

## THE EU “ENGAGEMENT WITHOUT RECOGNITION” POLICY IN ITS EASTERN NEIGHBORHOOD *DE FACTO* STATES. THE CASE OF ABKHAZIA AND SOUTH OSSETIA

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### Abstract:

*This article aims to analyze the limits and the opportunities encountered in the implementation of the EU Non-Recognition and Engagement Policy with Abkhazia and South Ossetia (NREP), launched in December 2009. Part of the EaP toolkit to strengthen EU's relations with its new Eastern Neighborhood, the NREP contributed to numerous legislative and discursive changes towards Abkhazia and South Ossetia in the Georgian politics. However, because the NREP was almost merged with the legislation and approach of Georgia towards its two breakaway republics, Sukhum/i and Tskhinvali mistrusted any engagement actions coming from Brussels and Tbilisi. Their reactions following the adoption of the visa waiver for Georgia are an indication of the depth casted between belligerents that the NREP could not fill in. Therefore, we advocate that a clearer and much more coherent EU agenda towards its Eastern *de facto* states is very much needed in order to decrease the level of humanitarian isolation that affects the people living in such areas and to increase the EU leverage on conflict transformation and resolution in the EaP framework.*

**Keywords:** Engagement without recognition, *de facto* states, Abkhazia, South Ossetia, European Eastern Partnership

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Amongst the six members of the European Eastern Partnership (EaP) launched in May 2009 at the Prague Summit, five of them are now involved in frozen conflicts, namely Armenia, Azerbaijan, Georgia, Moldova and more recently, Ukraine.<sup>1</sup>

Taking into account the level of insecurity in the EaP countries that fear or fuel<sup>2</sup> new outbursts of violence in their “occupied territories”/ *de facto* states, the EaP umbrella policy should have been an opportunity for the EU to engage with patron and parent states on the one hand and *de facto* entities on the other one. However, since the EaP has been launched in a “shared neighborhood” with Russia, the process has inherently become extremely political. Russia perceived it as an intrusive competitor in its near abroad (ближнее зарубежье) and, from the very beginning, contributed to the division of the EaP members in two groups. While Georgia, Moldova and Ukraine tried to align with the new EU policies and fulfil the commitments towards a deeper partnership with the EU, Armenia, Azerbaijan and Belarus have made little progress in engaging with Brussels. While the European Commission and the European External Action Service (EEAS) focused on finding a more personalized approach to the relations with the second group, Brussels was lacking a coherent and cohesive Action Plan to guide EU’s relations with *de facto* entities in its neighborhood. Launched shortly after the five-day war between Georgia and South Ossetia/ Russia that occurred in August 2008, the turning point in the EU’s EaP policy was the annexation of Crimea (2014) and the ongoing war in Eastern Ukraine, in the Donbass region. Since the EaP seems framed by Russia’s ambitions’ to dissuade the EaP members from engaging with Brussels using the separatist toolbox, the strategic importance of *de facto* states has serious implications for the existence of the Eastern Partnership policy in itself. As Thomas de Wall argued

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<sup>1</sup> See “The European Integration Index 2014 for Eastern Partnership Countries”, [<http://www.eap-index.eu/sites/default/files/EaP%20Index%202014.pdf>], February 12, 2017. Belarus is the only country of the EaP that is not involved in any territorial dispute.

<sup>2</sup> The choice of the two verbs “fear”/ “fuel” is not random. For example, following the border skirmishes along the line of contact and the four-day war between Armenia and Azerbaijan that occurred in April 2016, the belligerents accused each other of fueling the violence and starting the war. At the same, the populations in both countries feared that the new outburst of violence will create instability and will re-open the conflict over Nagorno-Karabakh.

in a recent event held in Brussels by Carnegie Europe, *Engaging with Separatist Territories in Europe's East*, “Choosing the right kind of interaction with these *de facto* officials is difficult for international actors, but essential to resolve the protracted conflicts.”<sup>3</sup>

Since the 1990s until the beginning of the 2000s, the EU's leverage in conflict management in Abkhazia, South Ossetia, Nagorno-Karabakh and Transnistria has been limited due to various reasons that will be briefly exposed below. With the launch of the European Neighborhood Policy (ENP) in 2003, the EaP (May 2009) and the adoption of the EU Non-Recognition and Engagement Policy with Abkhazia and South Ossetia (NREP) (December 2009), EU strived to differentiate itself from the current conflict managers already active in the area (i.e. UN, OSCE, the Minsk Group, etc.). The NREP, the last element in the EU EaP toolbox advanced in 2009, was a nonpaper policy attempt that addressed specifically the existence of two *de facto* entities in the framework of the ENP and EaP policies, namely Abkhazia and South Ossetia.

In this paper, we aim to examine the possibilities offered by this new approach and inquire the challenges, opportunities and limits around this strategy. Since the strategy is twofold, we will briefly elaborate around each pillar and focus on the attractiveness of this strategy for *de facto* states that search for international recognition, as their physical and ontological security primordial goal. In this paper, we will refer particularly to Abkhazia and South Ossetia. Due to space constraints, we will not touch upon the post-2014 *de facto* states that have been formed after the annexation of Crimea and the parade of referendums for independence that took place in Lugansk and Donetsk. The events that occurred in Ukraine in 2014 marked a new watershed moment for the EU relations with its Eastern neighborhood and, implicitly, with the Russian Federation. However, since there was no update of the NREP or reference to a new policy initiative towards other *de facto* states, this article will tackle only the progress, limits and challenges registered by the NREP policy regarding Abkhazia and South Ossetia.

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<sup>3</sup> Thomas de Waal, “Engagement without recognition: the limits of diplomatic interaction with contested states”, Carnegie Europe, January 17, 2017, [<http://carnegieeurope.eu/2017/01/17/enhancing-eu-s-engagement-with-separatist-territories-pub-67694>], February 25, 2017.

## **The forgotten actors of the Eastern Partnership: what place for the *de facto* states in the EaP policy framework?**

In 2007, with the accession of Romania and Bulgaria to the EU, the boundaries of the Union moved further and touched the borders of former Soviet republics: Moldova, Ukraine, Belarus, Georgia, Armenia and Azerbaijan. With the EU moving eastward, the limits of Eastern Europe touched the Caspian shores of Azerbaijan and overlapped with Russia's Near Abroad. In this newly-framed geopolitical area, the dissolution of the USSR seems an unfinished process, not only due to the unavoidable Soviet complex legacy persistent in the six countries and the inevitable Russian proximity, but also due to the fact that five out of the six countries part of the EaP are involved in several "unresolved"<sup>4</sup>/frozen conflicts<sup>5</sup>. Despite all odds, twenty-five years after the USSR breakdown, the map of the *new* Eastern Europe contains several separatist regions that did not resolve their territorial disputes with their parent states through negotiations and peaceful agreements. *De jure* part of one country, *de facto* independent and led by separatist leaders, these separatist actors receive important economic and political support from the Russian patronate. Very much forgotten by other international actors, politics and media, they are almost inexistent in terms of policy and engagement outside the relation with their major patron state (Russia).

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<sup>4</sup> In a discussion with Mr Lawrence Meredith, Director of Neighborhood East, European Commission, DG NEAR, EC, April 21st, 2016, Brussels, he highlighted the fact that the term "frozen conflicts" used in depicting the relation between Abkhazia, South Ossetia, Nagorno-Karabakh and Transnistria and their respective parent states is often misleading and distorts the situation on the ground. The uncertainty of the *no-peace - no-conflict* relation between DFSs and their parent states always creates new dynamics that are wrongly portrayed as frozen or stagnant in time. For these reasons, he expressed his preference for the term "unresolved" rather than "frozen" conflicts.

<sup>5</sup> In the *Joint Declaration of the Prague Eastern Partnership Summit* signed in Prague, on May 7, 2009, there was no reference to the conflicts affecting the stability of the EaP or the existence of the DFSs in the region. However, there was a subtle reference to the conflict settlement, "The Eastern Partnership should further promote stability and multilateral confidence building. Conflicts impede cooperation activities. Therefore the participants of the Prague summit emphasize the need for their earliest peaceful settlement on the basis of principles and norms of international law and the decisions and documents approved in this framework."

The Declaration is available online at

[[http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/er/107589.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/er/107589.pdf)], February 27<sup>th</sup>, 2017.

Whereas their existence posed a major challenge to the EU in the region, with the creation of the EaP, there was a clear potential to end the policy of isolation maintained since the 1990s towards all *de facto* states and replace it, within the framework of international non-recognition principle, with a new policy known as “engagement without recognition”. Seven months after the EaP Summit Declaration in Prague (May 7, 2009)<sup>6</sup>, in December 2009, the EU launched a nonpaper called *Non-recognition and engagement policy (NREP) towards Abkhazia and South Ossetia*.<sup>7</sup> The new policy has never been published and was rarely mentioned in the public discourse. In this paper, we will try to decipher the ambiguity of the EU policy regarding DFSs and analyze its viability within the EaP framework.

### **Who are the pre-2014 *de facto* states in the EaP and why should EU engage with them?**

Since early 1990s, Abkhazia, South Ossetia, Nagorno-Karabakh and Transnistria engaged in wars of secession against their respective parent states, Georgia, Azerbaijan and Moldova. All DFSs received military, financial and political support from Moscow and succeeded in maintaining their *de facto* status for more than two decades now.

In the group of Eastern European *de facto* states, Abkhazia and South Ossetia constitute a different category after their independence was recognized by the Russian Federation and a few other UN member states.<sup>8</sup>

Both Abkhazia and South Ossetia belong *de jure* to Georgia, although the latter lost control over the two territories following the ethnic wars that occurred in early 1990s and in 2008, after the Russo-Georgian war.

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<sup>6</sup> See “Joint Declaration of the Prague Eastern Partnership Summit”, May 7, 2009, [[http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/er/107589.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/er/107589.pdf)], February 22, 2017.

<sup>7</sup> Nino Kereselidze, “The Engagement policies of the European Union, Georgia and Russia towards Abkhazia”, *Caucasus Survey*, 2015, Vol.3/3, pp. 309-322, [<http://www.tandfonline.com/doi/abs/10.1080/23761199.2015.1102451?journalCode=rcau20>], February 22, 2017.

<sup>8</sup> The literature covering the emergence of all post-Soviet *de facto* states is very rich. For eg. Christoph Zürcher, *The Post-Soviet Wars. Rebellion, Ethnic Conflict, and Nationhood in the Caucasus*, New York and London: New York University Press, 2007; Svante E. Cornell, *Small Nations and Great Powers. A Study of Ethnopolitical Conflict in the Caucasus*, London and New York: Routledge Curzon, 2005 and many others.

Until 2008, the engagement of the EU in its now Eastern Neighborhood was limited, as it was reflected in the objectives of the Partnership and Cooperation Agreements (PCAs) signed in the 1990s.<sup>9</sup> Back then, Georgia, Armenia, Azerbaijan and Moldova were already engaged in protracted ethnic conflicts and civil wars that reinforced Russia's presence in the area at both a physical and an ontological level. Imagining the EU as a peacekeeper in the four frozen conflicts in Abkhazia, South Ossetia, Nagorno-Karabakh and Transnistria was neither a priority, nor a feasible opportunity for Brussels.

The political escalation of conflicts in South Ossetia and Abkhazia that occurred in summer 2008, forced the EU to come up with a new strategy towards its Eastern Neighbors within the ENP. Although the formulation of the EaP initiative was conceived in the wake of the Russo-Georgian war, the EU has never developed a comprehensive and holistic Eastern Neighborhood Conflict Prevention and Resolution strategy and has been reluctant in establishing a formal coherent policy towards all the DFSs in the region.<sup>10</sup>

A small step forward in setting up a working formula to engage with Abkhazia and South Ossetia occurred in December 2009 when the Political and Security Committee of the Council of the EU endorsed a nonpaper policy that aimed to open up "a political and legal space in which the EU can interact with the separatist regions without compromising its adherence to Georgia's territorial integrity".<sup>11</sup> The two main references to this policy belong to Sabine Fisher who wrote a report dedicated to NREP and published it with the EU Institute for Security Studies and Alexander Cooley, an associate professor of political science at Columbia University's Harriman Institute who wrote *Engagement without Recognition: A new Strategy toward Abkhazia and Eurasia's Unrecognized States*<sup>12</sup>.

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<sup>9</sup> Kereselidze, *op.cit.*

<sup>10</sup> Amanda Akçakoca, Thomas Vauhauwaert, Richard Whitman, Stefan Wolff, "After Georgia: conflict resolution in the EU's Eastern Neighbourhood", *EPC Issue Paper* No.57, April 2009, [[http://epc.eu/documents/uploads/961937412\\_EPC%20Issue%20Paper%2057%20-%20After%20Georgia.pdf](http://epc.eu/documents/uploads/961937412_EPC%20Issue%20Paper%2057%20-%20After%20Georgia.pdf)], February 28, 2017.

<sup>11</sup> Sabine Fischer, "The EU's Non-Recognition and Engagement Policy towards Abkhazia and South-Ossetia", *ISS Seminar Report*, Brussels, December 2010, p.1, [[http://www.iss.europa.eu/uploads/media/NREP\\_report.pdf](http://www.iss.europa.eu/uploads/media/NREP_report.pdf)], February 28, 2017.

<sup>12</sup> Alexander Cooley and Lincoln A. Mitchell, "Engagement without Recognition: A new Strategy toward Abkhazia and Eurasia's Unrecognized States", *Center for Strategic and International Studies, The Washington Quarterly*, 33:4 (2010), pp. 59-73.

The policy is built on two pillars: a legal one – the firm non-recognition standpoint of the international community towards Abkhazia and South Ossetia and a civic one - the engagement with them in the framework of non-recognition.

While the non-recognition part of the policy has been continuously reinforced in all EU-Georgia official documents where the EU reiterated “its firm support for the sovereignty and territorial integrity of Georgia within its internationally recognized borders.”<sup>13</sup>, the engagement aspect of the policy has been limited and lacked consistency and coherence due to various reasons.

In terms of domestic political constraints, Georgia’s United Movement Party (UNM) had a powerful discourse against EU’s engagement with Georgia’s *de facto* territories. They feared that more engagement will give those entities more legitimacy and will contribute to their institutional development and thus, to their international recognition.

Almost at the same period when the EU was expressing its new NREP policy, the Georgian government adopted a new *Law on Occupied Territories*<sup>14</sup> which called for the isolation of its “occupied territories” (October 2009). Due to the criticisms of the Venice Commission of the Council of Europe and the European Commission, Georgians had to revisit their policy and consider the engagement solution, as it was proposed by the EU. In January 2010, the Georgian government unveiled a new strategy on its occupied territories that was advocating for de-isolation of Abkhazia and South Ossetia and “recognized the negative repercussions of isolating the populations living there.”<sup>15</sup> The terminology used in referring to Abkhazia and South Ossetia is definitely crucial in bridging communities, building confidence and creating trust. The use of “occupied territories” terminology in the two above-mentioned laws, one aiming for more isolation and the other one proposing more engagement, was giving Russian a prominent role and somehow denied any potential engagement between the belligerents.

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<sup>13</sup> See “Georgia and the EU”, European External Action Service, published on April 11, 2016, [[https://eeas.europa.eu/headquarters/headquarters-homepage\\_en/1237/Georgia%20and%20the%20EU](https://eeas.europa.eu/headquarters/headquarters-homepage_en/1237/Georgia%20and%20the%20EU)], March 2, 2017.

<sup>14</sup> See *Law on occupied territories*, published in October 2009, [<http://www.ilo.org/dyn/natlex/docs/SERIAL/81268/88220/F1630879580/GEO81268.pdf>], March 2, 2017.

<sup>15</sup> See *State Strategy on Occupied Territories: Engagement through Cooperation*, published in January 2010, [<http://www.civil.ge/files/files/SMR-Strategy-en.pdf>], March 2, 2017.

Although the EU backed the policy of non-recognition, it never referred to those *de facto* states as “occupied territories”, as it was the case after the annexation of Crimea in 2014 when several European institutions called for its de-occupation and reiterated the EU’s commitment to the sovereignty and the territorial integrity of Ukraine.

Abkhazian and South Ossetian authorities were reluctant in trusting both the Georgian Ministry of Reintegration established in January 2008<sup>16</sup> and the European actors that were visibly lacking cohesion in approaching the authorities in Sukhum/i and Tskhinvali.

In 2012, due to the fact that neither Abkhazians, nor South Ossetians were willing to cooperate in a project that was openly aiming towards their reintegration into Georgia and completely neglected their ontological objective, Georgia changed the name of the Ministry of Reintegration to the Ministry of Reconciliation and appointed former civil-society activist Paata Zakareishvili to run the Georgian policy towards its secessionist territories.

With the new Georgian Dream party winning the presidential elections in 2013 and distancing itself from Mikhail Saakashvili’s obvious integrationist approach, the NREP was given a renewed emphasis.

However, in all this time, the NREP was never published/ updated and it was rarely mentioned in the public discourse as the policy of the EU towards Abkhazia and South Ossetia. The ambiguity around this policy has created dichotomous effects. On the one hand, not having a clear policy that gives indications about how to engage with *de facto* states gave the EU the possibility to adapt and adjust its policy according to various needs and circumstances that occurred in both Georgia and its breakaway republics.

On the other hand, not having a clear policy, publicly assumed and openly exhibited in discourse and actions, has fueled mistrust amongst authorities in Sukhum/i and Tskhinvali and a lack of confidence in EU-dressed projects and initiatives.

As Sabina Fisher suggested in the only paper that summarizes the main points of the NREP, EU’s main objectives in setting up such a policy were: de-isolation, conflict transformation and bridging communities through joint projects. The EU partially succeeded in challenging the Georgian authorities

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<sup>16</sup> The Georgian Ministry of Reintegration replaced the Ministry of Conflict resolution issues in January 2008, prior to the Russo-Georgian five-day war that occurred in August the same year.



to give up on their pro-isolationist policy towards Abkhazia and South Ossetia and embrace a policy that favored engagement, cross-boundary interaction and people-to-people contact.

Nevertheless, in Abkhazia, this policy was received with skepticism and outmost doubts. Since the EU blended funds with other partners and other partners such as UN Development Program (UNDP) or the International Committee of the Red Cross (ICRC) carried out projects in the breakaway republics, the EU presence was slightly visible and noticeable<sup>17</sup>.

Due to the pervasive Russian support on all economic sectors in Abkhazia and South Ossetia, the lack of language barriers and the Russian passportisation policy, it is very difficult for the EU to counter the Russian influence. For Abkhazians, it is difficult to accept a policy that does not discuss their political terms of engagement and their expectations.

However, as Magdalena Grono, programme director for Europe and Central Asia at the International Crisis Group highlighted in her article “Isolation of Post-Soviet Conflict Regions Narrows the Road to Peace”, not only the political isolation is at stake when we discuss the situation of all post-Soviet *de facto* states, but also the humanitarian aspect of that political isolation.<sup>18</sup> The lack of education and the possibility to attend quality education, the lack of training for doctors and policemen, the lack of possibilities to travel and explore the world condemns the trapped populations of those white spots on the map to a humanitarian isolation.

In February 2017, the EU granted Georgia its long-sought visa-free regime.<sup>19</sup> There are several hopes that have been associated with the Visa Liberalization Action Plan (VLAP). One of them refers to making the Georgian passport more appealing to Abkhazians and South Ossetians. On the one

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<sup>17</sup> “Since 2008, in the framework of the NREP, the EU has provided almost 40 million EUR of funding for projects in Abkhazia or involving Abkhaz partners<sup>17</sup>”, in Thomas de Waal, “Engaging with Separatist Territories in Europe’s East”, *Carnegie Europe*, January 26, 2017, [<http://carnegieeurope.eu/2017/01/26/engaging-with-separatist-territories-in-europe-s-east-event-5484>], March 3, 2017.

<sup>18</sup> Magdalena Grono, “Isolation of Post-Soviet Conflict Regions Narrows the Road to Peace”, The International Crisis Group, November 23, 2016, [<https://www.crisisgroup.org/europe-central-asia/caucasus/isolation-post-soviet-conflict-regions-narrows-road-peace>], March 4, 2017.

<sup>19</sup> See the Council’s Press release following the adoption of the regulation on the visa liberalization for Georgia, published on February 27, 2017, [<http://www.consilium.europa.eu/en/press/press-releases/2017/02/27-visa-liberalisation-georgia/>], March 4, 2017.

hand, this approach might create a new connection between Tbilisi and Sukhum/i and Tskhinvali. However, on the other hand, as long as borders between the two *de facto* states and Georgia will continue to be militarized and the majority of those regions' inhabitants will lack resources to travel/study abroad, Europe will remain a wishful thinking destination. Additionally, there are also some demographic concerns.

Taking into account that the population of Abkhazia is around 240 000 people and the one South Ossetia is even smaller, the *de facto* states' authorities will try to refrain the population, particularly the youth, from any immigration attempts.

At the political level in Sukhum/i and Tskhinvali, the reactions following the EU visa-free waiver granted to Georgia, continue to follow the anti-EU/anti-Georgian trend that since 2008 has condemned or blocked any Georgian/European incentive aiming to reach out the citizens of Abkhazia and South Ossetia.

The fact that the EU NREP blended and merged with the Georgian legislation and policy towards Abkhazia and South Ossetia created confusion amongst the secessionist authorities that fear that any European attempt to engage with them backs up the integrationist ultimate goal of Georgia.

Following the statements made by the Georgian Minister of Foreign Affairs, Mikheil Janelidze, who wrote in his twitter post that "the visa free travel will also be important to Georgian citizens living in the occupied regions, giving them a chance to benefit from visa liberalization and close ties with the European Union."<sup>20</sup>, the Abkhaz MFA commented that: "If Georgian leaders are sincerely concerned about the freedom of movement of Abkhazia's citizens, then they should abandon the policy of international isolation of our citizens, who, owing to Tbilisi, are denied entry to the EU countries."<sup>21</sup>

The EU policy towards Russian passports holders residing in unrecognized territories denies them access to the EU. Therefore, taking into account the increasing mistrust towards EU actions, pervasive amongst both Abkhazians and South Ossetians, a solution that will show EU's willingness

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<sup>20</sup> "EU, Georgian Officials Take to Twitter to Celebrate European Parliament's Visa Free Vote", Civil.ge, February 3, 2017, [<http://www.civil.ge/eng/article.php?id=29830>], March 4, 2017.

<sup>21</sup> "Sokhumi, Tskhinvali Reject Tbilisi's EU Visa Liberalization Offer", Civil.ge, February 3, 2017, [<http://www.civil.ge/eng/article.php?id=29834>], March 4, 2017.

to engage with the citizens of those *de facto* states, without granting recognition to the *de facto* states issuing their passports, could follow the example of the US policy towards the citizens of the Turkish Republic of Northern Cyprus (TRNC). Although the US does not recognize the independence of TRNC, it allows Turkish Cypriots to use their TRNC passports for the purpose of travel and visa applications.<sup>22</sup> However, such a policy would be met with sharp disapproval from both Moscow and Tbilisi.

## Conclusions

The European engagement without recognition policy launched in 2009 in the wake of the Russo-Georgian war was part of the EU ENP toolbox that sought to incentivize Georgians, Abkhazians and South Ossetians to engage with each other through joint initiatives and projects, to decrease the level of *de facto* states communities’ isolation and to contribute to peace building efforts carried in the region for more than two decades now.

The EU intentionally aimed to keep this policy at a low profile and has published neither its 2009 version, nor an updated version of it.

However, in its dialogue with mainly Georgia, Brussels challenged Tbilisi’s integrationist approach and incentivized the transition from an isolationist policy to one favoring engagement with *de facto* Abkhazia and South Ossetia. However, despite Georgia’s legislative changes and new discursive approaches, Sukum/i and Tskhinvali continued to mistrust not only Georgia, but also the EU, now perceived as a Trojan horse of the Georgian integrationist mission.

Despite the obvious limitations encountered by the EU in implementing its policy towards Abkhazia and South Ossetia, a potential success of the NREP might be the legal and discursive change it incentivized in Georgia. In addition to this, regardless of its results, NREP has been the first important attempt to engage with separatist states, while maintaining its non-recognition standpoint. However, a clear and less ambiguous EU agenda regarding the EaP *de facto* states remains a necessity without which the degree of isolation of the people caught in *de facto* states will increase and the opportunities for civic engagement will decrease.

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<sup>22</sup> See Alexander Cooley, “Georgia’s Territorial Integrity”, *The American Interest*, Vol.5/5, May, 2010, [<http://www.the-american-interest.com/2010/05/01/georgias-territorial-integrity/>], March 4, 2017.

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