

International Law

Scenario 1 for Chapter Seven

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Here is a question dealing with various concepts in International Law. Please answer the questions at the end. Make sure you support your answers with both concepts from International Law and with facts from the real world. I have tried to supply the appropriate names and job titles for the people involved in this problem. The only fictional name is Georghe Smirnov, the Ambassador of Trans-Dniester. All other names are real. Furthermore, none of the questions are trivial. If you think the answer is obvious, you are probably missing something. Your first step may be determining why the question is not trivial.

Igor Smirnov, the president of Trans-Dniester, sends Georghe Smirnov to the United States as ambassador. Assistant Secretary of State for the Bureau of European and Eurasian Affairs, Daniel Fried, officially receives the ambassador and his letters of credence. These letters are then passed to both Secretary Condoleezza Rice and President George W. Bush. Neither one objects to the ambassador's presence. Georghe purchases a home near embassy-row (2230 Massachusetts Avenue NW) for \$3.4 million and proceeds to create the Transnistrian embassy about a half mile from the Moldovan Embassy, located near Dupont Circle (2101 S Street NW). In protest, Vladimir Voronin, the Moldovan president, summons Michael Kirby, the American ambassador to Moldova, to a meeting where he strongly registers his displeasure with the new Transnistrian Embassy in Washington. Mr. Kirby informs his superior (Secretary Rice) of the events. Rice orders Kirby to send our regrets to President Voronin at his displeasure, but we have the right to recognize Smirnov as the ambassador.

In response, Voronin orders Vladimir Reus (a Moldovan police officer currently working security detail at the Moldovan Embassy) to enter the Transnistrian embassy and arrest Ambassador Smirnov, which he does with full knowledge and cooperation of the Moldovan Ambassador, Nicolae Chirtoacă. Smirnov is taken to the Moldovan embassy and held. Secretary Rice discovered this and sent two dozen Marines to surround the Moldovan Embassy, thus preventing Smirnov's remove to Moldova to face charges of sedition and treason (for his part in the civil war in Moldova). President Voronin instructs Alexei Tulbure, the Moldovan Ambassador to the United Nations, to bring this case before the UN Security Council, hoping that the UNSC will pressure the United States to remove their troops from around the Moldovan Embassy and to allow them to remove Georghe Smirnov to Chişinău, the capital of Moldova.

Some background information on Trans-Dniester

To help, here is some background information (quoted from the BBC's Country Profiles) on Trans-Dniester/Transnistria/Pridnestrovie:

The separatist region of Trans-Dniester—a narrow strip of land between the Dniester River and the Ukrainian border—proclaimed independence from Moldova in 1990. The international community does not recognise its self-declared statehood, and the territory, which remains in a tense stand-off with Moldova, is often portrayed as a hotbed of crime.

In the post World War II carve-up of the region, Moscow created Moldova's forerunner, the Moldavian Soviet Socialist Republic, from two disparate elements: the mainly Russian-speaking Dniester region, formerly an autonomous part of Ukraine, and the neighbouring region of Bessarabia, which had been part of Romania from 1918-1940.

But in the Soviet Union's dying days, alarm grew in the Dniester region over growing Moldovan nationalism and the possible reunification of Moldova with Romania. A 1989 law which made Moldovan an official language added to the tension, and Trans-Dniester proclaimed its secession in September 1990.

The breakaway territory's paramilitary forces took over Moldovan public institutions in the area in 1991. Fighting intensified, culminating in a battle on the right bank of the Dniester in June 1992. Up to 700 people were killed in the conflict.

A ceasefire was signed in July 1992, and a 10-km demilitarised security zone was established. The settlement was enforced by the Russian 14th Army forces already stationed in Trans-Dniester.

In a September 2006 referendum, unrecognised by Moldova and the international community, the region reasserted its demand for independence and also backed a plan eventually to join Russia.



Flag of Trans-Dniester



Location of Trans-Dniester

Currency New Ruble (PDN)



1 Transnistrian new ruble

1 PDN = 0.12 USD

1 USD = 8.48 PDN

Population	537,000
Capital	Tiraspol
Government	Semi-presidential Republic
President	Igor Smirnov
Ethnic groups	32% Moldovan 31% Russian 29% Ukrainian

Some information on Moldova

After achieving independence from the Soviet Union, Moldova had established relations with other European countries. A course for European Union integration and neutrality define the country's foreign policy guidelines.

In 1995, the country became the first post-Soviet state admitted to the Council of Europe. In addition to its participation in NATO's Partnership for Peace program, Moldova is also a member state of the United Nations, the OSCE, the North Atlantic Cooperation Council, the World Trade Organization, the International Monetary Fund, the World Bank, the Francophonie, and the European Bank for Reconstruction and Development. In 2005, Moldova and EU established an action plan that sought to improve the collaboration between the two neighboring structures.

After the War of Transnistria, Moldova had sought a peaceful resolution to the conflict in the Transnistria region by working with Romania, Ukraine, and Russia, calling for international mediation, and cooperating with the OSCE and UN fact-finding and observer missions.

Moldova is a one-party-dominant state with the Party of Communists of the Republic of Moldova currently in power. Opposition parties are allowed, but are widely considered to have no real chance of gaining power. The Communists hold 56 seats (out of 101) in the parliament.

Here are the questions

First, is Trans-Dniester a state? Is this relevant to the question of whether or not the United States has the right to recognize it as a state? Actually, did the United States recognize Trans-Dniester as a sovereign state in this scenario? Did the United States have the right to recognize the break away republic? What were the real effects, both in US domestic law and in International Law of credentialing Georghe Smirnov, the Transnistrian Ambassador?

Second, is the United States responsible for the kidnapping of the Georghe Smirnov?

Third, did the Moldova violate International Law in arresting Georghe Smirnov?

Fourth, did the United States violate International Law when they surrounded the Moldovan Embassy, restricting its ability to function?

Next, was the UN Security Council the appropriate venue to resolve this situation? Would the ICJ have been a superior place? Would the US Supreme Court be a better place?

Finally, could the actions of the United States be considered acts of war against the Republic of Moldova? If so, would Moldova have the right to invade the US Embassy in Moldova? In fact, would Moldova have the right under International Law to invade the United States?

Make sure you support your answers with concepts and precedents from International Law and with reality.