

**ABKHAZIA, TRANSNISTRIA AND NORTH CYPRUS:  
RECOGNITION AND NON-RECOGNITION IN CEASEFIRE AND TRADE AGREEMENTS<sup>1</sup>**

**Bruno Coppieters**

Vrije Universiteit Brussel

ORCID: 0000-0003-3043-139X

**Abstract:** *Contested states and states countering secession may have to recognize each other when negotiating ceasefire and trade agreements, including trade regulations. Although these kinds of formalized relations do not imply the recognition of statehood, they strengthen or weaken status claims and the identities of the parties involved. Hence, such processes of mutual recognition do not suspend political contestation. As well as recognition policies, conflicting parties also have non-recognition policies in which they defend a position on the kind of status and identity they do not want to be associated with or that they do not want to be attributed to the other party. This article compares the policies of recognition and non-recognition of status and identity in negotiations for ceasefire and trade agreements involving the contested states of Abkhazia, Transnistria and North Cyprus.*

**Keywords:** *recognition, contested states, Abkhazia, Transnistria, North Cyprus, ceasefire agreements, trade agreements*

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<sup>1</sup> I wish to thank Pasha L. Hsieh, Daria Isachenko, Vjosa Musliu, Gëzim Visoka, Linda Hamid and Catherine Woollard for their comments on this article and to Susan Sellars and Christy Monet for copyediting.

## 1. Introduction

Secessionist conflicts over territories under the control of contested states involve antagonistic positions regarding the recognition and non-recognition of status and identity. Each of the parties defends a specific position regarding the status and identity they desire for themselves or that they are willing to attribute to the other. Such activities are referred to in the present analysis as “policies of recognition.” In addition, conflicting parties also have specific political positions on the status and identity they do not want to be associated with or that they do not want to be attributed to the other, which are referred to in this article as “policies of non-recognition.”

Conflicting parties may have to acknowledge, or even be forced to accept, a particular status or identity for themselves, or for the other party, that is not to their liking, due to the fact that such a status or identity contradicts their policies of recognition or non-recognition. These kinds of acknowledgements should also be considered as forms of recognition, and the parties may then try to redress such a situation in the long term through new policies of recognition and non-recognition.

It is also possible that the objectives of the policies of recognition and non-recognition of a conflicting party do not coincide, which creates tension between the policies. For instance, the conflicting party may wish to reach an agreement with the other party, as this would allow them to have their rights recognized and also impose some duties on the other party, but such an agreement may require them to accept that the other party has a certain status in the negotiations, or in the agreement itself, that is not in line with their policy of non-recognition. Such a compromise implies that the first objective prevails over the second, or, in other words, that the policy of recognition takes precedence over the policy of non-recognition.

The present article aims to explore the policies of recognition and non-recognition of status and identity in secessionist conflicts involving contested states, where status and identity do not exclusively refer to statehood. In certain situations, contested states may be recognized as non-state actors by the government confronting breakaway, particularly in relation to negotiations on ceasefire and trade agreements, including trade regulations. Such agreements can give non-recognized entities a political and legal status in respect to their armed forces or as a trade entity, and thus a certain form of equality with the other signatories. The party that is recognized in this way may consider this to be an achievement, as this legal status grants them rights and obligations, even if it does not correspond to the status of sovereign equal that they are seeking. This article examines the reasons why conflicting parties and external actors accept or even favor such inclusive and asymmetric arrangements regarding rights and obligations. The question to what extent agreements on the separation of armed forces or the exchange of goods produced in disputed territories may be considered legally binding is also raised. The article defends the thesis that the recognition implied in such formalized relations with contested states does not suspend political and legal contestation.

The way that Abkhazia, Transnistria and North Cyprus were—or were not—involved in ceasefire and trade agreements will be compared. Although these three cases demonstrate a significant variety of characteristics, the selection is small. For that reason, a comparison of the positions of the conflicting parties in different settings and the type of agreements they reached regarding status resists generalization. The conclusions of the article reflect on this selection and, more particularly, the consequences that a different selection may have on the comparison.

For each of the cases, the negotiations on the agreements, as well as the agreements themselves, are analyzed. This includes the way that implementation is conceived under the agreement, although not implementation as such. Such a focus allows a comparison of the recognition and non-recognition policies of the conflicting parties regarding status and identity.

The present analysis does not give equal attention to the ceasefire and trade agreements in each of the three cases. For instance, in the Abkhazia case, more attention is given to the recognition and non-recognition policies in the ceasefire agreements than in the trade agreements. In the case of Transnistria, the opposite is true. And the policies of recognition and non-recognition of Moldova and Transnistria regarding trade are more complex than in the case of Cyprus, even though North Cyprus managed to achieve a higher status as a trade partner of Cyprus. The descriptive analysis of the various ceasefire and trade agreements, therefore, varies in length.

This article is divided into six sections. Following the introduction, the concepts of policies of recognition and policies of non-recognition are outlined in section two. These concepts are developed as descriptive tools. Their use in the analysis of the normative positions of the conflicting parties, as well as the difference between these concepts and the normative concept of misrecognition and the normative principle of non-recognition, are explored.

In the third section, the concept of a contested state is defined, highlighting the intersubjective dimension of state relations and disputes. A comparison is made with the concept of a *de facto* state. It will be demonstrated that the distinction between these two concepts in political science finds a parallel in international law in the distinction between a declaratory and a constitutive approach to statehood. This section includes a further explanation of how contested states may achieve some form of legal recognition on a non-state level.

The fourth section addresses the status question in terms of policies of recognition and non-recognition in the cases of ceasefires in Abkhazia (1994 and 2008), Transnistria (1992) and Cyprus (1974). This allows for a better understanding of these policies, as well as a better understanding of how status and identity interrelate in each of these cases. The cases are not analyzed in chronological order, but rather in respect to the status that the contested states managed to achieve. The same approach to the ordering of cases is applied in section five, which offers an analysis of the agreements regarding trade—or the lack thereof—in the conflicts over North Cyprus, Transnistria and Abkhazia.

The sixth and final section of this article compares the contested nature of the recognition and non-recognition achieved in these types of mutual agreements and offers a conclusion. It compares how each of the contested states has been included in ceasefire or trade agreements, and which status they achieved or avoided. This section also compares the extent to which such differences reflect particular power differentials among the conflicting parties and forms of subordination between them. Finally, it explores the potential for research on a broader comparison between conflicts on secession involving contested states.

## 2. Policies of Recognition and Non-Recognition

A descriptive use of the concepts of recognition and non-recognition, as intended in this article, allows for a better understanding of the mutual interrelationship between status and identity. Regarding policies of recognition, contested states attempt to construct state identity as a source of self-respect and dignity<sup>2</sup> through the affirmation of equal status with the central government, and central governments through the affirmation of their authority over contested states. Both contested states and central governments attempt to destroy the source of state identity of the other party through a policy of non-recognition. Contested states deny the authority of the central government over them and claim equal status as the central government. Such equal status is denied by the central government. Status and identity are defined here, first in terms of self-perception, then in terms of the perception by the other conflicting party, and, eventually, in terms of how both conflicting parties want themselves and the other party to be perceived by external actors. Status and identity are equally crucial to conflicting parties, but the involvement of contested states in the negotiation and signing of ceasefire or trade agreements is primarily about status.

Policies of recognition and non-recognition express the normative positions of parties directly involved in a conflict of secession. These policies are aimed at the correction of a state of affairs that is perceived as a severe injustice. Mutual accusations generally include the denial of national self-determination, aggression, breaches of territorial integrity, ethnic cleansing and foreign occupation. The authorities of contested states identify their past status with oppression and consider this irreconcilable with their state identity. For the authorities of a central government confronting breakaway, policies of recognition and non-recognition are primarily aimed at the restoration of the *status quo ante*, which means territorial integrity and the subordinated status of the breakaway territory.

The descriptive use of the concept of a policy of recognition—or non-recognition—differs from its use in normative political theory. In the latter, the concept of recognition refers to a process of emancipation through the realization of the self. Recognition is then considered to be positive. In this article, recognition has a broader meaning. The parties involved in a conflict over secession may associate their policies of recognition with such

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<sup>2</sup> On state identity see Fearon 1999: 33–35.

a positive meaning, but this is not necessarily the case. They may very well resist policies of recognition from other parties for normative reasons.<sup>3</sup>

A further distinction must be made between a policy of non-recognition and the concept of misrecognition. Normative political theory builds up a contrast between, on the one hand, recognition that is associated with due respect for identity and rights, and, on the other hand, misrecognition (*Verkennung* in German), whose defining characteristics are the lack of due respect through subordination or other relations that threaten or distort the identity of a subject. Misrecognition is here defined as a form of injustice (Bedorf 2010: 137–149; Daase et al. 2015: 7–9; Hsieh 2019b). From the point of view of a contested state or a government confronting secession, a policy of non-recognition is not unjust or a misrecognition, but, to the contrary, the refusal to recognize what is unjust. This, then, is perceived as a form of resistance against injustice.

Similarly, the descriptive concept of a policy of non-recognition, as used in this article, differs from the normative principle of non-recognition found in international law. The latter is about the duty not to recognize situations where *ius cogens* norms have been violated (Brownlie 1963: 410–423). This principle is applied, for instance, in certain cases of foreign occupation and annexation. Such a principle turns a policy of resistance against severe breaches of international law—the creation of a new state through illegal occupation, for example—into an obligation of non-recognition. It is then no longer within the discretionary power of the state to recognize such a state. Resistance becomes a duty (Berkes 2017: 12; Talmon 2005: 125; Lauterpacht 2013: 431; Coppieters 2018b: 352). In contrast, the descriptive concept of a policy of non-recognition, as used in this article, refers to the policies of the conflicting parties regarding the status and identity they do not want to be associated with or that they do not want to be attributed to the other. Such a policy is always fueled by normative considerations, but its analysis is not necessarily normative.

Regarding the literature on international relations, this article's descriptive analysis of the mutual tensions between the specific objectives of policies of recognition and policies of non-recognition builds on studies of counter-secession policies (Ker-Lindsay 2012).<sup>4</sup> The concepts of a counter-secession policy and a non-recognition policy can both be used in a descriptive analysis, but the latter is more abstract and allows for a different kind of analytical precision than the former. The concept of counter-secession is more broadly conceived. It is not only about non-recognition, but also about recognition—efforts to re-establish state authority over a lost territory, for instance.

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<sup>3</sup> This particular approach to recognition and non-recognition of status and identity is in line with Hegel's view on the master/slave relationship. Each of the conflicting parties affirms its status and identity through the negation, even attempts at the annihilation, of the status and identity of the other (Duquette 2001; McQueen 2011; Siep 2014; Ikäheimo 2014). Each of the parties strives for recognition of the self through the non-recognition of the other. Hegel's metaphor indicates that the relationship may imply dominance and subservience, up to the point of recognizing such relationship as constitutive of one's own identity.

<sup>4</sup> International relations theory has widely used the concept of recognition in analyzing international conflicts such as those between revisionist and status quo states or those following from the search for great-power status and prestige (Haacke 2005: 191–192; Strömbom 2014; Daase et al. 2015; Hayden & Schick 2016).

The literature on the European Union's (EU's) policy of "non-recognition and engagement" also must be taken into account (De Waal 2018; Caspersen 2018; Coppieters 2017; Coppieters 2019). The present analysis differs from such descriptive analysis of the role of an external actor by focusing on the relationship between the two conflicting parties, and by considering engagement as a form of recognition.

The need to overcome the exclusive focus on the recognition of statehood by including other objects of recognition is in line with more recent international relations literature on contested states, such as the examination of the efforts of Taiwan to establish economic relations with other countries (Hsieh 2019a) or of the EU to "normalize" the relations between Serbia and Kosovo, on the basis that these relations are neutral regarding the question of statehood (Visoka & Doyle 2015).

In confrontation with breakaway states, central governments do not have a common view regarding non-recognition policies. This corresponds to the general observation that states do not have any formalized normative doctrine on the recognition or non-recognition of other states (Coppieters 2018a; Coppieters 2019). Confronted with a secessionist crisis, they will generally invoke principles such as territorial integrity or national self-determination, but such references do not make their recognition and non-recognition policies fully explicit. Such formalization would impose unnecessary constraints on freedom of action. For instance, formal policy guidelines or normative frameworks risk being counterproductive in the search for compromises through the use of diplomatic instruments or, alternatively, in the search for the best way to confront the adversary.

Similarly, contested states generally do not defend a clear formal position regarding recognition and non-recognition. When participating in negotiations, contested states are themselves often in doubt as to which status they should pursue or the kind of status they want to achieve in an agreement. They often change their recognition and non-recognition policies over the course of the conflict in which they are involved. Moreover, the contested states examined in this article have substantially different policies and normative claims in this respect. While North Cyprus considers itself independent, it would also be satisfied with political equality within a federation. Transnistria defends a quite complex position: it strives for independence and for unity with Russia, but also accepts participating in negotiations that are led by the Organization for Security and Cooperation in Europe (OSCE) and based on the principle that it can only obtain special status within Moldova, which is a concession that Abkhazia never accepted.

Status and identity are themselves powerful motivators in conflicts over secession, but other interests also must be considered in an analysis of policies of recognition and non-recognition. Negotiations of a ceasefire and a trade agreement involve discussions among the conflicting parties on whether particular security or economic interests are to be held in common. Regarding trade relations, the literature on power differentials (Chen 2011) and the distinction between absolute and relative gains, or between symmetric and asymmetric forms of interdependency (Barbieri 2005), allows for a better understanding of the tension between recognition and non-recognition policies.

### 3. Contested States

Abkhazia, North Cyprus and Transnistria are contested states. This descriptive concept underlines the disputed nature of their claim for statehood (Geldenhuys 2009; Papadimitriou & Petrov 2012). A contested state is not recognized by the state from which it is breaking away and is also disputed by a significant part of the international community. This focus on the intersubjective dimension of state disputes makes it more appropriate for research on international relations—for instance, research on counter-secession policies (Ker-Lindsay 2012)—than the political science concept of a “*de facto* state,” which is more widely used in the literature.<sup>5</sup> In its judgement about the objective existence of statehood, the latter concept focuses on the intrinsic criteria of statehood. This includes effective control over a territory and its population and the capacity of a polity to establish relations with other states. The concept of *de facto* statehood does not focus on the intersubjective dimension of recognition and non-recognition on the international level. It corresponds to the declaratory view of statehood in international law, which considers the reality of a state as being based on the presence of a number of intrinsic characteristics (such as its capacity to establish foreign relations) and independent from its recognition by other states (the establishment of effective diplomatic relations). The concept of a contested state, in contrast, is in line with the constitutive view, as it considers the lack of recognition *of* a state as constitutive of the contestation of its existence *as* a state. This constitutive view does not neglect the criteria for statehood that refer to the indigenous capacity to exercise state power—such as the possibility to establish diplomatic relations—but sees their practical fulfilment as contested. It thus remains attentive to the question of contestation of these criteria and of statehood through non-recognition.

A lack of diplomatic recognition implies uncertainty, according to the constitutive standards for statehood that involve international status for entities controlling a particular territory and its population. Such doubt or even contestation about the objective existence of a state is raised within the scholarly community, as well. In contrast to the declaratory view of statehood in international law or the concept of a *de facto* state in political science, where it is assumed that scholars may objectively deduce the existence of statehood from the observation of a number of key characteristics of statehood, the constitutive view of statehood in international law and the concept of a

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<sup>5</sup> According to Scott Pegg “A *de facto* state exists where there is an organized political leadership which has risen to power through some degree of indigenous capability; receives popular support; and has achieved sufficient capacity to provide governmental services to a given population in a specific territorial area, over which effective control is maintained for a significant period of time. The *de facto* state views itself as capable of entering into relations with other states and it seeks full constitutional independence and widespread international recognition as a sovereign state. It is, however, unable to achieve any degree of substantive recognition and therefore remains illegitimate in the eyes of the international society” (Pegg 1998: 26).

contested state imply scholarly contestation of the statehood of an entity in parallel with its contestation by the international community of states.<sup>6</sup>

In a secessionist conflict, contestation is mutual. Neither of the parties in a conflict involving a contested state recognize the claims of the other party regarding its own statehood. The state authority of both conflicting parties is, therefore, contested, but to a different degree. There is a considerable difference in the nature of the contestation taking place at each pole of the dyadic relation. The central government of the state from which a part of the territory has separated does not recognize the breakaway entity as a state. It does not consider that the territorial boundaries with this entity constitute international boundaries. From their side, the authorities of the seceded entity contest the constitutional right of the state from which they have broken away (or attempted to break away) to exercise control over their territory. But they do not contest its statehood as such.<sup>7</sup> The term contested state takes this qualitative difference in the type of non-recognition into account and refers exclusively to the breakaway entity.

The present article focuses on the dyadic relations between the conflicting parties, without neglecting the importance of the recognition and non-recognition policies of external parties such as patron states and large powers. The conflicting parties take external actors as relevant judges of their respective claims. External actors have their own interests to defend regarding the international status of a breakaway territory, and their own international status and identity may—in the case of patron states, for instance—even become central to the disputes, turning a secessionist into a geopolitical conflict. A contested state may strengthen its position—and its status and identity—by securing partial recognition for itself. However, an increase in the number of recognitions does not necessarily end the contestation. United Nations (UN) membership generally suspends it, but this is not always the case.<sup>8</sup> From the perspective of conflict resolution, the contestation over independent statehood only comes to an end through recognition by the state from which the contested state has broken away.

The concepts of recognition and non-recognition allow consideration of mutual agreements involving a contested state that are not necessarily related to statehood, such as ceasefire and trade agreements. Similarly, participation in negotiations over such agreements is not necessarily based on statehood, and this is even the case if the negotiations are dealing with the question of common statehood or reintegration. In all such cases, representatives of contested states are not considered by the other conflicting

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<sup>6</sup> Deon Geldenhuys limits the definition of a contested state to this first characteristic (Geldenhuys 2009: 7). According to Ker-Lindsay, the concept of contested state “neatly captures the full political and legal problems faced by these territories.” From the perspective of the declarative position regarding statehood, the contestation only refers to the lack of agreement or even willingness among states in the international community to offer recognition to the state in question, but, from the perspective of the constitutive position regarding statehood, the contestation goes further than that: “the point of contestation is whether or not they are actually states” (Ker-Lindsay 2012: 20).

<sup>7</sup> Turkey refuses, however, to recognize Cyprus, as it considers that the breakup of the Republic of Cyprus in 1964 invalidates the claim of the Greek Cypriot government to represent the Cypriot state, which was recognized internationally four years earlier, in 1960 (see Leigh 1990).

<sup>8</sup> The UN membership of the two Germanys and the two Koreas can be mentioned in this context.

party as having the legal capacity to underwrite international treaties. However, it is generally accepted in international law that ceasefire agreements can be signed by non-state armed groups and a signatory to a trade agreement does not necessarily have to be a state. Representatives of contested states can, in such a case, be recognized. In turn, these representatives do not consider their counterpart as having state authority over the territory they are themselves in control of. The latter policy of non-recognition finds expression in ceasefire agreement articles dealing with the separation of forces. The acknowledgement of the validity of such an agreement that sets out the rights and obligations of the signatories thus implies a kind of mutual yet asymmetrical recognition. Recognition, then, still refers to a particular status with specific legal and political consequences.

The ceasefires analyzed in this article are referring to a moment in time where the breakaway entities did not necessarily proclaim their sovereign and independent status. Nonetheless, the present article takes into account that the armed conflicts have profoundly affected—and accelerated—the state building process of these entities. The concept of a contested state is, therefore, appropriate to describe them in a still early stage of state building.

The legal literature on ceasefire agreements is highly relevant for an analysis of responsibilities and obligations. The Abkhazian and Transnistrian armed forces can, for instance, be described as non-state armed groups. This means that their leaders are not recognized as representing state authorities. In contrast, the present article describes such military leaders as representing contested states, from the perspective of political science. Each of these two concepts—non-state armed group and contested state—is addressing problems that are proper to its discipline. The legal concept of a non-state armed group is useful to demonstrate, in the context of ceasefire agreements, that it is possible to attribute a specific legal status implying rights and duties to armed forces that are not under the control of a recognized state. By contrast, the political science concept of a contested state is useful for analyzing the ways in which statehood is not only disputed on the battlefield, but also in processes of recognition and non-recognition of status.

## 4. Ceasefire Agreements

### A. Georgia and Abkhazia

The traditional practice of mediation in armed conflicts prescribes the inclusion of all armed groups in ceasefires as a necessary condition for their successful implementation. Governments involved in a military conflict with a contested state are unwilling, however, to increase the legitimacy of their adversary through any formal status in negotiations or agreements. However, they may be forced to recognize such status in order to end a military conflict when they are on the losing side.

After its military defeat in the 1992–1993 war and retreat from Abkhazia, Georgia had to enter into negotiations with the Abkhaz *de facto* authorities (Cohen 1999; Francis 2011). Mutual agreements involving Russia and the UN were expected to pave the way

to an international political solution, including the return of the Georgian population that had fled the territory. Abkhazia wanted to negotiate these agreements on equal terms. Georgia tried to avoid such equality by presenting the conflict as an intra-state conflict in Abkhazia itself. At the first round of UN-led talks in Geneva at the end of 1993, it argued for a leading role in the negotiations for the so-called Abkhaz “government in exile”<sup>9</sup>—a government composed of former Georgian officials from Abkhazia representing the population that had been obliged to flee the territory (Francis 2011: 129). Georgia claimed that this government was *de jure* the only legitimate authority. This non-recognition policy aimed at delegitimizing the representative status of the *de facto* Abkhaz authorities, whose status had been enhanced by their military victory. However, the attempt to have either direct negotiations among the representatives of the two communities in Abkhazia or, alternatively, to have a separate representation at the negotiations for the government in exile failed. The negotiations were eventually held between the Abkhaz representatives, on the one hand, and the Georgian representatives—including those of the government in exile—on the other.

These negotiations led to the signature of a “Memorandum of Understanding” on December 1, 1993, which detailed measures to be taken to favor a comprehensive peace settlement. It was signed on equal terms by the parties, as was a common “Declaration on Measures for a Political Settlement of the Georgian-Abkhaz Conflict” and a “Quadripartite Agreement on Voluntary Return of Refugees and Displaced Persons,” which were both signed on April 4, 1994. Russia and international organizations such as the UN, the UN High Commissioner for Refugees (UNHCR) and the Conference for Security and Cooperation in Europe (CSCE) confirmed their presence under these two documents. The “Agreement on a Ceasefire and Separation of Forces” was signed in Moscow on May 14, 1994.<sup>10</sup> It included a clause on the non-use of force and a list of guiding principles for the separation of armed forces. It was signed, just as the previous ones, on equal terms by the representatives of Abkhazia and Georgia, without any reference to their official position.

The ceasefire—as with the other agreements signed among the sides—internationalized the conflict. Russia, which had taken a mediatory role in the conflict, did not sign this particular document. The agreement included an appeal to the Heads of States of the Commonwealth of Independent States (CIS) for the creation of a collective peacekeeping force (PKF) and to the UN Security Council to support a monitoring role for UN military observers (United Nations Observer Mission in Georgia, UNOMIG). The presence of the CIS PKF would have to favor the return of refugees and internally displaced people (IDP) to Abkhazia.<sup>11</sup>

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<sup>9</sup> A government in exile normally resides in a foreign country, which is not the case for this government, at least not from a Georgian point of view. But this name has been widely used over the years, including by Georgian media.

<sup>10</sup> The documents signed in the period 1992–1994 by Georgian and Abkhaz representatives include agreements, common communiqués, declarations and proposals. Among them, no less than three ceasefire agreements were signed—and successively broken—before the end of the 1992–1993 armed conflict. The main documents can be found in Cohen (1999).

<sup>11</sup> The PKF was nominally CIS, but in practice Russian.

Georgia's signature under the ceasefire agreement implied a recognition of Abkhazia's *de facto* authorities as being in military control of the disputed territory. Contrary to the first ceasefire agreement signed in the first weeks of the war on September 3, 1992, here there was no reference to the objective of the restoration of Georgia's territorial integrity (Francis 2011: 127). The ceasefire did not indicate any obligation for the Abkhaz side to disarm, requiring only that "all volunteer formations made up of persons from beyond the frontier of Abkhazia shall be disbanded and withdrawn" (Cohen 1999: 69). All prescriptions regarding the deployment of weapons were valid for both sides. The clause on the non-use of force implied that Georgia would have to rely exclusively on negotiations to re-establish its territorial integrity.

How should we analyze this asymmetric arrangement from the perspective of a mutual recognition and non-recognition and as compared with prescriptions found in the legal literature dealing with this topic (Bell 2006; Public International Law & Policy Group 2013)? The Abkhaz authorities had obstinately refused to let the Abkhaz government-in-exile have any separate representation at the negotiating table (Francis 2011: 129). This means that the non-recognition policies of the Georgian government failed to have the government-in-exile recognized as a party to the conflict within Abkhazia. It further failed to deny the Abkhaz authorities equal status in the negotiations. On the other hand, the Abkhaz authorities were successful in their recognition policies (regarding their own representativeness and equal status to the Georgians) and non-recognition policies (regarding their refusal to have the Abkhaz government-in-exile recognized as a separate party to the negotiations).

The risk that the signature of the Abkhaz authorities under a ceasefire would be challenged later by the Georgian government or other parties and that the agreement would, therefore, not be considered legally binding was not to be excluded. The validity of mixed types of agreements, where one of the signatories is not recognized as a state, is a key problem addressed in the legal literature on ceasefires and peace agreements (Bell 2006: 380–381; Public International Law & Policy Group 2013: 6–8). In order to minimize the risk of contestation, a number of pragmatic rules are generally used to enhance the acceptance of agreements as legally valid and, consequently, enhance the chances of implementation. Such a pragmatic approach can be found in the 1994 ceasefire agreement.

First, this document was precisely drafted in respect to the rights and responsibilities of the parties (for instance, in the clauses on the separation of forces and the presence of weapons) and expressed an evident intention by the signatories to be bound to the agreement. The agreement also clearly circumscribed the role of third parties—i.e., the CIS and the United Nations Security Council (UNSC). It did not refer directly to the obligations of the parties outside the military context, but this was not necessary. Obligations of this kind—regarding the return of refugees and IDPs, for instance—were included in the two April 4, 1994 documents that were signed previously, as already mentioned.

Second, the document gave a crucial role to third parties in keeping the peace in Abkhazia. The CIS peacekeeping force would, according to the agreement, make their

“best efforts to maintain the cease-fire” and its observation. This force and the UN military observers were further assigned a supervisory and monitoring role. These real but limited tasks are in line with prescriptions in the literature on the optimal role of third parties in a situation that is only weakly regulated by the rules of international law and, consequently, characterized by a lack of effective enforcement mechanisms. Their main role here is increasing the political costs of non-compliance (Public International Law & Policy Group 2013: 7). This was surely the case for the 1994 agreement: at the time, it could indeed be expected that the risk of refusal by one of the conflicting parties to comply with an agreement to be monitored by the CIS and the UNSC was high.

This ceasefire implied not only recognition by the parties of their equal status in the framework of the agreement, but also their acceptance of a number of mutual rights and obligations regarding its implementation. They further agreed to the principle of the non-use of force and of having the CIS and UNSC play a supervisory role in the regulation of the conflict. The common appeal by the conflicting parties to the international organizations (the CIS and UN) to secure the peace indicates, as described in the legal literature (Bell 2006: 378), that the agreement went clearly beyond the internal constitutional order and addressed the international dimensions of the conflict.

The ceasefire was in line with the Abkhaz policy of non-recognition regarding the military presence of Georgia on its territory. Georgia, being defeated militarily, did not have the means for an effective non-recognition policy for the purposes of this agreement. It was not able to include any obligation for the Abkhaz side to disarm or to recognize Georgia’s territorial integrity. The war had significantly weakened Georgia’s international status, and this also affected its self-confidence and sense of justice. Its military defeat led to a victim identity, particularly in regard to the flight and expulsion of IDPs from Abkhazia. It would, for years to come, call for the international community to come to its rescue, in order to restore its territorial rights and those of the Georgian community from Abkhazia. The Abkhaz victory, in contrast, was a source of pride and self-confidence for the contested state. Its victory in September 1993 is commemorated yearly by a military parade in the Abkhaz capital of Sukhum/i.<sup>12</sup>

A very different geopolitical setting prevailed in August 2008. At that time, France had the presidency of the EU and took the role of mediator in the negotiations to end the Russian-Georgian war. It facilitated the signing of a ceasefire agreement. It was, in contrast with the 1994 ceasefire, an agreement among states, where the signatures of the leaders of South Ossetia and Abkhazia were added later (Phillips 2011: 8). This had a higher chance of being considered valid, compared to the kind of mixed agreement where one of the sides was exclusively represented by a contested state, but it lacked precision—the international negotiations on security mechanisms, for instance, were postponed until a later date.

One of the major divergences between Russia and Georgia in the negotiations for the ceasefire agreement was about the way future negotiations should handle the international status of Abkhazia and South Ossetia. The Russian government defended

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<sup>12</sup> Georgians use the English transliteration Sukhumi, whereas Russians and Abkhaz prefer Sukhum.

open-ended negotiations and supported the inclusion of the following sentence in the ceasefire agreement: “Opening of international discussions on the future status and the modalities of lasting security in Abkhazia and South Ossetia.” This stress on the international character of the negotiations aimed at overcoming Abkhaz resistance to a discussion of the status question. Before the war, the Abkhaz authorities had always refused to discuss this question within the framework of Georgia’s territorial integrity. The lack of any reference to the principle of territorial integrity as a condition for status talks would allow for Abkhaz participation.<sup>13</sup> The French supported the view that international discussions could keep the future of Abkhazia and South Ossetia open and prevent their recognition by Russia (Asmus 2010: 206–207). The Georgian government opposed such open-ended discussions. According to its policy of non-recognition, the lack of explicit reference to the status of Abkhazia within Georgia would enhance the legitimacy of secessionist claims. It proposed the following formulation: “Opening of international discussions on the modalities of lasting security in Abkhazia and South Ossetia, based exclusively on the decisions of the UN and the OSCE”<sup>14</sup> (Kramer 2008). Russia rejected this alternative, and both parties eventually agreed on the following formulation, which became the basis of the future Geneva International Discussions: “Opening of international talks on the security and stability arrangements in Abkhazia and South Ossetia” (Phillips 2011: 8).

The absence of an international framework to discuss the status of Abkhazia and South Ossetia seems to have facilitated or at least accelerated Russia’s recognition of Abkhazia and South Ossetia as independent states on August 26, 2008. Russia had several motives to reconsider its previous position on non-recognition, but the launching of international status negotiations would have created a number of constraints to doing so. Russia would at least have had to wait for the obvious failure of the talks before recognizing the two entities.

Russia and Georgia’s heads of state put their signatures on documents with slightly different wordings. Dmitry Medvedev signed a Russian version referring to the “security of Abkhazia and South Ossetia”, whereas Mikheil Saakashvili put his signature on a French text referring to the “security *in* Abkhazia and South Ossetia.” The French president Nicolas Sarkozy signed both texts as a witness (Phillips 2011: 8). Abkhazia and South Ossetia were not involved in the negotiations. The six-point ceasefire did not even name these entities, referring to “pre-conflict positions” (*lieux habituels de cantonnement*) instead. It also did not mention their armed forces—referring exclusively to Georgian and

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<sup>13</sup> The Russian proposal was in line with a German roadmap for peace developed just before the war aiming at deescalating the conflict. In July, 2008, the German Minister of Foreign Affairs Steinmeier had proposed, with the support of other Western governments and Russia, to have open-ended negotiations, and for the same reasons, the active participation of Abkhazia. Berlin did not consider such a position as contradicting their policy of non-recognition, as they would further refuse to recognize Abkhaz independence (Coppieters 2018a: 999).

<sup>14</sup> The original Russian proposal was as follows: “Ouverture de discussions internationales sur le statut futur et les modalités de sécurité durable en Abkhazie et en Ossétie du Sud,” whereas the Georgians proposed “Ouverture de discussions internationales sur les modalités de sécurité durable en Abkhazie et en Ossétie du Sud, basées sur les seules décisions de l’ONU et de l’OSCE” (see the reproduction of this French document in: Kramer 2008).

Russian forces (Phillips 2011: 8). The fact that these contested states could not participate in the negotiations and that their signatures were added after those of the state leaders expresses a weak form of recognition of their role in solving the conflict.

A follow-up agreement to the one of August 15 was signed on September 8, 2008, by the Russian and the French presidents, after Russia's recognition of Abkhazia and South Ossetia (Civil Georgia 2008). It contained a more detailed description of the measures to be implemented, with the aim of enhancing the binding character of the ceasefire. The agreement referred directly to Abkhazia and South Ossetia and described the tasks of the OSCE, the UN, and European Union Monitoring Mission (EUMM). Russia supported this follow-up agreement, as it did not consider it as contradictory to its recognition of Abkhazia and South Ossetia. President Dmitry Medvedev then declared at the press conference that Russia's decision to recognize them was "final and irreversible."

As compared to the 1994 ceasefire, the agreements of 2008 expressed a significant shift in the interaction between Georgia and Abkhazia regarding their recognition and non-recognition policies, their status and its implications for identity. The way that Abkhazia was included in the 2008 arrangement profoundly differed from the approach in the 1994 ceasefire. The Abkhaz authorities were not part of the 2008 negotiations, even though there were no legal hurdles to their participation. The 1994 ceasefire demonstrated, in contrast, that it had been possible to sign such an agreement on equal terms with Georgia. This shift cannot be explained by a lack of active participation by the Abkhaz armed forces in the 2008 war. Their military significance was far less than in the 1992–1993 war, but they still had been successful in expelling the Georgian forces from Kodori Gorge<sup>15</sup> with Russian support.<sup>16</sup> The marginalization of Abkhazia in the negotiation process leading to the ceasefire was not due to military but rather political considerations. In contrast to the 1994 setting, Georgia had been confronting Russia. Georgia, France and Russia considered it sufficient for the three states to agree on the terms of a ceasefire. Through their signatures, Abkhazia and South Ossetia then had to give additional guarantees as to the agreement's implementation. This approach did not give them any say, but it was still in line with the pragmatic rule of having all armed formations included in a ceasefire.

The lack of direct interaction with Georgia in the process of negotiating the ceasefire weakened Abkhazia's status and legitimacy. Abkhazia did not have any active role in producing an agreement indicating its specific rights and duties. The responsibility to end the military conflict on its territory was left to Russia, as Abkhazia's protector's state. Such diminished status was, however, counterbalanced by Russia's recognition of Abkhazia's statehood in August 2008. Abkhazia could then claim that its recognition gave it a totally new status under international law. It was now at least partially recognized by the international community. In Russia and Abkhazia's perception, this would strengthen its legal and political status in the negotiations. Indeed, it made it far more difficult for Georgia and its Western allies to impose decisions on Abkhazia through the means of international organizations—or, alternatively, to isolate Russia within these organizations

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<sup>15</sup> Georgians use the English transliteration Kodori, whereas Russians and Abkhaz prefer Kodor.

<sup>16</sup> The Kodori Gorge was, up to that time, the only region of Abkhazia still under Georgian control.

in attempts to impose their non-recognition policies. The UNSC, for instance, was now openly divided regarding the application of the principle of territorial integrity to Georgia and, thus, unable to prescribe conditions for the deployment of peacekeeping forces or observers in Abkhazia; Russia would veto any Western proposal that would not respect the rights of Abkhazia as an independent state. UNOMIG had to leave Abkhazia (Coppieters 2015) and the observers from the EUMM did not receive the authorization from Sukhum/i to enter it. Abkhazia was also able to sign interstate treaties with Russia regarding its military presence on its territory.

Abkhazia perceived its enhanced status as a result of its steadfast refusal to compromise. Abkhazia considered itself freed once and for all from foreign occupation and colonization. The ties with Russia were described as a strategic partnership, based on sovereign equality. Abkhazia's new self-confidence as a result of the recognition of its independence by Russia found direct expression in economic expectations: the house prices in Sukhum/i rose significantly after Russia's recognition (Nazarenko 2014).

Georgia, in contrast, confronted with an even more radical loss of control over the breakaway territory, hardened its policy of non-recognition after the August war. It considered Russia's actions as an act of revenge against Georgia's efforts to join the NATO alliance in line with its Western identity (Asmus 2010: 50). The format of negotiation for the ceasefire strengthened Georgia's view that Russia was not only a direct party to the conflict in Abkhazia and South Ossetia—a role that Russia has always denied—but that it was actually an occupying force. Georgia addressed all the issues that were to be raised at negotiations (security, trade and human rights) in the framework of occupation. Russia was, for instance, now considered to have specific legal responsibility for human rights violations in Abkhazia. This was a very different discourse than the one that prevailed after the 1992–1993 war, when Tbilisi considered the Abkhaz authorities to be entirely responsible for the failure to respect agreements on the return of IDPs and refugees, and when it held the international community—including the Russian authorities—to account. The discourse on occupation further expressed Georgia's principled stand in its refusal to accept the loss of its territories (Asmus 2010: 50). This stance gave it a kind of self-respect against the backdrop of military defeat: Georgia had not been defeated militarily by Abkhazia or South Ossetia, but by Russia.

Abkhazia was considered by Georgia to be a territory occupied by Russia. This position would make it even more difficult for Abkhazia to participate in negotiations on an equal footing. Georgia even refused to acknowledge the Abkhaz participants as *de facto* representatives of Abkhazia in the Geneva International Discussions. This represented a radical shift in the negotiating position of Georgia before the August 2008 war. Georgia asserted that the Abkhaz participants could only speak in their personal capacity as individual 'experts.' The Abkhaz participants accepted this demand in order to participate in the negotiations, but they did so at the price of having the formal status of the Georgian representatives in the working groups not acknowledged as well (Ministry of Foreign Affairs of the Republic of Abkhazia 2013).

The delegations' lack of representativeness meant that they had little incentive to make the negotiations fruitful, and this complicated the conclusion of legally binding

agreements. This mutual non-recognition of the representative status of the parties to the negotiation made it difficult to initiate confidence-building measures. Expectations of reciprocity were low. This made attempts to create institutional forms of cooperation or common security mechanisms more difficult for many years to come.

## **B. Moldova and Transnistria**

The ceasefire agreement of July 21, 1992, to end the fighting in Transnistria was signed exclusively by the representatives of the Republic of Moldova and the Russian Federation. Contrary to the 1994 ceasefire in Abkhazia, there was, to speak in formal terms found in the legal literature (Bell 2006: 390), no mix of state and non-state signatories, which meant that there was also no full correlation between the signatories of the treaty and the parties to the conflict. The fact that the signatories had the same international legal status strengthened the legal status of the agreement, in line with the prescription in the legal literature that “those who wish to frame agreements clearly as treaties can best do so by framing them as between state parties only” (Bell 2006: 386). The ceasefire, thus, did not imply the same kind of recognition of the breakaway authority as would later be the case in the 1994 ceasefire in Abkhazia.

However, the document still allowed the *de facto* authorities to play a role in its implementation. It prescribed a halt to all armed activities and the withdrawal of troops and military equipment to allow for the creation of a security zone to separate the two parties. A Joint Peacekeeping Force (JPKF) was set up. It was initially composed of mainly Russian troops and later of Russian, Moldovan and Transnistrian battalions and companies. The belligerent parties were, thus, fully integrated into the peacekeeping. The JPKF had to protect bridges and prevent armaments from being brought into the security zone that separated the two sides. Transparency was enhanced by the presence of 40 military observers from Moldova, Transnistria, Russia and Ukraine.

The *de facto* status of the Transnistrian authorities was further strengthened through their participation in the Joint Control Commission (JCC), together with Moldova and Russia. The JCC had to supervise the ceasefire by commanding the JPKF. Its role included preventing breaches of the ceasefire agreement and restoring the ceasefire in cases of its violation. Transnistria's inclusion in the JCC fostered its commitment to the implementation of the agreement between Russia and Moldova, even without any signature.

The inclusion of the two belligerent parties in the peacekeeping operation had political consequences regarding the resolution of the conflict. The seeking of consensus within the JCC avoided the destabilization of the security arrangement, but it also reinforced the *status quo* by limiting transparency and mediation initiatives. It has, for instance, been difficult for the parties to exchange information on the security situation.

In terms of identity, those Moldovans who considered the conflict with Transnistria as a proxy conflict with Russia found confirmation of this interpretation in the terms of the ceasefire: Why did Moldova sign it exclusively with Russia if the Transnistrians were not Russian pawns? (Hill 2012: 52). Transnistria, in contrast, claimed that it was an

international actor in its own right, and that it was capable of contributing to the regulation of this conflict.

### **C. Cyprus and North Cyprus**

The August 1974 ceasefire in Cyprus was, in contrast to the ones in Georgia and Moldova, not based on an agreement among the conflicting parties but on a unilateral decision by Turkey to halt the advancement of its troops. Turkey had started the first military invasion of the island on July 20, 1974, placing a major part of Cyprus under its control. The first round of peace talks followed in Geneva on July 25, 1974. These talks were exclusively held by Turkey, Greece and the United Kingdom. These states were committed, according to the 1960 Treaty of Guarantee, to protect the constitutional order and security of the island. In a second round of talks, on August 8, the circle of participants was enlarged to include representatives of Greek and Turkish Cypriots. The negotiations failed. The second invasion started on August 14, 1974 (Ker-Lindsay 2005: 14). The Turkish forces enlarged the territory under its control. It halted the progress of its military operations through a unilateral *de facto* ceasefire two days later.

The lack of a precisely formulated ceasefire agreement has complicated the fulfillment of the mandate of the UN Peacekeeping Force in Cyprus (UNFICYP) since then. The UNFICYP was given a supervisory role regarding the deployment of the Cyprus National Guard in the south and the Turkish Cypriot and Turkish forces in the north. A large buffer zone was established, extending about 180 kilometers across the whole island (about 3 percent of the whole territory) to separate the opposing forces (United Nations 2002).

Unlike the ceasefires in Abkhazia and Transnistria, the armed conflict in Cyprus only ended through the unilateral decision of an external actor. On the basis of the 1960 Treaty of Guarantee it had signed with Cyprus, the United Kingdom and Greece, Turkey could claim to be one of the guarantor states of Cyprus that had the right to re-establish, if necessary, order on the island. In terms of identity, Turkish and Greek Cypriots developed a discourse focusing on the justice of their respective causes—either as a victim of oppression and liberated by Turkey's brotherly support, or as victim of occupation counting on the support of the international community.

## **5. Trade Agreements**

### **A. North Cyprus**

The majority of the Greek Cypriot community in Cyprus rejected the UN plan for the reunification of Cyprus in 2004. Consequently, the Turkish Cypriot community could not accede to the EU. The EU proposed a number of measures to avoid the isolation of North Cyprus and to prepare it for its future reunification with the south. On April 29, 2004, the Council of the European Union issued a trade regulation—the so-called Green Line Regulation—for the transportation of goods between north and south. The Turkish Cypriot Chamber of Commerce received the authorization to issue certificates of origin.

This allowed goods produced in the north to be traded with the south. The Council made this decision just a few days before the formal accession of the Republic of Cyprus to the EU, but not against its will. The fact that the Chamber of Commerce had been founded in 1958, before the division of Cyprus, made it a legitimate institution for this purpose in the eyes of the Greek Cypriot government. Direct trade between North Cyprus and the EU, however, remained excluded.

The regulation of trade between north and south is significant in political but not in economic terms. In 2018, the value of this regulated trade between the two parts of the island amounted to only 4.8 million euros (European Commission 2019). The low level of trade from south to north (1.1 million euros in 2018) is largely a consequence of the status question: North Cyprus asks customs duties to be paid on goods coming from the south, as it regards the border to be an international one. However, according to the Republic of Cyprus and the EU, the border is not international. The goods exported to the north are, therefore, not exempt from value added tax (VAT), in contrast to goods that are exported outside the EU (Mirimanova 2015a: 53; Coppieters 2017: 41–42).

This arrangement is an interesting compromise in terms of recognition. The Greek Cypriot leadership recognized the Turkish Cypriot Chamber of Commerce as a legitimate authority to issue trade documents, and the Turkish Cypriot side acknowledged that it had a subordinate role in an asymmetric arrangement, where all trade with the EU had to pass through the south of Cyprus.

The Turkish Cypriots also hoped to enhance their status regarding trade through the regulation of direct trade with the EU, but all attempts in this direction have failed, despite the support they received from the European Commission. The Republic of Cyprus and the majority of the European Parliament opposed such a trade liberalization, as it would imply that the EU would grant North Cyprus the status of a separate legal entity (Coppieters 2017: 43).

## **B. Moldova and Transnistria**

The Moldovan strategy has been to obtain concessions from the Transnistrian regime through outside pressure, enforcing a non-recognition policy in the economic field in particular. Transnistria, previously a relatively well-developed industrial region in the Soviet Union, has no access to export markets other than through Ukraine or Moldova. In 2005, Chisinau, with active support from the EU and in cooperation with the Ukrainian authorities, introduced border and customs controls for Transnistrian goods, with the aim of forcing Transnistrian export companies that want to trade with the EU or Ukraine to register in Chisinau in order to obtain the necessary customs papers (Popescu & Litra 2012). This policy—where Transnistrian companies were forced to engage in trade with the EU as if they were Moldovan—was difficult to accept from the perspective of Transnistria's non-recognition policies. However, the threat that all exports to the EU would be halted gave it no other choice. It had to accept the use of Moldovan certificates of origin to export its goods to the EU. Around 2,000 Transnistrian companies were

registered in 2019. Companies trading exclusively with Ukraine, small companies and individual entrepreneurs managed to avoid such registration.

The Moldovan policies created tensions with Transnistria, although not enough to prevent a partial rapprochement (European Commission & High Representative of the European Union for Foreign Affairs and Security Policy 2013). An intensification of trade links was favored by the change of government in Transnistria in December 2011, when Igor Smirnov, who had held the presidency for two decades, was defeated by Yevgeny Shevchuk. Train traffic between Moldova and Ukraine through Transnistria resumed in April 2012. Transnistria's external trade with the EU benefited from the customs tariff introduced as a result of Moldova's participation in the EU's Autonomous Trade Preferences (ATP) regime (Konończuk & Rodkiewicz 2012). Moreover, the EU established direct links with Transnistrian authorities, organizing seminars on EU policy and training sessions on trade regulations.

However, at no point did the partial improvement of relations with Chisinau and Brussels reduce Transnistria's preference for further integration with Russia—including leaning towards the Eurasian Economic Union. The severe economic recession in Transnistria caused by the Russian-Ukrainian war in 2014—which made it more difficult to use Ukraine as a transit route to Russia—increased its financial dependence on Moscow, strengthening its eastward political orientation. The EU rejected Transnistria's demand to be considered a full negotiating partner on an equal basis as Moldova. Transnistria, for its part, refused to participate actively in the negotiations between the EU and Moldova on a Deep and Comprehensive Free Trade Area (DCFTA). The DCFTA was included in the Association Agreement between the EU and Moldova of June 27, 2014. It was due to replace the EU's ATP regime with Moldova, which had allowed Transnistria to receive preferential treatment regarding trade, and which was due to expire at the end of 2015. As a non-recognized entity, Transnistria would not be able to participate in the ATP on its own. The loss of a preferential treatment due to remaining outside the DCFTA would have led to a substantial increase in its export tariffs. Brussels presented the choice to Transnistria as an "either/or" decision.

A compromise was found in November/December 2015 (Calus 2016; Secieru 2016). The agreement between Transnistria and Moldova did not mention the DCFTA, but used a more ambiguous formula, referring to trade facilitation measures. Under the agreement, the DCFTA would be implemented on the "entire territory" of Moldova from January 1, 2016, onwards (EU-Republic of Moldova Association Council 2015). Thus, Transnistria would join the DCFTA before having introduced the appropriate legislation and, in exchange, would lift its trade barriers for EU products within a period of two years and comply with World Trade Organizations (WTO) regulations.

This compromise was in the interest of all parties and reflected the power differentials between them. A fall in Transnistria's exports to the EU would not have benefited any of the parties. Russia was not interested in diminishing Transnistria's westward trade, as it would then have to compensate for the loss by giving additional economic support to Transnistria. The EU, for its part, was interested in a rapprochement between Moldova and Transnistria. Having closer economic links with the breakaway

republic—which would increase Transnistria’s long-term dependence on the EU and its capacity to reintegrate into Moldova—seemed more important than the creation of a common legal framework for overseeing the implementation of the DCFTA regulations in the immediate future. The EU was ready to accept that it would not be able to monitor the required legal reforms in Transnistria in the initial stages of implementation of the agreement. From the Transnistrian (and also the Russian) perspective, the fact that this process was reversible facilitated its acceptance. Moreover, Transnistria managed to save face, due to the fact that the details of the agreement were not disclosed: its officials claimed that the agreement resulted from direct bilateral negotiations with Brussels where, as they said, they convinced their counterparts of the correctness of their position (Infotag 2015).

The proportion of Transnistrian goods destined for the EU market increased as a result of this agreement (Popsoi 2016; Montesano, Van der Togt & Zweers 2016). Moreover, the OSCE facilitated the signing of a large number of protocols on various forms of cooperation between Chisinau and Tiraspol (European Commission & High Representative of the European Union for Foreign Affairs and Security Policy 2018). However, Transnistria has also repeatedly accused the EU and Moldova of imposing an economic blockade and forcing it to accept terms it would otherwise have rejected.

The European Union pushed Transnistria to fulfill the DCFTA requirements and strives to monitor its implementation. Despite positive steps forward in terms of practical cooperation between Moldova and Transnistria, the positions of both parties regarding their status and identity remain confrontational on the rhetorical level. Moldova recognizes Transnistria as a trading entity, but not as an equal trading partner, with Transnistria unwillingly accepting a status of subordination to Moldova. In addition, Moldova and Transnistria do not recognize each other in terms of their respective political identities.

### **C. Georgia and Abkhazia**

The parties in the Georgian-Abkhaz conflict never prioritized economic gains. A rare exception is a hydraulic power station that has been in operation since 1992–1993 for the benefit of both sides; its hydro-technical facilities are located in Georgia and its control panel in Abkhaz territory (Basaria 2011: 18). Trade has otherwise been characterized by confrontation. Abkhazia has forbidden trade with Georgia since 2007, whereas Georgia’s 2008 law on occupied territories made all economic activities with and in Abkhazia without Tbilisi’s authorization illegal. However, the authorities on both sides have turned a blind eye to several forms of trans-border commerce, including the “suitcase trade” by local inhabitants. In 2015, the overall volume of trade was estimated to be in the range of 7 to 15 million U.S. dollars (Mirimanova 2015b: 12, 15). Abkhazia’s economy is marginal for Georgia, except for the Georgian regions along their common border. Abkhazia’s commerce with Georgia is less important than its trade with Russia, but still substantial for its economy, despite the fact that it is not legally regulated.

When Russia applied for WTO membership, it had to obtain the agreement of Georgia—a WTO member. Both parties agreed in 2011 on a complex set of regulations, where both contested territories were turned into “trade corridors” for Russian and Georgian goods. A Swiss company accountable only to the Swiss government would monitor the movement of goods. This was in line with Georgia’s objective of having international mechanisms put in place to control trade with the breakaway entities (Jamnews 2018). Neither Abkhazia nor South Ossetia were given any active role in negotiating this agreement. The two territories were defined through a set of geographic coordinates, which led to firm protest in Abkhazia and South Ossetia (Mirimanova 2015b: 14). They did not consider this lack of legal status acceptable and considered the fact that their territory was turned into a trade corridor an insult to their national identity—and this not only by their adversary, but also by their closest ally.<sup>17</sup> They demanded full participation and equal status in negotiations on the creation of trade routes through their territory.

The idea of restoring rail links between Russia and Armenia through Abkhazia and Georgia has been widely discussed over the years, including in terms of economic costs and benefits (Mirimanova 2013). This would necessitate a specific compromise on customs and border controls, which is difficult to achieve in the framework of the non-recognition policies of the two conflicting parties. They define the benefits of such cooperation mainly in terms of relative, not absolute, gains. The Abkhaz authorities fear, for instance, that asymmetric trade patterns would make them politically dependent on Georgia.

The question of trade regulation has continuously been put on the agenda in Georgia and Abkhazia, but it meets with political resistance on both sides. Abkhazia does not consider the increase of its trade with Georgia a good political option, as this would make it more dependent on Tbilisi. The lack of trade regulation is largely explained by the fear of becoming economically dependent on Georgia, which may later force Abkhazia to make political concessions in exchange for economic benefits.

From the Georgian perspective, there is a readiness to give products from Abkhazia access to Georgian markets. However, Abkhaz producers then would have to accept trading with documents issued by Georgia. These documents would not indicate any country of origin but still include a minimum amount of information regarding the personal identity of the producer (full name and city). The Georgian authorities presented such a procedure as “status-neutral labelling” (OC Media 2018). The Abkhaz goods exported to the EU would, however, receive a Georgian certificate of origin. This plan—which was unveiled in April 2018—is fully in line with the Georgian recognition and non-recognition policies. It recognizes the right of individual Abkhaz producers to trade internationally and also their right of not having to choose the Georgian nationality to do so. This is made possible by these so-called neutral documents—documents delivered by the Georgian authorities without mentioning nationality. This procedure

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<sup>17</sup> At the time of writing, this agreement has not yet been implemented.

does not involve the Abkhaz authorities. However, the Abkhaz authorities deny that such status is “neutral,” as it is granted by Georgia.<sup>18</sup> They rejected this proposal.

The regulation of trade implies a resolution of certain status questions, but it also addresses problems of identity. Abkhaz and Georgian entrepreneurs both see certain advantages in trade regulation, including the strengthening of their respective national identities. Abkhaz businesspeople are of the opinion that the regulation of trade would improve the political relations of their state with its neighbor. This would strengthen its security and independence. Georgian traders, in contrast, are convinced that Abkhazia's trade with the economically more advanced Georgia could convince them of the need for reintegration and help to restore Georgia's territorial integrity (Mirimanova 2018: 4 & 10). Thus, both parties expect that the mutual recognition of Georgia and Abkhazia as trade partners would best serve their respective political objectives.

## 6. Comparisons and Conclusions

The ceasefire agreements analyzed in this article have ended open violence in military conflicts involving “non-state armed groups”—as they are designated in international humanitarian law—or “contested states”—as they are designated in this political analysis. The contested states did not have the same military weight in the different cases analyzed. The non-state armed forces fighting for the Abkhaz cause against pro-government troops in 1992–1993 were in the vast majority constituted by Abkhaz, but also included volunteers from the North Caucasus. The role of non-state armed groups fighting against the central government was likewise substantial in the Transnistrian war of 1990–1992, even if the Russian military forces stationed in the territory remained militarily predominant (Hill 2012: 51–52). The Abkhaz troops were effectively operating on their own territory in the case of the Georgian-Russian war of 2008. In contrast, Turkish Cypriot armed forces played a marginal role in supporting the offensive of the Turkish troops in Cyprus in August 1974.

In all these three cases, the state opposing secession was severely defeated. However, the contested states did not contribute to these defeats to the same degree. The role they played in the military operations—as compared to that of their patron states—differed greatly, and this difference was reflected in the way they were included in the ceasefire negotiations and agreements. Inclusion took place in three different ways. The first type was full participation in the ceasefire negotiations, as representing one of the sides in the armed conflict. In the second type, the contested state did not participate in the negotiation of the ceasefire agreement but, instead, gave its formal support through its signature. In the third type, the contested state did not participate in the negotiations and did not have an opportunity to express its support for the agreement through its signature, but still fully participated in the mechanisms for its enforcement.

Each of these roles expresses a specific power differential among the conflicting parties, is attached to a different status in the negotiations and in the agreement and is

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<sup>18</sup> This proposal is based on the Georgian practice of issuing “neutral” travel documents, which are for the same reason rejected by the Abkhaz authorities.

linked to different rights and obligations in its implementation, as well as different forms of recognition and non-recognition.

This typology can be applied to the three cases under consideration. The first type applies to the 1994 ceasefire agreement in Abkhazia. This was, in legal terms, a mixed agreement that was negotiated and signed by the representatives of the non-state armed forces on an equal footing with the representatives of the state from which they were breaking away. The contested state was not part of the mechanisms to monitor its implementation or restore security in case of violation of the ceasefire. The Georgian authorities failed to impose the participation of representatives of a “legitimate” Georgian government of Abkhazia as an autonomous actor in the negotiations.

The second type applies to the ceasefire agreement that ended the Georgian-Russian war of 2008. Georgia was defeated for a second time in 2008 and expelled from the Kodori gorge—the small bit of Abkhaz territory it still controlled—but this happened in a military conflict with Russia, an interstate conflict where the Abkhaz military forces played a real but secondary role. Abkhazia did not participate in the negotiations leading to its ceasefire agreement, but its signature was added afterwards, in order to bind it to its implementation. As a signatory, it was formally included on equal terms with Georgia. Russia failed, however, to add the question of the international status of Abkhazia to those of security and humanitarian issues in the international negotiations in Geneva, and the ceasefire did not include any clause that would indicate a specific formal status for Abkhazia in the Geneva International Discussions.

The third type applies to the 1992 ceasefire agreement between Russia and Moldova. Transnistria did not negotiate and was not a co-signatory to this agreement, but it was formally granted a position equal to the two signatories in the JCC responsible for its implementation.

The August 1974 ceasefire in Cyprus was unilaterally imposed by the Turkish side. This case cannot be subsumed under any of the three types of inclusive ceasefire agreements described above. It excluded, by definition, any formal involvement by North Cyprus. It was up to the interposing peacekeeping force of the UN to interact with the Turkish Cypriot authorities in order to implement the ceasefire.

Power differentials played a crucial role in determining the status of the contested states in the trade agreements analyzed in this article—or, alternatively, in explaining the failure to reach such agreements. Their status is very much a function of their degree of dependence, not only on the state from which they are breaking away, but also on the patron state. In the case of North Cyprus, the authority of its chamber of commerce to issue its own certificates of origin for goods produced on its territory was recognized by Cyprus and the EU in 2004. Such a status has not been granted to any similar institution linked to the authorities of Transnistria or Abkhazia. The Georgian proposal to have Abkhaz traders bring their goods to the Georgian market with “status-neutral” labeling has been rejected by Abkhazia.

The DCFTA and the Green Line Regulation were both designed and implemented by the EU. Transnistria has high economic expectations of the EU, and North Cyprus also

has high political expectations. Abkhazia, in contrast, avoids any economic dependence on Georgia or the EU. It has never shown any interest in Georgian proposals to increase its trade with the EU through the DCFTA—proposals that were always linked to concessions in the political field. Abkhazia remains entirely dependent on its Russian ally. It has to accept this dependence, even if Russia may occasionally go against its policies of recognition and non-recognition regarding Georgia. Abkhazia could not avoid the lack of any formal status in the bilateral agreement between Russia and Georgia on the conditions for Russia's WTO membership—a lack of status that it considered insulting in terms of its own identity.

The involvement of external powers in the Treaty of Guarantee of 1960 for Cyprus established international guarantees of its constitutional order. This internationalization of the Cypriot conflict strengthened the position of the Turkish Cypriot community, as it facilitated Turkey's unilateral intervention. However, the status and identity conflict between the two Cypriot communities was also internationalized through the integration of the island into the EU, which, in contrast, reinforced the position of the Greek Cypriot community.

Similarly, the internationalization of the conflict over the status of Abkhazia changed the relationship between the two parties. Both parties hoped that the peacekeeping role granted to the international organizations (the CIS and UN) in the 1994 ceasefire agreement would enhance their own position. However, it was Abkhazia that managed to gain the most from the presence of Russian peacekeeping forces on its territory, and it managed to get its independent status recognized by Russia in 2008. Georgia, on the other hand, has tried to gain some leverage over the Russian military and economic presence in Abkhazia through the deployment of the EUMM along the boundaries with Abkhazia and through the creation of international mechanisms to monitor the movement of goods over the Russian-Abkhaz border.

Transnistria and Moldova are also making use of international support to foster their policies of recognition and non-recognition. Moldova had to accept equal status with Transnistria in the JCC that oversees the peacekeeping forces in Transnistria. By contrast, Transnistria had to accept a subordinate status to Moldova in order to be part of the DCFTA, although it did not have to publicly acknowledge the disparity. Regarding the internationalization of these three conflicts, the contested states can count on military support from their patron states to strengthen their status and identity, whereas the states confronting secession can count on the EU's trade policy in advancing their policies of recognition and non-recognition. The small size of the contested states analyzed in this article means that they do not have sufficient political clout to push for membership to any international economic organization. For Abkhazia and Transnistria, this is even the case for economic organizations that are dominated by Russia, such as the Eurasian Economic Union.

As already indicated earlier, one of the conflicting parties may have to accept a particular status or identity for itself or for the other party, even if it considers that status or identity unjust, or even if it contradicts its policy of non-recognition. Such a concession does not negate the possibility of countering such a status or identity at a later time. Each

of the three cases here illustrates these kinds of shifts in the conflictual process on status. The contested states Abkhazia and Transnistria were, for instance, able to impose equal status in a ceasefire agreement or its implementation, but the state they were confronting would not allow them to reach such status in agreements on trade regulation.

It may be concluded that the concept of recognition, together with non-recognition, is well suited to describe the disputes among conflicting parties regarding their status and identity. The analysis of the ceasefire agreements in this article has shown that a constitutive approach to statehood has to take into account its intrinsic characteristics—such as the degree of control over a territory and its population—in analyzing the conditions under which particular forms of recognition take place, as well as the power differential which results from external support, among other things. The fact that Abkhazia was granted equal status to Georgia in the 1994 ceasefire has to do with the higher degree of control they had achieved over the Abkhaz territory and its population—a degree of control that was higher than Transnistria achieved in 1992 or the Turkish Cypriots in 1974.

The formal character of the status question allows for a direct comparison among all three cases, as is also the case regarding the military role of contested states in achieving victory, or the degree of economic dependence in assessing the relationship of forces in trade agreements. Such a comparison is far more difficult to achieve on the level of identity, which is largely a question of self-awareness and self-description.

The number of cases in this study is limited. A broader selection of cases would surely enrich the comparison with new descriptive analysis. The 1994 ceasefire that ended the fighting in Nagorno-Karabakh was signed by the representatives of Azerbaijan and Armenia, as well as by the military commanders of the breakaway entity. This is, to a certain extent, similar to the ceasefire between Russia and Georgia in 2008. The 1992 ceasefire in South Ossetia had the same formal character as the one signed the same year in Transnistria: an interstate treaty (in the former case, between Russia and Georgia) that did not bear the signature of representatives of the contested state and that regulated its involvement in the control of its implementation. The second Minsk agreement of 2015 on Eastern Ukraine carried the signatures of representatives of the contested states. Regarding the 1999 war in Kosovo, the NATO-led peacekeeping Kosovo force KFOR made a specific ceasefire agreement with the Kosovar Liberation Army on June 20, 1999, in order to guarantee its demilitarization (NATO 1999).

In contrast to Cyprus and Transnistria, there was no formal regulation of trade through an agreement in any of these other cases—and there is not even any trade between Nagorno-Karabakh and Azerbaijan. A major exception is the role of trade agreements in the Kosovo conflict, in the framework of Serbia and Kosovo's integration within European structures, and with far reaching implications for their respective status and identities. In that case, Serbia had to accept equal status with the contested state of Kosovo as a condition for its further integration with the EU. This acceptance goes against its non-recognition policy, as was also the case for Transnistria and North Cyprus when they had to accept a subordinate status in trade agreements to reach the same goal. In

addition, there were intensive trade relations between Georgia and South Ossetia up to the 2003 Rose Revolution, although without any formal regulation.

Each of the parties involved in these conflicts has its own recognition and non-recognition policies to address these issues. Georgia, which has been fighting on two fronts against secession, even developed simultaneously yet different recognition and non-recognition policies in regard to Abkhazia and South Ossetia. A comprehensive and detailed analysis of the kind of mutual recognition achieved in these cases and the kind of recognition and non-recognition policies pursued by the parties would not challenge the thesis of the contested nature of recognition in secessionist conflicts, but rather enrich its understanding.

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