

Recognising Borders: Coping with Historically Contested Territory

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Published as a chapter in:

Hanne-Margret Birckenbach / Christian Wellmann (eds.)
The Kaliningrad Challenge – Options and Recommendations

Lit Verlag: Münster 2003
Kieler Schriften zur Friedenswissenschaft Bd 10
(Kiel Peace Research Series Vol. 10)

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Recognising Borders: Coping with Historically Contested Territory

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This chapter deals with a widely tabooed issue: The fact that Russian rule over the Kaliningrad region, and Lithuanian rule over the Klaipeda district, for reasons rooted in history, are still not fully and unambiguously accepted by relevant segments of the political elites and societies in the international environment (as concerns the former) and in Russia (as concerns the latter). However, the issue is not that the government of a particular nation state is seeking to revise borders, but it is mainly concerned with the societal level, collective memory and societal consciousness. More than half a century has passed since the establishment of the current borders, yet they have still not become self-evident for the societies of the wider Baltic Sea region and beyond. Public opinion, to a large extent, is still far from taking it as a matter of course that the Kaliningrad region is Russian. In Russia, a similar situation exists with regards to the Klaipeda region in Lithuania. The public discourse on Kaliningrad is strongly flavoured by a sometimes explicit, but mostly only implicit, questioning of the legitimacy of Russian rule over Kaliningrad - or at least uneasiness as concerns this reality. Lithuania and Germany form the most prominent cases in this regard, and will be touched upon more extensively in this chapter. Nevertheless, such ambiguity is to be observed in other countries as well, although the perceptions and myths in which it is embedded vary broadly among different countries and may even contradict each other, depending on the history of relations to the Kaliningrad region in particular, and to Russia in general.¹

Recommendations

Although the issue of insufficient and unclear public acceptance of existing borders is at first a matter of societal sentiments, it has an influence

1) These different histories, and how they influence current national discourses on Kaliningrad, are the subject of Janušauskas analysis, "Four Tales on the King's Hill". In his analysis, he points out, that there is not one but several national "Kaliningrad puzzles", each with its own perspective (2001, 128).

upon the policies that respective governmental actors make for Kaliningrad. Policy makers, like any other members of society, are influenced by national collective memories, political culture and prevailing societal perceptions of reality. They are surrounded by these influences and have to take domestic societal moods into consideration. Consequently, from the side of the Russian government, concerns are articulated as regards Western ambivalence with respect to Russian rule over Kaliningrad. This influences Moscow's Kaliningrad policies, whilst at the same time it is denied that Lithuanian concerns regarding the border with Russia have any legitimacy. Vice versa, Western politicians state that no-one questions the Kaliningrad Oblast to be an integral part of Russia, but many of them articulate concerns regarding Russia's stance towards Lithuania.

Because it is a fact that both exist, foreign ambivalence and ambiguities as well as uneasiness and concerns with respect to them, it is recommended not to circumvent and taboo these facts. Instead, their existence should be acknowledged as a matter of fact, not necessarily to be accepted, but for having the chance to find appropriate ways to make the historically routed perceptions, which question the present rule over territory, part of a constructive dialogue to overcome or transform them.

Admittedly, this basic recommendation is opposed by some academic Kaliningrad experts, as well as by many representatives from the political sphere. The legitimacy of Kaliningrad's borders is considered to be too sensitive and/or too complicated to be resolved. It is argued that addressing it runs the danger of unnecessarily adding another conflict-prone item to the considerable list of unresolved issues as regards the exclave's future. A different strand of opposing reasoning denies the existence of the issue on any scale of practical relevance. As concerns the latter, the evidence provided below should demonstrate that such an assessment, unfortunately, is wishful thinking. The former, however, points to a risk which does indeed exist. The issue of contested borders is highly politically sensitive, as it relates to concepts such as sovereignty, the territoriality of nation states, legitimacy of rule, security and international law, and thus needs to be addressed carefully. Language is of utmost importance. Yet, not to address the issue is also a risky strategy:

- *Firstly*, nobody has the ability to control what might be on the agenda tomorrow. By not integrating different views into a dialogue, more dangerous articulations of these views could arise. Further, nobody will then be prepared to respond adequately. Shying away and trying to hide what is an open secret, does not prepare one for handling an

issue when attempts are made by an interested party to bring the issue to the surface and to politicise it.

- Secondly, the issue might not be on the agenda, but it permanently affects it. From the background, it influences the observed course of events. The often criticised reluctance of the German government to engage more actively in Kaliningrad affairs is, of course, influenced by worries that this would activate an unwanted domestic response from the community of expellees. Further, legitimacy being withheld from Russian sovereignty over the Kaliningrad region seemingly contributes to the inhibited and hesitating manner that Moscow is taking with the overall Kaliningrad issue. Decision-makers in Moscow have already expressed worries about a set of internal and external factors driving a wedge between the exclave and its mainland, ending with the Centre losing control over a part of its territory. One of the external factors is perceived to be the obvious ambiguity in many non-Russian statements on Kaliningrad and in explicitly (although not in all cases intentionally) articulating revisionist thinking among the general public, especially in Poland, Lithuania and – last not least – Germany.

The borders in the region under consideration have been in flux throughout the last century (see *Table*). Fifty years is a short time span as regards substantial and irreversible changes in public consciousness and collective memory. At least in a politico-psychological sense, the borders surrounding Kaliningrad remain contested.

The lack of acceptance of Russian rule over Kaliningrad is fuelled by many considerations, and they are not always clearly delimited: power play (*Do we want to allow Russia to have hold of this outpost?*), longstanding prejudices against Russia and the Russians (*Do we like them and do we trust them to handle their new asset with care?*), competing interpretations of the Potsdam Accord of 1945 and other documents of international law (*Is the Russian hold on the region legal?*), an understanding of history to be binding for the present (*Is it legitimate that Russia holds a historically non-Russian territory?*), the injustices committed against the former population, which was expelled from its home (*Do we want to allow Russia to keep this territory without the injustice being redressed?*), dissatisfaction with the procedures applied (*Do state authorities have the right to decide on the transfer of a territory, without asking the native inhabitants for approval?*). To these and other questions, many people, politicians and scholars among them, have given answers which dispute the Russian stance; others are uncertain as to which answers might be appropriate.

Table:

**The South-Eastern Baltic Sea Region as a Contested Territory:
Some Corner Stones of Recent History**

28.06.1919	<i>Treaty of Versailles</i> : After acquiring two German provinces, Poland gains access to the sea making East Prussia an exclave. Its northern rim, the Memel/Klaipeda District, is placed under an international protectorate, under French administration from Feb. 1920.
1923 – 24	Lithuanian irregulars infiltrate the <i>Memel/Klaipeda District</i> , and gain international support for creating an autonomous Lithuanian region in the District, despite fierce opposition from the German majority.
22.03.1939	In response to a German ultimatum, Lithuania hands the Memel/Klaipeda District <i>back to Germany</i> .
01.09.1939	<i>Germany attacks Poland</i> , using as a pretext the conflict over the conditions of communications between mainland Germany and East Prussia via Polish territory.
03.08.1940	<i>Lithuania</i> is incorporated into the Soviet Union.
02.08.1945	The <i>Potsdam Conference</i> : the southern part of East Prussia is placed under Polish administration, while the northern part, including the capital Königsberg and the Memel District, is handed over to the Soviet Union; the Special Military District Königsberg is established.
07.04.1946	The <i>Königsberg Oblast</i> is founded and becomes a new subject of the Russian Socialist Federal Soviet Republic.
04.06.1946	The Oblast is renamed the <i>Kaliningrad Oblast</i> (commemorating the late Soviet President Mikhail Kalinin).
Aug. 1946	The <i>settlement of newcomers</i> in Kaliningrad starts (a mixture of voluntary and forced migration).
Oct. 1947	The <i>forced re-settlement</i> of the German population starts; up to May 1951, roughly 100,000 persons are expelled.
07.04.1948	The <i>Memel/Klaipeda District</i> becomes a part of the Lithuanian SSR, establishing the border which is now the international border between Lithuania and the Russian Federation.
Spring 1991	The Kaliningrad Oblast, which had been a closed territory to foreigners and restricted access for Soviet citizens, is declared <i>open for all visitors</i> .
Autumn 1991	The dissolution of the Soviet Union and final recognition of the independence of the Baltic states. The <i>exclave status</i> of the Kaliningrad Oblast is transformed from a matter of domestic administration into a matter of international relations.

The highest probability for a transfer of the issue from the more secluded, societal agenda to the official, high political level will occur if separatist tendencies in Kaliningrad gain momentum – either in their "soft" variant (calling for a high degree of autonomy within the Russian Federation) or in their "harder" version (striving for secession from the RF). (Major, 2001: chapter 3). Moscow knows about these tendencies and worries about them. The widening gap in prosperity between Russian Kaliningrad and its new EU-neighbours might support the growth of such tendencies. Without the creation of mental safeguards, such a development will in turn certainly re-vitalise, via certain media and interest groups, the public debate in neighbouring societies on the legitimacy of Russian rule over Kaliningrad, which at present is still undecided for broad sections of these societies. The outcome of such a debate is undecided, and will depend not only upon the course and strength of separatist tendencies in Kaliningrad, but also whether governments will react to such tendencies in a supportive, suppressing or dialogue based mode. It is probable that in such a case, separatist tendencies in Kaliningrad and latent (or even explicitly) revisionist tendencies outside the region, although motivated for different ends, will come together in an attempt to strengthen their cases and to delegitimise the current power structures.

Referring to these perceptions, dynamics and possible developments does not mean that one should accept them. However, the means to overcome or avoid them, which is at the disposition of a democratic and pluralistic society, is dialogue. They have to be addressed in a public discourse which acknowledges the needs and wishes from which these perceptions and potential dynamics derive and which at the same time strives to transform such consequences by offering alternative perspectives for satisfying the respective needs and wishes. Such endeavours will not convince everybody concerned. Nevertheless, it is better than trying to make the subject taboo. Any sustainable solution for the future of Kaliningrad as a Russian territory requires a high degree of consent from within the political elites and the societies of neighbours. A comprehensive and explicit societal dialogue seems to be the means to achieve the degree of consent needed.

Acknowledging that reservations exist would firstly enable one to take reciprocal concerns seriously, instead of blaming each other or dramatising the situation, and thereby establishing a pretext for one's own inflexibility. Secondly, it would open the path for clarifying how to develop a public discourse on historically-based sentiments, which supports problem-solving approaches to the Kaliningrad issue and which prevents

from history being instrumentalised for today's political aims. Such a discourse should be inclusive and invite all parties to join in which consciously or unconsciously express doubts as regards the legitimacy of the present situation - provided they are committed to the principle of dialogue. The result could be to establish Kaliningrad in the minds of the people, as well as in the political realm, as more self-evidently and more unambiguously Russian, and to reassure Russian politicians and society more convincingly that this is accepted by the outside world.

Analogously, some Russian perceptions on the Klaipeda region should be dealt with. The respective ambiguities, and sometimes even revisionist claims, voiced in Russia with respect to the borders of the Baltic States in general, and the border between Lithuania and Kaliningrad in particular, also have to be overcome. Again it is a matter of domestic discourse and cross-border dialogue on underlying historically-based sentiments, which may open a path for improvement.

Initiating and substantiating respective dialogue is a matter for both governments and civil society actors. The former, to some extent, lack domestically the space of manoeuvre for clearly acting in opposition to collective memory and societal consciousness. Thus, it might be the task of the latter, independent members of the intelligentsia, scholars, journalists, essayists and elder statesmen, to go ahead and widen the horizons. However, it also needs governmental responses for a public discourse to gain momentum and have an impact. The fact that the EU, at present, strongly emphasises that Kaliningrad should remain Russian, eases the matter and should be taken as a favour of the moment. Priority should be given to all measures which facilitate domestic discourse on the issue, as well as cross-border dialogue, in a peaceful mood. In order to facilitate the discourse and to frame it by political action, some specific measures are suggested:

1. The EU should take the initiative for drafting a declaration, which in an authoritative format, states that the Kaliningradskaya Oblast is regarded without reservations to be not only a *de facto* but also a *de jure* part of the Russian Federation. Such a declaration should be signed by all member states, as well as the candidate states. For the EU it is easier to take the lead because it is less constricted by nationally shaped collective memories.
2. All parties concerned, especially the Kaliningrad regional administration, should take appropriate action to convince the Russian State Duma to speedily ratify the Russian-Lithuanian Border Treaty.

3. The Lithuanian government could substantially contribute to transparency, confidence building and dialogue by inviting an impartial international organisation to conduct a survey on the movement cultivating the idea of 'Lithuania Minor' and the government's policies as concerns this issue.
4. An analogous approach is suggested with respect to the German government and the Kaliningrad-related activities of the associations of expellees and other groupings engaged in the issue.

The EU: expressing recognition more substantially

Holtom (2001: 3) reports his observation that virtually everyone who comes to Kaliningrad from the West begins their speech by stating that they have no claims on the region and recognise its Russian sovereignty. From my own experience it can be added that this is valid for EU representatives as well. The frequency of such statements might be read as an implicit admission that what is said is not self-evident. Otherwise the respective statements would be completely superfluous. However, it seems to that such statements are obviously regarded as necessary and important, whilst at the same time they lack a binding quality. This binding quality should be achieved as quickly as possible, because uncertainties remain in the background with regard to another major player, the U.S.

The U.S. scholar Krickus (2001: 67) states that the official U.S. government position is that Kaliningrad is only recognised as *de facto* under Russian administration, but Moscow does not enjoy *de jure* control of the territory. Such a standpoint would be in line with the interpretation developed by a certain segment of international law scholars (see below). Nevertheless, this position may be taken with some hesitations, as it seems that no independent confirmation is publicly available. Krickus refers only to oral communications with responsible officers from the State Department and with Strobe Talbot, when he was U.S. deputy secretary of state. (Krickus, 2001: 172)

If Krickus' claim that the US does not recognise Russian ownership of Kaliningrad *de jure* meets reality, then Moscow will also know the position of the U.S., as regards the status of the Russian exclave under international law. This could help to explain why Russian federal authorities feel challenged by the flood of foreign attention that Kaliningrad receives and often respond to it in a quite inhibited manner. Understandably, Moscow has to be afraid of when and how the US might play their

Kaliningrad card.² Further, such a standpoint up-grades considerably the legal arguments by which the German East Prussian community, as well as the Lithuania Minor movement, underline their cases (see below). Once more, this contributes towards the federal centre's handling of the issue in a mode of defence as a matter of threatened state security and sovereignty, and its reluctance to adopt a more flexible and problem-oriented approach towards Kaliningrad. Stable solutions for Kaliningrad's future and respective transnational and international co-operation can hardly develop upon unclear legal fundamentals.

Krickus calls upon the US government to revise its position. Such a move would help to placate fears in Moscow about separatism, and make it easier for Kaliningrad to gain the necessary space for manoeuvre in its relationship with the centre. He also points out that such a move may also facilitate EU-Russian co-operation on Kaliningrad. (Krickus, 2001: 172f.)

Indeed, it would be helpful if the U.S. government clearly stated that it recognises Russian *de jure* sovereignty over Kaliningrad – from 1945 or from today. However, as we cannot be sure that this will occur, the EU should at least clearly explain its own standpoint. Thus, it is recommended to the EU to take the initiative and draft a high level declaration, which in a politically clearly binding format, states that the EU and its member states recognise Russia's sovereignty without any reservations, i.e. also *de jure*. The candidate states, especially Poland and Lithuania, should sign this declaration. It would be a major confidence-building effort towards Russia and its concerns, and would surely support progress in developing the EU-Russia pilot-region project on Kaliningrad. The constantly repeated statements by EU envoys referred to above cannot be accepted as a substitute for an official and more substantial declaration. It would also stronger bind the individual members states.

2) For what purposes such card, if at all, is kept in reserve cannot be guessed at. Surely it can be used for exerting pressure on Russia if it behaves to the discomfort of the U.S. and allows for direct support, if wanted, to given to secessionist movements. Seemingly, the former U.S. security adviser Zbigniew Brzezinski had something like this in mind when being asked in an interview on his view of the future perspectives for the development of the Kaliningrad region. The answer was that the region would become Russia's gateway to Europe, if Russia decided to become a "normal, democratic, post-imperial, European state"; however, "if Russia chooses to isolate itself in nostalgic and futile hostility towards the West, then ... the Kaliningrad Region will become an independent Russian Baltic republic." (Brzezinski, 2001)

Russia: ratifying the Lithuanian-Russian border treaty

The Russian part of the former German province of East Prussia is not the only part of this province which for many people is still contested territory. Another part of the former German province of East Prussia also falls into this category, but it is now Lithuanian territory: the strip of land on the northern bank of the river Nemunas, including the port town Klaipeda. This region, which in Germany is known by the German name of the river ("Memel") as the "Memelland", was disputed between Germany and Lithuania in the pre-war period (see table 1), but today one should be more concerned with the ambivalence and ambiguities that exist in Russia as regards Lithuanian sovereignty over this area. With some constancy, claims on this territory or the threat to raise such claims are voiced in the Russian media and by Russian politicians, among them not only the nationalistic party leader Zhirinovskiy, but also other members of the State Duma, e.g. Viktor Alksnis and Sergei Baburin, and the previous governor of Kaliningrad, Gorbenko.³

The putative basis for questioning Lithuanian sovereignty over the northern banks of the river Nemunas is the fact that the region came under Soviet administration along with the rest of the northern part of East Prussia: as a result of the decision of the Potsdam Conference. It did not distinguish between different parts of the Soviet war booty, which in spring 1946 were incorporated as a whole into the Russian Socialist Federative Soviet Republic and became the Königsberg Oblast. Only in 1947 was the Klaipeda region handed over to the administration of the then Lithuanian Socialist Soviet Republic (see table 1). Against this background, some Russian voices argue that due to Lithuanian secession from the Soviet Union, it has to return the Klaipeda region to the Soviet Union's legal successor (i.e. the Russian Federation), because Lithuania acquired this territory on the condition that it was a constituent element of the Soviet Union.

Of course, such voices are received in Lithuania with protest and discomfort. They surely do not contribute to developing a climate of mutual trust, which is needed to develop co-operation in line with the needs of Kaliningrad as well as Lithuania. The questioning of the status of the Russian-Lithuanian border is not helped by the fact that the Lithuanian-Russian Border Treaty is still not yet in force. The treaty was intensively

3) For various respective quotes see Königsberger Express no. 10/2001: 5; The Baltic Times, 29. July – 4. Aug. 1999: 3; Holtom, 2002: 6, footnote 8; Holtom, 2003.

negotiated and finally signed by the governments in October 1997. However, whilst the Lithuanian Parliament ratified the treaty, the respective decision by the Russian law makers has been postponed several times and is still pending. It becomes more and more overdue.

By ratifying the treaty, the Duma could contribute to reducing mistrust against Russian intentions. Having the Kaliningrad-Lithuanian border mutually recognised under international law is also in the interest of Kaliningraders, as they need "détente" for successfully developing their region. For this reason, and because they are Russian actors, it is recommended that the Kaliningrad regional authorities (administration and Duma) pay more attention to this issue and develop respective lobbying activities. The authorities in Moscow indeed should understand that having such a treaty in force with Lithuania contributes considerably to legitimising Russian ownership of Kaliningrad, and thereby provides a means of countering the claims of some Lithuanian actors (see below) as well as doubts regarding *de jure* control over the territory (see section above) – because without recognised *de jure* control of a territory, one cannot conclude legally binding treaties on its borders. Therefore, by entering into a border treaty on the Lithuanian-Kaliningrad border, Lithuania has indirectly indicated that it regards Russia to be in *de jure* control of the Kaliningrad region.

The proponents of Lithuania Minor

The willingness of Russian law makers to ratify the border treaty with Lithuania could have increased if there were indications on the Lithuanian side to take a clearer and more active stance as concerns another challenge to Kaliningrad's borders: the myth of Lithuania Minor and how it is dealt with by the Lithuanian public today.

Most of the territory of the Kaliningrad region is well-known in Lithuania as the largest part of "Lithuania Minor". Lithuania Minor included the town of Kaliningrad, or Karaliaučius as it is called in Lithuanian. Lithuania Minor plays a strong role in the Lithuanian national narrative. According to it the first books printed in Lithuanian language were from this territory; during Tsarist rule, Lithuanian literature and newspapers were smuggled from Lithuania Minor into Russian Lithuania. The region provided exile to Lithuanian intellectuals and allowed them to organise in the period of national awakening and resistance to Russian rule. The rural population in the area between the rivers Nemunas and

Pregula had a strong component of ethnic Lithuanians. Many place names in this region are Lithuanian in origin, Germanised only under Nazi rule.

The Lithuanian interest in the Kaliningrad region and its fate also has to be understood against this historical backdrop. Although such views are challenged to some degree by several Lithuanian historians (Kiaupa *et al* 2000) it helps to explain why there are movements, in Lithuanian society and Lithuanians in exile, which regard the Kaliningrad region as an ethnic Lithuanian land and claim it for Lithuania - although the entire region has not fallen under any form of Lithuanian statehood since the Middle Ages.

Several smaller organisations exist, some of them abroad, in particular among the Lithuanian community in the US, which support the idea of bringing the Kaliningrad region 'home', most prominent among them are the "Community of the Lietuvininkai" and the "Resistance Movement of Lithuania Minor". However, the most relevant institutional setting for those pressing the claims of Lithuania Minor seems to be the "Council of Affairs of Lithuania Minor", a Vilnius based NGO. It was formed in 1993 after a proposal of the Committee on Public Education, Science and Culture of the Lithuanian Parliament to be a successor to the Commission on Genocide and Cultural Heritage of Lithuania Minor, which had been established in 1989 by the then Supreme Soviet. The Council, like the other organisations mentioned, regards the international status of the Kaliningrad region as undefined. It is perceived as a 'colony' taken as a result of war, with Russia having no rights to it, and therefore requiring the restitution of 'historic justice'. "The Karaliaučius Region should be demilitarized, decolonized and transferred to the protection of the Republic of Lithuania" as the "genuine successor" of the Balts (Lithuanians and old Prussians) in this territory (www.mlrt.lt). More often than voicing their claim on the territory in such explicit terms, the proponents of Lithuania Minor issue statements calling for the "demilitarisation" of the Kaliningrad region. This term may be regarded as a programmatic codeword for the aspirations of those Lithuanians acquiring the territory of Lithuania Minor. Consequently they oppose the Russian-Lithuanian border treaty (Lopata/Sirutavičius, 1999: footnote 7) and thus in substance mirror those Russians who claim the Klaipeda region (the other major part of Minor Lithuania) for Russia (see above). Both question the existing border and desire the re-unification of an area that has only been united in modern history under German rule.

Lithuania Minor organisations draft memoranda, lobby parliamentarians and governments, and organise conferences for promoting their ideas.

For instance, an international conference "The Unsolved Problems Concerning the Region of Karaliaučius" was convened in Vilnius on 19-20 October 2001. It is said that several Lithuanian MPs attended. Earlier in 2001, the Council appealed to several governments to bring the issue of demilitarising the Kaliningrad region onto the agenda of the OSCE. (www.ballad.org) This was preceded by a July 2000 petition presented to the Lithuanian President, signed by 85 representatives of NGOs, left, centre and right-wing parties and parliamentary factions, calling for the President to put the question of the demilitarisation of Kaliningrad to international organisations. It stated that "nobody has solved the question of East Prussia in its substance". (quoted from Janušauskas, 2001: 34)

The claim on the Kaliningrad region by Lithuanians is underlined by reference to international law, in particular the 1945 Potsdam Accord. To commemorate the fiftieth anniversary of this Accord, the Council of Affairs of Minor Lithuania organised a roundtable "Potsdam and the Königsberg Region" in 1995. Several of the participants presented cases based upon dubious reasoning and interpretations. For instance, it was argued that the Potsdam agreements were no longer valid as the Soviet Union had ended to exist, or that the agreements automatically expired after fifty years.⁴ However, the Lithuania Minor case is also supported by more substantial, nevertheless not main-stream legal reasoning, as presented, for instance, by Raymond Smith (1992).

According to Smith's analysis Russia has no legal title to the region because neither the German capitulation, Potsdam, nor later treaties, such as the Two-plus-Four-Agreement on the final regulations concerning Germany, includes a clause on the transfer of sovereignty over Kaliningrad to the Soviet Union or Russia. At the same, time international law forbids annexation. The only legal argument in favour of Russia could be seen in a prescriptive claim. However, for such a claim to become valid, a much longer time span, without any others claims presented, needs to pass by. As concerns Germany, it had lost its title to the region by relinquishing it implicitly through the treaties it signed in the course of German reunification. As concerns Lithuania, Smith argues, the same legal argumentation on which the transfer of the Klaipeda region to Lithuania in the 1920s was based could be exercised for acquiring Minor Lithuania - the Kaliningrad region. The fact, that Lithuania had subsequently recognised the territory as being under German rule, was not binding upon Lithuania after Germany abstained from its claims and did

4) The contributions to the roundtable are documented in Bakaniënė, 1996.

not explicitly transfer sovereignty to any other state, according to Smith. The only entity which had a stronger case than Lithuania was the indigenous population of the region, including descendents (based on the principle of the right for self-determination). However, with respect to the former ethnic German population, Smith argues that it had meanwhile become accustomed with the better living conditions of modern Germany and had expressly indicated a disinterest in returning. Further, he argues that if the ethnic Lithuanians residing in Kaliningrad were asked in a referendum if they would support a merger with Lithuania, they would vote yes. Thus, for reasons of practicability one could directly take that path.

The Lithuania Minor organisations, and their perceptions and ambitions, clearly deviate from official Lithuanian politics. Their strength and influence within Lithuanian politics and society is hard to assess from the outside. The same is true with respect to the influence of the lobby organisations of the Baltic States in the U.S. and their overall influence on U.S. government policies.⁵ However, obviously the exiled proponents of Lithuania Minor tend to be more radical than those at home. The matter gets more complicated when one considers that the influence of the Lithuania Minor lobby cannot be assessed merely by counting the number of organised supporters. It is more about the degree to which overall public opinion is latently sympathetic with their views. According to one opinion poll, which dates back to 1991, almost half of the respondents agreed that certain neighbouring territories, which clearly refers to Kaliningrad, should belong to Lithuania (Lopata/Sirutavičius, 1999: 2).

It would appear that some backing for the Lithuania Minor cause exists also among members of the political establishment. Janušauskas (2001) perceives supporters throughout the full range of the political spectrum, although the centre of gravity is in the right-wing and centre parties. A prominent right winger, the former Speaker of the Parliament Vytautas Landsbergis, for instance, attended the above mentioned 1995 roundtable. As an experienced politician, he ensured that he was not directly identifiable with territorial claims. Instead, he hid behind the prognosis of separatism: "The new residents of the Kaliningrad (Karaliaučus) region sooner or later will want more autonomy because such is the natural and unavoidable path of every colony. The Lithuanian state has to take it into account when forming its policy to demand the demilitarisation of the Kaliningrad region and not to allow anybody to accuse it of having

5) According to Janušauskas (2001: 116), they are considered to exercise their influence during election periods.

territorial claims." (Landsbergis, 1996: 180) Such an approach reminds one of the crucial fact that it is indeed not of such importance how strong the nationalist claim on Kaliningrad in Lithuanian society at present is, but what dynamics it can develop and strength it might gain, if a serious crisis emerged in Kaliningrad.

The difficulty of correctly assessing the impact of the Minor Lithuania movements on Lithuanian politics and society, of course, also opens the door for possible exaggeration, myth-building and incorrect information abroad – particularly in Russia. For instance, the comparatively well-respected Moscow daily newspaper *Nezavisimaya gazeta* (11.12.2001) reported on the above mentioned October 2001 conference of the Lithuania Minor Council by quoting highly provocative topics from the conference agenda, which in content and style differed considerably from those topics presented in the draft agenda of the conference on the council's internet homepage (www.mlrt.lt), at least in its English language section. Furthermore, the newspaper reported that the conference was supported 'technically' by the Lithuanian government's department for national minorities and emigration, a fact not indicated on the homepage. Therefore, while one is unsure which version is closer to the reality of the situation, this example indicates the need for bringing more clarity into the activities and relevance of the Lithuania Minor movements and their possible links with acting Lithuanian politicians and government structures.

Transparency is the most important contribution to confidence-building and would support the official Lithuanian position, which reportedly seeks to distance itself from the territorial claims of the Lithuania Minor organisations. (www.ballad.org) More transparency and non-partisan information on the issue would also provide a basis for dialogue with the proponents of Lithuania Minor on how to satisfy their interests in the region, its history and culture, without contesting existing borders. Indeed, if the Lithuanian authorities want to avoid continued association with revisionist attitudes, which contradict stated Lithuanian politics and thus place it under suspicion, they should seek substantial dialogue instead of restricting themselves to issue, from time to time, statements which verbally distance them from the Lithuania Minor movement and its claims.

Against this backdrop, it is recommended that the Lithuanian government take the initiative and invite a non-partisan international institution to commission a survey on the activities of the Lithuania Minor movements, their aims and motives, as well as their intersections with other organisations and political structures. For reasons of strengthening the

credibility of such a survey and its results, it is regarded crucial that it is commissioned and supervised by a neutral, non-Lithuanian institution, preferably the Council of Baltic Sea States. Additionally, the Lithuanian government should report about its own support for and contacts with Lithuania Minor organisations. Finally, a concept for a public dialogue on the Lithuania Minor issue is also recommended, to be developed from the survey. In fact, it has to bring the Lithuanian discourse on national history, nation-state building and identity formation in Lithuania, into line with the requirements of present day transnational and international relations. Studies, such as the one by Zigmantas Kiaupa *et al* (2000: cf. in particular 281, 301), may provide a starting point.

The proponents of East Prussia

Due to the region's history, it is normally to Germany and the Germans one turns when discussing the question of contesting Kaliningrad's borders. However, the previous sections indicate that the issue is far from being exclusively a "German question". Nevertheless, Germany remains the most prominent case.

In fact, Germany has no territorial claims. In the official German reading, the issue of former German Eastern territories, East Prussia included, was finally settled in the context of German reunification by the Two-plus-Four-Treaty⁶, additionally confirmed by border and neighbourhood treaties with Poland and a neighbourhood treaty with the then USSR. These treaties are taken as realising the final peace accord, to which the 1945 Potsdam agreements between the Soviet Union, Great Britain and the USA refer.

The official stance is nevertheless challenged to a varying degree and regarding different aspects, by various voices among the German public. They concern not only Kaliningrad, but the issue is included. The opposing views, in the main, do not directly question in legal terms Russian ownership of the Kaliningrad region (or other former German territories, which now belong to Poland). Instead, they focus on the right to one's home for the former German inhabitants and their descendents (the German ethnic group – *Volksgruppe*), their unfulfilled demands for self-determination, and for receiving official recognition of the injustices committed against them. Thus, the matter is mainly concerned with moral

6) Treaty on the Final Settlement with respect to Germany, signed in Moscow, 12 September 1990.

rectification and the healing of trauma, sometimes about the legitimacy of Russian (and Polish) rule, but seldom about the legality of territorial ownership. However, because few are trained in the finesses of international law and little attention is given to the careful use of language, public speeches do not clearly distinguish between these different aspects. This makes the German public debate on Kaliningrad especially ambivalent and ambiguous.

The above-mentioned treaties are controversially debated by the German international law community.⁷ Mainstream interpretation seems to be that by entering into these treaties, Germany has neither recognised an *annexation* (which is forbidden by international law) nor an *adjudication* (where the handing over of territory is set by a legal decision) nor has Germany agreed upon a *cession* (contract based transfer of territory). Instead, Germany unilaterally renounced its Eastern territories (*dereliction*). Although the treaties contain no provisions on the details of a transfer of sovereignty, it seems to be broadly agreed upon that the treaties reflect consent towards the current possessors maintaining ownership. However, more controversial among the experts seems to be how the *dereliction* relates to the right of self-determination and to human rights, i.e. whether the latter affects the legal quality of the treaties and the overall consequences for the further development of international law, and if the concluded treaties are regarded as a final regulation on the issue and as such substituting a peace accord.⁸

The respected international law scholars Kimminich and Seiffert, although both closely affiliated with the German expellees' movement, analyse the treaties as being agreements on the recognition of borders, valid under international law. However, as regards the acquisition of territory, they are criticised for being deficient and favouring "*modus vivendi*"⁹, because they exclude all matters connected with the expellees having their 'home' in the respective territories.

Kimminich (1990) argues that if the system of international law is to suffer no harm, then any treaty has to meet the legal standards valid at the

7) For the following see Seiffert (1994) and Kimminich (1990 and 1996).

8) Although not a German law scholar, Whomersley's (1993: 927) conclusion might be useful here: "... the arrangements made in relation to it [the south-east corner of the Baltic Sea], whilst explicable in political terms, are not always easy to explain in strictly legal terms."

9) Seiffert, 1994: 41. "Modus vivendi" in international law qualifies a decision to be of provisional character and postponing the final regulation of the matter to some later date.

time of its conclusion. Expulsion was already banned under international law when it took place after the war. Further, in the decades following the system of human rights, including the right to one's home and the right of self-determination, had been clarified and strengthened considerably by the United Nations system and by various Council of Europe agreements. After it became indisputable that the right to self-determination had developed into a real norm of international law, it is impossible to have any valid transfer of territory without taking this norm into account. International law allows for the acquisition of territory only on the basis of a cession treaty between the states affected, and to have such a quality it has to contain provisions regulating and safeguarding the rights of the territory's inhabitants to private property and on residence. According to Kimminich (1996: 31f.), the history of international law does not contain a single case in which during the course of acquisition, the private rights of its inhabitants ceased to exist. The treaties concluded in the period 1990/91 were therefore not substitutes for a peace treaty.

Seiffert (1994: 30ff.) stresses that although the treaties are valid under international law, and have been ratified by the German parliament, they are not based on an act of self-determination by the respective German ethnic groups (*Volksgruppe*), i.e. the former inhabitants of the region and their descendents. They continue to have a right to their homes and to return to their domicile and their property.

Such legal reasoning, of course, is reflected in the statements of the associations of the expellees and refugees and many other sources. The problem with them is not that they might strive for the rights of people who experienced clear injustice because of the expulsion. Rather, the problem is that the call for self-determination is in itself ambiguous: it does not allow one to distinguish between the motives and aspirations behind the pledge. Is it raised with territorial restitution in mind, a claim for financial compensation of lost property, or is it raised as a means of expressing the need to address historical injustice with an appropriate symbolic action? All three perspectives have their respective constituencies, which nevertheless are often hard to distinguish from each other.

As far as right-wing extremist groupings are concerned, the matter is quite clear: they explicitly aim at a re-Germanisation of the Kaliningrad region. However, if compared to the first half of the 1990s, their presence and activities on-site are largely disappearing. Humanitarian aid and language training had been used as camouflage for appealing to the ethnic Germans who migrated to Kaliningrad from other parts of the Soviet Union in the 1990s. It was hoped that they would play an active role in

re-Germanising 'from the inside'. The most prominent organisations working in this direction were the Kiel-based *Aktion Deutsches Königsberg*, the *Aktion Ostpreußenhilfe* and the *Deutsch-Russisches Gemeinschaftswerk – Förderverein Nord-Ostpreußen*. The latter organisation was initiated by the prominent right-wing activist, Manfred Roeder, who in the 1970s was successfully prosecuted for terrorist action. Nevertheless, in 1995 he was given the opportunity to present his initiative for the resettlement of "Volga-Germans" in Kaliningrad, in a lecture at the General Staff Academy of the *Bundeswehr* in Hamburg.¹⁰ As the Russian authorities have become better acquainted with these activities, they have been able to ban the leading figures from receiving visas. In parallel, the official German policy of supporting the relocation of ethnic Germans from the CIS countries to Kaliningrad came to a halt. As a result of both developments, visible right-wing extremism in Kaliningrad appears to have been on the wane since 1995. A 2001 government report for the German parliament (Deutscher Bundestag, 2001) on German right-wing extremist activities in regions in Europe with a German minority stated that such activities in Kaliningrad have not been observed for several years.¹¹

The issue is more complicated with respect to the associations of German refugees and expellees, most important among them in the present context the Association of East Prussians (*Landsmannschaft Ostpreußen*). Although the expellees' community is located towards the conservative and nationalist end of the political spectrum, many of its individual members cannot be accused of conscious revisionist attitudes. On average, the expellees seem to be more moderate than many of their associations' elected representatives and staff members. In some cases it can be difficult to clearly distinguish their stance from ultra-nationalist extremism. Further, even many moderate expellees continue to identify with their homeland, claim their rights, and identify with many of the aims of their organisational representatives.

10) For more information on these organisations and their leaders see the internet data source "Informationsdienst gegen Rechtsextremismus" (www.idgr.de), especially the dossier at www.idgr.de/lexikon/stich/a/adk/adk-dossier.htm.

11) The accuracy of the conclusions of this report need to be treated sceptically. For instance, the Junge Landesmannschaft Ostpreußen (JLO – see below) advertises on its homepage (www.ostpreussen.org) accommodation in Kaliningrad with a German housekeeper, who will cook and provide translators, and an "East Prussian patriot, former HJ-Führer" (leader in the Nazis' youth organisation), "reporting about Germany's past".

Since the formation of the expellee associations, two foreign policy lines have been in competition with each other: a territory oriented concept and an ethnically (*völkisch*) based concept. The former is revisionist in its traditional sense, as it aims towards the reintegration of the former East German territories into the German state. Based on a philosophy of ethnically defined nationalism, the latter concept focuses strategically on strengthening and re-establishing German culture, ethnicity and identity in former homeland regions. Only since 1989/90, have the proponents of the latter model gained dominance, although the territorial-revisionist approach has not vanished completely. (Salzborn, 2001)

As concerns the intensity of this shift, it was seemingly lower in the *Landsmannschaft Ostpreußen (LO)* than in other associations. The *LO's* statutes, as adopted in 1999, do not only proclaim that the organisation strives for the complete realisation of the right to self-determination and to one's homeland and for a ban on expulsions, but also call for "uniting nationally the German state, East Prussia included." Several left-wing members of parliament publicly accused the organisation of wanting "to bring East Prussia back home into the Reich" and "to annex it". The *LO* went to court against these politicians, but did not win the case. It was ruled that although the MPs used strong words for expressing their opinions, their interpretation of the organisation's documents, the statutes explicitly included, did not go beyond the limits drawn by free speech. (Landgericht Lüneburg, 2001) Of course, the expelled East Prussians point out they attempt to reach their aims only by peaceful means. In such a context they refer to the CSCE Final Act, which in its ten principles stipulates: The participating states "consider that frontiers can only be changed, in accordance with international law, by peaceful means and by agreement." (CSCE, 1975)

The *LO* regards East Prussia to be only formally under foreign sovereignty. (Gottberg, 2000: 18) German place and street names are used when referring to the territory, and the Kaliningrad region's border to Poland is referred to as the "Polish-Russian line of demarcation" or even as the "inner East Prussian line of demarcation". (several news items at www.ostpreussenblatt.de) Seemingly, the *LO* expects a change in the status of Kaliningrad to occur sooner or later. In his address to the 2000 national meeting of the East Prussians, the speaker of the *LO*, Wilhelm von Gottberg, pointed out that it will be impossible to preserve the present status of the "Königsberg region" permanently. He gave expression to his hope that someone will take a chance to change its status and that the opportunity will not be lost, as was the case when Gorbachev offered

to sell Kaliningrad to Germany and the German government rejected the offer.¹² (Gottberg, 2000: 20) In a quite vague manner, yet with constancy, representatives of the expellees' community have called for a "European solution" for Kaliningrad or its "Europeanisation" – a terminology seemingly used to keep their position in a grey zone regarding the desired status for the region. For instance, the speaker of the youth organisation of the *LO*, in her address to the 2002 *Deutschlandtreffen*, gave expression to her conviction that "in some years" a future gathering of the East Prussians can be held together with Russians, Poles and Lithuanians in an "European Königsberg". (www.ostpreussen-info.de/bjo/dt02wortderjugend.html)

The relevance of the expellees' organisations is often downplayed. They are put aside as being politically powerless and only representing some elderly folk, constantly shrinking in number "as nature takes its course". (Krickus, 2001: 82; see also Major, 2001: 112) However, such an assessment misses the point in terms of substance as well as quantity.

As concerns quantity one has to take into account that the *LO* is, of course, backed by other associations of expellees. Altogether, they claim to represent roughly two million members. Yet, the East Prussians alone form a strong community: its 2002 national meeting (*Deutschlandtag*) was attended by tens of thousands of people, officially 80,000. (www.ostpreussenblatt.de) Participation is not restricted to elderly people born in East Prussia. As a cultural community with a missionary character, traditions are 'passed down' to their descendents, and many of these join the associations as well. For example, at present, three East Prussian youth organisations are active.

The *Junge Landsmannschaft Ostpreußen (JLO)* was established in 1991 as the official youth section of the organised East Prussians. (www.ostpreussen.org) As concerns its leadership and policy statements, it soon developed towards a right-wing extremist orientation and in the late 1990s became the subject of observations by the German internal secret service. Nevertheless, it was only in 2000, and after considerable political pressure, that the *LO* was willing to separate from the *JLO*. The latter continues to exist as an independent organisation, although some of its members formed a new organisation *Bund Junges Ostpreußen (BJO)*,

12) Apart from this supposed offer by Gorbachev, another dubious offer has been reported: It is said that in spring 1992, Yeltsin sent a delegation to Germany which offered Kaliningrad to Germany for twice the sum which the German government had contributed to the Anglo-American war against Iraq; Chancellor Kohl is reported to have answered "not now". (Obst, 1997: 199)

which in 2001 became the official youth organisation of the *LO*. (www.ostpreussen-info.de/bjo/) Finally, the *Gemeinschaft Junges Ostpreußen (GJO)* was established in 1982, as a result of a merger of some smaller organisations, which had established an umbrella organisation *Deutsche Jugend des Ostens (DJO)* in 1951. The GJO is also a member of this umbrella organisation. (www.djo.de/gjo/index.html) Further, informal youth networks exist, such as the *Diskussionsforum Ostpreußen*. (www.ostpreussen-forum.de)

To sum up: the organised East Prussian community might shrink to some degree, but it remains strong in number and there are no indications that it is dying out.

To ignore the expellees is not only inappropriate because of their considerable number. With the end of the cold war, their importance and influence surely diminished, nevertheless, the organisations and their case continue to have considerable backing in German politics and society, media included. Traditionally, this backing has come more from conservative sources. In the beginning of the 1970s, during Willy Brandt's *Ostpolitik*, the representatives of the expellees' organisations left the social-democratic party. However, it is also a policy of social-democrats in government to try to accommodate the views of the expellees to prevent them from drifting further to the right. The conservatives co-operate with them as a part of their constituency. As concerns the *LO*, it has to be mentioned, that it has the German federal state of Bavaria as its godparent. The Bavarian Prime Minister Edmund Stoiber, who ran for election as the German chancellor in autumn 2002, has delivered speeches or at least messages of greeting at all major public events organised by the *LO* in recent years. If he had been elected chancellor, he promised to upgrade financial support for expellee associations.

Finally, the case of the expellees needs to be taken into account not necessarily in terms of territorial claims or material compensation or even restitution, but in terms of moral compensation and reconciliation. By all standards of human rights such demonstrations are still pending, despite the expellees' widespread tendency to ignore the historical context out of which injustice has been executed to them and despite the obvious ambiguities in their demands and statements. Dialogue is needed with the expellees and their representatives, because although parts of this movement are clearly revisionist, others are striving for cultural re-Germanisation, and often the rhetoric is provocative, whilst their understanding of the situation is biased and one-sided.

Indeed, the impression is that the German political class, troubled enough with the internal consequences of reunification, has failed to pay sufficient attention in post-cold-war Germany to the views and fate of the expellees. Little consideration was given to the issue of how to integrate them in socio-psychological terms and how to heal their traumas in line with international law as well as the political reality of a unified Germany. In particular, the expellees, although not alone in this matter, were confronted with a unified Germany that was significantly smaller in size than the vision of Germany they had spent forty years hoping for, with nobody officially declaring such a vision as unrealistic. They remain a relevant group in German society, and continue to receive considerable financial support from public sources. However, their case has more or less been ignored in the public discourse. This state of affairs bears the potential for a self-fulfilling mechanism: the expellees are left aside, because they are regarded as potential troublemakers, but the price of this situation is that they could become real troublemakers if the situation in Kaliningrad worsens. This complex situation is less transparent when viewed from abroad. Unnecessarily strong suspicions against the expellees and their claim for self-determination and the right to their homeland, can be met side by side with an underestimation of the political influence that they hold.

Against this background, it is recommended to the German government, as concerns the East Prussian expellees, to proceed analogously to the proposals put before the Lithuanian government with respect to the case of Minor Lithuania organisations. The government should initiate a comprehensive survey of the East Prussian expellees, to be carried out by a non-partisan commission under the supervision of an international organisation. Because the purpose of such an undertaking is not only to bring more neutrality and transparency into the issue of the East Prussians and their stance on the international level, but also to lay the ground for a substantial discourse with them, the survey should include an in-depth study, which compiling the demands and visions of the former East Prussians and their descendants on their concerns and rights to their homeland. How do they think (and not only their professional representatives), their case can finally be settled and what would such a solution look like, in line with present day European realities and the binding norms of international law? It might turn out that the perception of the vast majority differs completely from the demands raised by their organisational representatives. This would help to ease German ambiguities towards the Kaliningrad issue and would allow the German government to gain con-

siderable space for manoeuvre for a problem-solving engagement with respect to Kaliningrad. If the study results in a picture that is more ambiguous, then problem-solving is particularly faced by the need to identify how to best enter into a discourse with the relevant forces the expellees and their supporters constitute in German society.

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