Real and 'Virtual' Elements of Power Sharing in the Post-Soviet Space: the Case of the Gagauzian Autonomy

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Abstract

Various efforts to assess the effects of autonomy arrangements on the prospects of achieving stability and democracy in ethnically heterogeneous societies receive a lot of attention both in academic and policy-making communities.[1] This paper argues that the analysis of the actual implementation practices of autonomy settlement agreements should be an integral part of such efforts. Taking implementation practices seriously means going beyond the analysis of grand formal provisions listed in the autonomy's constitutional law or statute, which is usually adopted at the end of the conflict settlement process. The actual implementation process can produce an autonomy regime whose functioning is far from the model autonomy arrangement envisioned in the autonomy's founding documents. Successes and failures in securing stability and democracy then can be better accounted for by studying the effects of these implementation practices rather than by attributing democracy and stability outcomes to formal autonomy provisions.

I. Introduction

The Gagauzian autonomy illustrates some of the challenges of elaborating and implementing autonomy provisions in the context of fledgling democratic institutions and weak systems of rule of law. The article starts with a brief discussion of power sharing and the effects that power-sharing arrangements allegedly have on efforts to mitigate interethnic tensions and promote democracy in post-conflict states. It then turns to discussing how an agreement on autonomy arrangements, which was hailed at the time of its 1994 adoption as a rare example of the successful regulation of ethno-territorial tensions in the post-Soviet space, was translated into a set of specific norms and practices. These norms and practices effectively and dramatically limited the scope of autonomy that many believe the 1994 settlement envisioned. Finally, the article turns to an analysis of how this process of defining and narrowing the actual scope of autonomy affected the behaviour of autonomy elites and what outcomes in terms of center–autonomy relations and democratization this process helped to generate.

[1] See, for example, Pippa Norris, *Driving Democracy: Do Power-sharing Regimes Work?* (Cambridge University Press, New York, Cambridge, 2007); and Andreas Wimmer *et al.*, *Facing Ethnic Conflicts: Toward a New Realism* (Rowman and Littlefield, Oxford, 2004).

In a volume on autonomy arrangements published by the leading publishing house in the field of international law, the Gagauz autonomy is classified as a "fully-fledged" autonomy arrangement and put in the same category of full European autonomies as those existing in Italy, Spain, Portugal and the Aaland Islands. These "autonomies proper" are then distinguished in that volume from other autonomy-like arrangements in Europe that lack exclusive law-making powers either *de jure* or both *de jure* and *de facto*.[2] In another authoritative document, a recent Venice Commission opinion on amendments to the status of the Gagauz autonomy stated that "the extent of the powers conferred on the Gagauzian autonomous institutions is very striking".[3] Among other things, this article attempts to bridge a gap that exists between the legal evaluation of formal autonomy provisions and empirical social science analysis of center–autonomy relations.

II. The Functioning of Autonomy under the Weak Rule of Law System

The question of whether power-sharing provisions, including territorial autonomy arrangements, can help to alleviate interethnic tensions and contribute to the stable democratic functioning of a state is one of major concern for both the social science and applied conflict management literatures. In analyses of approaches to managing diversity in ethnically heterogeneous societies, two main perspectives are traditionally distinguished. One is rooted in so-called 'consociational' literature, which sees power sharing as an essential element of ensuring stability and democracy in culturally fragmented societies.[4] The other, which is sometimes described as an 'integrative' approach, highlights the risks associated with institutionalizing and politicizing ethnic differences for achieving long-term democratic stability and advocates institutional and policy prescriptions that cross ethnic and cultural boundaries.[5]

The question about the merits and drawbacks of power sharing continues to generate a large amount of academic interest long after the initial debates were launched by

[2] Markku Suksi, *Autonomy: Applications and Implications* (Kluwer Law International, The Hague, London, Boston, 1998).
[3] Venice Commission, "Opinion on the Law on Modification and Addition in the Constitution of the Republic of Moldova in particular Concerning the Status of Gagauzia", Opinion No. 191/2001, CDL-AD (2002) 20, Strasbourg, 21 August 2002.
[4] For one of the definitive statements in the consociational tradition, see Arend Lijphart, *Democracy in Plural Societies: a Comparative Exploration* (Yale University Press, New Haven, London, 1977).
[5] Some of the key ideas attributed to the integrative approach are elaborated in Donald Horowitz, *Ethnic Groups in Conflict* (University of California Press, Berkley, 1985).

scholars like Lijphart and Horowitz. The recent academic literature continues these debates either by directly bringing the proponents of different perspectives together in the same volumes[6] or by comprehensively examining recalibrated arguments and/or new evidence for one or the other perspective in separate volumes.[7] A careful elaboration of scope conditions under which the arguments of one or the other side hold is an important prerequisite for further improvement of our understanding of the effects of power-sharing arrangements.

This article concerns itself with examining the impact of one such scope condition—the weak institutionalization of the rule of law system—on the dynamics of autonomy settlement implementation. The article also deals with the sincerity of commitment on the part of central state actors to implement the autonomy agreement but their willingness to honour the terms of the deal is conceptualized to be partly endogenous to the quality of the institutional environment in which they operate.

The weakness of the rule of law system is here defined primarily in terms of a lack of judicial independence, lack of compliance with formal rules and norms, and a weak commitment on the part of political actors to address disputes through legal channels and procedures.[8] The lack of judicial independence implies that court decisions can be influenced by other than legal considerations. The lack of compliance and weak commitments manifest themselves in deliberate choices to disregard inconvenient legal norms, ignore legal procedures and to seek other than legally-specified means of dispute settlement. As the following discussion indicates, all of the abovementioned characteristics of the weakness of the rule of law system affect the dynamics of implementation of the power-sharing agreement and the overall functioning of the autonomy regime in Gagauzia.

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[6] See the exchange between Donald Horowitz and Arend Lijphart in Andrew Reynolds (ed.), *The Architecture of Democracy. Constitutional Design, Conflict Management and Democracy* (Oxford University Press, New York, 2002).

[7] See, for example, Phillip G. Roeder and Donald Rothchild (eds.), *Sustainable Peace. Power and Democracy after Civil Wars* (Cornell University Press, New York, 2005); and Marc Weller and Stefan Wolff (eds.), *Autonomy, Self-Governance and Conflict Resolution. Innovative Approaches to Institutional Design in Divided Societies* (Routledge, New York, 2005).

[8] For a discussion of the rule of law concept, see, for example, Jose Maria Maravall and Adam Przeworski, *Democracy and the Rule of Law* (Cambridge University Press, Cambridge, 2003); and Adam Czarnota, Martin Krygier and Wojciech Sadurski, *Rethinking the Rule of Law after Communism* (Central European University Press, Budapest, 2005).

The notion of the rule of law is analytically different from the concept of state strength. Some recent accounts of power sharing describe state strength as an important condition for successful implementation of power-sharing agreements.[9] State strength, defined in terms of the effectiveness of the central government and administrative bureaucracy, might grow without substantial improvements in the rule of law system, as some recent trends of growing tax-collection and service-delivery capacities in the post-Soviet states indicate. Thus, it is analytically beneficial to keep these concepts separate.

The weak rule of law system provides fertile ground for the proliferation of informal practices in public life. The sheer volume of the literature on informal institutions, norms and rules testifies to the significance of the problems that post-Soviet states face.[10] Informal rules and norms relevant to this specific discussion on the functioning of the autonomy regime include the subordination of the judiciary to the executive branch of government, the selective use of law enforcement and the arbitrary application of administrative norms and regulations by government bureaucracies.

III. Terms of the Gagauzian Autonomy Deal: Vague Competencies and Crisp Hierarchies

One way to summarize the content of the 1994 autonomy agreement in the Gagauz region of Moldova is to highlight the differences between the vague definition of competencies and the much more detailed description of the hierarchical nature of relations between the centre and autonomy in the autonomy's founding document, the 1994 Law on the Special Legal Status of Gagauzia.[11] Although the Moldovan legal system has continued to rapidly evolve through the two post-communist decades, the law has seen no changes since it was adopted and thus continues to define the status and powers of the autonomy.

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[9] Donald Rothchild and Philip G. Roeder, "Power Sharing as an Impediment to Peace and Democracy", in Roeder and Rothchild, *Sustainable Peace …*, 29–50.

[10] Kelly McMann, *Economic Autonomy and Democracy* (Cambridge University Press, New York, London, 2006); Denis James Galligan and Marina Kurkchiyan, *Law and Informal Practices: the Post-communist Experience* (Oxford University Press, Oxford, 2003); Henry E. Hale, "Explaining Machine Politics in Russia's Regions: Economy, Ethnicity, and Legacy", 19(3) *Post Soviet Affairs* (2003), 228–263; and Keith A. Darden, "Blackmail as a Tool of State Domination: Ukraine under Kuchma", 10(2–3) *East European Constitutional Review* (2001), 33–45.

[11] Law No 344-XIII of 23 December 1994, "On the Special Legal Status of Gagauzia", *Monitorul Oficial*
al Republicii Moldova (14 February 1995).

The agreement on establishing a territorial autonomy for the Gagauz minority in Moldova was a product of intense negotiations that followed the period of ethnopolitical mobilization of the early 1990s. Competing claims for sovereignty, public protests and even small-scale outbursts of violence between civil and paramilitary groups claiming to represent the interests of the titular group and the Gagauz minority characterized the period of Soviet disintegration and the establishment of the independent Moldovan state.[12] The autonomy settlement thus became a response to an acute need to regulate ethnopolitical conflict in order to prevent its further escalation.[13]

The 1994 Law on the Special Legal Status of Gagauzia outlined the key provisions of the autonomy status. The law was passed by the Moldovan parliament after a period of negotiations between the central authorities and Gagauz representatives, which also involved some elements of international mediation.[14] The international community applauded the fact that a compromise was achieved and a number of observers praised the 1994 law as a solid foundation for ethnic tension de-escalation and as a crucial mechanism for meeting the Gagauz minority community's needs under the general framework of the Moldovan state.[15] As one analyst noted, the Gagauz case is the only case in Central-Eastern Europe and the former Soviet Union where *de jure* autonomy status was granted to an ethnic group.[16]

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[12] Charles King, "Minorities Policy in the Post-Soviet Republics: the Case of the Gagauzi", 20(4) *Ethnic and Racial Studies* (1997), 738–756; and William Crowther, "Ethnic Politics and the Post-Communist Transition in Moldova", 26(1) *Nationalities Papers* (1998), 147–164; Claus Neukirch, "Autonomy and Conflict-Transformation: the Gagauz Territorial Autonomy in the Republic of Moldova", in Kinga Gal (ed.), *Minority Governance in Europe* (Open Society Institute, Budapest, 2002), 107–126.

[13] For a widely used taxonomy of the macro-political forms of ethnic conflict regulation, see John McGarry and Brendan O'Leary, *The Politics of Ethnic Conflict Regulation: Case Studies of Protracted Ethnic Conflicts* (Routledge, London, New York, 1993).

[14] Pritt Järve, "Gagauzia and Moldova: Experiences in Power-Sharing", in Marc Weller and Barbara Metzger (eds.), *Settling Self-determination Disputes: Complex Power-sharing in Theory and Practice* (Brill, Leiden, forthcoming); and John A. Webster, "Model for Europe? An Evaluation of Moldova's Autonomy for the Gagauz", April 2005, at http://www.ecmimoldova.org/Publications.187.0.html.

[15] Pål Kolstø. *National Integration and Violent Conflict in Post-Soviet Societies: the Cases of Estonia and Moldova* (Rowman & Littlefield, Lanham, 2002); Steven D. Roper, "Regionalism in Moldova: the Case of Transnistria and Gagauzia", 11(3) *Regional and Federal Studies* (2001), 101–122; Paula Thompson, "The Gagauz in Moldova and their Road to Autonomy", in Magda Opalski (ed.), *Managing Diversity in Plural Societies: Minorities, Migration and Nation-Building in Post-Communist Europe* (Forum Eastern Europe, Ottawa, 1998), 275–322.

[16] Järve, "Gagauzia and Moldova …" This statement should be understood in a narrow sense. The author probably meant that other instances of power sharing in the region have different foundations. According to this logic, the Crimean autonomy in Ukraine is granted to the territory and not a single ethnic group, and the Russian ethnic regions are federal units and not autonomy regions.

The key points of the 1994 law addressed the issues of drawing the boundaries of the administrative territory of the Gagauz autonomy, establishing the autonomy's legislative and executive authorities and defining the scope of their powers, specifying procedures for minority representation at the central level, and granting decision-making rights to the legislative assembly in a wide range of policy areas. Specific choices made with respect to each of these key aspects of the autonomy arrangement have contributed to the distinct profile of the Gagauz autonomy in a formal legal sense.

Article 5 of the law stated that Gagauzia is composed of localities where Gagauzians make up more than 50% of the population and possibly those given an option to hold a referendum on joining the Gagauz autonomy for communities with a composition of less than 50% Gagauz. Some general characteristics of the autonomy established on the basis of this and other provisions of the 1994 law are outlined in Appendix 1.

The law provided general parameters for the single member constituency system of election to the Gagauz legislative assembly and included a provision on the direct popular election of the head of the executive government, the governor (*Bashkan*) of Gagauzia. The law did not envision any special norms for Gagauz representation in the national parliament but provided quite specific guarantees for executive representation. The governor of Gagauzia is a member *ex officio* of the Moldovan cabinet. The heads of departments of the Executive Committee, the autonomy's executive body, can be made members of the collegiums of the respective national ministries on the governor's request. The heads of the Gagauzian departments of justice, internal affairs and security, as well as the head of the procurator's office and the chairman of the appeals court, are members *ex officio* of the respective national ministries and other government institutions.

The law also listed the policy competencies of the Gagauz autonomy in various substantive areas. Article 18 stipulated that the autonomy forms its budget from all types of payments covered by the national and autonomy legislation. Article 12 granted the Gagauazian legislative assembly the power to make decisions in areas as diverse as science, culture and education, on the one hand, and the economy and environment, on the other. Neither Article 12 nor any other article in the autonomy

statute provided any details on what type of decision-making rights in relation to each of the specific policy areas the statute envisioned.

While the structure of the 1994 law is generally similar to the structure of autonomy laws adopted elsewhere, its content is much shorter. Appendix 2 illustrates this by comparing the general characteristics of the 1994 law with the 1972 Autonomy Statute for South Tyrol, a frequently cited example of successful autonomy in Europe. As Appendix 2 demonstrates, the terms of the 1972 South Tyrol status law are more detailed than the terms of the 1994 Gagauzia status law in almost every type of provision. Although the number of words and statute articles, which constitutes the basis for the content analysis presented in Appendix 2, is no substitute for substantive legal analysis of the individual provisions contained in the statutes, the magnitude of the differences in the volume and size of provisions is telling. For example, the articles describing the institutions of legislative and executive government in the South Tyrol statute are four times as large in size as the articles dealing with the same issues in the Gagauzia statute law. Differences in the size of the statute articles dealing with the description and allocation of policy competencies is even more dramatic, with the South Tyrol statute containing approximately nine times more text on issues of policy competencies than the Gagauzian statute.

The issue of competencies proved to be an especially controversial topic in the process of the implementation of the 1994 statute law in Gagauzia. These controversies were, to a significant extent, ‘programmed in’ at the stage of drafting the autonomy statue. The minimalist approach to the content of the drafted provisions, which obviously made negotiations easier at the time of drafting the document, resulted in a lack of any specification in the document regarding what having authority in a given policy area means or how decision-making rights in that particular area are distributed between the central and autonomy governments. The choices made at the stage of drafting the law delayed the conflict and moved it to the post-agreement phase.

The wording of Article 12 and especially paragraph 2 of this Article, which simply lists the names of different policy areas in which the Gagauz autonomy has competencies, has generated some of the most lasting disagreements between the central and autonomy governments. Appendix 3 provides exact wordings of the

competency provisions from Article 18(2) of the 1994 autonomy statute and compares them with the competency provisions for the same policy areas in the 1972 Autonomy Statute for South Tyrol. The differences illustrated by this appendix further underscore the point about how little substantive content on issues of policy competence is provided by the Gagauzian statute law in comparison with the South Tyrol law.

In retrospect, the choice to leave the description and division of competencies in the 1994 autonomy statute document unspecified and blurred has been highly consequential. By granting to the autonomy what appears on paper to be vast policy competencies, the 1994 law raised the minority group's expectations about the scope of actual powers that the autonomy obtained. The central state actors interpreted the vagueness of the autonomy provision as an invitation to define and specify the scope of autonomy competencies through the adoption of national level legislative acts. In the long term, this initial choice in the drafting provisions also contributed to a weakening of the autonomy's powers of self-government in ways that are touched upon in the next section of this article.

IV. 'Salami Tactics' of Reducing the Scope of Autonomy

In game theory, 'salami tactics' refers to devices used to reduce the other player's threat of actions in the way that a salami is cut—one slice at a time.[17] The adoption of numerous individual pieces of national legislation and the development of a legal framework for the functioning of the Moldovan state in the post-1994 period was obviously motivated by numerous factors, many of which had no relation to the autonomy. Yet the proliferation of national laws, cabinet orders and resolutions had the effect of shrinking the policy space for the Gagauz self-government. New normative acts passed by the national parliament and executive bodies in the post-1994 period routinely ignored the special status of Gagauzia. As the Gagauzians routinely point out, the national legal development produced hundreds of legislative acts that regulate various types of societal relations throughout the country without giving any consideration to the special statutes of Gagauzia.[18]

[17] Avinash Dixit and Susan Skeath, *Games of Strategy* (Norton, New York, 1999).
[18] Järve, "Gagauzia and Moldova …"

The salami slicing effect here refers to the inability of the Gagauz side to mount any credible opposition to this gradual encroachment on what the autonomy representatives believe are their self-government rights granted by the 1994 statute. No single legal act passed by the national level authorities was a strong enough cause that would allow ethnic minority entrepreneurs to mobilize public support in the autonomy and threaten the centre with the possibility of a new confrontation. In the view of minority representatives, every new piece of national legislation that ignored the special status of autonomy implied, however, a further encroachment on the autonomy rights and put additional curbs on the power of autonomy.

The autonomy authorities tried several strategies to reverse this trend, including appeals to the Constitutional Court, efforts to introduce amendments into the Moldovan Constitution, attempts to raise the status of the 1994 law and initiatives to conclude a new agreement between the central government and the autonomy concerning the distribution of competencies. None of these strategies have so far proven to be successful in producing the results that the autonomy authorities would have liked to see.

The 1994 law referred legal disputes that arise between the autonomy and central government to Moldova's Constitutional Court. There have been six appeals by the autonomy's legislative assembly to the Court since the Gagauz autonomy was established. One of these appeals was later recalled by the Gagauz authorities. The Constitutional Court rejected five other appeals on various technical grounds. Given the serious shortcomings in how appeals were prepared by the Gagauzian side, it would not be justified to attribute the decision to reject appeals to some negative predisposition on the part of the Constitutional Court.[19] This record, however, has a negative effect on the autonomy representatives' confidence in the ability of the Court to address their grievances.

A strategy to introduce changes to the Moldovan Constitution resulted in modifications of two constitutional articles. Since the 1994 law on special status was passed after the adoption of the Moldovan Constitution, the Gagauzian authorities pushed for the introduction of constitutional amendments in order to entrench the

[19] Veceslav Zaporozhan, "Prava Obrashnia Konstituzioni CYD", ECMI Training, Comrat, 14 March 2007.

autonomy status and to strengthen the powers of the autonomy. While the goal of entrenching the autonomy status was achieved by the adoption of Article 111 on the Autonomous Territorial Unit of Gagauzia in 2003, the content of this article, as well as the mention of the autonomy in Article 110, did little to strengthen the autonomy's claims for greater control over its interests. The only substantive addition to the powers of the autonomy—the right of legislative initiative in the national parliament (Article 72)—had little practical consequences for the functioning of the autonomy, given that such an initiative requires the support of a legislative majority in order to become a national law. To date, none of the autonomy's initiatives have been supported by the national parliament.

Two other initiatives—raising the status of the 1994 law[20] and concluding a new agreement between the central government and autonomy concerning the distribution of competencies—were motivated by the desire to work around the developments in the national legal framework. The autonomy authorities have slowly realized that a gradual encroachment on the autonomy status, which in their view is manifested in the proliferation of national legal acts universally applied to the entire territory of the country, could not be reversed by appealing to the central authorities to make amendments to hundreds of pieces of recently adopted legislation. Raising the status of the autonomy law or concluding a treaty in addition to the existing law was meant to surpass this new reality of a well elaborated and detailed national legislative framework by exempting the autonomy from the requirement to comply with the framework provisions in certain policy areas mentioned in the 1994 autonomy law. As should already be obvious, these initiatives found little support in central government institutions.

The last available option—non-compliance with national legal acts—has been actively practiced, which provides a basis for serious concern for legal practioners across the country.[21] This non-compliance, however, has been of a sporadic nature and does not amount to organized and systematic resistance to the central government for reasons outlined in the next section of this article. Non-compliance is, however,

[20] The Moldovan constitutional system envisions three types of laws: constitutional, organic and ordinary. The 1994 autonomy law has the status of an ordinary law, amendments to which can be introduced by a three-fifths majority of the national parliament.

[21] Authors' interviews with officials of legal departments of the national parliament and the Gagauzian assembly, March 2007.

rationalized by autonomy actors as a response to what is perceived as fundamental reneging by the central government on its previous commitments with regard to the status of the Gagauz autonomy.[22]

The lack of a spirit of the rule of law is also manifested in the actions of the central authorities throughout the period analyzed. There is a very weak sense of obligation or commitment on the part of central state actors to grant substantive policy competencies to the autonomy. The Gagauzian side claims that such obligations result from the central government's decision to agree to the 1994 autonomy statute deal. The very idea of having contractual relations with the autonomy unit seems to be an uneasy concept for the central government. Thus, for example, the Venice Commission recommendation to specify in constitutional amendments that not only the autonomy unit but also the central government has the right to appeal autonomy decisions to the Constitutional Court did not receive support among national lawmakers.[23] The national lawmakers instead chose to specify in a revised version of Article 111 that control over conformity with national legislation on the territory of the Gagauzian autonomy is exercised by the Moldovan cabinet. Overall, the actions of the central government indicate that it interprets its commitments as limited to recognition of the right of the autonomy to form its legislative and executive institutions but not the autonomy's right to legislate independently of the central authorities in the policy areas listed in the 1994 autonomy statute.

V. Explaining Stability and Democracy Records

What effects autonomy has on securing interethnic peace and democracy, as this article's introduction stated, are central concerns for the literature on power sharing. Detailed examination of the Gagauzian case suggests that emergent patterns of stability and democracy could not be attributed exclusively or primarily to the effects of the formal institutional arrangements. These patterns are better explained by examining the interplay of the formal and informal rules and practices that shape

[22] In September 2001, the legislative assembly of Gagauzia, for example, adopted a resolution stating that the political leadership of Moldova "deliberately did not implement" the resolution of the Moldovan parliament of 23 December 1994, "On the Implementation of the Law on the Special Status of Gagauzia". Cited in Järve, "Gagauzia and Moldova …", 39.
[23] Venice Commission, "Consolidated Opinion on the Law …"

relations between the centre and autonomy and have a profound effect on the political dynamics within the autonomy.

The centre and the autonomy have managed to avoid any serious confrontation since the 1994 autonomy settlement was agreed upon. This means that there have been no instances of widespread violence, sustained mass protests or riots. This does not, however, imply that the relations between the centre and autonomy have been cordial and mutually satisfactory. Underlying tensions have surfaced from time to time and manifested themselves in occasional non-compliance with national legislation, sporadic public actions, radical political statements and symbolic gestures. Thus, for example, in August 2001, the Moldovan mass media reported on festivities celebrating the 11th anniversary of the attempt to proclaim Gagauzia's sovereignty. The speaker of the autonomy's legislative assembly reportedly claimed in his speech during the event that if the Moldovan authorities fail to adjust national legislation to accommodate Gagauz laws, the Gagauz authorities would have to reactivate the 1990 declaration of independence and set up their own state structures.[24]

The absence of serious confrontation despite the growing disillusionment on the part of the Gagauz establishment with how the autonomy functions has to be explained. As the literature on intra-group dynamics suggests, accounting for the behaviour of a minority elite can be a starting point for such an explanation.[25] A review of minority elite actions in the Gagauz case suggests that, overall, this elite has avoided mobilizing the autonomy population in its efforts to win concessions from the central government. While the rhetoric has run high at some times, the Gagauz elite has not been willing to risk an open conflict with the centre over the status of the autonomy.[26]

The incumbent Gagauzian governor's story is telling in this respect. The 2006 gubernatorial elections saw a race between then incumbent Governor Gheorghii

[24] Pritt Järve, "Gagauzia and Moldova …"

[25] Elite behaviour is a crucial element in explaining inter-group accommodation in the classical version of power-sharing theory. For a critical evaluation of different accounts of elite motivation in seeking inter-group accommodation, see Ian Lustick, "Stability in Deeply Divided Societies: Consociationalism versus Control", 31(3) *World Politics* (1979), 325–344.

[26] The most pronounced instance of escalations of relations between the central authorities and the governor took place at the beginning of 2002. The conflict, however, was a result of the attempt by the recently elected central government to orchestrate a campaign against the governor of Gagauzia with the goal of dismissing him by means of a popular referendum on confidence in the governor. Thus, the governor's confrontational stand was a reaction against the new central government's attempt to install a more loyal candidate as governor of Gagauzia. See Järve, "Gagauzia and Moldova …"

Tabunshchik, who was supported by the central government, and Mikhail Formuzal, a leading opposition figure who severely criticized Tabunshchik for his conformist stand *vis-à-vis* the central government. After winning the elections, Mikhail Formuzal chose to scale down his rhetoric and to adopt a reconciliatory stand towards central government. The accommodationist approach of the new governor was partly a realization of the counterproductivity of escalating tensions with the centre, whose increasing assertiveness under the Communist Party-led government reflected a growing consolidation of the Moldovan state. While, in many respects, this state remains very weak, its affairs are no longer in complete disarray, as was the case at the beginning of the 1990s when the Gagauz minority leaders faced the weak institutions of a newly emerging state torn by ethnopolitical conflicts.

The governor's unwillingness to escalate is also a product of the informal mechanisms of control used by the central government authorities to secure the compliance of autonomy elites. As was already mentioned at the start of this article, such informal practices as the subordination of the judiciary to the executive branch of government and the selective use of law enforcement are recognized in the literature as important factors in explaining political relations in post-communist states. Two out of the three governors that the Gagauzian autonomy has had since the establishment of the autonomy in 1994 have faced criminal charges raised against them by central government controlled prosecutors for mishandling their duties in one or another capacity as elected officials (primarily corruption charges). One of them, Dmitri Kroiter, who was elected as governor in 1999, chose to resign under the central government's pressure in 2002, well before the end of his term.[27] The other, Mikhail Formuzal, saw many criminal charges that had been raised against him when he was in opposition still outstanding when he became governor. Overall, the autonomy elites face the credible threat of their tenure in various offices of the Gagauz autonomy[28] being disrupted (and criminal charges brought against them through the legal mechanisms of the central state) if their actions depart too far from the preferences of the central authorities. Thus, it is the mechanisms of coercive and cooptive control, rather than the effects of power sharing, that might better explain the observed

[27] For an account of the Gagauz autonomy's political evolution, see Igor Botan, "The Recent Elections in Gagauzia and their Eventual Consequences", report written for ECMI Project 'Enhancing the Gagauzian Autonomy 2006', January 2007.

[28] Similar types of charges were made against the speaker of the Gagauz legislative assembly in 2002. See Järve, "Gagauzia and Moldova …"

patterns of stability in the centre–autonomy relations after the 1990–1992 confrontation period.[29]

VI. Conclusion

The traditional conception of law views legal documents—such as the Gagauz autonomy statute, which was discussed at length in this paper—as structuring relations between the centre and the autonomy on principles of obedience, obligation and compliance with the provisions of the law. In the context of transitional post-communist societies, as well as in much of the developing world, the applicability of these principles to the behaviour of all types of political and societal actors cannot be taken for granted. In other words, the autonomous causal efficacy of the law should not be assumed to follow simply from the fact of the passage of the law.

The Gagauzian experience with autonomy nevertheless provides several lessons for the drafters of autonomy provisions. First, having too general and poorly specified provisions on the distribution of competencies in the autonomy's founding documents may contribute in the long run to the undermining of the position of the autonomy, especially if power differentials between majority and minority are of a high magnitude. Second, territorial autonomy provisions are not likely to become a preferred choice for accommodating minority demands in the post-Soviet space, with the possible exception of a few cases of already frozen conflicts. The adoption of territorial autonomy arrangements was possible in circumstances of extreme weakness on the part of the central state, which was the case in the early years of transition from communism. The recovery of the central state, either in democratic or authoritarian format, makes the central authorities increasingly unwilling to cede control over its territory through the institutionalization of autonomy. This, however, does not preclude addressing minority claims through decentralization and devolution options.

For social scientists, the Gagauz experience highlights the importance of considering informal mechanisms of subordination and control when trying to explain patterns of order and stability in multiethnic societies. The current strand of power-sharing

[29] On control as a means of ethnic conflict regulation, see McGarry and O'Leary, *The Politics of Ethnic Conflict Regulation* …; Lustick, "Stability in Deeply Divided Societies …"; and *id*., "Israeli State-building in the West Bank and Gaza Strip: Theory and Practice", 41(1) *International Organization* (1987), 151–171.

literature seems to pay little attention to the earlier theories on the role of control in governing multiethnic societies. This literature and our understanding of societal stability in culturally diverse societies outside the Western world would benefit if more efforts were invested in understanding the interplay between formal and informal institutions in shaping the dynamics of majority–minority relations and regulating ethnopolitical conflicts.

Biographical Note

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Appendix 1. Profile of Autonomous Territorial Unit of Gagauzia (Gagauz-Yeri)

Status	Autonomus Territorial Unit in Moldova (23 April 1994)
Capital	Comrat
Population	155,646 (4.6% of the total population of Moldova, excluding Transnistria).
Official Languages	Gagauz, Moldovan, Russian
Governor	Formuzal Michael Macar (2006–present)
Chairman of the People's Assembly	Stepan Esir
Area	1,830 km² 707 sq mi
Density	85/km² 220/sq mi
Administration Division	1 municipality (Comrat) and 2 cities (Ceadir-Lunga, Vulcanesti) and 23 communes (29 settlements). Gagauzia is structured into three districts: Comrat, Ceadir-Lunga and Vulcanesti.
Ethnic Composition	Gagauz (85.7%), Moldovans (8.1%), Bulgarians (5%), Russians (2.4%) and Ukrainians (2.3%).
Ethnic Gagauz population, by native language	Gagauz language (92.3%), Russian language (5.84%), Moldovan language (0.86%), Ukrainian language (0.41%), Romanian language (0.22%) and Bulgarian language (0.21%).
Religion	Orthodox (93%), Baptist (1.62%), Romano-Catholic (0.06%), other religions (5.32%).
Economy	Agro-industrial sector (cereals, crops, viticulture and wine making, animal breeding, tobacco). More than 5,000 enterprises are registered (agricultural, processing, textiles, ready-made clothes), 14 wineries, more than 450 small-sized business. A Free Economic Zone, Valcanes, is based in Gagauzia.
GNI per capita Moldova (USD)	930
Currency	Moldovan leu (MDL)

Sources: National Bureau of Statistics, 2004 Census Results, at http://www.statistica.md/recensamint.php; and The World Bank, Moldova Data Profile, http://devdata.worldbank.org/external/CPProfile.asp?PTYPE=CP&CCODE=MDA

Appendix 2. Number and Size of Articles in Autonomy Statutes (by Categories)

	The Law on Special Status of Gagauzia (1994)	Special Autonomy Statute for South Tyrol* (1972)
General Provisions	No. of Words: 301 Total No. of Articles: 5 ▪ Arts. 1–2 ▪ Arts. 4–6	No. of Words: 209 Total No. of Articles: 3 ▪ Arts. 1–3
Use of Languages	No. of Words: 53 Total No. of Articles: 1 ▪ Art. 13	No. of Words: 374 Total No. of Articles: 4 ▪ Arts. 99–102
Distribution of Policy Competencies	No. of Words: 338 Total No. of Articles: 1 ▪ Art.12 (excluding paras. 4, 5 and 6)	No. of Words: 2,992 Total No. of Articles: 12 ▪ Chapter II: Functions of the Region (Arts. 4–7) (No. of Words: 354) ▪ Chapter III: Functions of the Province (Arts. 8–15) (No. of Words: 1,481) ▪ Chapter IV: Provisions Common to the Region and the Provinces (Arts. 16–23) (No. of Words: 1,157)
Description of Main Legislative and Executive Autonomy Bodies	No. of Words: 1,064 Total No. of Articles: 9 ▪ Arts. 7–11 ▪ Arts. 14–17	No. of Words: 4,090 Total No. of Articles: 34 ▪ Chapter I: Organs of the Regions (Arts. 24–46) (No. of Words: 2,009) ▪ Chapter II: Organs of the Province (Arts. 47–54) (No. of Words: 2081)
Approval and Promulgation of Laws	No. of Words: 123 Total No. of Articles: 1 ▪ Art. 13	No. of Words: 518 Total No. of Articles: 6 ▪ Arts. 55–60
Finance	No. of Words: 76 Total No. of Articles: 1 ▪ Art. 18	No. of Words: 1,567 Total No. of Articles: 18 ▪ Arts. 69–86
Jurisdictional Organs	No. of Words: 267 Total No. of Articles: 3 ▪ Arts. 20–22	No. of Words: 618 Total No. of Articles: 7 ▪ Arts. 90–96
Constitutional Court	No. of Words: 100 Total No. of Articles: 2 sub-paragraphs ▪ Art. 12(4–5)	No. of Words: 263 Total No. of Articles: 2 ▪ Arts. 97–98
National Security and Internal Affairs	No. of Words: 267 Total No. of Articles: 2 ▪ Arts. 23–24	No. of Words: 265 Total No. of Articles: 2 ▪ Arts. 87–88
Change and Amendments	No. of Words: 31 Total No. of Articles: 1 ▪ Art. 27	No. of Words: 249 Total No. of Articles: 3 ▪ Arts. 103–105

Sources: Law on the Special Legal Status of Gagauzia, 23 December 1994; and Special Statute for the Region of Trentino Alto Adige, 31 August 1972.
***** The 1972 South Tyrol Statute also contains the following sections, which have no comparable equivalent in the 1994 Gagauzia law: “Local Government Bodies”; “Public Property and Estate of the Region and Provinces”; and “Lists of Personnel Employed in State Offices in the Province of Bolzano”.

Appendix 3. Comparative Table on the Wording of Selected Competences: the Law on the Special Legal Status of Gagauzia (1994) and the Special Autonomy Statute for South Tyrol (1972)	
Law on the Special Legal Status of Gagauzia	**Special Autonomy Statute for South Tyrol**
▪ Gagauzia is an autonomous territorial unit, with a special status as a form of self-determination of the Gagauzes, which constitutes an integral part of the Republic of Moldova.	▪ Trentino Alto Adige, comprising the territory of the Provinces of Trento and Bolzano, constitutes an autonomous region, with legal status, within the political structure of the Italian Republic, one and indivisible, on the basis of the principles of the Constitution and according to the present Statute.
▪ Science, Culture and Education	Province: ▪ Protection and preservation of the historic, artistic and popular heritage. ▪ Local customs and traditions and cultural institutions (libraries, academies, institutes, museums) at provincial level; local artistic, cultural and educational events and activities, and in the Province of Bolzano, also through the media of radio and television, but without the power to set up radio and television stations. ▪ Nursery schools. ▪ School welfare in regard to those educational sectors in which the Provinces have legislative competence. ▪ Vocational training. ▪ Primary and secondary education (middle schools, classical, scientific, teacher-training, technical, further education and artistic secondary schools).
▪ Housing Management and Urban Planning.	Region: ▪ Expropriation for public use, except for works mainly or directly the responsibility of the State and matters of provincial competence. ▪ Establishment and maintenance of land registers. Province: ▪ Housing, totally or partly subsidized by public funds, including facilities for construction of public housing in areas struck by disaster, and activities undertaken in the Province by extra-provincial bodies with public funds. ▪ Lake harbors. ▪ Fairs and markets. ▪ Roads, aqueducts and public works in the Province. ▪ The Province must be consulted in regard to first and second category water works. The State and the Province must agree beforehand an annual plan for coordinating the water works falling within their respective competencies. ▪ The use of public water by the State and the Province, within the framework of their respective competencies, shall be based on a general plan drawn up in agreement between representatives of the State and the Province

	at a special committee. ▪ Communications and transport in the Province, including the technical regulation and management of cable-car systems. ▪ The Province must be consulted in the case of concessions granted in the field of communications and transport when lines cross provincial territory. ▪ Expropriation for public use for all matters of provincial competence. ▪ School buildings. ▪ Local urban and rural policy.
▪ Health Services, Physical Culture and Sports.	Region: ▪ Regulation of health bodies and hospitals. ▪ Regulation of public assistance and welfare institutions. Province: ▪ Hygiene and health, including health care and hospital assistance. ▪ Sport and recreation with relative facilities and equipment. ▪ Public assistance and welfare.
▪ Local Budget, Financial and Taxation Activities.	Region: ▪ Regulation of land and agricultural credit institutions, savings banks and rural banks, as well as regional credit organizations. ▪ The revenue from mortgage taxes collected on property situated in its territory shall be assigned to the Region. Specific quotas of state tax revenue collected in the territory of the Region shall also be assigned to the Region. (See Art. 69) ▪ To the extent that foreign trade is subject to the limitations and approval of the State, the Region shall have the power to authorize such trade within limits to be established by agreement between the Government and the Region. In the case of foreign trade based on quotas that affect the economy of the Region, the latter shall be assigned a part of the import and export quota, to be fixed by agreement between the Government and the Region. Province: ▪ Regulation of small holdings in accordance with Art. 847 of the Civil Code; regulation of "entailed farms" and family holdings governed by ancient statutes or customs. ▪ The Province may authorize the opening and the transfer of branches of local, provincial or regional credit institutions, following consultation with the Ministry of the Treasury. ▪ Unless the general rules on economic planning provide for a different system of financing, the Ministry of Industry, Commerce and Artisan Enterprise shall assign to the Provinces of Trento and Bolzano quotas of the annual allocations contained in the state budget for the implementation of state laws to finance increases in industrial activity. The quotas shall be fixed following consultation with the Province and take into account

	the sums allocated in the state budget and the needs of the population in the Province concerned. The use of the sums allocated shall be agreed between the State and the Province. Should the State intervene with its own funds in the provinces of Trento and Bolzano in order to carry out special national school building plans, these funds shall be used in agreement with the Provinces. ▪ The Province of Bolzano shall use its own funding allocated for welfare, social and cultural purposes in direct proportion to the extent of each linguistic group and with reference to the needs of this group, except in the case of extraordinary events requiring immediate intervention for special requirements. ▪ The Province of Trento shall ensure the allocation of funding to an appropriate extent in order to promote the protection and the cultural, social and economic development of the Ladin, Mocheni and Cimbrian populations resident in its territory, taking into account their size and specific needs. ▪ The income from tax collected on electrical energy consumed in their respective territories shall be assigned to the Provinces. ▪ 9/10 of the annual rent established by law and payable for concessions of large-scale diversions of public water in the Province, granted or to be granted for whatever purpose, shall be assigned by the State to the Province. ▪ The Provinces may impose levies and taxes on tourism. ▪ The Provinces shall be assigned specific quotas of the yield from the tax revenues of the state collected in their respective territories (See Art. 75). <u>Region and Province:</u> ▪ The Region and the Provinces may, by law, levy their own taxes in conformity with the taxation system of the state in matters of their respective competence. ▪ The Region and the Provinces may issue internal loans on their own guarantee for an amount not exceeding their normal income in order to provide for investments in works of a permanent character. ▪ The Region and the Provinces shall collaborate in the assessment of state taxes on the income of bodies with fiscal residence in their respective territories. ▪ The Region, the Provinces and the Communes shall have their own budget for the financial year, which shall coincide with the calendar year (for more details, see Art. 84).
▪ Economy and Ecology.	<u>Province</u>: ▪ Protection of the countryside. ▪ Artisan activities. ▪ Mines, including mineral and thermal waters, quarries and peat bogs. ▪ Hunting and fishing. ▪ Alpine pastures and parks for the protection of flora and fauna. ▪ Tourism and the hotel industry, including guides, alpine bearers, ski instructors and ski schools. ▪ Agriculture, forests and forestry personnel, cattle and fish breeding, plant pathology institutes, agricultural

	consortia and experimental stations, hail protection services, land reclamation. ▪ Third, fourth and fifth category water works. ▪ Commerce. ▪ Commercial businesses, without prejudice to the requirements of State laws for obtaining licenses, the supervisory powers of the State for reasons of public safety and the power of the Ministry of the Interior to annual in accordance with national legislation the provisions adopted in the matter, however definitive. Ordinary appeals procedure against such action shall take place within the framework of the provincial autonomy. ▪ Increase in industrial production. ▪ Use of public waters, except for large-scale diversions for hydro-electric purposes. ▪ With regard to concessions for large-scale diversions for hydro-electric purposes and extension to their term, the territorially competent Provinces shall have the power to present their observations and objections at any time before the publication of the final decision by the Higher Council for Public Works. ▪ The Provinces shall also have the right to appeal to the Higher Courts for Public Waters against decrees granting concessions or extensions.
▪ Labor Relations and Social Security.	Region: ▪ Improvement grants for public works carried out by other public bodies within the Region. ▪ In matters concerning national insurance and social security the Region may issue laws integrating the provisions of state law, and may set up appropriate autonomous institutes or facilitate their establishment. Province: ▪ Apprenticeship, employment cards; categories and qualifications of workers. ▪ Establishment and functioning of municipal and provincial commissions for assistance and advice to workers on employment. ▪ Public entertainment in so far as public safety is concerned. ▪ In order to integrate the provisions of state laws, the Provinces shall have the power to issue laws in regard to employment and work placement with the power to make use of the outlying offices of the Ministry of Labour, until the establishment of their own offices, for the exercising of administrative powers linked to the legislative powers belonging to the provinces in matters of employment.

Sources: Law on the Special Legal Status of Gagauzia, 23 December 1994; and Special Statute for the Region of Trentino Alto Adige, 31 August 1972.
Note: Competencies listed above were not affected by the following legal amendments and changes: Art. 111, Constitution of the Republic of Moldova, "Autonomous Territorial Unit of Gagauzia", adopted 25 July 2003; "Modified Text of the Constitution of the Trentino Alto Adige and the Provinces of Trento and Bolzano", 18 October 2001.