

When confronted with territorial situations resulting from the unlawful use of force or established in violation of peoples' right to self-determination, States and international organizations are under the obligation not to recognize such situations as lawful. This duty has been reiterated in numerous instruments adopted by States and international organizations, both in general terms and on specific occasions in relation to the occupied territories of Palestine, Cyprus, Kuwait or Ukraine – to provide but a few examples. Given the impactful and widespread practice adopted by States particularly since the Second World War, the duty of non-recognition appears firmly anchored in customary international law today. To some, the obligation is vital for international law to remain a relevant legal framework. After all, if international law would not provide for such an obligation, it risks undermining the integrity of the principles at its core. On the other hand, the duty of non-recognition's object and purpose have been regularly questioned, and its functionality challenged, since it would divorce international law from the facts on the ground almost to a breaking point. More generally, the precise scope of the duty and the exact obligations it entails for States – with regard to their own behaviour as well as the activities of private companies under their jurisdiction – are subject to continuous debate.

These issues are of particular relevance in situations of long-term occupations and areas of contested statehood such as the Palestinian occupied territories, the 'Turkish Republic of Northern Cyprus', the 'Republic of Nagorno-Karabakh' and the 'Moldovan Republic of Transnistria'. There, the exercise of legislative, executive and judicial powers has grown significantly over the years (if not decades), and produced acts the legal effects of which have on occasion been taken into consideration by States and international courts and tribunals. Such considerations do not necessarily defy the obligation of non-recognition. They are justified by reference to the obligation's limited scope and the understanding that it should not undermine the rights of the individuals living within these territories nor impede the development of commercial and cultural activities to their benefit. Indeed, international law attempts to strike a balance between the importance of not recognizing the *fait accompli* and the desire to take into account certain acts 'the effects of which could be ignored only to the detriment of the inhabitants' – to quote the International Court of Justice in the case related to the Legal Consequences for States of the Continued Presence of South Africa in Namibia. But how to strike such a balance in the context of protracted occupations? And to what extent can the duty of non-recognition be stretched for the purpose of guaranteeing the well-being of the inhabitants of these territories without stripping the duty of its *raison d'être*? These are the questions that the conference intends to tackle.



Annual Conference: November 14 & 15, 2019

## THE WELL-BEING OF THE INHABITANTS OF OCCUPIED TERRITORIES LIMITING OR GUTTING THE DUTY OF NON-RECOGNITION?

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# PROGRAMME

## THURSDAY 14 NOVEMBER 2019

3:00 PM **Welcome address** by Erik **FRANCKX** (President of the Belgian Society of International Law, Professor-Vrije Universiteit Brussel).

**Introduction** by Anne **LAGERWALL** (Vice-President of the Belgian Society of International Law, Professor-Université libre de Bruxelles).

### 3:30 PM Panel 1 – Non-recognition and the protection of human rights

- ‘Securing human rights in unrecognized entities or occupied territories: the approach of the European Court of Human Rights’, **Ineta ZIEMELE** (President of the Constitutional Court of Latvia, former Judge of the European Court of Human Rights).
- ‘Human rights in unlawfully occupied territories and the obligation of non-recognition’, **Wladyslaw CZAPLINSKI** (Professor, University of Warsaw, Polish Academy of Sciences).
- ‘Belgian practice as to human rights’ respect in occupied territories’, **Paul RIETJENS** (Former Director general of Legal Affairs at the Belgian Federal Public Service of Foreign Affairs).

### 5:30 PM COFFEE BREAK

### 6:00 PM Keynote address and round-table on Western Sahara

- Keynote address by **Hans CORELL** (Former Under-Secretary-General for Legal Affairs and Legal Counsel of the United Nations).
- Round-table with **Fernando CASTILLO DE LA TORRE** (Director, Legal Service, European Commission), **Mohammed LOULICKI** (Senior Fellow of the Policy Center for the South, Former Ambassador of Morocco to the United Nations) and **Jeffrey SMITH** (Legal Counsel, Front Polisario).

## FRIDAY 15 NOVEMBER 2019

### 10:00 AM Panel 2 – Non-recognition and the development of commercial activities

- ‘Oil drilling off Cyprus’ North West coasts and non-recognition’, **Vaios KOUTROULIS** (Professor-Université libre de Bruxelles).
- ‘State responsibility for economic actors’ activities in Palestine, Western Sahara, Crimea, South Ossetia and Abkhazia’, **Valentina AZAROVA** (Fellow-Manchester University).
- ‘Investments disputes related to Crimea’, **Daniel COSTELLOE** (Counsel, WilmerHale).

### 12:00 AM LUNCH

### 2:00 PM Panel 3 – Non-recognition and the development of cultural activities

- ‘Non-recognition and the protection of cultural heritage’, **Roger O’KEEFE** (Professor-Università Bocconi).
- ‘Non-recognition and its influence on sporting events’, **Franck LATTY** (Professor-Université Paris Nanterre).
- ‘Artistic performances in unlawfully occupied territories’, **Sarah JOSEPH** (Professor-University of Monash).

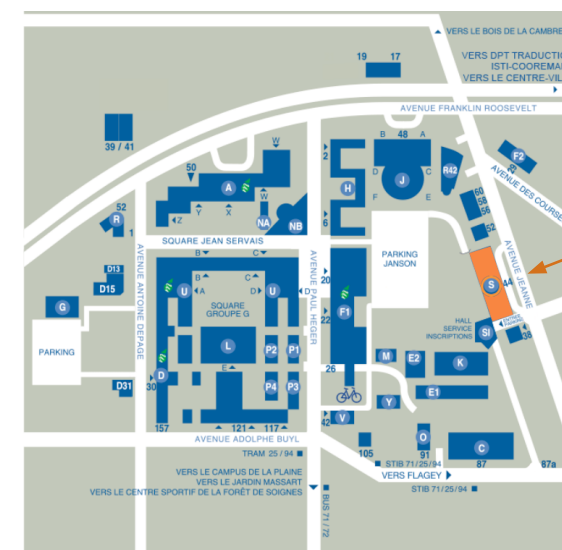
### 4:00 PM Conclusions by Tom RUYS (Vice-President of the Belgian Society of International Law, Professor-Universiteit Gent)

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Date: November 14 & 15, 2019

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