-proclaimed and created as a result of the armed conflict, have been and are currently outside the control of the Georgian government [168, p.9]. The fact that the Georgian government does not control the above regions directly affects the territorial application of the European Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols in these territories, as well as Georgia's obligation to respect human rights in accordance with Article 1 of the Convention.

It is interesting that Georgia have not made any reservations / declarations to the Convention or Protocols 4, 6, 7 upon their ratification. However, Georgia has made territorial declarations in accordance with Protocols 1, 12 and 13. Georgia also has made an additional reservation to Protocol 1, which provides that Article 1 of Protocol 1 does not apply to persons who have the status of "internally displaced persons" in accordance with the Georgian Law "On Internally Displaced Persons" until the elimination of the circumstances motivating the granting of this status (until the restoration of the territory / integrity of Georgia).

Georgia's statement in the text of the ratification document to Protocol 1 states that due to the situation in the regions of Abkhazia and South Ossetia, the Georgian authorities are unable to make any commitments on the application of the provisions of the Convention and Additional Protocols in the nominated territories. Thus, Georgia has disclaimed responsibility for any violation of the provisions of Protocol No. 1 by the governing bodies of the self-proclaimed regions of Abkhazia and South Ossetia until the restoration of Georgia's territorial and jurisdictional integrity over these territories.

A territorial declaration of similar content has been made by the government of Georgia under Protocol 12. According to the text, Georgia has fulfilled its responsibility for violating the provisions of Protocol 12 in the territories of Abkhazia and South Ossetia until the restoration of

Georgia's full jurisdiction over these territories. *From our point of view, the territorial statements of the Georgian government on Protocols 1 and 12, as well as the denial of responsibility of the Georgian government for violation of the provisions of Protocol 12 in the territories of Abkhazia and South Ossetia are of particular importance precisely because of the conflict situation in these regions.*

Consequences of international treaties. Their application in space and time. The treaties in force are binding on the contracting parties, are mandatory and must be executed in good faith. The execution of treaties presupposes their inclusion into domestic law as an important way of fulfillment and application in space and time.

With regard to the relations between the treaties and the internal laws, there should be noted that, once introduced in the internal legal order, they obtain binding force and must be executed, not being able to be modified or repealed by internal normative acts.

In the event of conflicts between treaties, we find that supporters of the rule of international law argue that from the moment it enters into force, the treaty applies immediately and directly to the States Parties and should take precedence in all cases over domestic law which would contain contrary provisions [163, p.66]. On the other hand, supporters of the dualist view are of the opinion that a clear internal provision is required for the application of each treaty in domestic law, since in order for a treaty to be legally binding domestically, it must be adopted by domestic law [237, p.91], in other words, transformed into domestic law.

In practice, *a priori* solution has not crystallized, since there is no international law in this regard. We believe that such a rule could not even exist, because the way in which states ensure the application of treaties in domestic law is regulated by each state in accordance with constitutional provisions, and this is a matter of the internal competence of states.

Once incorporated into domestic law, a treaty is generally considered to be legally enforceable, and in the event of a conflict between the law and the treaty, the national courts will apply the principles of conflict of domestic law [196, p.73].

With regard to the application of custom in the international legal order, the expansion of written rules cannot lead to the disappearance of this source of law, because its legal authority and regulatory capacity are supported by the fact that it can generate new rules. This conclusion is also confirmed by the opinion of the International Court of Justice, which has held in its judgment in *the Nicaragua case on military and paramilitary activities* [199] that “the rules of customary law preserve an existence and an autonomous applicability in relation to those of conventional international law, even when the two categories of law have an identical content.” *There can be drawn a conclusion that the conventional rules may overlap with the customary*

ones, and the latter can be applied between the parties of the treaty that transformed them, if they are compatible with them.

With regard to the application of the *international treaties over time*, it is generally accepted that treaties are binding on the parties from the moment when the obligations of states have been legally fulfilled and until the treaty ceases to have effect under the conditions provided for by international law [107, p.112]. In addition, *the principle of non-retroactivity* [163, p.55] is enshrined in the law of international treaties, according to which the provisions of the treaty do not bind a party in relation to an action or fact before the date of entry into force of the treaty for that party or in relation to a situation that has ceased to exist on that date, but only if the other intention of the contracting parties does not follow from the content of the treaty.

According to the Article 28 of the Convention on the Law of Treaties, nothing prevents the State Parties of the treaty from derogating from the rule of non-retroactivity, provided that such derogation follows from the provisions of the Treaty. The most famous exception to the principle of non-retroactivity is the Washington Treaty of May 8, 1871 [270], in which Alabama, the United States, and the United Kingdom to arbitrate facts that had occurred during the US Civil War of 1862-1865.

Another peculiarity can be found in the case of legal norms provided for in subsequent international treaties that govern the same issue. In this sense, Article 30 of the Vienna Convention on the Application of Consecutive Treaties provides for the priority of the UN Charter over the obligations of Member States under other treaties, as well as the prevalence or priority of the treaty which another treaty declares to be subordinate to it or which must not be regarded as incompatible with it. The provisions of article 30 of the Vienna Convention refer to the relationship between the parties of two treaties, and these provisions do not relieve either party from responsibility for the conclusion or application of a treaty the provisions of which are incompatible with its obligations to another state on the basis of another agreement.

For the correct application of international legal norms provided for in international treaties or various international agreements, an interpretation of these norms is necessary [56, p.85]. We believe that states have the ability to analyze and interpret these rules in accordance with their will, being able to bring changes or to revoke an international agreement, if they do not violate international law.

We want to emphasize that any state is competent to adopt the rules governing the behavior of subjects of law internally by publishing civil law, commercial law, administrative law, labor law, etc., and at the same time, it must be able to enforce its execution and the specific sanctions. In other words, this means the ability for the state to use any *means of enforcement* or means of coercion to ensure compliance with its internal legal order.

We find that there are also rare cases where these two types of previously disclosed competences do not belong collectively to the same state: when it claims to exercise them, it faces serious and delicate international difficulties related to *conflicts of jurisdiction*, i.e. putting in the presence and in opposition two state sovereignty.

As a rule, the states exercise their powers in a moderate manner in order to avoid conflicts with third countries [56, p.97]. To avoid such conflicts, the states conclude bilateral or multilateral conventions on cooperation and mutual assistance or judicial cooperation (for example, the 1970 Hague Convention for the Suppression of Unlawful Seizure of Aircraft, which has emerged in response to a series of terrorist attacks against civil aviation and aggravation of terrorist attacks, especially after the Second World War, as the result the states have committed themselves to punish such acts and to cooperate in this regard).

The territorial competence of the state has two classic traditional characteristics, i.e. *completeness* and *exclusivity*, and must be complete and integral. We agree that the state can take actions of any nature: constitutional, legislative, administrative due to its internal sovereignty. Consequently, legal norms published by a state on its territory enjoy the presumption of validity, unless they contradict an obligation imposed by international law.

There is no doubt that a state is sovereign in its territory and that sovereignty does not allow a third country to exercise the slightest act of power over the territory of the first state. Consider the example of a small state (compared to the strongest states in the world) Lithuania, which has made a statement on June 5, 2014 in Group G 7 in New York (a group of 7 highly industrialized states: Germany, Canada, USA, France, Italy, Japan, Great Britain), which takes the position and disqualifies the position of Russia [36]. The G7 group also has threatened Russia with sanctions and has demanded to withdraw all armed forces from its controlled territories and to respect international borders.

The status of a "weak / small state" does not prevent these states from participating in the process of creating international norms and does not mean that they do not have a say in the conduct of international relations. In fact, the doctrine of international law often refers to the phrase "strong state" versus "weak / small state".

With regard to territorial competence, we notice that these laws are limited to the territory in which the state exercises its jurisdiction and competence. However, there are national laws that by definition affect the legal order of third countries: those that relate to the *personal status of individuals*. As an example, we can cite paragraph (1) of Article 2586 and paragraph (1) of Article 2587 of the Civil Code of the Republic of Moldova [8] which establishes that the legal capacity and capacity of a natural person are regulated by its national legislation, as well as paragraph (1) of Article 23 of the Law of Georgia No. 1361 of 29.04.1998 "On Private

International Law" [320] regarding the legal capacity of individuals, which provides that "individual's ability to use and the ability to exercise are governed by its national legislation, unless otherwise provided by special provisions".

Analyzing all these examples, there can be drawn a conclusion that actions to violate the territorial sovereignty of the state are obviously actions that are contrary to public international law; they can bear the international responsibility of the state on whose behalf these crimes have been committed. We believe that by its behavior the state can tacitly agree with the actions of a foreign state on its territory, and in this situation, complete illegality is covered up.

It is possible that by a treaty, one state can accept another state to exercise acts of sovereignty over its own territory. Such a practice is not uncommon in the customs field, for example, between border countries: for example, French customs operate in Geneva, Switzerland, or American customs and migration services operate in Montreal in Canada [99, p.102]. At the same time, the states must respect the interests of the international community, as they must exercise their powers in accordance with the general rules of international law. Consequently, the territorial competence of the state in this case is limited not only to foreigners, but also to its own inhabitants, which means that the role of the state is to protect its citizens, but also foreigners.

Both the Republic of Moldova and Georgia recognize the role of contemporary international law, where the principle of the international law supremacy becomes one of the most important, because under its influence international space is unified , where everybody, from the individual to the sovereign state, are obliged to comply with the provisions of the rules of international law.

3.2. The contribution of states and international organizations for security and peacekeeping in the management of territorial conflicts in the Republic of Moldova and Georgia

As we have tried to show in this study, the major concerns of states and international security organizations are to maintain and straighten the peace, outlaw he war, promote and respect the norms and principles of international law, establish cooperation between states and world security.

These basic ideas about the norms and principles of international law got to us from the father of international law, Hugo Grotius [279, p.331], who stressed the need for understanding and cooperation between states, established rules on the conduct of war, promoted the need to develop rules of good faith that eliminate cruelty of wars.

An important role in maintaining and consolidating peace belongs to multilateral cooperation through conventions, agreements, multilateral treaties concluded between states on the basis of diplomatic negotiations in order to harmonize international relations. The sphere of the peoples' interests evolved gradually so that the need to extrapolate the consolidation of interstate relations has arisen, exceeding the framework of bilateral collaboration between states.

Analyzing the evolution of history, we note that states have tried to adopt different ways and means to prevent territorial conflicts and maintain peace. These modalities have been translated into practice by the need to conclude multilateral agreements or treaties. More specifically, the multilateral collaboration of states in the creation and application of the norms of international law has been concretized through the conclusion of peace treaties, alliances and mutual aid, through military, trade, political, economic, cultural, technical-scientific treaties and the conclusion of international conventions, at regional and universal level, by participating in international conferences or through international organizations.

The most relevant example in antiquity is the Roman Empire. Characterized by a strong centralization, this empire benefited from all the tools and modalities necessary to exercise domination: army, financial administrations, ministries, so that it could develop certain rules of international law useful to establish relations with the provinces of the empire located on three continents. These norms of law were generically called jus gentium and applied in the relations of Romanian citizens with foreigners or in the external relations of the Romanian state.

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The leaders of Rome did not talk to the representatives of other states as equals. The Romans made a clear distinction between states and peoples that they recognized as their equals, with which they concluded treaties of friendship, alliances or neutralities, and those that they considered barbaric with which they concluded only treaties sanctifying relations of dependence or cliental relations [137, p.117]. The treaties concluded had to be observed according to the principle *pacta sunt servanda*. These treaties enshrined, *de facto*, the dependence of these peoples, that is, a kind of vassalage or protectorate.

The search for the most effective means of influence exercised by the international community on states in order to prevent territorial conflicts and the frequent use of peaceful

procedures for their resolution, even until the Second World War, researchers divided into two camps.

Some researchers, such as W. Czapliński and A. Kleczkowska, took in consideration that the causes of territorial conflicts arise within states themselves, and according to them, a possibility to reduce conflicts is the prohibition of armament and disarmament [99, p.105]. Other researchers (C. Walter and A. Ungern-Sternberg) saw the causes of territorial conflicts in the international system and therefore considered the main means of controlling and resolving them to be collective security mechanisms such as the League of Nations, later the UN [286, p.174]. Even if these approaches differ, both of them involve the idea of conflict management.

The concept of territorial conflict management has undergone a radical transformation in the conditions of accentuating the danger of starting a nuclear war between the world's superpowers, thus being oriented towards the creation of mechanisms to prevent unsanctioned, accidental triggering of nuclear conflict and limiting weapons, which may force either of the parties to resort to extreme measures. The development of this approach led to the conclusion of agreements between the USA and the USSR regarding the reduction of strategic armament.

The UN's recognition of the principles of state equality and the right of peoples to self-determination excludes the right of states to wage wars against colonial states and peoples, thus legalizing their struggle for national independence. At the same time, the recognition of the principle of respect for fundamental human rights and freedoms, including political and civil rights, has made it possible to assess cases of mass repression committed by states against their own population as violations of international commitments [196, p.96]. Thus, the limitation of the right of states to resort to war in the case of interstate conflicts, national liberation struggles and civil conflicts is the legal basis for the development by the international community of a complex of measures to prevent wars.

In practical terms, the member states in agreement have developed some control measures at the international level, aimed at creating the necessary conditions for locating and freezing territorial conflicts, preventing their geographical expansion and escalation. The essence of the rules contained in these control measures consists in reducing, limiting and excluding the very possibility of violent actions, as well as domestic and international wars.

At the international level, a major role in crisis management and conflict prevention play international security institutions, such as, UN, NATO, OSCE, etc. At the heart of all such actions is the UN Charter, whose main purpose is to maintain international peace and security. In the following, we aim to review the involvement of international organizations in the prevention and management of crises and territorial conflicts.

Thus, **the United Nations (UN)** has institutionalized series of preventive procedures and assistance to states involved in conflicts (crisis prevention, peacekeeping operations and peacebuilding operations). Also, the resolutions adopted by the Security Council are another tools for preventing, resolving and overcoming the consequences of armed conflicts around the world.

The UN Monitoring Mission in Georgia (UNOMIG) [275] was established in August 1993 by UN Security Council Resolution no. 858 [277]. Its mandate was to verify the application of the ceasefire agreement between the Government of Georgia and the Abkhaz authorities. The mission of the organization was extended by resolution no. 937 [278], following the signing by the parties of the ceasefire and separation of forces agreement signed in Moscow on 14 May 1994.

The objectives of the Mission were: to monitor and verify the implementation of the agreement by the parties; to observe the operations of the CIS peacekeeping force; to verify that the troops and heavy military equipment of the opposing parties do not enter the security or restricted zones; to monitor the storage spaces of heavily withdrawn military equipment, together with the CIS peacekeeping force; to monitor the withdrawal of Georgian troops from the Kodori Valley beyond the borders of Abkhazia; to patrol regularly the Kodori Valley; to investigate violations of the agreement and report to the Secretary-General; to maintain close links with the parties of the conflict and cooperates with the CIS peacekeeping force, contributing to the creation of conditions for the safe return of refugees and displaced persons.

The North Atlantic Treaty Organization (NATO) has the most coherent crisis management strategy, through coordinated actions initiated to avoid a crisis prevent its escalation into an armed conflict and stop hostilities if they occur.

At the Riga summit on November 28-29, 2006, NATO officials declare for the first time that the Alliance upholds the territorial integrity, independence and sovereignty of the Republic of Moldova and the states of the South Caucasus [232]. However, the temporary refusal to grant Georgia inclusion in the NATO Membership Action Plan (MAP) [102] at the Bucharest summit on April 2-4, 2008, further strained the situation in Abkhazia and South Ossetia. However, NATO officials have decided that Georgia will become a member of the Alliance in the not-too-distant future. Russia's opposition to the decision has been voiced countless times providing the idea that the Tbilisi government will permanently lose Abkhazia and South Ossetia. However, the separatist regions do not want to be part of the Alliance, preferring the sphere of influence of the Russian Federation.

With regard to Transnistria, NATO has made efforts to fully fulfill the Istanbul Commitments [208] - Russia's obligations on Moldovan troops and armaments in Transnistria - and subsequently ratify the adapted Treaty of Conventional Forces in Europe.

Regarding the European Union (EU) approach, an attempt is made to delimit two strategies that make up the response to the crisis, namely the crisis management and conflict resolution. With regard to crisis management, the EU defines this concept as follows: actions taken to prevent the vertical escalation (escalation of violence) and the horizontal escalation (territorial spread) of existing violent conflicts. Conflict resolution considers short-term actions to stop a violent conflict.

In order to ensure its own security, the EU has become much more involved in the efforts to resolve conflicts in the immediate neighborhood, although it does not seem to have the willing to be directly involved, preferring to support the initiatives of other actors. Thus, Brussels has included Georgia, Armenia, Azerbaijan and the Republic of Moldova in the European Neighborhood Policy (ENP) [110], a framework that helps to strengthen cooperative relations in order to increase prosperity, stability and security. The ENP is seen as a key element in a lasting solution to these conflicts following the EU's recognition as a normative power in the wider Black Sea region. In 2007, the financial assistance that supports this Action Plan amounted to about 40 million euros for the Republic of Moldova [105] and 22.24 million euros for Georgia [265].

To support these efforts to promote EU policies and interests in unstable countries and regions, the EU has appointed Special Representatives [109]. Thus, t**he EU Special Representative for the South Caucasus** is a function established in July 2003 and has the following tasks: to assist the three states in carrying out political and economic reforms; conflict prevention in the region and contribution to the peaceful regulation of existing ones. The EUSR Border Support Team in Georgia, set up on 1 September 2005 by officials consisting from six member countries with the assistance of local experts, have as a task to help the Georgian authorities to develop a comprehensive strategy for reforming the border management system.

The EU Special Representative for Moldova is a function established in March 2005 and has the following tasks: to contribute to the conclusion of an agreement for the peaceful regulation of the Transnistrian conflict and its implementation based on respect for the sovereignty of the Republic of Moldova; to increase the efficiency of cross-border control and surveillance of the borders between Moldova and Ukraine, especially in the Transnistrian section, through the EU Border Assistance Mission between the two states (EUBAM).

Moreover, since its launch on 30 November 2005, the EUBAM [33] mission has aimed to improve the capacity of Moldovan and Ukrainian customs and border services to prevent and

detect smuggling and illegal trafficking in goods and persons, as well as, fraudulent border crossing through assistance and training. The specific objectives are the following: cooperation between Moldova and Ukraine in order to harmonize their border management standards and procedures with those in force in EU Member States; assistance in improving the capacity of the two countries' customs and border services at the operational level; development of the risk analysis capabilities; improvement of the cooperation and mutual complementarity of customs and border services with other legal entities; promotion of the cross-border cooperation. The planned duration of the mission is 2 years, with the mandate being extended until November 2009.

The main organization responsible for and mandated by the international community to deal with frozen conflicts in the Black Sea region is the **Organization for Security and Cooperation in Europe (OSCE)**, due to its unique capacity and experience in preventive diplomacy, conflict prevention and crisis management, due to strengthen respect for human rights, democracy and the rule of law and promotion of all aspects of civil society.

The OSCE's approach to a crisis management and, in particular, a conflict prevention consists of series of tools aimed at solving the problem: *missions and other field activities* - the main tools for long-term conflict prevention, crisis management, resolution conflicts and post-conflict rehabilitation of the region; *personal representatives of the OSCE Presidency*, who have a precise and clear mandate regarding the tasks assigned to them, in particular in the field of conflict prevention and crisis management; *ad hoc committees*, consisting of a small number of OSCE members, whose main mission is to advise the Presidency on conflict prevention, crisis management and dispute resolution; *mechanisms for the peaceful resolution of conflicts* - procedures that facilitate prompt and direct contact between the conflicting parties; *peacekeeping operations* - an important operational element of the OSCE's overall capability for conflict prevention and crisis management.

One of the tools for territorial conflict prevention and crisis management are the OSCE Missions, located in a number of turbulent areas, including Georgia, the Republic of Moldova, Armenia and Azerbaijan.

The OSCE Mission in Georgia was launched on 6 November 1992. The overall objective of the Mission was to promote negotiations between the parties and reach a peaceful political regulation of disputes. The specific objective of the *Georgian-Abkhaz conflict* was to liaise with UN operations in Abkhazia and to facilitate the participation of the representative of the president-in-office in the UN-sponsored negotiations.

The specific objectives for the *Georgian-Ossetian conflict* are: to facilitate the creation of a broader political framework, where a political solution can be found based on CSCE principles

and commitments; to intensify discussions with all parties of the conflict, including by organizing roundtables; to identify and eliminate sources of tension and extend political reconciliation; to establish appropriate forms of contact with military commanders of peacekeeping forces; to gather information on the military situation; to investigate violations of the ceasefire agreement and alerting local leaders to the possible political implications of specific military actions; active involvement in the meetings of the Unified Control Commission in order to facilitate cooperation with and between the parties; to establish contacts with the authorities and representatives of the population, as well as to maintain a visible OSCE presence in the area.

The OSCE Mission in the Republic of Moldova was launched on February 4, 1993. The overall objective of the Mission is to facilitate the conclusion of a final comprehensive political agreement on the conflict, based on strengthening the independence and sovereignty of the Republic of Moldova within its current borders and territorial integrity and, at the same time, the manifestation of understanding regarding the special status of the Transnistrian region.

The specific objectives of the Mission are: to facilitate the creation of a comprehensive political framework for dialogue and negotiations and to assist the parties in continuing negotiations for the political regulation of the conflict; to collect and provide information on the situation on the ground, including the military, as well as investigating specific incidents and assessing political implications; to encourage the participation of the states involved in the continuation of negotiations on an agreement on the status of the region, as well as a speedy, orderly and complete withdrawal of foreign troops from the area; to provide assistance and evaluation for other contributions on issues specific to a political agreement, as well as for effective monitoring of international human rights and minority obligations and commitments, democratization, refugee repatriation, definition of the special status of the Transnistrian region; to initiate a visible OSCE presence in the area and to establish contacts with all parties involved in the conflict, the authorities and the local population.

Other regional organizations are making special efforts to resolve conflicts peacefully in the Black Sea region. For example**, GUAM (Georgia, Ukraine, Azerbaijan and the Republic of Moldova)** has managed to bring these forgotten conflicts to the attention of the international community by introducing the draft resolution "Protracted conflicts in the GUAM area (Georgia, Ukraine, Azerbaijan, Moldova) and their implications for international peace, security and development" on the agenda of the 61st Session of the UN General Assembly in December 2006. The approach is materialized by the adoption of resolutions, especially of a humanitarian nature, such as: *The status of internally displaced persons and refugees from Abkhazia, Georgia* or *The situation in the occupied territories of Azerbaijan*.

The Black Sea Economic Cooperation Organization (BSEC) has not made much progress in participating in conflict resolution in its area of cooperation. From the Istanbul Declaration of June 25, 1992 which stated that "there are serious conflicts in the region which pose a danger of new tensions, which should be resolved in accordance with CSCE principles" [267] and to the declaration of the anniversary summit of June 25, 2007 recognizing "the existence of frozen conflicts that impede cooperation and the need for their peaceful regulation as soon as possible on the basis of the principles and rules of international law" [267]. As it can be noticed, BSEC has been involved only at the declarative level, the organization has not developed strategies or concrete means to lead to the fulfillment of these goals for 15 years.

Community for Democratic Choice, established on December 2, 2005 by the accession of the countries of the region between the "three seas" (Baltic, Black and Caspian), with the mission of promoting democracy, human rights and the rule of law. Its members see the organization as a powerful tool for removing any divisions in the Baltic-Black Sea area and any kind of confrontation or frozen conflict. However, for the time being, the Community must develop its institutions and the means to achieve these great ideals [162, p.13].

Various international non-governmental agencies (NGOs) argue that these conflicts are accidental and irrational events generated by certain mutual misunderstandings and inflamed by the desire for power of local leaders. They strive to change the latent state of the conflict in a positive way by suppressing the resentments created by the various isolated violence, facilitating contacts between the parties of the conflict and clarifying the historical conditions that gave rise the conflict.

On the one hand, the NGO sector is involved in a number of activities [119, p.32] related to bilateral, multilateral and pan-regional contacts, as well as humanitarian assistance, training, media and information exchange, prisoner exchange, women's rights, increasing the security of civilians, research and public debates, etc. On the other hand, international NGOs accept the "rules of the game" set by local authorities, not wanting to damage their relations with them.

We can say that the adoption, implementation and success or failure of crisis management and conflict prevention tools usdage depends on the ability of local authorities and competent international structures to coordinate and make the best decisions. The military and civil-military structures, who are involved in the crisis or conflict management must act in close cooperation with regional and international bodies and organizations, in order to positively influence local developments. Therefore, special emphasis should not necessarily be placed on expanding cooperation, but mostly on strengthening it.

3.3. Peacekeeping operations as a factor in regulation of territorial conflicts in the Republic of Moldova and Georgia

World peacekeeping operations are needed to resolve, manage or at least freeze the conflicts, thus providing real opportunities for stakeholders to review their actions and policies and to organize contacts to build consensus and maintain peaceful relations.

However, regardless of the degree of involvement of international peacekeepers, as long as the actors of the conflict avoid the stabilization of the crisis situation and do not tend to resolve the dispute through effective and concrete measures, it will be impossible to definitively resolve the ethnopolitical conflict [231, p.34]. Only when the states of the whole world, as well as the multiple ethnic movements want to coexist in peace and stability that is the best solution for them. Thus, the establishment of peace and security so much protected by international structures under the public international law will be real.

Nowadays, there is no one established terminology that would describe peacekeeping operations. However, despite some differences, the definitions used today have much in common and reflect the specifics of different types of peacekeeping operations [269, p.43]. Thus, according to the specialized legal literature, the peacekeeping operation represents a technique that extends both to the possibilities of conflict prevention and to those of restoring peace [254, p.153].

Usually, under the notion of peacekeeping operation (PO) are considered military operations, created by the competent body of the UN, as a rule the Security Council under Chapter VI and / or VII of the UN Charter, under the command and operational leadership of the Organization, and namely of the Security Council or the Secretary-General of the United Nations. This category does not include the cases of force application under the decision of the UN Security Council as a sanction against an aggressor state, if the military of the armed forces acquires combatant status acting on behalf of the UN Security Council.

The basic characteristic of peacekeeping operations is that they are carried out on the basis of a mandate from a UN or a regional organization, the functions of which include the maintenance of regional peace and security [114, p.72]. English language sources call these operations "peace operations" or "peace support operations" [248, p.99].

An important way to use the armed forces to maintain peace is to prevent the deployment of collective (or international) peacekeeping forces in possible or current areas of tension escalation [114, p.76]. Such a preventive deployment can also play an important political and psychological role in the peaceful regulation of the conflict because peacekeeping forces are perceived as a guarantor that neither side will want a military victory by violating the armistice, stopping negotiations and so on.

In Law no. 1156 of 26.06.2000 on the participation of the Republic of Moldova in international peacekeeping operations [31], *the international peacekeeping operations* are defined as collective security actions, authorized by the competent international bodies, carried out with the consent of the belligerent parties and designed to ensure the observance of a negotiated armistice and to contribute to the creation of the conditions for supporting diplomatic efforts to establish a lasting peace in the conflict zone and to prevent new international or internal conflicts, as well as to ensure the security of citizens, respect of their rights and to provide assistance in resolving the consequences of armed conflict.

Analyzing the international instruments that regulate peacekeeping operations in territorial conflicts, we can say that they can be grouped into two generic categories, namely: international acts related to guaranteeing and maintaining peace and security in the world, including the option of resorting to peacekeeping operations as a factor in regulating international disputes [290, p.20] and international acts consolidating specific rights and freedoms for ethnic groups and minorities [114, p.94]. On the other hand, according to British researchers *K. Minest*, *M. Karns* and *A. Lyon* [200, p.147], peacekeeping operations fall into three groups: a) those that employ non-violent methods of action by the armed forces (various forms of monitoring) in order to support political and diplomatic efforts to resolve the conflict; b) those who combine political methods with active operations of the armed forces to maintain peace but who, nevertheless, do not undertake combat operations; c) those involving the use of force, including combative actions, for the imposition of peace, in conjunction with political efforts or even in their absence.

Peacekeeping operations allow the establishment of various mechanisms. In this regard, Professors *P. M. Dupuy* and *Y. Kerbrat* distinguish between peacekeeping operations "initiated for the purpose of implementing simple recommendations, with the agreement of the States concerned in ceasefire" and " national military contingents based on the agreement concluded on behalf of the UN Secretary-General with the states to which the military forces belong" [295, p. 94]. An example is the case of Cambodia in 1991 or the case of Yugoslavia in 1992.

UN peacekeeping operations. Among the international acts regulating the maintenance of peace and security in relations between the states of the world, the UN Charter [264] is the fundamental act that conditioned the establishment of the status quo in the postwar world, ordering the peace course of interstate relations for more than six decades. Thus, the Articles 23 - 51 of the Charter set out the formation of the Security Council which is responsible for maintaining international peace and security.

In pursuing the set goals, the Security Council acts on behalf of all members of the organization in accordance with the purposes and principles of the UN. The prime function of the

Security Council is to prevent conflicts by resolving international disputes peacefully, in accordance with the provisions of Chapter VI of the Charter.

The UN Security Council may encourage participants to resolve the dispute peacefully, may investigate any dispute or situation that may give rise to a conflict, or may recommend appropriate regulation procedures or methods. At the same time, the Security Council maintains relations with international organizations of a regional nature in order to maintain international peace and security. It also works with regional organizations to resolve disputes between their members.

In essence, the UN Charter is the main international instrument the provisions of which form a broad legal framework for strengthening international peace and security relations, ensuring peaceful coexistence between different peoples and nations of the world, including those living within the territorial limits of a state (art.52 par.(3)). Namely through the effective implementation of the provisions of the UN Charter, it is possible to organize and conduct international peacekeeping operations under the auspices of the United Nations, but also under the auspices of international organizations with a regional vocation.

Peacekeeping is the deployment of the UN presence in the conflict zone with the consent of all parties involved. This involves the deployment of military and / or police personnel, as well as, in many cases, civilian personnel [165, p.213].

The specialized doctrine has indicated that the generic name of peacekeeping operations within the UN includes two types of forces: observation missions and peacekeeping forces [195, p.91].

Although, peacekeeping operations are not explicitly mentioned in the UN Charter, international practice has imposed this form of disputes regulation that pose a threat to international peace and security [141, p.32]. These operations can be included in Chapter VI of the Charter, which regulates the peaceful regulation of disputes. They represent an action of the organization that enjoys all the authoritarian prerogatives entrusted to it, being a means of regulating a dispute and an act of authority of the organization through which it acts in order to ensure international peace and security.

UN military personnel are voluntarily forced out by UN member states at the request of the Secretary-General. The troops that make up the operation are under the command of the Secretary-General, who is directly responsible for the operation and is obliged to report periodically to the Security Council on its evolution [113, p.174]. The composition of UN military personnel shall be determined by the Secretary-General following the Security Council consultations, in accordance with the principle of equitable geographical distribution. These personnel are considered to be still in the service of that country, but have the status of

international personnel under the authority of the UN, and the fulfillment of its mission is done only in the interest of the UN.

The UN civilian staff is recruited either from the UN Secretariat or from various member states of the organization. It is subject to the rules of the functioning of the UN Secretariat. Currently, the civilian component is becoming important in more and more fields (civilian police, election monitoring staff, human rights experts).

Given that such an operation is considered a subsidiary organ of the UN, its staff enjoy the status, privileges and immunities of the United Nations, as provided for in Article 105 of the Charter and in the Convention on the Privileges and Immunities of the United Nations. To these may be added special provisions stipulated in the agreement with the host country, which may refer to the status of the operation and its members. The operation must have a solid financial basis. The contributions of the UN member states are mainly used for this purpose.

The UN forces do not have legal permission to take actions that are not mentioned in the Security Council Resolution. Thus, a careful reading and a universal understanding of this document is needed in order to achieve mutual understanding of the actions required from all participating nations and their forces [256, p.33]. However, no provision of the mandate may contradict or exceed the basic human right to self-defense inherent by every individual or the need to follow internationally recognized legal norms and human rights principles during all operations.

OSCE peacekeeping operations. The Organization for Security and Cooperation in Europe (OSCE) is an international security organization focused on conflict prevention, crisis management and post-conflict reconstruction. The organization was established in 1973, has a headquarters in Vienna (Austria) and consists of 57 participating countries from Europe, the Mediterranean, the Caucasus, Central Asia and North America.

In the Republic of Moldova, the OSCE mission was inaugurated in February 1993, with the mandate to oversee the Transnistrian regulation process, operating on both banks of the Dniester (Chisinau, Tiraspol and Bender). On the other hand, the OSCE mission in Georgia was established in November 1992, with its headquarters in Tbilisi, but the mandate of the mission expired on 31 December 2008 [37].

In this context, it can be noted that the peacekeeping section of the Final Document of the OSCE Summit in Helsinki, adopted on 9-10 July 1992, can rightly be considered one of the most innovative concepts of the OSCE [80]. Although, the negotiations in this area have proved to be lengthy and sometimes difficult, they have resulted in a comprehensive document that opens the door to a whole new field of activity for the OSCE and other organizations. It allows the OSCE,

as a regional organization, to initiate peacekeeping operations and to involve other European or transatlantic organizations in such operations.

The peacekeeping section is an integral part of the chapter of the Helsinki Document on "early warning, conflict prevention and crisis surveillance" (paragraphs 17-56). It is divided into a number of sections: the first paragraphs relate to the general principles of peacekeeping of the OSCE, followed by the paragraphs on the chain of command, the Head of Mission, financing and, at the end, the paragraphs on cooperation with regional and transatlantic organizations.

The very first paragraph of the compartment defines peacekeeping as an operational element of the OSCE's conflict prevention and crisis management capacity. It emphasizes the complementary nature of peacekeeping operations and the political nature of conflict resolution where peacekeeping operations are intended to support political dispute regulation efforts. In the negotiations on this paragraph, it is considered necessary to emphasize that peacekeeping operations will never be an outcome, but will support political methods of resolving crises.

The next paragraph is of similar importance because it describes the existing variety of peacekeeping activities. In accordance with the provisions of this paragraph, peacekeeping can range from small observation and monitoring missions to the deployment of armed forces that can have a variety of purposes, including ceasefire monitoring as one of the most obvious.

Paragraphs 19-21 of the Final Document of the CSCE Helsinki Summit (1992) focus on relations with the UN and stipulate that OSCE peacekeeping operations will be conducted in accordance with the provisions of Chapter VIII of the UN Charter. Moreover, the CSCE has been declared a regional arrangement (or regional organization) under Chapter VII of the UN Charter.

The text of paragraph 25 of the Helsinki Final Document states that: “Reaffirming the commitment to the United Nations Charter of which our States are signatories, we declare that the CSCE is a regional arrangement under the Chapter VII of the UN Charter. In this capacity it serves as an important link between European and global security. The rights and responsibilities of the Security Council remain completely intact. The CSCE will work with the UN in particular in conflict prevention and resolution.” So, the basis for considering the OSCE as a regional arrangement is the provisions of Articles 33, 52 and 53 of the UN Charter.

Peacekeeping operations must be based on a clear and precise mandate. Based on this mandate, the terms of reference are elaborated that define the practical modalities and determine the needs of staff and other resources. At the same time, it is important to note that the personnel of an operation are provided by the member States (which, if appropriate, do not exclude assistance from international organizations) and that consultations will be held with the relevant parties regarding which countries will provide the personnel.

From our point of view, a difficult issue in the text of the Helsinki Final Document is the last sentence of paragraph 39, which concerns the composition of ad hoc groups. Thus, a number of countries, including EC members, want to limit the composition of ad hoc groups to the CSCE Troika and staff donor countries [56, p.141]. The danger is that, otherwise, the doors would open to special groups of countries involved in the conflict, which could endanger their activities from the very beginning.

The current wording of the sentence in paragraph 39 of the Helsenki Final Paper does not seem to be ideal, but it is a compromise wording and reads: “As a rule, ad hoc groups are composed of representatives of the previous and next Presidencies, States members granting personnel for the mission and member States making other significant practical contributions to the operation”.

The basic principle, set out in paragraph 52 of the Document, provides that the OSCE may benefit from the resources and technical expertise or consultations of organizations such as the EU, NATO, WEU and may request their involvement in peacekeeping operations.

It is interesting to note that, at the suggestion of the Russian Federation delegation, a sentence has been added to the text of the Helsinki Final Document which refers to the CIS peacekeeping mechanism. This mechanism is based on the agreement signed in Kiev on March 20, 1992 entitled as "Groups of Military Observers and Joint Peacekeeping Forces of the Commonwealth of Independent States" [342]. Article 6 of the Kiev Agreement says that: "Member States of this Agreement may, in accordance with their obligations under the Charter of the United Nations and other international agreements, as well as those signed between them, give consent to the participation of civilian and military personnel of the Peacekeeping Group in the peacekeeping efforts of the CSCE structures and in accordance with the decisions of the Security Council”. *In this context, we emphasize that the Republic of Moldova, along with nine other CIS countries, signed the Kiev Agreement, while the Georgian delegation participated in the meeting in Kiev on March 20, 1992 and refused to sign the document*.

Russian peacekeeping operations on the territory of the Republic of Moldova and Georgia. For a broad understanding of the issue of peacekeeping operations on the territory of the Republic of Moldova and Georgia, we consider it opportune to review and highlight the main features of peacekeeping operations undertaken by the Russian Federation on the territory of these states.

After the collapse of the USSR, the Russian military participated in four peacekeeping operations along Russia's borders, but within the borders of the former USSR, there were two peacekeeping operations in Georgia (South Ossetia and Abkhazia), Moldova and Tajikistan.

Before analyzing these conflicts and the role of the Russian military, it is important to note that Russia has not yet adopted a doctrine of peacekeeping operations. The Russians have not been able to develop an acceptable peacekeeping doctrine that would meet current UN requirements for such operations: agreement and invitation from the parties to the conflict, the impartiality of peacekeeping forces and the use of force only for the purpose of self-defense [225]. Like any other regional power, Russia is in constant defense against the threats to its security [195, p.76] and says it has a responsibility to maintain order within the former USSR [183], but what it lacks is a detailed explanation of “why” and “how” she wants to maintain the order, and in some cases to restore the peace.

The history is full of an extremely large number of declarations of peace that have been used as a pretext for the frequent unilateral use of force. In this context, the Russian military is appreciated for its discipline and professionalism in its missions, but Russia does not have a complex international commitment to the crisis management.

In the post-Soviet space, Russia practices a different kind of peacekeeping, based on a philosophy inherited from the Soviet Union and applicable only in the "close neighborhood" and not established on international and European level [249, p.214]. Russia is currently conducting peacekeeping missions in the Republic of Moldova, Georgia and Tajikistan, an "internal peacekeeping mission" on the Chechen-Ingush border and two other wars to maintain territorial integrity in the North Caucasus.

The peacekeeping missions in the Republic of Moldova (Transnistria) and Georgia (South Ossetia) were established in the summer of 1992 and are the results of agreements imposed by the Russian Federation on the Republic of Moldova and Georgia following the wars in which the Russian military officially fought.

The Sochi Declaration, a document signed on 24 June 1992 by the Russian Federation and Georgia [43], establishes the Unified Control Commission composed of representatives of the warring parties - Russia, Georgia, the Zhinvali administration -, the Commission responsible for the security regime in the "contact area" and conducting a trilateral peacekeeping operation, composed of soldiers from these parties.

The Agreement on the Principles of Peaceful Regulation of Armed Conflict in the Transnistrian Region of the Republic of Moldova, signed by the Republic of Moldova and the Russian Federation on July 21, 1992 in Moscow, establishes a Security Zone in eastern Moldova and a Joint Control Commission composed of representatives of the parties involved in the conflict. Russia, the Republic of Moldova, the Tiraspol administration compose the Commission, which is responsible for the entire security mechanism and which conducts a trilateral peacekeeping operation, composed of soldiers from these parties.

After the military operations begin in the Republic of Moldova and Georgia, Russia is trying to articulate collective peacekeeping forces within the CIS, which results in a confusing and dysfunctional mechanism. Thus, on March 20, 1992, the Agreement on the Military Observer Group (GOM) and the collective peacekeeping forces in the CIS has been signed in Kiev, a document that lays the foundations of the CIS's regional peacekeeping operations. Then, on 15 May 1992, CIS leaders have signed three important protocols in Tashkent for the further development of peacekeeping missions [136, p.197], after which security and peacekeeping operations are included in the CIS Statute.

The Agreement on Collective Peacekeeping Forces and Joint Measures for the Provision of Materials and Technical Assistance has been signed on 24 October 1993 [339], and on 19 January 1996, the Council of Heads of State of the CIS has adopted the Regulation on Collective Maintaining Forces of peace in the Commonwealth of Independent States [338]. At the same time, other documents are adopted for operations in Georgia / Abkhazia and Tajikistan, which became part of the CIS peacekeeping legal framework.

In Georgia / Abkhazia and Tajikistan, Russia has tried to set up collective peacekeeping missions with CIS partners, the organization that gives two terms of mandate, signed only by a few member states. But the conduct of these operations has gone with great difficulty, the realities on the ground means the establishment of two other peacekeeping missions of the Russian Federation, which legitimizes its military presence in Georgia and Tajikistan.

The Abkhazia mission has not even managed to begin as a collective CIS mission, although it has a mandate from the organization. The CIS Council of Heads of States has decided on 21 October 1994 to carry out a collective peacekeeping mission in Abkhazia, consisting of the military contingents of the states concerned (2,500-3,000 troops). However, the CIS member states have not sent military contingents to Abkhazia, and collective peacekeeping forces are set up on the basis of the Russian military contingent already present in the conflict zone. There have not been created a Unified Command, as the CIS mandate assumed, the Russian officer leading the "collective operation" is subordinate to the President of the Russian Federation. In fact, Russia started the operation on its own, after which the CIS offered its mandate a few months later.

Other subsequent statements made by the CIS Council of Heads of State, such as those of 26 May 1995 or 19 January 1996, has clarified the mandate of the operation and condemned the unilateral actions of Abkhazia, but the structure of the collective peacekeeping forces has remained unchanged until August 2008, when the Russian-Georgian war has changed all previous security commitments in Georgia.

As in the case of the economic dimension of integration into the post-Soviet space, such as trade and energy, there are no clear and functional rules, adjusted to international standards, observed in peacekeeping operations led by the Russian Federation.

There are a number of hastily signed agreements within the CIS in which not all Member States participate fully and some have been respected only then when Russia wanted so. The decision to establish a new mission is the exclusive prerogative of the CIS Council of Heads of States (CHS), which establishes the mandate of the mission, the composition of the joint peacekeeping forces and the deadlines, as appointed by the head of mission or CIS Special Representative for conflict resolution. But the limits of such a mechanism are linked with the fact that there is a "variable geometry" of crisis management cooperation, while countries such as Azerbaijan, Turkmenistan, Ukraine and Belarus participate in the relevant CIS documents. Moreover, according to the CIS Statute, that represent the main document of the organization, the decisions are taken by consensus (unanimity), including decisions on the establishment of a new peacekeeping mission, but only interested states can participate in the voting procedure.

In other words, two CIS states, for example Russia and Belarus, can decide unanimously to send collective peacekeeping forces to the Republic of Moldova, collective forces that can mean, as in the case of Abkhazia, only a contingent of Russian soldiers. Finally, the CIS Statute deals specifically with interstate conflicts, while existing conflicts are eminently internal. The only way for the CIS to intervene in internal conflicts is stipulated in Article 12 and refers to maintaining the territorial integrity of the CIS states.

The CIS mission in Georgia / Abkhazia did the exact opposite, contributing to the loss of the territorial integrity of a CIS member state. The concept of conflict prevention and resolution on the territory of the CIS member states, signed in January 1996, is intended to be a more comprehensive document and establishes three mechanisms for collective intervention, namely conflict prevention, armed conflict resolution and post-conflict missions. But the provisions of this document are not necessarily respected during peacekeeping operations of CIS member states, as there are dozens of other documents signed during two decades of existence.

Beyond the analysis of documents relevant to the peacekeeping missions signed in the post-Soviet space, the operations carried out by Russia on the borders of the former empire are much more representative. The common feature of all these "peace operations", different from international legal practice and norms, is determined by the fact that there is a clear evidence that Russia, which leads all these missions, is the state that fought with the Republic of Moldova in Transnistria, fought with Georgia in South Ossetia and Abkhazia and was directly involved in the civil war in Tajikistan [288, p.91]. Given that compliance with *the principle of impartiality* is a basic requirement of all international peacekeeping missions, it becomes difficult to assess

Russia's level of impartiality in peacekeeping operations in the Republic of Moldova and Georgia.

The agreement of the parties is the second principle that is taken into account in launching a new international peacekeeping mission. It is equally easily questionable in the case of Russia's peacekeeping missions in the Republic of Moldova and Georgia. However, Russia imposed the agreements of Georgia and the Republic of Moldova regarding the missions in South Ossetia and Transnistria under arms pressure, after which it managed to obtain two other decisions of the CIS on the interventions in Tajikistan and Abkhazia.

Adherence to the third principle - *the use of force only for self-defense and the fulfillment of the mandate* - is equally problematic in the post-Soviet space, since the missions in South Ossetia and Transnistria have no mandate [149, p.106], while the mandate applied to Tajikistan is very broad, which in fact has allowed any kind of action.

From our point of view, these four operations conducted by Russia in the post-Soviet space (in Transnistria, South Ossetia, Abkhazia and Tajikistan) contradict any international practices or legal norms and do not respect any of the three fundamental principles for the conduct of peacekeeping missions with small exceptions in the case of Tajikistan.

The missions in Transnistria, South Ossetia and Abkhazia are unilateral peacekeeping missions (for the Russian Federation). They are officially called "peacekeeping missions" and has become "statebuilding" missions after Russia recognized the independence of Ossetia and Abkhazia and strengthened the unconstitutional regime in Transnistria, whose representatives are preparing for the moment when Russia will recognize their independence.

The place and role of the peacekeeping operation in resolving the Transnistrian conflict. Probably the most controversial Russian peacekeeping mission takes place in the eastern region of the Republic of Moldova (in this study we use the term "peacekeeping operation" in relation to the operation undertaken in the eastern districts of the country for linguistic reasons and not to characterize or classify this operation as a true peacekeeping operation).

In order to adequately understand the issue of the peacekeeping operation on the territory of the Republic of Moldova, it is necessary to place it in the historical framework of the events that took place on the territory of the country, especially during the armed conflict in the eastern region of the republic.

The events of the last months of 1991, especially the armed clashes between the Moldovan police forces and the armed formations of the rebel region, as well as the theft of weapons from the Russian military arsenals, have created an extremely strained situation. Since December 1991, the status of the Russian 14th Army has also been difficult to determine, as its

commander declared his intention to become commander of the self-proclaimed republic's armed forces and to transform the 14th army into the core of the separatist regime's armed forces [152, p.22]. With the arrival of Slavic volunteers and the Don Cossacks, the potential of paramilitary forces in the region has increased even more [273, p.118]. The Tiraspol authorities have accumulated considerable number of military forces in the area, armored vehicles, rocket launchers, automatic pistols, cartridges, grenades, etc.

Fighting in Transnistria escalated in mid-March 1992, when guards attacked Moldovan police units in three villages in Dubasari district in order to eliminate the last Moldovan police units on the left bank of the Dniester. The reaction to the escalation of the situation was not long in coming. On March 15, 1992, the Ukrainian Foreign Minister made a statement, expressing his concern about the involvement of Cossack volunteers from the Don in the armed conflict in the Republic of Moldova [139, p.18]. According to the statement, the Cossacks were defined as mercenaries fighting on the side of the rebel region, and their involvement in the conflict as a violation of international law.

Meanwhile, fighting in Transnistria continued and the initiative was seen from the separatists' side. Moldovan police forces were unable to cope with the attackers' logistical, military and professional capabilities. Despite the fact that President Mircea Snegur declared a unilateral ceasefire, this did not stop the conflict [138, p.22]. The protests in Chisinau continued to escalate, especially when it became even more obvious that Russia was providing aid to the Tiraspol regime.

At the Helsinki Conference, the Republic of Moldova protested against the activity of forces on the left bank of the Dniester. It was supported by the Romanian government, which made a statement in this regard [300, p.95]. Following the CSCE meeting in Helsinki, the foreign ministers of the Republic of Moldova, Romania, Russia and Ukraine on March 24 1992, issued a joint statement reiterating the idea of continuing joint efforts and creating the quadripartite mechanism of political consultations for resolving the conflict in the Republic of Moldova.

These diplomatic actions did not end the conflict, which in the following months escalated from sporadic clashes into large-scale fighting. On March 26, 1992, Igor Smirnov signed a decree to partially mobilize men up to the age of 45, and on March 29, President Snegur declared a state of emergency in the Republic of Moldova, calling on Transnistrian separatists to hand over weapons and recognize government authority in Chisinau. He ordered the security forces to "disarm and liquidate the illegal armed formations" that supported the new "pseudo-state" [106, p.19]. Snegur told parliament that the time allotted for negotiations had expired and that it was clear that Tiraspol leaders were not interested in resolving the conflict peacefully.

The Tiraspol authorities responded with a call to arms from the population and turned to Russia for help. In response, the Russian Foreign Minister made a statement, calling on the Moldovan authorities and all parties involved to act in strict accordance with the provisions of international law and to respect the rights of humans and national minorities [159, p.79]. In his turn, the President of the Russian Federation, Boris Yeltsin, within 48 hours signed the decree of April 1, 1992, which placed the 14th Army and several other military units, deployed in Moldova, under the jurisdiction of the Russian Federation [138, p.26]. This decree was described by the Moldovan authorities as illegal.

Ukraine's reaction was prompt and harsh. On March 29, 1992, the Presidium of the Supreme Council of Ukraine issued a statement warning that the escalation of the conflict could have negative consequences for neighboring countries, especially Ukraine [139, p.19]. Experts from the foreign ministries of the Republic of Moldova, Romania, Russia and Ukraine met in Chisinau on March 31, 1992 to discuss the regulation of the Transnistrian conflict. The participants stated that their work would be guided by the decisions of the Helsinki meeting and would seek peaceful solutions to the conflict resolution within the territorial integrity of the Republic of Moldova. Unfortunately, these discussions were not successful.

The situation in the Republic of Moldova remained very unstable. On May 9, 10, 11, 1992, new ceasefire violations took place, resulting in human casualties as a result of rebel attempts to attack two bridgeheads maintained by Moldovan police. President Mircea Snegur, through the UN Security Council, called on the international community to intervene and stop Russian aggression in the Republic of Moldova, which, in fact, was the cause of the failure of the Chisinau authorities to find a peaceful way to resolve the conflict [46, p. 21]. Meanwhile, the US State Department said that it considered the involvement of the 14th Army in the conflict disruptive and called for speedy implementation of the peaceful regulation of the conflict [283, p.31].

It is interesting to notice that in June 1992, the President of the Russian Federation, Boris Yeltsin, suggested the withdrawal of the 14th Army from the Republic of Moldova, but his plan aroused massive resistance from Russian military officials [125, p.89]. They claimed that half of the army's personnel were residents from the region, who wanted to defend their "homeland", and even if it was decided to withdraw the 14th Army, it was not possible to allocate the apartments to the Russian military withdrawn from Transnistria.

In order to try to analyze the situation in Transnistria objectively, a quadripartite working group of military observers from the Republic of Moldova, Romania, Russia and Ukraine was set up [138, p.22]. This group, which consisted of 25 officers from each of the four states, had

been active for almost three weeks, arrived to a conclusion that most violations of the ceasefire agreements had been committed by Transnistrian military forces.

Shortly afterwards, the commander of the airport forces in the Russian Federation, General Alexandr Lebed, was appointed commander of the 14th Army. Lebed, a hardline advocate, said on July 1, 1992 that the city of Tighina "is a component part of the Dniester Republic, and this, in turn, is only a small part of Russia" [235, p.59].

Presidents Yeltsin and Snegur met in the Kremlin on July 3, 1992, to resolve the conflict. It approved a series of measures to resolve the conflict: implementing a ceasefire agreement, creating a demarcation corridor between combat forces, introducing neutral peacekeeping forces, granting a special status to the districts on the left bank of the Dniester, planning negotiations on the withdrawal of the 14th Army.

These provisions gave a rise to the decision of deploying in the region of so called “joint peacekeeping forces”. This decision was taken on July 6, 1992 in Moscow, at a meeting of the CIS heads of state and government [252, p.86]. There were included between 2,000 and 6,000 soldiers, who were to be deployed in the Republic of Moldova in the next few weeks. The purpose of the peacekeeping forces, created by Russian, Ukrainian, Belarusian, Romanian and Bulgarian soldiers, was to impose and monitor the ceasefire agreement and to separate the forces involved in the conflict.

On July 7, 1992, the Ceasefire Agreement was signed in the Transnistrian region. A day later, at the meeting of military observers who evaluate the implementation of the ceasefire agreement, it was found that the armed forces of the Republic of Moldova fully complied with the provisions of the agreement while the Transnistrian ones committed numerous violations. Despite numerous divergences, the "Convention on the Principles for the Peaceful Regulation of Armed Conflict in the Dniester Area of the Republic of Moldova" was signed in Moscow on July 21, 1992, by the Presidents of the Republic of Moldova and the Russian Federation.

Expressing our point of view, we arrive to the conclusion that the unfolding events during the armed phase of the dispute in the eastern region of the Republic of Moldova eloquently demonstrates the direct participation of the Russian Federation as a party involved in military operations. The signing of the Convention between the Republic of Moldova and the Russian Federation attests once again that the war is waged between the Republic of Moldova and the Russian Federation, the puppet regime in Tiraspol being only an instrument to achieve Russian goals in Southeast Europe, in general, and in this territory, in particular.

Russia, as the successor to the Soviet Union, does not accept the idea of diminishing its role in the former USSR. Russia is interested in stopping the centrifugal tendencies and diminishing its influence in this territory. This fact has been eloquently confirmed during the

signing of the Convention by the President of the Russian Federation who "expressed the hope that the Republic of Moldova will find the opportunity to become a full member of the Commonwealth of Independent States" [138, p.22].

In the context of the peacekeeping operation, according to the principles of international law and the practice of international organizations (agreement of the parties of the conflict on national contingents of international peacekeeping forces), this would ideally mean the agreement of the Republic of Moldova and the Russian Federation on participation of one or another country in this operation with the exclusion of Transnistria from this process. However, if the Russian Federation has found effective means of creating a puppet state, which has effectively realized the ideas of projecting Russia's influence in the region, why could it not find such effective means to silence the separatist authorities in the issue of the peacekeeping operation and to force them to comply with the rules of international law in this field.

Unfortunately, the position of the Russian Federation, the numerous mistakes and failures of the country's leadership in front of the separatists, the current undetermined position of the Moldovan leadership in the Transnistrian conflict, in general, and the peacekeeping operation, in particular, make it difficult to involve international peacekeeping forces without the consent of the Tiraspol authorities, though, it is not impossible.

During the armed confrontation, the leadership of the Republic of Moldova addressed the international community with the call to help stop the conflict. As a result, the UN, the CSCE, NATO, the United States, the United Kingdom and other countries have called on Russia to withdraw the 14th Army from the Republic of Moldova [205, p.426].

A firm and consistent position in this regard, the constant and unequivocal appeal for the involvement of the international community in resolving the conflict would have made it impossible for the Russian Federation and its puppet to handle the situation so easily. The striking change of the position of the Moldovan leadership and the signing of the Convention of July 21, 1992 allowed Russia to continue its role as a manipulator of the puppet regime in Tiraspol, to maintain its military presence on the territory of the Republic of Moldova already not only through illegal presence of the 14th Army on the territory of the Republic of Moldova but also based on the provisions of the Convention for the initiation of a peacekeeping operation.

The provisions of the Convention relating to the peacekeeping operation in the eastern districts of the country flagrantly contravene all the provisions of international law, practice and documents of international organizations specified above. Both the Republic of Moldova and the Russian Federation, being member states of the UN and the CSCE, violated the provisions of these organizations by agreeing on the creation of trilateral peacekeeping forces with the

participation of the Republic of Moldova, the Russian Federation and Transnistria - the warring parties in the Transnistrian conflict.

The Convention also does not specify the terms of the operation. Or, according to the practice of the same organizations, peacekeeping operations are of a well-defined temporary nature with clear purposes, because the very idea of peacekeeping forces is to serve as a complementary tool to political methods of conflict resolution, where peacekeeping operations are intended to support political efforts of dispute resolution.

The idea of organizing an international peacekeeping operation was launched during the meeting in Chisinau of the foreign ministers of the Republic of Moldova, the Russian Federation, Ukraine and Romania on April 17, 1992 [138, p.22]. At the meeting on June 25 of the same year in Istanbul, the heads of the states agreed on the need to examine the issue. At the same time, they mentioned that "they will welcome a much more active pacifying role of the UN in the process of political regulation of the problems in the districts on the left bank of the Dniester of the Republic of Moldova" [139, p.18], while expressing satisfaction with the Secretary General's decision to send an assessment mission in the conflict zone.

Thus, two diametrically opposed ways of approaching the problem in question can be distinguished. The first problem, the leadership Kishinev (until the eve of the signing of the Convention), which has supposed to involve a wide range of international organizations in the peacekeeping operation in the Republic of Moldova and the second one, the leadership of the Russian Federation, which, although, joined statements like the one quoted above, is not interested in internationalizing the conflict regulation process, as the involvement of international bodies would have diminished its role or removed Russia from orchestrating the conflict, and in the long run would have harmed its interests in the region.

On April 6, 1992, the Russian Foreign Minister suggested to the President of the Republic of Moldova to grant the 14th Army a peacekeeping mandate [138, p.22]. Thus, country's leadership of the Republic of Moldova is the first who surrendered on July 6, 1992 in Moscow, during a meeting of the CIS Heads of State and the government when the decision to deploy joint peacekeeping forces was accepted in the region of the Republic of Moldova, Russia, Ukraine, Romania, Bulgaria and Belarus [77, p.32], in which the role of coordinator belongs to the Russian Federation.

As a consequence, on July 7, 1992, the Parliament of the Republic of Moldova adopted the decision addressing the parliaments and heads of states of the mentioned countries with the proposal to accept the participation in the peacekeeping operation in the eastern districts of Moldova [77, p.32]. Given that not all of these states have accepted involvement in the operation, Russia has fully achieved its goal - the elimination not only of international

organizations but also of some states from the conflict regulation process and the peacekeeping operation, in first of all Romania, which by participating in the operation could have insisted on a real and adequate mechanism for settling the conflict.

This position of the Republic of Moldova has long been criticized in the literature. Or, being involved in a war in which it was clearly outnumbered militarily, economically, politically, diplomatically and psychologically, the Republic of Moldova has fallen to another extreme - peace at any cost, and once being on this path, it has conceded in every possible practical aspects [149, p.101] including in the issue of the peacekeeping operation.

Making a parenthesis on this subject it is necessary to mention two moments that were exposed in the specialized doctrine. The first, supported by the authors M. Dembińska and F. Mérand who have stated that, for the Republic of Moldova, the option suggested by the CIS was much more attractive compared to the peacekeeping operation imposed by Russia. The involvement of Romania, Ukraine, Bulgaria and the Republic of Belarus could have limited the implementation of the objectives of the Russian Federation and separatist leaders [106, p.21]. The second aspect is supported by researchers W. Czapliński and A. Kleczkowska, who have indicated that the involvement of such states as Romania, Ukraine and Bulgaria, not to mention Russia, in the peacekeeping operation in the Republic of Moldova contradicts to the core provision of international law and UN / OSCE practice in this area - the impartiality of peacekeeping forces [99, p.97]. *Exposing our point of view, we agree with the opinion of researchers W.Czapliński and A. Kleczkowska. It is obvious that all these states have their interests in the Republic of Moldova and, therefore, being impartial, they cannot participate in the peacekeeping operation there.*

We emphasize that in this context, speaking of interests we do not necessarily use this term with a negative connotation. It is certain that neighboring countries with secular history and common borders had, have and will have interests in the territory of the neighboring state. This statement is equally true for the Republic of Moldova in relation to these states. But, in this order of ideas, we must delimit the peacekeeping operation from the conflict regulation process. And, if the participation of the mentioned states in the peacekeeping operation contravenes the norms of international law, then their participation in the conflict regulation process would be perfectly acceptable.

The creation of a representative working group to develop the status of the eastern region of Moldova under the auspices of an international structure authorized to solve security problems should be a priority for the country's leadership. Although, even in these circumstances, when the involvement of the countries concerned (Russia, Ukraine, Romania, Bulgaria) does not formally contravene the norms of international law from a moral point of view, it would be welcome to

abstain from participating in the process of drafting the Transnistrian statute (the author is aware of the fragility of moral arguments in the context of international relations and does not insist on this idea).

Thus, by signing the Convention in 1992, the Republic of Moldova and the Russian Federation, as in the case of common state, have introduced a new notion in the history of international law that is peacekeeping forces composed of the warring parties. Abstracting ourselves from the norms of international law, we find that such a "solution" of the situation simply contradicts a normal logic - the parties, who yesterday looked at each other through the scope of the gun, cannot today ensure and monitor peace.

According to the specialized literature, the trap into which Moldova could fall and which has been skillfully extended by Russia is to place the peacekeeping operation under the mandate of the Commonwealth of Independent States and, therefore, under the mandate of Russia [149, p.102]. In this context, we emphasize that, although, the CIS has been recognized by the UN as a regional structure, the CIS has not been empowered by the UN to address regional security issues.

From the time being, only the OSCE in Europe has this mandate and is therefore the only regional organization authorized to intervene and participate in the regulation of the Transnistrian conflict [53, p.242]. That is why the statements of some Moscow officials the “placing peacekeeping operations in the territory of the former USSR under the CIS mandate is an ideal solution” are simply wrong.

The place and role of the peacekeeping operation in resolving the Georgian conflict.

For the first time, the Russian military force has been engaged in a peacekeeping operation in South Ossetia, an autonomous region of Georgia. As Georgia moved toward independence from the USSR, a strong opposition was formed in South Ossetia over the separation of Georgia from the USSR, which led to violent clashes in December 1989.

In January 1990, the troops of Ministry of Internal Affairs of USSR were deployed in Georgia to prevent violence. Relying on the support of the "center", the South Ossetian Parliament decided in September 1991 to elevate the status of the region to the level of an autonomous republic, but in December 1991 the Supreme Soviet of Georgia abolished this decision [317]. Next month USSR President Mikhail Gorbachev overturned both decisions but failed to come up with a compromise solution.

The conflict resumed in 1991 when the Georgian Parliament authorized the use of police formations to enforce the decision to abolish Ossetia's autonomy. The Ossetians resorted to armed resistance, managing to defend for more than a year the city of Zhinvali - the capital besieged by formations of the Georgian National Guard “Mhedrioni” [310]. During the fighting,

about 500 people were killed, about 110,000 Ossetians took refuge in Russia (mostly in North Ossetia), while about 10,000 Georgians took refuge in neighboring Georgia.

In a January 1992 referendum, 99% of Ossetians voted to annex the region to the Russian Federation and reunite with North Ossetia. The Russian Federation preferred a less radical path, and in June 1992, Russian President B. Eltin and the President of the Georgian Council of State E. Shevardnadze agreed to start a peacekeeping operation in South Ossetia under the auspices of the Russian Federation [239, p.224]. The agreement called for the deployment of trilateral peacekeeping forces in Ossetia, including a battalion of Russian troops, a Georgian battalion and an Ossetian police.

In mid-July 1992, 1,500 peacekeepers were deployed around the town of Zhinvali. As differentiated from international practice, soldiers of the parties of the conflict were included in the peacekeeping forces. The peacekeepers established their command point on the territory of the Russian base of the 292-d helicopter regiment in Zhinvali [315, p.31]. In this way, the Russian Federation was in control of the situation.

It is important to note that the fighting parties have not agreed on a political solution of the conflict before the introduction of peacekeeping troops. The Yeltsin-Shevardnadze agreement has largely stipulated only the use of joint peacekeeping forces to restore order. Thus, the peacekeeping forces have entered the territory of Ossetia to restore something similar to order [238, p.21]. Their mission was to separate the parties involved in the conflict, clear the roads, demine them, break the Zhinvali blockade, assist in the repatriation of refugees. The "mandate" to maintain peace. A two-month deadline has been initially set, but as the parties have been unable to reach a compromise on the status of South Ossetia, the deadline has been extended for an indefinite period [240, p.298]. At present, the situation remains tense and despite the alleged "successes of the Russian peacekeepers" the parties have not come close to resolving the conflict. In this regard, the doctrine has expressed the view that a claim to even greater sovereignty in Abkhazia has distracted Georgia from the conflict in South Ossetia [346, p.85] and clarifies, at least in part, Russia's success in South Ossetia.

The conflict in Abkhazia, strategically located on the Black Sea coast and in northwestern Georgia, has begun with social tensions and attempts by local authorities to separate the region from Georgia. It has escalated into a series of armed clashes in the summer of 1992 when the Georgian government, deciding that the railway and several other means of communication must be protected, deployed 2,000 Georgian soldiers in Abkhazia.

Fierce fighting has begun on August 14, 1992, when Georgian troops entered Abkhazia and killed more than 200 people and wounded hundreds. Abkhazia's leadership has abandoned the capital, Suhumi, and retreated to the city of Gudauta. It should be noted that the relations

between the Abkhazians and Georgians have been strained for decades. Historically, the Abkhazians have often tried to separate from Georgia.

It should be emphasized that at present, the population of Abkhazia is 540,000 people, of which only 18% are Abkhazians. Most of the inhabitants of the Abkhazian region are Georgians (about 47%), and the rest of the population is made up of other nationalities, such as Armenians (18%), Russians (13%), Ossetians (2%), etc [135, p.42]. In December 1991, Georgia's new Supreme Council was elected, with 28 seats allocated to Abkhazians, 26 to Georgians and 11 to the remaining 35% of the population [164]. However, this decision has not resolved the conflict. The Abkhazian minority has not been satisfied with the disproportionate representation.

The scenario is similar to that in South Ossetia except that in this conflict a much larger number of Russian representatives have helped the Abkhazians in their fight against Georgia. Russian military units have stationed in Abkhazia providing equipment and technical advice to Abkhazians. Russian veterans living in Abkhazia also have offered their services. Russian Cossacks and mercenaries also have helped the Abkhazians.

Three ceasefire agreements have been signed during the fighting, but each have not lasted long. The fourth is successful, in large part because the Russians who fought on the side of the Abkhazians successfully have defeated the Georgian armies and forced most of the Georgian population to leave the region. The Russian military has helped conclude each of the three previous ceasefire agreements, while Russia's unofficial military presence each time has helped break those agreements [239, 225]. The events surrounding the violation of the third ceasefire agreement are an eloquent example of the double and amorphous policy of Russian peacekeepers.

Russia's leadership, being concerned about reports of a continuing escalation of the situation and about the well-being of Russians living in Abkhazia, has encouraged the parties involved to sign a ceasefire agreement. Russia, Georgia and Abkhazia have signed this agreement in Sochi on July 27, 1993. The ceasefire agreement stipulated “the disarmament of both sides, which must be followed by the withdrawal of Georgian troops from Abkhazia and the return of legitimate government to the capital Suhumi”. A tripartite Russian-Georgian-Abkhazian commission has been set up to monitor the ceasefire agreement and the withdrawal of weapons. As Abkhazia's political status has been not determined, neither side has wanted to disarm. Both sides have accused each other of violating the ceasefire agreement.

Noticing the weakness of the Georgian defense, divided due to the conflict in Ossetia, the Abkhazians has begun to attack the Georgian armies deployed in Suhumi. The Abkhazians advanced using armored vehicles and artillery, which according to the tripartite agreement were considered unusable and have been deposited in Russian units stationed in Abkhazia. This

equipment could not be returned to the Abkhazians without the knowledge of the Russian military command. Why have Russia not demanded an immediate end of the Abkhazian attack? It could be assumed that the cause is the small number of the Russian peacekeeping contingent, but the silence of the Russian defense and interior ministries raises big questions about Russia's intentions. Only after the Abkhazians successfully have eliminated the army and the majority of the Georgian population in Abkhazia, the Russian government has threatened the Abkhazians with economic sanctions.

During a press conference on September 18, 1993, Russian Defense Minister Pavel Graciov has tried to explain Russia's position in the Abkhazia conflict. After violating the agreement, he personally has carried out a visit in order to stabilize the situation [239, p. 227]. Because the Abkhazians have been winning, they have not been interested in negotiations. According to Graciov, the number of Russian military forces is insufficient to take any effective measures to stop the conflict.

The Georgian government has refused to allow the deployment of two more Russian divisions to separate the warring parties. The Georgians only have wanted to strengthen the Russian battalion already deployed in Suhumi and thereby to prevent the Abkhazians from occupying this strategic point. Minister Graciov replied to this request that “Russian troops stationed in Abkhazia must maintain strict neutrality and that international peacekeeping forces must be used to enforce a ceasefire. The Russian military contingent can only be used after consultations with the UN”. This comment illustrates as eloquently as possible the ambiguity of Russia's peacekeeping policy in Abkhazia and in general. General Graciov has been ready to position two divisions of Russian soldiers to separate the warring parties without any permission from the UN and also could not order the deployment of a battalion to strengthen the defense of the city of Suhumi - a key position of the Georgians in Abkhazia.

The situation in Abkhazia continues to remain inconstant. The Russian authorities and the UN have made several attempts to resolve the conflict in accordance with Georgia's principle of territorial integrity and at the same time trying to recognize Abkhazia's independence. The Georgian government insists on the repatriation of some 300,000 Georgians to Abkhazia. The Abkhaz authorities, which already have control over the entire territory, do not want a potential partisan force to be readmitted in the region [155, p.9]. Neither party is willing to compromise.

It should be mentioned that the ceasefire agreement of 3 September 1992 includes an appeal to the UN and the CSCE to assist in the peaceful regulation of the conflict, and, on 10 September 1992, the Security Council requested the UN Secretary-General to inform periodically the Council about the evolution of the situation in Abkhazia.

Parallels on the exercise of peacekeeping forces in the Republic of Moldova and Georgia. Referring to the conflicts that take place on the territory of the former USSR, especially on the territories of the Republic of Moldova and Georgia, we must also focus on the format of peacekeeping forces. Thus, the end of the conflict in the Georgian region of South Ossetia took place on the basis of the Agreement signed on 24 June 1992 between the Russian Federation and Georgia on the principles of the conflict resolution. According to this agreement, peacekeeping forces have been deployed in the region, consisting of 3 battalions - Russian, Georgian and Ossetian. We notice similar aspects with the case of the Republic of Moldova.

The conflict in the Georgian region of Abkhazia has largely ceased following the deployment of the Russian contingent as CIS Peacekeeping Collective Forces, under the Moscow Ceasefire Agreement signed between Georgia and Abkhazia (as a belligerent party and subject to international law) under “Russian auspices” in 1994. In addition, in August 1993, the UN Security Council, by Resolution No. 858 (1993), has decided to set up a UN mission to monitor the situation in Georgia, the purpose of which was to monitor the previous ceasefire agreement of July 27, 1993.

In the case of both the Republic of Moldova and Georgia (South Ossetia) we observe the same tendency. The Russian Federation unilaterally assumes the status of a peacemaker, in the absence of the competencies granted by the UN, an organization that bears the main responsibility for maintaining international peace and security. Moreover, in the conflict on the Dniester, the forces of the Russian Federation stationed in the Republic of Moldova as a consequence of the disintegration of the USSR, are on the separatists’ side, a fact confirmed by several sources. A confirmation of the above is also the presence of the signatories of the Ceasefire Agreement - the Republic of Moldova and the Russian Federation. The third, the so-called "Transnistria" part appears later, within the Unified Control Commission, being promoted by the Russian Federation, which from the beginning does not correspond to the intentions of the signatories of this agreement. And the role of "peacekeeper" that the Russian Federation has assumed unilaterally (even if formally Chisinau has given this agreement, because it is not known under what conditions it took place) contradicts the concept of peacekeeping forces developed in the UN framework, to which we will refer later.

Despite the fact that the objectives of the peacekeeping force are to implement the process of disarmament, demobilization and reintegration of ex-combatants, it has been found that the real events happening in the conflict zones of the Republic of Moldova and Georgia have been completely different - from the introduction of pseudo-customs and of pseudo-border guards, to the systematic violation of fundamental human rights and freedoms.

3.4. Conclusions to Chapter 3

1. There are significant differences between international law and domestic law. Public international law, although closely related to the domestic law of states, has a number of important features. The main aspects that determine the differences between public international law and the domestic law of states relate to: the object of regulation of international law, the method of developing its norms, the subjects of this law and the system of application and authorization of its norms.

2. The principle of the supremacy of the international law over the domestic law is becoming one of the most important, since under the influence of this principle, there is a unification of the international space in which everyone from a person to a sovereign state is obliged to comply with the norms of international law. At the same time, the principle of the rule of international law does not imply that international law will be applied directly domestically as a positive law.

3. The territorial statements made by the Government of Georgia on Protocols 1 and 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, and the refusal of the Government of Georgia from responsibility for violation of the provisions of Protocol 12 to the Convention in the territory of Abkhazia and South Ossetia are appropriate and they are of particular importance due to the conflict situation in these two regions. We believe that territorial declarations and disclaimers can be made by the Georgian government when the separatist regions of Abkhazia and South Ossetia abandon separatist tendencies and fully submit to the sovereign and independent state of Georgia.

4. After the scientific research of the scale of peacekeeping operations as a factor in the regulation of territorial conflicts in the world, We have regretfully discovered that neither the legal doctrine of the Republic of Moldova and Georgia, nor the doctrine of other states to which we have had the access, with a few exceptions, contain complex and comprehensive scientific studies devoted to the issue of resolving territorial conflicts, capable of clearly identifying the causes and prerequisites of territorial conflicts, finding out effective mechanisms for their resolution presented by international peacekeeping operations developed in accordance with international mandates, and identifying certain milestones of the concept and content related to the field of resolving territorial conflicts through the mandate and conduct of peacekeeping operations.

5. The peacekeeping operations are an important factor in the regulation of territorial conflicts, since, based on the experience accumulated over six decades by the United Nations and regional international organizations in this area, an effective methodology for resolving the conflict has been outlined and there are clear and real mechanisms for reducing tension in the

affected area, which, unfortunately, cannot always be applied to resolve successfully a specific territorial conflict.

6. As for the peacekeeping operation in the eastern regions of the Republic of Moldova (Transnistria), this is an atypical one, because it is not based on a classical international mandate, and the parties involved in the peacekeeping mission are not impartial. The peacekeeping operation has been adopted on the basis of the *Agreement on the principles of the peaceful regulation of the military conflict in the Transnistrian region of the Republic of Moldova* signed by Moldova and Russia on July 21, 1992, which is the only manifestation of legitimacy and is composed of the former warring parties and a third party openly supported by one of the parties of the conflict, which is unacceptable in the practice of conducting traditional peacekeeping operations.

7. The peacekeeping operation in the Republic of Moldova is illegal because it has not been placed under the mandate of a global or regional security organization in accordance with the provisions of international law. In this context, we are of the opinion that the peacekeeping operation in the eastern regions of the country contravenes the norms of international law and the provisions of international organizations (UN / OSCE).

8. Despite the fact that the Russian Federation is increasingly insisting on the granting of special rights by international organizations to guarantee peace and stability in the territory of the former USSR, this is contrary to the norms of public international law.

9. The current peacekeeping operation in the Republic of Moldova has a negative impact on the internal situation in the republic, since it does not support efforts for a lasting political regulation of the dispute, but, on the contrary, strengthens the position of the Russian Federation.

10. The peacekeeping operation in Moldova, as well as in Georgia, has created a negative precedent in international practice - the involvement of the parties of the conflict in such operations. These operations are not only contrary to international law, but also ineffective. This is confirmed by the introduction of military formations and equipment in the security zones, the bans established for military observers, the creation of border guard posts by the Tiraspol regime.

In order to strengthen the norms of international law on territorial conflicts, we make the following proposals:

1. Initiate actions to involve the international community in the regulation of the Transnistrian conflict by transferring peacekeeping operations under the mandate of an international organization authorized to resolve security issues (UN, OSCE).

2. Send an official request to the international organizations authorized to include in their agenda the issue of the peacekeeping operation in Moldova and the beginning of negotiations

with the member states by these organizations regarding their participation in the operations with a military and civilian contingent; and a willingness to contribute financially to the operation.

3. Denunciate *the Agreement on the principles of peaceful regulation of the military conflict in the Transnistrian region of the Republic of Moldova* by the state of the Republic of Moldova, signed by Moldova and Russia on July 21, 1992 in accordance with Article 8 of the Agreement, with the development and presentation of the firm position of the Republic of Moldova in creation of peacekeeping forces in strict accordance with the norms of international law.

4. Observe the negotiation process and the creation of peacekeeping forces in order to ensure their neutrality and impartiality. In this context, we propose the implementation of actions to ensure refraining from participation in the operation of regional powers with interests in the Republic of Moldova, such as the Russian Federation, Romania, Ukraine, Bulgaria, and Turkey.

5. Consider it appropriate for the leadership of the Republic of Moldova to formally state its negative position regarding the actions of the Russian Federation to legitimize its own peacekeeping operations in the territory of the former USSR or to transfer them under the mandate of the CIS. Thus, the consultations could be initiated with Georgia to present a common position on this subject in international organizations.

6. Replace the current position of the Deputy Minister for Reintegration of the Republic of Moldova by a special body empowered with the appropriate powers to develop and coordinate state policy on the Transnistrian issue. The first step should be to develop a clear state concept, which will include specific measures to resolve the Transnistrian conflict and its subsequent approval by the government and parliament. The international experts should be involved in this process along with local experts and authorities.

7. Transform the security zone into a demilitarized zone and expand it with the withdrawal of the 14th army to the entire left territory of the Dniester and control the implementation of this provision by international peacekeepers.

At the end of the chapter, we once again want to mention that a peacekeeping operation, even if it is carried out in strict accordance with the norms of international law, is not an end in itself, but just an instrument for accelerating the resolution of the conflict in the eastern region.

4. THE APPLICATION PROCESS OF INTERNATIONAL RULES OF LAW IN SOLUTION OF TERRITORIAL CONFLICT OF THE REPUBLIC OF MOLDOVA AND GEORGIA

The process of applying international law rules in the regulation of territorial disputes in Georgia and the Republic of Moldova highlights issues, which need to be clarified in a separate chapter, such as the specifics of international law application in the territorial disputes of these two states, the role of European Court of Human Rights in resolving the cases of separatist regimes. Violations of international law in separatist regions are not occurring due to the inadequatrules of international law. These violations are based on the lack of desire of separatist regimes to recognize and respect the international law, the inadequacy of means to ensure their observance, uncertainty about the applicability of these rules in certain circumstances, features that will be discussed in this chapter.

4.1. Peculiarities in applying norms of the international law in the context of the territorial conflict in Transnistria

The question regarding applicable jurisdiction to members of the Russian Federation armed forces allocated on the territory of the Republic of Moldova is a current one for public international law.

Considering that the principle of sovereign equality of states is one of the fundamental principles of public international law, each State retains its right to exercise jurisdiction over persons and assets located within or outside the territory of the country [188, p.39]. Under these circumstances, a single solution cannot exist, such situations being governed by international agreements, including bilateral and multilateral agreements. International agreements might provide for the application of the jurisdiction of the State under certain conditions, the requirements for the surrender and extradition of persons, the establishment of Inquiry or Conciliation Commissions for the purpose of settling conflicts.

Theoretical aspects. One of the criteria characterizing the state as a subject of international law is the exercise of jurisdiction in relation to assets and persons. It is obvious that in the absence of the State's exercise of the territorial authority, neither the jurisdiction over the territory can be exercised.

In the specialized legal doctrine, territorial supremacy is the mandate of the state in the exercise of full and exclusive power within the boundaries of the state territory. Territorial supremacy is provided and guaranteed both by the state's internal legislation and by the norms of international law [169, p.76]. The fullness of the territorial sovereignty of a State is expressed in the fact that each State on its own territory is able to determine the extent and nature of its

competences, to regulate social relations in the most varied fields, to impose its authority on the entire social mechanism and to manage resources and national wealth [290, p.27].

In the relations of international law, the territory of the state is an element of particular importance, as it is a fundamental value for the existence of the states itself. Alongside the population, the territory is one of the material factor of the existence of the state [290, p.22]. On its territory, the State exercises its sovereignty fully and exclusively and acts in order to carry out its responsibilities and functions, and the other states are obliged not to damage territorial integrity [237, p.99].

An important element of territorial domination is the application of extraterritorial jurisdiction, according to which the jurisdiction of the State over its citizens extends to international field [250, p.99]. On the basis of this principle, the State laws affect its citizens and stateless persons who live permanently in that State while they are abroad [56, p.112]. This applies even to law enforcement coercive branches, such as criminal law and contravention law.

Another principle of extraterritorial jurisdiction, quite widespread, is the principle of defense. On its basis, the state has the right to prosecute persons who are not its citizens for committing crimes outside the territory but against the interests of the State or its citizens [163, p.23]. Extraterritorial criminal jurisdiction can also be exercised on the basis of the principle of universality, according to which any state is entitled to institute criminal proceedings against a person who committed outside the State territory an offense under international law [188, p.211]. However, the fullness and exclusivity of territorial sovereignty does not exclude that a state, by its own will and under conditions established by international agreements, allows other states and their citizens' access to their own territory and some rights in its use, generally on the basis of reciprocity [64, p.93]. Thus, states grant each other the right to use the land, air, sea and river means of transportation on their territories, the right to trade and do business, the right to use their facilities or funds within certain limits, etc. Also, in the framework of international cooperation, states can commit themselves to abstain on their own territory from certain activities, such as the placement of categories of weapons, troop movements or military applications [56, p.125], or the construction of facilities that would harm to the environment and cause damage to other states, to introduce restrictions on the conduct of activities or to submit within their right to legislate conditions and limits established by the international conventions in which they take a part [140, p.22].

The case of the military from the contingent of the Russian armed forces in the conflict zone of the Republic of Moldova. This brief analysis of how States exercise jurisdiction allows us to find that competition of jurisdictions may arise in some situations. There is also the military case in the contingent of the Russian Federation's armed forces, located in the

conflict zone in Transnistria, involved in the incident that took place on January 1, 2012 on the bridge from Vadul lui Voda (Republic of Moldova), which led to the death of a young Moldovan man.

The Russian soldier shot the young man at the checkpoint in a security area that was under the control and command of the Russian soldiers. The control point was located in the security zone established by the Agreement from 1999 on the End of the Military Conflict in the Transnistrian Region and was under the control of the Russian military.

This case (*Pisari v. the Republic of Moldova and Russia*) was examined by the European Court, which established that neither the Russian Federation nor the Republic of Moldova had disputed their jurisdiction in this case. When a state's soldiers are sent to the territory of another state, the extra-territorial force they use may extend the jurisdiction of the state over the actions of its militaries [112]. In this context, the Russian Federation has the right to apply its personal jurisdiction to the military, since they possess Russian citizenship and the Republic of Moldova has the right to apply the territorial jurisdiction, as the incident took place on the territory of the Republic of Moldova. Only the Republic of Moldova can apply its jurisdiction if it has access to this person, whether it is detained by the Moldovan authorities or is extradited upon the request of the Republic of Moldova from the territory of a state with which we have such a signed agreement. As for the Russian Federation, it is evident that it will not extradite them, since one of the principles of constitutional law provides for the non-admission of extradition of its own citizens. This principle is universal and does not require a detailed description. On the other hand, the plaintiffs - the parents of the young man - considered that the Moldovan authorities were not responsible for the death of their son and had done everything they could reasonably investigate his death. Therefore, they no longer wanted to prosecute their claim against the Republic of Moldova. Finally, the Court accepted this claim of the applicants and decided to remove from its role the head of claim against the Republic of Moldova.

Practice shows that the members of the armed forces most often commit crimes, including serious ones. Given the fact that the Republic of Moldova de facto does not exercise jurisdiction over the members of the military contingent of the Russian Federation, it is equally in relation to persons committing crimes on the territory of the left bank of the Dniester, a territory which is outside the jurisdiction of Chisinau, so the logical question arises what will be the solution.

Explaining our opinion, we believe there may be the following solutions. Regarding the persons who commit crimes on the territory of the left bank of the Nistru river, the solution would be to open a criminal investigation and to begin the international search, thus limiting their traffic space. In addition, we emphasize that for certain categories of offenses committed on

the territory of the Republic of Moldova, such as war crimes, crimes against humanity, genocide, and acts of torture, the prescription term cannot be applied.

Regarding the exercise of jurisdiction over members of the military contingent of the Russian Federation, we find that the legal solution in the given case is appeal of the authorities of the Republic of Moldova to the competent structures of the Russian Federation regarding the establishment of a working group and the examination of the case by presenting the respective evidence. Under the circumstances in which the offense was committed under the laws of both States (double criminality), the person concerned had to be put to justice by the Russian authorities. Otherwise, the same solution remained - starting the criminal investigation and international search of the person concerned. This is the ideal solution, but regretfully, in practice, things have been different.

In the specialized doctrine, the opinion was expressed that the impossibility of applying the jurisdiction of the state on its own territory to foreign soldiers is not conditioned by the legality of the stationing of the foreign armed forces [248, p.121]. In the case of an armed occupation, international law is applied in practice, it is obvious that the respective state jurisdiction applies to the respective military [244, p.56]. Under the conditions of the stationing of foreign armed forces under an agreement, as a rule, the conventional provisions establish firmly that members of the respective armed forces fall under the jurisdiction of their own state. It is interesting that in the case of the Republic of Moldova we can not talk about the applicability of a regime of occupation in the classical sense, since the stationing of the Russian forces at the beginning represented the effects of the ex-Soviet collapse, and no legal document was subsequently signed (which would produce international legal effects) between the Republic of Moldova and the Russian Federation, which would provide for the withdrawal of the Russian Federation's armed forces from the territory of the Republic of Moldova, including the terms of this withdrawal.

Foreign armed forces that are on the territory of the state, despite the absence of its approval, according to the traditional doctrine of international law, enjoy immunity and exterrality [237, p.91]. In the case of military occupation, these forces are not subject to the jurisdiction of the occupied State, they are under the jurisdiction of the occupying State, which has to apply the provisions of The Hague regulations, Respecting the Laws and Customs of War on Land [87].

In other cases, the military of the hostile armed forces abroad is, in principle, immune from the offenses committed officially. However, the scope of this immunity is very limited, as most crimes committed by foreign soldiers are considered war crimes against which immunity is absent [248].

The murder of the civilian population of the counterpart, the destruction and plundering of their assets are considered as crimes, provided for by the Fourth Geneva Convention [92]. Immunity for such crimes exists only in cases where the foreign military steals the property belonging to another foreign military. Obviously, such a special status can not affect international law and state immunity *ratione materiae* in relation to war crimes, crimes against humanity and genocide. It appears that the special status of the foreign armed forces has nothing to do with the criminal prosecution exercised by the International Criminal Court.

The obligation to prosecute persons who have committed crimes or have subjected someone to torture cannot be denied on the basis of a bilateral agreement between the States Parties at The Conventions against torture [14, p.34] or on the Geneva Conventions. At the same time, some deviations from both parties are admitted taking into account the obligations provided in the Customs Agreements. That is why the agreements on the status of the armed forces, which establish immunities beforehand in relation to torture and war crimes, violate the obligations of the participants in such agreements, according to the conventions mentioned. The ones outlined are also applicable to the Convention on Genocide [13, p.14].

We should recognize that not only the Republic of Moldova faces such a problem. State practice shows us that in most cases (that means that this rule applies not just to states with authoritarian regimes, but also to states with a high level of democracy, such as USA, Great Britain, France, Canada, etc.) persons that have committed serious violations in armed conflicts or peacekeeping operations are formally punished. In some cases, the *jus cogens*, which represent the "core" of international humanitarian law, are ignored. The problem lies in the fact that such situations are often solved on the basis of political considerations, and therefore the level of applicability of the rule of law largely depends on the political factor.

Aspects regarding the application of the norms of international humanitarian law in the regulation of the Transnistrian conflict. The concept of international humanitarian law has a lot of substitutes, initially entering the language of law under the name of "Law of War" ("Droit de la guerre", "Kriegsrrecht"), with two meanings: jus ad bellum, that designates the rules on the conditions under which a State may use the armed force and jus in bello, ie the set of rules applicable between the parties of the armed conflict [184, p.275].

With the creation of the International Committee of the Red Cross in 1863, which undertook the task of stimulating the codification of the rules of the protection of combatants and non-combatants, as well as of civilians, jus in bello divides into two branches - the Law of War and Humanitarian Law [185, p. 322]. Coding conferences at the end of the nineteenth and early twentieth centuries enshrined the law of war in the formula "laws and customs of war". Subsequently, the last major codification of 1977 brought together the two branches - the Law of

War and Humanitarian Law - into a new concept: "The International Humanitarian Law of Armed Conflicts," which is the official name.

Taking into account that international humanitarian law applies only in times of armed conflict, we should clarify whether there is an armed conflict in the Transnistrian region. In that case, we rely on the Court of Appeal's definition of the International Criminal Tribunal for the former Yugoslavia (ICTY) on the Tadić case, which states that "an armed conflict exists whenever there is a use of armed force between states or durable violence between authorities and organized armed groups or between such groups within a state" [218].

Although, the Transnistrian conflict could be considered frozen since the hostilities ceased in 1992, the Tadic decision seems to include the conflict between the Republic of Moldova and Transnistria as an "armed conflict" because there was a prolonged armed conflict between governmental authority (Republic of Moldova) and an organized armed group (Transnistria), but a peaceful regulation has not been achieved yet.

Would this suggest that international humanitarian law should be applied in the Transnistrian region, as Tadić defines, international humanitarian law also extends in peacetime? Besides the cessation of hostilities, will it be until the end of the peace or until a peaceful solution is achieved?

Although a number of initiatives bringing the peace to Transnistria were adopted, they have failed, and Russian troops are still present in the region in a capacity of peacekeepers. Transnistria came forward with an initiative to strengthen the statehood, whereas having no recognition from the international community and a little chance to obtain such recognition. In the case of the withdrawal of Russian peacekeeping troops, a military conflict can appear again. Therefore, we conclude that a situation of armed conflict has existed and continues to exist in the Transnistrian region and that international humanitarian law should apply.

In the following, it is necessary to determine the categorization of this conflict. If the involvement of the Russian Federation has any impact on this categorization, there is a need to understand the potential extent of the application of international humanitarian law in the region.

Underscore that that the USSR was a party of the Geneva Conventions of 1949 [89, p. 9; 90, p. 34; 91, p. 55; 92, p. 123], including the Additional Protocols I and II of 1977 [41, p. 184; 42, p. 253], and the Republic of Moldova was a party by succession, in accordance with the provisions of the Government Decision of R.M. no.442 of 17.07.2015 for the approval of the Regulation on the mechanism for the conclusion, application, and termination of international treaties [233].

In recent years, there have been a number of calls for the modification of international humanitarian law by abandoning the division of international and non-international armed

conflicts, but the respective classification is still in force [289, p. 34]. Within this context, the question is whether the involvement of the Russian Federation has transformed the Transnistrian conflict into an international armed conflict, thus triggering the potential for the application of the entire corpus of international humanitarian law.

Moreover, it is important that a legal regime, and especially an expansive legal regime, is effectively applied in cases such as Transnistria, because, as this territory is a de facto state, there are no obligations and possibilities to apply the standards and international norms, leaving the population of Transnistria without international legal protection [207, p.63].

The regime of international humanitarian law offers a certain level of protection for the population, prosecuting alleged offenders for war crimes, such as rape, murder and torture, protecting civilian assets [242, p.118]. However, as mentioned above, the potential level of protection depends on the classification of the conflict.

Although, it is often claimed that the situation in Transnistria is used as an instrument of the Russian Federation's policy of "close vicinity" [283, p.15], there is a need of a detailed examination of the conflict to determine the extent of Russian Federation's involvement in the planning and managing of the Transnistrian governance. This issue, as well as the continued existence of the de facto state of Transnistria, was addressed by the European Court of Human Rights (ECHR) in the case of Ilascu and others vs. Moldova and the Russian Federation [5]. The court examined the issue in order to determine whether Russia's involvement in the conflict was sufficient to bring the conflict under Russia's jurisdiction. This case examined by the ECHR is the main source of information regarding the involvement of the Russian Federation in the Transnistrian conflict.

The court considered in its judgment that: “The Russian Federation is responsible for the illegal acts committed by the Transnistrian separatists, taking into account the political and military support granted to help in the establishment of the separatist regime and in the participation of Russian members of the armed forces in the fighting. Thus, the Russian authorities contributed both militarily and politically to the creation of the separatist regime in the Transnistrian region, which is part of the territory of the Republic of Moldova.” The court also noted that, even after the ceasefire agreement in July 1992, the Russian Federation continued to support the Transnistrian separatist regime militarily, politically and economically, "thus allowing them to survive, strengthen and obtain a certain amount of autonomy vis-à-vis Moldova”. In this way, the ECHR established a strong link between the Russian Federation and the Tiraspol authorities, talking about o "decisive influence" and even about an "effective authority".

4.2. Specifics of international law application in the context of the territorial conflict in Abkhazia and South Ossetia

In the specialized literature, most authors considered that the disputed territories of Eastern Europe are the direct product of the former Soviet Union policy for the gradual change of state borders in order to thwart any possible separatist attempts and to ensure the unity of the USSR [231, p.65].

According to the Law of the USSR of April 3, 1990 "On the procedure for solving the problems regarding the exit of the Union Republics from the composition of the USSR" [322], the peoples of the autonomous republics and the autonomous entities had the right to decide independently whether to remain in the USSR, raising the issue of their legal status. Separate state entities within the USSR could only be considered new states if the interests of all the peoples of the USSR were taken into account and after the procedure that ensured each nation the right to choose state membership.

Without complying with the provisions of the USSR Law of April 3, 1990, the collapse of the Soviet Union led to the complex conflicts in the former Soviet republics, which have not yet been resolved and continue to provoke tensions between the Russian Federation and its neighbors. The examples are the conflicts in South Ossetia and Abkhazia that have degenerated into violent conflicts, ethnic cleansing and severe tensions between the Russian Federation and Georgia.

The self-proclamation of independence by South Ossetia and Abkhazia has sparked scientific debates on the applicability of the right to self-determination, including the right to secession [348, p.64]. Self-determination and secession are fundamental issues of public international law. In this case, some researchers (C. Walter, A. Ungern-Sternberg, etc.) mentioned that the right to self-determination and even to secession enjoyed by peoples and ethnic groups is in direct conflict with the sovereignty and territorial integrity of the states [286, p.293]. Other researchers have stated that the right of states to territorial integrity may not be absolute and unqualified, because "the development of international human rights law has limited the concept of state sovereignty in many respects" [282, p. 21]. This approach introduces the idea of corrective secession. That is a set of conditions that could justify the secession of a people or ethnic group in its own state as a last resort measure [182, p. 67].

The doctrine of secession a "last resort" has been used by many states that have recognized Kosovo. Similarly, the Russian Federation has taken the secession doctrine as a remedy to justify the recognition of the independence of South Ossetia and Abkhazia after the armed conflict with Georgia in 2008 [182, p. 68]. Thus, South Ossetia and Abkhazia *de jure* remain part of Georgia, although Georgia does not have effective control over these self-

proclaimed republics. A similar situation exists in the Republic of Moldova, in relation to the self-proclaimed Republic of Transnistria.

From the perspective of political science, these conflicts are labeled as "frozen conflicts" which means that although the military hostilities have ceased, solutions for resolving these conflicts have not been found [286, p.295]. From the point of view of international law, "frozen conflicts" indicate competitive sovereignty over a certain territory and a possible collision of the different norms of international law, in which a group invokes the right to self-determination, while the mother state demands the respect of the territorial integrity of the states [107, , p.35]. Therefore, as in the case of Transnistria, South Ossetia and Abkhazia claim that they have not only the right to self-determination, but also the right to secession, through territorial separation from Georgia. Both South Ossetia and Abkhazia base their claims on allegations of discrimination and massive human rights violations committed by Georgia, grounds that constitute the basis of the right to secession as a "last resort remedy" [286, p.296].

South Ossetia declared independence from the Soviet Socialist Republic of Georgia in 1991. The Georgian government responded by abolishing the autonomy of South Ossetia and trying to regain control of the region by force. The escalation of the crisis led to the war in Ossetia in the period from 1991 to 1992 and to the battles of 2004 and 2008 respectively.

On November 10, 1989, the XII Session of the Council of People's Deputies from the South Ossetian Autonomous Region decided to transform this region into the Autonomous Republic of the Soviet Socialist Republic of Georgia. In response, the Presidium of the Supreme Soviet of the Socialist Soviet Republic of Georgia declared this decision unconstitutional [241, p.75].

One year later, on September 20, 1990, the Council of Deputies of South Ossetia adopted the Declaration of State Sovereignty, there was decided to form the Soviet Democratic Republic of South Ossetia in the composition of the USSR, and on November 28, 1990 the state entity was renamed in the Soviet Republic of South Ossetia. Accordingly, on December 11, 1990, the Supreme Council of the Republic of Georgia, chaired by Z. Gam-Sakhurdia, adopted the Law On the Abolition of the South Ossetian Autonomous Region [325, p. 25].

From this point of view, in the legal doctrine of the Russian Federation, critical opinions were expressed [160, p. 141], and namely, the adoption of the Law "On the Abolition of the South Ossetia Autonomous Region" was contradicted to the provisions of Art.3 of the USSR Law of April 26, 1990 regarding the delimitation of powers between the USSR and the subjects of the federation , which established that" the territory of a union, autonomous republics or an autonomous entity cannot be changed without their agreement" [321], and paragraph (2) of Article 6 of this law attributed it the exclusive jurisdiction of the Soviet Union "the admission in

the USSR of the new Union republics, the approval of the formation of new autonomous republics and the approval of the changes in the statute of the existing autonomous republics, in the statute of the autonomous regions and autonomous districts".

After the collapse of the USSR (1991), the Supreme Council of South Ossetia appointed a referendum on the independence and accession of the region to the Russian Federation. During the referendum of January 19, 1992, the majority of the participants voted for independence and accession to Russia. Thus, on May 29, 1992, the Supreme Council of the Republic of South Ossetia proclaimed the independence and creation of an independent state - South Ossetia [160, p.142]. In their turn, the Russian Federation immediately recognized the independence of South Ossetia, openly and publicly declaring its decision to support the de facto authorities of these territories politically, financially and militarily [132, p.299].

During the period of 1992 to 1996, South Ossetia formed its own state structures, in particular, the Ministry of Internal Affairs and the military departments. Although not recognized internationally, the republic had a Constitution and Parliament, and the presidential institution was formed in 1996. The first presidential election in South Ossetia was held on November 10, 1996 [291, p.168].

Contrary to all the peaceful regulation agreements of the Georgian-Ossetian conflict, on the night of August 8, 2008, there took place military conflicts between the Georgian and South Ossetian forces. Russian peacekeeping forces were also involved in the military conflict.

As a result of the negotiations between Georgia, the Russian Federation and the institutions of the European Union, six principles for the regulation of the conflict between Georgia and South Ossetia were approved: 1) non-use of military force; 2) final cessation of hostilities; 3) free access to humanitarian aid; 4) withdrawal of Georgia's armed forces from the conflict perimeter; 5) maintaining the peacekeeping armed forces of the Russian Federation on the outbreak of hostilities until the creation of international mechanisms; 6) initiating international discussions on the future status of South Ossetia and Abkhazia, as well as on the ways to ensure sustainable security in these regions.

On August 26, 2008, the President of the Russian Federation signed Decree No. 1261 "On the recognition of the Republic of South Ossetia". The Decree indicated that the recognition is based on the will of the people of South Ossetia. At the same time, the task of the Russian Ministry of Foreign Affairs was to arrange negotiations with the South Ossetian administration in order to establish diplomatic relations of cooperation and mutual assistance.

Although the rules of international law protect the territorial integrity of Georgia, there were states that did not take into account the international legal framework. Thus, on September 5, 2008, the Republic of Nicaragua recognized the independence of South Ossetia and became

the first country in Latin America to manifest such a gesture. Later, on September 10, 2009, Venezuelan President Hugo Chavez announced that Venezuela recognizes the independence of South Ossetia and Abkhazia. In the same context, the leaders of states such as Armenia, Belarus, Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan condemned Georgia's actions in South Ossetia and supported the actions of the Russian Federation at the summit of the Collective Security Treaty Organization in Moscow.

On the other hand, on September 1, 2008, the European Union condemned the unilateral recognition of Abkhazia and South Ossetia by the Russian Federation, stating that this decision was unacceptable and urged all states not to recognize the independence of the self-proclaimed republics.

From the perspective of the scientific research, we carry out, the military actions between the Georgian forces and those of South Ossetia need to be evaluated from the point of view of international law. Thus, Russian researchers came to the conclusion that Georgia's actions were illegal. As an argument, it was invoked that Georgia concluded an international agreement with the participation of South Ossetia and the Russian Federation in 1992 and 1994, according to which the parties committed to solve all the disputed issues exclusively through peaceful means, without using force or threatening to use it. Georgia, violating the agreement and international legal principles regarding the non-use of force and the threat of force, committed an act of aggression against South Ossetia [336, p. 45].

Most Russian authors hold by the opinion that Georgia attacked South Ossetia and the Russian peacekeeping forces on August 8, 2008. It was mentioned that the Russian Federation was obliged to use its inherent right to self-defense, enshrined in Art. 51 of the UN Charter. The Russian side's use of force was intended to protect the Russian peacekeeping contingent from Georgia's illegal actions, which was performing its functions in South Ossetia in accordance with the provisions of an international mandate. Therefore, the Russian researchers considered that Georgia's intervention was an act of aggression, and the Russian Federation was entitled to self-defense. As regards South Ossetia, it has ensured its security on the basis of the right to self-determination through the separation and formation of an independent state [328, p. 54]. Georgia appealed to the principle of territorial integrity, while South Ossetia appealed to peoples' right to self-determination [316, p. 93].As a result of the armed attack on South Ossetia, Georgia violated the principles of international law, namely: prohibition of the use of force or threat of force, respect for human rights and fundamental freedoms, self-determination of the people [149, p.99].

According to the Declaration on the principles of international law on friendly relations and cooperation between states in accordance with the UN Charter, by virtue of the principle of equal rights and the self-determination of the people enshrined in the UN Charter, all peoples

have the right to be freely established outside their political status and to exercises economic, social and cultural development and each state must respect this right in accordance with the provisions of the Charter. The forms of exercise of the right to self-determination by the people are the creation of a sovereign and independent state, the free accession or association with an independent state or the establishment of any other statute through the free determination as a people.

There can be distinguished the constitutive and declarative theories of state recognition in the doctrine of international law. According to the constitutive theory, the international juridical personality of a state depends on its recognition by other states. The declarative theory claims that a new state acquires legal personality due to the fact of its existence [107, p.87].

Article 1 of the Montevideo Convention on the Rights and Obligations of States of 1933 provides that a state, as a subject of international law, must have the following characteristics: resident population, territory, government, and ability to enter into relations with other states.

The doctrinal opinions of the Russian Federation indicate that South Ossetia fulfills all the criteria of statehood. The recognition of South Ossetia was based on the norms of international law and legally allowed the right of persons to self-determination to be realized in the form of the creation of a new independent state [337, p. 59]. Moreover, the legitimate exercise of the right to self-determination by the people of South Ossetia and their own control of their territory confirms the international juridical personality, regardless of the recognition by other states [314, p. 29].

In order to exercise international legal personality, recognition of a subject of international relations is sufficient [327, p.62].

From the perspective of Russian researcher R. Shepenko [348, p.63], recognizing the independence of South Ossetia and Abkhazia, the Russian Federation referred to Kosovo's precedent, even though the European Union does not recognize Kosovo's secession from Serbia as a precedent for other territories, considering this case to be exceptional and unique. However, the situation in South Ossetia is also unique, like any other case of the appearance of a new state on the international arena.

Abkhazia. Unlike South Ossetia, Abkhazia enjoyed autonomy within the Soviet Socialist Republic of Georgia during the Soviet Union. Despite this fact, there were ethnic conflicts between both jurisdictions. Ethnic tensions developed into the war of the 1992-1993 in Abkhazia and the de facto independence of Abkhazia [313, p.19]. Despite the 1994 ceasefire agreement and many years of negotiations, the dispute remains unresolved [150, p.335].

The point of reference for the Georgian conflict is the Report of the Independent International Conflict Information Mission in Georgia in September 2009[261, p.11], led by

Heidi Tagliavini. The report clarified that the Georgian government led by Mihail Saakashvili started the war on August 7, 2008, when Georgian forces attacked and captured Tskhinvali in South Ossetia, but stated that "a violent conflict was already in full swing in South Ossetia" and that the Georgian offensive was not "adequate" in response to the pre-war attacks [187, p.6].

At this point, the status of the territories of South Ossetia and Abkhazia remains a contested issue. By the medium of the motion for a resolution based on the statement of the Vice-President of the Commission / High Representative of the European Union for Foreign Affairs and the security policy tabled in accordance with Rule 123 (2) of the Rules of Procedure regarding the occupied Georgian territories for ten years after the Russian invasion (2018/2741 (RSP)) [111], it was noted that the United Nations and most governments of the world consider these territories part of Georgia, while Russia and four other UN member states recognize the republics of South Ossetia and Abkhazia. As both republics are highly dependent on Russia from an economic, political and military point of view, a durable solution to the conflicts in this region can be found only if the right of the people of Abkhazia and South Ossetia to determine their future and to defend their national identity is guaranteed.

In international law, the legal framework for settling Georgia's territorial conflict is based on the Ceasefire Agreement of August 12, 2008 [217, p.8], and the Implementation Agreement of September 8, 2008, mediated by the EU and signed by Georgia and the Russian Federation. Other international acts are: The Resolution of January 21, 2016 Association Agreements / Deep and Comprehensive Free Trade Areas with Georgia, Moldova and Ukraine [228]; The Resolution of 13 December 2017 on the Annual Report on the implementation of the common foreign and security policy [227]; The European Parliament recommendation of 15 November 2017 to the Council, the Commission and the EEAS on the Eastern Partnership, in the run-up to the November 2017 Summit [223].

Under the above-mentioned acts, the EU categorically upholds the sovereignty and territorial integrity of Georgia within its internationally recognized borders, and by the Motion for a Resolution submitted on the basis of the statement of the Vice-President of the Commission / High Representative of the European Union for Foreign Affairs and Security Policy, the EU firmly indicated that ten years after the outbreak of the Russian-Georgian conflict and Russia's invasion of Georgia, the Russian Federation continues its illegal occupation and tries to de facto annex the Georgian regions of Abkhazia and Tskhinval/South Ossetia, violating the international law and the rules-based international system. In addition, the EU indicated that after the ten years war between Russia and Georgia, the Russian Federation continues to violate its international obligations and refuses to implement the ceasefire agreement of 12 August 2008 mediated by EU.

In 2017 Russia and Georgia set up a joint committee headed by Russia's Deputy Foreign Minister and Georgia's special representative for relations with Russia. Starting with 2018, the economic relations and the interpersonal contacts with the Russian Federation intensified, the Russian state becoming the second trading partner of Georgia.

4.3. Role of the European Court of Human Rights jurisprudence in resolving cases concerning separatist regimes in the Republic of Moldova and Georgia

Undoubtedly, the court that reviews these kinds of cases must apply the rules and principles proper to public international law in order to successfully settle an international dispute. First, the positive law is considered here, that is, a pre-existing right, valid and applicable to the case at the time of referral. The court will apply the forms of expressing positive law, which immediately sends us to treaties and international customary law. Regarding the international treaty, the court inevitably uses the function of interpretation in the process of application [120, p.34]. In turn, the international customary law demands the intellectual power of the court to identify this source, the finding being reflected on its bi- and / or multilateral application process [130, p.33].

The European Court of Human Rights represents a court with a regional avocation and specialized jurisdiction [224, p. 12]. The European Court was established by the Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on November 4, 1950 [85, p.34] and entered into force on September 3, 1953, having the headquarter in Strasbourg, France. The Republic of Moldova ratified the Convention together with the additional protocols through the Decision of the Parliament R.M. no. 1298 of 24.07.1997 [25]. Another situation happened in Georgia, because the European Convention was ratified on May 20, 1999, and the additional protocols were ratified late and successively: Protocol no.1 - entered into force on 7 June 2002; Protocol no.4 - on April 13, 2000; Protocol 6 - on May 1, 2000; Protocol 7 - on 1 July 2000; Protocol 13 - on May 25, 2003.

Initially, the system for the protection and respect of the fundamental rights and freedoms of the human being covered by the Convention included 3 institutions: The European Commission of Human Rights, the European Court of Human Rights and the Committee of Ministers, but by Protocol No. 11 to the Convention, that entered into force on 01 November 1998, a single Court was established by merging the Commission and the previous Court, while the Council retained its powers.

The appeal can be sent in court by states, individuals, groups of individuals and NGOs, provided that the violations have occurred after the entry into force of the Convention. ECtHR judgments are binding on the defendant government. The most notorious cases of difficulties in

execution are the cases against Turkey related to the situation in northern Cyprus and the case of Ilaşcu.

By exercising its contentious and advisory powers, the Strasbourg Court has an important role to play in identifying and filling gaps in public international law [268, p.55]. As the European Convention only proposes a list of fundamental human rights and freedoms, without defining them, the essential role in their interpretation and application rests with the European Court of Human Rights [296, p.67].

The Court interprets the rules of the European Convention with the exercise of litigation competence. According to the Article 32 of the Convention, "the jurisdiction of the Court covers all the issues regarding the interpretation and application of the Convention and its protocols, which are provided in art. 33, 34, 46 and 47" and, in case of contestation of its competence, "the Court decides". It is obvious that the authors of the Convention did not want to leave to the states and their internal rights the definition of the general notions that would have been admitted at the international level.

In the ECHR system, each notion is subject to an autonomous interpretation, that is distinct from that of national law. In fact, the authors of the ECHR were followed by the former Commission, the Court, and the current Court in this regard, which detached themselves from the notions of national law and interpreted the Convention in an absolutely autonomous way, thus ensuring the independence of European public order.

Admitting that the European courts are bound by the national definitions of the terms used, means allowing states to get out of any control, thus lacking the guarantee mechanism, but also the law itself being deprived of its essence [243, p.98]. Therefore, once the appeal provided for in the Convention of the ECHR is filed, the ECtHR may examine any legal issue involved, being in charge of the legal qualification it gives to these facts [330, p.32]. However, this "any problem of law" is limited by its competence *ratione materiae*, which relates to the violation of a right protected by the ECHR and its Protocols entered into force for the complained State. Therefore, claims regarding the violation of the right to self-determination, the right to environmental protection or the right to grant a driving license, and, obviously, those rights that concerns a provision of the Convention subject to a reservation by the requested State are inadmissible [296, p.72].

On the other hand, the ECtHR's advisory power, even if it can be exercised on legal issues regarding the interpretation of the Convention and its Protocols (art. 47, §1), is seriously limited by the litigation, as opposed to the consultative competence of the International Court of Justice [330, p.22]. Thus, the opinions of the ECHR may not refer to issues concerning the content or extent of the rights and freedoms defined in Title I of the Convention and its

Protocols, nor to any other issues that the Court or the Committee of Ministers may become aware of as a result of the introduction of an appeal provided for in the Convention (art. 7, §2).

The concept of "separatist regime" and "jurisdiction" in the context of the case-law of the European Court of Human Rights. The separatist regimes or the de facto states, as they are called in the doctrine, appear as political entities that demand independence in relation to the state from which they were a part, but which are not recognized by the international community [134, p.113].

In the specialized literature, these formations are associated with incomplete secession processes, which resulted in political formations that have achieved de facto independence, but which do not enjoy international recognition [115, p.1093]. Relevant examples of separatist regimes are: Transnistria, which de jure is part of the Republic of Moldova; Northern Cyprus, being part of the territory of the state of Cyprus and recognized only by Turkey; Nagorno-Karabakh, which by law is an integral part of Azerbaijan, but was de facto constituted as a separatist territory, which tends towards unity with Armenia; two other separatist regimes are South Ossetia and Abkhazia, located in Georgia. Also, from 2014, in Ukraine, in the regions with separatist tendencies - Crimea, Lugansk, and Donetsk - the separatist movements have increased: Crimea has joined the Russian Federation, Donetsk People's Republic and Lugansk People's Republic claim about their independence in the armed conflict.

The European Court uses for these regimes the notion of "self-proclaimed republics" or "self-proclaimed authorities". For the first time, this terminology was widely used in the case of Ilascu and others against Russia and Moldova [71], being taken from the instrument of ratification deposited by the Republic of Moldova at the European Convention, which indicated the phrase "self-proclaimed Transnistrian Republic".

The respective terminology was also used in relation to the Republic of Cyprus, in cases that succeed the Ilașcu case and others v. Moldova and Russia, for example - in case of Solomou v. Turkey [76]. The expression "self-proclaimed republic" is also used in relation to Chechnya in the Sayd-Akhmed Zubayrayev Court judgment v. Russia [75], mentioning the terms "Self-proclaimed Chechen Republic of Ichkeria" and "Government of the self-proclaimed Chechen Republic". The same phrase also designates Nagorno-Karabakh region in the case of Fatullayev v. Azerbaijan [69], in which this region is nominated as "self-proclaimed, unrecognized Nagorno-Karabakh region".

The actuality of the problem of the separatist regimes consists in their legitimacy, in the role they play in the political, economic, social evolution of the state, but also of their impact on the respect of human rights [49, p.162]. In particular, we refer to the problem of respecting human rights through the application of the European Convention on the territories of the

separatist regimes, but also to the support by other states of the separatist regimes, through military, economic, social and political means, which generate more uncertainties [148, p.394]. In this case, it is relevant to determine the state that has jurisdiction over the territory controlled by a separatist regime and to what extent its international responsibility may be committed.

The European Court has analyzed each time the term "jurisdiction" from a territorial point of view. Thus, in Banković and Others v. Belgium and 16 other States, the Court noted that "Article 1 of the Convention must be interpreted, first and foremost, within the meaning of the ordinary and essential notion of territorial jurisdiction, other meanings being exceptional and requiring a special justification" [50].

According to international law, "jurisdiction is an element of sovereignty and refers to judicial, legislative and administrative competence". However, the notion of jurisdiction has acquired in the jurisprudence of the European Court an autonomous dimension, which does not correspond to the definition conferred by general international law. Therefore, in the jurisprudence of the European Court, the purpose of the notion is to define the extent of the obligations of the contracting states [107, p.43], while in general international law, jurisdiction aims to limit the jurisdiction of the state, which results from the sovereignty they possess [237, p.97]. In the case of the external support of the separatist regimes, the European Court approaches the notion of jurisdiction both from the point of view of its ordinary meaning - that of a territorial jurisdiction, as an element of statehood, and from the point of view of the notion of extraterritoriality, which refers to a situation, apparently, in which a state exercises jurisdiction in a certain region, without having territorial jurisdiction [224, p.39].

Evolution of ECtHR jurisprudence in cases of support of separatist regimes in the Republic of Moldova and Georgia. Emphasize that the ECtHR does not have the competence to define the notion of separatism. Moreover, the ECtHR cannot condemn independent and self-declared pseudo-states by the legitimate authorities as separatist regimes, however, the Court analyzes the circumstances, finds the influence of a member state of the Convention on the territory and condemns states for violations of the provisions of the convention.

The Court applies the Convention in circumstances of armed conflict whenever the states resort to armed forces in order to resolve a dispute between them, if there is prolonged armed violence between government authorities and organized armed groups or between such groups within a state [259, p.314]. It stands to mention that the Court has examined many cases in which defendant states, members of the Convention, had one of the forms of support for separatist regimes, even though the defendant states were struggling with legal authoritarian regimes. In all cases, the Court did not state politically whether or not it supported the separatist regimes, but examined the circumstances under which a defendant state has or has no political, economic,

administrative influence on the territory, so as to make itself responsible for committing violations on the territory of the respective state.

In this segment, the Court has also formed a case-law regarding the situation in Moldova with the separatist regime in Tiraspol. The court set out the reasoning in the case of Ilascu and others v. the Republic of Moldova and the Russian Federation; Ivanțoc I and II v. the Republic of Moldova and the Russian Federation [72]; Catan and others v. the Republic Moldova and the Russian Federation [67], the case of Mozer v. the Republic Moldova and the Russian Federation [74], the case of Pisari v. The Republic Moldova.

The reference case is **Ilașcu and others v. the Republic of Moldova**, where the Court examined the jurisdiction of the Russian Federation over Transnistria and the Republic of Moldova over Transnistria. In the case of the Republic of Moldova, the Court found that it should determine whether the Republic of Moldova assumes responsibility on the basis of its obligation to refrain from unlawful acts or positive obligations entrusted to it in accordance with the Convention. The Court noted, first of all, that the Republic of Moldova has declared that it does not have control over the part of its national territory - namely the Transnistrian region. The Court recalled that in its decision on admissibility, it found that the declaration made by the Republic of Moldova in its instrument of ratification of the Convention on the subject of lack of control of the Moldovan legitimate authorities over the Transnistrian territory did not constitute a valid stipulation within the article 57 of the Convention.

At the same time, in paragraph 333, the Court established that when a Contracting State is prevented from exercising its authority over its entire territory due to the existence of a de facto situation which compels it, such as the installation of a separatist regime, regardless of whether it is or not accompanied by the military occupation of the territory of another State, this State ceases to have the jurisdiction (under the Article 1 of the Convention) over that part of its territory which is temporarily subject to a local authority supported by rebel forces or another State [285, p.113]. Thus, the Court found that the responsibility of Moldova could be undertaken under the Convention, as a result of its failure to comply with its positive obligations regarding the events that occurred after May 2001 and which were denounced by applicants.

In light of these circumstances, the Court decreed that the Russian Federation is responsible for the illegal acts committed by the Transnistrian separatists, taking into account the political and military support provided for the establishment of a separatist regime and its military participation in the battles that took place. In doing so, the authorities of the Russian Federation contributed both militarily and politically to the creation of the separatist regime in the Transnistrian region, which is an integral part of the Republic of Moldova. Further, the Court noted that even after the ceasefire agreement of July 21, 1992, the Russian Federation continued

to provide military, political and economic support to the Transnistrian regime, thus allowing it to survive and consolidate in order to obtain the autonomy. Moreover, the Court found that the enterprises and institutions of the Russian Federation, whose activity is authorized by the state and operating in the military field, have established commercial relations with companies and similar institutions in the "Pridnestrovian Moldovan Republic". Similar positions The Court had in Ivanțoc I, II.

As concerns Georgia, several applications are considered in the European Court asking to examine the responsibility of the states for human rights violations produced in the regions controlled by the separatists. The first claim in this regard was filed by Georgia against Russia in 2008 [70]. Thus, Georgia appeals to the European Court in concern with the armed attacks to which the Georgian territory was subjected by the Russian Armed Forces. According to the factual circumstances invoked, the Russian Armed Forces organized a counter-attack against the Georgian Army by airstrikes and navy attacks at the Black Sea, getting deep into Georgia, crossing the main east-west road of the country, reaching Poti port and then to the capital of Georgia, Tbilisi.

By a decree of August 26, 2008, Russian President Dmitry Medvedev recognized South Ossetia and Abkhazia as independent states following the unanimous vote of the Russian Federal Assembly. The Government of Georgia claims that Russia had effective control over the territory of Abkhazia and South Ossetia both because of the direct armed attacks and the acts of the separatists who acted as *de facto* agencies or organs of Russia. The entire scheme for carrying out military operations has been developed by the Russian Federation as architect, controller, instructor and executor of military operations.

In its decision of admissibility, the Court considered that it does not have sufficient means to resolve these issues, these being matters closely related to the merits of the case, which will be examined together with it [129].

The definition of state jurisdiction. The application of the Convention in cases concerning human rights violations within the territory with separatist regimes raises the question of the Convention's opposition to these regimes and of their liability under the Convention. As a general rule, separatist regimes are not parties to international treaties on human rights, which would provide for certain obligations for them. However, there are situations in which the rules of international law entail obligations imposed on non-state formations.

The norms of international law in the field of human rights mainly deal with the relationship between states and persons under their jurisdiction and to a large extent, operate under the responsibility of the state [285, p.88]. Most international mechanisms monitor the

actions of the Republic of Moldova and Georgia, but pay less attention to the research of the separatist regimes that are on the territories of these states [189, p.325].At the same time, there are doctrines that claim that the separatist regimes would apply humanitarian law under the Geneva Convention of 1949, which in art.3 establishes certain opposing standards to the parties of the conflict, applicable to national conflicts [78, p.21].

Regarding the opposition of the Convention to the separatist regimes, its norms could be applied only as jus cogens norms [107, p.104]. However, in this case, the question arises whether the rules of the Convention can be considered as a jus congens right, as they are, for example, in the case-law of the Court of Justice of the European Union?

According to article 53 of the Convention on the Law of Treaties, adopted in Vienna in 1953 [13], "Any treaty which, at the time of its conclusion, contradicts an imperative norm of general international law is voided. In this Convention, an imperative norm of general international law is a norm accepted and recognized by the international community of states, from which no derogation is allowed and which can be modified only by a norm of general international law, having the same character". The imperative rules regarding the protection of the law refer to *jus cogens*. These standards are so important that no derogation is accepted from them [202, p. 23]. Thus, according to the general opinion of the international community, the prohibition of genocide, slavery, forced labor, use of force or piracy are *jus cogens* norms [198, p. 18].Therefore, even if they could have the quality of such rules, they would be limited to certain provisions, such as the right to life, the prohibition of torture, slavery, not being applicable in case of infringement of the right of property or the right to private life [118, p.54].

Criteria for determining jurisdiction. The application of the Convention in case of armed conflict represents the largest category of varieties in which the Convention has been applied extraterritorially. Armed conflicts entail serious risks of violation of the core rights provided in Articles 2, 3, 4 and 7 of the Convention [35, p.20].

When territorial jurisdiction is not applicable, extraterritorial jurisdiction is disputed. In order to determine the incidence of the jurisdiction of the states that support the separatist regimes, two criteria are applied: the criterion of effective control and that of personal control. The first, which refers to a quasi-global spatial control, consists in the control exercised by a state on a portion of the territory of a third state, thus outside the borders of the first state [197, p.143]. The second criterion is personal control, according to which the responsibility of the state can be committed in relation to an act committed by an agent of his, a bearer of state authority, taken individually with respect to one or more persons [45, p.75].

Analyzing the jurisprudence of the European Court regarding the cases of extraterritorial support of the separatist regimes, we note that the control exercised by the Russian Federation in

Abkhazia, South Ossetia and Transnistria is considered by the European Court as an effective control, the first criterion being applied. In the specialized doctrine this criterion was generalized by the phrase "control implies responsibility" [63, p.32]. It has been argued that "the extent to which the Contracting Parties must ensure the rights and freedoms of persons outside their borders is proportionate to their ability to do so, and namely, the scope of their obligations depends on the degree of control and authority they exercise on the respective territory" [260, p.43].

The effective general control is based on the military, economic and political support both in the judgments concerning the responsibility of the Republic of Moldova in relation to the violations of the provisions of the Convention on the territory of the Transnistrian region, as well as in the cases examined by the European Court regarding the responsibility of Georgia for the violations in Abkhazia and South Ossetia.

From a military point of view, the effective general control of the Russian Federation over the territory of Transnistria manifests itself in several forms, as well as the control of the Russian Federation over the regions of South Ossetia and Abkhazia. First of all, this control consists of the military support that is given to the separatist regimes. Thus, the military support that the Russian Federation offered to Transnistria was provided in the form of 14th Army armament [215, p.113]. The Russian Federation not only oppose the arming of separatists from the depots of this army, but on the contrary, the military representatives helped them equip themselves providing them weapons and opening their depots [234, p.54].

According to the evidence presented in the European court on the case of Ilashku and others, in 2003, at least 200,000 tons of Russian military equipment and ammunition remained in Transnistria, mainly in the warehouse in Kolbasna, which contained 106 battle tanks and 42 combat armored vehicles, 109 armored vehicles for transporting troops, 54 armored reconnaissance vehicles, 123 guns and mortars, 206 anti-tank guns, 226 anti-aircraft guns, 9 helicopters and 1648 other types of equipment.

In the case of Catan and others, the parties agreed that about 1,000 Russian soldiers were stationed in Transnistria to guard ammunition depots. In addition, the parties agreed that approximately 1125 Russian military personnel were stationed in the security zone, and they were part of the peacekeeping forces that had been agreed internationally. The security zone was 225 km lengthway and 12-20 km broadway. Also, the military forces of the Russian Federation were using the Tiraspol aerodrome unhesitatingly. The military support also was provided in the means of buildings to the military authorities to Transnistria by the 14th Army.

Regarding to the military support of the Russian Federation in Abkhazia and South Ossetia, we note that Russia did not limit itself in supplying the weapons, but installed military

bases on the territory of these separatist formations. According to the fact described in case of *Georgia v. Russia (I)*, there are more than 30,000 people in the armed forces of the Russian Federation, deployed on the occupied territory of northern Georgia, which is constantly patrolled and has checkpoints on all the main lines of communication.

Another aspect of effective control of the separatist territories by other sates is economic support, without which these separatist regimes could not have survived and would not have been accepted by the population [145, p.567]. Moreover, given that these regimes were not recognized by the international community, without preferential economic relations with the supporting states, they would have collapsed shortly after their formation. For example, the Russian Federation provides economic support by the fact that 18% of Transnistria exports go to Russia, and 43.7% of Transnistria imports are from Russia. The Russian Federation supports the Transnistrian regime providing the aid to the population living on that territory, in particular in form of pension contributions.

The fact of granting Russian citizenship is also relevant. According to statistical data provided by the Government of the Republic of Moldova, which was not contested by the Russian Government, only about 20% of the population of Transnistria is economically active, which underlines the importance of pensions and other aid paid by Russia for the local economy [116, p.32]. There was also a judicial cooperation between the Russian Federation and Transnistria, for example, by transferring the convicts [216, p.78].

Another disputed issue concerns the situation in which the violation of human rights occurs outside the territory of a state, but this is the result of the actions of a state agent who supports the separatist regime. Even if it concerns the actions of an agent of the state, the jurisprudence of the European Court assigns these actions to the general and effective control that the state exercises in the respective area. Relevant in this regard is the case of Pisari v. the Republic of Moldova and the Russian Federation.

In this case, the complainants Simion Pisari and Oxana Pisari, citizens of the Republic of Moldova, complained about the death of their son at one of the peacekeeping control points on the Dniester River. The death came when a Russian sergeant shot a gun at Vadim Pisari after he failed to stop the car at the checkpoint. The events took place in the security zone that was formed following an agreement for the end of the military conflict in the Transnistrian region of the Republic of Moldova in 1992. In the judgment regarding the case of Pisari, the European Court commits the criterion for determining the jurisdiction of the Russian Federation under the agent-state link, as it has been done in the cases of Al-Skeini and others v. the United Kingdom, but also Jaloud v. the Netherlands.

The Court found that there was a violation of Article 2 from a material and procedural point of view only made by the Russian Federation, and not by the Republic of Moldova, which fulfilled its obligations to investigate this case. Thus, the Court reiterated that, in certain circumstances, the use of force by the agents of a State operating outside its territory may bring the individual under the control of state authorities according to the Article 1 of the Convention.

The responsibility of the state on whose territory the separatist regime is located. The question regarding the responsibility of the state on whose territory a self-proclaimed state was formed has been addressed in several cases by the European Court. Whenever it is the responsibility of the states supporting the separatist regimes for the events that take place on the territory controlled by them, the European Court has indicated that there is an effective general control, which extends both to the actions of this state and to the actions of the self-proclaimed authorities, as they survive due to the military, economic, political support of the supporting states [142, p.434]. If there are several states responsible for violating the rights stipulated by the Convention, the rules of international law apply [285, p.79].

In its case-law, the European Court frequently refers to the UN General Assembly Resolution no.56 / 83 of 12 December 2001, on the liability of the states for committed unlawful acts [276], the content of which was developed by the International Law Commission, a document which is not a compulsory instrument [296, p.88]. Article 47 (1) of Resolution no. 56/83 provides that "if several states are responsible for the same unlawful act at the international level, the responsibility of each state may be invoked in relation to this act". Therefore, any of the States involved in the alleged violation of the rights guaranteed by the Convention is individually responsible for this violation.

From a practical point of view, it is almost impossible to exercise effective control for more than one state over a certain territory, at a certain point, if the states do not act jointly [40, p.113]. It can be argued that concomitant control could only take place in cases of military occupations or joint actions with all the states involved [297, p.97].

It is necessary to make a comparison between the situation of the Republic of Moldova and the situation of the Republic of Cyprus. Thus, the European Court stated in relation to the case of Cyprus v. Turkey that Cyprus's liability for the violations in the Northern Cyprus region cannot be endangered due to the Republic of Cyprus's continuing inability to perform its obligations in Northern Cyprus under the Convention, as there is total military occupation of Northern Cyprus by Turkey.

In contrast to the situation of Cyprus, which due to the Turkish military occupation lost control over the territory of Northern Cyprus, in the cases aiming to engage the responsibility of the Republic of Moldova, there was another solution when analyzing human rights violations in

Transnistria. Although the European Court has stated that the Russian Federation has effective control over the Transnistrian territory due to its military, economic and political support to this regime, it found that the Republic of Moldova is not exempted from liability under the Convention. Also, the Republic of Moldova is not exempted from the obligation to take all diplomatic, economic, legal or other measures that are in its power and which are in conformity with international law, in order to ensure the applicants from Transnistria the rights guaranteed by the Convention. The European Court concluded in the case of Ilascu that Moldova's responsibility could be undertaken under the Convention, as a result of its failure to comply with its positive obligations regarding the events that took place after May 2001 and which were denounced by the plaintiffs.

Compared to the Cyprus situation, which had ceased any relations with Northern Cyprus, and the loss of jurisdiction was total, in the case of the Republic of Moldova, the relations between the Moldovan constitutional authorities and the authorities of Transnistria were never completely interrupted. There were relations regarding the administration of the Tiraspol airport, a common telephone system, cooperation agreements in many areas, and etc.

The European Court has compared the situation of the Republic of Moldova with that of Georgia. In this context, the European Court has found that the Republic of Moldova exercises territorial jurisdiction over Transnistria and is responsible for human rights violations that take place on Transnistrian territory. At the same time, the European Court has ruled that the situation in the case of Ilașcu and others v. Moldova is more similar to that in Assanidze v. Georgia [66], than in the above mentioned case of Cyprus v. Turkey.

In the case concerning the Ajaria region (Assanidze v. Georgia), the constitutional authorities of Georgia encountered undeniable difficulties in ensuring the observance of the rights guaranteed by the Convention throughout its territory. However, the Court has ruled that whenever the responsibility of a state for the actions committed on its territory will be disputed, and the defendant state will manifest the legal and *de facto* control over the local authorities that do not enforce the law, not only the actions of the local authorities will be imputable to the respective state, but, in the same time, it will also be responsible for their actions.

On the other hand, in the case of Ilascu and others v. the Republic of Moldova, the positive obligation of the Republic of Moldova to restore the authority and control throughout the territory requires a continuous and firm confirmation of the illegality of the Transnistrian regime and of the rights of the Government of the Republic of Moldova over the whole country. In the opinion of the European Court, this must be done by using all the powers of the state - judicial, executive and legislative. At the same time, the European Court argues that there has been a clear reduction in the number of attempts to internationally confirm the authority of the

Republic of Moldova in Transnistria, starting with September 1997 and a definitive diminution of the efforts of the Moldovan authorities to ensure the rights of the applicants, even if the intense efforts of the Government of the Republic of Moldova are taken into account.

By comparatively analyzing the situation of Transnistria and the Autonomous Republic of Ajaria, the European Court has concluded that Ajaria is undoubtedly an integral part of the territory of Georgia and it is having a control over this region. Also, unlike Northern Cyprus, but also Transnistria, the Ajaria region has no separatist aspirations and no other state exercises effective general control in this region except Georgia. Thus, the fact that the Autonomous Republic of Ajaria does not show separatist tendencies, and Georgia continues to exercise jurisdiction over this territory, without being impeded by the intervention, or the military and economic support of another state on the Republic of Ajaria, the European Court has found that there is no the similarity between the situation of the Republic of Moldova and the situation of Georgia with regard to the Ajarian territory and the capacity of Georgia to protect the rights and freedoms of the citizens of this territory.

Prospects for solutions. The principle of self-determination is one of the unanimously recognized principles of international law, stipulated in most basic international treaties and a *jus cogens* rule, which was recognized after the Second World War [118, p.52]. Due to this principle, during the so-called "decolonization" process, new sovereign states were formed in the years 1945-1965. After the decolonization was completed, the principle of self-determination became the main argument for the separatist movements, including those in South Ossetia, Abkhazia, Transnistria, Nagorno-Karabakh and the recent movements in Ukraine [180, p.55].The problem that arises in the case of the emergence of such separatist regimes refers to the hypothesis that they are not recognized by the international community, practically the self-proclaimed states are not international actors [197, p.138].

In the European Court procedure, there were several requests that required the Court to examine the responsibility of the states for the human rights violations produced in the regions controlled by the separatists, as in the cases concerning the situation in Northern Cyprus, the Autonomous Republic of Ajaria and Transnistria.

An example is an application filed by Georgia against the Russian Federation at the European Court on August 11, 2008, and the second by Georgia against the Russian Federation. Thus, Georgia affirms to the European Court that the Georgian territory was subjected to the armed attacks by the Russian Armed Forces.

The Georgian government has claimed that the Russian military and separatist forces under Russian control have attacked civilians and their property in two autonomous regions of Georgia - Abkhazia and South Ossetia. It has been alleged that the Russian forces have occupied

considerable parts of Georgia since the beginning of the conflict and that, even after the withdrawal of October 08, 2008, the Russian Federation still occupies and exercises effective authority and control over the respective territories, both directly, through the armed forces and indirectly, through the control of its agents. According to the Georgian Government, during these attacks, by Russia and separatist forces under the control of the Russian Federation, hundreds of civilians were injured, killed, detained or disappeared, the property and homes of thousands of civilians were destroyed, forcing them to leave Abkhazia and South Ossetia.

The Government of Georgia has required the Russian Federation to take responsibility under Article 2 ECHR (right to life), Article 3 ECHR (prohibition of torture and inhuman or degrading treatment or punishment), Article 5 ECHR (right to liberty and security), Article 8 ECHR (right to respect for one's private and family life, his home and his correspondence), Article 13 ECHR (the right to an effective remedy), Article 1 of Additional Protocol No.1 (protection of property), Article 2 of Additional Protocol No.1 (right to education) and Article 4 of the Protocol no.4 (liberty of movement).

The Russian Government has disputed the allegations of the Georgian Government. It was alleged that the conflict was a direct consequence of Georgia's armed attack on Tskhinvali and on the civilians living there on 7-8 August 2008. Further, the Russian Federation claimed that it did not occupy the territories of South Ossetia, Abkhazia or Georgia in which its army circulated. The forces of South Ossetia and Abkhazia are not part of the Russian armed forces or peacekeeping and have acted independently and without the authorization or assistance of the Russian military command.

The Court recalled that the concept of "jurisdiction" under the Convention is not restricted to the territory of the states that have ratified the Convention. The responsibility of the states can be incurred as a result of the actions of its authorities that produce effects outside their own territory. Also, a state assumes the responsibility when it exercises, legally or illegally, the effective control over an area outside the national territory.

The Court has found that it does not have sufficient evidence to decide in this regard. Accordingly, it was decided that the request of the Government of Georgia contravene to the Convention that the Russian Federation has no jurisdiction in South Ossetia, Abkhazia, and neighboring regions.

Another separatist regime to which we refer to is **Nagorno-Karabakh**, a regime created on the territory of Azerbaijan, however, inhabited by a majority Armenian population. On this issue, the European Court has examined several claims, including Minas Sargsyan [73] v. Azerbaijan and Chiragov and others v. Armenia [68]. In each of these applications, the jurisdiction of one of the states involved, respectively of Azerbaijan, was invoked as a state on

whose territory the separatist regime is created, by virtue of its territorial jurisdiction. In the same time, Armenia was invoked as a state that supports the separatist regime through military, economic and political aid.

In the case of Minas Sargsyan, the complainant affirms that there were multiple violations of the Convention mainly because only ethnic Armenians in the territory of Gulistan controlled and bombed by Azerbaijan were subjected to violence. The Azerbaijani government affirms that it did not control this territory and that it was under the control of the Armenian forces. The Court declared this request admissible, linking the exceptions *rationae loci* to the substance of the case, because the available information does not allow to determine whether at that time Azerbaijan had control over the region from which the applicant comes from or not.

The second case on which the Court issued a decision on the admissibility is Chiragov and others v. Armenia. In contrast to the case referred to above, the complainant claims that his property right was violated, due to Armenia's support of the separatist regime in Nagorno-Karabakh. According to the complainant, Armenia supports militarily this regime sending members of the Armed Forces of Armenia to fight on the side of the separatists. As well as they grant economic support. All policy and projects of the separatist regime in Nagorno-Karabakh are supported by Armenia through non-reimbursable loans, and the currency of circulation is the Armenian dram. The court declared the application admissible as in the Minas Sargsyan decision. However, it considered the matter regarding the jurisdiction of Armenia over the Lachin region with the merits, since the information available at the time of examining the admissibility of the request was strictly related to the merits of the case.

Violations established by the Court in case of support of the separatist regimes in the Republic of Moldova and Georgia. In all the cases in which the European Court found the extraterritorial jurisdiction and the foreign support of the separatist movements there were also revealed the violations of the rights protected by the Convention.

Thus, in the case of Ilascu and others v. Moldova, the article 2 was violated by the fact that the applicants were sentenced to death by the Court of Justice of Tiraspol, a decision was canceled by the Court of Justice of the Republic of Moldova. But the Court taking this into consideration found that it was not discussed that after the ratification of the Convention by the two defendant states Mr. Ilascu suffered both because of his conviction for capital punishment and of the conditions of detention, being all this time threatened with the execution of this sentence. In such circumstances, the Court considers that the facts complained of by Elijah Ilashka and others do not require separate consideration in accordance with Article 2 of the Convention, and considers it appropriate to examine this requirement in the light of Article 3 of the Convention.

In the decision of the case of Pisari v. the Russian Federation, the Court found the violation of the 2nd article of the Convention both procedurally and materially, noting that there were no exceptional circumstances to justify the weapon employment by the so-called peacekeeping forces.

Infringement of art.2 of Protocol 1 of the Convention. An important decision of the Court for the Republic of Moldova was the judgment of Catan and others v. Moldova and Russia. The applicants are parents and children who belong to the Moldovan community from Transnistria and who complain about the effects produced on their family life and their education by the linguistic policy of the separatist authorities. Most of their complaints refer to the measures taken by the authorities of the "Dniester Republic of Moldova" in 2002 and 2004 to implement the decisions adopted several years before, aiming to ban the use of the Latin alphabet in schools and to impose the obligation for everyone to register, following a program approved by the "Dniester Moldovan Republic" and using the Cyrillic alphabet.

In the case of the Republic of Moldova, the Court found that there was no reason to distinguish this case from other causes. Although Moldova does not exercise effective control over the actions of the Tiraspol regime in Transnistria, the fact is that, under international law, the area is recognized as a part of the territory of the Republic of Moldova such imposing the obligation provided in Article 1 of the Convention - to use all the legal and diplomatic means and available powers to continue to guarantee persons living in the area the exercise of their rights and freedoms enshrined in the Convention.

The Court found that the Republic of Moldova has fulfilled its positive obligations towards the applicants in this case and consequently, it is considered that there was no violation of Article 2 of Protocol No. 1 by the Republic of Moldova [35, p.26].

In the case of the Russian Federation, the Court recalled the facts found in Ilașcu and others against Moldova and the Russian Federation, where it was established that the Russian Federation has effective political and economic control over the territory of the "Dniester Republic of Moldova" and at the same time has control over the Transnistrian authorities. Therefore, the Government of the Russian Federation is responsible for the violations committed in this territory according to the art.1 of the ECHR. With regard to Article 2 of Protocol No. 1 of the Convention, the Court ruled that Russia exercised effective control over the "Dniester Republic of Moldova" during that period.

In view of this conclusion and in accordance with the case-law of the Court, there is no need to determine whether Russia exercises precise control over the policies and actions of the subordinate local government. Due to its continuous military, economic and political support of the "Dniester Moldovan Republic", which could not survive otherwise, Russia's responsibility is

committed under the Convention. Accordingly, the Court concludes that the Russian Federation has violated Article 2 of Protocol No. 1 of the Convention.

Violations of Article 6 of the ECHR. In the case of Ilascu and others v. the Russian Federation and the Republic of Moldova, the Court noted that the applicants had not had a fair trial in the "Supreme Court of the Dniester Republic of Moldova". However, the proceedings that took place before the respective court ended with the decision of December 9, 1993, before the date when the Convention was ratified by the Republic of Moldova and the Russian Federation, and the plaintiffs' trial was not an ongoing situation. Therefore, the Court has stated that it has no jurisdiction *ratione temporis* to examine the claim filed under Article 6 of the Convention.

Violations of Article 3 of the ECHR. In the cases of Ilascu and others v. Moldova and the Russian Federation, Ivantoc and Popa v. Moldova and the Russian Federation, the Court found the violation of art.3 because of disturbance and suffering they experienced. The court found that the physical and mental sufferings were aggravated by the fact that the sentence had no legal basis and legitimacy under the Convention. "The Supreme Court of the Dniester Moldovan Republic", which issued the sentence against Mr. Ilascu, was created by an illegal entity according to international law, unrecognized by the international community. Another cause of the conviction under Art. 3 is the conditions of detention of the plaintiff in death row.

The court indicates that Mr. Ilascu was held for eight years, from 1993 until his release on May 2001, in very strict isolation: he had no contact with the other detainees, could not get news from outside because he was not allowed to send or receive correspondence, he had no right to contact his lawyer or to have regular visitors such as his family. His cell was not heated even in harsh winter conditions; there was no natural light or ventilation in it. Evidence shows that Ilascu was deprived of food as a punishment and due to restrictions on receiving packages the food received from outside was often not consumable. The applicant could take a shower very rarely, often having to wait several months. The same violation regarding the conditions of detention was found in the case of Ivanțoc and Popa v. Moldova.

On January 31, 2019, the European Court released the decision of the Grand Chamber in case of Georgia v. Russia (I), application no. 13525/07 [70], which ruled, with sixteen votes to one, that Russia should pay Georgia 10,000,000 euros as moral damage caused to a group of at least 1,500 Georgians. The amount is to be distributed to the applicants by paying 2,000 euros to persons who have suffered as a result of collective expulsions (Article 4 of Protocol No. 4 of the Convention), between 10,000 and 15,000 euros to the persons who have been victims of illegal deprivation of liberty (Article 5 of Convention) and inhuman and degrading treatment (Article 3 of the Convention), taking into account the duration of the respective periods of detention.

In the ordinance, the Court found that in the autumn of 2006 the Russian Federation implemented a coordinated policy of arrest, detention, and expulsion of Georgians and that constituted an administrative practice under the case-law of the Court.

Among other issues, the Court also found that there was a violation of Article 4 of Protocol No. 4 of the Convention, Article 5 §§ 1 and 4 and Article 3 of the Convention, and Article 13 in combination with Article 5 § 1 and Article 3.

The Government of Georgia declared in its application that the Russian Federation applied administrative practices of arrest, detention and collective expulsion of Georgians from the Russian Federation in the autumn of 2006, which resulted in numerous violations of the Convention. Accordingly, the Georgian Government rightly satisfied the claim for compensation for a violation of the Convention on Georgians. At the request of the European Court, the Government of Georgia presented a detailed list of 1,795 alleged and identifiable victims of the violations found in the main judgment.

The Court explained that unlike the case of Cyprus v. Turkey, which referred to multiple violations of the Convention as a result of the military operations carried out in the summer of 1974 by Turkey in Northern Cyprus and which was not based on individual decisions, in that case the administrative practice in question was based on individual administrative decisions to expel Georgian citizens from the Russian Federation in the autumn of 2006.

4.4. Conclusion to Chapter 4.

The evolutions related to the dispute regulation process in the Republic of Moldova and Georgia clearly showed the support of separatism by the Russian Federation, which had, in fact, a triple status: a state that had encouraged the outbreak of separatism controlling the separatist regions through military, economic, financial means; a mediator in the process of negotiations and guarantor of the reached agreements; a directly interested side in the final mode of conflict resolution.

With regard to the prospects for the regulation of the Transnistrian conflict, we believe that this conflict, in fact, encompasses two distinct differences: one - which concerns the case of separatism on the territory of the Republic of Moldova (dispute between the Republic of Moldova and the authorities of Transnistria) and another - which refers to the illegal dislocation of the Russian Federation military base on the territory of the Republic of Moldova (dispute between the Republic of Moldova and the Russian Federation).

The fact that an international legal regime, especially an expansive legal regime, can be considered to be applicable in the regions of Transnistria, Abkhazia and South Ossetia is all the more significant, given the status of the regions as de facto states without obligations and

possibility to apply international standards and norms, leaving the population of the regions without any international legal protection. From our point of view, the regime of international humanitarian law would provide a certain level of protection for the population condemning war crimes, such as rape, murder and torture, protecting civilian assets, and initiating criminal prosecution of alleged offenders.

Summing up the case-law of the European Court regarding the support of the separatist regimes by certain states, we note that their existence generates a series of problems, mainly referring to the responding state for the human rights violations produced on that territory. At the same time, there are three subjects who could potentially be responsible for the violations, one of which does not fulfill the conditions for assuming the responsibility, and namely the self-proclaimed state.

In the light of its jurisprudence, the role of the European Court has been affirmed mainly due to the achievement of an efficient, viable mechanism for guaranteeing human rights, which tends to ensure the application of human rights on the territories where separatist movements have been. These were expressed through the cases against the Russian Federation, Turkey and the Republic of Moldova, but also in cases that did not involve directly the separatist regimes, however, addressed the issue of extraterritorial jurisdiction in which the European Court had ruled the principles applicable to the extraterritorial jurisdiction of the state.

In examining the cases regarding the separatist conflicts, the European Court is fully governed by the Convention, which was signed and implemented by each member state of the Council of Europe in the legal system. It was found that in examining such cases, the Court gave legal value to the circumstances and brought to light the violations committed by the state that has control over the separatist territory. More important is the fact that after the reasoned decisions were issued, no state that exercised control (Russia, Turkey) questioned the findings and did not interpret them politically.

It was found that in its case-law the European Court put first whether or not the actions of the states violated the rights protected by the Convention. Subsequently, it was noted that in cases involving sensitive issues at the international community level, such as the conflicts in Transnistria, Abkhazia and South Ossetia, the Court needs a long period of time to examine objectively and thoroughly all the circumstances of the case in order to make a fair decision.

GENERAL CONCLUSIONS AND RECOMMENDATIONS

The research conducted in this article has highlighted the relevance and importance of the research topic. At the end of this study, we believe that our goal has been achieved and the proposed objectives have been clarified.

During our work, we have analyzed numerous doctrinal sources and international acts, which helped us to clearly outline the aspects of international law on the regulation of territorial conflicts, especially in the case of the Republic of Moldova and Georgia. Thus, the general situation has been scientifically substantiated and presented fully and objectively in the field of resolving territorial conflicts through the optics of public international law, which allows theorists and practitioners to clarify the shortcomings of the international system, respectively, allows them to present specific solutions to eliminate gaps ultimately contributing to the improvement and enhancement of the effectiveness of international law.

Following the research carried out on the subject of the peculiarities of regulating territorial conflicts, we want to formulate a series of **theoretical-scientific conclusions**:

1. A territorial conflict presupposes a situation of maximum aggravation of contradictions in the sphere of national and / or international relations expressed in the behavior of the subjects in the form of active confrontations and clashes (armed or unarmed).

2. Despite the fact that states are key contributors to the process of establishing and enforcing regulations to resolve territorial disputes, the regulatory framework for research is outdated, largely developed by the mid-twentieth century, and must be adapted to the context of the new realities marked by an active presence of an increasing number of state entities not recognized by the international community.

3. The key moment in the dynamics of the territorial conflicts is an act of aggression, which not only marks a significant exacerbation of conflicts, but also has a pronounced legal character, in fact, presupposes a serious violation of international norms and principles. An act of aggression can cause a sharp reaction from the international community, which negatively affects the process of resolving territorial conflicts. Thus, the territorial conflict must be resolved mainly by political and diplomatic means and avoiding military intervention as much as possible.

4. The intervention of the third parties in the regulation of conflicts in Transnistria, Abkhazia and South Ossetia is as necessary as it is difficult, since, depending on the interests pursued, a third party can contribute to the regulation of the conflict, its resolution or its aggravation. The most serious problem is the distorted role that a third party can play in the negotiation process, as it can pursue its own interests in serious violation of international law.

5. In general, the conflicts in the Republic of Moldova and Georgia eloquently demonstrate that the process of settling international conflicts is only evidently taking place in

accordance with the unanimous legal framework established and recognized by the international community. *De facto*, this process is dominated by stronger states that seek to satisfy their own interests. This fact also indicates the ineffectiveness of international structures for the equidistant application of the international legal framework to the great powers of the world, the inability to influence them and, moreover, to apply sanctions to them.

6. The developments related to the process of the Transnistrian regulation emphasize the support of separatism by the Russian Federation, which, in fact, has a triple status: a state that has encouraged the outbreak of separatism and controls the Transnistrian region militarily, economically, financially, etc.; a mediator in the negotiation process and guarantor of the agreements reached; a party directly involved in maintaining the conflict.

7. The central point that prevents the regulation of the conflicts in the Republic of Moldova and Georgia is the recognition of the Russian Federation as a third party in these conflicts. Thus, the reason for the failure to resolve territorial conflicts lies not in the inability of the parties (the Republic of Moldova and Transnistria) to come to a mutually beneficial solution, but in Russia's participation as a "third party" and its efforts to achieve its own interests in the region. These moments convincingly prove that the Transnistrian conflict is an international conflict in which decisions are made by the Russian Federation on behalf of Transnistria.

8. The solution for the regulation of the Transnistrian conflict can be either the exclusion of the Russian Federation from the negotiation process and the peacekeeping mission, or the adoption of the conflict regulation model proposed by the Russian Federation, which, as it is known, contradicts the interests of the Republic of Moldova as a sovereign and independent state.

9. The territorial declarations of the government of Georgia in accordance with Protocols 1 and 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms and the Government of Georgia's disclaimer of possible violations in the territories of Abkhazia and South Ossetia of the provisions of Protocol 12 to the Convention, are timely and of particular importance due to the conflict situation in these two regions. When the breakaway regions of Abkhazia and South Ossetia abandon separatist tendencies, the Georgian government may make territorial and disclaimer statements.

10. The Transnistrian peacekeeping operation (established on July 21, 1992) and the peacekeeping operation in Abkhazia (established on August 24, 1993, and terminated on June 15, 2009) set a negative precedent for international practice in connection with its involvement in the parties of the conflict. These operations are not only contrary to international law, but also ineffective. The introduction of military formations and equipment into the security zones, the

prohibitions established for military observers, the creation of border guard posts by separatist regimes confirm these conclusions.

11. The Transnistrian peacekeeping operation is illegal and atypical because it has not been placed under the mandate of a global or regional security organization in accordance with the provisions of international law. Thus, the peacekeeping operation in the eastern regions of the Republic of Moldova contradicts both the norms of international law and the framework status of international organizations (UN / OSCE).

12. The Transnistrian conflict includes two distinct differences: one regarding separatism on the territory of the Republic of Moldova (a dispute between the Republic of Moldova and the authorities of Transnistria), and the other regarding the illegal deployment of a Russian military base on the territory of the Republic of Moldova (dispute between the Republic of Moldova and the Russian Federation).

13. The role of the European Court of Human Rights has been strengthened in particular by creating effective and viable human rights guarantee mechanism, which usually avoids creating a vacuum for the application of human rights in territories with separatist regimes. These wishes have been expressed in the light of the cases against the Russian Federation, the Republic of Moldova and Georgia, as well as in cases that do not directly concern separatist regimes, but in which the European Court has ruled principles applicable to the extraterritorial jurisdiction of a state.

14. We have found out that when the European Court is considering cases in which one of the subjects is Transnistria, Abkhazia or South Ossetia, the Court needs a longer period for an objective and thorough investigation of the factual and legal circumstances in comparison with the time used by the Court in traditional cases.

15. The existence of reparations regimes raises a number of questions for the European Court of Justice in relation to the state responsible for violations of human rights in the conflict territories. Practice shows that the European Court analyzes all the circumstances of legal significance and imposes an obligation to compensate for pecuniary damage on the state (the case of the Russian Federation) that controls the separatist territories.

Despite the ongoing attempts by the states to resolve the territorial disputes, we believe that international efforts in this area have not yet found a consistent and comprehensive scientific reflection at the national and international levels. For this reason, we have outlined some of the ***recommendations*** for strengthening the international system:

1. The actions of the Republic of Moldova and Georgia to resolve territorial disputes should be aimed at convincing the Russian Federation that its current policy of supporting

separatism in Transnistria, Abkhazia and South Ossetia is unprofitable for Russia in the long term and does not correspond to strategic goals of this state.

2. The active strategy of the Republic of Moldova and Georgia should be aimed at reducing the dependence of the regimes of Tiraspol, Sukhumi and Tskhinvali on the Russian Federation. The Russian Federation must be led to the conclusion that it is not in its interest to fuel the separatism, especially when Moscow faces similar problems in its regions such as the North Caucasus, Kaliningrad region and the Far East.

3. The actions of the Republic of Moldova and Georgia to resolve conflicts in Transnistria, Abkhazia and South Ossetia should be based on the following essential tactics: a) observance of the principles of territorial integrity and inviolability of the state borders; b) methods and means of restoring territorial integrity should be aimed at ensuring the country's security, its true independence, strengthening state sovereignty, economic development and maintaining the geopolitical balance; c) maintenance of an active position on the basis of a well-thought-out strategy and effective cooperation with foreign partners; d) core of efforts to restore territorial integrity should be the interests of the population of Transnistria, Abkhazia and South Ossetia; e) ensure the internationalization of the conflict resolution process with regard to the participation of the international community in this process; f) minimization of the intentions of the Russian Federation to play the key role of peacemaker and mediator, as well as the negative intentions of some international structures, inciting the separatist crisis, in order to maintain their political influence in the international arena.

4. The involvement of the international community in the regulation of the Transnistrian conflict by transferring the peacekeeping operation in Transnistria under the mandate of an international organization authorized to resolve security issues (UN, OSCE).

5. The denunciation by the state of the Republic of Moldova of the Agreement on the principles of peaceful regulation of the military conflict in Transnistria, signed by Moldova and Russia on July 21, 1992. The denunciation must be made by the Republic of Moldova in accordance with Article 8 of the Nominal Agreement with the elaboration and presentation of firm positions of the Republic of Moldova on the creation of peacekeeping forces in strict accordance with the norms of international law.

6. The establishment of an international humanitarian law regime in Transnistria which would provide a certain level of protection for the region's population. The application of the humanitarian law regime in Transnistria will provide an opportunity to prescribe war crimes such as rape, murder and torture, protection of civilian property, and options for prosecuting suspected criminals.

7. The leaders of the Republic of Moldova and Georgia formally condemn the illegal actions of the Russian Federation, which has legalized its own peacekeeping operations in the territory of the former USSR. For this purpose, we propose to start consultations between the relevant factors of the Government of the Republic of Moldova and the Government of Georgia to develop a common position and present it to international organizations.

8. The replacement of the position of Deputy Prime Minister for Reintegration of the Republic of Moldova by a special body empowered to develop and coordinate state policy on the Transnistrian issue. The first step of this special body will be the development of a clear state concept, which will include concrete measures to resolve the Transnistrian conflict and its subsequent approval by the government and parliament. We recommend that international experts be involved in carrying out this reshuffle.

9. The final withdrawal by the Russian Federation of the operative group of soldiers remaining in Transnistria after the former 14th Army and the transformation of the security zone in the Transnistrian region into a demilitarized zone with its expansion to the entire left bank of the Dniester. This task should be monitored by international peacekeepers.

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STATEMENT OF ASSUMPTION OF LIABILITY

The undersigned, KURTSKHALIA Alexander, declare under the personal responsibility that the presented materials in the present doctoral thesis are the result of my own research and scientific achievements.

I am aware that, otherwise, I will bear the consequences in accordance with the legislation in force.

KURTSKHALIA Alexander

11.02.2022

CURRICULUM VITAE

Name, surname: Kurtskhalia Alexander

Address: Shevchenko str. #20, Tbilisi, Georgia

Tel: + 995 555 58 40 40

Email: a.kurtskhalia@gmail.com

DOB: 16 July 1986

Education

2016 – Up to date, University of European Political and Economic Studies of Constantin Stere Moldova, Chisinau, PhD studies

2014 – 2016, University of European political and economic studies of Constantin Stere Moldova, Chisinau, Master's degree – Business Law

2010 – 2014, Sukhishvili Teaching University International Relationship – Bachelor's Degree

2006 – 2008, Worchester University, London, UK, Bachelor's Degree – BABS

2005 – 2006, Central School of Professional Studies, London, UK, Degree in Business Studies

2003 – 2005, Georgian Technical University, Faculty of Law

2001 – 2002, Soso Tsintsadze Diplomatic Academy

2001 – 2003, 4-th Elementary School, Tbilisi, Georgia

1992-2001, 55-th Elementary School, Tbilisi, Georgia

Work Experience

Organisation: High Council of Justice of Georgia

Position: Senior Consultant of Court Management Department

October 2019 – Up to date

Organisation: LTD "French"

Position: Lawyer

January 2014 – September 2019

Organisation: Bolnisi Regional Court

Position: Court Manager

April 2013 – December 2013

Organisation: LTD "Milago"

Position: Lawyer

August 2012 – March 2013

Organisation: Tbilisi City Court

Position: Head of Public Relations

March 2011 – July 2012

Organisation: LTD "Mercury Classic"

Position: Lawyer

February 2010 – March 2011

Organisation: 'SIXT-Kenning' – Car rental; Chelsea, London UK

Position: Supervisor

October 2008 – November 2009

Organisation: Thistle Hotel, Marble Arch branch, London, UK

Position: Supervisor

August 2007 – September 2008

Organisation: Lounge Bar & G.M. Bar

Position: Responsible for till, end of shift, stock control

August 2007 – September 2008

Organisation: CTS – Traffic, London, UK

Position: Traffic regulation visor

January 2007 – July 2007

Organisation: McDonald's fast food restaurant Victoria, London, UK, SW1V 1J

Position: Shift Manager

July 2005 – November 2005

Hobbies:

sports; reading; technology

Personal Skills:

Internet and e-mail; Microsoft Office; organisational skills; analytic skills; research skills; communicational skills

Languages:

Georgian: Native

Russian: Native Fluency

English: Native Fluency