

The enigma of recognition of administrative acts issued by non-recognised regimes

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Abstract

The emergence of several non-recognised regimes on the periphery of Europe implies a myriad of challenges in law. Despite an absence of international recognition for these regimes, they produce their own law and, at the same time, apply and enforce these laws within their territory. With regard to the application of the law, as established by these non-recognised regimes, the question of potential recognition arises. Will a driving licence, issued by the State Palestine, gain any legal effects in those States that haven't yet recognised Palestine as an independent entity? Is a university diploma, issued by the Abkhaz State University, recognised abroad, even though a recognition of Abkhazia is absent? Can a refugee demonstrate his identity by an official document, issued by the Lugansk or Donetsk Peoples Republics? This paper aims to offer a solution to answer these topical, albeit so far virtually unexplored, questions.

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1. Introduction⁵

Very recently, discussions arose in the scholarship of international private law concerning the application of the law of non-recognised regimes in their relationship to private law.⁶ These academic discussions reacted to cases of the

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⁶ See e.g. Jürgen Basedow, “Non-recognised states in private international law”, *Yearbook of Private International Law*, 20 (2018-2019), pp. 1-14; Shpetim Bajrami & Mehrdad Payandeh, “Die

recognition of judgements issued by those regimes that haven't yet been recognised by the State of the *lex fori*. A few examples of these situations represent a marriage officiated in the Turkish Republic of Northern Cyprus, the succession of someone who died without leaving a will in the Republic of Kosovo⁷, as well as the capacity of the Republic of China (Taiwan) to stand in court. In this regard, the scholarship of international private law expressed a relative openness for the applicability of these laws, established by non-recognised regimes.

Very recently, Nikitas Hatzimihail pointed out⁸ that while “*public international law doctrine famously oscillates between apology and utopia, private international law doctrines have emerged through the creative antithesis between “public” international law and “domestic” private law, asserting its autonomy from both.*” Here, the author reflected upon the fact that scholarship of international private law has readily approved the application to those foreign regimes of law that were established by various non-recognised entities and self-proclaimed de facto regimes. One must bear in mind, that the discussion on potential applicability of the law of non-recognised regimes has so far been limited to the realm of relations of private law, which means to relations between equal individuals.⁹

Despite this, the discussion is also of relevance for the relations of administrative law, which includes those relations between the State on one hand and the individual on the other.¹⁰ Can a driving licence, issued by the State of Palestine, enjoy any legal effects in those States which haven't yet recognised

innerstaatliche Anerkennung ausländischer Gerichtsentscheidungen im Lichte der völkerrechtlichen Nichtanerkennungspflicht”, *Praxis des Internationalen Privat- und Verfahrensrechts*, 38, issue 6 (December 2018), pp. 580-586. Nataliia Martsenko, “Peculiarities of Recognition of Judgments and other Acts Issued by Unrecognized Authorities – The Example of the Autonomous Republic of Crimea, and Luhansk and Donetsk Oblasts”, *Osteuropa Recht*, 66, issue 3 (October 2019), pp. 207-222; Symon Zareba, “Documents issued by unrecognised entities”, *Polish Yearbook of International Law*, XL (December 2020), pp. 297-308; Hanna Stakhya, “Applicability of Private Law of De-Facto Regimes”, *Osteuropa Recht*, 65, issue 2 (June 2019), pp. 207-222 and Daniel Gruenbaum, “From Statehood to Effectiveness: The Law of Unrecognised States in Private International Law”, *Rabel Journal of Comparative and International Private Law*, 86, issue 3 (June 2022), pp. 577-616.

⁷ For the time being, any recognition of the Republic of Kosovo is withheld by Spain, Slovakia, Serbia, Greece, Belarus, Romania and Ukraine.

⁸ Nikitas Hatzimihail, “Private International Law Matters Involving Non-Recognized States”, in *Legal Position of Non-Recognized States in the Post-Soviet Space under International Trade Law, Private International Law and International Civil Procedure*, edited by Alexander Trunk et al., Springer International, Vienna, 2023, at pp. 190.

⁹ See Alex Mills, “States, failed and non-recognised” in *Encyclopedia of Private International Law*, edited by Jürgen Basedow, Giesela Rühl, Franco Ferrari & Pedro de Miquel Assensio, Edward Elgar, Cheltenham, 2017, pp. 1653-1659.

¹⁰ See Vladislav Stavinoha, “Obligations of de facto regimes”, *Estudios de Deusto*, 68, issued 1 (enero-junio 2020), pp. 67-74. Also see See Henrik Wenander, “Recognition of Foreign Administrative Decisions, Balancing International Cooperation, National Self-Determination, and Individual Rights”, *Heidelberg Journal of International Law* 71 (2011), at p. 800.

Palestine¹¹ as an independent entity? Is a university diploma issued by the Abkhaz State University properly recognised abroad, while international recognition of Abkhazia remains absent? Can a refugee demonstrate his identity by an official document issued by the Lugansk, or Donetsk Peoples Republics?

Despite the actuality of non-recognition of all these entities, one cannot deny that they both initiate and enforce their own administrative law in their own territories.¹² However, it is a fact that the scholarship of administrative law hasn't thus far paid much attention to these laws and to their potential implications abroad. The concise monograph, entitled *Recognition of Foreign Administrative Acts*, which was published¹³ by Springer International in 2016 may serve as an example. While the authors of the respective chapters analyse respective domestic regimes governing the recognition of foreign administrative acts in various jurisdictions, they are silent concerning potential recognition of those acts issued by non-recognised entities existing on the periphery of Europe.

Thus, while Alexandra E. Douga addressed¹⁴ in detail the regime of recognition of foreign administrative acts in the public law of the Hellenic Republic, she remained silent concerning the (non)recognition of acts, issued by authorities of the Turkish Republic of Northern Cyprus. In the same vein, Carlo Aymerich Cano failed to address the issue of (non)recognition of administrative acts, issued by Kosovo, in his contribution dealing with recognition of foreign administrative acts in Spanish law.¹⁵ Analysing the content of those articles that have very recently been published in this journal, may serve as yet another demonstration of the argument. While several of them dealt with the issue of recognition of foreign administrative acts¹⁶, none addressed the problem of acts issued by non-recognised regimes.

The aim of this article is to address to this general lack of interest for the law of non-recognised states in the scholarship of administrative law. The article aims to argue that the absence of recognition by means of international public law does not automatically imply that administrative acts issued by non-recognised

¹¹ For the time being, any recognition of the State of Palestine is, for example, withheld by France, Italy, United Kingdom, Spain, the Netherlands etc.

¹² See Tomáš Hoch, "De facto statehood", in *De facto states in Eurasia*, edited by Tomáš Hoch & Vincenc Kopeček, Routledge, London, 2019, at pp. 16-26 and Sergey Markedonov, "The unrecognized states of Eurasia as a phenomenon of the USSR's dissolution", *Demokratizatsiya: The Journal of Post-Soviet Democratization*, 20, issue 2 (April 2012), pp. 192-193.

¹³ See Jaime Rodriguez-Arana Muñoz (ed), *Recognition of Foreign Administrative Acts*, Springer International, Vienna, 2016.

¹⁴ See Alexandra E. Douga, "On the recognition of foreign administrative acts in Greece", in *Recognition of Foreign Administrative Acts*, pp. 171-192.

¹⁵ See Carlo Aymerich Cano, "Searching for Foreign Administrative Acts in Spanish Law", in *Recognition of Foreign Administrative Acts*, pp. 285-304. Also, see Ruth Ferrero-Turrión, "The consequences of state non-recognition: the cases of Spain and Kosovo", *European Politics and Society*, 22, issue 52 (May 2020), pp. 1-12.

¹⁶ See Radomír Jakab, "Defence of an EU member state against the effects of transnational administrative acts", *Juridical Tribune*, 10, special issue (October 2020), pp. 32-48 and Lukáš Jančát, "Special régime of the recognition of decisions on financial penalties: complex analysis", *Juridical Tribune*, 13, issue 1 (March 2023), pp. 93-119.

regimes cannot gain any legal consequences in the host State. Rather than address the relations between the States, this article will focus on those between the State and the individual. It argues that the problem of recognition of administrative acts, issued by non-recognised regimes must be seen in the light of two major arguments.

Firstly, the conferring of consequences to acts issued by non-recognised regimes cannot be understood or interpreted as a recognition of those executives issuing such acts. Secondly, an individual who appears in relation to the host State cannot be hostage to either international relations or the absence of recognition between the executive of his or her home country and the host State.

This article aims to support the following arguments both by review of the existing literature (Chapter 2) as well as by review of the current practice (Chapter 3), as demonstrated in various situations. In this regard, the authors have chosen to address the problem from the perspective of the public law of the Czech Republic. Consequently, three rather varied cases were selected to be analysed with regard to the recognition of acts issued by non-recognised regimes.

Firstly, the case of acts issued by the competent authorities of the Principality of Lichtenstein, which denied recognition of the Czech Republic for more than a decade after the dissolution of Czechoslovakia in 1993. Secondly, the recognition of acts issued by the authorities of Palestine will be a matter of scrutiny. Lastly, attention will be paid to those acts issued by Liberland.

As one may argue that recognising the acts of an executive *de facto* leads to the recognition of the legitimacy of that executive, this article aims to discuss the balance between the recognition of a foreign administrative act and the non-recognition of foreign regime, or government.

In this regard, this article argues for the application of humanitarian approaches *vis-à-vis* administrative acts issued by non-recognised regimes (Chapter 4).

2. Two main approaches to the issue in legal scholarship

Given the importance of recognition in international relations, the subject of recognition has traditionally been addressed by the scholarship of international public law.¹⁷ The scholarship of international public law addressed the phenomenon of the emergence and existence of non-recognised states (self-proclaimed entities), as well as the cases of illegal occupations and annexations of a foreign territory. The fact is that, from the viewpoint of international public law, each of these phenomena bears its own characteristic features. Consequently, the scholarship of international public law has, for example, identified crucial

¹⁷ See Christian Hillgruber, "The Admission of New States to the International Community", *European Journal of International Law*, 9, issue 3 (August 1998), pp. 491-509 and Jochen A. Frowein, "Recognition" in *Max Planck Encyclopedia of International Law*, edited by Rüdiger Wolfrum, Oxford University Press, Oxford, 2010, at p. 10. Also see Nina Caspersen, *Unrecognized States: The Struggle for Sovereignty in the Modern International System*, Polity Press, Cambridge, 2012.

differences between the concept of an illegal occupation on one hand, and an illegal annexation on the other. Having said this, one must take into consideration that the fact of recognition or non-recognition of a regime by another states is regularly influenced by actual geo-political and economic circumstances, which make the entire subject even more complex.¹⁸

However, this article aims to address the issue from the perspective of administrative law, rather than that of international public law. Having said this, one must bear in mind that from the viewpoint of administrative law, all the above-mentioned cases bear certain similarities.¹⁹ In particular, in all the above-mentioned cases, public administration is executed and public/administrative law applied by those authorities the non-recognised regimes consider to be competent.²⁰ The products of such application, if considered individual, will be referred to as “*administrative acts*” in this article.

Despite the non-recognition of certain regimes by the means of international public law, those administrative acts issued under these regimes will circulate among other jurisdictions. Therefore, they represent a challenge to both private law (foreign decisions on divorce, heritage etc.) and administrative law (foreign university diplomas, driving licences, certificates on vaccination etc.). In this context, one must also bear in mind that the same foreign act may simultaneously appear in both types of relations, in private and in administrative law at the same time.

In legal scholarship, two major approaches have emerged that address the legal consequences of administrative acts, issued by authorities of non-recognised regimes.

2.1 Arguments against the recognition of administrative acts, issued by non-recognised regimes

The first of these approaches has traditionally denied any possibility that an act issued by a non-recognised regime may gain any legal consequences abroad. This is the so-called normative approach (or the ‘*one voice*’ theory)²¹. It strictly connects the notion of non-recognition by the means of international public law and the practice of application of law by the authorities of the state – including both courts and administrative authorities. According to this approach, the state must speak with ‘*one voice*’ in both international relations and in matters of the public administration executed in the territory of the state.

Under the normative approach, it would be absurd for a state to confer

¹⁸ See Adrian Corobana, “Non-recognition of states as a specific sanction of public international law”, *Juridical Tribune*, 9, issue 3 (December 2019), pp. 589-598.

¹⁹ See Zaim M. Nedjati, “Acts of unrecognized governments”, *International and Comparative Law Quarterly*, 30, issue 2 (April 1981), pp. 388-415.

²⁰ See Jakub Handrlica, “The law of non-recognised states in international administrative law”, *P. A. Persona e Amministrazione*, 11, issue 2 (April 2023), pp. 757-786.

²¹ See Daniel Gruenbaum, “From Statehood to Effectiveness: The Law of Unrecognised States in Private International Law”, at pp. 585-587.

legal effects to the acts issued by another executive to which, at the same time, the state denies its own recognition.²² The fact is that the normative approach, in particular, found much appraisal in the scholarship of international private law.²³ One may easily understand this, as acts issued by both judicial authorities of the non-recognised regimes appear more frequently in legal relationships abroad.

Thus, cases of acts certifying a marriage officiated in Somaliland, or a divorce before the authorities of Transnistria, have been matters of scrutiny in the scholarship of international private law. At the same time, however, the normative approach also gained the attention of those scholars dealing in their research with the issue of recognition of foreign administrative acts. One of the earliest appearances of the normative approach in this field is to be found in the dissertation on mutual recognition of administrative acts, which was defended by Käte Weiss at the University of Göttingen in 1932.²⁴

In one line, commenting on the normative approach, she argued on the very first pages of her dissertation that *"it is natural, that only acts of recognised states can be recognised by the administrative authorities in inland."*²⁵ Any possibility, that an act of an unrecognised regime might gain legal consequences in the relations between the state and the individual, was also denied by Karl Neumeyer in the fourth volume of his monumental monograph on international administrative law.²⁶ The normative approach, pleading for uniformity in the relations governed by the international public law and in the relations governed by administrative law, gained a further considerable reception, both in the scholarship and in the practice.²⁷

Under this approach, a missing "sovereignty link" represents a major obstacle for any legal consequences of those acts, issued by the authorities of the non-recognised entities.²⁸

2.2 Arguments in favour of recognition of administrative acts, issued by non-recognised regimes

Another approach emerged in the scholarship, which argued for a vigorous differentiation between the relations of international public law on the one hand, and the relations of administrative law on the other. In this regard, it was argued²⁹ that, despite absence of recognition by the means of international public law, a

²² Ibid.

²³ Ibid.

²⁴ See Käte Weiss, *Die Anerkennung ausländischer Verwaltungsakte*, Göttingen, Georg-August-Universität Göttingen, 1932.

²⁵ Ibid, at p. 1.

²⁶ See Karl Neumeyer, *Internationales Verwaltungsrecht. Vol. IV. Allgemeiner Teil*. Zürich, Verlag J. Schweitzer, 1936, at pp. 325-326.

²⁷ See Zaim M. Nedjati, "Acts of unrecognized governments", at pp. 388-415.

²⁸ See Symon Zareba, "Documents issued by unrecognised entities", at pp. 300-301.

²⁹ See Alfred Verdross & Bruno Simma, *Universelles Völkerrecht – Theorie und Praxis*. Unveränd. Nachdruck der 3. Aufl., Duncker & Humblot, Berlin, 2000, at pp. 181-182.

practice of recognition of acts issued by officially non-recognised executives had gradually emerged in the international community of states. Acts approving state citizenship, various types of concessions and the legalisation of documents represented salient examples of such acts. In this regard, Ignaz Seidl-Hohenveldern presented³⁰ another argument in favour of application of law of the 'non-recognised regimes'.

He argued that the absence of international recognition must be considered a temporary one and, consequently, such absence cannot constitute a barrier for legal effects of foreign acts in the relations of administrative law. These arguments emerged into an approach that is being referred to as a factual one. Under this approach, recognition between states in international public law on one hand and recognition of foreign acts in administrative law represent two separate concepts, which are mutually independent.³¹ Consequently, the factual approach argued for a strict separation of international relations, which are, according to the scholars pleading for this approach, merely a product of politics, and the relations of administrative law. In this regard, he argued that what really matters in administrative law, is not official recognition of the other state, but merely the fact that this state effectively controls certain territory, produces its own law and applies it accordingly.

2.3 Critical observations to the arguments in legal scholarship

Having presented the two major approaches to recognition of acts issued by authorities of non-recognised regimes, several critical observations must be made. Firstly, the authors, who addressed this issue, were under the strong influence of the scholarship of international private law. In particular, the factual approach reflected the relative openness of the theory of international private law to the recognition of foreign acts, as issued by non-recognised regimes and to the application of law established by these regimes in general. In the relations of private law, where a foreign element appears, the application of foreign law was permitted by the theory and such application hasn't been conditioned by the recognition of the respective entity by means of international public law.³² As regards the relations governed by international private law, it was argued that "*foreign law is applied neither as a favour nor as a service to a foreign state, nor as a means of maintaining diplomatic relations; rather, it is applied to resolve a legal problem in accordance with the most appropriate (...) normative order as determined by private international law. The reasons for recognising a state in international relations are not to be confused with the reasons for applying its law,*

³⁰ See Ignaz Seidl-Hohenveldern, *Internationales Konfiskations- und Enteignungsrecht*. Walter de Gruyter, Berlin/Tübingen, 1952, at pp. 22-23.

³¹ See Klaus König, *Die Anerkennung ausländischer Verwaltungsakte*, Carl Heymanns Verlag, Köln, 1965, at pp. 40-41.

³² Thomas D. Grant, *The Recognition of States: Law and Practice in Debate and Evolution*, Praeger publishers, Westport, 1999, at p. 256.

so the application of the law of a foreign state does not imply recognition of that state".³³

The fact is that along with the appearance of foreign acts in the relations of private law, the same acts may appear in the relations of administrative law – for example, that occurs in matters of tax law.³⁴ In this regard, the scholarship has pleaded to avoid the risk of “limped” legal relations.³⁵ Those may arise when a fact would be recognised in the field of private law, while remaining without recognition in the field of public law.³⁶ However, the scholarship of international private law is limited, as the nature of legal relations in administrative law is rather different from those existing in the sphere of private law.³⁷ Consequently, one may find convincing arguments against the vigorous application of the doctrine of international private law as well as in the relations of administrative law.

Secondly, one must bear in mind that those authors dealing with the problem of (non)recognition of administrative acts issued by non-recognised regimes, have regularly addressed only certain peculiar issues or situations. Thus, Karl Neumeyer addressed³⁸ the acts issued by French and Belgian authorities in the occupied Ruhr Area and denied any possibility of their recognition. At the same time, he failed to address the existence of the Rhenish Republic and the problem of recognition of acts, issued by this self-proclaimed regime. In the same vein, Neumeyer has neither addressed the question of (non)recognition of administrative acts, issued by a myriad of the self-proclaimed entities (such as the Bavarian, Bremen, or Alsace Soviet Republics) which emerged as the consequence of the collapse of German Empire in 1918.

Neither has later scholarship presented a more concise approach. In his book on recognition of foreign administrative acts, Klaus König argued in favour³⁹ of the factual approach, when analysing circulation of administrative acts between the then existing Federal Republic of Germany and the German Democratic Republic. However, he failed to illuminate a more complex picture of the topic. Consequently, one may hardly know to which extent the results of the study are applicable *vis-à-vis* the recognition of acts issued by authorities of the Hashemite Kingdom of Jordan in the territory of the Western Bank in the years 1948 to 1967.

Having said this, one may conclude that the scholarship of administrative law lacks – in principle – a vigorous dogmatic approach to the problem discussed in this article. Two main approaches have emerged, each suffering from certain weaknesses. The literature so far has only addressed the issue randomly and dependent upon the problems that have arisen in the field of international private

³³ See Daniel Gruenbaum, “From Statehood to Effectiveness: The Law of Unrecognised States in Private International Law”, at p. 599.

³⁴ See Karažyna Mikša, “Consequences of Non-recognition of States in Private International Law”, *Osteuropa Recht*, 62, issue 2 (June 2016), at pp. 153-154.

³⁵ See Jürgen Basedow, “Non-recognised states in private international law”, at pp. 12-13.

³⁶ *Ibid.*

³⁷ See Symon Zareba, “Documents issued by unrecognised entities”, at pp. 300-301.

³⁸ See Karl Neumeyer, *Internationales Verwaltungsrecht*, at pp. 325-326.

³⁹ See Klaus König, *Die Anerkennung ausländischer Verwaltungsakte*, at pp. 40-42.

law.

3. A practice of (non)recognition

Having analysed the major approaches that have emerged with regard to the problem of acts issued by authorities of non-recognised regimes, attention must be also paid to the recent practice in recognition. Thus, this chapter aims to analyse three cases, each from the viewpoint of the public law of the Czech Republic.

3.1 The Principality of Liechtenstein

The first noteworthy example of (non)recognition taking place in the very heart of Europe can be found in the somewhat complicated relationship between the Czech Republic and the Principality of Liechtenstein. Formally begun in 1993, the diplomatic feud between the two states lingered on until 2009 when common ground was at last found.⁴⁰ Apart from the geographic (or geopolitical) perspective and the fact that the Czech Republic and Liechtenstein share a great deal of common history, the most noteworthy aspect of this situation from an administrative point of view comes from the fact that both states coexisted in a highly economically and politically intertwined Central European region, while simultaneously remaining consistent on their non-recognition policy. This example is also striking due to the fact that, regardless of the state of diplomatic relations, the legitimacy of administrative acts and certificates of both states can hardly be questioned.⁴¹

The conflict causing the diplomatic struggle initially began after World War II, when the so-called Beneš decrees were issued in what was then Czechoslovakia.⁴² Probably the most (in)famous of the decrees concerned the confiscation of agricultural property of Germans, Hungarians, and certain other persons.⁴³ This decree *inter alia* provided that the agricultural property of all persons of “German origin” regardless of their citizenship status be confiscated

⁴⁰ See Roland Marxer, “Die diplomatischen Beziehungen zwischen Liechtenstein und der Tschechoslowakei bzw. Tschechien 1945 bis heute“, *Studia Historica Brunensia*, 67, issue 2 (2020), pp. 115-133.

⁴¹ Especially provided that the Czech Republic is an EU member state, and Liechtenstein is a member of the European Free Trade Association and the Council of Europe, with all of the said organisations demanding a certain standard of legitimacy.

⁴² Beneš Decrees is a term commonly used to describe the legislative acts of the Czechoslovak president Dr. Edvard Beneš issued from 1940 to 1945 first from his exile in the United Kingdom, and subsequently on his homeland's soil. See e.g. Konrad Böhler, Gregor Schusterschitz and Michael Wimmer, “The Beneš-Decrees and the Czech Restitution Laws from a Human Rights and European Community Law Perspective”, *Austrian Review of International and European Law*, 9, issue 1 (2006), at p. 12.

⁴³ Presidential Decree No. 12/1945 Coll., on the confiscation and accelerated distribution of agricultural property of Germans, Hungarians, as well as traitors and enemies of the Czech and Slovak nations.

effective immediately for the purposes of agricultural reform.⁴⁴ To avoid ambiguous interpretations of this provision, the decree further stipulated that the origin (i.e. nationality in its ethnical sense) of the persons in question shall be determined based either on data collected during the last census, or on their membership in certain organisations or societies.⁴⁵

Based on this decree, the National Committee in Olomouc issued an ordinance providing that Franz Joseph II of Liechtenstein fell under the definition of a person of German origin, meaning that the property of Liechtenstein's nationals consisting, among other things, of many thousands of hectares of land and several castles, could be confiscated without compensation.

The Principality of Liechtenstein has repeatedly and unsuccessfully tried to legally challenge this act based on a number of legal and factual arguments, with the central argument being that Liechtenstein nationals are not Germans and remained neutral throughout the war.⁴⁶ The dispute arising from the confiscation of property, which was accompanied by several lawsuits heard before national and international courts,⁴⁷ escalated to a diplomatic *cul-de-sac*, with both parties standing their ground in the deadlock and refusing to officially recognize one another's international public laws. The situation only normalized in 2009, when the two countries formally established a diplomatic relationship.⁴⁸

The paradox of the above described diplomatic situation from the perspective of domestic law is rather obvious. Both states were legitimate and recognized members of the international community, with functioning administrations, which meant that no substantial argument for mutual non-recognition of administrative acts can be made. Moreover, while there was no bilateral relationship established between the two states, the Czech Republic was a member of the European Union, and the Principality of Liechtenstein was an active member of the European Free Trade Association. The basic principles of both organisations made it essentially unimaginable not to recognize foreign administrative acts.

At the same time, both states were parties to a number of multilateral treaties, such as the Convention on the Recognition of Qualifications (Lisbon Recognition Convention).⁴⁹ Further, authorities from both countries participate in the same schemes of recognition, such as at the scheme for mutual recognition of

⁴⁴ Ibid, Section 1, paragraph 1, letter a).

⁴⁵ Ibid, Section 2, paragraph 1.

⁴⁶ See Václav Horčíčka & Jan Županič, "Kollaboration oder Neutralität? Die Familie Liechtenstein in den tschechischen Ländern während des Zweiten Weltkrieges", *Historisches Jahrbuch*, 134 (2014), pp. 372-418.

⁴⁷ See Bart Delmartino, "The End of the Road for the Prince? Sixty Years after the Czechoslovak Confiscation of Liechtenstein Property", *Leiden Journal of International Law*, 19, issue 2 (2006), pp. 441-458.

⁴⁸ See Roland Marxer, „Die diplomatischen Beziehungen“, at p. 133.

⁴⁹ See the Convention on the Recognition of Qualifications concerning Higher Education in the European Region (Lisbon Recognition Convention). The Czech Republic signed the Convention in 1997 and ratified it in 1999. Liechtenstein ratified it in 2000.

pharmaceutical inspections under the Pharmaceutical Inspection Convention.⁵⁰ Hence, despite the non-existence of bilateral relations between the Czech Republic and the Principality of Liechtenstein, the need for recognition of administrative acts *largo sensu* arose⁵¹ from other obligations, making a case for the fact that the possibility of administrative recognition need not be dependent upon the status of diplomatic recognition.

3.2 Palestine

Relations of public law in the Czech Republic to administrative acts, issued by the authorities of Palestine, represent a rather different case. The Palestinian Territories, comprised of the West Bank and the Gaza Strip, are state-like entities *sui generis*, as the views of their statehood differ. The status of Palestine as an internationally recognized and objectively existing sovereign state is not unambiguous. For the time being, more than 100 states have recognized Palestine as a state; however, many others have not, which makes Palestine only a *partially recognized state*. The former Czechoslovakia gave its consent to recognizing the State of Palestine in accord with the UN General Assembly Resolution 43/177.⁵² However its successor, the Czech Republic, does not currently recognize Palestine as an independent state.⁵³ Having said this, we must bear in mind that the mere absence of recognition by the means of international public law, does not automatically mean that there are no diplomatic relations between the Czech Republic and the State of Palestine.⁵⁴

Furthermore, the absence of mutual recognition between these two entities in no way automatically implies that the Czech Republic would not recognize any acts issued by various Palestinian authorities. For example, both the Czech Republic and the State of Palestine are parties to the Vienna Convention on Road Traffic.⁵⁵ Subject to the exceptions provided for in the Convention, Contracting Parties shall, *inter alia*, recognize any domestic permit conforming to the

⁵⁰ See the Convention for the Mutual Recognition of Inspections in regard to the Manufacture of Pharmaceutical Products.

⁵¹ The competent authorities of both Liechtenstein (Amt für Gesundheit) and the Czech Republic (Státní ústav pro kontrolu léčiv) have participated in the activities under the umbrella of the Convention.

⁵² See the Resolution of the Government of the Czech Republic No. 307, adopted on 18 November 1988.

⁵³ The fact is, that the Czech Republic was the only European country to vote against the UN General Assembly Resolution 67/19 that accorded to Palestine non-member observer State status in the UN, due to the official position, that Palestine does not meet criteria of statehood given by international law. On the other hand, the peacemaking process, as well as the political aspiration of Palestinians, is supported by the Czech Republic.

⁵⁴ There is a Czech liaison office in Ramallah and an Embassy of the State of Palestine in Prague.

⁵⁵ Vienna Convention on Road Traffic. Czechoslovakia had signed and ratified the Convention in 1968 and 1978, respectively, choosing "CS" as a distinguishing sign of vehicles in international traffic. The State of Palestine accessed to the Convention in 2019, choosing "PS" as a distinguishing sign of vehicles in international traffic.

provisions of Annex 6 to this Convention, as well as any international permit conforming to the provisions of Annex 7 to this Convention, on condition that it is presented with the corresponding domestic driving permit, as valid for driving in their territories a vehicle coming within the categories covered by the permits.⁵⁶ To be recognized, the permits must still be valid and must be issued by another contracting party or subdivision thereof, or by an association duly empowered thereto by such other contracting party or one of its subdivisions.

Neither the Czech Republic, nor the State of Palestine made any declarations or reservations to the Convention. The Convention does not contain any provision that would allow the Czech Republic to refuse to recognize the validity of a driving permit issued by the State of Palestine and its authorities, if it fulfils the requirements set in the Convention, as it is a permit issued by another contracting party. In compliance with Czech law, domestic driving permits and international driving permits issued by a foreign state in accordance with the Convention can certify the right to drive, if valid at the time. As the language of the Convention is plain and clear, it leads to the conclusion that the Czech Republic, observing its obligations resulting from international law, shall recognize Palestinian driving permits. Therefore, such a driving licence issued by the State of Palestine, shall gain legal effects even in the states which haven't recognised Palestine as an independent entity, but are bound by the Convention, such as the Czech Republic. These permits would certify their holder's right to drive, however they would not infer citizenship.

The legal status of Palestinians is determined by states in whose territory or under whose administration they live, as well as by the international community, and recognition or non-recognition of the State of Palestine has undoubtedly factual consequences to them. The Czech Republic does not recognize Palestine as a state; nonetheless, it confers legal consequences to certain acts issued by the State of Palestine. In similar vein as in the relation between the Czech Republic and Liechtenstein, the feature of recognition of certain administrative acts do not imply recognition of the state itself. It is however one way of reacting to the reality in which certain states recognize an entity while others do not, and in which acts are issued by such an entity regardless of its international (non-)recognition.

3.3 Liberland

A somewhat different situation is offered by the example of the (mostly unrecognized) Free Republic of Liberland. Founded in 2015, the state occupies the territory of 7 km² known as Gornja Siga, lying in the territory situated between Croatia and Serbia. The idea behind this self-proclaimed state that attracted the attention of many scholars⁵⁷ has roots in the border dispute over a plot of land

⁵⁶ Vienna Convention on Road Traffic, Article 41.

⁵⁷ See e.g. Gabriel Rossman, "Extremely Loud and Incredibly Close (but Still So Far): Assessing Liberland's Claim of Statehood", *Chicago Journal of International Law*, 17, issue 1 (Summer 2016), pp. 306-338. See also Joseph Ooko Nyangaga, "The Doctrine of Occupation through "Terra

which was considered a territory of neither of the bordering states (i.e. neither Croatia nor Serbia), and was therefore occupied by the founders of Liberland as a *terra nullius* – a no man's land. Since the newly proclaimed republic was said to possess peacefully acquired territory, citizens and government, the founders of the state argued that all conditions for the existence of an independent state were met, and the microstate could therefore be recognized as a legitimate member of the international community. Although Liberland managed to establish relationships with certain other states,⁵⁸ it remains unrecognized by most states and is in principle considered illegitimate.

The Liberlandian example might assist the scholarship in establishing the criteria under which administrative acts of unrecognized states might be accepted. Since Liberland claims to have a functioning government, it may also issue all sorts of documents and administrative acts. At first glance it might appear that the situation should be the same as in the case of other unrecognized states. Here, however, the assessment will be influenced by the fact that Liberland is *de facto* a virtual state without genuine control over its territory and population.

For instance, Liberlandian citizenship can be acquired without even stepping on its soil, meaning that no *tête-à-tête* identification is taking place, which lowers the trustworthiness of the acts issued. Furthermore, as there are no effective control mechanisms in place to audit the activity of the government agencies and thus no quality assurance, the expectancy of legitimacy of administrative acts is generally low as well. Because Liberland has no factual population and only virtual citizens living outside of its territory, it can be argued that the Liberlandian regime is dissimulative and does not function as a public authority but rather as a private or a quasi-private organization.⁵⁹

When it comes to certain kinds of documents and certifications, the mere fact that such document is issued by a non-governmental authority does not automatically imply that it cannot certify the facts imbedded in it (such as the identity of a certain person). After all, administrative law theory recognises situations in which certifications and documents with formal effects are issued by private persons and entities. In the case of administration, however, a certain procedural standard will typically be required to ensure that an administrative act can have any legal effect at all. This standard can be established not only through statehood in the sense of international public law, but through the scrutiny of processes behind the issuance of administrative acts and certifications. In the case of Liberland, no processes comparable to these preceding the issuance of administrative acts in other countries could be found based on the publically

Nullius" as a Right of Self-Determination of Peoples and the Legal Status of "Liberland" Territory under international Law", *Beijing Law Review*, 13, issue 1 (March 2022), pp. 119-132.

⁵⁸ In October 2022, Liberland announced that the Minister of Agriculture for Malawi had signed an agriculture-related Memorandum of Understanding (MoU) with Liberland. The minister has since left office, and various officials of the government of Malawi have denied knowledge of such an agreement.

⁵⁹ See Viktoriya Sertzhanova, "Utopian States", *Acta Universitatis Lucian Blaga. Iurisprudentia*, 11, issue 1 (2013), pp. 153-163.

available information, which leads the authors to conclusion that it would be problematic to accept such acts.

Despite the fact that the documents of self-proclaimed states typically bear rather low trustworthiness, or at least trustworthiness not associated with state authorities, there are cases in which such documents were accepted. This was, as a matter of example, the case of the Principality of Hutt River – a self-proclaimed microstate established in 1970 in Australia.⁶⁰ Although not recognized by most states, the principality initiated diplomatic relations with many states and even had a consulate in what was then Czechoslovakia. In 1984, the consul of the Principality of Hutt River in Czechoslovakia, holding a Hutt River diplomatic passport, successfully emigrated through Romania to then Yugoslavia, as his diplomatic status was recognized and regarded by the authorities. Although it is unclear whether the diplomatic passport of the Principality of Hutt River was accepted by mistake, this story demonstrates the possibility of factual recognition.

4. A reconciliation by the concept of the ‘humanitarian reservation’

Analysing the current practice of (non)recognition of foreign administrative acts, one may easily observe that neither the normative approach (the ‘one voice’ theory), nor the factual approach seems to offer a viable solution for the problem, which is arising *vis-à-vis* acts, issued by the non-recognised regimes. The viability of the normative approach seems to be denied by the existing practice, as it is clear, that the absence of recognition by the means of international public law does not hinder the administration to confer legal consequences to foreign acts, issued by the non-recognised entity. The cases of recognition, conferred by the authorities of the Czech Republic to acts, issued by the Principality of Liechtenstein, or to the State of Palestine, clearly demonstrate that the normative approach does not reflect the realities of administrative practice.⁶¹ Neither is the viability of the factual approach very strong.

In consequence, the factual approach will entirely penetrate the link between activities of the administration in its relation to other states on one hand and the activities, conducted by the same administration in the relation to the citizens on the other. Very recently, Nikitas Hatzimihail warned against the ultimate consequences of the factual approach, arguing that the recognition of a foreign entity by the means of international public law would become an ‘empty shell’, as it would have no consequences for the practice of the public administration.⁶²

Having identified both normative and factual approaches as not being in conformity with the realities of administrative practice, another approach must be

⁶⁰ See Vicente Bicudo de Castro and Ralph Kober, “The Principality of Hutt River: a Territory Marooned in the Western Australian Outback”, *Shima*, 12, issue 1 (2018), pp. 143-159.

⁶¹ See Shpetim Bajrami & Mehrdad Payandeh, “Die innerstaatliche Anerkennung ausländischer Gerichtsentscheidungen”, at p. 586.

⁶² See Nikitas Hatzimihail, “Private International Law Matters Involving Non-Recognized States”, at p. 190.

identified to offer a solution. In this regard, a solution may be offered by the concept of ‘humanitarian reservation’, which, in principle, refers to paragraph 125 of the advisory opinion in the ‘Namibia Case’, which reads as follows: “*in general, the non-recognition of South Africa’s administration of the Territory should not result in depriving the people of Namibia of any advantages derived from international Co-operation. In particular, while official acts performed by the Government of South Africa on behalf of or concerning Namibia after the termination of the Mandate are illegal and invalid, this invalidity cannot be extended to those acts such as, for instance, the registration of births, deaths and marriages, the effects of which can be ignored only to the detriment of the inhabitants of the Territory.*”⁶³

In the scholarship of international private law⁶⁴ these arguments have lead into the argument that certain acts have been accepted by courts deciding in the matters of private law, irrespective of whether they originate from a recognised state, or an unrecognised regime. The question is, to what extent is this also relevant for the relations of administrative law?

4.1 The concept of humanitarian reservation in legal scholarship

The fact is that the concept of ‘humanitarian reservation’ has been present in legal scholarship well before the advisory opinion in the ‘Namibia Case’. Even the fiercest opponents of the possibility to recognise acts issued by non-recognised regimes have admitted certain exemptions, which must be taken due to humanitarian considerations of the interests of individuals residing under an illegitimate regime. It was Wilhelm Wengler, who used the term ‘humanitarian reservation’⁶⁵ in this regard and this term has been acknowledged by subsequent authors.⁶⁶

The concept reflects the fact, that states as subjects of international public law can decide not to recognise or enter into diplomatic relations with other states. And despite the serious problems it raises, states can also ignore the laws of ‘non-recognised states’, ‘self-proclaimed entities’ and ‘de facto regimes’, disregarding their administrative acts., States may also refuse recognition to those annexations, or occupations, which they deem as illegal. However, the populations living in the concerned territories have, in principle, nothing to do with this refusal of recognition. For them, the administrative authorities of these entities are the only executive bodies to whom they can resort.⁶⁷ There are no other administrative, or

⁶³ See International Court of Justice (ICJ), Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion of 21 June 1971, ICJ Reports 1971, pp. 16-66.

⁶⁴ See Daniel Gruenbaum, “From Statehood to Effectiveness”, at pp. 577-616.

⁶⁵ See Wilhelm Wengler, “Fragen der Faktizität und Legitimität bei der Anwendung fremden Rechts”, in Festschrift Hans Lewald (bei Vollendung d. 40. Amtsjahres als Ordentl. Prof. im Oktober 1953), Helbing & Lichtenhahn, Basel, 1953, at p. 619.

⁶⁶ See Daniel Gruenbaum, “From Statehood to Effectiveness”, at p. 602.

⁶⁷ Ibid.

judicial authorities they can turn to, nor are there schools or universities where they can study and gain their university diplomas. Consequently, a practice of non-recognition of those administrative acts, issued by non-recognised regimes would imply that these individuals are, in principle, hostages to the regimes they are governed by.

These concerns were addressed in the decision making of the European Court of Human Rights which, with regard to the situation with the Pridnestrovian Moldavian Republic (Transnistria), ruled that: *“it cannot automatically be regarded as unlawful, for the limited purposes of the Convention, that the decisions taken by the courts of an unrecognised entity, purely because of the latter’s unlawful nature and the fact that it is not internationally recognised. In line with this rationale, the Court finds it already established in its case-law that the decisions taken by the courts of unrecognised entities, including decisions taken by their criminal courts, may be considered “lawful” for the purposes of the Convention, provided they fulfil certain conditions. This does not in any way imply any recognition of that entity’s ambitions for independence.”*⁶⁸

The application of the ‘humanitarian reservation’ certainly constitutes a measure that may help to facilitate grave situations where administrative acts issued by non-recognised regimes are demonstrated by an individual. However, several facts must be mentioned here with regard to this concept. Firstly, the concept has so far been accepted in the theory of international public law as a tool of reconciliation. However, one must bear in mind that the purpose of this reservation is to serve as an *exception*, not as a rule.⁶⁹ In this regard, one must bear in mind that the relations of administrative law are of a different nature and the situations for applying such an exemption must be carefully chosen, so as not to imply recognition of the foreign regime as such.⁷⁰ Secondly, the concept of the ‘humanitarian reservation’ has been clearly derived for the protection of the population which, in reality, lives within a certain territory. Thus, various utopian states (or micronations without a real population) certainly do not fall under the scope of such a reservation. Lastly, the decision making of the European Court of Human Rights has, in principle, only addressed selected cases, where specific self-proclaimed regimes played certain role. Consequently, the question arises to which extent the ‘humanitarian reservation’ may also find its application beyond these cases. The answer for this question has been outlined by the events which followed the aggression of the Russian Federation against Ukraine in February, 2022.

⁶⁸ See Judgement of the ECHR of 23 February 2016, *Mozer v. Moldova and Russia*, 11138/10, paragraphs 142 and 143.

⁶⁹ Enrico Milano, “The doctrine(s) of non-recognition: theoretical underpinnings and policy implications in dealing with de facto regimes”, available at <https://esil-sedi.eu/wp-content/uploads/2018/04/Agora-3-Milano.pdf>, at pp. 2-3.

⁷⁰ See Henrik Wenander, “Recognition of Foreign Administrative Decisions, Balancing International Cooperation, National Self-Determination, and Individual Rights”, *Heidelberg Journal of International Law* 71 (2011), at p. 800.

4.2 The concept of humanitarian reservation in written law

A clear demonstration of the ‘humanitarian reservation’ may be found in the text of the decision on the non-acceptance of travel documents of the Russian Federation issued in Ukraine and Georgia, which were issued by the European Parliament and Council in December of 2022.⁷¹ That decision was issued as a reaction to the fact that, since the illegal annexation of the Autonomous Republic of Crimea and the city of Sevastopol in 2014, the Russian Federation issued Russian international passports to residents of those territories.⁷² On 24 April, 2019, the President of Russia signed a decree simplifying the procedure for residents of the non-government-controlled regions of Ukraine’s Donetsk and Luhansk regions to obtain Russian citizenship, including the procedure for the issuance of Russian international passports to those residents. By means of a decree of 11 July, 2022, Russia extended the practice of issuing ordinary Russian international passports to residents of other non-government-controlled regions of Ukraine, in particular to the Kherson and Zaporizhzhia regions.⁷³

Reacting to this practice by the authorities of the Russian Federation, the EU member states, as well as Iceland, Norway, Switzerland and Liechtenstein began to not recognise travel documents issued in these illegally occupied territories. The same applies to Russian travel documents issued in the Georgian territories of Abkhazia and South Ossetia, which are no longer under the control of the Georgian government.⁷⁴

These decisions provided⁷⁵ for several restrictions concerning those Russian Federation travel documents issued in, or to persons resident, in regions or territories in Ukraine that are occupied by the Russian Federation or breakaway territories in Georgia. Firstly, these travel documents shall not be accepted as valid travel documents for the purposes of issuing EU visas.⁷⁶ Secondly, travel documents referred in the decision will not be recognised for the purposes of crossing of the external borders of the European Union.⁷⁷ In this regard, the decision clearly follows the ‘one voice’ theory, as it adapts refusal to recognised illegal annexations into the practice of the administrative authorities.

Having said this, one must bear in mind the exceptions, which are provided

⁷¹ Decision (EU) 2022/2512 of the European Parliament and of the Council of 14 December 2022 on the non-acceptance of travel documents of the Russian Federation issued in Ukraine and Georgia, OJ L 326, 21.12.2022, p. 1–5.

⁷² See Anne Peters, “Passportisation: Risks for international law and stability – Part I”, available at <https://www.ejiltalk.org/passportisation-risks-for-international-law-and-stability-part-one/>.

⁷³ Ibid, recital (6).

⁷⁴ Ibid, recital (7).

⁷⁵ Decision (EU) 2022/2512, Article 1.

⁷⁶ See Regulation (EC) No. 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code), OJ L 243, 15.9.2009, pp. 1–58.

⁷⁷ See Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March, 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L 77, 23.3.2016, p. 1–52.

by the decision and are as follows:⁷⁸ Firstly, the travel documents issued by the occupational authorities may be accepted in cases where its holder was a Russian citizen before the beginning of the aggression, or if the holder is a descendant of such Russian citizens. Secondly, travel documents are also acceptable in cases where its holders were minor or legally incapacitated persons at the time of the issuance of such travel documents. In both cases, the holder of such travel documents would have no choice, other than to turn to the authority of the occupant to receive his or her travel document.

These exemptions, as recently provided by the decision, clearly demonstrate the reception of the '*humanitarian reservation*' in the written legislation. Without the exception granted in the decision, the particular person would become hostage of their own citizenship, age or health conditions, without any possibility to move freely into the territory of the European Union. The exemptions, as provided by the decision, do not confirm the fact that the '*humanitarian reservation*' is also being widely accepted in the relations of public law. They also serve as a potential tool of corrections to those national policies, which might be stricter.

4.3 The concept of humanitarian reservation in practice

Beyond the written law, the '*humanitarian reservation*' also found its application in administrative practice. With the illegal annexation of Autonomous Republic of Crimea and the city of Sevastopol by the Russian Federation and the consequent establishment of self-proclaimed entities in the territory of Ukraine (Lugansk and Donetsk Peoples Republics), the question arises as to how to address the judicial and administrative acts issued by the authorities of these entities.⁷⁹ The issue has been of particular importance for the public law of Ukraine, as both in the relations of private and public law, the acts issued by these entities have circulated before the official authorities of Ukraine.⁸⁰

In principle, the current law of Ukraine⁸¹ does prevent any legal consequences of acts, issued both by the authorities of the non-recognised regimes and by institutions, being under control of these regimes. In this respect, however, the concept of '*humanitarian reservation*' has been widely applied in the practice of the Ukrainian authorities, of both a civil and public nature.⁸² In criminal proceedings, the Ukrainian courts have accepted several types of documents issued by the authorities of the self-proclaimed regimes – the certificates of release from prisons located in temporarily occupied territories, documents certifying the state

⁷⁸ Decision (EU) 2022/2512, Article 2.

⁷⁹ Nataliia Kasianenko, "Internal legitimacy and governance in the absence of recognition", *Ideology and politics*, 12, issue 1 (January 2019), pp. 116-130.

⁸⁰ See Nataliia Martsenko, "Peculiarities of Recognition of Judgments and other Acts Issued by Unrecognized Authorities", at pp. 207-208.

⁸¹ See Roman Kuibida, Liana Moroz & Roman Smilax, "Justice in the East of Ukraine During the Ongoing Armed Conflict", *International Journal for Court Administration*, 11, issue 2 (April 2020), at p. 9.

⁸² See Iryna Izarova & Oksana Uhrynovska, "To be born amid war conflict: The right to a legal identity in Ukraine", *Studia Prawnicze*, 222, issue 2 (2021), pp. 161-182.

of health, etc.⁸³ In the relations of administrative law, a mechanism to confirm the authenticity of medical certificates issued in the territory controlled by self-proclaimed entities have been established. A mechanism for the recognition of those documents ascertaining the facts of birth and death in the areas in which authorities of Ukraine temporarily do not exercise their powers, is also being executed by a specially created Commission. It will have the power to ascertain the true circumstances of the case and issue an appropriate conclusion, which will serve as a basis for registration of the facts of birth or death by the state registration authority for every application received.⁸⁴

These proactive moves clearly demonstrate that, even in the case of Ukraine, a vigorous application of the normative approach would not be applicable. The fact that the acts issued by self-proclaimed entities may also gain recognition under the public law of Ukraine may serve as an argument, supporting the potential recognition of these documents beyond the territory of Ukraine. Having said this, such recognition cannot and must not in any way imply recognition of the self-proclaimed entities and must only serve the benefit of the individual in special cases.

One has also to bear in mind, that the whole issue is even more complex, with some of the acts, issued by non-recognised regimes (for example passports, issued by these self-proclaimed entities), which existed in the territory of Ukraine, have been recognised by the legislation of the Russian Federation in certain proceedings (such as in the proceedings for obtaining the citizenship).⁸⁵

5. Conclusions

Despite their non-recognition by the international community of states, the existence of non-recognised regimes remains a fact which must be addressed by legal scholarship. Even under the non-recognised regimes, law is being applied and administrative acts are being issued to certify regulations under public law. Such acts may circulate and, consequently, they may appear before foreign administrative authorities. Thus, the problem of their recognition arises in a similar vein as those problems arising in regard to the administrative acts, issued by authorities of recognised states.

This article aimed to argue for the application of the '*humanitarian reservation*' in such cases. The authors demonstrated that the concept of the '*humanitarian reservation*' affects not only products of legal scholarship, but has also been accepted in written law and in the decision-making practices. With regard to the foreign act, issued by a non-recognised regime, such reservations

⁸³ See Vitalii Komarnytskyi et al., "Restoration of criminal justice and introduction of transitional justice in the conditions of restoration of territorial integrity of Ukraine and reintegration of Donbas", *Amazonia Investiga*, 9, issue 27 (March 2020), at p. 354.

⁸⁴ Ibid, at p. 353.

⁸⁵ See Nataliia Kasianenko, "Statelessness and governance in the absence of recognition. The case of the 'Donetsk People's Republic'", in *Statelessness, governance and the problem of citizenship*, edited by Kendayi Bloom & Lindsey N. Kingston, Manchester University Press, Manchester, 2021, pp. 112-121.

should serve to facilitate the basic rights of a human being. Such rights cannot be denied, even under the situation where a document was issued by authorities of a regime that exists contrary to the rules of international public law. However, we should bear in mind, that the ‘*humanitarian reservation*’ cannot imply the legitimisation of illegitimate foreign regimes, which exist contrary to international public law.

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II. Working papers & online articles

1. Enrico Milano, “The doctrine(s) of non-recognition: theoretical underpinnings and policy implications in dealing with de facto regimes”, available at <https://esil-sedi.eu/wp-content/uploads/2018/04/Agora-3-Milano.pdf>.
2. Anne Peters, “Passportisation: Risks for international law and stability – Part I”, available at <https://www.ejiltalk.org/passportisation-risks-for-international-law-and-stability-part-one/>.

III. International conventions

1. Vienna Convention on Road Traffic of 1968, concluded on 8 November 1968 in

- Vienna, entered into force on 21 May 1977.
2. Convention on the Recognition of Qualifications concerning Higher Education in the European Region (Lisbon Recognition Convention), concluded on 11 April 1997 in Lisbon, entered into force on 1 February 1999.
 3. Convention for the Mutual Recognition of Inspections in regard to the Manufacture of Pharmaceutical Products (Pharmaceutical Inspections Convention), concluded on 8 October 1970 in Geneva, entered into force on 25 April 1997.

IV. EU Law

1. Decision (EU) 2022/2512 of the European Parliament and of the Council of 14 December 2022 on the non-acceptance of travel documents of the Russian Federation issued in Ukraine and Georgia, OJ L 326, 21.12.2022, pp. 1-5.
2. Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L 77, 23.3.2016, p. 1–52.
3. Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code), OJ L 243, 15.9.2009, pp. 1-58.