Almanac on Security Sector Governance in Ukraine 2010

Partnership Network

Almanac on Security Sector Governance in Ukraine 2010

Geneva Centre for the Democratic Control of Armed Forces
(DCAF)
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FOREWORD

Strengthening the role of a civil society in providing for effective oversight of security activities and developing civil society expertise in defence and security issues are amongst the principal objectives of NATO-Ukraine co-operation in implementing defence and security sector reform. It was with these policy objectives in mind that at the 2006 High-Level NATO-Ukraine Consultations under the chairmanship of the Secretary General of NATO in Sintra, Portugal thirteen Allied countries and Ukraine established the NATO-Ukraine Partnership Network for Civil Society Expertise Development – an initiative which aims to increase interaction between civil society groups and security practitioners in NATO countries and Ukraine thus facilitating the establishment of strategic partnerships between Ukraine's civil society and security institutions. The NATO-Ukraine Partnership Network also provides a framework for open exchanges of views and a free flow of ideas about the roles of civil society in formulating and implementing national defence and security policies and developing ways in which civil society groups could be involved in defence and security sector reforms.

Since its inception the Partnership Network has achieved progress in facilitating the involvement of civil society organisations in Ukraine in national security and defence. Participating NGOs have established a number of task forces which bring together Ukrainian and Allied civil society actors to focus on concrete projects in a number of areas of significant importance. These include a Task Force on National Security Policy and Reform which aims to strengthen the capacity, cohesion, and impact of Ukraine's security community on the national security transformation; a Task Force on Monitoring Euro-Atlantic Reforms which aims to mobilize non-governmental experts in a monitoring consortium for Ukraine's Euro-Atlantic reform plans including the Annual National Programmes of Ukraine (ANP); a Task Force on Defence Industry Cooperation and Reform which seeks to help Ukraine's defence industry modernise and adapt to Euro-Atlantic integration; a Task Force on Building Integrity which aims to involve Ukraine's civil society in building integrity, pursuing anti-corruption measures, enhancing transparency and fostering accountability across Ukraine's security and defence sector; a Task Force on Security Sector Reform and Human Security Issues which seeks to facilitate civil society's engagement in human security oversight; and a Task Force on Economic Security the primary objective of which is to assist in developing and implementing economic security policies, and to monitor defence expenditures in Ukraine.

In 2007 Switzerland kindly offered the services of the Geneva Centre for the Democratic Control of Armed Forces (DCAF) to act together with the NATO Liaison Office in Ukraine as one of the Executing Agents for the Partnership Network. Since then

DCAF has contributed to a number of projects under the initiative and supported the organisation of a number of events which the Partnership Network launched. This collection of articles by Ukrainian civil society and governmental experts on Ukraine's defence and security policy and security sector reform is another example of an important contribution which DCAF provides in support of the NATO-Ukraine Partnership Network and its objectives. The collection is also another example of how effectively the civil society in Ukraine could support national debates on security and defence issues.

I am strongly convinced that—as Ukrainian democracy continues to consolidate—the role of civil society organisations in Ukraine in both providing for democratic governance of Ukraine's security sector and contributing to a national consensus on the strategic direction of Ukraine's security policy will be increasingly important. Therefore, the NATO Liaison Office in Ukraine, which I have a privilege to lead, will continue our co-operation with Ukrainian, Allied, and Partner civil society organisations in realising the policy objectives of the NATO-Ukraine Partnership Network.

I also thank DCAF and Switzerland for their outstanding support in pursuing in Ukraine the strategic objectives of the Partnership for Peace and welcome the particular importance which they attach to the development of one of the greatest strengths of Ukraine which is her civil society.

Marcin Kozieł
Head, NATO Liaison Office, Kyiv

PREFACE

Western observers of the Ukrainian defence and security sector have, for a long time, been reduced to comments and analysis by Western experts and/or Ukrainians teaching at higher learning institutions in Europe and the US. Alternative Russian sources have retained a distinctive flavour of their own.

The present Almanac, compiled and edited as a contribution to the NATO 'Partnership Network' initiative with funding from the Swiss Ministry of Defence, is the first collection of essays by Ukrainian civilian experts overviewing all Ukraine's security sector institutions in the English language. The contributions to this volume, some of them first published in Ukraine in 2008 and 2009, are of importance not only for their contents, but also for allowing the readers to judge for themselves the level of civilian expertise on security sector governance in Ukraine. It is understood that the authors are giving their own views, which do not necessarily coincide with established views of the facilitating agency, the Geneva Centre for the Democratic Control of Armed Forces (DCAF).

DCAF has continuously cooperated with the Ukrainian parliament and defence ministry since December 2000. The present work of the Centre is focused on Ukraine's Strategic Defence Review and defence management reform in general in what has turned out to be a most inspiring and enriching cooperation programme for all those involved.

The 'Partnership Network,' developed in 2008/9 and now operational, is a fairly recent addition to an already quite comprehensive cooperation portfolio. Again, DCAF—under a Swiss mandate—has been privileged to be able to contribute to the shaping of the initiative at its early stages of conceptualisation, and is now ready to assist with its implementation. The experience gathered in similar programmes—including civil society capacity development programming with the United Nations Development Programme—will thus at least in part be transferred through this NATO platform.

Geneva, 25 February 2010

Philipp Fluri
Deputy Director, DCAF

CONTENTS

List of Figures

List of Boxes

List of Tables

INTRODUCTION

This Almanac—the first of its kind in Ukraine—serves the objective to introduce and analyse organisational aspects of the security sector of this new democracy. The contributors are civilian experts representing the various non-governmental think tanks and CSOs dealing with security sector governance issues at national, regional and international levels.

This publication will hopefully be followed by others which will again look at aspects of security sector governance in Ukraine in order to document the progress made in creating and maintaining good governance mechanisms. It is among the first products of the so-called 'Partnership Network' between NATO members, and partner countries, and civil society organisations created in 2009. The publication itself was made possible by the contributions from the Swiss Ministry of Defence, Civil Protection and Sports, the International Centre for Defence Studies of Estonia (ICDS), and the Geneva Centre for the Democratic Control of Armed Forces (DCAF).

Almanacs published by consortia of civil society organisations fulfil a multiple set of functions in emerging democracies. On top of being useful analytical documentations of institutions, often previously shrouded in secrecy under the former (authoritarian) regimes, they evidentially reflect the existence of alternative non-military/ non-governmental expertise on the security sector. Ideally the work on the Almanacs of this type not only bring different think tanks and CSOs together, as well as encouraging them to overcome competitiveness through cooperation, but also stratify their respective levels of expertise and understanding of the security sector. Almanacs thus wrap together several capacity building issues, reflecting the status and needs for improved security sector governance. Along with the collection and analysis of security sector legislation, an analytical survey of the security sector of this type is among one of the most important contributions CSOs can make to democratic reform of the security sector.

In transition contexts not all things can be hoped to fall into place naturally. The Ministry of Internal Affairs, together with the Interior Troops, may one day acquire expertise on the democratic control of armed forces. In the Ministry of Defence, cooperation on defence reform and the strategic defence review may one day reach the level of generals and ministers and thus have an impact beyond the conceptual level. The professional development programme may one day be complemented by implementation frameworks which allow for full realisation of its contents. This also reflects the reason why this collection of articles was edited by two sets of 'outside' facilitators in this instance. Possible future Almanacs will most undoubtedly be managed and pro-

duced by Ukrainian authors. Needless to say the facilitators hope for such developments to take place soon, and in a sustainable manner.

Geneva, March 2010

Philipp Fluri, Deputy Director
Geneva Centre for the Democratic Control of Armed Forces

Chapter 1

The National Security and Defence Council of Ukraine in the Strategic Management of National Security

Volodymyr Horbulin and Oleksandr Lytvynenko[*]

This paper considers the problems of creation, the current situation and the future development of the National Security and Defence Council (NSDC) of Ukraine as a key institution in the strategic administration of the state and its security sector.

Strategic Management of National Security in General and the Security Sector in Particular

By common definition,[1] the security sector consists of the high authorities, armed forces, police in uniform or civilian dress, gendarmerie, intelligence services, border services, internal security services and law enforcement agencies that work for the state or are associated with the state.

The current strategic management system of Ukraine's security sector was formed in 1996-97. During these years, the government also managed to address several key problems involving the nation's security policy. In particular, in 1997 the Verkhovna Rada adopted the concept of national security, which determined the central national interests of Ukraine and the methods used to implement them. At the same time, Ukraine signed international treaties with neighbouring countries providing international recognition and guaranties of the state borders, while the adoption of *the Charter on a Distinctive Partnership between the North Atlantic Treaty Organization and Ukraine* shaped the Euro-Atlantic course of Kiev.

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[*]   Volodymyr Horbulin is Academician of the Ukrainian National Academy of Science. He was Head of the NSDC of Ukraine in 1994-1999 and 2006. Oleksandr Lytvynenko is Doctor of Political Sciences. He was Head of Department at the Apparatus of the NSDC of Ukraine in 2005-2007.
[1]   PACE Recommendation 1713 (2005).

Since then, the system of national security management has not undergone substantial adjustments despite constantly changing security conditions; nor have there been changes enforced by the new system of government, reconfigured by constitutional reform in 2004.

Currently, the state component of Ukraine's security sector includes strategic management and executive components. The strategic management is performed by the Verkhovna Rada, the President, the National Security and Defence Council of Ukraine, and the Cabinet of Ministers. The executive functions belong to:

- The internal security service – Security Service of Ukraine;
- The intelligence services – Foreign Intelligence Service of Ukraine, Chief Directorate of Intelligence of the Ukraine's Ministry of Defence, Directorate of Intelligence of the State Border Service of Ukraine;
- Police – Ministry of Internal Affairs of Ukraine;
- Gendarmerie – Internal Troops of Ukraine, Department of the State Protection of Ukraine;
- Border Police – the State Border Service of Ukraine;
- Defence Forces – Armed Forces of Ukraine, the State Special Transport Service, paramilitary units of the Ministry of Emergencies and Affairs of Population Protection from the Consequences of Chernobyl Catastrophe, State Service for Special Communications and Information Protection of Ukraine.

The Verkhovna Rada of Ukraine, in accordance with the Constitution of Ukraine, stipulates the basic principles of the state's national security policy. In particular, in 2003 the Parliament adopted the law "On Principles of National Security of Ukraine," which established the main priorities of national security policy and defined the threats to national interests and strategic activities in the area.

The President of Ukraine, acting within the limits prescribed by the Parliament, defines the strategic and doctrinal aspects of the national security policy and provides staffing. The presidential functions in this regard may be carried out directly or through the National Security and Defence Council (NSDC). The government then implements this policy, particularly by providing the budget and guaranteeing the social protection of military and law enforcement personnel. Such a division of power prevails only during the absence of war. During the state of martial law, the Law "On Defence of Ukraine" provides for the creation of the Supreme Command, headed by the President, which is responsible for coordinating the counter-action to the aggression against Ukraine.

Presidential Powers in the Management of the Security Sector of Ukraine

According to the Constitution,[2] the President provides overall guidance in the areas of national security and national defence; ensures state independence, national security and the legal succession of the state; as well as representing the state in international relations and administering foreign political activity. With regard to foreign policy in particular, the President adopts decisions on the recognition of foreign states and on the exchange of diplomatic representatives; decisions on general or partial mobilization, introduction of martial law and a state of emergency; as well as declaring zones of an ecological emergency situation.

The President appoints and dismisses the high command of the Armed Forces and other military formations. It is stressed that the President "administers in the spheres of national security and defence" and heads the National Security and Defence Council (NSDC), which facilitates the implementations of the Presidential functions.

The National Security and Defence Council co-ordinates and controls the activity of the bodies of executive power in the sphere of national security and defence, as well as the activities of advisory and administrative bodies, such as the Secretariat of the President.

The Constitution defines the status, functions and the composition of the NSDC as the co-ordinating body to the President. According to Article 107, the NSDC includes the Prime Minister of Ukraine, the Minister of Defence, the Head of the Security Service, the Minister of Internal Affairs and the Minister of Foreign Affairs. Decisions of the NSDC are put into effect by Presidential decrees, which can also add other key executives to the composition of the Council. The Constitution also allows the Chairman of the Verkhovna Rada to take part in the Council's meetings, which may be seen as a form of parliamentary oversight of national security and defence.

In addition to the Constitution, the competence and functions of the Council are determined by the Law "On the Council of National Security and Defence of Ukraine," which was adopted in 1998. According to its Article 3, the functions of the National Security and Defence Council of Ukraine are:

- Submission of proposals to the President of Ukraine regarding the implementation of domestic and foreign policy in the sphere of national security and defence;

- Coordination of and control over the activity of executive bodies in the sphere of national security and defence in peacetime, as well as during periods of martial law or states of emergency and crisis, which threaten the national security of Ukraine.

Article 14 enables the Council to set up any additional working and advisory bodies. The same law stipulates that informational, analytical and organizational provisions of the

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2   Article 106 of the Constitution of Ukraine.

Council's activity shall be conducted by its personnel, which refers to the Department on military security, Department on national security and Department on law enforcement. The personnel operate on the basis of the relevant provisions, approved by Presidential Decree (No.1446 of 14 October 2005).

Informational and analytical support to the Security Council is provided by the National Institute for International Security, the Institute for National Security and the Interagency Centre on Combating Organized Crime.

The Secretariat of the President incorporates, among other departments, the Office on Security and Defence Policy, the National Institute for Strategic Studies, and a specialized National Centre for Euro-Atlantic Integration.

During the term of President Yushchenko, the Presidential Secretariat and the NSDC had unclear division of powers; however the former enjoyed exclusive responsibilities over the administrative support of the President's activities, including personnel policy issues in the security sector.

The Genesis, Theoretical Foundation and Traditions of the Security Council

The study of the institutional history of the Security Council illustrates two main roots of its evolution. Firstly, the foundation was established by a number of consultative, advisory and coordinating councils that existed during the monarchy. For example, in the UK and some of its former dominions, including Canada, they continue to operate in the form of the King's Privy Councils, an institute that existed in almost all European monarchies. The role and strength of such councils depend on the personality of the monarch and the general political situation in the country. In Leninist states, the Politburo of the ruling party or its analogue performed, to some extent, a similar role.

Secondly, the Prussian General Staff contributed to the model of the Security Council. The General Staff, created by German strategist H. Moltke Sr. in the middle of the 19th century in Prussia, was supposed to support the theoretical thesis of K. Clausewitz, who claimed that "War is a continuation of politics by other means." In the early 20th century, the Russian expert Alexander Svechin defined strategy as the art of combining preparations for war, and the grouping of operations for achieving the goal for the armed forces set by the war. This understanding has widened the interest and responsibility of the General Staff to include almost all spheres of public life.

However, the mid-20th century saw drastic changes in the security environment, which significantly transformed the institutional balance in the national security sector, increasing the role of non-military means of protecting national interests. An impetus to appreciate their importance in democratic countries gave the concept of total war, which was shaped in Hitler's Germany during the early 1940s. The beginning of the Cold War, which did not take the form of armed conflict, but required substantial governmental effort, showed that the existing agencies of the US government failed to provide efficient coordination of national security policy. The politicians failed to provide the military and intelligence services

with clearly defined tasks and effective interaction. This induced Harry Truman, who initiated in 1947 a radical reform of the national security system, to create the Joint Chiefs of Staff, an American equivalent of the General Staff, and the National Security Council (NSC).

The NSC was formed as a collegial body to the President, involving the participation of key officials and heads of the Ministry of Defence, Central Intelligence, etc. The Council was initially thought to resolve the conflict between the leadership of the army, navy and air force.

Since its inception, the Council's function has been to advise a

nd assist the President on national security and foreign policies and coordinate these policies among various government agencies. It has withstood the test of time and remains one of the most important and influential bodies of the presidential administration.

Organizations similar to the NSC exist in most of the countries of Central and Eastern Europe. For instance, the National Defence Council of Hungary is chaired by the President and in the state of martial law or emergency it assumes power of the National Assembly (Parliament), the President and the Government.[3] In Bulgaria, the President presides over the Consultative National Security Council, the status of which is established by law.[4] The President of the Republic of Croatia appoints members of the National Defence Council and presides over it.[5] Article 135 of the Polish Constitution states: "the advisory organ to the President of the Republic regarding internal and external security of the State shall be the National Security Council." The National Security Bureau, which assists the Polish NSC, is the President's principal arm.

The role and functions of the NSC differ from country to country and are predefined by the constitutional design and the density of threats and challenges to national interests.

The wide range of responsibilities can turn the Security Council into a key national body. This is typical to the states, which face complex challenges in many areas of the public sphere and possess powerful armies and intelligence services, directly involved in the state administration (Turkey, Pakistan, etc.).

In particular, the National Security Council was one of the most important state institutions in Turkey up until July 2003, when democratic reforms associated with the country's EU membership aspirations led to constitutional changes, restricting the influence of the NSC in peacetime.

In the case of smaller European countries that do not face complex security challenges, the NSC is perceived as merely an emergency body, which under normal conditions seems to be "asleep" (Hungary, other small European states). There are also cases where the Council functions as the administrative body with functions and tasks similar to those of an executive apparatus rather than the political authority. Under such conditions, the NSC

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[3]   Art. 19 of the Constitution of Hungary.
[4]   Art. 100 of the Constitution of Bulgaria.
[5]   Art. 100 of the Constitution of Croatia.

sometimes serves as the "repository of retired senior officials" with examples found in the history of several CIS countries.

When considering the various forms of the Security Councils, it is worth mentioning the case of the Kingdom of Morocco. The Security Council of this Muslim country is chaired by the king and includes leaders of major political parties ranging from the extreme right to communists, and plays a significant role in consolidating the political system.

Comparative analysis shows that the specific function and place of the NSC in the system of public administration are determined by three main factors: the scale of the challenges faced by society; the degree of military and administrative power; and the distance between the political leadership, military and governmental bureaucracies. In addition, the influence of the national traditions and individual characteristics of this institution's leadership should not be ignored.

These days, the NCS executes three main tasks, which can be seen in similar guises across the world. Firstly, it provides strategic forecasting and planning. Secondly, it bridges the gap between government bureaucrats, military and law enforcement agencies on one hand, and the head of state and general political community, on the other. Thirdly, it is the government's emergency institution. In addition to having these relatively modest functions, the NSC can facilitate the running of the "political kitchen" by preparing important government decisions related to national security.

The other important function of the NSC is to provide coordination, harmonization and interaction between the army, intelligence, law enforcement leadership and other senior officials. This function is carried out through and under the supervision of civilian leaders and the political leadership of the state, which is especially important for a democratic regime. In general, the NSC is the most important element in the system of democratic civilian control over the military organization of the state.

Coordination of and agreement on key national security issues can be facilitated precisely through the NSC, its commissions and similar advisory institutions. The NSC and, above all, its administration act as the linking channel of intellectual and, in many cases, personnel exchanges between public authorities, experts and the academic community to provide excellent expertise on important state decisions. Given the traditional secrecy of the army, intelligence and counterintelligence agencies' staff, this function plays an important role. Scientific and analytical bodies of the NSC also have the potential to make a contribution.

In general, the security sector plays an important role in the development of an analytical environment. As the practice in the US, Ukraine and other countries shows, national security needs were the main factor in establishing security studies as a separate discipline and a specialized form of professional activity.

Finally, in the presidential and semi-presidential systems, the NSC has a potential to grow into one the most influential instruments for the president in exercising his powers. It must be recalled that the National Security and Defence Council (NSDC) of Ukraine is the only state body chaired by the President of Ukraine, the existence and status of which is

secured by the Constitution. Nevertheless, the aforementioned potential is a double-edged sword, which with careless handling may lead to negative consequences; a trend that has been seen in recent years.

History and Current Problems of the NSDC

The NSDC and its apparatus were established by the Presidential Decree of 30 August 1996, in accordance with Article 107 of the new Constitution. It was created through the merging of two separate institutions: the Defence Council and the NSC of Ukraine, which operated from 1991-96.

The Defence Council of Ukraine was established by Verkhovna Rada on 11 October 1991 as the highest state agency for collegial management on matters of security and defence. From January 1992 to November 1995, M. Vitovsky chaired its Secretariat. The NSC was established in July 1992 by President Leonid Kravchuk. It was designed to operate as a consultative/advisory body to the President, and its main tasks were to prepare proposals and draft decisions for the President concerning the implementation of policies on the defence of national interests and the maintenance of national security. The Secretaries of the NSC were V. Selivanov (1992-93), V. Kartavtsev (1993-94) and V. Horbulin (1994-96).

The NSDC became an important element of public administration during Leonid Kuchma's presidency (1994-96). This period witnessed the adjustment of state powers to accommodate the new Constitution, which also provided grounds for the institutionalization of the national security sector. At this time the Council was engaged in resolving various national security policy issues, such as: difficulties with Crimea, the division of the Black Sea Fleet between Ukraine and Russia, the definition of Ukraine's foreign policy, the establishment of relations with NATO and the EU; as well as the reform and reduction of the Armed Forces and law enforcement agencies, and the fight against organized crime. Over the years the post of the NSDC Secretary was occupied by V. Horbulin (1995-1999), Y. Marchuk (1999-2003), V. Radchenko (2003-2005), P. Poroshenko (2005), A. Kinakh (2005-2006), V. Horbulin (Acting Secretary, 2006), V. Haiduk (2006-2007), and I. Plyusch (2007). As of December 2007, the current Secretary of the NSDC is Raisa Bogatyriova.

During that period, the NSDC made over 150 decisions, significantly contributing to the political and social stability of the country. It assisted in the development of measures that helped overcome the economic crisis, facilitated the definition and implementation of foreign and defence policies, and contributed to the resolution of informational, environmental, and technological security issues.

The NSDC has proved to be an efficient administration in the area of national security. It has implemented a number of measures aimed at the democratization of the security sector and the strengthening of democratic civilian control over Ukraine's security and defence institutions. The Council contributed to the comprehensive national security sector review, the results of which were reflected in a number of documents, such as: the National Security Strategy of Ukraine, the Concept of the Criminal Justice Reform (April 2008), the

Concept of Security Service Reform (March 2008), the Concept of the State Border Guard Service Reform (July 2007), as well as several decisions of the Security Council, and the White Papers of the security sector agencies in 2007 and 2008. A number of other issues of strategic importance were resolved. Among the current accomplishments, the second comprehensive security sector review—which is currently in progress—stands out, as does the adoption of the Information Security Doctrine in early 2009.

However, following a period of activity a number of serious problems have surfaced. The most important among them are the following:

1. *Disagreement among the political elite* on public policy priorities, in particular vis-à-vis the tasks of the Security Council and the functions of the security sector. The lack of consensus resulted in the fact that priorities, goals and the structure of the Security Council were not defined explicitly. The government had also failed to provide the Council with medium and long-term development strategies.

2. *Imbalanced system of state power* that led to the double subordination of the security sector to the President and the Cabinet of Ministers. Most of the security sector institutions, except for the Security Service of Ukraine (SBU) and the Foreign Intelligence Service of Ukraine (SZR), are bodies of the executive power, and, accordingly, report to the Cabinet of Ministers. However, as has already been mentioned, the overall management of national security and defence is carried out by the Head of State and the Security Council.

   The overlapping responsibilities not only hinder the work of the security sector, but can also lead to complex contradictions, especially in the context of political crisis and weak democratic traditions. These problems are further aggravated by so-called cohabitation: when the Government and the President belong to different political powers. The tension between the Ministry of Internal Affairs and the Department of State Protection that escalated in the summer of 2007 is a prominent example of the potentially dangerous consequences of cohabitation.

3. *The deficit of a regulatory framework* of the security sector and the failure to comply with existing legislation, which expose the security sector to the negative influence of private interest, and facilitates corruption.

4. *The low executive discipline.* According to the Secretariat of the NDSC, up to 80 % of the executive authorities do not comply with Council decisions. In other words, the Security Council's authority has lost its weight and has long been running idle. The examples include the Security Council's decisions on land tenure, on the situation in the Autonomous Republic of Crimea, etc.

5. *Personnel turnover* in the Security Council and subsequent inconsistent decisions of new employees on key strategic issues. Due to the rapidly changing political situation, within the last four years the post of the NSDC Secretary has changed six times, significantly undermining the management of Ukraine's national security.

6. *Overlapping political and administrative management* in the security sector institutions and in the NSDC, although less evident, is potentially just as difficult a problem. Since the constitutional reform in 2004, political figures have been regularly appointed to key positions in the law enforcement and intelligence agencies. The absence of legally defined procedures for the separation of political and administrative functions has resulted in a number of problems. The most significant of them is the politicization of the security sector.

7. *Unwarranted exploitation of the National Security and Defence Council* by the President with the intention of improving his reputation by getting the NSDC involved in the resolution of political and economic problems. The President resorts to such practices during conditions of strong competition with the Cabinet of Ministers and the Parliament, often distorting the main functions of the Council and undermining its effectiveness.

8. *Failure to adapt to changing security conditions.* The NSDC's inertia and the security sector's general opposition to change have often delayed the introduction of modern principles and methods of strategic planning and management, which has resulted in inadequate responses to new security challenges.

Despite these problems, the unique status and composition of the NSDC allows it to play a key role in the state's political life and facilitates consensus among the ruling elites on issues of national importance. The Council should be principally focused on protecting national interests instead of the interests of one powerful individual.

The NSDC is the main state institution responsible for defining strategic priorities in national security and defence policy, and providing the most important decisions in this area. The Council and its staff perform unique tasks that are beyond the competence of all other governmental bodies. This is particularly true of the interagency coordination and the analytical support it provides on critical and sensitive issues involving national security and defence, such as intelligence and counterintelligence, domestic and foreign policy, economic security, etc.

That is what determines the need for the Secretariat of the Security Council as a public agency, distinct from the Secretariat of the President.

Over the last 14 years, the NSDC has built up a team of highly skilled public servants who provide valuable strategic analysis and planning in the area of national security and defence. These institutional resources provide the foundation for quick improvements to the Security Council. If the accumulated potential is lost, the absence of strong state traditions, together with the specific political elite, will make it almost impossible to restore.

Chapter 2

Ukraine's National Security in the XXI Century: Challenges and the Need for Collective Action

V.P. Horbulin – Razumkov Centre (collective work)

Preamble

The Strategic Assessment *Ukraine's National Security in the XXI Century: Challenges and the Need for Collective Action* was prepared as a result of an expert meeting hosted by the Razumkov Centre on 11 March 2009 and following consultations with Ukrainian and external experts within the framework of NATO-Ukraine Partnership Network. This followed the strategic assessment of Ukraine's national security, which was conducted in October 2008.

The previous assessment *Toward a More Relevant and Coordinated National Security Policy of Ukraine,* prepared in October 2008 has not only drawn significant attention by an expert community but also played an important role in promoting political dialogue on the approaches of Ukraine's Euro Atlantic integration. A number of certain theses have been already incorporated into official documents.

The need for the preparation of the new Strategic Assessment was conditioned by a number of events and new factors including the economic and financial crisis that have reinforced the trends noted in October 2008 and added new challenges on the global, regional and national levels.

The Strategic Assessment *Ukraine's National Security in the XXI Century: Challenges and the Need for Collective Action* was used as a think piece for the NATO-Ukraine Conference "The National Security of Ukraine: Identifying Challenges – Defining Responses," 23-25 March 2009, in Garmisch-Partenkirchen, Germany. The results of the meeting were scheduled for consideration at the NATO-Ukraine Joint Working Group on Defence Reform meeting of 13-14 May 2009 in Warsaw and upcoming NATO-Ukraine Commission meetings.

The practice of preparing such assessments in partnership with both governmental and nongovernmental experts may serve as a good example of uniting the intellectual efforts of the government and civil society representatives for the sake of improved policy making.

Introduction

In October 2008, Ukraine's strategic community combined the efforts of non-governmental and state experts to develop an independent Strategic Assessment. The Assessment titled *Toward a More Relevant and Coordinated National Security Policy of Ukraine*[1] set out the principal challenges of consolidating Ukraine's young democracy in an increasingly challenging security environment, where global threats were compounded by renewed regional geopolitical competition and internal weaknesses were actively exploited by external forces.

Ukraine in Dynamic Environment

In the five months since the preparation of the Strategic Assessment, a number of events and new factors have reinforced the trends noted in October 2008.

The intensification of the economic crisis has added new global, regional, and national level risks and transformed old ones. The intensification of the economic and political situation has unfortunately confirmed the Ukrainian government's inability to develop effective and coordinated responses to the complex challenges that currently affect practically all vital activities of the state and society. The resulting overlap of internal and external destabilising factors may produce catastrophic consequences for Ukraine.

The gas conflict of January 2009 demonstrated *Russia's willingness to use strong measures* to achieve political objectives in Ukraine, despite its own considerable economic and political loss. Russia's aggressive pursuit of its interests does not appear to have been mitigated even by the devastating impact of the economic crisis. Russia's "victory" in the Russia-Georgia conflict and the Russia-Ukraine gas conflict have increased Russia's self-assurance in its dialogue with the EU, NATO, and the US. The Kremlin openly claims the right to special influence in the post-Soviet space as an exceptional zone of Russian interests. Russia's support for separatist movements in Ukraine is growing. The intensive saturation of Russian capital in Ukraine's economy provides Moscow with new levers of political as well as economic influence. This suggests that Ukraine cannot rely on Russian self-restraint should a crisis develop. There is also a risk of possible military incidents in case of impulsive actions by either side near Black Sea Fleet bases and facilities.

The continuing lack of a unified, principled, and effective response by the Euro-Atlantic community to "new-old" regional security challenges gives the *perception of a security vacuum* to the countries of Central and Eastern Europe. This pertains both to military and non-military security issues: uncertainty related to Russia's suspension of its CFE Treaty implementation; disagreements with Russia concerning missile defence; the EU's failure to effectively address energy security; EU, NATO, and US efforts to revive working relations with Russia that are perceived to neglect the interests of Central and Eastern Europe. As a

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[1]   That document was prepared as a result of an expert meeting conducted by the Razumkov Centre on 15 October 2008, and subsequent consultations with Ukrainian and international experts in the framework of the NATO-Ukraine Partnership Network.

result, the Euro-Atlantic community could forfeit its influence on the democratic development, security and stability of Eastern Europe. Moreover, a significant segment of Ukraine's political elite perceive the change of the framework of NATO-Ukraine relations (the introduction of Annual National Programme, ANP) as an effort by the Alliance to lower the level of cooperation.

The intensification of the economic and political crisis in Ukraine has already caused the public to lose considerable confidence in their government and doubt its ability to stabilise the situation, provide for steady development, and protect its citizens during economic difficulties.

- There is a rising threat of internal conflict set off by the growing gap between elites and society, looming mass impoverishment, and a lack of trust in the government. Ruling parties and the main opposition alike are unable (or not interested) in counteracting these tendencies. If Ukrainian politicians continue to politicise existing conflicts, it provides grounds for external support that could transform general unrest on economic issues into active separatism. In addition to the well known issues in Crimea, there are increasing risks in Eastern Ukraine, and in some parts of Ukraine's West. Economic factors now combine with the manipulation of public opinion, provocative actions by leftist parties, and the criminalisation of a society already traumatised by crisis.

- *The weakening of important state institutions*, including the judiciary and the national security system is accelerating as political conflict continues to sharpen. Civil servant appointments are increasingly politicised, and professionals in the system are distracted by the dual challenges of politics and economic hardship. Political and institutional infighting have begun to merge, with a negative impact on already weak inter-agency institutions.

- *The loss of legitimacy of the democratic system* is the direct result of the state's inability to address the crisis. With its dominating position in Ukraine's information space, Russia is making efforts to highlight the advantages of Russia's authoritarian "stability" over Ukraine's "democratic chaos." The idea of the need for a "strong hand" is growing in society. The critically low level of trust in the current political elite creates opportunities for radical political actors to enter the next elections. On the other hand, many Ukrainians are not prepared to trade their political system, flawed as it is, for a more authoritarian system. Therefore, any attempt to exercise a "strong hand" will create additional tensions within society and with the political elite – resulting in increased, rather than decreased, instability.

- *The combination of increased internal problems, aggravated externally, and government weakness provokes the risk of "sovereignty default."* Were this to happen, external forces or anti-democratic internal forces could use the situation to fundamentally change the nature of Ukraine's statehood. This would have an impact on regional security far beyond Ukraine's borders.

- *The critical situation in the security and defence sector.* Perceptions that current defence policy is not viable, due to the lack of a solid external security guarantee, have triggered a search for alternatives – such as expanding the Armed Forces or developing new deterrence forces in anticipation of renewed nuclear potential. Such initiatives have gained some public and political resonance without the clear assessment of their economic potential, effectiveness, or unpredictable negative outcomes. Realistically, considering their size and the quantitative and qualitative condition of armaments and equipment, Ukraine's Armed Forces have already passed the point of no return in their transformation.

- *Poor inter-agency coordination has now become a crucial weakness in Ukraine's state system.* The crisis has shown that Ukraine is subject to the risks of globalisation, but has neither the necessary capability to deal with the situation internally nor to pursue its own interests in the international arena. The inflexibility of executive institutions and the weakening of key coordination institutions, like the National Security and Defence Council and the Ministry of Foreign Affairs, due to efforts to use them as tools for internal political conflict, have significantly reduced Ukraine's ability to effectively consult with, or receive aid from, international partners. The ineffective use of international consultation mechanisms has encouraged the marginalisation of Ukrainian interests. For Ukraine, the ability to develop a credible first Annual National Programme, supported by cross-governmental coordination, will be a key test of whether Ukraine is capable of mobilising the capacity of the state to achieve important national goals.

Ukraine's international image has declined considerably, as has its ability to effectively present its positions internationally, due to the continuing political conflict, stalled reforms, and uncoordinated actions of state authorities (and the public statements of their representatives). Opaque decision-making mechanisms appear to ignore the legitimate interests of international neighbours and partners. Russia has taken advantage of this situation by developing focused international information efforts to cast Ukraine as an "unreliable partner" or a "conflict zone." This increases investment risk, reduces opportunities for external support, and furthers the Kremlin's interests in reducing Ukraine's attractiveness as a development model in the eyes of its own citizens, as well as its attractiveness as a partner and prospective member of NATO and the EU in the eyes of the West.

National Security Priorities and Possible Actions

The Strategic Assessment of October 2008 highlighted nine key priorities for national security, with independence of democratic institutions, combating corruption, defence capability, and national security management at the top of the list. It also highlighted that—in the short term—actions would take place within significant economic and political constraints, and would therefore need to be carefully targeted to mobilise limited resources to achieve real changes. Representatives of the public sector and security community would need to initi-

ate most of these actions themselves, not counting on initiative from the political level, but in light of the need for political-level approval.

While the areas identified in October all remain relevant, developments in the security environment over the past five months have firmly placed economic and energy security as the new top priority. A number of other areas and their relative priority have also been revised in light of changed circumstances.

In addition to adapting policy priorities to reflect the current situation, experts have also tried to identify approaches and practical steps that could be feasible to introduce in this environment.

While implementing some of these might be challenging in the current political environment, the increased sharpness of the risks, combined with the coordinated efforts of internal and external advocates, may provide new opportunities for building political support.

First and foremost, there must be greater coherence in the executive branch, in its formation and implementation of policy. This requires an end, or at least some mitigation, of the political feud between the President and Presidential Secretariat, on the one hand, and the Prime Minister and Cabinet, on the other. In the absence of reconciliation, it is difficult to see how the government will be able to deal effectively with the domestic and foreign policy challenges currently facing Ukraine.

Economic Security

The principal aim is to form an anti-crisis agreement, in cooperation with the IMF and other international lenders that can become a positive signal and will permit access to external financial resources. The essential condition is a clear governmental action programme that addresses the following interconnected issues:

- Targeted actions to protect the health of Ukraine's financial-credit system and overcome negative trends in the exchange system, while taking into account the need to protect the hardest hit and most unprotected segments of the population and public trust in the banking system;

- Budget restructuring to reduce the growing deficit and provide for its financing;

- Restructuring external debt, taking into account all debt obligations—governmental and corporate—in order to prevent default, and avoid unforeseen shocks in the internal currency exchange market;

- Supporting and stimulating economic activity, in the first place in the internal market demand. Priorities for sectoral support should target those with maximum growth potential: energy, agricultural, high-tech, and development of small and medium enterprises.

Energy Security

Despite feelings by some that the gas conflict has been resolved, many factors remain that could allow for the conflict to be quickly renewed, should Russia so desire. To avoid (and prepare for the possibility of) the revival of the conflict, Ukraine must take the initiative in forming clear, goal-oriented, and effective energy policies capable of convincing European partners so that it can be a contributor to European energy security. Mitigating—and per-haps eventually solving—the gas conflict and its possible consequences is possible only in the context of stabilised relations in the gas market, aimed at increasing reliability all along the energy supply chain—extraction, trade, transit, consumption—with consideration of the interests of all stakeholders. Priority directions must be:

- Providing for the transparency of gas contracts across the whole chain of the energy supply process, including monitoring the gas transit system with the participation of interested external parties;

- Increasing the effectiveness of market mechanisms and governmental regulating policy in the domestic gas market, especially in terms of payment for consumption. Energy prices should be allowed to rise to cover costs of production and distribution, to encourage conservation and energy efficiency, and to increase domestic production;

- Shifting Ukraine's energy balance to increase energy security, through the diversification of energy routes and sources; a key precondition is reducing the influence of gas lobbying in political decision-making;

- Moving to the practical implementation of policies to stimulate energy conservation;

- Attracting external investments to modernise Ukraine's gas transit system; initiating multilateral projects to use Ukraine's gas storage capability to provide for the reliability of gas deliveries to Europe in case of natural or technical catastrophes that disrupt gas supplies.

Renewing Relations with Russia

Ukraine's Russia policy should be based on pragmatism. Maintaining the best possible relations with Russia will help speed Ukraine's European and Euro-Atlantic integration by lowering political concerns both inside the country and among NATO/EU partners. Yet today, Russia has little interest in developing normal relations with Ukraine on the principles of equal partnership between sovereign states. Under these conditions, Ukraine should seek to integrate its policy with NATO/EU approaches that seek partnership relations with Russia based on mutually beneficial cooperation and active efforts to take into account Russia's legitimate interests. To accomplish this, Ukraine can:

- Mitigate possible areas of confrontation, such as energy, Crimea, the Russian language, and NATO membership by avoiding diplomatic demarches and taking

practical preventative measures, e.g. refrain from repeated public declarations regarding the departure of the Black Sea Fleet in 2017 while accelerating work to better regulate its presence in Crimea;

- Restart bilateral negotiations in areas of cooperation that may be attractive to key Russian elites or societal groups;

- Develop a long-term strategy and appropriate tools to build the foundations for constructive Ukraine-Russia relations through networks of economic, elite, and societal links. Consultations with NATO/EU partners (informally, if necessary) with relevant experience could be helpful;

- Coordinate with NATO/EU partners to positively support their efforts to achieve a successful rapprochement with Russia, while seeking to ensure protection of vital Ukrainian interests.

Democratic Institutions

An important precondition for overcoming the crisis and moving back towards development is to increase the effectiveness of key governmental and public institutions (or at least to prevent damage at this initial stage). The main task for 2009 is improving the election system and preparing for free and fair presidential elections. Vital issues are:

- The timely resolution, according to principles of consensual democracy and European standards, of the following issues: improving electoral legislation; completing a national voters' register; ensuring substantial internal and external monitoring of the election campaign;

- Depoliticising and increasing the autonomy of the judicial system: providing for public transparency of judicial decisions (while protecting legally-defined privileged information); improving legal, personnel, and resource support for judicial activities; and clear regulation of the appointments, terms of service, and responsibilities of judges (excluding possibility for unilateral dismissal of judges by the executive);

- Strengthening civil society efforts to ensure media freedom, protect journalists against retaliation, and introducing a code of ethics.

Increasing Effectiveness of the National Security and Defence System

The Russia-Georgia conflict has shown that a country that has chosen to move toward collective security may face a transitional period prior to its full integration in which it has a "security deficit" compared with a potential (or real, in the case of Russia-Georgia) rival. This reality demands revision of approaches (although not strategic goals) both by the country and its partners.

For Ukraine today, this is complicated by the economic crisis, which requires revision of previously established priorities. In the short term, the priority in reforming the security and

defence sector must shift from finance-intensive programmes (transition to contract service, technical modernisation, development of unified civil protection systems, etc.) to human- and intellect-intensive reforms including improving processes, restructuring, legal and procedural frameworks, and human resource potential. It will be important to continue developing interoperability between Ukraine and NATO countries in the framework of the PfP Planning and Review Process (PARP) and to gradually increase the number of units and other Armed Forces' bodies and security institutions taking part in PARP.

Beyond defence, a key priority should be actions to reduce the polarisation and increase the professional coordination of law enforcement agencies, including those with special status. It is important to increase the priority for Special Services' tasks related to countering external threats and to continue the reform of intelligence and counterintelligence agencies in accordance with the legislatively-defined priorities.

Regional Policy

The economic crisis and external factors have further underlined the important role of regional policy as a national security instrument. Priorities for government policy should be: ensuring balanced regional development; the development of common values and Ukrainian national identity in harmony with regional/minority identities; and building partnerships with neighbouring countries to meet the interests of people in border regions.

In addressing language issues, and to increase trust towards government, civil servants and representatives of governmental institutions should not only use the national languages, but also languages spoken by significant groups of local communities, according to the principle "dialogue with government has to be comfortable not to the department, but most importantly for the citizen."

Recommendations

Improve Approaches and Introduce Practical Mechanisms for Developing and Implementing ANPs

The content of ANPs must concentrate on achieving concrete results.
Successful implementation of ANPs is possible under the following conditions:

- Clear regulation of tasks, division of responsibilities, and interaction between the National Security and Defence Council, the Cabinet of Ministers, and the Parliament;

- Creation of permanent inter-agency working groups on ANP issues that meet at the level of deputy ministers and (most frequently) department heads;

- Existence of effective monitoring mechanisms, including public oversight;

- Active use of NATO-Ukraine consultation mechanisms, particularly at the expert level;

- Ensure linkage between ANPs and other strategic planning documents, such as the National Security Strategy and Government Programmes.

Seek Political Consensus on NATO-Ukraine Cooperation

The NATO-Ukraine partnership is a crucial factor for Ukraine's future as a contributor to European security. In accordance with Ukraine's foreign policy course toward Euro-Atlantic integration (which is established in legislation) and the Bucharest Summit declaration, maintaining a positive trend in NATO-Ukraine cooperation is important.

It is necessary to initiate a wide public discussion focused on security and defence policy based on Euro-Atlantic principles and the solidarity of the democratic community, independent of the official membership status.

In light of the realistic timeframes for Ukraine's accession to NATO under current economic and political conditions, it could be helpful to develop a political compromise that ensures proper implementation of ANP actions, while removing the NATO issue from the presidential campaign, via a politically-agreed moratorium postponing through 2014 any referendum on Ukraine's accession to NATO.

Wisely Develop Defence Capabilities

NATO-Ukraine cooperation is a crucial factor of the defence reform process. It supports the structural optimisation of Armed Forces, improvement of the defence management system, increased military professionalism, and the development of interoperability and Euro-Atlantic standards.

- The development of the Armed Forces should continue to focus on reaching interoperability with and attaining the standards of the Armed Forces of EU and NATO countries, as well as undertaking active participation in international operations, training and other events;

- In the course of the Defence Review:
    - Consider alternative types of forces and methods for their use to address the "security deficit" that could occur during the transitional period of integration into NATO;
    - Ensure effective inter-agency coordination and consultation with parliamentary political forces;
    - Consult with NATO experts the practical aspects of possible interaction across the full range of possible future scenarios.

- In the current financial situation, concentrate resources on preserving the human potential in key professions, in order to facilitate renewed full combat training when the necessary funding becomes available.

Intensify Dialogue and Enhance the Level of NATO-Ukraine Cooperation

- More intensively use consultation mechanisms across a wide spectrum of security issues, not only in general terms, but also regarding timely consultations on specific cases (e.g., the gas conflict and the spy scandal with Romania);

- Increase strategic dialogue using official, academic, and non-governmental means to build a common understanding of the principles of Euro-Atlantic solidarity, the responsibility of national governments in decision-making, and the conditions under which a country that is not yet a member of the Alliance might seek Western support and the means to receive and effectively use such assistance.

Intensify the Role of Civil Society

Under conditions where important reforms are blocked or undermined due to political interests, civil society should redouble its efforts to support implementation, using both think tanks and local civil society organisations. In cases where state institutions are not supportive, external expertise and support for the work of civil organisations are critically important. Today, the main tasks of non-governmental sector are to:

- Encourage broad public discussion to raise the awareness of the Ukrainian electorate regarding the importance of national security policy in the pre-election programmes of political parties and political leaders;

- Increase the capabilities of local civil organisations and support events that engage civil society in developing and implementing policy on local (human) security issues;

- Provide expert support for state institutions in developing, implementing, and assessing national security policy;

- Help the public better understand their interests and assess the results of actions by state institutions and political representatives in terms of their impact on these interests.

Participants

The following non-governmental experts participated in the workshop hosted by Razumkov Centre in the framework of the NATO-Ukraine Partnership Network in Kyiv, Ukraine on 11 March 2009 and/or provided input in the subsequent consultations during the preparation of the Strategic Assessment:

Ukrainian Non-Governmental Experts:

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Yevhen SHELEST – Center for Military and Security Policy
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International Non-Governmental Experts

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- Secretariat of the Cabinet of Ministers of Ukraine
- National Security and Defence Council of Ukraine
- Ministry of Defence of Ukraine
- Ministry of Foreign Affairs of Ukraine
- General Staff of the Armed Forces of Ukraine
- State Security Service of Ukraine
- NATO International Secretariat, Brussels
- NATO Liaison Office in Ukraine
- UK Special Defence Advisor, Kyiv

We are thankful for their valuable contributions, with the understanding that this does not imply agreement by these institutions either in the analysis or conclusions of the paper.

Chapter 3

Democratic Civilian Control of the Security Sector in Ukraine: Experience and Problems

Georgy Kryuchkov [*]

The civilian control of defence and law enforcement agencies in Ukraine and other post-Soviet states is an urgent and complex problem, determined by several factors.

Firstly, at the time of the declaration of independence in August 1991, Ukraine acquired strong armed forces, including nearly one million servicemen, equipped with the latest armaments and nuclear arsenal. Yet, these were not the armed forces of a sovereign state, as they were still to be created. Furthermore, it was necessary to establish the Border Control Service (on the basis of the Western District USSR Border Troops) and to adjust the Intelligence Service, Police, and other units, to fundamentally new conditions.

Secondly, an appropriate legislative framework was required to govern the activities of the security sector in the independent state. This framework was promptly established on the basis of the USSR legislation and Russia's experience. However, a total revision of legislation in this area was required shortly after the adoption of the June 1996 Constitution (prior to this the revised Constitution of the Ukrainian SSR was in force). This was a necessary precondition for the existence of civilian oversight. Its aim was to promote compliance with the provisions of the Constitution and existing laws.

Thirdly, shortly after gaining independence, Ukraine, like other former Soviet republics, did not have the necessary experience of civilian control in this sensitive area. However, it would be wrong to say that this area was out of control entirely. It was effectively controlled especially after 1956. Nevertheless, it was under the *political* control of the ruling Communist Party with its special control units within the government.

Even after 1991, the Ukrainian security sector was rather slowly "opening up" to the public. This was far from the highest priority among those who served and worked in this field, nor among the state's leadership.

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The reason for this was the prevailing idea that the defence and security sector was a closed entity by nature. This idea was deeply ingrained in people's minds along with the belief that all matters concerning the activities of the armed forces and security sector in general were state secrets and must be protected. The move towards understanding the need for transparency in this sphere (within reasonable limits necessary to guarantee protection of state secrets) was highly complex.

The problems associated with civilian control were handled "on-the-run" during the reformation of the Armed Forces and development of other security agencies. The public was regularly informed of the situation in the Army, Border Control Service, activities of the Security Service and other structures. These topics are covered more often in the press and special TV and radio programs. Departments for public relations have been created in Ministries and other agencies. For the first time, the practice of appointing civilians to key ministerial posts in the defence formations was tried.

For the parliamentary Committee on Security and Defence, which I led during the III and IV convocations of the Verkhovna Rada, the priority was to construct a modern legal framework in this area and to bring legislation in line with the Constitution of Ukraine and the experience of democratic states.

Our Committee was the only one among all the Committees of the Verkhovna Rada that managed to carry out this work and resolve the problem. The Committee ensured the development and adoption by Parliament of almost an entire body of legislation regulating legal relations in the sphere of security and defence.

One could only imagine the scale of this work if they were to look at the list of the most important legislation adopted by the Verkhovna Rada. First and foremost, there are the basic laws in the sphere of defence and security – "On National Security of Ukraine," "On Defence of Ukraine," "On the Legal Regime of Martial Law," "On the Legal Regime of a State of Emergency," and "On the National Security and Defence Council of Ukraine."

Furthermore, regulations were adopted governing the Armed Forces of Ukraine – the core defender of the state sovereignty, territorial integrity and inviolability of Ukraine. These laws include: the Law "On the Armed Forces of Ukraine," "On Military Duty and Military Service," "On Alternative (Non-Military) Service," "On the Organization of Defence Planning," "On Mobilization Preparation and Mobilization," "On the Legal Regime of Property in the Armed Forces of Ukraine," "On Economic Activities in the Armed Forces of Ukraine," "On the Particularities of Privatisation of Enterprises Under the Management of the Ministry of Defence," "On the Military Law-Enforcement Service in the Armed Forces of Ukraine," etc.

During the Armed Forces' reformation process, tens of thousands retired from the army within the year. Under such circumstances the adaptation of the law "On the State Guarantees of Social Protection of Servicemen and their Families when Discharged from Service during Reform" was warmly received. The law was drawn up on the initiative and active participation of our Committee. It was subsequently introduced by the President of Ukraine and adopted by the Verkhovna Rada.

One special package of laws promulgated in those years was devoted to the legal support of Ukraine's participation in international peacekeeping activities, cooperation in military and military-technical spheres. Among them, I would have highlighted the laws "On Participation in International Peacekeeping Operations," "On the Procedure of Sending Armed Forces' Units to Other States," "On the Procedure for the Reception of Foreign Armed Forces' Units in Ukraine and the Conditions of Stay," and "On State Control over International Military Transfers and Dual Use Goods."

The Ukrainian parliament was engaged in creating a legal framework for the activities of the security sector, which were under profound construction. The Foreign Intelligence Service and the State Service for Special Communication and Information Protection of Ukraine were detached from the Security Services. Their activities were directed by separate laws. Furthermore, they adopted laws "On the Security Service of Ukraine," "On the Counterintelligence Activities," "On Counter-Terrorism Activities," "On Protection of State Authorities of Ukraine and the Public Officers" and several other laws in the development of which our Committee has been actively involved. However, the revised law "On the Security Service of Ukraine" has not yet passed and a reformation of the Service is still to be completed.

The demilitarization and democratization of power structures, and their transformation into non-military formations was consistently carried out in the country. The first step in the process was the transformation of the Border Troops into the State Border Service of Ukraine. Railway Troops of the Armed Forces were converted into non-military structure (the State special transport service) by being transferred into the Ministry of Transport and Communications of Ukraine. The system of agencies dealing with the prevention and consequences of emergencies was also reformed.

It was not an easy task to bring about the activities of power structures in the legal, constitutional field. Business relations established by our Committee facilitated the resolution of difficulties in the process. Good relations were established among other committees of the Verkhovna Rada and its subdivisions (especially with the Legal Affairs Bureau, headed by M.A. Teplyuk), as well as with the National Security and Defence Council of Ukraine, Administration of the President (during the presidency of Leonid Kuchma), the respective unit of the apparatus of the Cabinet of Ministers, heads of ministries and departments, and the General Staff of the Armed Forces.

We managed, through concerted efforts, to achieve compliance with the requirements of the Constitution prescribing that the size and structure of the Armed Forces, the Security Service and other military formations shall be approved by the Verkhovna Rada. Concerns were raised: "Will it damage national security if the size of the Security Service and Foreign Intelligence Service are made public by law?" After a series of rather heated discussions the laws were promulgated and the problem was solved.

According to the Constitution a defence or law enforcement organization must be created in accordance with the law. Nevertheless, the Foreign Intelligence Service of Ukraine was detached from the Security Service by the decree of President Leonid Kuchma, thus

creating a new military formation. The President did not previously introduce a draft of the law to Parliament. Yet, the Committee drew attention to the violation of the Constitution. The President reacted in a calm and businesslike way and the violation was later corrected by the development (with our participation) and the adoption of the Law "On the Foreign Intelligence Service."

It seems appropriate to expand on the details of the legislative activity in the area of defence and security because only by having a solid legal basis can we talk about creating a modern system of democratic civilian control in this important and sensitive area.

The results are summarized in the collection "The Security Sector Legislation of Ukraine," which contains the most important legislative acts (the Laws of Ukraine, Resolutions of the Verkhovna Rada and Decrees of the President of Ukraine) on national security and defence. This is a colossal volume, nearly 900 pages, published in Ukrainian, Russian and English. It is interesting to note that no parliamentary committee, except ours, carried out such a generalization of legislative activity.

The project was realized with the assistance and financial support of the Geneva Centre for the Democratic Control of Armed Forces. From the very beginning of the project we established a good working relationship with the Director of the Centre, Ambassador Dr. Theodor H. Winkler and the Deputy Director, Dr. Philipp H. Fluri.

A series of conferences, round tables and seminars on issues of democratic civilian control were held with the Centre. The Centre's expert advice and guidance supported us in addressing this problem for which I would like to extend my sincere appreciation.

In the development of any bill, whether on the Armed Forces or Border Guards Service and Intelligence Agencies, on counter-intelligence or counter-terrorism activity, we intended to reflect such issues as constitutional rights and liberties, parliamentary control, provision of information, on the activities of the security forces and their public relations.

The more we immersed ourselves in the problem of civilian control, the more aware we became of the need for a particular law that would comprehensively and systematically regulate the realisation of civilian control. This work has taken more than two years. We have relied on the experience of several states and used the provisions of the bill prepared in the Inter-parliamentary Assembly of Member Nations of the Commonwealth of Independent States. The draft law was considered at the roundtable held with the Geneva Centre for the Democratic Control of Armed Forces in November 2002. The law "On Democratic Civilian Control of State Military and Law-Enforcement Organisations" was adopted by the Verkhovna Rada of Ukraine on 19 June 2003.

As stated in the preamble, the law determines the legal basis for the organization and implementation of democratic civilian control of the Armed Forces created in accordance with the laws of Ukraine and state law-enforcement organisations: "with the purpose of protecting the national interests of Ukraine, the law sets about to consolidate and strengthen constitutional grounds for democratic civil-military relations; and the protection of human rights and freedoms in accordance with international commitments undertaken by Ukraine."

The main tasks of civil control are defined as to ensure:

- A prioritised political approach to the issues of military development;
- Transparency in observing the legality of activities conducted by all components of state military and law-enforcement organisations;
- The maintenance of political stability in society through the creation of conditions that prevent the use of the Armed Forces or other state military and law-enforcement organisations for the purpose of restricting civil rights and freedoms, overthrowing constitutional order, ousting or restricting activities and powers of state organisations or in the interests of individuals, political parties or civic organisations;
- The prevention of violations of constitutional rights and freedoms, the protection of the legal interests of citizens who serve in the Armed Forces and members of their families;
- That public opinion is accounted for and that proposals made by citizens and civic organizations during the development process and implementation of decisions on the matters of national security and defence are acknowledged;
- The allocation of sufficient funds from the state budget and its rational use for the needs of defence and security;
- The appropriate and functional use of state property assigned to the state military and law-enforcement organisations;
- Timely, complete and objective information to state authorities and society about the activities of the state defence and law enforcement organisations and;
- That state authorities and society are provided with timely, complete and reliable information on the activities of the armed forces and state military and law-enforcement organisations.

Civil control in Ukraine is carried out in accordance with the following principles:

- The rule of law, the strict adherence to current legislation;
- The divisions in the functions and responsibilities of the political leadership in state military and law-enforcement organizations activities and the professional military management of the Armed Forces, avoiding duplication of specific functions;
- The interaction and responsibility of state authorities, the Armed Forces, the military management and law-enforcement organisations, that facilitate state defence policy and policy enhancing the rule of law;
- The eradication of political and ideological control. Decisions of political parties or public associations must not influence officials, responsible for security, defence and law-enforcement.

- Transparency must exist in national security, defence expenditures and law enforcement activities, the disposal and destruction of armaments, as well as observations in the prevention and elimination of the consequences of emergency situations;

- The activities of the Armed Forces and state military and law-enforcement organisations are based on the principles of well-ordered central management;

- The availability and freedom of information on the activities of the Armed Forces and state military and law-enforcement organisations (provided it does not constitute a state secret, or a special feature determined by the law); In particular, operational and mobilization plans, as well as operational and administrative decisions and actions of the abovementioned organizations are exempted from control by citizens and civil organizations;

- The responsibility of state officials in providing timely, complete and reliable information as well as responding to inquiries from citizens, civil associations and the mass media; and

- A legal protection for the rights of the organisations in charge of civil control.

The law comprehensively defines the objectives of civil control, as follows:

- Conformity of decisions made by state organizations on military and law enforcement issues aligned with the basic principles of domestic and foreign policy, as well as with the international commitments of Ukraine;

- The implementation of reform programmes for the Armed Forces and state military and law-enforcement organizations, in particular the transition of the Armed Forces into a contractual manning system, while providing for social and professional adaptation of former or transferred reserve military servicemen in organising housing requirements; the conversion of former military installations; military-political and technical cooperation with other states and intergovernmental unions; the development and manufacture of new weapons and military hardware, the conversion of defence enterprises and factories; the amortization and realisation of military property; the privatization of enterprises managed by the Ministry of Defence as well as the development of other Central Executive state defence and national security programmes including the implementation of a human resources policy;

- Patriotic military education of the youth and the preparation of citizens for the defence of Ukraine;

- The import and export of weapons and military equipment;

- The adherence to Constitutional and legal provisions relating to the rights and freedoms of citizens serving in the Armed Forces and other state military and law-

enforcement organisations in offering social and legal protection to military conscripts, military servicemen, and military servicemen transferred to the reserve;

- The development of financial provisions and the implementation of defence procurement plans for the preparation of mobilisation, the disposal and destruction of armaments and the prevention of emergency situations;

- Adhering to the laws of Ukraine when deciding to permit the stationing of foreign Armed Forces on the territory of Ukraine; and

- Adhering to the laws of Ukraine when considering complaints and appeals by military servicemen, ex-servicemen and members of their families made against military state organisations and its officials.

In accordance with the law, we have created an orderly system of civil control, which includes:

- Parliamentary control exercised by the Verkhovna Rada of Ukraine directly, as well as through parliamentary committees (particularly the Committee on National Security and Defence Policy), ad hoc committees and by the Ombudsperson for Human Rights in the Verkhovna Rada;

- Control exercised by the President of Ukraine, both directly and through the National Security and Defence Council of Ukraine, regulated by separate law in accordance with the Constitution;

- Judicial and the Public Prosecutor's control;

- Control exercised by the Cabinet of Ministers, as well as local executive authorities (within the limits defined by the law); and

- Civil society control exercised by the citizens of Ukraine, public organizations and the media.

The powers of bodies involved in civil control and the guarantees for their operation are clearly defined and secured. In other words, the current Ukrainian legislation provides civil society with a wide range of options to control the security, defence and law enforcement agencies and influence their activities, in order to ensure that they carry out their functions in strict compliance with the Constitution and with respect for human rights and freedoms.

An important question today is how effectively these options are utilised. Some progress has been made in this case. At the same time, the practice of civilian control exposed significant deficiencies and problems, among them nontrivial cases of authorities' direct disregard of requirements of law.

This affects primarily the issues related to the defence and security financing needs. According to the law "On National of Security and Defence Council," the Council called to consider and report to the President of Ukraine the proposals on the draft legislation of the State Budget of Ukraine, related to national security and defence. Our Committee has ensured the Council fulfil its obligation in this matter. As a rule, the decisions of the Security

Council reflect the Parliamentary Committee's proposals. However, the Council's decisions, which are put into effect by presidential decree and are binding upon the Government, are often ignored. The requirements of the law "On Defence of Ukraine" are often not fulfilled.

In accordance with Article 2 of the mentioned law, funding for state national defence shall be exercised solely at the expense of state budget in the amount determined by the annual State Budget Law. This must also consider the need to ensure the proper execution of the defence tasks. According to the Law "On Defence of Ukraine," these costs should make up no less than three percent of the projected gross domestic product. However, this requirement has never been fulfilled. In 1993, the state budget funding for the maintenance and development of the Armed Forces was 1,87% of GDP; in 1994 – 1,94%; in 1995 – 1,66%; in 1996 – 1,55%; in 1997 – 1,54%; in 1998 – 1,33%; in 1999 – 1,29%; in 2000 – 1,34%; in 2001 – 1,48%; in 2002 – 1,46%; in 2003 – 1,6%; in 2004 – 1,54%, and in 2005 – 1,34%.

In December 2005, President Yushchenko approved the Security Council's decision "On the State program of the Armed Forces' development throughout 2006-2011," which required annual allocations for defence in an amount not less than two percent of GDP. However, when approving the State Budget for 2008, the Government of Y. Tymoshenko pushed through the Parliament an amendment to the law "On Defence of Ukraine," where the requirement for the defence allocations in an amount no less than three percent of the projected GDP was removed.

In fact, the expenditures for the needs of the Ministry of Defence amounted to 0,99% of GDP in 2008. The expenditures for 2009 were forecast to reach 1,11%, but apparently they are unlikely to reach one percent.

The guaranteed budgetary allocations for the development and reform of the Armed Forces, provision of modern communications, establishment and development of command posts and automated control systems, purchasing and upgrading armament and military hardware and other urgent needs were reduced dramatically compared to the previous year.

As noted by President Yushchenko, 80% of the Ukrainian defence budget goes to the maintenance of troops, 15% – for training and only 5% – for their development. According to experts, the financing of the Ukrainian Armed Forces has crossed the critical threshold. The Government has ignored repeated requests from the Committee on this matter, as well as on the development and management of the arms industry amongst other issues.

Another problematic area is the appointment of personnel in the security, defence and law enforcement organisations. Experience shows that control can be efficient if the controlling agency has authority to influence the personnel policy in those structures whose activity is monitored. In this regard, the experience of the United States and several European countries deserves attention. There, the Parliaments and their committees provide opinion or consent to certain appointments in the military, foreign policy and other agencies, as well as to the attribution of higher military ranks. The power of the Ukrainian Parliament in this regard is limited to the right to appoint or dismiss from the positions specified

in the Constitution. Parliamentary committees are deprived of such powers all together. A law that required decisions on the appointment and dismissal of heads of Ukraine's anticorruption units and units involved in the fight against organized crime to be made only after consultation with relevant committees of the Verkhovna Rada was found by Ukraine's Constitutional Court to be inconsistent with the Constitution and was accordingly removed.

The practice of "acting head" or "temporarily acting head" appointments of high positions, often without limiting the duration of such status, seriously undermines problem-solving abilities in the sphere of defence and security. This practice has become particularly widespread in the last five years. It undermines the procedure of personnel appointments, defined by the Constitution and laws. It also puts leaders in a "suspended" state and makes them dependent on those who appoint them to office. An employee who is uncertain in their position, especially a person lacking principles, might fulfil any request and instruction, including those that are incompatible with the Constitution and regulations. A prominent example is the Security Service of Ukraine, which has been managed by an Acting Head for more than two years. The parliamentary Committee examined the issue of personnel policy in the Security Service and found significant shortcomings. The practice of assigning the highest ranks at the Ministry of Defence was also subjected to severe critique by the Committee. However, such reactions are not enough.

In my point of view, it would be appropriate and in line with European democratic practices to expand the powers of parliamentary committees in the control function, which is now defined in the Ukrainian Constitution, yet in very general terms. The meetings of parliamentary committees and the days of the Government and committee hearings reveal the implementation shortcomings of the state programs related to defence and national security. The response to these shortcomings must be more acute. The practice of parliamentary inquiries should also be used more actively as an effective form of civilian control. The Committee on Security and Defence which is staffed by deputies with extensive experience in the aforementioned areas could provide an efficient system of control.

Control over the activities of the secret service and foreign intelligence should be mentioned separately. They still remain virtually closed to civilian and parliamentary oversight in Ukraine. Control over the services requires specialist knowledge and experience. I think it is justified that in the parliaments of many countries (the US, the UK, Russia and others) there are separate committees on security (or intelligence). Unfortunately, the proposal to form such a committee in the Verkhovna Rada, which I have expressed repeatedly, received no support.

I remember one curious case. After the events of December 2004, a newly appointed head of the Security Service approached me, as Chairman of the Committee, with a proposal "to allocate two or three members of the Committee," which he proposed "to teach how to oversee the activities of the Service." However, this official did remain in office for a long time afterwards.

There have often been attempts to keep certain specific agencies outside of public control or turn the control into a formality (a smokescreen). This applies, in particular, to the public councils, created in some ministries and departments of the security sector.

The Temporary Investigation Commission was created in the Verkhovna Rada in August 2008 to consider the alleged illegal supply of arms and military equipment into Georgia. Heads of state agencies involved in the abovementioned supplies tried to hamper its work in every way and did not provide the necessary materials. The Verkhovna Rada recognized the work of the Commission in order to prevent it from verifying data on the prices of the military equipment, which were much lower than those sold on the global arms market. The Commission's report was not published, which was a clear violation of the Parliamentary Standing Orders. I have to reiterate that in the United States for example arms sales to other states need Congressional consent. In accordance with the so-called Nelson's amendment adopted in 1974, Congress should be informed of all plans of arms sales to other states and be given the opportunity to assess these plans.

Existing Ukrainian legislation assigns an important role to civil society organizations in the area of civilian control. This includes the so-called non-governmental organizations, the press, television and radio. Some of these organizations[1] undertake serious analytical work and make substantial suggestions on defence and security issues. Civil society organizations pay special attention to constitutional rights, conditions of service, social problems of the military, law enforcement officials and members of their families. At the same time, the activities of these organizations on occasion display unwarranted determination, conflicting approaches, politicisation and a desire to intrude into areas that should be closed to the public. The media's coverage often bears traces of unprofessionalism, superficial knowledge of the problems and sensationalism.

The abovementioned are the side effects of a long development process. In general, Ukraine has taken the right direction. Improvement in the democratic civilian control of defence formations and law enforcement authorities stands in line with the democratisation of state and public life, and in compliance with constitutional principles, human rights and freedoms. We see it as the duty of every politician and public figure in our country to contribute fully to this improvement.

6 August 2009

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[1] In this regard, I would like to emphasise the contribution of *The Centre for Army, Conversion and Disarmament Studies* and *the Ukrainian Centre for Economic and Political Studies named after Olexander Razumkov*.

Chapter 4

Ukraine in the Regional and Global Security Structure

Oleksiy Melnyk [*]

The illusion that after the end of the Cold War mankind would enter a period of conflict free development has proved transient. Soon afterwards, the old-new threats of ethnic and religious conflicts, terrorism, illegal migration, international crime, uncontrolled arms and drug trafficking, natural and technical accidents came to the forefront. The Russia-Georgia conflict in August 2008 and developments concerning its resolution were further proof of the fragility of the distinction between peace and war.

Seventeen years after gaining independence, the topical issue of national security for Ukraine is growing in significance. Given the geopolitical location of the country and a number of other external and internal factors, Ukraine's accession to a collective security system seems to be the only way to guarantee its national security, and defend the country's sovereignty and territorial integrity.

The choice and successful implementation of Ukraine's foreign political course is critical not only for its national security. The policy of Kyiv, recently presenting a kind of catalyst to Russia's confrontation with the West and highlighting the differences among some NATO member states, greatly influences security and stability in the European region. Preservation of the uncertainty of its place in the system of global and regional security is fraught with Ukraine becoming a kind of buffer zone between powerful international actors seeking to employ it to reduce their own risks.

As the National Security Strategy of Ukraine reads: "Further development and defence of the main gains of Ukraine requires clear determination of the state regarding strategic priorities and goals, meeting challenges and threats of the 21st century, its interaction with present-day systems of global and regional security."[1]

However, despite the legislatively provided course for European and Euro-Atlantic integration, the country has seen further discussions and legislative initiatives aimed at its revision. Their essence is actually confined to three options: (1) conservation of the non-

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[1]   Approved by the President of Ukraine on 12 February 2007 with Decree No.105.

aligned and/or obtaining neutral status; (2) deepening of the partnership with NATO and the EU in the security and defence sector without accession to the Alliance; (3) accession to the CIS Collective Security Treaty Organisation (CSTO).

Given the above processes and the sharp shifts in strategic goals that have shaped Ukraine's modern history, it is expedient to once again examine the possible ways to guarantee Ukraine's national security, namely through its place in the system of regional and global security.

Current Security Environment

In the modern world, external and internal aspects of security are closely interwoven. There is a growing emphasis on non-forcible methods (*soft power*) as a means of guaranteeing national security and global peace and stability.

Meanwhile, the idea of countering threats by traditional forcible methods (*hard power*) remains on the agenda.

Ways to Guarantee the Military Security of a State

Strong defence capabilities are an element of the national security system. However, in the present circumstances, no country in the world can oppose present-day threats, relying only on its own capabilities.

Most countries that are seeking to ensure their national security try to build a non-hostile environment by developing multilateral friendly relations with neighbouring states and remaining actively involved in regional and global security system building.

Without delving into the theory of international relations, it should be noted that most states searching for ways to build peaceful coexistence with other states try to abide by the theory of *Realpolitik*.[2] The theory states that there are only two time-tested ways to guarantee the military security of a state: (1) creation of one's own strong defence capabilities; (2) joining military unions (blocs). Meanwhile, states and blocs seek to achieve equilibrium of forces by means of international institutions, arrangements, arms control, and disarmament treaties.

1. *Build-up of one's own defence capabilities* is indispensable for national security, since it enables the state leadership to pursue a policy of deterrence (*coercive diplomacy*) for the attainment of its national interests beyond state borders, and for the prevention of probable hostile aggression. This approach is not universal and cannot provide reliable long-term guarantees of peace and security.[3] In addition,

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[2] By contrast to adherents of *Realpolitik*, representatives of liberal and neo-liberal schools argue that peace can be achieved only through the establishment of international law, integration of states and democratic reforms.

[3] The security dilemma—the development of defence capabilities by a state—is seen by another state as a military threat and prompts it to take countermeasures in the from of a build-up of its own military potential, leading to an arms race and undermining the security of all actors.

this option is conditioned by the economic capabilities and readiness of society and politicians to bear defence expenditures at the expense of social needs.

2. *Unification in military alliances (blocs)* actually continues the first approach, namely, strengthening the military capabilities of separate countries and uniting their potential to deal with a common threat. Meanwhile, membership in a military alliance imposes additional limitations and obligations on each member state – especially if a state assumes long-term commitments, joining a union because of the current coincidence of national interests with interests of other members of the union.

There are both adherents and opponents of military unions as a method of providing national security. For instance, former US President Woodrow Wilson, an adherent of liberalism in international relations, warned against the danger of the unification of states in military alliances. He asserted that it was their existence that promoted the evolution of local conflicts into large-scale wars, and adhered to the idea of a collective security system as an alternative to unions, to contain aggression of any state through the collective efforts of other states, coordinated via international institutions.[4]

By and large, opponents of military alliances argue that such unions, *first*:

• Enable aggressive states to combine military capabilities for waging wars;

• Provoke the establishment of alliances by adversaries;

• May prompt otherwise neutral parties to join an opposed coalition;

• Having united their armed forces are forced to control the behaviour of allies and deter them from undertaking irresponsible actions against their adversaries that would undermine the security of the whole alliance; and

• Cannot save coalition partners from becoming enemies in the course of time.

Second, that membership in a military alliance:

• Limits the freedom of choice of a sovereign state, including its ability to promptly adapt itself to the changing situation;

• Deprives a state of the possibility to use the factor of uncertainty of position at negotiations;

• Limits the agenda of negotiations, imposes limitations on the format of cooperation, and may involve other alliance members in disagreements with adversaries; and

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4 President Woodrow Wilson's *Address to the US Senate* on 22 January 1917, www.firstworldwar.com/ source/peacewithoutvictory.htm.

- Creates problems with friendly states outside the alliance.[5]

However, despite these fears, states continue to join military alliances as they consider the benefits to outweigh the risks. There is no country in the world that can feel absolutely secure, so, where possible, a country builds up its defence potential by looking for allies and joining forces. Another benefit of an alliance, in addition to strengthening the defence capabilities of each member state, is that its membership promotes the development of partnership not only in the military sense but also in political, economic, cultural and other sectors.

The state of national security is deemed satisfactory if no state/bloc has military capabilities enabling its domination over others. This is the underlying principle of the concept of "balance of power." States unite their defence capabilities and create equilibrium of forces to bar the attempts of a militarily stronger state/bloc to resort to forcible methods to attain its goals.[6]

Another way to attain the balance of power in bilateral and multilateral relations is to *set up international institutions*, *make arrangements*, *and enter into agreements of arms control and disarmament with potential adversaries.*

As noted above, a build-up of military capabilities in one state prompts others to strengthen their defence or to look for allies. An arms race between military blocs does very much the same. Sooner or later, if neither party manages to use its benefits in open confrontation, adversaries have to search for ways to mitigate threats through arrangements curbing arms and rules of their application. But even the most progressive arrangements cannot change the conviction of the absolute majority of politicians of the need to maintain the required level of defence capabilities of a state. That is why arms control and disarmament measures, as the practice shows, quite often bring temporary effects and with improvement or the emergence of new weapon systems require new arrangements.

Furthermore, it should be noted that major international institutions which were established "to maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace,"[7] increasingly demonstrate their inability to promptly and effectively attain the declared goals.

For many years the UN, NATO, the EU, the African Union and other international organisations have not been coping with the lasting conflicts on the African continent and in

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[5]   See Patricia A. Weitsman, *Dangerous Alliances: Proponents of Peace, Weapons of War* (Stanford, CA: Stanford University Press, 2004); Charles W. Kegley, Jr., *World Politics Trend and Transformation*, 11th edition (Belmont, CA: Wadsworth Publishing, 2007), 505–506.

[6]   Ibid., 506–511.

[7]   Article 1, Chapter 1 of the UN Charter.

the Middle East. The OSCE, the UN and its main body—the Security Council—are unable to effectively resolve the issue of "frozen" conflicts, the nuclear programmes of Iran and North Korea, proliferation and the destabilising stockpiling of conventional weapons and firearms. Even the UN rostrum is used by some countries to promote national interests to the detriment of security at the regional and even global level.

Hence, *the choice of a model of security is associated with certain benefits and risks*, and therefore *envisages the existence of an effective policy of national security* for an individual state.

National Security Policy of Ukraine

The National Security Strategy sets the strategic goal of national security policy as the "guarantee of the state sovereignty and territorial integrity, national unity on the basis of democratic progress of society and the state, observance of human and civil rights and freedoms, creation of conditions for dynamic economic growth, attainment of European social standards and well-being of the population."[8] Hence, defence of state sovereignty and territorial integrity is the top priority. This does not mean that the other goals are less important, but when national sovereignty and territory are threatened, one can hardly speak of the achievement of other goals.

Assessment of existing and potential threats and ways of removing or minimising risks are an element of the national security policy. Assessments and decisions take into account external and internal factors, national capabilities and limitations, as well as opportunities provided by cooperation with partners.

Box 4.1. Definitions

National security – protection of vital interests of a human and citizen, society and the state, ensuring sustainable development of society, timely identification, prevention and neutralisation of actual and potential threats to national interests

National interests – vital material, intellectual and spiritual values of the Ukrainian nation as the bearer of sovereignty and the only source of power in Ukraine, constitutive needs of society and the state, the attainment of which guarantees state sovereignty and progressive development of Ukraine

Threats (challenges) to national security – existing and potential phenomena and factors posing danger to the vital national interests of Ukraine [9]

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8   National Security Strategy of Ukraine.

9   Law of Ukraine "On Fundamentals of National Security of Ukraine" (2003).

Many experts believe that the main external challenges (threats) to national security for Ukraine, especially after the Russian-Georgian conflict, include:[10]

- Increasingly aggressive Russian policies, directed towards the enlargement of its zone of influence, including the possible use of force against neighbours;

- Weakening of international law and the effectiveness of international institutions, with a corresponding weakening of external guarantees for Ukrainian security;

- Escalation of the situation in areas of "frozen" conflicts and external efforts to generate new conflict zones as a tool to interfere in the politics of sovereign countries, including Ukraine;

- Lack of consensus within the Euro-Atlantic area regarding relations with Russia that reduces the credibility of NATO and the EU as effective defenders of international law and regional stability. Ukraine risks finding itself in a geopolitically defined buffer zone;

- Continuing global risks – terrorism, WMD proliferation, illegal migration, etc.

The urgency of external challenges is aggravated by internal problems that acquire threatening traits:[11]

- Acute political confrontation, inability to compromise, and weak parliamentary traditions have politicised almost all policy (including national security issues), fostered excessive populism, isolated the political elite from society and alienated the public from politics;

- Continuing societal divisions according to regional, political, economic, religious, and language characteristics;

- Ineffective and bloated state apparatus and dysfunctional state-level strategic management mechanisms;

- Weakness of democratic institutions, especially the judicial system, which destabilises the political system by removing a neutral arbiter and impedes the protection of citizens' rights;

- Imbalances in the national security system, due to: uncoordinated reforms in different security sector structures; weak crisis-management capability; and the growing gap between the substance and significant pace of Armed Forces' and other security structures' reforms on the one hand, and the slower pace of Ukraine's overall advance toward NATO membership on the other;

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[10] Strategic Assessment by leading Ukrainian and foreign experts within the framework of the NATO-Ukraine Partnership Network for Civil Society Expertise Development – "Toward a More Relevant and Coordinated National Security Policy of Ukraine," *National Security & Defence* 9 (2008): 62–64, www.uceps.org/eng/files/category_journal/NSD103_eng_9.pdf.

[11] Ibid.

- Critical state of arms and military equipment, poor maintenance and low combat readiness of the Armed Forces.

Ukraine must immediately deal with those threats despite the difficult domestic policy and economic situation, tough resource limitations and persistent political confrontation. This requires the mobilisation of internal resources (financial, human, and political) to ensure effective change in priority domains.

On the other hand, one should admit that, in view of these challenges and threats, the issue of external guarantees of security is especially topical for Ukraine today. This issue is further aggravated by the abovementioned impairment of international law. The world is increasingly concerned about the threat to stability and peace posed by the collision between, for instance, the right of nations to self-determination and the principle of territorial integrity, or revision of the principles of the use of force in international relations and the responsibility to protect.

In the absence of effective international mechanisms, control of the observance of legal norms mainly depends on the ability of concerned/threatened countries to force a violator to respect the norms of international law through their own efforts and the efforts of their allies or other concerned parties.

The National Security Strategy of Ukraine envisages, *inter alia*, the following ways of provision of favourable external conditions for the development and security of the State:

- Accession of Ukraine to the European and Euro- Atlantic security systems;

- Development of Ukraine-Russia partnership;

- Development of harmonious, mutually advantageous, good-neighbourly relations with countries in the region;

- Expansion of active cooperation with the US and Canada, EU countries, other European countries and regional powers;

- Maintenance of international peace and security by means of further participation in international peacekeeping activity, multilateral measures against the proliferation of weapons of mass destruction, terrorism, transnational organised crime, slavery, illicit trafficking of drugs and other challenges to international security;

- Intensification of cooperation with European regional organisations and a role in the implementation of multilateral projects, formation of subregional collective security systems in the interests of all countries of the region.[12]

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[12] Meanwhile, the Strategy envisages "Ukraine's regional leadership." Assuming that such intent is conscious and the Ukrainian authorities will make efforts to do that, the consequences for state security may be far from expected. Understanding Ukraine's place in the regional and global security structure by the state leadership, realism of set goals and prediction of consequences are critical for the formulation of the national security policy.

If the essence of those measures is analysed, only the first item envisages a measurable assessment of implementation. Moreover, it is of key importance, while the remaining measures are intended only to supplement the qualitatively new security status to be achieved by Ukraine after joining the Euro-Atlantic security system.

Alternatives to Ukraine's Accession to a Collective Security System?

The answer to this question may be very short: the decision has been taken – "The policy of Euro-Atlantic integration pursues the end goal of ... Ukraine's accession to NATO."[13] However, it still lacks support from the majority of the Ukrainian political community and society, and some political forces continue to make attempts to revise it.

It makes sense therefore to examine in more detail the pros and cons of Ukraine's accession to the Alliance and to make some conclusions.[14]

As noted above, there are two viewpoints on how to guarantee Ukraine's national security. The first presumes preservation of a non-aligned status or acquisition of neutral status for Ukraine; the second – accession to a collective security organisation.

Adherents of the idea of non-alignment/neutrality believe such status to be the most effective for the avoidance of conflict, and guarantee of Ukraine's sovereignty and territorial integrity. For instance, the draft Declaration of Non-Aligned Status of Ukraine terms that step as reasonable and necessary "from political, economic and social viewpoints," and adequately guaranteeing the national security of the state at the present stage.[15]

The authors of the draft suggest that Ukraine should rely on security assurances from five nuclear weapon states (the US, Russia, the UK, France and China) in connection with Ukraine's accession to the Treaty of Non-Proliferation of Nuclear Weapons and noted in the Budapest Memorandum of 1994.

However, the Main Scientific-Expert Department of the Verkhovna Rada gave a clear-cut conclusion concerning such guarantees: "...The conflict of the island of Kosa Tuzla and a number of unfriendly actions by one of the guarantors of Ukraine's security (for example, on 26 May 2006, the State Duma of the Russian Federation unilaterally voted to inquire from the Russian Government about measures to return the Crimea to Russia, and on 4 June 2008, applied to the Russian President and the Government for termination of the Treaty of Friendship, Cooperation and Partnership between Ukraine and the Russian Federation…), with total non-interference of the other guarantors, question the firmness of

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[13] *The Military Doctrine of Ukraine* was approved by the President of Ukraine Decree No.648 on 15 June 2004. The provisions for full NATO membership were removed from the document by the President's Decree No.800 on 15 July 2004, and reinserted by the Decree No.702 on 21 April 2005.

[14] See also the article by Mykola Sungurovskiy, "A Test of Neutrality," *National Security & Defence* 9 (2008): 13–15, www.uceps.org/eng/files/category_journal/NSD103_eng_3.pdf.

[15] Draft reg. No.2585 on 2 June 2008, by the national deputy of Ukraine Vassil O. Kyselyov, http://gska2.rada.gov.ua/pls/zweb_n/webproc4_1?id=&pf3511=32661.

execution of the guarantor countries' commitments to guarantee Ukraine's security and territorial integrity under that Memorandum."[16]

The Budapest Memorandum gives Ukraine solely *political guarantees of security*. In fact, it merely reiterates (duplicates) legal guarantees provided in the UN Charter, CSCE (OSCE) Final Act and the Treaty of Non-Proliferation of Nuclear Weapons. The only difference from these documents lies in Section 6 of the Memorandum, providing that in case of a threat to the security of Ukraine as a non-nuclear state, the US, the Russian Federation and Great Britain will hold consultations on the performance of defence commitments. Hence, *first*, this provision obliges nuclear states only to discuss Ukraine's security and contains no legally binding norms of assistance (defence). *Second*, France and China did not sign the Memorandum, referring to the UN Charter and the CSCE Final Act, but their statements did not mention their commitment to hold consultations on Ukraine's insistence or request. So, the Memorandum can hardly be seen as a sufficient guarantee of security.[17]

By and large, adherents of non-alignment quite often present it as a synonym of or as a step to neutrality, or "active" neutrality. Reasoning their position, they stress the threat of deterioration of relations with Russia, employment of Ukraine by the US as a tool of confrontation with Russia, growth of risks of terrorist attacks and so on. By contrast, neutrality is viewed as a policy of a strong and independent state and possibly the only option to implement fast and effective reforms at home.[18] Meanwhile, even experts who defend the idea of neutrality do not rule out that, in the future, Ukraine might have to give up such status.[19]

Those arguments reveal either naivety or the intentional concealment of international legal procedures to obtain the status of a neutral state. Experience shows that a country cannot become neutral just by proclaiming its neutrality.

Prosperous Switzerland is the most frequently cited example of a neutral state. Austria, Ireland, Laos, Liechtenstein, Cambodia, Malta, Turkmenistan, Finland and Sweden are also considered neutral. Moldova, too, had announced its intention to be neutral, but its neutrality did not win international recognition, which once again highlights the controversy of that step. The political map of the world demonstrates the uniqueness of this status (Map "*Neutral states on the political map of the world*" on p.48).

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[16] Conclusion of the Main Scientific-Expert Department of the Verkhovna Rada of Ukraine Staff on 15 July 2008, Ibid.

[17] For more details see: Volodymyr Vasylenko, "Only NATO Membership Will Lead to Normalisation of Ukraine-Russia Relations," *The Day (Den)*, 17 May 2006 (in Ukrainian).

[18] "Will Ukraine get MAP in December," expert opinions, UNIAN, 6 November 2008.

[19] Andriy Yermolayev, "What Ukraine Needs is not NATO, but a Policy of Active Neutrality," *Zakhida Informatsiyna Korporatsiya* web site, http://zik.com.ua/ua/news/2008/11/28/160010.

Firstly, neutrality cannot be seen as a precondition of economic prosperity, since it is a category of military-political relations, as ensues from the very title of the Hague Conventions.[20]

Security guarantees provided to a neutral state by other states deal with the inviolability of its territory, respect for neutral status, non-use of its territory, air and maritime space for acts of war, transportation of military cargo or the establishment of military facilities and recruitment centres.

At the same time, neutral status bears numerous commitments where non-performance (express or implied) also may immediately deprive it of such status, in particular: not to permit the use of its territory, air and maritime space by other states for military purposes, arrangement of foreign military bases and military facilities, establishment of recruitment centres, transportation of military cargo and manpower, not to transfer or sell arms to areas of military conflict, not to give military, financial or other assistance that may be used for military purposes.

Another important condition of neutrality is that a neutral state itself is its main guarantor. The neutrality of European states primarily rests on their own defence potential, geographic location and historic traditions.

Despite the differences between nonaligned and neutral status, the non-alignment of a state possessing such status vis a vis any military union is of key importance. That is, a state must primarily rely on its own resources.

What does this mean for Ukraine?

First – reliability of external guarantees. The reliability of the Budapest Memorandum was discussed above. Prospects of getting other guarantees are related to the strategic interests of a guarantor country and the cost of such guarantees for Ukraine.

Second – the need to provide military security by its own resources. According to pre-crisis optimistic estimates, "under the average GDP growth rate (8% – till 2010 and 7% – till 2015) and allocation of 2% of the GDP to the Armed Forces, Ukraine could effectively maintain the Armed Forces' of only 80-90 thousand men. Proceeding from the world average ratio of manpower and weapon systems 230-thousand strong armed forces must have 7.5-11.5 thousand main weapon systems (currently – some 4.6 thousand). Given the state's inability to renew at least a small part of the available stock of arms…, prospects of its numeric growth look even less realistic."[21]

Third – absence of foreign military bases on the territory of a neutral state. Given the presence of the Russian Black Sea Fleet in Crimea, Ukraine's neutrality is out of the question until at least 2017.

Finally – geopolitical location of Ukraine between two spheres of influence. This geopolitical positioning, in view of the abovementioned legal details of neutral status, in case of

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[20] Hague Conventions respecting the rights and duties of neutral powers and persons in case of war on land and in naval war (18 October 1907).

[21] *Professionalisation of the Armed Forces of Ukraine: Quo vadis?* Razumkov Centre Analytical Report, *National Security & Defence* 5 (2008), 26.

Box 4.2. NATO and European Security and Defence Policy (ESDP)

For a long time, European security and defence rest on the parity between two powerful military blocs. After the dissolution of the Warsaw Treaty, NATO in fact remained the only functional defence structure in Europe. The military might of NATO greatly depends on the US readiness and ability to immediately take part in the resolution of security problems beyond the framework of allied commitments.

Meanwhile, in view of the limitations caused by the mainly military character of NATO activities, some differences in the interests of allies, and desire of the Europeans to assume more responsibility for their security, there naturally arose the need to build a purely European functional security and defence structure.

At the early stage of planning of the EU security structure within the framework of the Common Foreign and Security Policy there were maybe not unreasonable suspicions of attempts to create a "European branch of NATO." However, now, as the debates of the legitimacy or necessity of ESDP are over, it may be said for sure that ESDP as a European tool of security and stability was a success. Its institutional structures have been formed, the security strategy developed, the military component wages successful operations.[22]

The EU and NATO are not rivals in operations, geographically or functionally. Successful settlement of modern crises requires joint use of military and civilian resources. Search of equilibrium in the development and coordination of military and civilian capabilities of NATO and the EU is a precondition for effective interaction of the two organisations and enhancement of the effectiveness of their individual and joint operations.

Twenty one states are known to be NATO and EU members at the same time. This gives rise to the question of employment of their military potential for missions of both organisations.

To settle this, a number of measures are being taken, the first being the conclusion of the Berlin+ Agreement in 2003 on coordination of joint actions in crisis management by means of mutual consultations. According to the Agreement, the EU is to have access to NATO resources and capabilities. Access to NATO planning aids is especially important for the EU, as it enables coordination of joint actions without duplication.

Creation of the EU Operations Centre involves establishing a small body. Meanwhile, there are concerns in the EU about NATO domination and ESDP staying a as junior partner.

So, despite the problems and disputes, NATO and ESDP may not just coexist but effectively cooperate in attainment of the objectives of collective security and global stability.

Meanwhile, it should be noted that NATO remains the only political-military structure of the European security system that can best ensure the collective security of its members.

the aggravation of military-political confrontation on the continent, will inevitably make Ukraine a buffer zone, a party to a conflict or the battlefield for hostile parties.

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[22] Policy and Security Committee, Military Committee, Military Staff, High Representative for the Common Foreign and Security Policy.

In summary, it may be assumed that self proclaimed non-aligned or neutral status will not give Ukraine reliable security guarantees. Even if some major powers give legal external guarantees of military security, Ukraine will have to mainly rely on its own defence capabilities. But to deal with existing and potential threats relying on its own potential, much greater defence capabilities are needed, which cannot and need not be allocated, now or in the foreseeable future.

Whom to Ally with, if Anyone?

Choosing the collective security system, Ukraine might theoretically consider only two options: the North Atlantic Treaty Organisation (NATO), acting in pursuance of the 1949 Washington Treaty, and the Collective Security Treaty Organisation (CSTO), established in 1992 by the Tashkent Treaty (member states of both are shown on the Map "*NATO and CSTO on the political map of the world*" on p.48).[23]

Box 4.3. Structures with Security Functions in the Post-Soviet Space

There are three structures on the territory of the former Soviet Union dealing with security functions: the CIS, the CSTO, and the GUAM Organisation for Democracy and Economic Development. That space is also partly covered by the Shanghai Cooperation Organisation (SCO), which unites a number of post-Soviet states and China. The CSTO is a purely security structure (a military union).

International experts are rather critical of those structures. The Stockholm International Peace Research Institute's Yearbook states: "All these groups tend to be poorly known outside their region and are often exposed to normative criticism both outside and in some parts of that region. The three Russia-led groups (the CIS, the CSTO and the SCO) are often seen in the West as aiming at a kind of neo-Soviet hegemony, implying coercion and undemocratic practices; their opposition to terrorism and insurgency is interpreted as a common agenda of isolating and crushing minority elements; and strategically, they are viewed as an essentially zero-sum effort to balance Western groupings or to obstruct US and Western influence. It is widely assumed that all four groups suffer from rigid, artificial forms of governance and low levels of efficiency and output."[24]

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[23] The Treaty of Collective Security was signed in Tashkent on 15 May 1992, for five years with an option for extension. On 7 October 2002, the CSTO Charter and the Agreement of the legal status of CSTO were approved and entered into effect on 18 September 2003. Current parties to the Treaty are Belarus, Armenia, Kazakhstan, Kyrgyzstan, Russia, Uzbekistan and Tajikistan.

[24] Alyson J.K. Bailes, Vladimir Baranovsky and Pal Dunay, "Regional Security Cooperation in the Former Soviet Area," *SIPRI Yearbook 2007: Armaments, Disarmament and International Security,* Published in June 2007 by Oxford University Press on behalf of Stockholm International Peace Research Institute, 2008, p.166.

The Ukrainian public has also considered whether the European Security and Defence Policy can replace NATO membership for Ukraine.[25] The answer to this question is clearly negative. The main argument is that ESDP and NATO in fact cannot be viewed as alternatives (see Box 4.2).

As previously noted, the only two options for Ukraine are NATO and CSTO. Formally, the two organisations have much in common. In particular, as the comparative table of provisions of the Treaties shows, the content of Article 4 of the Tashkent Treaty of collective security is almost identical to Article 5 of the Washington Treaty, as are most of the basic provisions of the two documents. Meanwhile, there are rather serious differences, for example in the premises of the principles (document preambles) and in the provisions of admission of new members (Article 10).[26]

Table 4.1. Comparative Table of Some of the Provisions of the Washington and Tashkent Treaties.

North Atlantic Treaty	**Treaty on Collective Security**
The Parties to this Treaty reaffirm their faith in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all governments. They are determined to safeguard the freedom, common heritage and civilisation of their peoples, *founded on the principles of democracy, individual liberty and the rule of law.* They seek to promote stability and well-being in the North Atlantic area. They are resolved to unite their efforts for collective defence and for the preservation of peace and security. They therefore agree to this North Atlantic Treaty.	The States Parties to this Treaty … guided by declarations on the sovereignty of Independent States, taking into account the establishment by the States Parties of their own Armed Forces, adopting agreed actions in the interests of providing for collective security, recognizing the need to strictly implement the concluded treaties related to the reduction of armaments and Armed Forces and to the strengthening of confidence measures, have agreed as follows…
Article 5	*Article 4*
The Parties agree that *an armed attack against one or more of them* in Europe or North America *shall be considered an attack against them all* and consequently they agree that, if such an	*If an aggression is committed against one of the States Parties by any state or a group of states, it will be considered as an aggression against all* the States Parties to

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[25] See, e.g.: Vitaliy Martynyuk, "Can European Security and Defence Policy Replace Accession to NATO for Ukraine?" *Ukrainska Pravda*, 12 March 2008 (in Ukrainian), http://www.pravda.com.ua/news/2008/3/12/72926.htm.

[26] For the full text of the Washington Treaty see: www.ukraine-nato.gov.ua/nato/ua/805.htm; of the Tashkent Treaty – www.dkb.gov.ru/start/index.htm.

armed attack occurs, each of them, in exercise of the right of individual or collective self defence recognised by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area. Any such armed attack and all measures taken as a result thereof shall immediately be reported to the Security Council. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.	this Treaty. In case an act of aggression is committed against any of the States Parties, all the other States Parties will render it necessary assistance, including military one, as well as provide support with the means at their disposal through an exercise of the right to collective defence in accordance with Article 51 of the UN Charter. The States Parties will immediately inform the United Nations Security Council of the measures taken in accordance with this Article. While taking these measures, the States Parties will abide by the relevant provisions of the UN Charter.
Article 10 The Parties may, by unanimous agreement, *invite any other European State in a position to further the principles of this Treaty* and to contribute to the security of the North Atlantic area to accede to this Treaty…	*Article 10* This Treaty shall be open to accession by any states concerned that share its goals and principles.

Considering the alternatives in the long run, one should keep in mind that the possibility of combining military capabilities should be an important but not the only argument in decision-making. If all benefits and possible adverse implications of Ukraine joining the Eastern or the Western bloc are taken into account, NATO looks more attractive at least for three reasons:

- NATO is a mightier and more effective union that reliably guarantees collective security to its members not only by military means but also by strategic initiatives aimed at enhancement of security and stability in the region and all over the world;

- NATO membership not only gives state reliable external guarantees of sovereignty and territorial integrity, but promotes its attractiveness for foreign investors;

- Membership in NATO as an organisation based on the principles of democracy, personal freedom and rule of law will have deep societal implications for Ukraine.

Meanwhile, one should keep in mind that partnership and cooperation of the State with NATO cannot replace full membership, since NATO, irrespective of the level of such cooperation, gives no formal guarantees of external security to the states that are not parties to

the Washington Treaty. This is the main reason why active partnership cannot be an alternative to membership in that organisation.

Furthermore, NATO membership has deep societal implications. The process of preparation for membership encourages a candidate country to attain high democratic, socio-economic and defence standards of the NATO member states. Over the entire period of existence of the Alliance its membership has been growing, and no member state has ever raised the issue of its withdrawal, by contrast to CSTO.[27]

NATO Forever?

Once again, tying the country's fate with the Alliance, one should be guided not only by today's arguments but try to look ahead, into the future of that organisation.

After the end of the Cold War, the issue of the necessity of NATO arose, since the military union was established to deal with the common threat posed by the USSR. After 1991, the Alliance transformed its concepts and structures. The collective defence of the member states remained NATO's main goal, but it was supplemented with the task of strengthening security across Europe. Growing attention on the Alliance in Europe was expressly pushed by the US desire to raise responsibility (first of all, financial) among Europeans for their own security.[28] Today, the Alliance continues to shape its role and place in the global security system.

Box 4.4. North Atlantic Treaty Organization (NATO)

As noted above, the breach of equilibrium of forces in the region is one downside of strengthening national security by joining forces in a military union, as it prompts other states to take appropriate countermeasures. That is why the Alliance's Strategic Concept envisages a comprehensive approach to security problems, providing, in particular, for the continuation of the policy of partnership, cooperation and dialogue with other countries of the Euro-Atlantic region, as well as the Alliance's openness to admission of new members.[29]

The Concept's "Partnership, Cooperation, and Dialogue" section stresses the importance of activities in the field of the promotion of partnership, dialogue and cooperation to remove division and disputes that may lead to instability and conflicts.

The tools of such cooperation include the Euro-Atlantic Partnership Council (EAPC), Partnership for Peace (PFP) and the Mediterranean Dialogue.[30]

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[27] For instance, Uzbekistan in 1992 signed the Treaty of Collective Security, but in 1999 suspended CSTO membership (restored in 2008). Azerbaijan and Georgia joined the Treaty in 1993, but quit CSTO in 1999.

[28] According to different estimates, the aggregate combat potential of European NATO members makes 10-30% of the U.S. potential.

[29] For the full text of the Concept see: www.nato.int/docu/pr/1999/p99-065e.htm.

[30] *EAPC* is a framework for both consultation and cooperation to build increased transparency and confidence among its members on security issues, contribute to conflict prevention and crisis

Dealing with new transnational threats by traditional military means only becomes ever less effective. Respectively, much more attention is paid to diplomatic, political, economic and law-enforcement tools. Additionally, new demands for military resources arise, including the ability of performance of a wide range of tasks at all stages of conflict evolution, and coordination of actions with local and international actors.

The Washington Summit of 1999 was a turning point in the political transformation of the Alliance, as it endorsed the Alliance's Strategic Concept. The Concept reiterates the main and steadfast goal of the Alliance – to maintain freedom and security of its members by political and military means; it confirms the adherence of the Alliance to democratic values, human rights, rule of law and the intent to guarantee not only common defence but also peace and stability in the Euro-Atlantic region.

The Concept carries the assessment of future risks and threats to security. The document stresses that there is no threat of a large-scale war in Europe, while there remain risks of ethnic conflicts, violation of human rights, political instability, proliferation of weapons of mass destruction and their means of delivery.

Specific within the Concept is the comprehensive approach to the resolution of security problems, encompassing:

- *Preservation of the transatlantic link* (NATO's commitment to a strong and dynamic partnership between Europe and North America);

- *Maintenance of effective military capabilities* sufficient for the full range of foreseeable tasks, from deterrence and collective defence to crisis response operations;

- *Development of the European Security and Defence Identity within the Alliance* (close cooperation between NATO, the WEU and the EU, which will: enable all European Allies to ensure a more coherent and effective contribution to the missions and activities of the Alliance as an expression of shared responsibilities; reinforce the transatlantic partnership; and assist European Allies to act inde-

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management, and develop practical cooperation activities, including in civil emergency planning, and scientific and environmental affairs; *The Alliance's Strategic Concept 1999*; *PFP* is the principal mechanism for forging practical security links between the Alliance and its Partners and for enhancing interoperability between Partners and NATO. Through detailed programmes that reflect individual Partners' capacities and interests, Allies and Partners work towards transparency in national defence planning and budgeting; democratic control of defence forces; preparedness for civil disasters and other emergencies; and the development of the ability to work together, including in NATO-led PFP operations. The Alliance is committed to increasing the role Partners play in PFP decision-making and planning, and making PFP more operational. NATO has undertaken to consult with any active participant in the Partnership if that Partner perceives a direct threat to its territorial integrity, political independence, or security. *The Mediterranean Dialogue* was initiated in 1994. Its parties are Algeria, Egypt, Israel, Jordan, Mauritania, Morocco and Tunisia. Goal: better mutual understanding among those countries and creation of good-neighbourly relations. The Dialogue involves annual working programmes concentrating on practical cooperation in the fields of security and defence, information, emergency planning and science; www.nato.int/med-dial/summary.htm.

pendently through the Alliance's readiness to make its assets and capabilities available for operations);

- *Overall capability to manage crises successfully* (enhancement of the Alliance's role in conflict prevention and crisis management as a key aspect of its contribution to peace and security in the Euro-Atlantic region);

- *Partnership, cooperation, and dialogue* (continuation of the traditional policy of partnership, cooperation and dialogue with democratic countries for the sake of the maintenance of peace, development of democracy, prosperity and progress, strengthening security and overcoming differences that may lead to a conflict);

- *Enlargement* (openness of the Alliance for admission of new members);

- *Arms control, disarmament and non-proliferation* (the principal non-proliferation goal of the Alliance and its members is to prevent proliferation from occurring or, should it occur, to reverse it through diplomatic means, development of arms control, disarmament, and non-proliferation agreements as well as to confidence and security building measures).

As stated in the Concept, "Ukraine occupies a special place in the Euro-Atlantic security environment and is an important and valuable partner in promoting stability and common democratic values." At the present transitional stage, Ukraine remains rather vulnerable and exposed to both Western and Eastern external influences. The result of such confrontation may become a factor decisive for its future and for the future of the European region.

While deepening the partnership with the EU and NATO, constructive dialogue with the Kremlin and good-neighbourly relations with Russia should be maintained. Ukraine cannot ignore the Russian factor, exaggerate or underestimate its influence. It should act—considerately but actively—to remove possible confrontation, while furthering cooperation in fields of common interest.

Meanwhile, the policy of Kyiv has actually been a kind of catalyst for confrontation between Russia and the West, and differences among NATO and EU member states, which seriously affects the development of their relations with Ukraine and overall security in the Euro-Atlantic region.

Undoubtedly, full membership in international organisations, such as NATO and the EU, seriously consolidates the position of even small countries in their relations with stronger states.

Proceeding from the invariability of Ukraine's strategic foreign political course in European and Euro-Atlantic integration and taking into account the conclusions of the Bucharest Summit concerning the prospects of Ukraine's full membership in the Alliance, it is critically important to preserve the pace of Ukraine-NATO cooperation. Substantial reductions in the level of external threats may be achieved only on the condition of consolidation of the political elite and society, stabilisation of the domestic political situation and effective implementation of the foreign political course of the state.

Neutral states on the political map of the world

Neutral states: *Austria, Ireland, Cambodia, Laos, Lichtenstein, Malta, Turkmenistan, Finland, Switzerland, Sweden*
At the time, *Moldova* also declared its intention to be neutral, but so far it has not received international recognition

NATO and CSTO on the political map of the world

NATO member states:		CSTO member states:
ALBANIA	NETHERLANDS	BELARUS
BELGIUM	GERMANY	ARMENIA
BULGARIA	NORWAY	KAZAKHSTAN
GREAT BRITAIN	POLAND	KYRGYZSTAN
GREECE	PORTUGAL	RUSSIA
DENMARK	ROMANIA	UZBEKISTAN
ESTONIA	SLOVAKIA	TADJIKISTAN
ICELAND	SLOVENIA	
SPAIN	USA	
ITALY	TURKEY	
CANADA	HUNGARY	
LATVIA	FRANCE	
LITHUANIA	CROATIA	
LUXEMBOURG	CZECH REPUBLIC	

NATO member states:
CSTO member states:

Conclusion

The topical issue of a reliable guarantee of national security—state sovereignty, territorial integrity, inviolability of Ukraine's borders—is growing in significance. Securing reliable external guarantees of security following Ukraine's accession to a collective security system remains the best option, given its geopolitical location and a number of other external and internal factors.

Ukraine's official policy regarding NATO became a catalyst for its confrontation with Russia and Russia's confrontation with the West, and highlighted the differences among NATO member states, which affects regional security and stability. Conservation of Ukraine's present state of uncertainty regarding its place in the world and the regional security system is fraught with Ukraine becoming a kind of buffer zone between powerful international actors.

Problems dealing with the formulation and effective implementation of Ukraine's foreign policy give rise not only to discussions and public events but also to legislative initiatives aimed at revision of the legislatively provided course of European and Euro-Atlantic integration. Given the lack of consolidation among the political elite and society, the danger of a fundamental shift in strategic objectives continues, which has been the case in Ukraine's modern history.

So, reverting to the analysis of the possible ways to guarantee national security, namely Ukraine's place in the regional and global security system, one should well realise the benefits and shortcomings of one or the other option.

Ukraine's place in the future architecture of European security will greatly depend on the ability of the State to pursue a considerate policy in relations with Russia, European countries, the US, EU, and NATO. Irrespective of some uncertainty and contradictions in its relations with NATO and the EU, Ukraine should actively develop relations and promote cooperation both with NATO and the EU. In trying to be a reliable partner and an active actor in the resolution of European problems, Ukraine should maintain good-neighbourly relations with Russia.

Chapter 5
Public Debate on NATO in Ukraine
Ilko Kutcheriv [*]

Background: Historic Legacy, Current State

Ukraine has one of the world's shortest histories as an independent state (only 18 years). Prior to that the country lived through centuries of non-statehood and existed on the periphery of other empires. As a post-Soviet republic Ukraine has been quite successful in implementing a process of economic and political transformation.

Ukraine has been faced with the difficult task of state-building. This process has been contradictory and slow-going, albeit successful. In the 1990s there were many doubts that Ukraine would be able to exist as an independent state. Today, there are no such doubts. Ukraine has every chance of being transformed into a modern successful European country. After the Orange Revolution, Ukraine proved that it is truly a democratic nation.

In the National Security Strategy, it is stated that Ukraine is aspiring to integrate into Europe and the aim of its development is joining the World Trade Organization, NATO and the European Union. Be that as it may, Ukrainian politicians are quite split in their views. This can mainly be attributed to the short period Ukraine has existed as a nation state. Part of its population is oriented towards the East and part of it to the West. The political elites are equally split in two opposite directions. This is a fundamental contradiction and one of the major problems that Ukraine must resolve. This problem can be resolved through finding consensus on the fundamental issues of nation-building and on the direction that the state should follow in its development. There are already definite signs of success – a political nation and the understanding that Ukrainians live in a unified state are being successfully formed.

Ukraine has affirmed its statehood and political institutions. It is developing and transforming its economy from an administrative command format to a market model. In the international arena, Ukraine is actively establishing ties with European and Euro-Atlantic structures, the United States and Russia. There are a number of specific achievements.

The fact that in recent years we have observed an expansion in cooperation between the government and non-government organizations can be considered a positive trend in Ukraine's development. Advisory groups that foster democratization, civilian control and

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cooperation between the government and citizens are being formed within various government structures, though such cooperation is often rather declarative in nature. In this case, there must be a higher level of professionalism in the government and society in order to make the mechanisms of such cooperation work. Incidentally, the training offered to these organizations can serve as a subject of broader cooperation with the assistance of international organizations, in light of the fact that the work of these civil advisory councils is transparent to the general public. Turning experts and civil activists into professionals especially at the regional level will most certainly be a major contribution to the development of democracy.

The main challenge in achieving the goals of the project is the absence of a unified and consistent position of the ruling elite as to the future path of state development and an inadequate understanding on the part of Ukrainians of the importance and consequences of Euro-Atlantic integration.

The Context for Current Problems

Ukraine is a young state that came to exist as part of the former Soviet Union and was forced to undergo a transformation. These past 18 years have turned out to be insufficient in order for the country to implement the necessary changes to achieve the same level of development as its neighbours to the west.

In recent years there has been a permanent political crisis in Ukraine; a whole series of problems have yet to be resolved and most of them are deeply entrenched. The problems of state-building, understanding and defining national interests and mechanisms for their implementation are also very important for Ukraine. This is the task of those in power – namely, defining national interests, understanding these interests and supporting them as mutual ideas and a mutual understanding of the future of the state. One can observe, however, the formation of a Ukrainian political nation and that Ukrainian citizens are associating themselves with the Ukrainian state more and more.

The Constitution does not spell out clearly what position is superior at the legislative level – that of the president or that of the premier. There are contradictions in the division of powers between the president and the parliament, which is the crux of the conflicting situation that we are observing today in Ukraine. In other words, certain constitutional and legislative aspects must be clarified and certain changes are imperative.

Election laws should also be changed, particularly legislation on elections to the parliament. Today, the political destiny of a member of parliament depends on his or her personal relations with their party leader; it does not depend on voters, because the leaders from party lists and later parliamentarians are merely accountable to the leader of their party, not to their electorate. Meanwhile, citizens that elect parties do not have any impact on politicians. This is the obvious reason why the situation could change drastically and how Ukraine could make a huge leap towards democracy, if the electoral system were changed to open party lists. In other words, elected individuals must be accountable to the voters in electoral districts, not to party leaders.

The administrative system of the central government in Ukraine has in many respects not significantly changed since the Soviet era. A part of the political and economic elite in Ukraine is a legacy of the Communist nomenclature and has assumed a style of management and administration that was typical in the Communist era. These negative trends also engender a high level of corruption and a grey or shadow economy. In Ukraine there are certain political forces that are not interested in the Ukrainian state being strong and successful. They see an enemy in a strong state and, for those, condition of a high level of corruption and a grey economy are favourable as they afford them the opportunity to effectively divide the wealth of the nation to their advantage and thereby control the country.

Ukraine is a former republic of the Soviet Union and the ties with institutions of the Soviet Union—both personal and ethnic—are traditionally close-knit. The post-Soviet legacy and those powers that want to revive it play a major role in this.

Russia also plays a major role, particularly of late with the Putin regime in power, in claiming that the collapse of the Soviet Union was a big mistake. This cannot help but create major problems for Ukraine. An important factor here is Ukraine's dependence on Russian energy resources. After all, when Russia tries to influence global processes this certainly has repercussions for Ukraine.

Recent NATO Information Campaign

Activities of Public Administration Institutions

After the NATO Summit in Bucharest in March 2008, the highest government institutions of Ukraine became more active in the sphere of informing the public about Euro-Atlantic integration. There were also changes in the coordination of activities and establishing horizontal ties between different institutions of state power.

Currently, the main coordinators of information awareness campaigns about NATO and Ukraine's relations with the Alliance are the State TV and Radio Committee, the MFA, the Defence Ministry and the National Centre of Euro-Atlantic Integration of Ukraine.

On 28 May 2008 the Government of Ukraine approved the State Targeted Public Awareness Campaign on Issues of Ukraine Euro-Atlantic Integration for 2008-2011. In 2009, the Cabinet of Ministers of Ukraine developed and implemented a National System for coordinating Ukraine-NATO cooperation.

The Verkhovna Rada (Parliament) of Ukraine establishes the basis of foreign and domestic policy, including priorities in the sphere of Euro-Atlantic integration. Day-to-day work is carried out by the Parliamentary Committees on European Integration and on National Security and Defence and their staff.

The President of Ukraine conducts the foreign policy of the state, including the external aspects of Euro-Atlantic integration. He fulfils his duties in this sphere through his Secretariat and the National Centre on Euro-Atlantic Integration as a consultative body to the President.

The National Security and Defence Council (NSDC) addresses security and defence policy aspects of Euro-Atlantic integration. The day-to-day activities are implemented by the NSDC Department of External Aspects of National Security.

The Government ensures the coordination of all activities of central Government bodies in the sphere of domestic and foreign policy, including Euro-Atlantic integration.

Within the Cabinet, a Deputy Prime Minister is assigned to coordinate Euro-Atlantic integration activities. His tasks include:

- Chairing the Government Committee that reviews issues in the sphere of Euro-Atlantic integration prior to their submission to the Government;

- Chairing the Inter-ministerial Commission on Ukraine-NATO Cooperation; and

- Representing the Government in the High-Level Coordination Group.

There are two levels of horizontal coordination in the sphere of Euro-Atlantic integration, one that is informal and the other formal:

- *Political level coordination* is done through an informal High-Level Coordination Group, including the Deputy Prime Minister of Ukraine, the Chairman of the Parliamentary Committee on European Integration, the Chairman of the Parliamentary Committee on National Security and Defence, the First Deputy Secretary of National Security and Defence Council, the Deputy Head of the Secretariat of the President of Ukraine, the Head of the National Centre for Euro-Atlantic Integration;

- *Executive level coordination* is done formally through the Inter-ministerial Commission on Ukraine-NATO Cooperation, headed by the Deputy Prime Minister. The Commission consists of the chairmen of six inter-ministerial working groups and provides horizontal coordination across the key policy areas related to Ukraine's Euro-Atlantic integration. Each working group also provides inter-ministerial coordination between different ministries working within each policy area.

Changes in the positions of the Government have strengthened the information campaign and advanced cooperation with NGOs. For many years, NGOs have been conducting a campaign on Ukraine's accession to NATO. This activity has often conflicted with the position of the Government. Today, however, cooperation on this issue dominates and is being improved. Moreover, civic society institutions will continue to perform their watchdog role by offering the government constructive criticism.

Participation of NGOs in the Process of Euro-Atlantic Integration

In Ukraine there are more than 40,000 NGOs. Around 100 of them deal with issues of Euro-Atlantic integration. Nearly 70 of them are united in the Ukraine-NATO Civic League, which is focused on promoting Euro-Atlantic integration in Ukraine. NGOs conduct a coordinated public awareness campaign.

Public and Elite Opinion on NATO and Euro-Atlantic Integration

Most Ukrainian security experts agree that Ukraine's entry into NATO is essential to securing Ukraine's democracy and ensuring its status in the European community.

Public support for NATO has fluctuated: opinions shifted notably when security issues were publicly addressed and anti-American sentiments were publicly voiced (e.g. 2004 presidential & 2006 parliamentary elections). Public support for NATO also differs greatly according to region and national identity.

In general, international relations and security issues are not a priority for the public, and public opinion may change rapidly. The public is unaware of the benefits of joining NATO or of the short- and long-term consequences of not joining NATO. Support for EU membership is higher than support for NATO membership.

Many Ukrainian and international experts believe that the public opposes NATO because it is uninformed. A NATO information campaign became a key issue in Ukrainian politics following the Bucharest Summit.

Factors for Low Public Support for NATO Membership

Lack of information:

- An accepted erroneous assumption that Ukraine can be in the EU without entry into NATO;
- No discussion on what will happen if Ukraine does not join NATO;
- A media environment where journalists do not initiate discussions on public policy issues and typically avoid unpopular political issues.

Myths:

- NATO is an aggressive military bloc;
- Entry into NATO would be expensive for Ukraine;
- Membership would destroy good relations with Russia.

Disinformation:

- Ukraine is independently capable of guaranteeing its security;
- Neutrality is in Ukraine's best national interest;
- Ukraine will face new dangers if it joins NATO (for example being involved in unnecessary military conflicts provoked by NATO member states);
- Ukraine will lose part of its sovereignty being a member of NATO.

Activation of an Information Campaign

According to the findings of several surveys public support for Ukraine's NATO membership increased over the period March 2008 to September 2008 from 21 % to 31 %.

The most relevant factors differentiating public attitudes towards NATO are: regional residence and awareness of the Alliance's activities.

Table 5.1. If a referendum on Ukraine's entry to NATO is held in the foreseeable future, how would you vote? (% of those ready to participate in the referendum)

	West	Center and East	South and South East	Donbas and Crimea	**Ukraine**
I would vote for entering NATO	41.9	27.1	13.1	3.9	**21.8**
I would vote against entering NATO	30.2	43.1	74.8	95.1	**59.6**
Difficult to say	27.9	29.8	12.1	0.9	**18.6**

Source: DIF, March 2008, N=2000.

The level of support for NATO membership is slightly higher than 50% of the voters for OU-PSD and the YTB, however among them the number of opponents to NATO accession is 30%. Among the voters from the Communists and the Party of Regions, more than 90% are against NATO and up to 2% in favour of it.

Table 5.2. If a referendum on Ukraine's entering NATO is held in the foreseeable future, how would you vote? (% of those ready to participate in the referendum)

	OU-PSD	YTB	CPU	Party of Regions	**Ukraine**
I would vote for entering NATO	54.3	51.0	1.3	2.0	**21.8**
I would vote against entering NATO	32.8	27.8	94.6	92.3	**59.6**
Difficult to say	12.9	21.2	4.0	5.7	**18.6**

Source: DIF, March 2008, N=2000.

NATO awareness indicators: nearly 19% of the population gives the correct answer.

Table 5.3. Please choose the correct statement

	November 2005	December 2007	March 2008
NATO started the war in Iraq	47.3	49.2	43.8
NATO did not start the war in Iraq	12.2	15.8	18.6
Difficult to say	40.0	34.9	37.5

Source: DIF, March 2008, N=2000.

NATO awareness indicators: Nearly 19% of the population knows that the decisions in NATO are taken by consensus.

Table 5.4. In your opinion how are decisions made in NATO?

	December 2007	March 2008
By the majority of votes	14.0	15.2
By consensus (if all NATO member states agree with the decision)	13.7	18.5
Decisions are made by old NATO members, not by new ones	17.3	15.5
Difficult to say	55.0	50.8

Source: DIF, March 2008, N=2000.

Increased Support for NATO

- Surveys conducted in 2005-08 indicate that the higher the awareness about NATO the higher support for Ukraine's entry – an information program on NATO can affect attitudes.

- Demographics—age, sex, education, place of residence, and national identity, etc.—are not determinants of opinions on NATO; information and attitudes have a greater impact.

Recommendations on Achieving the Goals

- *Expanding the discussions concerning NATO to a broader context* – namely, guaranteeing national interests and security, regional and European security and the processes of globalization. Considering the national interests as the goals of state administration of Ukraine and the basis for its integration into the Euro-Atlantic zone. Specify (define) a modern system of national interests for Ukraine and find the corresponding model in NATO member countries. Conduct public discussions with the participation of a wide circle of experts and functionaries in the country's public administration. As a result, the defined system of Ukraine's national interests can be viewed as a system of substantive criteria for organizing the monitoring of the results of an information campaign.

- *Developing a public information strategy for involvement of civic organizations* – renewal of the Euro-Atlantic information campaign during the political crisis and election campaigns. Renewal of the information campaign strategy developed in Kyiv on 16 June 2005 with the participation of Ukrainian and foreign experts. Applying the strategy to modern conditions of the global economic crisis and the political process in Ukraine.

- *Take into account the regional factor* when conducting a nationwide information campaign.

- *Fostering the engagement of Ukrainian representatives in cooperation with experts from NATO and EU member countries* to find the best possible approaches

to regional development, responses to new threats and implementation of long-term joint projects.

- *Expanding the awareness of Ukrainian society about events, debates and practices in Euro-Atlantic countries.* More active engagement of experts in NATO countries and the establishment of a joint working group to conduct information campaigns in Ukraine and NATO member countries on the integration of Ukraine.

- *Civil control over the process of Ukraine's Euro-Atlantic integration* – review of the status of Euro-Atlantic integration with the participation of independent experts, which is qualitatively assessed as a single process. Engaging a civil expert environment into the process of creating a state system of Euro-Atlantic integration, first and foremost a Coordination Bureau for European and Euro-Atlantic Integration and a Secretariat of the Cabinet of Ministers of Ukraine.

- *"Speakers' Bureau" on Euro-Atlantic integration* – this form of activity will include defining key individuals and positions that can assume responsibility for the implementation of effective institutional reforms and transform them into an internal engine of European and Euro-Atlantic integration; increasing the number and quality of experts working as analysts and journalists in the sphere of Euro-Atlantic integration; providing them with material and moral support and professional skills, and holding the appropriate training; holding special training sessions for NATO information centres in oblast centres.

- *Expanding the circle of agents of change* concerning the Euro-Atlantic integration of Ukraine. A broad circle of managers (civil servants, businesses, NGOs, etc.) that will introduce a management style acceptable to NATO member countries should be included. There should be a departure from the command-administrative style to a democratic management style. This can be achieved by mastering the basic skills of modern management (green grass or shop floor level) with the participation of experts in the corresponding fields from EU and NATO member countries. These training programs should first and foremost include the following: strategic planning and management, political analysis, lean management, cluster development and professional training of adults in the workplace. Programs that can serve as a base for developing training programs for Ukraine could be: LAI (Lean Aerospace Initiative), RSDI (Retention and Sustainable Development Initiative), Lockheed Lean Development Program, and CAF (Common Assessment Framework);

- *Monitoring of institutional reforms* – this form of activity can include a quarterly assessment of the state of Ukraine and society as well as changes in trends.

- *Public opinion research* – polling and focus groups working to develop a communication campaign.

Judicial and Criminal Justice Reforms: The Fight against Corruption

Dmytro Kotliar

Introduction

Ukraine's transition to a democratic state governed by the rule of law requires radical transformation of its legal system. Even though many significant reforms have been implemented since Ukraine restored its independence, there is still a long list of outstanding measures that are long overdue and essential for Ukraine's complete transition.

Ukraine has the main attributes of a pluralistic democracy, but its functioning is hampered by deficient political institutions and a lack of structural, legal, social and economic reforms. Events of the Orange Revolution gave hope that the country could break with its past definitively and embark on a course of urgently needed profound reform. This momentum, however, was lost and fell victim to fierce political competition.

At the same time in 2005-06 a strategy of reform in the legal area was defined. Policy documents ('concept papers') on comprehensive reforms in the judicial, criminal justice, legal aid, and anti-corruption fields were adopted. They outlined the directions of reforms aimed at bringing the Ukrainian legal system in line with European values and standards, and honouring Ukraine's commitments and obligations stemming from its membership in the Council of Europe and aspirations to join the EU and NATO.

However, to have any effect, these policy instruments have to be translated into specific legislative decisions and practical measures. In 2006-08 Ukrainian authorities prepared a number of legislative proposals to carry out the reforms, most of which have not yet been adopted or implemented.

Judicial Reform

The judiciary is one of the areas where some progress has been achieved in building a new court system consistent with democratic principles of the separation of powers. After the judicial reform of 2001 mandated by the Constitution of Ukraine, the major achievement

was adoption in 2005 of the Code of Administrative Adjudication and creation of administrative courts, which consider complaints against public authorities.

Judicial reform however remains incomplete and the judiciary requires a major overhaul to ensure its independence, limit possibilities for corruption, improve effectiveness of the court system and better guarantee respect for the right to a fair trial.

The full reform of the judicial branch would require *constitutional amendments*, in particular revision of the functions and powers of the judicial council (High Council of Justice), abolishment or modification of the first five-year appointment of judges, reviewing judicial immunities, creating conditions for ratification of the Rome Statute of the International Criminal Court, etc. Such changes may, however, not be feasible in the near future and reform should therefore be continued within the current constitutional framework.

In 2006 the President of Ukraine outlined the government's strategy for judicial reform according to the existing constitutional provisions (Concept Paper on Judicial Reform).[1] Draft laws on comprehensive judicial reform were prepared in line with this policy document and passed by the parliament at the first reading in April 2007. Since then, political struggle and politicisation of the judicial authorities has obstructed final approval of the reform process.

The main controversy rests with the question of the court system and the role of the Supreme Court of Ukraine – whether its powers should be further strengthened or, on the contrary, demonopolised with more authority given to the specialised court jurisdictions and judicial self-government. If this issue continues to block the overall reform process it should be taken out of the draft legislation and be addressed later when political considerations are no longer dominant.

It is not the adjustment of the court system which represents the main significance of the draft laws pending in the parliament, but the review of the judicial selection procedures (making them competitive and merit-based), introduction of the mandatory training of judges in the academy of judges, strengthening of the disciplinary procedures, the creation of court inspectors and a judicial disciplinary body, improving guarantees of judicial independence, restricting powers of the court presidents and raising the role of the judicial self-government bodies.

It should also be noted that after the first reading the initial presidential draft laws were substantially revised in the parliament's Judicial Committee. A number of provisions of the revised draft law (two initial drafts were merged into one) no longer comply with the Concept Paper on the Judicial Reform, relevant recommendations of the Venice Commission and Council of Europe's Parliamentary Assembly and, therefore, have to be rectified before final approval.

Judicial reform also includes the establishment of an effective system of *free legal aid*. Legal aid is essential to guarantee equal access to justice for all, in particular for citizens who do not have sufficient financial means to defend themselves before the court. Lack of

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[1]   Concept Paper for the Improvement of the Judiciary in order to Ensure Fair Trial in line with European Standards, approved by Decree of the President of Ukraine No.361, 10 May 2006.

efficient free legal aid in criminal cases and in some administrative and civil law cases impedes access of persons to court protection. Directions of the reform process were set by the President in the relevant policy document in 2006.[2] They were developed by the government in a draft law which should be brought in line with Council of Europe's recommendations and approved as soon as possible. Launching the new system will also require the commitment of the necessary budgetary resources.

One of the systemic deficiencies of Ukraine's judicial system is the *excessive length of court proceedings.* The European Court of Human Rights in its many judgments found that the Ukrainian judiciary does not guarantee a fair trial within a reasonable time. To provide for an effective remedy to infringement of a reasonable-time requirement during the pre-trial investigation, trial and execution of judgments, the Ukrainian Ministry of Justice prepared a draft law whose consideration is pending in the parliament.[3]

Another structural problem in the Ukrainian legal system is non-enforcement or delayed *enforcement of court decisions*. This renders the right to a fair trial inoperative and illusory. To resolve this problem various legislative and practical measures need to be implemented.[4]

Demagogic rhetoric and vested political interests advocate several pseudo-reform suggestions, which should be rejected. They include the proposal to abolish the existing system of administrative courts and introduce the popular election of judges. If implemented, the first will undermine a person's right to seek protection in court against infringement by public authorities, and the second will lead to further corruption in the judiciary. Both proposals also contradict European standards and would represent a significant step back in Ukraine's path to legal reform.[5]

Criminal Justice Reform

Reform of the criminal justice system is one of the priorities in the area of strengthening the rule of law and democratic institutions in Ukraine. It is one of the areas where Soviet legacy is still very much present. In April 2008 the President of Ukraine approved the Concept Paper on the Criminal Justice Reform,[6] which outlined comprehensive measures aimed at raising the effectiveness of the criminal justice system in protecting human rights and freedoms and maintaining law and order.

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[2] Concept Paper on the Formation of the System of Free Legal Aid in Ukraine, approved by Decree of the President of Ukraine No.509, 9 June 2006.

[3] Relevant draft law was submitted by the Government to the parliament in January 2009.

[4] The President of Ukraine adopted a national action plan to ensure proper execution of court decisions (Decree No.587, 27 June 2006) and additional measures to increase effectiveness of court proceedings (Decree No.261, 24 March 2008).

[5] See, in particular, Opinion of the Venice Commission No.510/2009 on the draft law amending the Constitution of Ukraine (CDL-AD(2009)008, 16 March 2009).

[6] Concept Paper on the Reform of the Criminal Justice in Ukraine, approved by Decree of the President of Ukraine No.311, 8 April 2008.

The main tasks of the reform process are the following: humanise criminal law; guarantee the right to a fair trial in criminal cases; facilitate access to courts and legal protection; ensure the effective functioning of criminal justice institutions and their compliance with human rights standards; enhance the protection of the rights of persons held in detention; introduce restorative justice and mediation; improve the protection of the rights of crime victims.

Reform of the criminal justice system can be divided into three groups of measures:

1. Revision of the legislation on criminal and administrative offences, on criminal procedure and on the enforcement of criminal punishments;

2. Institutional reform of state authorities involved in detection, investigation and prosecution of crime, modernisation of other law enforcement authorities, and penitentiary reform;

3. Neighbouring institutes – creation of a professional bar association and establishment of an effective free legal aid system in criminal cases (see above).

Revision of the *administrative and criminal offences legislation* should include:

- Introduction of a new category of criminal offences – misdemeanours (*prostupky),* in addition to more serious offences – crimes (*zlochyny*). Current administrative offences need to be reviewed simultaneously, as they often provide for short-term imprisonment or other sanctions that are criminal in nature according to the case-law of the European Court of Human Rights (ECtHR). All such administrative offences, which have court jurisdiction and are not administrative in their nature, should be qualified as criminal *prostupky.* This will require revision of the Criminal Code (and possibly a new Code of Criminal Prostupky) and the Code of Administrative Offences.

- Introduction of the liability of legal persons for certain categories of offences, as required by international treaties to which Ukraine is a party (corruption offences, money laundering, cybercrime, environment crime, etc.).

- Create a mechanism for compensation of harm caused to crime victims and, to this end, ratify the European Convention on the Compensation of Victims of Violent Crimes and bring Ukrainian legislation in compliance with its provisions.

- As an interim measure, urgently amend the current Code of Administrative Offences to bring it in compliance with Article 2 of Protocol No.7 of the European Convention on Human Rights (ECHR) by ensuring the right of appeal in administrative cases (ECtHR judgment in the case of *Gurepka vs. Ukraine*).[7]

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[7] Relevant draft law was prepared by the Government and submitted to the parliament in June 2008, but rejected by the latter in April 2009.

Modernisation of the *criminal procedure* requires adoption of a new Criminal Procedure Code[8] in line with Council of Europe's standards. It should be aimed at:

- Introducing the adversarial principle in criminal procedures; extending the rights of the defence and respective duties of the public prosecution; limiting the use of pre-trial detention; defining the timelines of various procedural stages; ensuring respect for other elements in relation to the right to liberty and the right to fair trial according to the European Convention on Human Rights and ECtHR case-law.

- Modifying the role of the judge in criminal procedures – any investigative actions which restrict human rights and freedoms should be authorised by a judge (investigative judge); changing the role of the public prosecutor whose main task should be to lead pre-trial investigations conducted by the police and other agencies, ensure their legality and support public accusation in court.

- Increasing the use of restorative and mediation procedures; introducing special juvenile justice procedures.

Further reform of the legislation on *enforcement of criminal punishments* should: strengthen guarantees of the rights of prison inmates; implement European Prison Rules and recommendations to Ukraine by the European Committee for the Prevention of Torture (CPT); ensure respect for the rights of detained persons in compliance with Article 5 of the ECHR and implement recommendations to Ukraine of the UN Working Group on Arbitrary Detention.

New procedural and substantive rules of the criminal law system will form the basis for institutional reform of the criminal justice system in Ukraine, which should ensure effective execution of the revised tasks of the law enforcement bodies.

A major *reform of the public prosecution service* is long overdue. It should include:

- Bringing the constitutional functions and powers of the public prosecution in compliance with European standards (in particular by abrogating powers of supervision over legality). The constitutional status of the public prosecution service should be determined (preferably included in the judicial branch, as endorsed by the Venice Commission).[9]

- Implementing the provisions of the current Constitution of Ukraine in the transfer of investigative powers from prosecutors to the police and other specialised agencies.

- Aligning legislative provisions in the organisation and functioning of the public prosecution with Council of Europe standards (in particular, the Committee of

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[8] Draft new Criminal Procedure Code of Ukraine was prepared by the National Commission for Strengthening Democracy and the Rule of Law (advisory body to the President of Ukraine) and in March 2009 referred to the President for the following submission to the parliament.

[9] Opinion of the Venice Commission No.380/2006 on the draft law of Ukraine amending the constitutional provisions on the procuracy (CDL-AD(2006)029, 17 October 2006).

Ministers Recommendation no. Rec2000(19), Venice Commission opinions, and the recommendations of the Parliamentary Assembly). This will require preparation and approval of a new wording of the law on the procuracy.

- Improving the training and specialisation of prosecutors.

Structure and powers of the *interior bodies* should also be modified. In particular, the criminal police should become the main pre-trial investigation body (by taking over the investigative powers from prosecutors and the security service). Reform of the internal affairs bodies requires new wording of the laws on the militia, on general structure and number of staff of the Ministry of the Interior (MoI), and also on the Internal Troops of the MoI. The second stage of the reform process could include the transfer of law enforcement functions from other executive agencies (fire security, labour and mining protection, protection of natural resources, etc.) to the interior bodies and subordination of the State Border Guard Service to the MoI.

The functions and powers of the *Security Service* have to be brought in line with European standards, in particular in accordance with the Council of Europe's Parliamentary Assembly Recommendations 1402 (1999) and 1713 (2005), and Concept Paper on the Criminal Justice Reform. As a transitional measure, the Security Service could continue to carry out pre-trial investigations in cases of national security, terrorism and international crimes (but not deal with corruption and organised crime cases). New laws on the Security Service, its general structure and number of staff should be adopted.

The penitentiary system remains one of the main areas of concern in terms of the human rights situation in Ukraine. Domestic and international NGOs report numerous cases of human rights violations, lack of transparency of the penitentiary administration, failure to provide legal assistance to inmates, embezzlement of funds, etc. The system urgently requires a comprehensive institutional and procedural overhaul, additional financing and training of its personnel. Subordination of the Penitentiary Department to the Ministry of Justice of Ukraine should be finalised through relevant legislative amendments. Ukraine has to introduce independent monitoring mechanisms for the prevention of torture and other ill-treatment according to the Optional Protocol to the Convention against Torture (OPCAT).

Other *law enforcement agencies* that will also need to be reorganised are the State Tax Administration (tax militia to be transformed into Financial Police and subordinated directly to the Ministry of Finance), State Customs Service, State Border Guard Service, Military Service of Order in the Armed Forces of Ukraine (to be transformed into the Military Police), etc.

The criminal justice system reform process should also target adjacent institutes, in particular *the Bar*. According to European standards and in line with Ukraine's original commitment to the Council of Europe, a professional self-governing Bar association should be established and provide for the mandatory membership of advocates. Guarantees of the rights of advocates similarly have to be strengthened.

The Fight against Corruption

Corruption permeates all levels of Ukrainian public institutions and the private sector, and was officially recognised as posing a threat to national security, economic development and the rule of law.[10] Similar assessments are given by international organisations and experts.[11] Any meaningful social, economic or legal reform process would be undermined by rampant corruption and a lack of good governance. Therefore, significant progress in the country's development cannot be achieved unless corruption is contained.

The effective fight against corruption requires comprehensive legislative and institutional measures, public education and awareness campaigns and, more importantly, the steady political will of the country's leadership to stamp out corruption. Tangible progress in rooting out corruption should be shown by effective prosecutions of high-level public officials, raising integrity in the public administration through anti-corruption preventive mechanisms and reversing social tolerance to corrupt acts.

Ukraine has demonstrated its general commitment to address the issue of combating corruption on various occasions by acceding to international instruments – Ukraine signed the UN Convention against Corruption and the Council of Europe's Criminal Law Convention on Corruption,[12] and ratified the Council of Europe Civil Law Convention on Corruption.[13] Ukraine also adopted a national strategy and action plan for the eradication of corruption[14] and made numerous statements on different levels about its resolve to tackle corruption.

However, the legal framework for fighting corruption suffers from multiple gaps and falls short of international standards and best practices. The existing institutional set-up, including the law enforcement bodies, fails to adequately address widespread corruption. Finally, political declarations have yet to bring about any significant practical results in curbing corruption and raising the integrity of the public service.

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[10] Strategy of the National Security of Ukraine, adopted by the President of Ukraine on 12 February 2007.

[11] See, among others, evaluation reports by the OECD Istanbul Anti-Corruption Action Plan, www.oecd.org/dataoecd/18/37/37835801.pdf, GRECO, http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoEval1-2(2006)2_Ukraine_EN.pdf, ratings by the Transparency International.

[12] Both treaties were ratified in October 2006 but the ratifications laws will come into effect only at the time of enactment of relevant implementing legislation pending final approval in the Verkhovna Rada of Ukraine.

[13] Entered into force for Ukraine on 1 January 2006; on this date Ukraine also joined the Council of Europe's anti-corruption monitoring body – Group of States against Corruption (GRECO).

[14] Concept Paper for the Eradication of Corruption in Ukraine "On the Road to Integrity," approved by Decree of the President of Ukraine No.742, 11 September 2006; Action Plan of the Measures to Implement the Concept Paper for the Eradication of Corruption in Ukraine until 2010, approved by Resolution of the Cabinet of Ministers of Ukraine No.657-p, 15 August 2007.

To provide strategic direction for the country's anti-corruption efforts Ukrainian authorities need to *update the 2006 anti-corruption strategy*, which in particular should evaluate the current status of anti-corruption measures and incorporate the law enforcement system's response to corruption and its development of anti-corruption institutions. Similarly, the Government should devise a *new action plan* to implement an anti-corruption strategy, as the previous plan expired at the end of 2009. Any new plan must provide clear-cut specific measures, designate responsible implementation measures and personnel, as well as feasible timelines for execution. A monitoring and reporting mechanism should also be established.

A number of laws are awaiting approval. They aim to bring Ukraine's legal framework in line with international treaties on combating corruption and encompass recommendations made by regional monitoring mechanisms, which Ukraine has committed to (GRECO and OECD Istanbul Action Plan).

The first priority is the *anti-corruption package* which has been pending in parliament since 2006. It includes three pieces of draft legislation: a new wording of the framework law on preventing and combating corruption, amendments to the legislation on criminal and administrative offences, and a law on the liability of legal persons for corruption offences. If adopted, it will revise current criminal offences related to corruption and introduce new ones (e.g. private sector corruption, trading in influence, illicit enrichment, bribery of foreign public officials), and establish corporate liability for corruption offences committed by company employees. The new basic law on preventing and combating corruption will outline the anti-corruption legal 'infrastructure' that will have to be developed in separate laws.

To set up the system of anti-corruption preventive instruments, the following legal acts have to be prepared and approved by the parliament:

- Rules on ethics (integrity) in public service, conflicts over the public and private interests of officials and procedure for their resolution, provisions on gifts to public officials, etc. Such rules can be included in the *code of conduct of public officials* and new *civil service law*.

- Mechanisms for *financial control over assets and the income of public officials* – asset declarations, their collection and verification, responsibility for false statements, publication of declarations, etc. The disclosure of assets and income levels should cover all categories of public officials at every level and provide for the mandatory publication of declarations of high-level officials. It should also include a specialised body to effectively administer and control the system of disclosure.

- *A code of administrative procedures* that will define the rights of private parties in their relations with the public administration and respective duties of public officials. It will ensure uniformity and openness in procedures used by various public authorities and implementation of good governance principles.

- *Access to information law* enabling effective access to information held by public authorities and requiring proactive publication by the government of certain information.

- Rules on the transparency of and control over the *financing of political parties and election campaigns*. The law should provide for the state funding of political parties, limit private contributions to the parties and their election expenses, provide for detailed reporting on accounts and expenses of political parties, and ensure transparency of party finances for public scrutiny. Party finances should be closely monitored and verified by an independent administrative authority. The violation of relevant regulations should trigger administrative and criminal liability.

- New legislation on *public procurement* to eliminate conditions for corruption in awarding public contracts and ensure transparent and competitive procedures at each stage of public tenders. Legal persons who are brought to responsibility for corruption offences should be barred from participation in public procurement. Curbing corruption in defence sector procurement should also be addressed.

A functioning system of *anti-corruption institutions* has to ensure that legislative and policy anti-corruption instruments are effectively enforced. It has to include a body to co-ordinate anti-corruption policies and implement relevant strategy and action plans; preventive agency(ies) to deal with integrity in the public service, resolve conflicts of interests, and administer an asset disclosure system; internal control units in public authorities to detect wrongdoing and conduct disciplinary investigations; a specialised pre-trial investigation agency to tackle high-level corruption; specialised anti-corruption prosecutors; and an agency to control the finances of political parties and election campaigns. Specialised anti-corruption institutions should, in line with international standards, maintain a necessary level of independence but be accountable, and should be provided with adequate resources and powers to effectively implement their tasks.

Chapter 7

Ukraine's Security Sector: Formation and Development of the Strategic Management System

Oleksandr Belov[*] and Oleksandr Lytvynenko[♦]

The subject of our analysis centres on the formation and development of the strategic management system in the Ukrainian security system. The latter refers to the established system of police and military institutions, border troops, internal security and intelligence services as well as the appropriate management authorities according to the current Ukrainian legislation.

Why is the strategic level of management of Ukraine's national security sector specifically in question? The main argument lies in the fact that it is not only for Ukraine that national security represents the strongest factor of national and state identity, geopolitical orientation and consolidation of society in this controversial and changing modern world.

In recent years, specialists in Ukraine, Europe, the United States and Canada have had a better opportunity to research the Ukrainian security sector and the peculiarities of its functioning. This has become possible because of cooperation between Ukraine and NATO, in particular, within the Ukraine-NATO Joint High Level Working Group on Defence Reform in conjunction with the active participation of Ukrainian scientific centres and foreign partners, namely the Geneva Centre for the Democratic Control of Armed Forces (DCAF).

As an example, in 2006 the fundamental edition—an English version of the collected commented acts of the Ukrainian legislation in the sphere of national security and defence (over 900 pages)—was published. Experts from the NATO International Secretariat, National Security and Defence Council of Ukraine, Verkhovna Rada of Ukraine, and the Ge-

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neva Centre for the Democratic Control of Armed Forces contributed to the publication. It provides ample information on the nature of the Ukrainian security sector: its components, principles and management mechanisms, and the democratic control of its security sector institutions and establishments.[1]

Ukraine's security sector underwent a complicated and controversial path of development during the 20th century. In 1918 the Constitution of the Ukrainian National Republic[2] outlined the democratic politics and legal model of the national security sector. However, its accomplishment was undermined by the bolshevik seizure of power. For many years, the Constitution of the Ukrainian Socialist Soviet Republic (Ukrainian SSR) of 14 May 1919 laid the basis for the development of the totalitarian model of Ukraine's national security sector. It defined the constitutional setting of rule by one political power, the Communist party, and supported discriminatory principles in the 1930s (restrictions in the area of elective franchise and other rights including the obligation to serve in the Armed Forces). Gradually, Ukraine lost sovereignty over its defence and internal security spheres which lasted up until the end of 1991, i.e. until independence.

The complicated and controversial processes of the renewal of Ukraine's state's sovereignty are fairly well studied in native and foreign scientific literature, and described in the memoirs of well-known figures. This is why it is unnecessary to recount it here. But with a view of the subject of our work it is necessary to give the example of the Law of Ukraine "On List of Ministries and Other Central Agencies of Public Administration of the Ukrainian Socialist Soviet Republic," adopted by the Verkhovna Rada on 13 May 1991, where amongst the agencies of security sector management the only agency mentioned was the Ministry of the Interior. The Article 2 of this Law envisages the special status of the KGB which was beyond the jurisdiction of the Council of Ministers. It is possible that this was the result of pressure from Moscow on the then leadership of Ukraine because in the Law "On Ministries and State Committees of the Ukrainian SSR" (adopted on August 3, 1990), the KGB was jurisdictional to the Ukrainian government. One should mention that this law was adopted two weeks after the adoption of the Declaration on State Sovereignty of Ukraine.

Summarizing, one can't help mentioning that despite the significant tradition of state foundation in Ukraine at the moment of its independence there were practically no appropriate institutions, traditions or personnel capable of creating an up-to-date system of national security sector management at the strategic level. By the beginning of 1992 there were only three high-level scientists with a military science (Doctor of Science) background working in Ukraine. However, none were experts in strategic management. The situation among parliamentarians, officials, state security agencies, and the scientific and expert political community was similar. Among 47 political parties which were functioning in Ukraine in the mid-1990s only seven more or less professionally outlined their policy in the sphere of national security.

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1   See John Colston, Philipp Fluri, and Sergei Piroshkov, eds., *The Security Sector Legislation of Ukraine* (Geneva: DCAF, October 2006).

2   "Statute on state order, rights and freedoms of the Ukrainian National Republic."

It would be unfair however not to give credit to Ukraine's political leadership in the 1990s. The leadership was aware of the importance of national security in the formation of Ukraine's independence. During this period, a number of urgent measures were taken to establish a strategic management system in the national security sphere. They occurred in the following chronological order:

- On 18 April 1991 the Verkhovna Rada, by renewing the European traditions of the Ukrainian National Republic of 1918-1919, created the Cabinet of Ministers and in order to improve "the structure of state management" introduced new positions of "state ministers." The appropriate changes in the then existing Constitution were made on 21 May 1991.

- On 24 April 1991 the Verkhovna Rada changed the name of the Parliamentary Commission on External and Internal Security to the "Ukrainian SSR Council Commission on Defence and State Security." The Commission's appointed personnel consisted of 27 individuals headed by V. Durdynets;

- From 21 May – 5 June 1991 seven Ukrainian SSR State Ministers were appointed. Among them two officials: State Minister for Defence, State Security and Emergencies (E. Marchuk) and State Minister for Defence Complex and Conversion (V. Antonov) were responsible for the security sphere. It should be mentioned that at that time there were 22 central executive agencies (ministries) in Ukraine;

- On 24 August 1991 the Act of Independence of Ukraine was proclaimed. All military institutions stationed on Ukrainian territory were subordinated to the Parliament of Ukraine. The Ministry of Defence of Ukraine was created and the formation of the Armed Forces of Ukraine established;

- On 24 August 1991 a number of strategic decisions were made including on the creation of the Defence Council of Ukraine (Decree of the Verkhovna Rada of Ukraine "On the political situation in Ukraine and urgent actions of the Verkhovna Rada of Ukraine to create conditions to avoid further repletion of a military coup");

- On 3 September 1991 the Minister of Defence of Ukraine was appointed (K. Morozov);

- On 20 September 1991 the National Security Service of Ukraine was created;

- In December 1991 the President of Ukraine L. Kravchuk took his oath in office. One of his first decisions concerned the creation of the National Security and Defence Council of Ukraine (Decree No.41/92 dated 15 January 1992) which only started to function in 1996.

- In 1996-97 the strategic management system of the security sector as it exists *in its present look* was established and a number of key national security policy tasks were tackled. In 1997 the Verkhovna Rada of Ukraine adopted the National Security Concept which generally defined the crucially important national interests

of Ukraine. With the signing of international agreements with neighbouring countries the state borders of Ukraine were internationally recognized and guaranteed, while the adoption of the Charter on the Ukraine-NATO special partnership defined the Euro-Atlantic course of Kyiv.

Overall, the strategic level of the management system of national security and the security sector in particular did not experience substantial changes from that time despite the considerable transformation of the security situation and state authority configuration as a result of constitutional reform in 2004 and security sector agencies as a consequence of reforms taking place in years 2004-07.

Nowadays, the state component of Ukraine's security sector consists of the strategic management element and the executive element. According to the common definition, the security sector consists of high management authorities, armed forces, police in uniform or civilian dress, the gendarmerie, intelligence services, border services, internal security services, as well as militia and armed installations which are working for the country or connected with it. In other words, the executive element of the security sector consists of intelligence services and internal security services, police, border control and the defence force.[3]

Therefore, in Ukraine the strategic management element consists of the Verkhovna Rada, President, National Security and Defence Council of Ukraine, and the Cabinet of Ministers, while the executive element consists of the internal security services – the Security Service and the intelligence services – the Foreign Intelligence Service; the Main Intelligence Directorate of the Ministry of Defence; the Intelligence Directorate of the Administration of the State Border Service; the police – Ministry of Internal Affairs, gendarmerie – the internal troops of the Ministry of Internal Affairs, the Directorate of State Protection, border control – State Border Service, defence forces – the Armed Forces of Ukraine, State special transport system, militarized divisions of the Ministry for Emergencies and Protection of the Population from the consequences of the Chernobyl catastrophe, the State Special Communications and Information Protection Service. In addition, the State Penitentiary Department is also part of the security sector.

According to Article 85 of the Constitution the Verkhovna Rada (parliament) of Ukraine defines the main principles of Ukraine's foreign and national policy and confirms the budget of the country. According to Article 92 of the Constitution, the organization and activity of the state executive authority agencies, the basis of national security, the organization of the Armed Forces of Ukraine and ensuring of civil order are strictly defined by the laws of Ukraine.

The Verkhovna Rada by virtue of the submission of the President appoints and dismisses from their positions the Minister of Defence and the Chairman of the Security Service of Ukraine, and by virtue of the submission of Prime Minister – the Minister of Internal Affairs.

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3   PACE Resolution 1713 (2005).

In Parliament, according to Article 89 of the Constitution, the Committee for National Security and Defence consists of six subcommittees, in particular, the subcommittee on military security and defence and the subcommittee on state security. This Committee is vested with rather substantial oversight powers that have been actively fulfilled in recent years.

The President of Ukraine according to the Main Law (Article 106) exercises overall leadership in the spheres of national security and defence of the country. According to Article 106 of the Constitution the President of Ukraine appoints and dismisses the higher command of the Armed Forces and other military institutions.

These functions are fulfilled by the Head of the Ukrainian State with the support of the National Security and Defence Council, which organizes and controls the activity of the executive authorities on national security and defence issues as well as auxiliary and advisory agencies amongst which is the Secretariat of the President of Ukraine.

The President of Ukraine presides over the National Security and Defence Council of Ukraine which consists of the Prime Minister, Ministers of Defence, Foreign and Internal Affairs, the Chairman of the Security Service of Ukraine as well as other individuals on the decision of the head of state. The decisions of the Council are enforced by the decree of the President of Ukraine.

According to Article 3 of the Law "On the National Security and Defence Council" the functions of the NSDC are as follows:

1. Proposal submissions to the President regarding the fulfilment of internal and foreign policy principles in the national security and defence sphere;

2. Coordination and oversight of the activity of the executive authorities in the sphere of national security and defence in peacetime;

3. Coordination and oversight of the activity of the executive authorities in the sphere of national security and defence in wartime or emergency situations and during crisis situations threatening the national security of Ukraine.

According to Article 14 of the Law "On National Security and Defence Council," working and advisory bodies may be created by the Council.

The same Law determines that informational, analytical and organizational support of the NSDC's activity is conducted by its executive office which consists of profile departments on military and state security.

The National Institute of International Security Challenges and the Institute of National Security Challenges function within the NSDC and conduct scientific and informational, analytical and prognosis support of the activity of the Council.

Within the structure of the Secretariat of the President of Ukraine there is the Central Service for Security and Defence Policy. The scientific and analytic institution – The National Institute of Strategic Research as well as the specialized National Center for Euro-Atlantic Integration also function under the President's auspices.

Under the presidency of Viktor Yushchenko there is no strict separation between the powers of the Secretariat of the President and the NSDC. However, the exclusive authorities of the Secretariat of the President ensure that the activities of the leadership include support for personnel policy in the security sector.

The Cabinet of Ministers, the higher agency in the executive authorities system, according to Article 116 of the Constitution conducts measures to ensure defence capability, national security, civil order, and the fight against crime. In addition, the Government drafts the State Budget and manages the financing and logistics support for security sector agencies. Following constitutional reform in 2004, the Cabinet of Ministers directs and coordinates the activity of the ministries and other executive authorities.

According to Article 19 of the Law of Ukraine "On the Cabinet of Ministers of Ukraine" the Government is responsible for addressing national security and defence capability issues and in accordance with Article 20 the Cabinet of Ministers conducts the following:

- Carries out measures regarding the protection and defence of the state border and territory of Ukraine;

- Conducts measures towards strengthening the national security of Ukraine, develops and approves state programs on these issues;

- Conducts measures towards ensuring the fighting capacity of the Armed Forces of Ukraine, and defines within the budget allocations for defence the number of the Ukrainian citizens required for military service and training;

- Conducts measures towards ensuring the defence capacity of Ukraine, including equipping the Armed Forces of Ukraine and other institutions according to the Law on military institutions;

- Ensures the social and legal safeguards of servicemen, persons dismissed from military service and members of their families;

- Resolves questions regarding ensuring the participation of Ukrainian servicemen in peacemaking activity in a way envisaged by Law;

- Organises financial and logistical support for law enforcement agencies, and social safeguards for employers of the aforementioned agencies and members of their families.

According to Article 50 of the law the activity of the Government as a collective body is ensured by the Secretariat of the Cabinet of Ministers. Structurally in the Cabinet of Ministers there is the Directorate for justice and law-enforcement agencies with its head being the Deputy Minister of both the Cabinet of Ministers and Directorate for Defence and Mobilization Issues.

Section VII of the Law regulates the relations between the Cabinet of Ministers and the President, NSDC, and the consultative and advisory bodies of the head of state. Accordingly, the Government has to ensure the fulfilment of the acts of the President, provide him

with necessary information, and the members of the Cabinet of Ministers may participate in activities of working bodies of the head of state.

In summary, the Verkhovna Rada determines the main principles of national security state policy. The Presidency, within its limits, either via the National Security and Defence Council or directly determines the strategic and doctrinal aspects of this policy and ensures personnel policy. The Government implements policy, in particular conducting financing as well as social security for servicemen and employers in the law enforcement area. Such is the tasking for peacetime.

During conditions of martial law and in defence of Ukraine according to the Law "On Defence of Ukraine" the General Headquarters directed by the head of state directs measures to repel aggression against Ukraine.

The functioning of the above described security sector management system has, for approximately two years, demonstrated its capacity to fulfil complicated and complex tasks involving national security management. In particular, a number of steps have been taken to democratize the security sector, including increasing democratic civilian control over the activity of its agencies.

During this period and for the first time since Ukraine's independence, a complex review of the security sector was conducted, the results of which were reflected in the Strategy of National Security which was adopted by the President in January 2007. Reforms of the criminal justice system (April 2008), the SBU (March 2008), the State Border Service (July 2007) and the NSDC were also undertaken. The White Books of Ukraine's Security Sector Agencies were produced in 2007 highlighting that issues of strategic importance are being tackled.

Time has revealed a number of problems involving the security sector management system. The following can be singled out.

The dual subordination of security sector agencies to the President and the Cabinet of Ministers of Ukraine reinforces the general imbalance in the Ukrainian system of state authorities. The bulk of such agencies, with the exception of the service of internal security, SBU and intelligence agencies, FIS, are executive authority agencies and accordingly their activities are directed by the Cabinet of Ministers. At the same time, as previously mentioned, overall guidance in the national security and defence sphere is directed by the head of state.

One of the striking examples of contradiction is formulated in the Law "On State Service of Special Communication and Information Protection of Ukraine," Article 2 which determines that the State Service of Special Communication and Information Protection is directed by the Cabinet of Ministers which takes measures to ensure its functioning. At the same time, the State Service of Special Communications and Information Protection (SSSCIP) of Ukraine is subordinate to the President on issues connected with ensuring national security. One should take into consideration that the SSSCIP carries out activity mainly connected with ensuring national security but the head of state lacks real levers to influence this structure.

Less visible but no less problematic is the contradiction regarding the SBU and intelligence agencies which are not executive authorities agencies but are financed through the Cabinet of Ministers. The substantial component of their immediate activity relates to the problems of the executive authorities.

Such absence of division and the partial direct overlapping of powers may cause complicated contradictions even in conditions of a more stable political situation and enduring political tradition than currently exists in Ukraine. The considerable accentuation of the problem appears during so-called cohabitation, i.e. when the President and Government represent different political powers. The dangerous consequences of this became apparent in the summer of 2007 where features of confrontation appeared between different agencies in the security sector, in particular the Minister of Internal Affairs (MVS) and the Directorate of State Protection.

One should not forget the high fluctuation of personnel in Ukraine's high state authorities. Over the past four years there have been seven Secretaries of the National Security and Defence Council. Generally, this can be explained by the transience of the political situation but it complicates considerably the tackling of routine current issues in Ukraine's national security management system.

Less visible but potentially quite complicated is the absence of division in the political and administrative management of Ukraine's security sector agencies. The practice of the appointment of political figures to head law-enforcement agencies and special services became prevalent after the constitutional reform of 2004 in the absence of legislatively determined procedures. This practice threatens to politicize security sector agencies and subordinate their activities to political forces to the detriment of national interests. These problems can only be remedied by constitutional and administrative reforms which require the support of all leading political forces in Ukraine.

At the same time, it is possible to remedy the current problems by implementing a security sector model that has been functioning fairly effectively for more than 15 years while addressing the country's military security issues. In general, this model is legislatively determined in Article 11 of the Law "On Defence of Ukraine" which envisages that the "Joint Staff of the Armed Forces of Ukraine is the main military agency responsible for planning the defence of the state, control of application/usage of the Armed Forces of Ukraine, coordination and control over the fulfilment of tasks in the defence sphere by executive authorities, local government bodies, and military units set up according to the laws of Ukraine and by law-enforcement agencies within the limits envisaged by this Law, other laws of Ukraine and statutory and legal acts of the President of Ukraine, Verkhovna Rada and Cabinet of Ministers of Ukraine."

In this way, the main issues which complicate the current military security management can be tackled in Ukraine by the Ukrainian Armed Forces Joint Staff, the leadership of which is stable, professional and not political.

That is why the President of Ukraine determined in the Concept of the SBU reform adopted in March 2008, amongst the main functions of the Security Service of Ukraine and

in accordance with the legislation and practice of legal regulation of activity of European Internal Security Agencies that are to be approved in the new edition of Law of Ukraine "On Security Service of Ukraine," the coordination of measures within the jurisdiction and envisaged by the legislation intended to ensure the national security of Ukraine in the state security sphere. Such a decision by the head of state reinforces firstly the fact that according to the Law of Ukraine "On basis of National Security of Ukraine" and the Strategy of National Security of Ukraine the principal threats to national security are of an internal nature or achieved through internal factors.

It is also necessary to mention that the Constitution and other legislation envisage the most developed system of democratic civilian control of the security sector. The specialised post of an authorised representative of the President to direct SBU activity is unique in the system of state authority, while the head of the internal security service is the only one amongst the chiefs of Ukraine's security sector agencies who is appointed by Parliament upon nomination by the President.

The legislative vesting of the coordination function in the state security sphere with the SBU and the creation of clear and efficient procedures will considerably improve the efficacy of Ukraine's security sector, in particular its internal security services and its intelligence agencies which are working to avert and eliminate topical and potential threats to national security.

Chapter 8
The Armed Forces of Ukraine

Yuriy Yurchyna [*]

Despite the widely propagated idea of a nonviolent social order and the peaceful resolution of conflicts, the Army continues to play a major role in state security. The Armed Forces are responsible for the realisation of defence policy ensuring the security of the state.

Political, economic and social developments have a great impact on the armed forces of any state. The Armed Forces of Ukraine, which were established in 1991 following the collapse of the Soviet Union and Ukraine's declaration of independence, was not an exception. The need for Armed Forces was first raised in the Act of Independence, which was adopted on 24 August 1991.[1] Thereafter, Ukraine took the lead among former Soviet republics in developing legal foundations for the national Armed Forces. Military units and formations of the former Soviet Army served as a foundation for Ukraine's Armed Forces. On 24 August 1991 the Verkhovna Rada of Ukraine adopted the Law "On Military Formations in Ukraine,"[2] taking under its jurisdiction all military formations of the former Soviet Armed Forces deployed in Ukraine.

The important geopolitical position of Ukraine resulted in a large presence of Soviet Armed Forces on its territory. The following formations were based in Ukraine: a Strategic Rocket Army, three Combined Arms Armies and two Tank Armies, one Army Corps, four Air Armies, a separate Air Defence Army and the Black Sea Fleet. In general, these forces totalled 780,000 personnel, 6,500 tanks, more than 7,000 armoured vehicles, up to 1,500 combat aircraft, more than 350 ships and support vessels, 1,272 strategic nuclear warheads for ICBMs and more than 2,500 tactical nuclear weapons.[3] However, it was not the full-fledged Armed Forces of an independent state. Ukraine inherited only separate elements of the Soviet military machine. Their structure, composition and strength were

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[1] Resolution of Verkhovna Rada of Ukrainian Soviet Republic No.1427–XII of 24 August 1991, http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1427-12.

[2] Law of Ukraine No.1431–XII of 24 August 1991, "On Military Formations in Ukraine" http://gska2.rada.gov.ua/site/postanova_eng/Res_Military_Units_rev9.htm.

[3] www.mil.gov.ua/index.php?part=history&lang=ua.

shaped to perform in conditions of a bipolar world and did not meet the new realities or the criteria of a sovereign state's armed forces.

Balanced strength, structure, and armaments were core principles informing the process of the establishment of Ukraine's Armed Forces. Of particular importance was the legal framework that would regulate the functions of the Armed Forces and an effective system for the implementation of these regulations. The process itself was unique in its scale. Ukraine was the only country in the world to reduce such a large combat potential in a short period of time. Being the world's third biggest nuclear power, Ukraine voluntarily abandoned its nuclear capabilities and reduced the strength of its Armed Forces by more than threefold.

The development of the Armed Forces ensured that it met current conditions and was capable of protecting national interests as well as participating in international operations. Moreover, geopolitical and geostrategic developments stipulated a further transformation of the Army. As the Defence Minister of Ukraine Y. Yekhanurov noted:

> "The security experts currently agree that Ukraine is unlikely to face a direct large-scale military attack in the near future... However, the events in Georgia in August 2008 demonstrated new challenges and threats to Ukraine, including a risk of dragging Ukraine into international conflicts and the threat to its territorial integrity and sovereignty. Therefore, a potential risk of armed conflict and the use of force to change the military balance remain issues of vital importance."[4]

In this regard, the role of the Armed forces in guaranteeing state sovereignty and territorial integrity will only grow in significance. At the same time, the emergence of threats such as international terrorism, the proliferation of weapons of mass destruction, disinformation and cyber crime point to the need for defence reform to strengthen the ability of Ukraine's Armed Forces to adequately respond to new challenges.

To understand the development of the Ukrainian army it is necessary to briefly review its history.

Stages of the Development of Ukraine's Armed Forces

Security experts divide the period from 1991 to the present day into four stages in the Ukrainian Army's establishment:[5]

- First (1991-96) – formulating the structural and legal basis for the Armed Forces;
- Second (1997-2001) – the planned development of the Armed Forces;
- Third (2001-05) – reform and development of the Armed Forces;
- Fourth (2006-present) – further development.

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4   Yuriy Yekhanurov, "Voenna Bezpeka Ukrainy," *Natsionalna Bezpeka* 1-2 (Kyiv: NSDC, Instytut Problem Natsionalnoi Bezpeky, 2008): 20–21.

5   History of the Armed Forces of Ukraine, www.mil.gov.ua/index.php?part=history&lang=en.

Formulating the Structural and Legal Basis for the Armed Forces (1991-96)

The main features of the first stage were the creation of the legal basis for the Armed Forces, reorganization of their structure, establishment of respective command and control systems, support systems and other elements necessary for their proper functioning.

Political decisions formed the basis for the formation of Ukraine's first national Armed Forces. They declared Ukraine's non-nuclear, neutral status and compliance with the Treaty on Conventional Armed Forces in Europe. Within a short time, the Verkhovna Rada adopted the following package of legislative documents in the military sphere: Defence and Development Concept for the Armed Forces of Ukraine,[6] Law on Defence Council of Ukraine,[7] Law on Defence of Ukraine,[8] Law on the Armed Forces[9] and the Military Doctrine.[10] Notwithstanding the difficulties of the process, the basis for the national armed forces was established, including the new Ministry of Defence, General Staff, command and control system, as well as training and support systems.

The same period accounted for the nuclear disarmament of Ukraine, which represents one of the most significant historical events of the late 20th century. For the first time in the history of mankind, a state voluntarily relinquished its nuclear weapons and by 1 June 1996, not a single nuclear warhead was left in Ukraine. In addition, by the end of 1996, more than 3,500 different military organizations and almost 410,000 personnel had been reduced. Weapons and military equipment were also drastically reduced: combat aircraft by 600, helicopters by almost 250, tanks and combat armoured vehicles by more than 2,400 and 2,000 respectively.[11]

However, it soon became evident that this was only the beginning of the development process. The problem lay not only in the vagueness of the plan and its unsystematic approach, but also in the lack of experienced personnel since 70% of senior staff had been renewed, including nearly all commanders from military districts, armies, corps and divisions.[12]

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[6]   Resolution of Verkhovna Rada No.1659-XII of 11 October 1991, "On Defence and Development Concept for the Armed Forces of Ukraine" (available in Ukrainian), http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1659-12.

[7]   Resolution of Verkhovna Rada No.1658-XII of 11 October 1991, "On Defence Council of Ukraine" (available in Ukrainian), http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1658-12.

[8]   Law of Ukraine No.1932-XII of 6 December 1991, "On Defence of Ukraine" (available in Ukrainian), http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?page=1&nreg=1932-12.

[9]   Law of Ukraine No.1934-XII of 6 December 1991, "On Armed Forces of Ukraine" (available in Ukrainian), http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1934-12.

[10] Resolution of Verkhovna Rada No.3529-XII of 19 October 1993, "On Military Doctrine of Ukraine" (available in Ukrainian), http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=3529-12.

[11] The history of the Armed Forces of Ukraine, www.mil.gov.ua/index.php?part=history&lang=ua.

[12] Press service of the Ministry of Defence of 6 December 2006, "Zbroyini Syly Ukrainy: 15 Rokiv na Varti Nezalezhnosti," www.utr.tv/news/?id=8980.

The reduction of personnel and weapons is the only completed assignment from the list of reform priorities. During the period 1992-1996, the number of troops was reduced by 48% and totalled 370,000. However, there were some strategic mistakes, which resulted in disproportion within the Armed Forces' branches and military ranks.[13]

The first stage of reform failed because Ukraine needed to create its national Armed Forces from scattered formations that were formerly coordinated in Moscow. It was also focused on the tasks that lost relevance or required significant adjustments to accommodate the new independent state. In addition, the lack of a profound analysis of threats made it impossible to set clear strategic goals and left the Armed Forces without new security concepts and defence strategies. Miscalculations were further aggravated by deepened economic crisis and limited defence budget allocations.

The Planned Development of the Armed Forces (1997-2001)

Unclear development goals and inadequate structuring, strength and training for the new geopolitical realities and domestic socio-political and economic conditions forced Ukraine's military authorities to concentrate their efforts on assuring the Army's survival, rather than accomplishing reform goals. These, and other factors, pointed to the need for a State programme, which could clearly define development priorities for the Armed Forces and balance its goals, organization and strength according to the potential threats to Ukraine's national security.

The State Programme of Armed Forces Development, adopted by Presidential Decree on 20 January 1997, is considered the starting point of the next stage in the life of the Armed Forces. The programme provided an opportunity to define development goals more explicitly, calibrate the structure and strength of the Armed Forces according to its objectives, and modernize the country's military equipment.

The following structure of the Armed Forces was adopted:

- Ministry of Defence – the central body of executive power and military management with the Armed Forces under its command;

- General Staff of Armed Forces as the main body of military administration;

- Armed services of the Armed Forces – Land Forces, Air Force, Air Defence Force, Naval Force;

- Formations, military units and education institutions not subordinated to the armed services of the Armed Forces.

The programme regulated the following ratio of personnel between the armed services of the Armed Forces: the Land Forces – 54%, the Air Force – 16%; the Air Defence Force –

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[13] Grigoriy Perepelytsya, "Oboronna Reforma Ukrainy," in *Shrichnyk Natsionalnogo Instytutu Strategichnykh Doslidzhen,* www.niss.gov.ua/book/2004_html/005.htm.

13.5%; the Naval Force – 4.5%; other formations, military units and education institutions not subordinated to the Armed Forces – up to 12%.[14]

The legal basis for the programme was created by necessary changes to the legislation that were adopted in 1997-98. A new edition of the Military Doctrine was passed along with the laws "On Defence of Ukraine" and "On Armed Forces." The President approved Decrees on the Ministry of Defence and on the General Staff of the Armed Forces.[15] On 22 December 1998 the Verkhovna Rada adopted a resolution on the Strength of the Armed Forces of Ukraine,[16] reducing it to 310,000 military personnel and 90,000 civilian employees by the end of 2000.

This period was also characterised by the transition to a new command and control system, and the creation of new operational, logistical and technical support systems. Fundamentally new training and manning methods were also introduced. Nevertheless, due to constant financial problems, political struggles and methodological difficulties, the modernization of the Armed Forces has not been fully achieved.

The first two phases of the Armed Forces development were, so to speak, evolutionary. Lack of experience, among other problems, prevented the authorities from carrying out deep reform of the military organization. The Armed Forces required radical change and a shift from quantitative to qualitative improvements.

Reform and Development of the Armed Forces (2001-05)

The main feature of this stage is the implementation of *the State Programme of Reform and Development of the Armed Forces up to 2005*. In July 2000, the State Programme of Building and Development of Armed Forces was modified and renamed as the State Programme of Reform and Development of the Armed Forces.[17] Its main goal was to design a modern model for the Armed Forces based on the principle of defence sufficiency – optimal in strength, mobile, multifunctional, well-armed, fully secure, trained forces capable of performing their mission, while at the same time being affordable for the state to maintain.

The State Programme balanced the strength of the Armed Forces in the following ratio: Land Force – 51%, Air Force – 20%, Air Defence Force – 12%, Naval Force – 5-6%, and other formations and units.[18]

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[14] Oleg S. Bodruk, "Uroky Reformuvannya Viyskovoyi Sfery" (Natsionalnyi Instytut Rady Natsionalnoyi Bezpeky Ukrainy, 2002), www.niisp.gov.ua/articles/52/.

[15] Presidential Decree No.888/97 of 21 August 1997, "On Ministry of Defence and the General Staff of Armed Forces" (available in Ukrainian), http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg= 888%2F97.

[16] Resolution of Verkhovna Rada No.327-XIV of 22 December 1998, "On the Strength of the Armed Forces of Ukraine" (available in Ukrainian) http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg= 327-14.

[17] Changes took place in accordance with the Presidential Decree No.927/2000 of 28 July 2000.

[18] Perepelytsya, "Oboronna Reforma Ukrainy."

Figure 8.1: The Functional Structure of the Armed Forces of Ukraine at the End of 2005.

One of the most significant steps in the development of the Armed Forces was a defence review carried out in 2003-04. Its results were published in the Strategic Defence Bulletin of Ukraine which was approved on 22 June 2004 by Presidential Decree "On the decision of the National Security and Defence Council on the Strategic Defence Bulletin for the period up to year 2015."

The development and adoption of this document was carried out in light of the global changes in the military-political situation; the emergence of new challenges and threats to national security, changes in the nature of armed conflicts, and the need to balance the strength of the Armed Forces with the economic potential of the state. The document also suggested the future organizational model of the Armed Forces out to 2015 and analysed the ways to achieve that.

The State Programme substantially changed the structure of the Armed Forces. The reform process adopted a functional approach to its development by establishing the following structures: the Joint Rapid Reaction Forces, Main Defence Forces, and the Strategic Reserves (Figure 8.1). Major efforts were focused on the creation of the Joint Rapid Reaction Forces, which could perform tasks independently and as part of a multinational force under joint command.

During this stage, in accordance with amendments to the Law of Ukraine on the Armed Forces, the transition to a three-service structure was launched by merging the Air Forces and the Air Defence Forces into a single Air Force[19] (Figure 8.2 and Figure 8.3). Another important step was the transition to a combat brigade-battalion structure, with its main features of mobility, multitask capability, and autonomy in combat missions, encompassing a modular approach for different units and increasing their potential.[20]

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[19] Law of Ukraine No.1740-IV of 3 June 2004 "On Amendments to the Article 3 of the Law 'On Armed Forces of Ukraine'" (available in Ukrainian), http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1740-15.

[20] Interview with General Kyrychenko, Chief of the General Staff (22 March 2006), www.utr.tv/news/?id=5987.

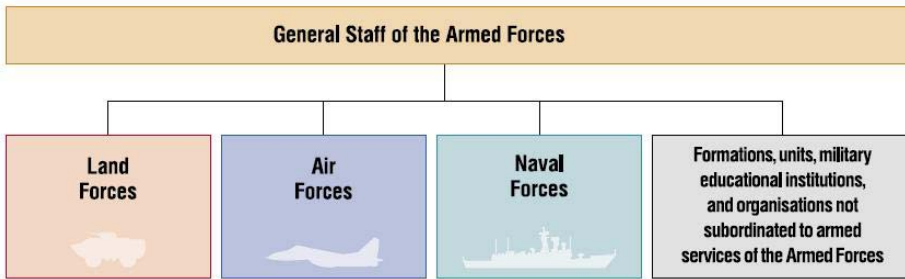**Figure 8.2: The Structure of the Armed Forces of Ukraine at the End of 2005.**

Another problem addressed during the implementation process was the system of manning the Armed Forces. The programme supported a mixed principle of recruitment, combining universal conscription and contractual military service.

Figure 8.3: Command and Control Structure of the Armed Forces at the End of 2005.

Development of the Armed Forces (2006 – Up to the Present Day) [21]

The changing military-political situation in Europe, resulting from the second wave of NATO enlargement and its internal transformation, brought Ukraine into a new reality where its neutral status no longer provided for the security of the state. In this regard, the Euro-Atlantic model of the Armed Forces was recognized as the most appropriate to meet modern conditions. Therefore, new approaches were required to build a new model of the Ukrainian army.

These approaches were reflected in the State Programme of Armed Forces Development for 2006–11. The goal of the programme was to modify the Armed Forces' command and control system and the system of defence education. Practical steps were envisaged to introduce the contractual system of manning and personnel management, as well as upgrading the quality of troop training and optimizing provisions. Efforts were focused on the professionalization of the Armed Forces in accordance with the NATO standards, i.e. highly trained, well-equipped forces capable of protecting state sovereignty and territorial integrity, and contributing to peace and stability in Europe.

In 2006, the Armed Forces began to implement the Medium-term Defence Plan. The programme assessed the status of the Army's development and adjusted the main tasks of the Armed Forces to current conditions. The programme also defined measures for the development of armaments and military equipment, and emphasized the need for intensified troop training. Moreover, the programme specified the reorganization of the entire structure of the Ukrainian armed services, as well as changes in management systems and approaches to planning and training.

A new military command and control system provided a clear division of operational and administrative functions between the military authorities of all levels (Figure 8.4). Functions and powers were legally defined and divided between the Ministry of Defence and the General Staff of the Armed Forces. Command and control bodies were transferred to a new structure, reflecting NATO standards and the standards of Europe's leading countries.

In 2006–08, the transition from a multi-level to a three-level operational command and control system established the following levels: (I) the General Staff; (II) Joint Operational Command; (III) Army Corps Command, Air Command, Naval Operational Centre, and Coastal Defence Centre (Figure 8.5, Figure 8.6). The structure of the General Staff was adjusted to NATO standards (Figure 8.7, Figure 8.8). The foundations were also laid for future Special Operations Forces, and the Directorate of the Special Operations Forces was prepared for its transformation into the Special Operations Forces Command (Figure 8.9).

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[21] *White Book 2005: Defence Policy of Ukraine* (Kyiv: Zapovit, 2006); *White Book 2006: Defence Policy of Ukraine* (Kyiv: Ministry of Defence of Ukraine, 2007); *White Book 2007: Defence Policy of Ukraine* (Kyiv: Ministry of Defence of Ukraine, 2008); *White Book 2008: Defence Policy of Ukraine* (Kyiv, Ministry of Defence of Ukraine, 2009).

Figure 8.4: Projected Command and Control Structure of the Armed Forces by the End of 2011.

Figure 8.5: Structure of the Armed Forces at the end of 2008.

In 2006, special attention was paid to introduce the Joint Operational Command, an integral part of the single system in operational control. Its introduction provided for the command and control of troops in armed conflicts, coordination in operations, as well as participation in anti-terrorist, international peacekeeping, and disaster relief operations (Figure 8.10). For the past two years, the Joint Operational Command has been responsible for Ukrainian peacekeeping contingents and personnel in UN and NATO operations.

During the implementation process, the transformation of military unit structures was carried out along the functional principle (Figure 8.11).

By the end of 2011, the Ukrainian Army will have introduced Joint Rapid Reaction Forces (30 % of total combat strength) with an Immediate Reaction Force as its integral component, comprising about 6,000 personnel in standing combat readiness and approximately 23,000 personnel in the Rapid Reaction Forces with a combat readiness ranging from several hours to several days.

Figure 8.6: Armed Forces' Command and Control Authorities at the End of 2008.

Another functional component of the Armed Forces are the Main Defence Forces, which provide about 70 % of the total combat strength and consist of up to 20,000 personnel in the Augmentation Forces and 45,000 in the Stabilization Forces. Forces for the multiservices groups will be allocated from all Services of the Armed Forces.

Armed Services of the Armed Forces

The Land Forces

The Land Forces are the largest armed service within the Armed Forces. Due to the wide range of assigned missions and functions, the Land Forces participate in all of the Armed Forces' responsibilities. It consists of the Land Forces Command, Western and Southern Operational Commands, Territorial Command "North", Army Corps, brigades, regiments, technical and logistical support units. The Land Forces are composed of mechanized infantry troops, armour, airborne, missile and artillery troops, army aviation and air defence troops. It has been established in three military districts (Kiev, Odessa and Carpathian districts) which, at the end of 1991, had 14 mechanised infantry brigades, four armoured brigades, three artillery divisions and eight artillery brigades, one Special Force brigade, nine Air Defence brigades, seven regiments of combat helicopters, and technical and logistical support units.[22]

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22 Oleksander Manachynskyi, et al., "Zbroyini Syly Ukrainy: Stan ta Problem Rozbudovy" (Kyiv: National Institute of Strategic Studies, 1994), www.niss.gov.ua/book/Manach/index.htm.

Figure 8.7: Structure of the General Staff of the Armed Forces at the End of 2005.

The Defence and Development Concept for the Armed Forces put forward a composition of Land Forces, Air Forces and Air Defence Forces (Air Forces), and Naval Forces. The legislative framework for the Land Forces was defined in Article 4 of the Law of Ukraine "On the Armed Forces of Ukraine." At that time, the Land Forces had no separate command and control body and were subordinate to the General Staff. The need for separate Land Forces Command brought about a long period of debate in the military environment and between top-level officials.

The creation of the Land Forces as a separate armed service of the Armed Forces was legally defined only in 1996 by the Presidential Decree "On the Land Forces of Ukraine" (No.368/96 of 23 May 1996).

Chief of the General Staff – Commander-in-Chief of the Armed Forces

Deputies Chief of the General Staff

Directorate, Main Intelligence Department **J-2**

Assistants to the Chief of the General Staff

Control and Oversight Directorate

Legal Directorate

Administration Directorate

Main Personal Directorate **J-1**

Main Operations Directorate **J-3**

Directorate for Needs Assessment and Support Organization **J-4**

Main Defence Planning Directorate **J-5**

Main Directorate for Communication and Information Systems **J-6**

Main Directorate for Educational and Social - Psychological Work

Armed Forces Training Directorate **J-7**

Main Finance-Economic Directorate **J-8**

Special Operations Directorate

Central Directorate for Information Security and Cryptology

Euro-Atlantic Integration Directorate

Military Cooperation Directorate

Military-Science Directorate

Garrison Service Directorate

Finance Directorate

– Acting in support of GS requirements

Figure 8.8: Structure of the General Staff of the Armed Forces at the End of 2008.

Figure 8.9: Command and Control Organization of Special Operations Forces at the End of 2008.

Between 1992 and 2005 the command and control structure of the Armed Forces underwent substantial changes, namely:

- In 1992, Kyiv Military District was disbanded;

- In 1996, the Land Forces Command and the Northern Territorial Operational Command were formed;

- In 1996, the 1st Army Corps Command was modified into the Northern Territorial Operational Command;

- In 1997, the Carpathian Military District was transformed into the Western Operational Command;

- In 1998, the Odessa Military District was transformed into the Southern Operational Command and the Northern Territorial Operational Command was modified into the Northern Territorial Command; and

- In 2005, on the basis of North Operational Command which was disbanded in 2006, the Territorial Directorate "North" was created as a new military command and control body for the tasks of territorial defence, mobilization training and preparation of reserves (Figure 8.12).

By the end of 1995, when the Armies were reorganized into Army Corps, infantry divisions into the mechanized brigades and some of the formations into the National Guard, the Land Forces had seven Army Corps HQs, 12 Combat Divisions, two Artillery Divisions and other units. Given the difficulties maintaining seven Army Corps Headquarters for 12 Combat Divisions, two Army Corps HQs were disbanded at the end of 1997.

COMMANDER, JOINT OPERATIONAL COMMAND

Legal Support Team

Chief of Staff – First Deputy Commander JOC

First Deputy Commander, JOC

Deputy Chief of Staff Logistics

Logistics Section **J-4**

Operational Support Section

First Deputy Chief of Staff Operations

Training and Analysis Section **J-7**

International Cooperation Section

Civil-Military Relations Section **J-9**

Information Security and Cryptology Section

Operational Section **J-3**

Operational Planning Section **J-5**

Communication and Information Systems Section **J-6**

Intelligence Section **J-2**

STAFF

Land Force Section

Air Force Section

Naval Force Section

Information and Analysis Section

Social, psychological and Information Support Section

Administration Section

Admin Element

Finance and Resources Section **J-8**

Personnel Section **J-1**

COMMAND

Figure 8.10: Joint Operational Command at the End of 2007.

ARMED FORCES OF UKRAINE

Joint Rapid Reaction Forces
(up to 29,000 personnel, or 30% of total combat strength)

Formations and units, agencies and organisations that are not part of functional structures
(up to 49,000 personnel)

Main Defence Forces
(up to 65,000 personnel, or 70% of total combat strength)

Immediate Reaction Forces
(up to 6,000 personnel)

For immediate response to threats, deterrence, prevention, and neutralization of emerging armed conflicts.

Manned at over 90%, equipped and armed at 100%

Rapid Reaction Forces
(up to 23,000 personnel)

For augmentation, or reinforcement, of the Immediate Reaction Forces, creation of a JRRF formation to provide adequate reaction to threat levels, and prevention of transition of an armed conflict, should it emerge, into a local war.

Manned at over 70 %, equipped and armed at 100 %

Augmentation Forces
(up to 20,000 personnel)

For augmentation of efforts, reinforcement, if needed, of JRRF in operations to eliminate, localise, or neutralise armed conflicts.

Manned at up to 50%, equipped and armed at no less than 80%

Stabilization Forces
(up to 45,000 personnel)

For deployment of formations and military units required to ensure successful operations of JRRF and Augmentation Forces; they have to be ready for engagement in any possible form of warfare, completion of elimination of armed conflicts, and situation stabilisation.

Manned at up to 20%, equipped and armed at no less than 60%
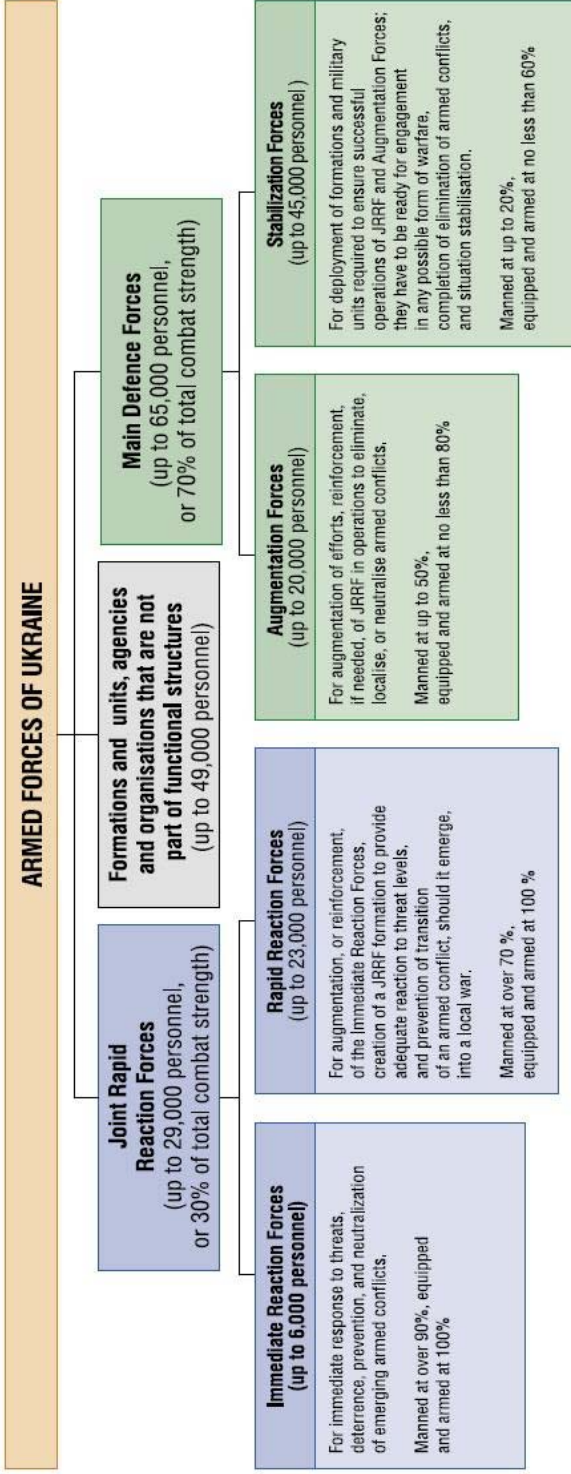
Figure 8.11: Projected Functional Structure of the Armed Forces by the End of 2011.

In order to achieve maximum efficiency of the Land Forces' structure, the ratio between the military formations and the support units was optimized over a five year period from 1997 to 2001.[23] Despite these measures, the Land Forces in 1999 still constituted a cumbersome and costly heritage from the Soviet Army.

In terms of personnel, the Army Corps of the Land Forces was equal to the divisions of NATO member states, and the divisions were equal to brigades. The main reason for that was the fact that the Forces were adapting not to the real defence needs, but to the number of existing armaments.[24]

Table 8.1. Structure and Strength of the Land Forces [25]

Formations*	1991	1995	1998	2001	2003	2005
Strength of the Land Forces	up to 390,000	187,800	154,500	150,700	129,100	78000
Army Headquarters	6					
Headquarters of the Army Corps	1	7	5	5	3	3
Armour Division	4	2	2	2		
Mechanized Divisions / Task Forces	16/-	9/-	9/-	5/-	1/1	
Airborne Divisions	1	1	1	1		
Missile Divisions			1	1	1	
Artillery Divisions/Tactical Groups	3/-	2/-	2/-	2/-	-/2	
Armour Brigades			1	1	3	2
Mechanized Brigades / Regiments	-	5/-	5/-	11/1	12/1	9/-
Airborne Brigades (Regiments)	-	2/-	3/-	1 (1)/-	1 (2)/1	1/1
Separate Brigades / Special Regiments	3/-	3/-	1/1	1/1	-/1	
Missile Brigades	7	7	5	5	2	1
Artillery Brigades / Regiments	6/-	4/-	5/-	4/2	1/2	3/-
Rocket Artillery Regiments	3	5	5	5	1	
Antitank Brigades / Regiments	1/5	1/6	1/4	-/5		
Air Defence Brigades/Regiments	8/	6/2		-/2		-/3
Army Aviation Brigades/ Regiments	12/-	7/-	4/1	3/2	1/3	-/3

* by the end of the respective year

23 "Derzhavna Programma Rozbudovy i Rozvytky Zbroynukh Syl Ukrainy na Period do 2005 Roku," *Viyisko Ukrayiny* 11–12 (2000).

24 "Voenna Reforma v Ukrayini: Start Chy Chergovyyi Falstart?" *Natsionalna Bezpeka i Oborona* 1 (2000): 2–39.

25 Yuriy N. Barash and Anatoliy I. Shevcov, "Transformatsiya Organizatsijnoi Struktury Zbroyinykh Syl Ukrainy," *Strategichni Prioritety* 2:3 (2007): 21–28.
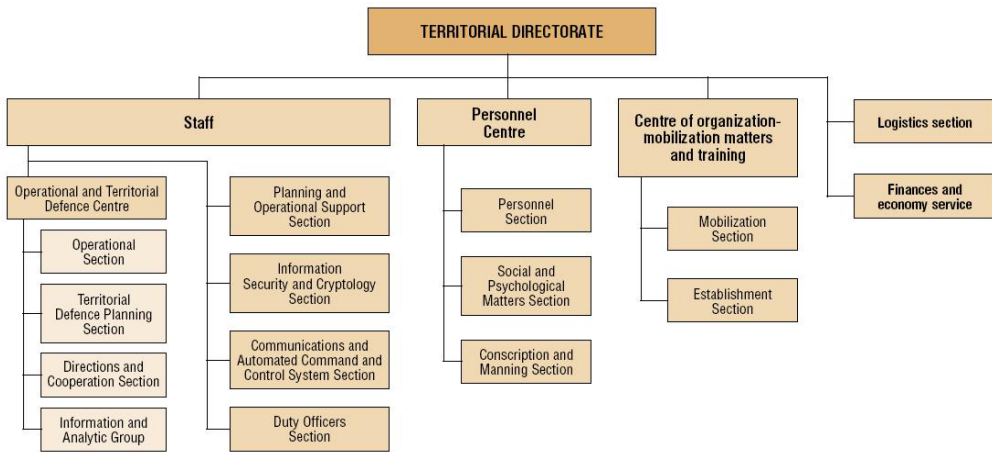
Figure 8.12: Structure of Territorial Directorate at the End of 2006.

The main goal of the State Programme of Reform and Development of the Armed Forces up to 2005 was to create well-armed, trained troops (forces) capable of performing their mission. One way to achieve this goal was to improve the structure the Land Forces by transitioning to a combat brigade-battalion structure, with its added mobility, multitask capabilities, and autonomy in combat missions. [26]

In 2002-03, an Army Corps HQ was disbanded, the Crimean Corps was transferred to the Naval Forces, four mechanized and two armour divisions were transformed into five brigades. By the end of 2003, the Land Forces had three Army Corps, one mechanized division, one divisional Task Force, 17 combat brigades, three separate regiments, one rocket division, two artillery tactical groups, and support units.[27] By the end of 2005, all divisions had been transformed into brigades (13 combat, one artillery and 3 missile brigades in total) (Figure 8.13).

The new period for the Land Forces commenced with the launching of the 2006-2011 State Programme for the Development of the Armed Forces. In 2006, the functions of the Operational Command were transferred to the Land Forces Command. The Army Corps was withdrawn from the structure of Operational Command and directly reported to the Land Forces Command, which greatly increased the efficiency of the armed service. The Programme foresees that the Army Corps will be in charge of all Land Force units by the end of 2011. In 2006, the Land Force contributed to the Joint Rapid Reaction Forces by creating the Army Corps, which includes airmobile and mechanized brigades equipped with light arms (Figure 8.14). In addition to defence tasks, such brigades will form the core of Ukraine's peacekeeping troops and will participate in anti-terrorist and disaster relief operations.

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[26] "Derzhavna Programma Rozbudovy I Rozvytky Zbroynukh Syl Ukrainy na Period do 2005 Roku."

[27] *Strategichnyyi Oboronnyyi Byuleten Ukrainy na Period do 2015 Proku* (Kyiv: Avanpost-prim, 2004).

LAND FORCES COMMAND

Western Operational Command

Southern Operational Command

Territorial Directorate "North"

Army Corps
- Separate mechanised brigade
- Separate artillery brigade
- Directly subordinated units

Army Corps
- Separate mechanised brigade
- Directly subordinated units

Army Corps
- Separate mechanised brigade
- Separate armour brigade
- Separate artillery brigade
- Separate airborne brigade
- Directly subordinated units

Separate mechanised brigade
Directly subordinated units

Army Corps
- Separate mechanised brigade
- Separate armour brigade
- Separate artillery brigade
- Separate airborne brigade
- Directly subordinated units

Separate artillery brigade

Directly subordinated units

personnel — 97,000

tanks — 732

armoured combat vehicles — 1,713

combat helicopters — 106

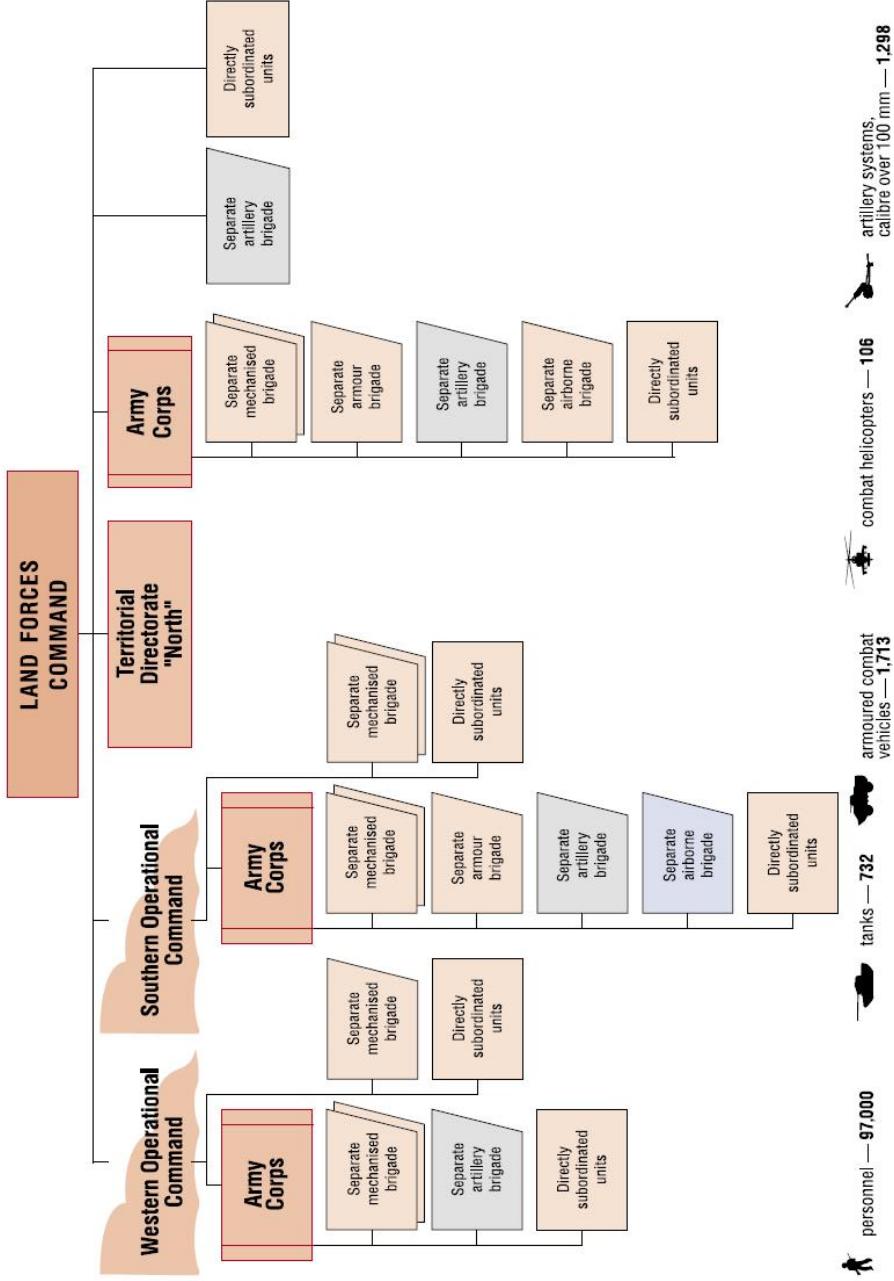artillery systems, calibre over 100 mm — 1,298

Figure 8.13: Organisational Structure and Combat Strength of the Land Forces at the End of 2005.
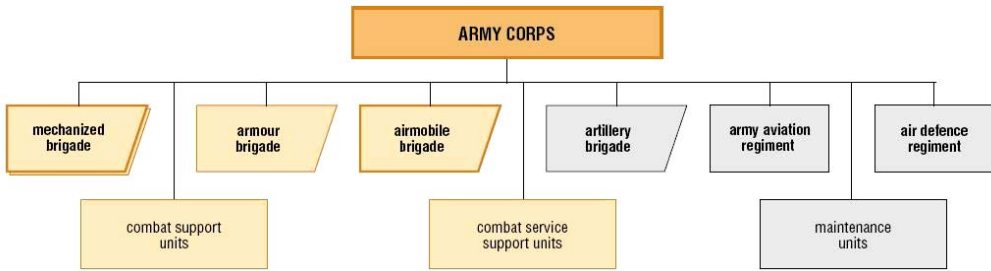
Figure 8.14: Structure and Combat Strength of the Army Corps at the End of 2006.

In 2007, the Airmobile Brigade was formed, which directly reports to Land Forces Command and includes an Army Aviation Regiment. In the same year, a new structure of the Army Corps was introduced in order to comply with NATO's procedures of engagement.

The preparatory activities for the transformation of Land Forces Command into the Land Forces HQ were carried out in 2008 (Figure 8.15). The period 2009-2011 is projected to bring the Land Forces to their proposed structure and strength of 2011 (Figure 8.16).

The Air Force

The Air Force is a main combat service of the Armed Forces. The major mission of the Air Force is to prevent attacks from the air, to protect important administrative and political centres, industrial and economic targets, to protect and support other services of the Armed Forces, to provide air transportation, and to carry out the destruction of the military, industrial, energy and communication facilities of the enemy.

The Air Force consists of the Air Force Command, Air Command "West," Air Command "Centre," Air Command "South," Task Force "Crimea," brigades, regiments and logistics units. It includes five types of aviations (bomber, fighter, assault, reconnaissance and transport), as well as radio technical and air defence brigades. It is the youngest armed service, formed on the basis of the Air Force and Air Defence Force at the beginning of 2005. The creation was accompanied by heated debates between military experts, and repeatedly changing regulations, determining the separate or joint capabilities of military aviation and air defence.

The Defence and Development Concept of the Armed Forces called for a merging of the Air Force and Air Defence Force into a single Air Force. This provision was defined in the Law "On the Armed Forces of Ukraine" of 6 December 1991.[28] The main principle was a responsibility assigned to the armed services for each domain – land, air and sea.

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[28] On 21 October 1993 the Article 4 of the Law "On the Armed Forces of Ukraine" was amended concerning the name of unified type of the Armed Forces of Ukraine – Air Defence Forces of Ukraine.

Of particular interest is the fact that Ukraine inherited powerful aviation and air defence capabilities from the Soviet Army consisting of four Air Armies, the Special Army of Air Defence and the Air Defence Corps.[29]

Despite a set of adopted laws, the Air Force and Air Defence Force were not amalgamated. The main problem was that the two armed services responsible for airspace protection had separate and, to some extent, incompatible systems of communication, management and supply.

In addition, the process became more complicated due to the difficult conditions in the Armed Forces and a lack of experience among the political and military elite. As a result, during the years 1993 to 1996 some contradictory decrees of the President were adopted: first, on the creation of unified Air Force,[30] and later, on the separate services of the Air Force and the Air Defence Force.[31]

In June 1996, the merging of the Air Force and Air Defence Force was temporarily put on hold. Later, on 5 October 2000, the Verkhovna Rada made amendments to the Law "On the Armed Forces of Ukraine" creating four separate armed services – the Land Force, the Air Force, the Air Defence Force and the Naval Force.

The amalgamation process stalled because of the absence of a scientifically grounded programme of integration, the failure to acknowledge the hard economic conditions, and a lack of experience in extensive military reforms.

From 1997-2001, the Air Force and the Air Defence Force followed separate guidelines, which were established in the *State Programme of Reform and Development of the Armed Forces up to 2005*. However, in 2002, the idea of the three-type structure was revised. Amendments made to the Law of Ukraine "On the Armed Forces of Ukraine"[32] substantially facilitated the merging of two armed services in 2004-05. At the same time, the newly established Joint Air Force Command had incorporated the Air Force Command and Air Defence Force Command. Two Air Corps and three Air Defence Corps were modified into Air Command "West", Air Command "South", Air Command "Centre" and the Tactical Group "Crimea" (Figure 8.17). The introduction of the new automated management system "Oreadna-M" significantly improved the compatibility of the Air Force components and elements of Air Defence.

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[29] Sokal I. Budivnyctvo, "Vijsk Protypovitryanoi Oborony Ukrainy na Osnovi Objednannja Vijskovo-Povitrjanyh Syl ta Vijsk Protypovitrjanoi Oborony (1992-1996)," *Vojenna Istorija* 4:6 (2004).

[30] Presidential Decree No.31/93 of 28 January 1993 "On the Air Force of Ukraine;" Presidential Decree No.326/95 of 20 April 1995 "On Air Defence Force of Ukraine."

[31] Presidential Decree No.271/92 of 23 April 1992 "On Appointment of the Commanders of the Air Force and the Air Defence Force"; Presidential Decree No.310/92 of 27 May 1992; Presidential Decree No.54/94 of 18 February 1994 "On the Commanders of the Air Force and the Air Defence Force of Ukraine."

[32] Law of Ukraine No.1740-IV of 3 June 2004 "On amendment of the Article 3 of the Law of Ukraine "On the Armed Forces of Ukraine."

LAND FORCE COMMAND

- Western Operational Command
- Southern Operational Command
- Territorial Administration "North"
  - Detached Airmobile Brigade
  - Rocket Brigade
  - Lviv Military Institute of National University "Lvivska Politechnika"
  - Military Institute of Odessa National State Polytechnic University
  - Directly Subordinated Units

- Army Corps
  - Detached Mechanized Brigades
  - Detached Armoured Brigade
  - Detached Airborne Brigade
  - Detached Artillery Brigade
  - Directly Subordinated Units

- Army Corps
  - Detached Mechanized Brigades
  - Detached Armoured Brigade
  - Detached Airmobile Brigade
  - Detached Artillery Brigade
  - Directly Subordinated Units

- Army Corps
  - Detached Mechanized Brigades
  - Detached Artillery Brigade
  - Directly Subordinated Units

Service Personnel – 73,300
Tanks – 735
Combat Armoured Vehicles – 2,155
Combat Helicopters – 72
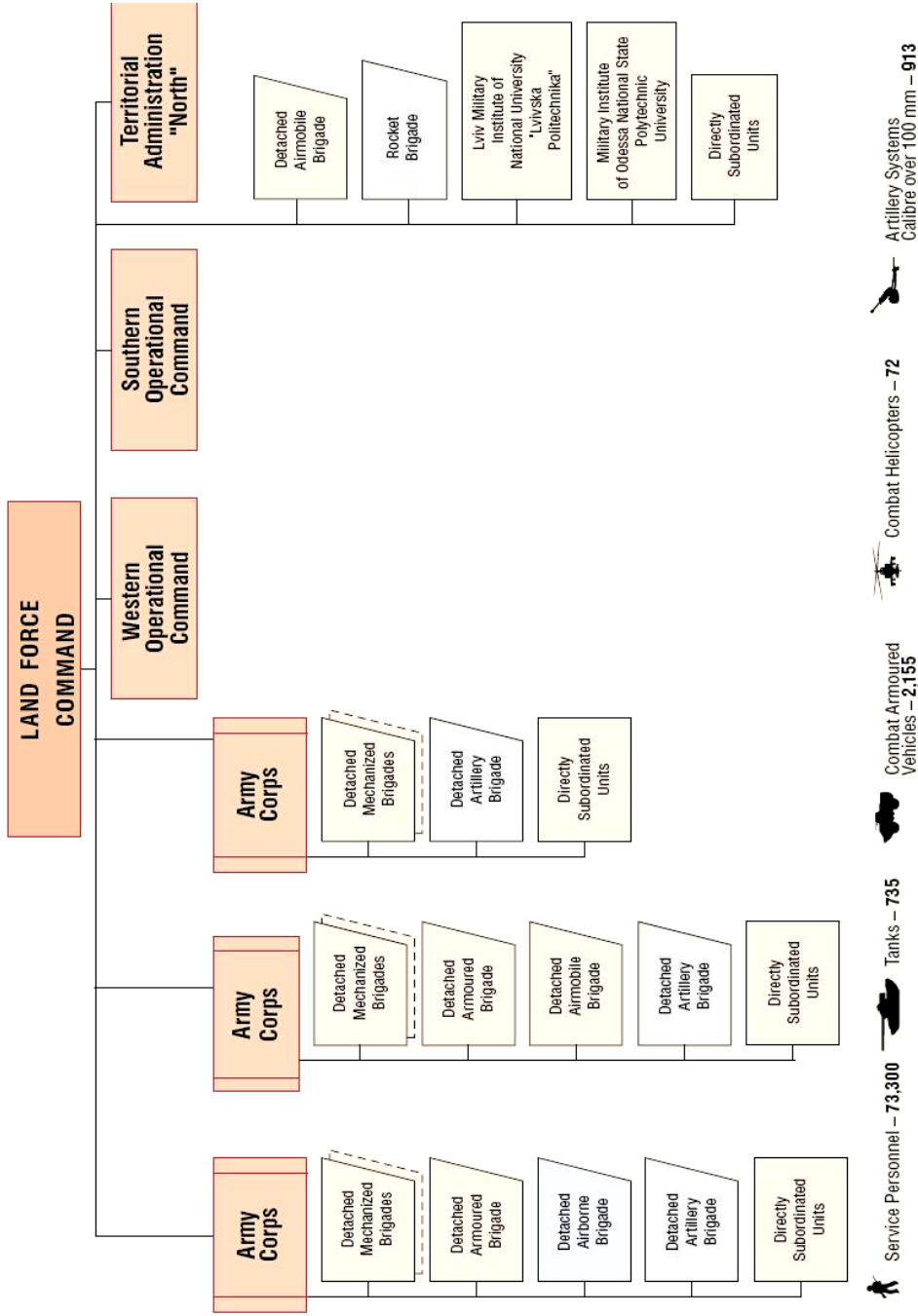Artillery Systems Calibre over 100 mm – 913

Figure 8.15: Organisational Structure and Combat Strength of the Land Force at the End of 2008.

Figure 8.16: Projected Organisational Structure and Combat Strength of the Land Forces by the End of 2011.

LAND FORCES HQ

Army Corps

Separate mechanised brigade
Separate armour brigade
Separate artillery brigade
Separate airborne brigade
Directly subordinated units

Army Corps

Separate mechanised brigade
Separate artillery brigade
Directly subordinated units

Army Corps

Separate mechanised brigade
Separate armour brigade
Separate artillery brigade
Separate airborne brigade
Directly subordinated units

Missile brigade

Directly subordinated units

personnel — **60,000**

tanks — **488**

armoured combat vehicles — **2,013**

combat helicopters — **76**

artillery systems, calibre over 100 mm — **1,274**

AIR FORCES COMMAND

Air Command "West"
- Fighter Brigade
- Bomber and Reconnaissance Brigade
- Air Defence Regiment
- Radar Brigade
- Directly Subordinated Units

Air Command "South"
- Fighter Brigade
- Ground Attack Brigade
- Air Defence Brigade
- Anti-aircraft Artillery Regiment
- Radar Brigade
- Directly Subordinated Units

- Crimea Tactical Group
- Air Defence Regiment
- Radar Brigade
- Directly Subordinated Units

Air Command "Centre"
- Fighter Brigade
- Air Defence Brigade
- Air Defence Regiment
- Radar Brigade
- Directly Subordinated Units

- Training Brigade
- Transport Brigade
- Separate UAV Regiment
- Directly Subordinated Units

personnel — **59,000**   combat aircraft — **204**   transport aircraft — **32**

Figure 8.17: Organisational Structure and Combat Strength of the Air Forces at the End of 2005.

In 2006, further changes to the structure and strength of the Armed Forces were proposed by *State Programme of Development of the Armed Forces for 2006-2011*. Among other things, this included the modification of the Air Command into the Control and Notification Centres, and the creation of an automated system of flight and air defence control, equipped with joint radar, built in accordance with NATO standards.

In 2006-07, the Air Command underwent preparatory changes necessary for its further transformation into the Control and Notification Centres. The Fighter Brigades, Assault Brigades, Bomber and Reconnaissance Brigades, were transformed into the Tactical Aviation Brigades; while the Transport Aviation Brigade incorporated the Air Transport Brigades.

In 2008, the government defined tasks and functions for prospective Air Force Headquarters, Air Operations Centre and Control and Notification Centres. A number of practical arrangements were made to the automated flight and air defence control system (Figure 8.18, Figure 8.19). As the Chief of the Air Force, Colonel-General Rusnak pointed out, "the Air Force has almost achieved the projected standards of 2011 in regards to organizational and functional structure. Further improvements will be made by optimization of the strength, professionalization of the personnel, mastering the new forms and methods of engagement, modernizing the armaments and raising the level of professional education."[33]

Nevertheless, insufficient financial support has heavily influenced the implementation of projected measures, particularly in the sphere of equipment supply and training of personnel.
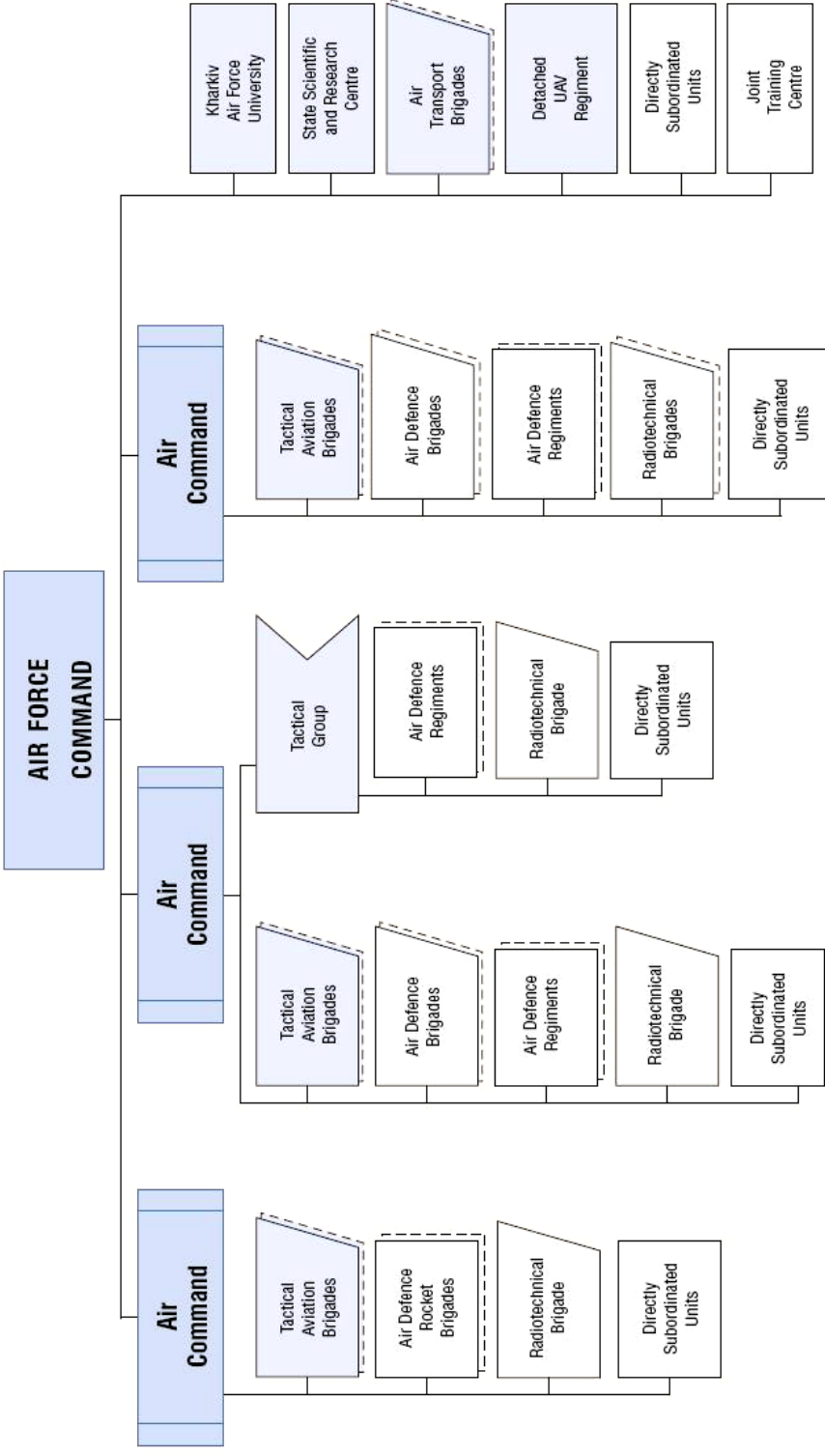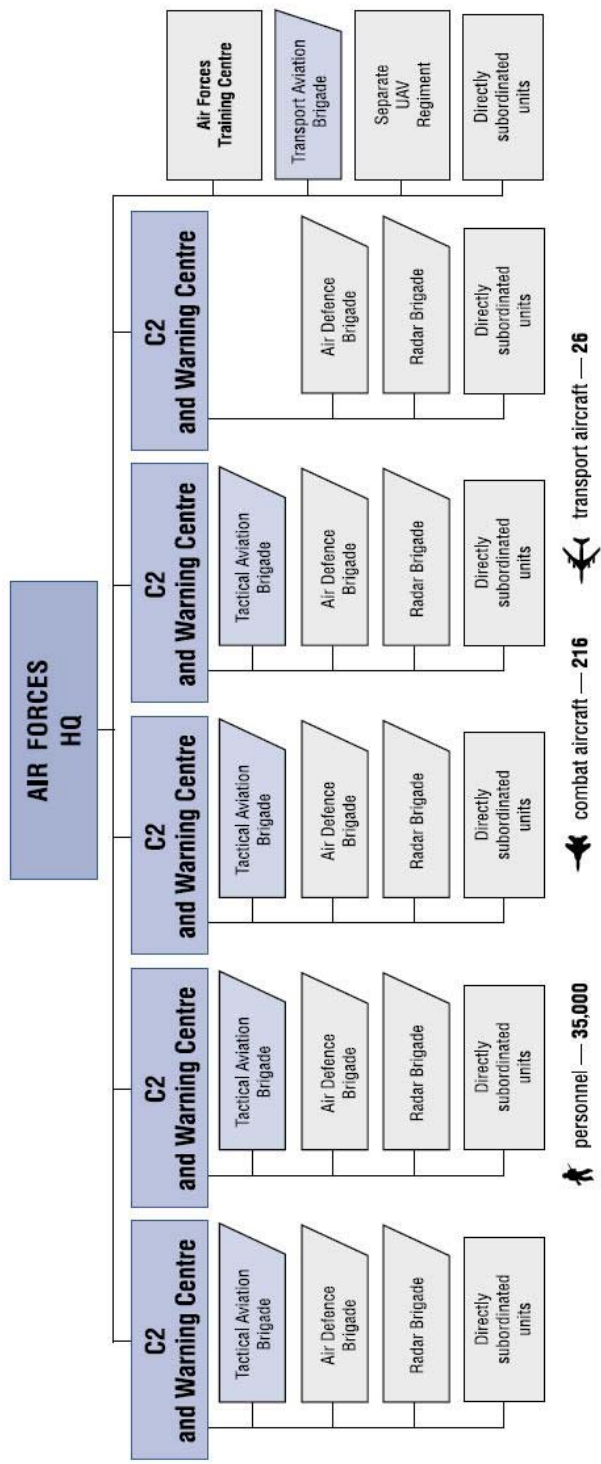
The Naval Force

The Naval Force is responsible for the containment, localization and neutralization of an armed conflict, as well as the reactionary rebuff of armed aggression, both autonomously and in cooperation with other services of the Armed Forces, military units and law enforcement agencies. It operates in accordance with the Constitution of Ukraine, laws of Ukraine and the principles and norms of international law.

The tasks of the Naval Force are the following:

- To carry out operations against terrorism, piracy, illicit arms and drugs trade;
- To eliminate sea mines;
- To perform rescue and relief operations in cooperation with central and local authorities;
- To participate in peacekeeping and humanitarian operations;
- To cooperate with units and formations of the Land Forces; and
- To guarantee the safety of maritime traffic.

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[33] "Nebesnyj Shyt Derzhavy," Intervju Komanduvacha Povitrjanyh Syl Zbrojny Syl Ukrainy general-lejtenanta Rusnaka I.S., *Vseukrainskyi Zagalnopolitychnyj Osvitjanskyj Tyzhnevyk* 33 (285), 26 serpnja – 2 veresnja 2008 roku.

Figure 8.18: Organisational Structure and Combat Strength of the Air Forces at the End of 2008.

AIR FORCE COMMAND

Air Command

- Kharkiv Air Force University
- State Scientific and Research Centre
- Air Transport Brigades
- Detached UAV Regiment
- Directly Subordinated Units
- Joint Training Centre

Air Command
- Tactical Aviation Brigades
- Air Defence Brigades
- Air Defence Regiments
- Radiotechnical Brigades
- Directly Subordinated Units

Air Command
- Tactical Aviation Brigades
- Air Defence Brigades
- Air Defence Regiments
- Radiotechnical Brigade
- Directly Subordinated Units

- Tactical Group
- Air Defence Regiments
- Radiotechnical Brigade
- Directly Subordinated Units

Air Command
- Tactical Aviation Brigades
- Air Defence Rocket Brigades
- Radiotechnical Brigade
- Directly Subordinated Units

Service Personnel – 45,300   Combat Aircraft – 208   Transport Aircraft – 39

Figure 8.19: Projected Organisational Structure and Combat Strength of the Air Forces at the End of 2011.

The Naval Force consists of the Naval Force Command, the Maritime Operations Centre, the Coastal Defence Centre, two Naval Bases (Southern and Western), Surface Ships Brigades, Naval Aviation Brigade, the Coastal Defence Brigade, and the supply units. Ukrainian Naval Forces today include the surface ships and submarines, naval aviation, coastal defence forces, coastal missile troops and the Marines.

The reform of the Naval Forces is undoubtedly one of Ukraine's biggest challenges, which is made worse by the presence of the Russian Federation's Black Sea Fleet (BSF) on the territory of Ukraine.

In January 1992, the Soviet Union's Black Sea Fleet was comprised of 18 diesel submarines (including 16 tactical), 38 combat ships (five cruisers, 26 frigates, and seven destroyers), 60 patrol vessels, 30 minesweepers, 16 amphibious ships, and 140 other armed vessels. The Black Sea Fleet aviation had 163 military aircrafts and 85 helicopters.[34]

The first fundamental agreement between Ukraine and Russia on the Black Sea Fleet was reached on 11 January 1992 and resulted in the "Communiqué on negotiations between state delegations of Ukraine and the Russian Federation on political-military issues." The document defined and placed branches of the fleet's forces, deployed on Ukrainian territory, under the jurisdiction of the Armed Forces of Ukraine.

On 5 April 1992, the Presidential Decree "On Urgent Measures on the Construction of the Armed Forces of Ukraine"[35] made provision for the organization of the Naval Forces and set the task of starting to form the command and control bodies of the national Navy to the Ministry of Defence. On 3 August 1992, the presidents of Ukraine and Russia signed an Accord on the Formation of Naval Forces of Ukraine and Russia on the Basis of the Black Sea Fleet of the Former Soviet Union.[36] However, the document failed to ensure transparency for the negotiation process and provided insufficient mechanisms for its practical implementation. The tensions continued to grow, resulting in another meeting of the Ukrainian and Russian presidents on 17 June 1993 in Moscow. They signed an agreement stipulating that the Fleet should be divided equally.[37] Their second meeting, held on 3 September 1993, ended with the signing of yet another Treaty transferring the BSF from the Joined Armed Forces of the CIS to the command of the presidents of Ukraine and Russia. A transitional period for establishing the Naval Forces lasted until 1995. On 9 June 1995, the President of Ukraine and the President of Russia signed an agreement on division of the Black Sea Fleet.[38] After nearly five years of controversy, on 28 May 1997 Moscow and Kyiv finally settled their dispute over the Black Sea Fleet, when three intergovernmental

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[34] Manachynsky, et al., "Zbroyini Syly Ukrainy: Stan ta Problem Rozbudovy."

[35] Website of the Verkhovna Rada, http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=209%2F92.

[36] Website of the Verkhovna Rada, http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=643_020.

[37] Treaty on Urgent Measures Concerning Formation of Naval Forces of Ukraine and Black Sea Fleet of Russian Federation on a Basis of Black Sea Fleet of Former Soviet Union, Website of the Verkhovna Rada, http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=643_046.

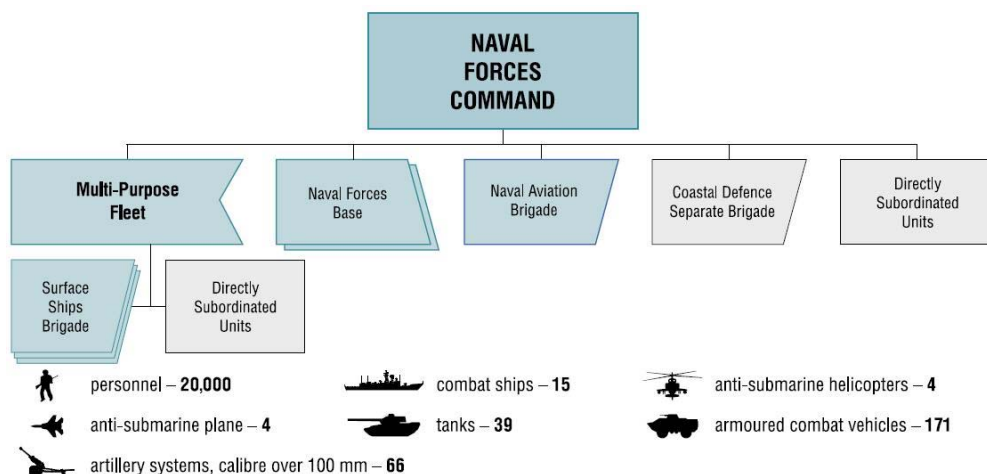[38] Website of the Verkhovna Rada, http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=643_082.

Figure 8.20: Organisational Structure and Combat Strength of the Naval Forces at the End of 2005.

agreements were signed.[39] The Naval Force of Ukraine eventually received 43 battleships, 132 vessels and launchers, 12 airplanes, 30 helicopters, 227 coastal objects and considerable amount of materiel, armament, ammunition and other property.[40]

Despite serious obstacles, the Naval Force was rapidly developing its structure. For example, in 1993 the Naval Force had only 30 regiments, while by the end of 1997 this number reached almost 300, with 16 000 military personnel. Structural developments were as follows:

- In 1996, Western and Southern naval regions, which later were transformed into Western and Southern Naval Bases, were formed;

- In 2001, a Multi-Purpose Fleet, an operational-tactical unit of the Naval Force, which incorporated the Surface Ships Brigades, was established; and

- In 2003, the Land Forces' Army Corps was incorporated into the structure of the Naval Force, having been re-formed into the Coastal Defence Force Command (Figure 8.20).

Since 2006, the Naval Force has been focused on the implementation of the State Programme of Development of the Armed Forces for 2006-2011, which envisages changes to the structure and strength of the Naval Force, bringing them in line with NATO requirements. Thereby, the period of 2006-07 witnessed the creation of the Maritime Operations Centre, based on the Multi-Purpose Fleet, the Coastal Defence Centre, and the National Point of Contact for the cooperation within the NATO operation "Active Endeavour."

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[39] Website of the Verkhovna Rada, http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=643_075.
[40] Ministry of Defence of Ukraine, www.mil.gov.ua/index.php?lang=ua.
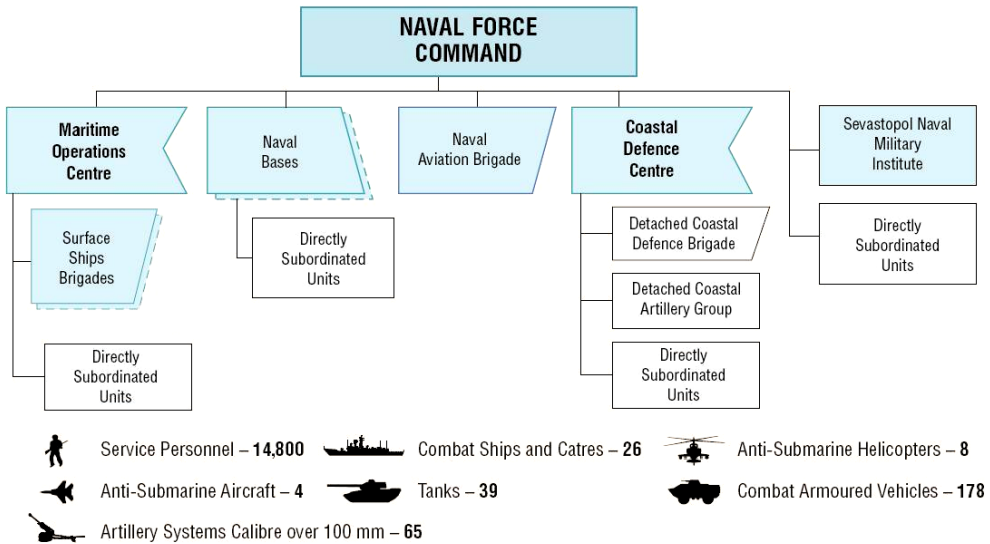
Figure 8.21: Organisational Structure and Combat Strength of the Naval Forces at the End of 2008.

The National Point of Contact provides an information exchange between Naval Force Command and the Allied Maritime Component Command South (Naples, Italy) on the monitoring of shipments, possible threats of terrorism and other illicit activities across the Black Sea and the Mediterranean.

As the State Programme stipulated, the transformation of the Naval Force Command into Headquarters in 2008 was a preliminary measure necessary to establish a Naval Force Headquarters to be responsible for control over troop training and territorial defence in the Autonomous Republic of Crimea (Figure 8.21, Figure 8.22). Given the state of affairs on the Crimean Peninsula and the strength of the Armed Forces, the Naval Force's main efforts in 2009 concentrated on raising the combat strength of the coastal defence forces and their structural reorganization.

Similarly to the other types of Armed Forces, the implementation of the State Programme by the Naval Force was undermined by insufficient financial allocations for the modernization of armaments and military equipment. The military and political authorities are currently considering the procurement of second-hand vessels as one of the possible ways towards modernization. Yet, final agreement on this issue is yet to be reached.

Apart from this, the activities of the Naval Force are complicated by the presence of the Russian Black Sea Fleet. In this regard, there are issues that must be resolved on the international level, including:
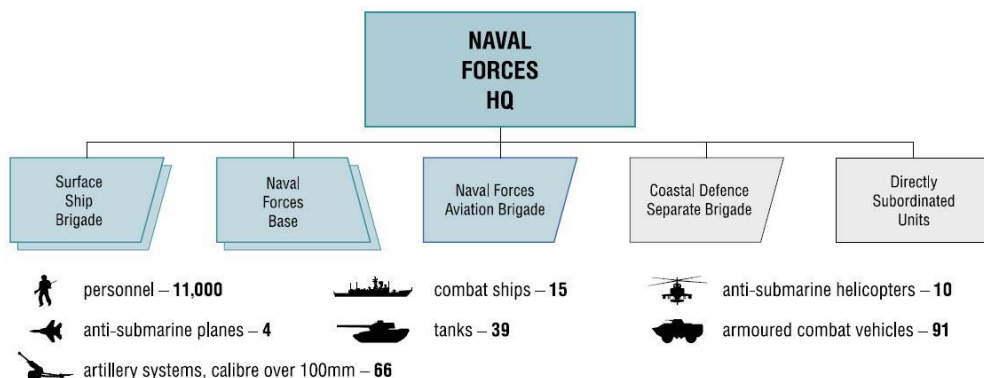
NAVAL FORCES HQ

Surface Ship Brigade

Naval Forces Base

Naval Forces Aviation Brigade

Coastal Defence Separate Brigade

Directly Subordinated Units

personnel — **11,000**

combat ships — **15**

anti-submarine helicopters — **10**

anti-submarine planes – **4**

tanks — **39**

armoured combat vehicles — **91**

artillery systems, calibre over 100mm – **66**

Figure 8.22: Projected Organisational Structure and Combat Strength of the Naval Forces at the End of 2011.

- The contradiction of the activities of Russian BSF with the requirements of the Law of Ukraine "On the Admission Procedure and Conditions of Stay of Units of the Armed Forces of Other States on the Territory of Ukraine";

- The disagreement between Ukraine and Russia on the rules of engagement of Russian BSF;

- The absence of specified procedures for the armaments replacement in Russian BSF; and

- The incomplete transfer of navigational installations and hydrographical facilities to Ukraine.

Conclusion

The transformation of international relations and cleavages over spheres of influence increase the risks of involving Ukraine in regional armed conflicts or confrontations with other states, as well as exposing it to the threat of terrorism. Therefore, the main task of the Armed Forces is to ensure a high level of mobilization and combat capabilities, a capacity to contribute to confidence-building measures and to participate in peacekeeping, peace enforcement and antiterrorist operations.

The future direction of Ukrainian foreign policy with regards to European and Euro-Atlantic integration is an indispensable precondition for the effective development of the country's Armed Forces. It is generally agreed that the Euro-Atlantic Armed Forces' model is the most appropriate one to meet the current conditions. The implementation of such a model could bring Ukraine's Armed Forces in line with European standards, capable of protecting national sovereignty and territorial integrity and making a considerable contribution to peace and stability in the region.

Despite the difficulties associated with the development of its Armed Forces, Ukraine's military and political authorities have effectively preserved the basis and core of the Armed Forces. Irrespective of the limited financial allocations, the Armed Forces continue to fulfil the measures necessary to support a sufficient level of combat strength and capabilities. Substantial changes have been made to balance the structure and strength of the Armed Forces, introducing modern military command and control standards and adapting the army to new security challenges.

At the same time, new security challenges call for further reform of the national armed forces and closer cooperation within the Euro-Atlantic security architecture. The Armed Forces should be developed in a way that will assure its ability to deal with threats and challenges in the future. The reform process should guarantee that the qualitative and quantitative characteristics of the Armed Forces meet universal conditions. Furthermore, recent events point to the fact that the question of NATO membership will be postponed until the overwhelming majority of Ukrainian society supports accession. Since Ukraine has not been included in any military alliance, the country must be self-reliant in protecting the sovereignty and territorial integrity of the state. Thus, it is necessary to revise previously adopted long-term and medium term programs, development plans and decisions on the structure and strength of the Armed Forces. According to the Minister of Defence, "Ukraine's progress towards NATO membership appears to be very slow. At the same time, the increased informational and economic pressure exercised by Russia radically changes the military-political situation around Ukraine. All these factors point to the need to revise the strength of the Armed Forces and rely not on the collective defence system, but on our own capabilities in the medium term."[41]

Therefore, it is expected that the structure and strength of the Armed Forces, as well its direction and future development, will be revised based on the results of the Defence review,[42] which commenced is 2008 and will be completed in late 2009.

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[41] Yuriy Yekhanurov, "Voenna Bezpeka Ukrainy: Problem ta Napryamu Zmicnennya," *Nacionalna Bezpeka: Ukrainskyj Vymir* 1-2 (Kyiv: National Security and Defense Council of Ukraine, National Institute of International Security Problems, 2008): 20–21.

[42] Presidential Decree No.598/2008 of 27 June 2008, "Pro Rishennya Rady Natsionalnoyi Bezpeky i Oborony Ukrainy vid 30 Travnya 2008 Roku 'Pro provedennya Oboronnogo Oglyadu.'"

Chapter 9

Further Ways to Reform Law Enforcement Agencies in Ukraine

Lara Kryvoruchko

The problem of law enforcement reform, a vital part of Ukraine's national security, is an old and complex issue that requires long-term solutions and the involvement of both state institutions and non-governmental organizations.

Reforms in Ukrainian law enforcement institutions started immediately after the country gained independence. At the beginning of the 1990s, the aim was to establish any institutional system able to ensure order and the security of society and to prevent the state from collapsing. This rash solution resulted in a system of law enforcement agencies that almost entirely replicated the Soviet model with overwhelming centralisation, militarisation, bureaucratisation and an authoritarian style of management.

One of the major weaknesses of the law enforcement system is the formal statistical indicator used to assess the efficiency of work. Such practice resulted in public mistrust and criticism from international experts because it forced the police force to fulfil monthly plans by any means, opening the way for torture, unauthorized detention of citizens, politicisation and corruption.

The need for reform of the country's law enforcement agencies was recognised by all major Ukrainian political powers and even became a Constitutional provision. Clause 9 of the Transitional Provisions[1] stipulated the creation of "the system of pre-trial investigation" by modifying functions of the Public Prosecutors Office and other law enforcement agencies. However, it has never been fulfilled. Amendments have only been made to Ukraine's Criminal Procedure legislation in order to comply with the provisions of the European Convention on Human Rights.

In 2000 the President established a Commission for Law Enforcement Reform, which eventually failed to make a significant imprint on the reform process. Thereafter, during the years 2005-07 two other commissions were assembled: The Joint Commission for the Reform of Law Enforcement Institutions and the National Commission for Strengthening Democracy and the Rule of Law. The commissions managed to develop two concepts of law

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[1] The Constitution of Ukraine, Chapter 15.

enforcement reform,[2] which were later approved by the National Security and Defence Council (NSDC). The Council itself had a special meeting on reforming the law enforcement agencies chaired by Ukraine's President, Victor Yushchenko.

In April 2007, the National Commission for Strengthening Democracy and the Rule of Law proposed a new concept of law enforcement reform. The concept projected to reform criminal law and its procedures, law enforcement agencies and the process of implementing court rulings. Changes were proposed to the Criminal Code, the Criminal Procedure Code and to a number of other laws ("On Public Prosecutors Office," "On Security Service of Ukraine," "On Police," etc.). In February 2008, the NSDC also examined the law enforcement reform process, providing its conclusions and recommendations in the Resolution on the Progress in Criminal Justice System Reform and Law Enforcement Reform.[3] Nevertheless, all proposed concepts failed to assess the essence of the law enforcement system, resulting in inefficient and chaotic attempts at reform.

The law enforcement reform process requires a well-considered, balanced approach. Therefore, the concepts and the practical steps of their implementation must be theoretically substantiated. If elements of the law enforcement reform process remain unclear, conceptual development must continue.

The changes in the social, political and others dimensions of the public sphere in Ukraine require adequate responses from the law enforcement system. However, Ukraine's law enforcement mechanisms remain inadequate to effectively address current trends and scales of organized crime. By deciding to join the European Union (EU), Ukraine took upon itself an obligation to change the role and functions of the law enforcement agencies and to bring them in line with the standards of the Council of Europe.[4] A detailed examination of the implementation of these obligations, conducted by the Monitoring Committee of the PACE,[5] discovered both positive and negative trends in the process and underlined positive achievements in law enforcement reform since 2004's "Orange Revolution."

Another important goal of the reform process is to establish the institutional and legal basis for effective control over the law enforcement agencies. Because the current legislation often causes duplication of their functions and tasks, the harmonisation of the legislation with the Constitution and norms of international law is of particular priority.

Before further steps are made in the reform process, all possible factors that may negatively influence the law enforcement system must be examined. At the NSDC meeting on 7 March 2006, which was dedicated to the reform of law enforcement institutions, the

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[2] *The Conceptual Framework of Law Enforcement Institutions Reform in Ukraine* and *The Concept of Public Policy in Criminal Justice and Law Enforcement in Ukraine*.

[3] Presidential Decree "On the Resolution of the National Security and Defence Council of Ukraine" (No.311/2008 of 15 February 2008), and the Presidential Decree "On the Progress in Criminal Justice System Reform and Law Enforcement Reform."

[4] Resolution of the Parliamentary Assembly of the Council of Europe No.190 of 26 September 1995.

[5] Resolution No.1466 (2005).

NSDC Secretary Anatoliy Kinah underlined the serious problems in Ukraine's law enforcement system.

Careful examination of the national legislation and international legal documents that were signed by Ukraine reveal that the state has a legal basis necessary for the democratic civilian control over the country's law enforcement institutions.

It is worth mentioning the main factors that influence law enforcement activities. The first factor is size of population. This variable not only determines the general demographic picture of the country, but also has an impact on law enforcement institutions, particularly on their number. The population of Ukraine has been significantly decreasing since 1993 and as of 1 May 2009 was 46.06 million people. This is 13.4% less than the highest ever population figures in the country's history (Figure 9.1). It can be logically deduced then that there is a correlation between size of population and the number of police officers in Ukraine. This problem is tied to human resource management in the Ministry of Internal Affairs. In recent years, the number of police officers was reduced by more than 1.5 times (if one considers understaffing, the cut will be even bigger). According to data provided by the Ministry of Internal Affairs in 2003, the number of understaffed positions increased from 15.5 thousand to 19.4 thousand (from which 7.3 thousand should be staffed by graduates from higher educational institutions) compared to 2002. This constitutes 3.9 thousand people or 20.2%. Moreover, according to the recent resolution of the Cabinet of Ministers (№ 1036 of 26 November 2008) police officers numbers were not likely to increase in 2009.

Law enforcement institutions in Ukraine need to undergo substantial structural reform. Systemic problems exist due to protectionism in human resource management, widespread careerism and opportunism, bureaucratisation, political interferences and the weakness of democratic civilian control over the country's law enforcement agencies.

Without a doubt, an approach that stresses a change in human resource management is not sufficient. The dismissal of senior staff and recruitment of new staff would only lead to the deterioration of law enforcement activities in Ukraine. In the last four to five years it has become common practice that an appointment of a new General Prosecutor, Minister
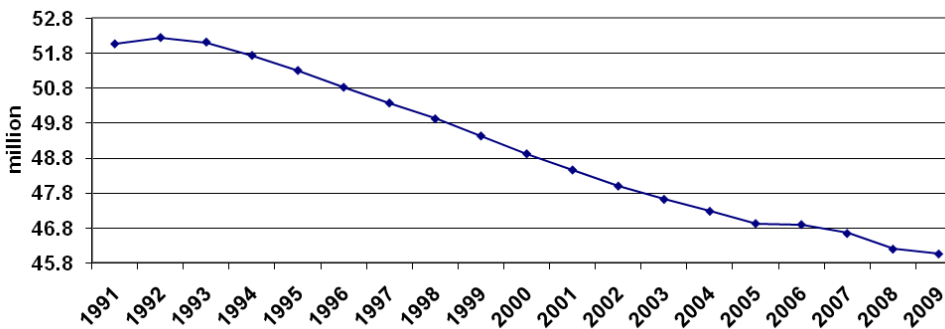

Figure 9.1: Population of Ukraine.

of Internal Affairs or Director of State Tax Inspection is followed by a massive replacement of personnel. Cabinet changes extend to all deputy directors of central offices, directors of regional branches, offices and departments on local levels. Dismissals at different levels should be guided by the principle of merit. Most of the proposed or implemented administrative novelties do not facilitate the law enforcement reform process. As a result, citizens constantly appeal to authorities with complaints of illegal actions or inactions taken by law enforcement officers; their roughness, tactlessness and disrespect for human rights. Some even ask for protection from law enforcement officers.

The number of officers in the Ministry of Internal Affairs should not depend only on population numbers, but also on the territory of Ukraine. The personnel issue is a burden and in need of an expedient solution. This complex problem will not however be studied in this article.

Another fundamental consideration when thinking about perspectives on the law enforcement reform process is the global economic crisis. Unfortunately, the impact of the crises in Ukraine has been more severe than in other European countries. It has damaged the economic sector and caused a rise of inflation, unemployment and a slowdown of GDP growth. From a law enforcement perspective, the crisis has led to social turmoil, a rise in crime by 15 % in the first half of 2009, a reduction in the financing of law enforcement agencies, and a deterioration of material and technical supplies.

Another effect of the economic crisis is the growing social tension in law enforcement agencies. Service conditions for police officers are worsening and this poses is a serious threat to the changes in the Ministry of Internal Affairs. It has a critical influence in the fight against crime, although recent data does indicate a crime rate decrease over the last few years (Figure 9.2).

At this stage there is a need to carry out a substantial analysis of the state of crime in Ukraine in order to define further ways of reforming the country's law enforcement agencies. Key indicators of law enforcement activities have a positive dynamic, although it is necessary to consider any trends and alterations in this sphere. First and foremost, it is essential to take into account negative trends, their causes, elements, and further develop-
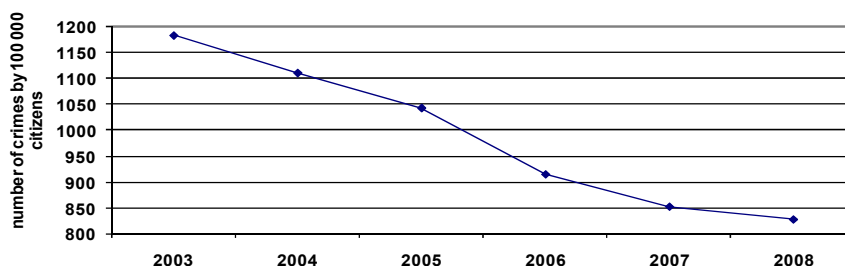

Figure 9.2: The Crime Rate in Ukraine in Recent Years.

ment in order to improve the situation. For this reason, it is necessary to apply a systemic approach to aggregating data, analysis, assessments and calculations. Conceptual changes in the law enforcement system are impossible without the appraisal of world trends, as well as tendencies in Ukraine, its law enforcement institutions, and its criminal world. Negative crime trends in Ukraine can be seen in Figure 9.3 – Figure 9.7.

One of the central trends, illustrated here, is an increase of crime in the information and banking spheres. There is also a growth in the number of crimes, which often involve law enforcement officers (kidnapping, organization of criminal groups). These dangerous manifestations show "professional growth" in the criminal world. The criminal world is constantly advancing and changing in a social, economical, psychological and technical sense. The results of opinion polls conducted among police officers show that 90 % of them believe that the criminal world is better equipped than Ukraine's law enforcement agencies. Hence, law enforcement institutions are unable to adequately counter the intense growth of organized crime.
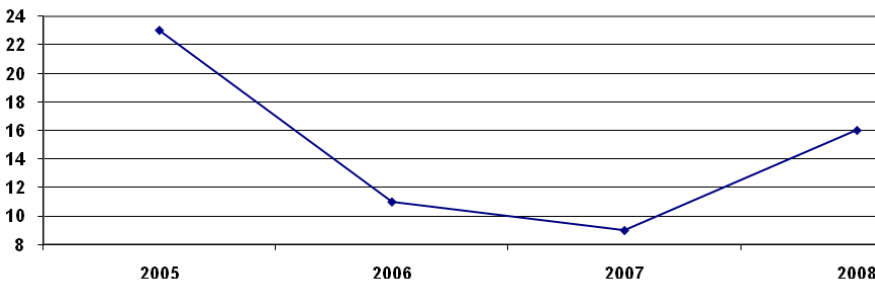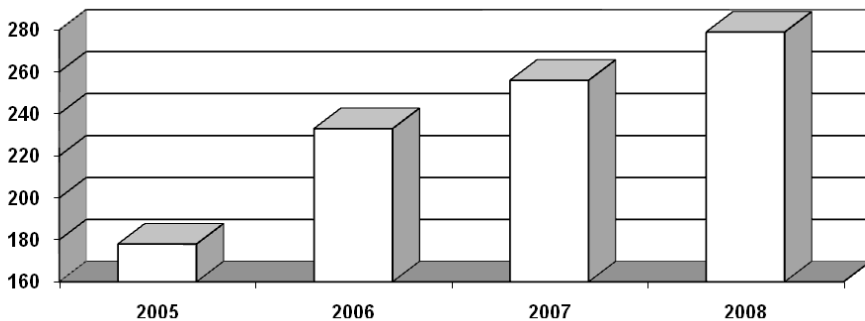

Figure 9.3: Creation of a Criminal Organization.

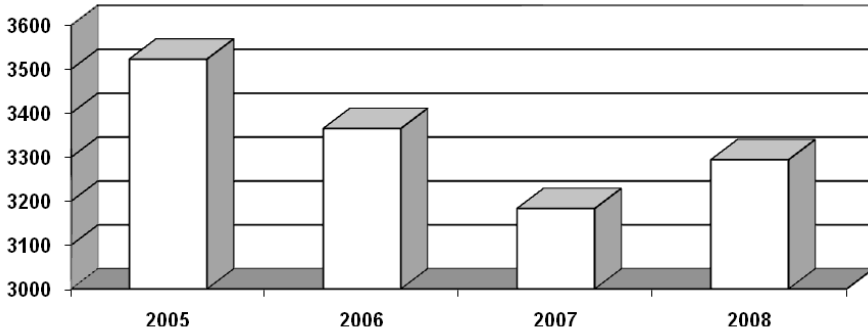**Figure 9.4: Unlawful Imprisonment or Kidnapping.**

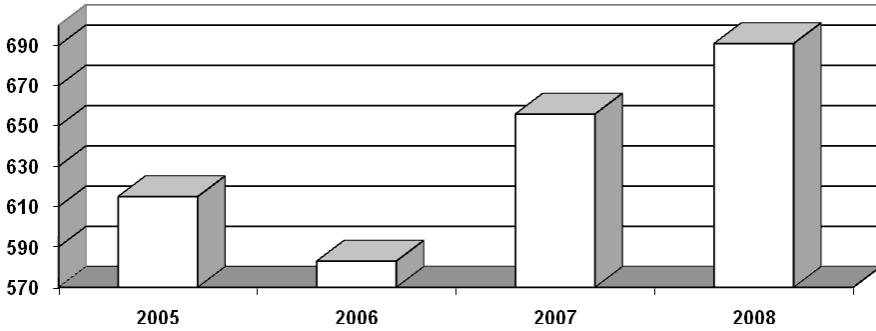**Figure 9.5: Crimes Committed in the Banking Sphere.**

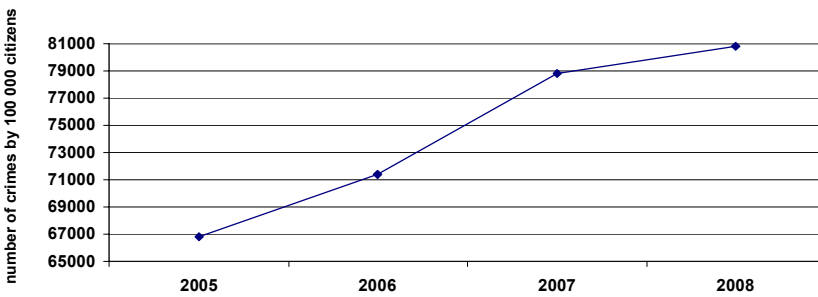**Figure 9.6: Crimes Committed in the Area of Advanced Information Technologies.**

Figure 9.7: Rate of Misdemeanour per 100 Thousands of Population.

At the same time, Figure 9.7 illustrates an annual growth of misdemeanours caused by the shift of priorities in Ukraine's law enforcement activities. In recent years the chiefs of law enforcement agencies have stressed the importance of high-profile cases, such as combating criminal groups and large-scale economic crimes. Thus, the police have shifted their attention to these cases and neglected pettier crimes.

Therefore, further steps in the reform process should define ways to prioritise law enforcement activities so that every policeman follows clear "guidelines." During a press conference for two parliament members – Svyatoslav Oliynyk and Vasyl Grycak, in 2008 a draft law and resolution on law enforcement reform were presented. The draft resolution set the following priorities for Ukraine's law enforcement agencies:

1. Protection of fundamental human rights;
2. Legal use of budgetary expenditures;
3. Elimination of corruption;
4. Protection of the local communities' property rights;
5. Protection of labour rights.

Nevertheless, more fundamental and systemic problems need to be addressed. Firstly, law enforcement agencies are not clearly defined. Article 2 of the Law of Ukraine "On State Protection of Court and Law Enforcement Personnel" provides a very general list of law enforcement institutions. Law enforcement agencies are perceived as those that protect citizens' rights, liberties and interests on a regular basis. However, since law enforcement is a very broad concept, there are a great number of ministries and departments with overlapping tasks. This problem is an obvious legacy of Soviet times which can be easily addressed by adopting a law that would provide a clear division of functions among the aforementioned actors.

The main objectives of the law enforcement reform process are:

- To provide sufficient staffing;
- To analyse all issues that hinder law enforcement activities;
- To define key priorities;
- To assess the results of previous reform attempts;
- To establish a proper legislative basis;
- To provide a clear separation of functions among law enforcement agencies; and
- To build a law enforcement system that meets European standards.

The evaluation of law enforcement effectiveness should be based not only on rates of crime disclosure, but should also consider officer workloads and public opinion on certain aspects of law enforcement activities.

Table 9.1: Level of Trust in Public Institutions in 2002 (international survey)**.**

Institutions	The level of trust (%)
Armed Forces	69
Nongovernmental organizations	59
Education system	62
UN	55
Religious institutions	57
Police	57
Health system	57
World Trade Organization	44
Government	50
Press/ media	49
Trade unions/ labour	47
World Bank	43
Legal system	47
International Monetary Fund	39
Global companies	39
Large national companies	42
Parliament	38

Another problem that needs to be addressed is the low level of public trust in law enforcement agencies. The level of trust in Ukraine's public institutions is a crucial element of the government's legitimacy. The Ministry of Internal Affairs adopted a Police Positive Image Programme for 2003-07, which focused on the need for reform. Moreover, this need is widely acknowledged by law enforcement personnel.

The level of trust in state institutions is also an indicator of their effectiveness. The more effective they are, the higher the public trust. Therefore, public opinion polls are the best method to evaluate the efficiency of law enforcement agencies. Sociology does not only play a monitoring function, but also an evaluation role and makes recommendations concerning certain phenomena.

The level of trust that citizens have in police is rather high across the world. Public opinion polls carried out in the EU usually illustrate a high level of trust in security sector institutions, foremost the armed forces and the police. Public trust in the police in the countries of Western and Northern Europe can be explained by its effectiveness. Such opinion polls are carried out on a regular basis. For instance, at the 2003 World Economic Forum in Davos, Switzerland, the Gallup International Association (US) presented the results of

their public opinion survey "Voice of the People," which had been carried out in 2002. During the poll 36,000 respondents from 47 countries were interviewed. The results illustrated that police were trusted by 57% of the population.

Independent surveys are widely employed in the United States and Europe. For example, the evaluation system that was introduced in Russia six years ago monitors law enforcement efficiency by assessing, among others, statistical results on the level of public trust. Authorities of the Polish police also pay special attention to sociological surveys, which are carried out by independent organizations.

A number of independent international sociological organizations regularly monitor the level of trust in the police. The most well-known project in the EU is the "Eurobarometer," a sociological survey which has been conducted twice a year since 1972, and the annual "Candidate countries Eurobarometer" which was launched in 2001.

According to the Eurobarometer, trust in the police in candidate countries is significantly lower (42%) than in the EU member states (65%). In Malta, 70% of the population trusted the police, Turkey – 69%, Cyprus – 58%, Hungary – 54%, Estonia – 47%, Bulgaria – 45%, Poland – 43%, Romania – 40%, Slovenia – 37%, Czech Republic – 35%, Latvia – 34%, Slovakia – 32%, and Lithuania – 31%. The new Eurobarometer project (1998-2001) included three Baltic countries, four former countries of the Soviet Union and nine countries with transition economies. According to the results of this project, only 20% of the population trusted the police in Belarus, 31% – Bulgaria, 19% – Estonia, 27% – Latvia, 26% – Lithuania, 24% – Moldova, 36% – Poland, 13% - Russia, 24% - Romania, 24% – Serbia, 21% – Slovakia, 30% – Slovenia, 29% – Hungary, 17% – Ukraine, 47% – Croatia, and 40% Czech Republic. The survey average illustrated that only 27% of the population in these countries trusted the police. The most recent Eurobarometer results illustrate that the army and police enjoy the highest level of trust among EU citizens with the police force supported by over 60% of respondents.

Generally, Ukrainian authorities face a very low level of trust. Nevertheless, the police (*militsiya*) are more trusted than the Verkhovna Rada and the President. The sociological survey "Electoral Intentions of Ukrainian Constituency," conducted by the Razumkov Centre in April–May 2004, showed that the police received 3.62 points out of 10. Similar scales (where 0 means total distrust and 10 – total confidence) were used in the 2005 European Social Survey, which showed the following results: average index of trust in police in Finland was 8.0, Denmark – 7.9, Iceland – 7.3, Norway – 7.1, Switzerland – 6.9, Ireland – 6.6, Germany – 6.5, Luxembourg – 6.5, Sweden – 6.5, Austria – 6.2, UK – 6.1, Netherlands – 6.0, Greece – 6.0, Spain – 5.9, Belgium – 5.8, Estonia – 5.7, France – 5.6, Hungary – 5.2, Portugal – 5.1, Slovenia – 4.7, Poland – 4.6, Slovakia – 4.3, Czech Republic – 4.2, and Ukraine – 3.3 (with average level of 5.9).

The level of trust in public institutions in Ukraine, including the police, is subject to investigation by research institutes such as Institute of Sociology (National Academy of Sciences /NAS/ of Ukraine), the Centre for Social and Marketing Research, and the Centre for Sociological and Political Research and Technologies. Surveys by the Ukrainian Institute

for Sociological Research and the Centre for Social Monitoring showed that in December 2004 the level of trust in the police was 39% (General Prosecution Office – 38%, Security Service of Ukraine – 42%), in March 2005 – 38% (General Prosecution Office and Security Service of Ukraine, accordingly, 36% and 48%), in May 2005 – 36% (General Prosecution Office – 36%, Security Service of Ukraine – 45%), in August-September 2005 – 38% (General Prosecution Office – 34%, Security Service of Ukraine – 44%). According to data from the Institute of Sociology – NAS, 10-14% of the population trusted the police during the period 1994–2005. In December 2007, the Ukrainian government and public institutions faced their lowest level of trust expressed by the public. The least trusted were Ukraine's law enforcement institutions: police (negative balance is -38%), courts (-37%), General Prosecution Office (-30%). The Constitutional Court was also mostly distrusted (-22%). Verkhovna Rada, the President, local authorities and the government had somewhat better results at 19%, 17%, 15% and 14% respectively.

The public's trust in the police in general is linked to trust in its individual services. Analysis of the link between public trust in law enforcement agencies and trust in police investigators, police patrol service, the criminal investigation department, the state traffic inspection department, and district police officers shows that the Pearson product-moment correlation coefficient in all cases equalled 0,6. It shows that citizens do not distinguish between the different services of the Ministry of Internal Affairs. Their negative perception of the most often encountered services (namely, the police patrol service and the state traffic inspection department) extends to all other departments. The surveys also reveal that the social and demographic characteristics of the respondents usually do not affect their trust in police services. Respondents who have contacted separate police services usually express a lower level of trust compared to the overall results. Trust in the different police services is represented in Table 9.2, where (-1) is "absence of trust" and (+1) is "total trust."

Table 9.2: The Level of Trust in the Ministry of Internal Affairs.

Departments of the Ministry of Internal Affairs	Index of trust
Police patrol service	-0.37
State traffic inspection department	-0.35
Inquiry department	-0.12
Criminal investigation department	+0.02
District police officers	+0.07

Respondents who have experienced radical changes in their personal lives, especially residents from the former Soviet Union, usually evaluate the activity of law enforcement agencies as very poor. The reason why trust in the police is low is deeply rooted in history, as many people associate the police with repression. They perceive the law enforcement

system as a mechanism of tyranny and a tool that the authorities use to exercise pressure on their economic competitors and political opponents. More than 20% of businessmen believe that the Ukrainian authorities create difficulties for their business. The analysis of the Institute of Sociology shows that public trust in the police relates to the fact that law enforcement personnel were themselves often involved in unlawful acts.

According to Ukrainian public opinion surveys, the police have always been the least trusted institution in the country. However, these results typically do not reflect assessments of particular activities. In addition to public opinion polls any evaluation of Ukraine's law enforcement agencies should include an analysis of the crime disclosure statistics and qualitative assessment of crime counteraction across the country.

The level of trust in public institutions is often associated with, and depends on, the level of its corruption. Corruption among law enforcement officers is a source of indignation. State authorities and the Ministry of Internal Affairs have frequently discussed these issues. A public opinion survey on the perception of corruption was conducted within the project "Voice of the People." Respondents were asked to choose the most corrupt institutions. The results showed that almost one third (29.7 per cent) of the respondents would like to get rid of corruption in the political sphere, 13.7% in the courts, 11.5% in the police force, 8.4% in the health care system, 7.5% in the education system, 7% in business licensing, 5.2% in taxation institutions, 4.2% in customs departments, 4.1% in municipal system (telephone service, etc.), 3.3% in immigration services, and 3.1% in the private sector.

Of particular interest is the link between the level of trust and stereotypes about the police. Table 9.3 indicates the differences between police and other professional groups. The scale used in the questionnaires: (-1) – "difference in a positive sense," (+1) – "difference in a negative sense."

It is impossible to completely eliminate corruption, but it is possible to create a situation where the appetite for corruption is substantially reduced. It is also necessary to change the relationship between society and the state, which could be accomplished by removing the state's monopoly of the decision making process in the sphere of security and defence.

Table 9.3: The Link between Levels of Trust and the Image of the Ministry of Internal Affairs in the Public Consciousness.

Criteria that distinguish policemen from other professional groups	Level of trust		
	Low	Average	High
Level of corruption	-0.49	-0.2	-0.04
Level of aggressiveness	-0.45	-0.27	+0.04
Level of safety at work	-0.17	-0.17	-0.27
Connections with criminal world	-0.19	-0.03	+0.06
Level of alcohol consumption	-0.19	+0.11	+0.17
Living standards	+0.16	+0.1	-0.09

The law enforcement reform process should include:

- Transformation in law enforcement institutions – from repressive and persecutory mechanisms into agents working for the protection of citizens' rights;

- Restoration of perception where law enforcement institutions are seen as the main remedial institutions of the state; and

- Elimination or at least a substantial decrease in the level of corruption.

The lack of an established image of law enforcement institutions has both positive and negative aspects. Positive aspects include the possibility of constructing a favourable and suitable police image. On the other hand, perceptions of law enforcement institutions have been very controversial in nature.

There are ways to raise public trust: law enforcement institutions could work more effectively in the sphere of public order and crime detection. They could increase the public's knowledge of their activities, and provide collective safety and safe conditions at home; they could also strengthen their partnership with the public. The media should also participate in this process and report on the day-to-day work of the police. Nowadays the media gives too much attention to sensationalism which heightens fear among various social strata.

A positive public campaign on the activities of the Ministry of Internal Affairs and improvements in the prestige and professionalism of the police have received significant attention. "Your district police officer" action was carried out jointly with "Workers daily" with the purpose of improving the image of the police. Briefings, press conferences and round-tables, all with the assistance of the Ministry's main and regional departments, contributed heavily to this image revamp. Photo materials displayed on billboards in populated areas strengthened the effectiveness of the campaign. In this sense, police authority is influenced not only by its professional activity, but also by the culture of individual police officers.

Finally, we will examine the professional education system and the scientific basis of law-enforcement reform. The educational level of every specialist has a direct influence on the results of their professional work, as well as on people's attitude towards them. The current state of professional educational development is characterized by the strengthening of scientific research on law enforcement activity, the presence of established connections between national and foreign scientific educational institutions, the creation of various new schools of thought, and an increase in the quantity and quality of researchers who contribute to the resolution of theoretical and practical problems of the Ministry of Internal Affairs. Nowadays, the educational system in the Ministry includes 12 high schools.

It is very easy to change certain policies or normative documents, but altering the culture of law enforcement institutions is a much harder task. At this point, the question arises whether or not society acknowledges the decisions made by the Ministry and their consequences. Furthermore, the process of reforms directed towards those unfamiliar with open political culture, or those indifferent or hostile to such reforms, is extremely difficult. There-

fore, the formation of a critical mass of new professionals is necessary, so they can advocate such reform with the understanding of why reform is necessary.

Despite the extensive educational network, the present state of scientific institutions and high schools in the law enforcement system requires strengthened coordination between scientific and technical activities to effectively address crime, provide social and state safety, and eliminate the non-rational use of the scientific potential.

The educational system of law enforcement institutions has not changed either. The introduction of the Bologna process into high schools has only raised new questions. The Ministry of Internal Affairs' high school system is the main lever of reform. Every year young professionals upon finishing high schools proceed to national departments, city departments, and district divisions of the police to carry out their service. They should appreciate the need for reform and be equipped with the means to achieve it. We must bear in mind that those who serve in law enforcement institutions do not differ from ordinary citizens. Taking into account the subject of this article, we can state that the main aim of educational activities within the Ministry is to prepare police officers for future reform. However, it is hard to understand why there have been cuts to education time, the number of disciplines and training.

Attitudes towards the scientific aspect of the reform process were reflected in the Act of Cabinet of Ministers "On adoption of the concept for reforming scientific activities in the law enforcement system" (No.649 of 16 November 2002). The main goal of the process is to improve the efficiency of the scientific potential which, in turn, should result in the proper functioning of the law enforcement system. Introducing an effective coordination system of scientific activities and creating appropriate conditions for the practical application of scientific research must take place before this goal can be achieved. Therefore, the problem of reforming scientific and technical activities within the law enforcement system is very complex and multidimensional.

The results of scientific research should be publicly discussed on a regular basis. The National Institute of International Security Problems together with the Parliamentary Committee on Legal Support of Law-Enforcement Activities, National Security and Defence Committee, and the Geneva Centre for the Democratic Control of Armed Forces have organized several roundtables and conferences on security sector reform. The decisions of the Ministry of Internal Affairs and the concepts and strategies developed by the National Security and Defence Council should be presented in the media and discussed widely in scientific and expert communities.

The reform process should cover all levels of law enforcement activity. It must be a complex and systematic process, involving various mechanisms and instruments. One such instrument is cooperation with expert communities, as well as the active participation of society. It can be described as democratic civil control over law enforcement activities by citizens and civil society organizations.

We proceed from the fact that today, science in law enforcement institutions (Ministry of Internal Affairs, Security Service of Ukraine, the General Prosecution Office, and State Tax

Administration of Ukraine), should not just be professional in nature, but also represent an integral part of the whole science, which can only be realized with the involvement of the high school system and scientific institutions.

We determined the main aims of reforming law enforcement activities in the sphere of professional education and scientific activity as:

- Defining the main concept of the reform process;
- Developing new forms, principles, and methods;
- Combining scientific results with practical activities;
- Analysing the normative base; and
- Training of future law enforcement officers.

The need for law enforcement reform is widely acknowledged. Many people share the idea that law enforcement reform is a precondition for any other reform process in Ukraine. Further requirements should be met in order to make the reform process productive, such as the following:

- Scientific approach to the reform process;
- Correspondence of reforms to the requirements of Ukrainian, European and international legislation;
- Consequences of the reform process should be subordinate to the general purpose, which must be apparent and understandable to the public;
- Reforms of law enforcement institutions should be coordinated and integrated with departmental plans and programs; and
- Adequate financial, material and technical support of the reform process.

Other law enforcement reform methods depend on many factors, both internal and external. The means, principles and methods of reforms require adjustments to the current conditions in Ukraine and the world. Our society needs to make fundamental changes, especially in the law enforcement sphere. The life, health, rights and freedoms of citizens must be protected by professional and educated and reputable police officers. Scientific and research projects alike provide opportunities to examine all parts of the process and determine further ways to reform law enforcement agencies in Ukraine.

Chapter 10
"Paramilitary" Structures in Ukraine
Leonid Polyakov

Introduction

The Soviet Union left to Ukraine remnants of its three major security institutions: the Ministry of Defence, Ministry of Internal Affairs and Committee on State Security (KGB). In contrast to some other post-communist countries, which disbanded Soviet institutions, Ukraine decided to build its own security sector by utilising Soviet heritage. During the years of independence, each of these endured a rather similar evolution that was characterised by a separation of numerous components and slow demilitarisation.

There were no problems associated with the separation of the Civil Defence Troops and the Railway Troops from the Ministry of Defence and their subordination to the Ministry of Emergency and the Ministry of Transport accordingly. Both formations having apolitical internal security functions today are either completely transformed similar to the former Civil Defence Troops (demilitarised and professionalised), or about to be transformed like the Railway Troops (currently the State Special Transport Service[1]).

But transformations of the former Internal Troops of the Ministry of Internal Affairs and many parts of the former KGB, which utilised numerous functions of control over the population, including the elite and the military, appeared to be much slower and still capable of provoking cultural tensions and political conflicts.

Structurally, the security sector of a modern democratic country normally also consists of three major components: Defence, Intelligence and Law Enforcement. However, in modern Ukraine, the margins between these components are blurred and retain more elements of Soviet heritage than what is satisfactory for a democratic state. The continuous political struggle for control over internal security structures, and the remnants of a militarised Soviet culture have contributed to a delay in Ukraine's security sector reform process.

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[1] This paramilitary structure is not discussed in this study because today there is practically no reason to keep the State Special Transport Service militarised or even to consider it as a security structure. The service is gradually downsizing from its current strength of about 8,000 and its transformation into a civilian one, like the former Civil Defence Troops, is only a matter of time. There are also a few in kind security structures in Ukraine like the Tax Police, Prison Guards and Customs Service, which have either none, or very distant relation to "paramilitary" structures and, as such, are not analysed in this study.

The key components of Ukraine's security sector, which require greater attention if EU and NATO membership are desired, are "military formations."

In Ukraine and other CIS countries (Belarus, Kazakhstan and Russia), the Armed Forces and "other military formations" are defined within the "Military Organisation of the State."[2] However, these "other formations" normally have a dual nature: while tasked with some defence supporting functions, legally their primary role is law enforcement (or intelligence).

While neighbours to the West, former Warsaw Pact and now NATO members have already transformed similar structures, Ukraine still has a fair distance to travel, i.e., to complete its transformation according to acceptable democratic standards. This concerns primarily the Internal Troops of the Ministry of Internal Affairs, State Department of Border Service, Directorate of State Protection (VIP security), and others.

The phenomenon of Ukraine's "paramilitary structures" is that they are, in essence, neither "military" nor "civilian." In 2008, and for the foreseeable future, their transformation reflects a mixture of "first generation reforms" (with an emphasis on restructuring and re-subordination) and "second generation reforms" (with an emphasis on the consolidation of internal structures and procedural improvements). At the same time, in some countries the term "paramilitary" evokes thoughts about either unlawful militias or private protection/security structures. However, many official sources, including DCAF publications, also substantiate that "paramilitary" is something "other than military," but very similar to the military. Some formal security structures can also be termed as "paramilitary structures" accordingly. Such terms have been chosen to emphasise the specific Ukrainian phenomena, when there are Armed Forces of Ukraine and eight other formal security structures (civilian police not included), whereby personnel are officially the same as the military with uniforms, ranks and social benefits almost equivalent to those in the military. In the context of this study, the more familiar term "paramilitary structures" stresses their *underreformed* and *overmilitarised* nature, and highlights the need for their transformation.

This study reviews one of the most burning practical problems affecting current security sector reform efforts in Ukraine, that is the status of the country's paramilitary structures against the background of three assessment tracks:

- The political context;
- The security context; and
- International best practice.

Considerations are based on the premise that the successful transformation of Ukraine's paramilitary structures:

- Develops under the influence of a combination of the political environment and institutional cultures;

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2   In Ukraine, the term "military formations" is formalised in the Constitution, and the term "military organisation" – in the legislature.

- Is the key for success in consolidating democracy in Ukraine;

- Is servicing national security interests; and

- Is meeting criteria for membership in the EU and NATO.

The scope of the study is limited to paramilitary structures, many of which have not yet completed the "first generation reforms." Their place and role in the country's political-security agenda is still contradictory. As such, despite the continuing existence of the military-like rank structure of the civilian police (*militsiya*) in the Ministry of Internal Affairs, it is not the subject of this study.

Ukraine has already demonstrated that it can transform its Armed Forces from splinters of the former Soviet Army to democratically controlled, interoperable national Armed Forces. But the legacy of the past remains in the under-reformed intelligence, security and law enforcement bodies, in particular, the paramilitary structures. If the country is serious in its intention to join NATO and the EU, there is no choice but to reform its security sector and adopt the best practices of these alliances.

Stachetti, First Counsellor of the French Embassy to Ukraine H. Michel Fantou, France's Internal Security Attaché to Ukraine Michel Gerber, and France's Defence Attaché to Ukraine Alexis Willer.

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Political Context

Distribution of Powers

In 1991, Ukraine inherited from the former Soviet Union the Constitution of Ukraine's Soviet Socialist Republic (1978 edition). Amendments to the post of the President of Ukraine in the mid-1990s meant that the country's political system gained a presidential-parliamentary quality which was initially marked by a rather even distribution of powers in the security sector between the President and Verkhovna Rada (the Parliament).

The Parliament had the right to approve, following nomination by the President, posts such as the Prime Minister, Minister of Defence, Minister of Interior, Head of the Customs Committee, and the Commanders of the Border Guards and the National Guard (loose equivalent of the military gendarmerie). It also possessed the sole authority to appoint the Head of Security Service of Ukraine (former KGB) and Procurator General.

The President became the Head of State, the Head of National Security Council and Supreme Commander-in-Chief of the Armed Forces, while the Cabinet played a technical, supportive role. Political parties were unstable and lacked experience in the democratic security process. The media was also inexperienced and civil society almost non-existent. Cultures of democratic governance in the country were close to absent.

The problematic distribution of the security authority in the early 1990s contributed to the country's overall political instability, which was exacerbated by financial crises, separatist movements in Crimea, growing criminality, etc. To complicate the internal situation, there were hot ethnic conflicts in areas adjacent to Ukraine in Transdnistria, Abkhazia and Chechnya, as well as complicating claims to Ukraine from its neighbours.

Such political developments logically produced a demand for an authority capable of upholding the sovereignty and stability of the state. The adoption of the 1996 Constitution of Ukraine created a presidential republic by giving the President enormous powers. The President received direct executive control over the Government, all its ministries and other structures, including security, the authority to appoint all leadership positions and approve the regulations for their functioning. The Parliament retained the basic legislative function to adopt laws and budgets, and to approve the states of emergency and war declared by the President. However, it almost lost its function to control the Armed Forces and related security structures.

The country secured its sovereignty. Yet for the next two four-year presidential terms Ukraine enjoyed little stability. Unbalanced presidential powers in turn led to corruption,

abuses and distortions culminating at the end of 2004 in the events of the "Orange Revolution," when different security structures became involved in the political process. However, public discussion on the issue of political reform was significant even prior to the Orange Revolution.

During the "Orange Revolution" political compromise was reached to adopt amendments to the Constitution in order to give the Parliament and the Government more powers at the expense of the President. The Parliament regained the authority to appoint upon nomination by the President such posts as the Minister of Defence, the Head of Security Service and the Procurator General. It also received the sole authority to appoint the Minister of Internal Affairs. However, the powers of the Parliament to control the personnel policies and operational activities of Ukraine's security structures, rather than to control their budgetary expenditures, remained weak.

The powers of the Cabinet to control security structures and appoint their leadership (deputy ministers and heads of separate committees and departments) noticeably increased, while powers left to the President were still significant. The President remained the Head of the National Security and Defence Council and Supreme Commander-in-Chief of the Armed Forces. The President still had the right to appoint the military leadership of the Armed Forces, Internal Troops, Foreign Intelligence Service, Border Service, Directorate of State Protection, as well as the deputies of the Head of Security Service, etc., along with powers to award, bestow ranks and inspect.

The 2004 Constitutional amendments could have further stabilised the country's development, particularly if there had been a more stable overall political culture. Moreover, from the governance standpoint the amendment process was hasty and incomplete, failing to align the chapters of the Constitution with key amendments and appropriately harmonise the mechanism of state governance. This has led to a *de-facto* diarchy (dual powers) between the President and the Prime Minister. Strong national competition between a pro-Western "democratic" political spectrum on the one hand and pro-Russian leftist parties together with the south-eastern regions based on the Party of Regions on the other hand, has also contributed to political instability.

In 2008, the fight over the distribution of political powers dominated the agenda with another round of discussions over constitutional amendments underway.

Political Parties

The notion of removing from the Constitution the leading role played by the Communist Party came naturally in the wake of Ukraine's independence thus ending the one party monopoly of control over Ukraine's security structures. Moreover, for a short period of time the Communist Party of Ukraine was forbidden, while many former communists became socialists or ardent national democrats.

The spectrum of political parties at that time could be divided into post-communist (heritage of the Soviet past) and radical/democratic nationalist (movement for independence). The absence of a market economy and civil society conditioned the absence of lib-

eral or social democratic parties. In general, in the early 1990s, political parties and the population at large were concerned about security issues, but primarily in terms of defence policy (building the nation's military, denuclearisation, the potentially destabilising effects of relations with Russia, etc.) rather than policies in the areas of law-enforcement or intelligence.

The relative stability of the "Kuchma era" in the period from 1994 until 2004 and the unruly privatisation processes associated with it, economic hardships and coercive use of law-enforcement structures against political opponents, contributed to a decrease in the attention given to defence in favour of economic and social justice issues. The influence of ideological parties earlier created decreased against the background of the proliferation of populist and liberal-centrist big capital connected parties, whose primary agenda was to win the lucrative sittings in Parliament, which was perceived to be equal to gaining access to the lobbyist and wealth distribution processes.[3] The additional benefit of being present in Parliament was political publicity and, even more important for the opposition, parliamentary immunity, which allowed corruption and misconduct to be openly revealed without direct threat of being subjected to coercion or prosecution.

The particular political phenomenon of this period was the so called "party of power." The party, or the block of parties loyal to the President and serving as a political base for the presidential initiatives in Parliament and the Government had evident priority in the influence on the law-enforcement structures. This became very evident during the second term of Leonid Kuchma's presidency (1999-2004), when leadership of the pro-presidential bloc "For United Ukraine" and some pro-presidential parties became involved in both political and business competition accompanied by a series of abuses involving law-enforcement structures.

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[3] See: "Ukraine's Future and U.S. Interests" by Anders Aslund, Director of the Russian and Eurasian Program at the Carnegie Endowment for International Peace. Testimony before the Subcommittee on Europe Committee on International Relations, US House of Representatives: "The three most important oligarchic groups are regional: the Donetsk group, the Dnepropetrovsk group and the Surkis-Medvedchuk group in Kyiv. These groups are both economic and political. At present, the strongest group by far is the Donetsk group. Its leader is Rinat Akhmetov, a businessman who owns System Capital Management, Ukraine's biggest corporation, focusing on metallurgy. Its parliamentary faction, the Regions, has some 65 members out of a total of 450. The second most important group is the Dnepropetrovsk group, whose business leader is Viktor Pinchuk, who owns the metallurgical company Interpipe. Its party, Labor Ukraine, has about 40 parliamentarians and is led by the Chairman of the National Bank, Serhiy Tyhypko. Pinchuk owns three TV channels. The Kyiv businessman Hryhoriy Surkis and President Kuchma's chief of staff Viktor Medvedchuk form the third group, which is much more state-oriented. Unlike the other groups, it has not developed normal private enterprises as yet. Medvedchuk controls the three biggest TV channels, and *he plays a great role in law enforcement*. Their United Social Democratic Party comprises some 40 parliamentarians. President Leonid Kuchma rules by playing off these and other less important oligarchic groups against one another," 12 May 2004, www.carnegieendowment.org/publications/index.cfm?fa=view&id=1533&prog=zru.

After the "Orange Revolution", the basic traits of Ukrainian political parties did not change much. They were great in number (numbering over 120) and populist. Though slowly turning to ideological platforms, they are mostly led by charismatic leaders.

However, significant changes did occur in the political landscape: parties' competition became rather civilised, opposition parties enjoyed a much more permissive environment due to greater freedom of the press and declining involvement of law-enforcement in political and economic competition. Security issues received greater attention in public discussion. This time not only defence issues appeared to be popular (military professionalisation and NATO membership), but also discussion over judicial reform and further democratising police and other law-enforcement agencies became active.

Role of Civil Society

Ukraine's civil society was no less important and, at times, a much more important actor than political parties in the security arena. Civil society actors include non-governmental organisations, the media, academia, and other entities.[4] In Ukraine, civil society became not just an intermediary between Government and society, but with time it developed into a true locomotive of democratic progress, which played an important role in the success of the "Orange Revolution." As a result of the revolution, the most active contributors of civil society have been given the most important positions in the Cabinet of Ministers, Ministry of Defence, Ministry of Foreign Affairs, etc.

Several factors contributed to the important role of civil society organisations in Ukraine's politics. First, the vast pool of intellectuals left research institutions during the economic crisis of the 1990s and moved into public organisations. Second, over time, many retired officers, bureaucrats and politicians joined already existing public organisations or established their own organisations as platforms for promoting their interests and ambitions.[5] Third, Ukraine is a country of hundreds of universities and colleges with a natural pool of active youth. Fourth, Ukrainian civil society enjoyed strong support from the democratic "West," which facilitated experience, knowledge and financial assistance. Fifth, the EU, the OSCE, NATO and various grant giving funds and organisations unequivocally encouraged the role of civil society in promoting transparency, accountability, professionalism, responsibility and other good governance democratic values. Finally, Ukrainian leg-

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[4] For more details see: Leonid Polyakov, "Defence and Security-Focused Think Tanks in Ukraine," in *Civil Society and the Security Sector: Concepts and Practices in New Democracies*, ed. Marina Caparini, Philipp Fluri, and Ferenc Molnar (Berlin: LIT VERLAG, DCAF, 2006).

[5] One particular example is worth mentioning – the Union of Ukrainian Officers. In the early 1990s, this patriotic organisation made great efforts to influence the transformation processes in different elements of the former Soviet Army, former KGB and the Ministry of Internal Affairs stationed on the territory of Ukraine.

islature, which regulates the activity of civil society, commencing with the Constitution[6] and moving on to several Laws[7] is permissive and supportive.

Of course, before the revolution there were many instances of censorship, coercion and even murder of opposition activists and journalists. It was also true that before the revolution many public organisations activists resorted to self-censorship in order to avoid excessive consequences. This resulted in a situation where civil society's influence over less sensitive defence reform appeared to be much more noticeable when compared with reform of the law enforcement structures of the Ministry of Internal Affairs and the Security Service. As British scholar James Sherr noted in 2002: "In recent years, NGO research on the Armed Forces and defence sector has become bolder, better and more respected by the armed services themselves. One would be hard put to find *any* critical analysis, let alone an equivalent standard of analysis of the MVD [Interior Ministry], SBU [Security Service] or State Tax Administration."[8]

Few journalists or researches dared to touch the sensitive issues of procurators and police abuse, weapons trade, high-level corruption, unlawful eavesdropping, etc. However, those who were courageous enough were not few in number. As a result, authorities often had to listen and demonstrate a "positive" attitude.

Naturally, after the "Orange Revolution," civil society's interest in the previously closed subject of law-enforcement structural reform strengthened. Public discussions of authorities' actions in this domain became immediate, regular and meaningful, which gives hope that the transformations necessary to complete security sector reform in line with the requirements of democratic society will come sooner, rather than later.

Security Context

Soviet Heritage and the Developments of the 1990s

In terms of security culture, Ukraine inherited the Soviet Union's over-militarised totalitarian one-party based system of control, which had two basic pillars of control over its potential challengers (the military and the population). The first component was political officers (*zampolity*) and KGB special military counterintelligence departments (*osobisty*), which provided effective control over the loyalty of personnel both in the military and in the paramilitary structures. The second component was political counterintelligence, "Troops of Governmental Communication" and Border Guards all under the auspices of the KGB and

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6   The Constitution of Ukraine in Article 36 guarantees to the citizens of Ukraine the freedom to unite into public organizations for the protection of their rights and freedoms and satisfaction of their political, economic, social, cultural and other interests.

7   The Laws "On Unions of Citizens," "On Information," "On Democratic Civilian Control of the Military Organisation and Law-enforcement Bodies of the State."

8   James Sherr, "Security, Democracy and 'Civil Democratic Control' of Armed Forces in Ukraine," in *Ukrainian Foreign and Security Policy: Theoretical and Comparative Perspectives*, ed. Jennifer D.P.Moroney, Taras Kuzio, and Mikhail Molchanov (Westport, CT: Praeger, 2002), 105.

the Internal Troops of the Ministry of Internal Affairs. These together were responsible for maintaining the "iron curtain" to the outside world and for precluding political unrest.

In geographical terms Ukraine inherited an internationally recognised border only in its West (with Poland, Slovakia, Hungary and Romania) and in the South (maritime – Black Sea cost), while in the North with Belarus, in the East with Russia, and in the south-west with Moldova the border was on paper only (so-called "administrative border").

At the same time, in terms of numbers in 1991, Ukraine hosted the second strategic echelon of the Warsaw Pact's Western theatre of operation: five Ground Armies, one Army Corps, four Air Armies, one Air Defence Army, the Black Sea Fleet, one Rocket Army, 21 divisions (infantry, tank, artillery), three airborne brigades, and a bulk of support units which along with other military formations comprised around one million troops in total – in addition to the 780 000 troops in the Armed Forces Ukraine inherited 130,000 troops under the Ministry of Internal Affairs, Border Troops. There were 6,500 battle tanks, more than 7,000 armoured combat vehicles, 1,500 combat aircraft, 270 attack helicopters; 350 combat ships and support vessels. Ukraine also inherited the world's third-largest nuclear arsenal with 220 strategic weapon carriers, including 176 land-based ICBMs, and 44 strategic bombers, as well as 2,500 tactical nuclear weapons. Under the SALT-1 Treaty, the summary potential of this strategic force was estimated at 1,944 nuclear charges. The ICBMs were armed with separable nuclear warheads targeted at the United States equal to about 150 Hiroshima bombs each, and every bomber carried long-range cruise missiles.[9]

An additional important factor was the status of subordination of all security structures. Ukraine had no Ministry of Defence and no General Staff of the Armed Forces. The existing military and border guard districts were directly subordinate to Moscow. The authority of the republican Ministry of Foreign Affairs, Ministry of Internal Affairs and the KGB were very limited, given their subordinate status (within the Soviet Union).

In view of the above and due to the absence of the prior fundamentals of statehood, the first immediate transformation efforts made by an independent Ukrainian Parliament during the volatile months at the end of 1991 were conditioned by the consideration of securing sovereignty rather than democracy. First of all, in October 1991, the Border Troops of Ukraine were established (by re-subordinating the former Border Troops components of KGB) in order to place Ukraine's borders under republican control. Then, in November 1991, the National Guard was established on the basis of the former Internal Troops of the Ministry of Internal Affairs. This structure, which at first was subordinated to the Parliament, had the mission of balancing the presence of Soviet troops in case those refused to recognise Ukrainian sovereignty. Political control of *zampolits* evaporated naturally after abrogating Communist Party "leadership."

After these initial steps, the next significant developments in the security area were the elimination of the Ukrainian part of the former Soviet nuclear potential, the division of the Black See Fleet between Ukraine and Russia and a reduction in Ukraine's Armed Forces.

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9   See: Alyson J.K. Bailes, Olexiy Melnyk, and Ian Anthony, "Relics of Cold War. Europe's Challenge, Ukraine's Experience," SIPRI Policy Paper No.6 (Stockholm: SIPRI/BICC, 2003).

Without a strong understanding of democratic security cultures and caught between strains of continuous economic crises and political struggle, Ukraine basically tried to rebuild Soviet replicas in its national security structures.

Growing levels of criminality, separatism in Crimea and the impracticality of the National Guard in providing everyday support to public order precipitated a reconstitution of the Internal Troops of the Ministry of Internal Affairs. The National Guard was moved under the control of the President and later disbanded (in 2000) in favour of the earlier restored Internal Troops. The only other visible structural transformation of the 1990s was separation from the Security Service of the former 9th directorate of the KGB responsible for VIP security and creation on that basis of the separate Directorate of State Protection which was directly subordinate to the President.

In the period after 2002, when Ukraine declared its intention to join NATO, reforming the security sector was not among the main priorities in the internal political struggle. Attention was concentrated on maintaining control over the security structures. Economic competition contributed to corruption and growing criminality among the police and procurators. Permanent distrust and sometimes hostility between the Parliament and the President, as well as harassment of opposition were characterised by the periodic involvement of law-enforcement structures—criminal police, tax police, and political counterintelligence—in political competition.

Overall in the 1990s, conditions did not favour democratic reform. Law-enforcement structures were concerned with economic and political issues. In terms of parliamentary control, a lack of transparency, reform and trust prevailed, while "military formations"—the Armed Forces, National Guard/Internal Troops, Civil Defence Troops of the Ministry of Emergency and Border Guards—were often left in isolation to develop concepts and programmes without much concern for higher authorities or realistic hopes to acquire the resources needed to implement their "paper" plans and programmes.

The 2004 "Orange Revolution" – the Years before and after …

As opposed to the decade of the 1990s, high-profile developments marked the turn of the 21st century, culminating in the "Orange Revolution" at the end of 2004.

Several striking events took place both in and outside of Ukraine, which indicated the need for intensive security sector reform.

In 2000, Ukraine was shaken by the "cassette scandal" which exposed the unpleasant and rather criminal managerial habits of the President, the leadership of the Security Service, Ministry of Internal Affairs and other security officials, and implicated them in the death of opposition journalist Georgiy Gongadze.

In September 2001, the terrorist attacks in New York and Washington DC illuminated the global unpreparedness of security structures to fight the threat of terrorism. This year also brought to Ukraine clashes between the Ukrainian police and the anti-presidential opposition supporters of "Ukraine without Kuchma."

2002 was marked by American accusations against Ukrainian arms dealers in the illegal sale of "Kolchuga" passive radar systems to Iraq. Though unproven, these accusations shed a negative light on the Security Service in relation to its lack of adherence to the end-user certification.

In 2003, internal politics was marred by numerous cases of tax police harassment of businesses associated with the opposition. This year was also marked by a stand-off between the Ukrainian Border Guards and Russian builders of the dam from the Russian Black Sea coast in the direction of Tuzla, which is a Ukrainian island.

2004 brought many cases of interference in the presidential elections by the Security Service and the police in the form of various provocations, unlawful arrests, obstructions of movement, as well as harassment cover-ups against the opposition presidential candidate and his supporters. The most infamous events occurred during the months before and after the first two rounds of voting. In early September, opposition candidate Viktor Yushchenko was poisoned under suspicious circumstances. At the end of November, Ukraine narrowly avoided clashes between the Internal Troops and demonstrators on the main city square of Kyiv – Maidan Nezalezhnosti (Independence Square). It is noteworthy that there was a real possibility that personnel of the Armed Forces and the Security Service would have stood together with protestors against the Internal Troops.

It is also important to note that despite the active involvement of law enforcement structures in politics during this period, certain reform attempts, albeit rather superficial, were effective. These were mainly achieved in less politically sensitive areas such as the Border Guards (new status as law-enforcement Border Service was declared) and Foreign Intelligence (where the first practical steps were made to separate it from the Security Service).

After the revolution, the main transformations mostly took place inside the security structures. These changes were not very visible to outsiders and were directed primarily towards increasing the effectiveness of anti-criminal, antiterrorist and other traditional law-enforcement functions.

Ukraine's security structures only became publicly visible in April-May 2007 when the President dismissed the Parliament and, at one time, a special police unit occupied the office of the Procurator General and pushed away personnel of the Directorate of State Protection. This occasion forced the President to initiate direct subordination of Internal Troops to the President and to strengthen VIP security arrangements.

A new and positive development, in contrast to the events of the country's pre-Revolutionary years, was that Ukraine managed to conduct two consecutive parliamentary elections in 2006 and 2007 without the noticeable involvement of the country's law-enforcement structures in the political process.

Internal Troops

The issue of the subordination and performance of Ukraine's Internal Troops is one of the most contentious both in terms of internal politics and the security sector.

The Internal Troops of the Ministry of Internal Affairs of Ukraine (*Vnutrishni Viys'ka MVS Ukrayiny*) is a uniformed paramilitary gendarmerie like force. They are generally used to deal with large-scale riots, terrorism and to re-enforce the police (*militsiya*), as well as to safeguard important facilities such as nuclear power plants and foreign embassies. They also have important missions during a state of emergency and war. The Internal Troops of Ukraine have a centralised system of military ranks and are organised by the territorial principle into military-like units (battalions and regiments).

Initial Transformations

The Internal Troops of the former USSR, which Ukraine inherited in 1991, to a significant extent were descendents of Soviet security culture. They were created during the interwar period as "NKVD troops" and played a prominent role in political repressions, mass deportations, guarding GULAG labour camps, etc. During World War II, NKVD troops maintained order in the rear, served as barrier troops against desertions and fought insurgencies on Soviet territory. Periodically these troops had to participate in real combat and they sustained heavy losses.

By 1991, Ukrainian Internal Troops, as well as the other Soviet republics' Internal Troop components, were still important parts of the Soviet system of population control and were directed to be rear guards of the Soviet Army in case of war. However, there was an important distinction in Ukraine. The era of Internal Troops fighting the Ukrainian insurgency (Ukrainian Insurgency Army – *UPA*) in the 1940-50s was long gone. In the years prior to the break up of the Soviet Union, Ukraine's Internal Troops were never engaged in anti-protest action, like other republics' units in Tbilisi in 1989, Baku in 1990, or Vilnius in 1991. Their legacy by 1991 was rather different – they took an active part in the liquidation of the aftermath of the 1986 Chernobyl nuclear power station disaster, where its personnel displayed courage and sustained losses due to radiation exposure.

In addition to the missions of the Soviet Internal Troops, written in the legislature, there was an alleged, unwritten concept which was designed to use them as a possible counter-weight to the military, for which units of division size existed in the Internal Troops organisational structure. This supposed function, in view of the unclear attitude towards independence on the part of the Soviet Armed Forces located on Ukrainian territory, was put into practice by the Ukrainian Government, which in October 1991 submitted to the Verkhovna Rada draft Law "On the National Guard of Ukraine."

On 4 November 1992, the Ukrainian Parliament adopted this legislature, which stipulated that the National Guard of Ukraine "is a national armed structure, created on the basis of Internal Troops with a mission of defending the sovereignty of Ukraine, its territorial integrity, as well as the life and personal dignity of citizens, their constitutional rights and freedoms from criminal and other antisocial acts."

The main responsibilities of the National Guard were:

- Defence of the constitutional order of Ukraine, integrity of its territory from attempts to change them by force;

- Participation in the implementation of a state of emergency in accordance with Ukrainian law;

- Participation in clearing the aftermath of accidents, catastrophes and natural disasters;

- Formation of units for security and defence of important state objects in the pre-war period;

- Support to Border Troops in the seizure of the state border of Ukraine violators by units located in border areas;

- Participation in combat actions to repel aggression and defend Ukraine;

- Security of foreign diplomatic and consular offices on the territory of Ukraine; and

- Participation in the maintenance of law and order.

According to the law, the newly created paramilitary structure was subordinated to Ukraine's Parliament.

Despite the consequent pressure from Moscow and virtual cessation of all funding from outside, Ukraine continued to implement practical steps towards the creation of the National Guard until the process of establishing a new independent Ukrainian state became irreversible in December 1991.

It is important to note, that in comparison to the previous traditional internal functions of the former Internal Troops, the Law "On the National Guard of Ukraine" added an important external function natural for the Armed Forces – territorial defence, while leaving to the Ministry of Internal Affairs missions such as prison security and the peacetime security of important state objects.

While the law only mentions Internal Troops as the backbone of the newly created National Guard, in accordance with the separate regulation of the Verkhovna Rada "On the procedures of the manning, material-technical and financial support of the National Guard of Ukraine" almost from the beginning it incorporated a former KGB division stationed in Chuguyiv, Kharkiv region. This regulation provided for the use as building blocks for the National Guard not only former Internal Troops, but also military units of the KGB and the Soviet Army, including those transferred to Ukraine from abroad for further disbandment.[10]

The initial period of transformation for the Internal Troops ended in March 1992 with the formal designation of missions left to the Ministry of Internal Affairs such as prison security and peacetime security of important state objects in the Law "On troops of internal and prison security (*viys'ka vnutrishnioyi ta konvoynoyi ohorony*)." The law provided for the creation of a reduced version of the former Internal Troops of the Ministry of Internal Affairs – the Troops of Internal and Prison Security. However, with time they would serve as a basis for the reconstitution of the Internal Troops.

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[10] See: Article 22, Regulation of the Verkhovna Rada of Ukraine No.1776-XII, 4 November 1991 (with amendments made in 1992 and 1993).

Parallel Existence

After almost all troops stationed on Ukrainian territory, except for the part of the Black Sea Fleet, swore an oath to Ukraine (and assumed their natural obligation to defend the sovereignty and territorial integrity of the country), the National Guard's duty to defend territory had become rather symbolic. Nonetheless, this structure still had a role to play, for instance, as a deterrent against pro-Russian separatist attempts or against mass protests by Crimean Tartars, both in Crimea. Consequently, the National Guard in Crimea had incorporated the 10th special purpose regiment "Kobra" and special purpose battalion "Lavanda" trained to act in mountainous terrain.

In general, the major factors influencing the development of the National Guard tended to move it closer towards a military-like, rather than a police-like structure. The National Guard was supposed first and foremost to defend a constitutional order, so it was clear that the threat to this order could come not from criminal gangs but rather from large armed resistance or mass disorder. The typical National Guard unit was culturally very similar to the regular motorised infantry unit, which was trained as a motorised infantry as well as in crowd control techniques.

In the first half of 1990s, the weak and corrupt regular police could not cope with growing criminality or even curtail street crime. At the same time, a lack of coordination in the organisation and training of the police and the National Guard impeded effective joint action to provide for order and stability on the streets. In addition to these problems, the need to re-establish anti-terrorist capabilities significantly weakened during the initial transformations.

Within a few years after the disbanding of the Internal Troops, it became clear that in the name of providing security for the new state the Parliament had created an imbalance in the security sector by forcibly overloading the military, such as the National Guard and by weakening the law-enforcement sector. Thus, the concept prevailed that certain functions should rather be left to the Ministry of Internal Affairs. In 1994-95, several units about 10,000 strong were transferred from the National Guard back to the Troops of Internal and Prison Security of the Ministry of Internal Affairs. A special antiterrorist unit in the ministry was also established.

These reverse movements culminated in October 1995, when the Law "On Troops of Internal and Prison Security" was amended to become the Law "On Internal Troops of the Ministry of Internal Affairs of Ukraine." In addition to the restoration of the name, the Law also added the function of participation in public order protection and in the struggle against criminality.

The 1996 Constitution made the President de-facto the top authority for all security structures, including the National Guard. By 1996, the National Guard had become an elite paramilitary structure 30,000 strong armed with field artillery, armoured personnel carriers and combat helicopters. It also had its special designation units such as the previously mentioned "Kobra," "Lavanda" and later created "Scorpion" and "Bars" (the latter is still located in Kyiv and its black uniformed personnel could be seen while providing external se-

curity during high-level visits to Ukraine, e.g. for the visit of former US President George W. Bush in March 2008).

However, over time, priorities of defending the constitutional order ceded to more traditional police activity. The situation in Crimea was still tense but becoming rather stable. In 1998, the Internal Troops transferred their prison security function to the newly created State Correction Department. By 1999, they similarly were over 30,000 strong and also had their special designation units like "Jaguar" and "Gepard." Consequently, discussions on the need to eliminate duplications and to make logical decisions to that end intensified.

The growing political weight of the Ministry of Internal Affairs and the evident need to eliminate overlaps between the Armed Forces, the National Guard and the Internal Troops contributed to the decision suggested by the President and approved by the Parliament in January 2000, to disband the National Guard and distribute its components between the Ministry of Defence and the Ministry of Internal Affairs.

Developments Leading up to "Orange Revolution"

In the period between the liquidation of the National Guard in 2000 and the Presidential elections of autumn 2004, the Interior Troops were concentrating on performing their core duties while amending their structure and functions.

At the end of November 2004, after the second severely falsified round of the Presidential elections, the Internal Troops were once again at the forefront of political events. A disgruntled population responded to the evident election fraud by massive protests, which later received the name "Orange Revolution."

The most visible protests were organised by supporters of opposition candidate Victor Yushchenko at the central square of Ukraine's capital – Maidan Nezalezhnosti. After two days of camping around Maidan, verbal protests and chanting slogans protesters moved to block main administrative buildings – the Cabinet of Ministers and the President's Office.

The massive scales of the protest (about one million in the capital Kyiv alone) and the bold yet non-violent behaviour of the protestors, evidently took the authorities by surprise. Within a few days of 21 November (the day of the second round) one third of all Ukrainian Internal Troops and special police units (over 10,000 in total) were concentrated in and around Kyiv to augment the law enforcement capability of the capital. One of the Deputy Procurator Generals ordered the Kyiv local police chief to restore public order and de-blockade official buildings. After consultations with the Security Service leadership, the police chief demanded a court decision for such actions. Moreover, on 28 November, after heated debates the National Security and Defence Council of Ukraine also refused to support violent measures.

When it became evident that Kyiv-based personnel from the local law-enforcement structures were not willing to use force against people on the streets, certain officials from the President's Office demanded the Commander of the Internal Troops General Sergiy Popkov to move additional forces to the capital to restore order. On the evening of 28 No-

vember, Popkov issued an order to move troops from the town of Vasylkiv (60km south of Kyiv) to Kyiv. However, in less than two hours Popkov cancelled the order.

The controversy surrounding these events is not easy to understand. Many different people from the Security Service, the Internal Troops, the Army, and even from veteran and patriotic organisations claim they played an important role in the prevention of clashes in the capital. Judging by the weight of all possible arguments on who and how those involved impeded a violent scenario from materialising, it appears that it was the leadership of Security Service (then headed by Igor Smeshko) and its military counterintelligence organisation (then headed by Vitaliy Romanchenko), who were decisive. Still, there were many brave and honest players in both the security structures and on the streets who attempted to stop the bloodshed.

Developments after "Orange Revolution"

Following Victor Yushchenko's entry into the Presidential office, the first changes with regard to the Internal Troops were made to its leadership. The President appointed a new minister – the young and energetic leader of the revolution Yuriy Lutsenko, who was a member of the Socialist Party's pro-democratic and anti-Kuchma wing. Lutsenko later split from the socialists and embarked on a rather independent political career. However, in early 2005, immediately following his appointment, he concentrated on his new responsibilities in the ministry.

Lutsenko accepted the resignation of the former notorious Commander of the Internal Troops Popkov and suggested to the President the candidacy of the general Oleksandr Kikhtenko, former Internal Troops Chief of Staff, who sided with the democrats during the revolution.

The new leadership in the ministry and the Internal Troops started two specific moves. First, they engaged large numbers of Internal Troops in anti-criminal operations in the Crimea, Donetsk and Trans-Carpathian regions. Second, they proposed new legislature aimed at democratising and demilitarising the Internal Troops.

While the involvement of Internal Troops into anti-criminal operations brought some positive results, overall in 2005 the attempts to push new legislature through the old Parliament failed.

In 2006, amendments to the Constitution of Ukraine, which gave more power to the Cabinet and the Parliament vis-à-vis the President in terms of control over the security sector, took force. There was still an attempt to launch overarching reforms of the overall internal security and law enforcement sector under the auspices of the National Security and Defence Council of Ukraine. However, the internal political instability which followed the election of the new Parliament in March 2006 continued throughout the year. It culminated in a return to power of the anti-Yushchenko Cabinet headed by Viktor Yanukovitch, the Parliament's dismissal of pro-presidential minister Yuriy Lutsenko and appointment of anti-presidential socialist Vasyl Tsushko. These developments also contributed to the stagnation of Internal Troop reform efforts in 2006.

Moreover, at the beginning of 2007, when tensions between the Cabinet and the Parliament on one side, and the President on the other, were perceived to be moving towards a serious standoff, certain parliamentarians voiced the belief that, in case of the President attempting to dismiss the Parliament, Internal Troops would obey only the ministerial orders and provide security for the Parliament and other administrative buildings in defiance of Presidential decisions.

Such provocative comments were immediately criticised by the heads of the Ministry of Defence and the Security Service. In March 2007, the Ministry of Internal Affairs (together with the Internal Troops) was considered a pro-Cabinet structure loyal to the anti-presidential coalition in the Parliament, while the Security Service and the Ministry of Defence were considered pro-presidential. The next round of involvement in internal politics by the Internal Troops thus started.

The new political development, which had shaken the country and its security sector, was the 2 April 2007 decision by the President to dismiss the Parliament and to announce early elections, which from the outset was severely resisted by his opponents. This resistance culminated in week-long events around the Office of the Procurator General.

On 24 May 2007, after the President despatched the newly appointed Viktor Shemchuk by Presidential Decree as a Procurator General to occupy his office, his predecessor Sviatoslav Piscun publicly denounced the legitimacy of this decision and received unexpected support from the Minister of Internal Affairs Vasyl Tsushko. The minister arrived personally with a detachment from the anti-organised crime special police unit "Berkut" and forcefully entered the building of the Procurator General's Office. Soon after, a group of anti-presidential parliamentarians abusing their immunity clashed with the guards of the Office of Procurator General (guards belonging to the elite Directorate of State Protection) and allowed the recently dismissed Sviatoslav Piskun to return to his personal office.

Whatever the assessment of the Presidential decision's legitimacy might have been on the part of Minister Tsushko and his supporters from the Parliament, their forceful and evidently illegitimate actions brought the country to the brink of violent clashes between different security structures. At a minimum, such an act created a very unfortunate precedent, which—if left unrestricted—could have led to violent scenarios with possible escalation to civil war.

To prevent such an escalation, the President issued a Decree on the re-subordination of the Internal Troops and ordered certain local units (about 3,600 in total) to move to Kyiv and take certain important state objects under control. Such an act might have been questionable from a pure legal point of view, but perhaps was justified on political grounds and, ultimately, it calmed the situation and meant that early elections could be held in September 2007.

However, after the elections, the President did not immediately cancel his Decree on the re-subordination of the Internal Troops, despite the fact that parliamentary elections were conducted in a free and democratic way. A democratic coalition was created, and by the end of 2007, the new coalition Government was sworn into office.

Instead, in January 2008, a new version of the draft law on the National Guard was submitted to the Parliament. This version's main difference from the 2005 version was that the Internal Troops should be permanently transferred from the Ministry of Internal Affairs to direct subordination under the President of the country.

However, judging by several factors, it was unlikely that this idea would materialise soon, if ever. The Committee of the Verkhovna Rada on National Security and Defence strongly opposed such an action on the grounds that such subordination would significantly reduce the possibility of parliamentary control over this paramilitary structure, which is armed with heavy equipment and has a law-enforcement function at the same time.[11] Moreover, many independent experts correctly pointed out that there is no such precedent in the democratic countries of Europe, where similar structures are subordinated to one of the Ministries—Interior, Defence of Justice—but not directly to the head of state.[12]

There were also opinions to look at the applicability of experience in Europe, which defies the mere existence of a structure like the Internal Troops and to suggest the possibility of their disbanding or the transferring of their functions to either the military or civilian police.

The Minister of Internal Affairs Yuriy Lutsenko, like many parliamentarians, was also unsupportive of the idea. Lutsenko supported a change of name from the Internal Troops to the National Guard, but argued that the structure should be kept within the ministry.[13] As a result of a strong opposition both in the Parliament and the Ministry of Internal Affairs, the President issued another decree, by which he cancelled the previous decision (Decree "On bringing the system of control over the Internal Troops into conformity with the Constitution of Ukraine") and restored the legitimate subordination of the Internal Troops to the Ministry of Internal Affairs.[14]

Border Guards

Ukraine has a long standing tradition of service to guard the frontiers. It would be fair to state that among all the institutions of Ukraine, the Border Guards (known as Border Troops until 2003) have the second richest national historical memory after the Armed Forces of Ukraine. Ukrainian historians have published a number of comprehensive studies not only on the nation's military tradition, but also on frontier guard duties.

Since 10th century, the frontier guards had existed on the territory of Ukraine in different forms. First fortified outposts of the medieval Slavic state Kyivan Rus and later frontier patrols and towers of Zaporizska Sich Cossacks were substituted in 19th century by the Rus-

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[11] See "The Guard: National or Presidential?" *Dzerkalo Tyzhnia* 2, 19-25 January 2008.

[12] See, for instance Taras Kuzio, "Time for a Change," *Ukrayinska Pravda*, 24 January 2008, www.pravda.com.ua.

[13] See Sergiy Rahmanin, "Yuriy Lutsenko: 'I will not resign. They will wait in vain,'" *Dzerkalo Tyzhnia* 10, 15-21 March 2008.

[14] See Decree by the President of Ukraine No.480/2008, 26 May 2008 "On cancellation of the Decree by the President of Ukraine No.474/2008, 25 May 2007."

sian imperial separate corpus of border guards. The latter were formally subordinated to the Ministry of Finance.

A short series of unsuccessful attempts to build Ukrainian national statehood from 1917-1920 had seen efforts to create a border guard service similar to the previous Russian one with the same structures and subordination to the Ministry of Finance. After 1922, when the Soviet regime consolidated its powers over Ukrainian territory, the border guards came under the supervision of the internal security service OGPU (Joint State Political Directorate, predecessor of the KGB). In the 1930s, they were subordinated to the NKVD (People's Commissariat of Internal Affairs) and from the 1950s put under the KGB once again.

By the time Ukraine had become a modern independent state in 1991, its national historical memory and traditions could have been traced only in individual spirit, rather than in institutional culture. By 1991, the Border Troops on Ukraine's territory were under the direct control of the KGB. They inherited all the traditions of the border guards from a militarised and totalitarian state.

Border Troops

After Ukraine proclaimed independence it had to organise the protection of the state borders, which were 6,992.982 km long (5,637.982 km of land and 1,355 km of sea border). The exclusive maritime zone amounted to 82,474 sq. km.

The Border Troops of Ukraine were formed exclusively from the approximately 17,000 personnel of the Soviet Border Troops of the KGB. The process was regulated by the Laws of Ukraine "On State Border of Ukraine," "On Border Troops of Ukraine" and "On Subordination of Border Troops of Ukraine" adopted in 1991. The troops formally swore an oath to the new state in January 1992.

The new legislature stipulated that the main tasks of the Border Troops were to protect the state border, supervise border control, prevent illegal traffic, carry out reconnaissance, search activity, 'take part in the struggle against organised criminality,' and to coordinate troops' activity with the corresponding law-enforcement bodies, connected with the state border protection. An initial strength level of 25,000 personnel was approved in early 1992.

Thus, from the start of their existence as a "military formation" of an independent country, the Border Troops became a separate structure subordinated to the President. This could have been explained by such factors as the urgency of the period and the evident need to separate them from the secret police (KGB) on one hand, and by the absence of a visible historical memory or clear understanding of the merits of their subordination to the Ministry of Internal Affairs as in most European countries.

It is also noteworthy that, initially, at least from 1991 until 1993, the Border Troops of Ukraine guarded the country primarily in the same way as in the time of the Soviet Union – from the West on land (except for the border with Moldova) and from the South on the Black Sea. The borders with Belarus and Russia were not regulated and existed on maps alone.

However, it did not take long to recognise that if the country wanted to maintain its sovereignty and effective control over its borders, additional efforts were needed. So, in 1993, decisions were taken to increase the numerical strength of the Border Troops and to add another 9,000 at the expense of the Armed Forces. By the end of 1993, another decision required that the Border Troops establish border control posts on the borders with Belarus and Russia.

In the late 1990s the Border Troops continued to develop their structures and legislative base, as well as to consolidate control over the border. Efforts to build a separate educational and logistical base, the intensification of border crossings, growing border crimes and other factors contributed to the decision in 1999 to further increase the numbers. This time the authorised total strength of the Border Troops amounted to 50,000.

The process of Border Troop development, supported also by the United States and by the countries of the EU, continued up until 2003, when the new legislature was adopted, which somewhat changed the name and status of this institution. The Border Troops became the State Border Service of Ukraine, and its status was legally changed from "military formation" to "special law-enforcement body." Ukraine's State Border Service received an entitlement of 50,000, which included 8,000 civilian employees.

Border Service

The new Service remained under dual control: it is subordinated to the President, who appoints and dismisses the Head of the Service (after nomination, submitted by the Prime Minister) and its top leadership (after nomination submitted by the Head of the Service), but also accountable to the Cabinet of Ministers on issues such as the provision of finances, supplies and pertinent regulations. The Service is also accountable to the Parliament on legislature and budgets. In accordance with the Laws "On Intelligence Activity in Ukraine" and "On Detective-Investigative Activity," the Border Service strengthened its intelligence functions.

The events of October 2003 and the tension between Ukraine and Russia over the Tuzla Island in the Kerchenskyi strait became a serious test for the newly transformed Border Guards. For several weeks, Ukraine prepared to protect its territory, while doing everything possible not to provoke additional tensions with its unpredictable neighbour. "Ukrainian guards will not apply arms in detaining offenders of the state border in this sector. Yet, it does not mean they will be just onlookers," the State Border Service said in a statement, adding that Ukrainian border guards will find other ways to discourage any possible Russian trespassers.[15] Still, a reinforced border guard unit was sent to the island and fortifications were constructed as well.

Fortunately, for both sides, Russians stopped before crossing the border, but the crises, among other things proved that the mission of defending the border was not yet ob-

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[15] See: "Ukrainian Border Guards on Alert as Russian Dam Project Approaches Completion," *RFE/RL* Poland, Belarus, and Ukraine Report, 14 October 2003.

solete. By the end of the year, a full-fledged Ukrainian border outpost was established on the island.

Following the crisis, the Border Service continued to function separately, though it was periodically rumoured that it would be subordinated to the Ministry of Internal Affairs. For instance, in 2003, under President Putin's decree, Russia's border service was brought back under the KGB's successor, the Federal Security Service.

Ukraine's Border Service's subordination was not as politicised an issue as for the Internal Troops, but still it had been sensitive in terms of the unity of anti-border-crime efforts. The approach of the Schengen regime to Ukraine's Western border raised the issue of border control to a critical level. In addition to the increased challenges to Ukraine in terms of bilateral co-operation with the country's Western neighbours on cross-border crime, there was a growing pressure on Ukraine's ability to meet EU standards, since the country had long declared its intention to become a member of the EU. This heightened Ukraine's need to co-operate effectively along its western border, but also to strengthen its eastern border and thus to shift the westernmost barrier against illegal migration, trafficking in humans and drugs, and cross-border crime.

Furthermore, in the context of European integration, discussions on the role and place of the Border Service continued and, by the end of 2007, i.e. the time of the formation of the second democratic coalition, there appeared to be two approaches to this issue. One point of view, naturally shared by the leadership of the Service, was to maintain the status quo at least until 2015 and devote major efforts to improving equipment, levels of professionalism and cooperation with other security structures. They were asking for the continued development of the Service in accordance with the highest European standards.[16]

At the same time, proponents of the Border Service's immediate subordination to the Ministry of Internal Affairs insisted that the separation of the police and border guards is fraught with a number of difficulties on issues such as problems in reaching agreement on and coordination of common actions and longer time for processing inquires, etc.

Indeed, many Ukrainian and foreign experts point to the desirability of moving in that direction. For instance, Andrus Öövel from DCAF states that, "Unlike EU member states, some countries' border protection is carried out by the armed forces. This is considered by the EU, in spite of progress achieved in general, as less desirable, as the field of internal security should be subordinate to the ministry of interior."[17]

The former special assistant to NATO Secretary General Christopher Donnelly's suggestion for the Russian case is quite applicable to Ukraine: "Whilst Russian security requirements may well demand more types of military forces than the European norm of

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[16] See interview of the Head of the State Border Service of Ukraine Mykola Lytvyn: "We will have the Border Service of such level, that Europeans will have to learn from us." As quoted by Tetiana Silina, *Dzerkalo Tyzhnia* 45, 24-30 November 2007.

[17] Andrus Öövel, "Recommendations on the Topic of Border Security Reform" (paper presented at the 6th Annual Conference of the PfP Consortium of Defence Academies and Security Studies Institutes, Berlin, 15-17 June 2003), www.pfpconsortium.org.

three [army, police and gendarmerie, to cover internal and external security and border regime] the current mix is costly and inefficient. Streamlining and rationalising this system will be basic to the success of military and security sector reform."[18]

The above arguments look generally correct and in January 2008 the draft Law of Ukraine "On Internal Affairs Bodies" was submitted to the Parliament by the First Deputy Chairman of the Committee for Struggle Against Organised Crime and Corruption of Verkhovna Rada of Ukraine Hennadiy Moskal (former First Deputy Minister of Internal Affairs). The draft Law stipulated the subordination of the State Border Service to the Ministry of Internal Affairs in the form of its component – the State Border Militia.

However, Ukrainian commentators were often somewhat sceptical about the timing of the move arguing that Ukraine's civilian policing agency has a reputation to be one of the most corrupt. So, the logic goes, all benefits of putting the less corrupt border guards and more corrupt police under one roof will be lost.[19]

Instead, it might be argued that a more flexible approach be chosen: to agree on the ultimate unification, but condition it in such a way, that unification brings real, rather than declarative benefits.

Heritage of KGB Militarised Intelligence

The republican KGB (KGB of Ukrainian Soviet Socialist Republic) structure that Ukraine inherited from the USSR was not suited to the new country's needs. It had been dominated by different types of counterintelligence and surveillance and included insignificant foreign intelligence and VIP security elements. There were also three KGB paramilitary structures subordinated directly to Moscow: Border Troops, Governmental Communications Troops and "military formations of the KGB."

The new Ukrainian authorities and the leadership of the new national security service named the Security Service of Ukraine (SBU) had to undertake three main tasks: establishing a national foreign intelligence institution; reconfiguring the existing political and military counterintelligence departments; and subordinating former KGB paramilitary structures. All three tasks were very complex.[20]

Foreign Intelligence

In terms of having the national security system in place for a new country, one of the greatest challenges appeared to be the building of an effective national foreign intelligence ser-

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[18] Christopher Donnelly, "The Basic Principles of the Organization of Modern Armies," CND[2002/179], 18 February 2003. See, also: James Greene and Christopher Donnelly, "The Basic Principles of Structuring Modern Armies – in the Context of Ukrainian Security & Defense Reform," *National Security & Defence* 7 (2003): 54–61.

[19] Oleg Shubin,"The Most Difficult Victory is the Victory over Yourself," *Dzerkalo Tyzhnia* 2, 19-25 January 2008.

[20] Gordon Bennett, "The SBU – the Security Service," *Central & Eastern Europe Series* (UK: Conflict Studies Research Centre, September 2004).

vice. At first, efforts were dominated by the influence of former counterintelligence officers with a KGB background, which generally could not envisage the service operating independently from the SBU. Unlike the Russian experience, where the foreign intelligence department was separated from the KGB as early as October 1991 and became the Service of Foreign Intelligence, Ukraine initially had to create the foundations of such a service. Lack of funds in the budget throughout the 1990s was also a very negative factor slowing down the development. However, with the appointment of the former military intelligence heads Oleksandr Skypalsky as SBU Deputy Head in 1997 and Igor Smeshko as the SBU Head in 2003, the idea of creating an independent national foreign intelligence service progressed.

After 10 years of development inside the SBU, when the country's leadership finally recognised the value of good intelligence and formulated its role in the national security system, the SBU intelligence component was elevated from directorate to department.

As far as the issue of publicity is concerned, little public attention in Ukraine was paid to its developments and operations. However, in February 2004, before the "Orange Revolution," the fugitive SBU foreign intelligence general Valeriy Kravchenko who was serving at that time as an advisor in the Embassy of Ukraine in Germany openly stated, that alleged foreign intelligence officers were receiving instructions on occasion to carry out surveillance of Ukrainian opposition figures and government officials on trips abroad.[21] The SBU insisted that the accusations were groundless.

A more publicised example took place in 2005, when the cargo ship *Panagia* with Ukrainian crew on board was captured by Somali pirates near the East African coast. Ukraine's foreign intelligence played some role in its liberation in cooperation with US and UK intelligence and a French military vessel. After this event, there were a number of similar instances of cooperation.

In 2005, the Parliament adopted the necessary legislature and the Service of Foreign Intelligence (Sluzhba Zovnishnioyi Rozvidky Ukrayiny – CZR) separated from SBU and became independent and subordinate to the President. The Service's personnel of about 5,000 formally retains the legal status of military servicemen, but in terms of substance this service is already rather stable and apart from the personnel's military status. There is evidently no other problem (at least no visible one) in terms of the country's democratic development and its efforts to integrate in the EU and NATO.[22]

In terms of democratic parliamentary control, Ukrainian SZR is also of a rather low profile. There are still issues of concern for parliamentarians, such as the legislative regulation

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[21] See: "Ukrainian Intelligence General Says Ukraine Intelligence Spying on Opposition, Ministers," *Korrespondent.net* (Kyiv, Ukraine, 18 February 2004, in Russian); *BBC Monitoring Service* (UK, 19 February 2004, in English).

[22] "Although many democratic states possess gendarmeries, the militarisation of the state's security functions, not to say emergency services and taxation, is alien to the liberal, democratic tradition." James Sherr, "Transforming the Security Sector: What are the Constraints? What Is Possible?" *National Security & Defence* 4 (2004).

of access to information, regulation of the authorisation of certain types of operations, and the political status of the Head of SZR, who is currently neither appointed by the Parliament, nor even discussed by the parliamentary Committee before the appointment is made by the President.[23]

National Counterintelligence

From the outset, observers did not fail to notice that Ukraine's new national counterintelligence service was too closely reminiscent of its predecessor, the KGB.[24] It took quite some time for the counterintelligence system to evolve from the heritage of its KGB predecessor in terms of transparency and internal culture, but evolution did occur. For instance, in 1998, before the Presidential election campaign, the SBU board openly declared its political impartiality. After this open demonstration, which hinted on the pressure to use the service illegally in political campaigns, the SBU Head Volodymyr Radchenko was relieved by President Leonid Kuchma, but the precedent of appropriate apolitical behaviour was set. Another important deviation from the old KGB tradition was achieved in February 2004, when Ukraine's President signed a Decree "On additional measures to further democratise society and step up civil control over the activity of law-enforcement and intelligence agencies of Ukraine." This act abolished a practice whereby security service agents were attached to government bodies. This ended a practice which dated back to the USSR.[25]

Assessing the 17 years of independent development, it can be said that the national counterintelligence system performed many successful operations in securing important economic interests of the state, decreasing separatism, safeguarding classified information, providing for antiterrorist security and developing cooperation with other nations' special services. Among the many publicised examples are the important role played by the SBU in securing an over $600 million contract to supply Ukrainian tanks T-80UD to Pakistan in the 1990s, the development of an Antiterrorist Centre, which now includes the effective antiterrorist unit "Alfa," etc. However, many accusations were made against the SBU in the past on its unlawful involvement in internal politics and shadow economic activity, and the cover up of an illegal arms trade. The SBU still needs to undergo a significant transformation and strengthening of the system of democratic oversight.

Today, the agenda of further transformation in general provides for the creation of a demilitarised special service without a law-enforcement capability. The duplication of re-

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[23] For a broad overview on Ukraine's intelligence structures, budgets and oversight see: Oleksii Petrov, "Political and Budgetary Oversight of the Ukrainian Intelligence Community: Processes, Problems and Prospects for Reform," Thesis (Monterey, CA: Naval Postgraduate School, September 2007), www.fas.org/irp/world/ukraine/petrov.pdf.

[24] See, for instance: Taras Kuzio, "The Security Service of Ukraine – A Transformed Ukrainian KGB?" *Jane's Intelligence Review* 5:3 (March 1993): 115–117.

[25] See: "Ukrainian President Abolishes Practice of Attaching Security Agents to Governmental Bodies," *Interfax-Ukraine* news agency (Kyiv, Ukraine, 18 February 2004, in Russian); *BBC Monitoring Service* (UK, 18 February 2004, in English).

sponsibilities between the SBU on one hand, and the Procurator's Office and Ministry of Internal Affairs on the other is already publicly recognised. So, the goal is to reform the SBU from likening it as a successor all-penetrating KGB to becoming a service which counters threats to national security in the counterintelligence sector.[26]

Overall, attempts to hold onto as many functions of the former KGB as possible proved to be costly and often confusing. According to the SBU Head Valentyn Nalyvaichenko the SBU "inherited the law-enforcement functions, which none of the world counterintelligence services perform – prejudicial inquiry and pre-trial placement."[27]

The former SBU Head Igor Smeshko provided a comprehensive explanation of the negative consequences of such a system and its dangers: "It should be normal for the special service to have no relation to investigative function and substitution of the law-enforcement institution. The experience of mature democracies proves that it is very dangerous to unite in one single structure such institutions as the special service having special authority on undercover penetration, the law-enforcement body, which can sanction arrest and in such a way limit the freedom of citizens, and the body of prejudicial inquiry, which conducts investigation (and has the possibility "to justify" the first two actions of the native agency). The danger comes from the temptation for the political leadership of the country to use such an "iron fist" in the narrow partisan interests to "sort out" relations with political opponents and to hold the power."[28] He also advocated the creation of a special board either under the Cabinet of Ministers or the National Security and Defence Council responsible for coordinating the activity of special services and law-enforcement bodies.

In order to meet the modern standards of a special service of a democratic country and to satisfy criteria for membership in the EU and NATO, the SBU in 2006-07 conducted a Security Review and, subsequently, developed a new concept, which suggests transformation in two stages. The first stage (2008-09) had to allow internal transformations and preparations, which did not require amendments to current legislature. During the second stage (after 2010), all radical changes in the structure and functions (including the service's demilitarisation) should occur.[29]

Such changes are certainly welcomed by the EU and NATO, but until these reforms take place, the perception will be that SBU remains a potentially repressive mechanism in the hands of its leadership and its mentors in the Secretariat of the President.[30] It is com-

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26 "During the meeting of the National Security and Defence Council it was noted, that SBU duplicates a number of functions…," "Decisions on Necessity," *Dzerkalo Tyzhnia* 9, 11-17 March 2007.

27 Pavel Vuets, "Nalyvaichenko Counterintelligence Officer," *Focus*, 28 March 2008, 27–29.

28 See interview: "Igor Smeshko: Reform of SBU and of all law-enforcement system of our state is objectively unavoidable," *Defense Express*, 3 September 2005, www.defense-ua.com.

29 "SBU Priorities in the MAP Context," *Dzerkalo Tyzhnia* 8, 1-7 March 2008, www.zn.ua.

30 "In the USSR the KGB and MVD functioned as instruments of administrative control over society. In post-totalitarian conditions, their successors are widely perceived as instruments of 'influence' and pressure. In themselves, those perceptions are enough to undermine the 'long-term' aspirations articulated in Ukraine's declaration (on NATO accession)…," James Sherr, "Edging Erratic-

mon knowledge that parliamentary control over the special services is very general and the Committee on National Security and Defence has no specific legal procedure developed to provide for regular oversight. It is also noted that the legislature governing the authority of SBU should be examined in the context of Euro-Atlantic standards.[31]

The SBU is subordinated to the President of Ukraine, but the Head is approved by the Parliament following nomination, which is submitted by the President. Formally, the democratic procedure of parliamentary oversight is confirmed in this case, but the reality of partisan politics make the appointment hostage to the distribution of votes in the Parliament and other politicised factors.

Among the specific transformations in the context of SBU reform many observers point out that military counterintelligence, which by its current nature as a totally "military" component of the law-enforcement structure, is very close to the substance of yet another individual paramilitary structure. Ukraine's national military counterintelligence structure, which is similar to its Soviet predecessor, the Third Main Directorate of KGB, is still subordinated to the Security Service, rather than to the Minister of Defence or to the General Staff, as it is common in NATO countries.[32]

The Main Directorate of Military Counterintelligence received its mission from the newly elected President of Ukraine in December 1991 in the Decree "On Counterintelligence Provision of Military Formations." The Directorate was responsible for controlling the Armed Forces of Ukraine and other "military formations" through the network of special sections. Prior to the establishment of the national security academy, these sections were manned by former Soviet military professionals, the majority of whom received special training in the Novosibirsk military counterintelligence school of the KGB and thus became counterintelligence officers.

In Soviet times, the military counterintelligence's main operational structures (*osobiye otdely*) were primarily occupied with politically coloured missions and together with *commissars/zampolits* provided political control over the military. Firstly, they were responsible for providing security clearances for military personnel and for political surveillance to ensure the political reliability of the armed forces. They were also empowered to investigate

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ally Forward," *NATO Review* 51:3 (Autumn 2003): 16–19, www.nato.int/docu/review/2003/issue3/english/art4.html.

[31] "The Law on Counterintelligence, adopted in December 2002 is, by Euro-Atlantic standards, disturbingly permissive in its definitions of powers, authority and threats. This is not to say that those of influence inside these structures regard these standards with suspicion, but it is open to question whether their influence and that of outsiders will overcome institutional resistance." Sherr, "Edging Erratically Forward."

[32] "Ukraine's Armed Forces, like their Soviet predecessor, still do not have the right to conduct their own counter-intelligence (which is performed by a department of the SBU, heir of the Third Chief Directorate KGB USSR). As Ukraine comes closer to its 'long-term' goal of NATO membership, this bizarre arrangement will certainly come under scrutiny in Brussels, and it had been a sharp point of difference between NATO and Poland until Poland abandoned the practice," Sherr, "Edging Erratically Forward."

military personnel for certain serious crimes, in particular, for the disclosure of a military secret or loss of a secret document.

Though the responsibility for security clearances (vetting) and the security of military secrets has remained among the key functions of Ukraine's national military counterintelligence, there was a significant difference in terms of lacking the function of political and ideological control over military personnel.

However, in the early 1990s, military counterintelligence was chiefly consumed by preventing the theft of military equipment and material, providing counterintelligence support for the process of strategic disarmament, and preventing interference from Russian Ministry of Defence in the process of resubordination of former Soviet troops and equipment to young Ukrainian state. In the Crimean peninsula, their main efforts at the time were in line with their perceived functions – directed against separatist attempts, which allegedly were supported from outside the country. The fact that in 1991-92 military counterintelligence officers swore the oath to Ukraine almost unanimously meant that all human and technical intelligence was at the disposal of the new state. This certainly helped to keep the situation under control and prevent significant escalations.

Over time, military counterintelligence evolved in parallel with other SBU counterintelligence structures and in accordance with the changes in the Armed Forces and "other military formations." They performed their traditional functions and acquired new ones, such as providing for the security of Ukrainian peacekeepers in missions abroad, fighting corruption and preventing the politicising of military personnel, opposing the spread of mercenaries in 1990s, and later focusing on antiterrorist missions, etc.

The high point of public attention occurred in November 2004, when counterintelligence officers played an important role in preventing the march of Internal Troops towards the revolutionary capital of Ukraine. And, the revolution brought the strengthening of democratic foundations. Other traditional responsibilities, such as preventing the disclosure of state secrets and conducting security vetting, continued to be important functions.

The prospect of further transformations in Ukraine's military counterintelligence can be likened to prospects of the country's accession to NATO whereby it is a question "Not if, but when." This means, that with creation in 2002 of the Service on the Military Law and Order in the Armed Forces, which is subordinated to the Minister of Defence, there are no formal obstacles to transfer the military counterintelligence function to the Ministry of Defence. Once the conditions are appropriate, the issue can be revisited. This may happen in one form or another. However, at the moment, more robust efforts are needed to prepare the necessary legal, social and operational grounds at the Ministry of Defence in order to make the possible transition not a tribute to formality, but a substantial move, which will provide for effective security, viable democratic control and economy of force. There are strong reservations that Ukraine's military counterintelligence, especially its human intelligence potential, can benefit from staying with the rest of SBU, as opposed to being transferred to the MOD.

Overall, the noticeable progress in terms of transparency and democratisation of the SBU is reflected in its activity within the Ukraine-NATO Working Group on Civilian and Democratic Control over Security Sector and Intelligence, the pending introduction of the post of NATO advisor to SBU Head and, of course, in the very active position of the SBU which has opened its archives on the issue of Ukraine's 1930s artificial famine (*Holodomor*).

Heritage of KGB Paramilitary Structures

There were different dynamics with regard to the KGB affiliated paramilitary structures in Ukraine. Three paramilitary structures were inherited by Ukraine from the former KGB in 1991: Border Troops, Governmental Communication Troops and "military formations of the KGB," which had undergone significant transformations.

The Border Troops was the only former KGB paramilitary structure, which during the independence years enjoyed a rather stable history of development and basically preserved its structure, functions and internal culture. The Governmental Communication Troops were eventually transformed into the State Service of Special Communication and Information Security.

The only structures which were completely reduced in the initial period after independence were the so-called "military formations of the KGB," which in 1992-93 along with the Internal Troops and the units of the Soviet Armed Forces that had been withdrawn from Central Europe, became the building blocs for the newly created National Guard. Basically, these "formations" were the specific phenomena of the Communist Party of the Soviet Union and represented its grip on power in the turbulent period of the late 1980s, when several army divisions were transferred from the Soviet Armed Forces to the KGB. One of those was "cadre" (full strength in terms of equipment, but small in terms of administrative and support personnel numbers) armoured division in Chuguyiv, Kharkiv region, which was in the process of being manned to regular strength in 1990-91, but ultimately fell under the jurisdiction of the newly independent Ukraine in autumn 1991.

In addition to the three abovementioned structures, which were created before Ukraine gained independence on the basis of the former KGB Ninth Directorate, a separate new paramilitary structure was created – The Directorate of State Protection of Ukraine (*Upravlinnia Derzhavnoyi Okhorony Ukrayiny – UDO*).

DSSZZI

The Governmental Communications Troops of the KGB were initially subordinated to the Service of Governmental Communication under the Parliament.[33] However, the issue of

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[33] Decree by the Presidium of the Verkhovna Rada of Ukraine "On subordination to Ukraine of military units and subunits of Railway Troops of the USSR, Governmental Communication Troops of the KGB of the USSR and Civil Defence of the USSR, …, located on its territory," No.1608-XII, 7 October 1991.

subordination was quickly adjusted in 1992, when inside the SBU the earlier existing Directorate of Governmental Communications of KGB was elevated to the Main Directorate of Governmental Communications of SBU, the relevant functions of SBU were legitimised in the law, and the name "Governmental Communications Troops" ceased to exist, while troops became mere structural components of the SBU Main Directorate.

In 1998, the Main Directorate of Governmental Communications of SBU was transformed into the Department of Special Telecommunication Systems and Information Security of SBU. It concentrated additional efforts on information protection and the introduction of new technologies into communication.

In 2006, a law on the creation of the State Service of Special Communications and Information Security (*Derzhavna Sluzhba Spetsialnogo Zvyazku ta Zahystu Informatsiyi Ukrayiny – DSSZZI*) independent from SBU was adopted. This was also the last year of the "call up" of draftees to this structure. In 2007, the Department was separated from the SBU. Since 2008, it has become an entirely separate professional agency. Today, it is subordinated to the Cabinet of Ministers of Ukraine, but the law also provides, that "on the issues of national security of Ukraine the State Service of Special Communications and Information Security of Ukraine is subordinated to the President of Ukraine." The Head of the Service is appointed by the Decree of the Cabinet. At present, the DSSZZI has retained its military-like rank structure and the respective legal status for its personnel. It still remembers its predecessor, the Governmental Communication Troops, and celebrates the anniversary of their creation.

Directorate of State Protection of Ukraine

UDO is a structure of about 3,000 professional guards, who have the legal status and rank system like military servicemen. This structure is responsible for VIP protection, and it is subordinated directly to the President. The Head of UDO is appointed similarly to the Head of SZR by Presidential Decree, without any participation from the Parliament.

By nature of its closeness to the country's leadership and responsibility to protect access to key administrative buildings, UDO appeared on several occasions to be in the midst of political scandals. The first big news was created in November 2000 by the former UDO major Mykola Melnychenko, who allegedly taped the conversations in the office of the former President Leonid Kuchma, in particular, about the journalist Georgiy Gongadze.

In May 2007, the officers of UDO who protected the Procurator General's Office, were physically attacked by a group of parliamentarians from the Party of Regions (pro-Prime Minister Viktor Yanukovitch and anti-President Viktor Yushchenko), who protested against the presidential move to change the Procurator General. This latter case was also infamous because the initial penetration to the building was made by a group of special crime police "Berkut" and led personally by the Minister of Internal Affairs Vasyl Tzushko.

During the stand-off in the building of the Procurator General's Office, the officers of UDO appeared to be not quite ready to fulfil their duties. Afterwards measures were taken to strengthen this structure. Furthermore, media interest was provoked by the idea of

transferring to UDO the Land Forces special unit called "Presidential Regiment," which consists of both ceremonial guards and regular infantry components (i.e. equipped with Armoured Personnel Carriers and light infantry weapons). Such a plan became known to the parliamentarians and was unanimously protested against by the members of the Committee on the National Security and Defence.[34] The Head of the UDO denied the existence of such a plan, but seemingly failed to persuade the parliamentarians and the media.

Another politically coloured appearance of UDO in public focus occurred in April-May 2008, during an argument between the President and the Cabinet over the State Property Fund. When the Cabinet decided to change the Head of the Fund Valentyna Semeniuk without taking into account the President's opinion, UDO was tasked to take the Fund's building under protection.[35] This and previous cases created the grounds for speculation in the media concerning other possible missions to UDO in case of future disagreements between the President and the Cabinet.

Democratic Control of Paramilitary Structures – Aspects and Problems

The focus of the previous sections has been on the internal cultures of individual paramilitary structures. However, a systemic analysis of these structures needs to be developed and compared with "outside" best practices. The higher/upper structures which are responsible for the coordination and control over every individual security structure should also be examined.

In general, despite significant recent progress, democratic control in Ukraine remains far from being well balanced and efficient. It still represents a top-heavy executive structure, a generally weak parliamentary structure and an unstable judiciary.

At its current stage of transition from its post-Soviet ambivalent security status towards desired membership in NATO and the EU, Ukraine's evident progress is marred by ineffective security management at the strategic level, a general lack of stable governance and power imbalances. Resolving these governance problems has implications not only in the narrow context of Ukraine's reform of its paramilitary structures. It defines rather broadly the effectiveness of Ukraine's national security policy and conditions the progress of the country's aspiration of becoming a viable candidate for membership in NATO and the EU.[36]

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[34] Yulia Mostova, "Democracy: Too Good a Thing to Share?" *Dzerkalo Tyzhnia* 5, 9-16 February 2008.

[35] See: "Yushchenko Protects Semeniuk to Preclude Tymoshenko from Burning Archives," *Ukrayinska Pravda*, 25 April 2008, www.pravda.com.ua.

[36] For an analysis of the challenges associated with governance, which democratic governments face in the security sector, see: Heiner Hanggi and Theodor H. Winkler, eds., *Challenge of Security Sector Governance* (DCAF & LIT Verlag, 2003); and Katrin Kinzelbach and Eden Cole, eds., *Democratising Security in Transition States* (DCAF/UNDP, 2006).

Executive Coordination and Control

There are two major problems concerning the executive control of Ukraine's security sector: ineffective security management and a lack of experience among the country's elite to consolidate key security issues.

The first major problem, ineffective security management, has its roots in Ukraine's post-Soviet bureaucratic heritage. In addition to the already mentioned political and security context, in the context of security sector governance it can be stated that in 1991 Ukraine inherited the Soviet centralised command-administrative, one-party state and fragments of its institutions. Many critical enterprises had been directly subordinated to Moscow; others were pseudo-institutions, only simulating government functions. The leaders of the newly independent Ukraine had to construct the institutions of the new state based on a mixture of inherited Soviet fragments and newly created elements.

The challenge of developing the state institutions was particularly difficult for the security and defence sector. Some institutions, like the republican KGB and Interior Ministry, were quickly re-subordinated to the new Ukrainian government. The Ukrainian Armed Forces inherited cohesive operational elements, but no national-level institutions; the Ministry of Defence and General Staff were largely built from scratch. Similarly, *the new state inherited no institutions capable of developing and coordinating the implementation of security and defence policy at the top, strategic level.*

Over the past 18 years, Ukraine has been successful in creating formal security and defence structures, first adapting Soviet models and, more recently, looking to incorporate the West's experience. Yet the behaviour of these structures sometimes looks like a haphazard mix. There are some positive elements from the Soviet legacy; for example, the strong analytical potential and apolitical culture of the nuclear and space complex. Still other positive elements have been introduced from abroad, as a part of technical assistance programs and Ukraine's NATO and EU ambitions. But these positive elements are still fragmented, not self-sustainable, and diluted by the negative influences of the Soviet and post-Soviet periods.

Likewise, the new state inherited few experts with experience in making and implementing high-level security policy. The experience that did exist was inherited from work in Soviet-era institutions. Today, Ukrainian intellectual capital in the security sector is capable of producing high quality analyses of defence and security policy issues. Ukraine's defence and security guiding and planning documents are providing good general answers to questions about external risks and threats, as well as major possible scenarios. But the country's leadership still has some problems translating these analyses into timely and effective practical policy decisions.

Ineffective governance presently defines the nature of many specific Ukrainian problems not only in the security area, but also in terms of the economy, energy supply, diplomacy, justice, culture, etc. The more independent Ukraine is from bureaucratic and political interference, the more successful it can become, as demonstrated by the private banking sector, independent media, small businesses, private medicine and sporting organisations.

However, the security sector of the state by definition cannot exist outside of the bureaucratic and political apparatus.

In Ukraine, the executive interagency security coordination system is too complex, with multiple high-level coordination bodies (Secretariat of the President, National Security and Defence Council Apparatus, Secretariat of the Cabinet of Ministers) employing dozens of defence and security experts. On the one hand, these bodies—due to the high formal status of their employees and relatively high salaries—become a natural pool of qualified experts (often retired officers with a defence and security background) with long institutional memories. But on the other hand, such a system is characterised by duplication of efforts and slow responsiveness.

In addition to creating confusion when clear responsibility is sought, this system does not normally allow for quick decision making, because the executive agencies involved in implementation spend too much time on going through this coordination system "above them," and that distracts their attention from working horizontally with peer agencies. It creates delays with information flows, often defuses responsibility, wastes resources and is indifferent to a lack of initiative and inability to trust and delegate responsibility. It also undermines and weakens efforts to create strong civilian professional staff in the subordinate Ministry of Defence, Ministry of Internal Affairs and other security agencies by siphoning the best and brightest through attractive pay and benefits as well as a more relaxed working regime. And to top it all, this top-heavy system is ineffective not only "vertically," but "horizontally" as well. While possessing a sufficient number of professionals, it is often unable to form (when it is needed) a nucleus of *good* professionals, capable of swiftly establishing the necessary reforms in the security sector.

In this case, a lack of cohesiveness and inadequate dispersal of intellect and efforts as opposed to insufficient numbers (quantity of professionals) are key problems. The only period when this system resembled a cohesive, united entity was in 1997-99 during Volodymyr Gorbulin's term of service as the National Security and Defence Council Secretary and National Security Advisor to the President. During this period, the executive component of the state's security system had clear top authority, which was trusted by the President and respected by the security sector.

On many occasions, the presidents and leaders of the country made announcements and promises to reduce and streamline this system, but changes were either aimed at increasing numbers, or just cosmetically reducing them without initiating substantial systemic transformations. Interestingly enough, many leaders and experts from these coordinating structures are frequent participants of courses and conferences abroad, where better examples of structures and mechanisms are established. However, without the necessary reform guidance they are rarely active in risking their comfortable status and initiating the change. It therefore seems that refining such a system from its post-Soviet character will take time and close to a generation to change.

The general immaturity of Ukraine's top-level security management still prevents security and defence structures from becoming effective institutions capable of developing and

implementing policies that secure national interests. This has contributed to a situation where Ukraine faces a continuous row of crises, many of which could have been avoided. On the other hand, it has also contributed to lost opportunities and a waste of time and resources.

For Central European and Baltic countries, whose historical memory of the communist past is still vivid, and for the international staff at NATO's headquarters, who have an interest in maintaining a cooperative dialogue with Ukraine, it is often easier to understand and forgive Ukraine for its slow responsiveness. They know, that despite the delay there is still a good chance that Ukrainians will eventually deliver what they have promised. That is why Ukraine has a positive history of working together with Poles in Kosovo and Iraq, with Lithuanians in Kosovo and Afghanistan, or with NATO in Darfur, Iraq and Operation "Active Endeavour" in the Mediterranean. There are also many good examples of cooperation between intelligence agencies and gendarmeries of Central and South-East European countries and respective Ukrainian institutions.

However, for countries and international organisations which are not stimulated by a common heritage or security interest in Ukraine, the Ukrainian bureaucracy is at times irritating. In such instances, Ukraine also loses, and not only its image and a level of trust, but also the opportunity to contribute to international security efforts, for instance, through participation in the UN's peacekeeping operations in the Golan Heights in 2005 and Lebanon in 2006, or in the EU sponsored operation in Chad in 2007.

Meanwhile, the greatest challenge to Ukraine's security interests with regards to its ineffective security management is not defence-related peacekeeping, but rather internal security.

To understand the second major problem associated with executive coordination and control in Ukraine—a lack of tradition among the country's elite to consolidate key security issues—it is helpful to do so in light of the experiences of Ukraine's neighbouring Central European and Baltic countries, which have already integrated into Europe. In other words, for an outside audience the case of Ukraine may look more understandable in the broader context, in comparison with its neighbours in Central and South-Eastern Europe. If problems of Ukrainian contemporary politics are compared with the past and recent problems of Bulgaria, Lithuania, Poland, Romania, Slovakia, the Czech Republic and some other countries, many similarities, particularly in the context of problems with public order and security management, can be found.

In Ukraine, as in Bulgaria, Poland, Romania and Slovakia, there were problematic periods of "cohabitation," when the political interests of the President, who is the Head of State, differed from the political interests of the Prime Minister (who by Ukraine's Constitution is the head of the premier body of the executive – the Cabinet of Ministers), and these differences provoked competition with an occasional abuse of authority over the defence and security structures, rather than cooperation.

In Ukraine, like in Bulgaria in 1997, Hungary in 2007, and Romania in the early 1990s, there were strong public protests against corrupt and ineffective government. In Ukraine in

2004, it was called "Orange Revolution" and it was also directed against attempts to falsify the presidential elections. In Lithuania in 2004, the Parliament successfully impeached the President Ronaldas Paksas. In Ukraine, a similar crisis took place in 2007 over the dissolution of the Verkhovna Rada by the President Viktor Yushchenko, who outperformed the Parliament, which wanted to impeach the President. In the Ukrainian case, intelligence, like in Lithuania, and also special police units, the VIP protection body UDO, and the Internal Troops of the Ministry of Internal Affairs were involved in the standoff between the President and the Parliament.

However, there is also an important difference between Ukraine and these countries. The difference is in the ultimate ability of the political elite in the above-mentioned Central European countries to reach consensus on the key security interests of the state. In other words, their major political parties and their national elite at decisive moments were able to display maturity and consolidate, which is not yet the case in Ukraine, where the ability of major political forces to consolidate is far from being able to meet the security challenges Ukraine faces. There was almost permanent confrontation during the "cohabitation" period of "orange" President Viktor Yushchenko and "white-blue" Prime Minister Viktor Yanukovitch. Even those who led in the time of the "Orange Revolution" (Viktor Yushchenko, Yulia Tymoshenko, Yuriy Lutsenko, Petro Poroshenko, Olexandr Zinchenko, David Zvania and Roman Bezsmertniy) were too quick to split into rivalry. The so-called political reform, which from 1 January 2006 shifted some powers from the President to the Parliament and the Cabinet, has provoked a continuous standoff between all branches of power and major institutions.

The deficiencies in Ukraine's political system in the case of "cohabitation" appeared to be very risky and destructive to Ukraine's security. The constitutional challenge of a *de-facto* diarchy resulted in permanent friction between the President and the Cabinet, which impeded many critical reforms. This political gridlock is also delaying the security sector reform that is needed to complete Ukraine's full transformation from its post-Soviet transitional status to an effective democratic system.

A vague but broad constitutional definition of the presidential authority which is aggravated by an inability to establish consensus on certain specific issues, constantly provokes appeals to the Constitutional Court to clarify either Presidential or Cabinet rulings. The rulings of the Constitutional Court are not always specific enough and opposing sides naturally tend to interpret them differently. For instance, in 2007, during debates over the validity of the presidential decree on the dissolution of the Parliament, the President's opponents insisted that the reasons for dissolution were specifically listed in the Constitution, and the President could not make decisions on the basis of conditions other than those which were written. Advocates of early elections for a new Parliament insisted on a broader interpretation of Article 102 of the Constitution, which states that the President "is a guarantor of state sovereignty, territorial integrity of Ukraine, safeguarding the Constitution, the rights and freedoms of the person and citizen." The latter allegedly suggests, according to one of the rulings of the Constitutional Court, that "To implement the above functions the

President takes decisions, which have the power of legal acts, and in case of necessity – directly interferes in a critical situation with the aim of removing any threat to the state and its citizens."[37]

In spring-summer 2008, it became clear and evident that deficits in the balance of power and an inability to reach agreements on even trivial matters needed to be remedied by amendments to the Constitution. President Viktor Yushchenko evidently attempts to support the current system with two executive authorities, while amending and strengthening presidential powers over the Cabinet and the country's security structures. The Prime Minister Yulia Tymoshenko suggested more radical changes in favour of streamlining the executive system: "Either the post of the Prime Minister or the post of the President should be removed from the Constitution… It is necessary to get rid of the existing for ten years diarchy in the country. It is absurd, when the country is governed by two officials—the President and the Prime Minister—with completely equal functions and authority."[38] She was clearly desperate to remedy the destructive contradictions in the current system of governance: "As it was before the changes to the Constitution (in 2004), it is the same today – every minister has three masters: one order is issued by the Prime Minister, another, opposite – by the President, and the third – by Viktor Ivanovych Baloga (the Head of the Presidential Secretariat). Where and to whom should the minister run and report to? And this situation is observed every day."[39]

Indeed, it looks like there is no way out other than to introduce the amendments to the Constitution. The popularly elected President (the Head of State and the Supreme Commander-in-Chief of the Armed Forces), who has significant authority over the security sector will always be tempted to use his constitutional authority to block the decisions of the Government, which were not coordinated with him. But the Government (the Cabinet of Ministers) today is the "creature" of the majority coalition in the popularly elected Parliament. The members of the Cabinet of Ministers carry personal and direct political responsibility. The head of the Cabinet, the Prime Minister, by Constitution is the top executive authority. He/she is the leader of one of the strongest political parties, and at any particular moment often enjoys more popular support than the popularly elected President. So, the Cabinet is also tempted to disagree with the President, who normally can be responsible only once per four to five years at election time, and who is not in direct control over all the subordinate security structures (other than through one of the assistants from the Secretariat of the President).

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[37] See: Decision by the Constitutional Court of Ukraine on denial of opening of constitutional hearings in case of the constitutional appeal by Romanchuk Mykola Pavlovych on official interpretation of Article 102 of the Constitution of Ukraine, Case # 018/6-97, 8 May 1997.

[38] Sergiy Rakhmanin, "Legitimate Question," *Dzerkalo Tyzhnia* 8, 1-7 March 2008.

[39] See: "Tymoshenko: I kept silent for four months…" *Ukrayinska Pravda*, 12 May 2008, www.pravda.com.ua.

While several security structures are directly subordinated to the President[40] (and all of them are subordinated in a "broad sense" under the Constitution), in reality, the Secretariat (formerly – Administration) of the President of Ukraine is the only body which effectively controls the paramilitary and other security structures in Ukraine. The fact is that there are specific executive powers assigned to this body but it does not assume immediate responsibility for the actions of these bodies. Such responsibility is indirectly passed on to the President, on whose behalf the Secretariat acts, but who is not immediately in charge. Candidacies of the heads of all security structures down to the one-star level are co-ordinated with the Secretariat, not the Parliament. Since the President cannot control the entire security sector, business and political circles close to the Secretariat may effectively use the broad presidential powers not only within the framework of his directives but also for their own purposes.

As a result, virtually all real control is concentrated in the hands of the Secretariat of the President of Ukraine. Ukrainian legislation does not grant this body (*de-facto* similar to parallel government) such functions since, according to the Constitution of Ukraine, the President cannot delegate his powers to any state body or to officials in the system of public administration in general and civilian control over law-enforcement bodies in particular.

At one point, the above phenomenon even led the Chairman of the Supreme Court of Ukraine Vasyl Onopenko to issue a critical statement, when the integrity of the judicial system was threatened by allegedly illegal attempts to introduce amendments: "All this farce, which is called "reform of the courts system," presumably takes place under the cover of presidential authority, because under his signature the letters in support of vividly unconstitutional and legally unacceptable changes to the law on judiciary do appear. … There is an attempt once again to undermine the President by his closest advisors, who are most of all interested in strengthening their personal influence on courts."[41]

As such, the conflict between the popularly elected President and the Cabinet becomes quite a predictable and logical phenomenon. There are numerous cases of such conflicts in countries with similar political systems—in Bulgaria, Poland and Romania—regardless of whether these systems are considered parliamentary-presidential, or parliamentary (Bulgaria).

On the positive side, this conflicting environment in a young democracy helps to foster the development of democratic experiences and traditions. When neither side has the opportunity to completely subdue the opposite/parallel side, it also serves as a safeguard

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[40] In particular, according to the Law of Ukraine "On Intelligence Activity": "Control over the activities of intelligence agencies of Ukraine within constitutional limits is carried out by the President of Ukraine, including via the National Security and Defence Council headed by the President of Ukraine. The intelligence agencies of Ukraine are accountable to the President of Ukraine and report to the President of Ukraine on issues, and in the order, determined by the President of Ukraine."

[41] See: "Onopenko Thinks that Yushchenko again Has Been Let Down," *Ukrayinska Pravda*, 20 June 2008, www.pravda.com.ua.

against the monopolisation of security. In the absence of strong national democratic traditions and even unwritten consensus on security matters (as in France or the UK) it can preclude the appearance of democratically elected dictatorships.

On the other hand, the continuous executive instability caused by this "diarchy" at a certain moment becomes a liability much more than it can be an asset. In the absence of a firm democratic culture and tradition, it reduces both the international and national image of a responsible authority, weakens resistance to outside interference, undermines reform efforts, discourages trust in democracy and provokes incentives to support the appearance of the "strong" leader.

Parliamentary Oversight

While the top-heavy executive security apparatus in Ukraine is powerful, in reality it is unbalanced and thus far from efficient. The parliamentary structure also looks powerful from a distance, but in reality it is rather weak. On the surface, Ukraine's Verkhovna Rada retains all the traditional parliamentary powers in the security sector: drafting legislation; budgetary control; conducting hearings; initiating investigations and inquiries; accessing classified information and even applying certain powers to appoint key security leadership. Since January 2006, the Cabinet (including the Minister of Defence and Minister of Internal Affairs) has been formed by a coalition of the parliamentary majority. The Head of the Security Service and Procurator General are also approved by the Parliament following nomination by the President.

The Verkhovna Rada, as the highest supreme legislative body, performs the function of parliamentary control and oversight via permanent parliamentary committees. As provided by the Constitution, the committees of the Verkhovna Rada prepare draft laws and preliminarily examine issues within its competence. Accordingly, the stance of specialised parliamentary committees is presumably of key importance during the consideration of issues dealing with the activity of the security structures in the Parliament.

Other than the police, the Committee on National Security and Defence (the Committee) is the key structure of the Verkhovna Rada responsible for exercising parliamentary control over Ukraine's security structures. The Committee consists of sub-committees, the number and composition of which is subject to consideration by the Committee itself. Currently, in the Committee of the Verkhovna Rada of the 6th convocation, there are six sub-committees (which is different from the past): on social security; the military-industrial complex and military-technical cooperation; military security and defence; economic and ecological security; state security; and information security.

The main functions of the Committee are quite similar to respective committees/commissions in other democracies: examining draft laws and other documents pertaining to issues of national security and defence; reviewing the corresponding sections of the state

budget; preparing conclusions on issues pertaining to national security and defence, etc.[42] Based on the results of discussions and analysis of the situation on the ground, the Committee may also give specific recommendations on national security and defence issues to the President and the Government of Ukraine.

In contrast to the universal experience of developed democracies, there is no special parliamentary committee in Verkhovna Rada which deals exclusively with security and intelligence issues. According to DCAF security experts, "The international norm is for the parliament to establish a specialised body which is mandated to provide oversight of the intelligence services. Without such a specialised committee, it is hard if not impossible for the parliament to exercise systemic and focused oversight of the intelligence services."[43] While this observation is certainly correct for all established democracies, however, the opinion exists that in time of transition and deep security sector reform, it is better to have single parliamentary control structure in charge of both defence and security/intelligence parts of security sector, which presumably should provide for better coordination of security sector reforms.

In the past, the Committee included for these purposes a subcommittee "on the issues of legislative support of the activity of bodies of security, intelligence and counterintelligence, border and customs bodies," which today is transformed into a subcommittee "on state security." The key functions of this subcommittee are: legal support to the activity of state security bodies, intelligence, border service and bodies of state protection to top institutions of power and officials; improvement of legislature in the areas of counterintelligence and intelligence support to state institutions; providing for the protection of state secrets; fight against international terrorism; security and defence of the state border.

However, today, as in the past, the abovementioned parliamentary powers are still not difficult to circumvent simply because of the possibility of ignoring the Parliament or the Parliamentary Committee in cases where a certain structure is solely subordinated to the President. This may undermine the effectiveness of parliamentary control over specific security issues if, for instance, the position of the Parliament and that of the President significantly diverge.

Nonetheless, the important and potentially powerful mechanism of parliamentary control over intelligence does exist. In addition to the Constitutional powers, the Law "On Intelligence Agencies of Ukraine," gives the Accounting Chamber of the Parliament specific responsibilities concerning security organisations. In order to control the disbursement of the funds from the state budget to intelligence agencies, there is a special group drawn from members of the Chamber. It is authorised to receive from intelligence agencies of Ukraine documents certifying their expenditure of funds of the state budget. It also calls on the heads of intelligence agencies to report on this matter. Members of the special group can

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[42] For more information, see the web site of the Verkhovna Rada of Ukraine Committee on National Security and Defence http://kompnbo.rada.gov.ua/kompnbo/control/uk/index.

[43] Hans Born and Ian Leigh, "Democratic Accountability of Intelligence Services," DCAF Policy Paper No.19 (Geneva: DCAF, 2007).

carry out functions only provided that they have been granted access to the documents constituting state secrets in the order established by the Law of Ukraine "On State Secrets." They are forbidden to reveal the identities, methods and means of intelligence agencies or disseminate the information received.

Another important institution of parliamentary control, which should not be forgotten is the parliamentary Ombudsman who, at times, appears to be a viable mechanism of complaint.

A most important issue, however, is the current lack of balance in appointments of the senior security leadership. The Head of the SBU is approved by the Parliament, but other heads of security/paramilitary structures are not. However, in a hypothetical case, when the problem of the executive "diarchy" is resolved through strong presidential powers, this might only be a natural counterbalance to the possible monopolisation of security that is embodied in strong parliamentary powers, primarily in personnel policy. This can be done either through empowering the current Committee or, possibly, through deeper arrangements in the bicameral Parliament.

Another problem in the past involved the vague legislative stipulation of the powers to approve reform and development initiatives, when mere semantic nuances facilitated the adoption of key long-term programmes without consultation with or agreement from the Parliament, which subsequently led to the ineffective budgeting of these programmes and inadequate resource management.[44]

Parliamentary control over Ukraine's special services/paramilitary structures remains limited and the Committee on National Security and Defence lacks the specific legal powers needed to provide for meaningful oversight. While the current Chairman of the Verkhovna Rada Committee on National Security and Defence (the former Minister of Defence) Anatoliy Grytsenko is working to strengthen parliamentary oversight over the security sector, that has become a complex and time-consuming endeavour, which requires broader political consensus to become a success. Some of his predecessors, such as, for instance, Georgiy Kriuchkov, who also made attempts in the past to strengthen parliamentary oversight, actually failed to a significant extent because of a lack of political support in the Parliament vis-à-vis the executive branch. It can be said that, to date, parliamentary control over the special services is principally *enthusiastic rather than systemic*. In a young and unstable democracy, effective, strong parliamentary oversight is not so easy to secure quickly.

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[44] The generally ineffective resource management aspect of strategic planning and programming in Ukraine (despite evident improvement in the MOD) stayed basically in the same shape as it had been before the "Orange Revolution." For more details, see: Leonid Polyakov, "Ukraine: Transformation between Strain and Uncertainty," in *Security Sector Reform in Central and Eastern Europe: Difficult Paths Towards Success*, ed. Wilhelm N. Germann and Andrzej Karkoszka (Nomos: BICC/DCAF, 2005).

Justice

The third major branch of power—judicial—in terms of effectiveness and stability is also potentially strong, but at the same time is as unbalanced and controversial as the executive and legislative branches of state power. In general, the Ukrainian courts and procurators should by law be and, according to existing legislative norms, can possibly be professional and independent (immune to political and other influences). However, while the judges and procurators are expected to be guardians and mediators, in reality, their impartiality does not rest on a firm basis of professionalism and financial independence. Progressive legislature and oath alone cannot provide for a respected status without other components such as effective systems of training, selection, etc. For years, poor working conditions and low salaries were the most influential factors along with a generally corrupt and politicised internal political environment, which did not help either. After the "Orange Revolution," some progress in fighting bribery and increasing transparency was observed. However, while there was certain progress, somewhat better disguised corruption and politicising prevailed.

As far as corruption is concerned, the unsatisfactory budgeting of justice on one hand, and some improvement in recent years in the accountability of judges and procurators on the other hand, created a unique phenomenon. Courts, procurators and police silently introduced a system of "charity" contributions. According to the investigation by the Accounting Chamber, in 2007 alone, voluntary "contributors" made over $80 million charitable transfers to the courts, police and procurator offices. This issue of corruption alarmed the President, who issued a specific Decree, which demanded the cessation of such practices and the adoption of additional measures to "prevent the hidden influence on the activity of the courts and law-enforcement bodies…."[45]

However, on the issue of politicising the courts the critic moved in the opposite direction. In June 2008, the abovementioned Chairman of the Supreme Court of Ukraine Vasyl Onopenko made a public appeal to the President, in which he accused the President of "establishing unconstitutional control over courts and judges, unlawful interference into their activity."[46]

His predecessor Vasyl Maliarenko, in 2005, was not that direct, but still critical on the issue of the courts' independence: "Unfortunately, in Ukraine the disrespect to law and justice prevails. After 14 years of Ukraine's state development, much has been accomplished. But the main issue—independence of courts—remains problematic. In society at large and in official institutions first of all, there is no good understanding of the fact, that independ-

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[45] See: Decree by the President of Ukraine No.328/2008 "On some measures to prevent corruption in the courts and law-enforcement bodies," 11 April 2008.

[46] See: "Letter of the Chairman of the Supreme Court of Ukraine V. Onopenko to the President of Ukraine V. Yushchenko," 23 June 2008, www.scourt.gov.ua/clients/vs.nsf/0/FB71B4AB3F7F2A0 CC2257471004A8C96?opendocument.

ence of courts is a fundamental prerequisite of the rule of law, the major guarantee of justice and the basis of power in the democratic state."[47]

While Ukraine's justice system provides an important democratic function, complaints over its corrupt and unfair nature are far too frequent. For instance, the following alleged abuse of authority by officials of the Secretariat of the President placing illegal pressure on the courts is typical: "… in our country after the phone call of a bureaucrat from Secretariat of the President, the academician, who made a minor violation can be jailed, while the mastermind of a number of killings could be released."[48]

Public support for the Ukrainian court system is exceedingly low compared with other institutions of state power (President, Parliament, Government, security structures, Procurator, and local administrations). According to the latest opinion poll by the sociological service of the Razumkov Centre, the level of public trust in the courts is 7.8% (29.6% partially support).[49]

Certainly, such an environment is not conducive to the functioning of judicial control over security structures. With regard to the specific role of the courts and procurator offices responsible for the security structures in Ukraine, their main practical functions are stipulated in the Laws "On Detective-Investigative Activity" and "On Counterintelligence Activity."

According to these laws, the SBU, SZR, Border Service, UDO (discussed earlier in this study) and other structures' special activity is subject to an elaborate system of court and procurator authorisations: by authorisation of the court only, the investigative body can obtain on demand documents and data on the activity of enterprises, institutions and organisations, as well as the source and size of the income of the individual suspects… The same authorisation is required in case of the need to secretly access a private residence or property of a person, obtaining information from communications channels, and control over correspondence. The head of the investigative unit informs the Procurator Office of the court's authorisation within 24 hours. The procedure of such secret acts is to be coordinated with the Procurator General and the Chairman of the Supreme Court. The temporary restriction of human rights and freedoms can be performed exclusively after authorisation by the court. In case of the urgent necessity to restrict human rights and freedoms, the investigative unit is obliged to inform the court or the Procurator Office within 24 hours of the fact and provide the basis for the act.

There is also a provision for the Office of the Procurator General to oversee the intelligence activity in the Law "On Intelligence Agencies of Ukraine": "Supervision over intelligence agencies as it relates to their observance of the laws of Ukraine is carried out by the Procurator General of Ukraine and prosecutors authorised by the Procurator General of Ukraine in accordance with the Constitution and the laws of Ukraine."

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[47] Olexandra Prymachenko, "Judges Will Be Provided with Salaries and Apartments," *Dzerkalo Tyzhnia* 43, 5-11 November 2005.

[48] Yuliya Mostova, "All This Is Not a Crisis Anymore," *Dzerkalo Tyzhnia* 21, 7-13 June 2008.

[49] Yuriy Yakymenko, "People's Attitude to Social and Political Institutions and Political Leaders," *National Security & Defence* 10 (2007).

An important role in Ukraine's justice system is still played by the remaining sub-system of military courts and military procurator offices. In 2004-05, there was a strong move to liquidate the military courts. However, the Parliamentary Committee on National Security and Defence did not support the idea of eliminating them totally. The number of military courts and procurators was reduced. In a different instance, the Border Service (in 2004) and later the Ministry of Defence (in 2005) objected to the immediate liquidation of the military courts. Another peculiar moment in this regard occurred in 2004 when the Ministry of Justice argued that the military courts could not properly defend the rights of service-men, because of the alleged dependence of the uniformed judges. But the Parliamentary Ombudsman argued just the opposite – that overloaded and unprepared civilian courts would not be able to properly defend the rights of servicemen. The debate ended with a re-duction in the number of military courts from 24 to the current 15, including 2 courts of ap-peal and with the transfer of military cases (except for special military cases) to the civilian courts. The number of military procurator offices was reduced to four.

While justice plays an important role in the activity of Ukraine's security structures, more effort and time is needed for the judiciary to reach the standards of a modern democ-ratic state. Certain improvements have taken place. In 2008, the rather general and possi-bly permissive requirements of the laws "On Detective-Investigative Activity" and "On Counterintelligence Activity" were complemented by the detailed clarification in the Decree of the Plenum of the Supreme Court of Ukraine "On certain issues of application by courts of Ukraine of the legislature when authorising the temporary limitation of some constitu-tional rights and freedoms of the person and citizen during detective and investigation ac-tivity."[50]

The clarification provides for detailed and well substantiated procedures by courts and investigative authorities. This is certainly a step forward in securing the democratic stan-dards of oversight over intelligence and law-enforcement structures, which potentially limits the "incentive for the agency to resort to less regulated means."[51] But since court authorisa-tions are secret documents, it is not yet clear who will have access to the procedures authorising the use of special powers and what part of the analysis will be considered ap-propriate for reporting to the Parliament and the public.

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[50] Decree by the Plenum of the Supreme Court of Ukraine "On certain issues of application by courts of Ukraine of the legislature when authorising the temporary limitation of some constitutional rights and freedoms of the person and citizen during detective and investigation activity," No.2, 28 March 2008.

[51] See chapter 6 "Authorising the Use of Special Powers" in Hans Born and Ian Leigh, *Making Intelli-gence Accountable: Legal Standards and Best Practice for Oversight of Intelligence Agencies* (Oslo: DCAF, Human Rights Centre of the University of Durham, Norwegian Parliamentary Intelli-gence Oversight Committee, 2005).

International Best Practices

In the context of its paramilitary structures, Ukraine can benefit from utilising the experience of the former communist countries in Central and South-East Europe, which recently confronted similar challenges on the road to NATO and EU membership (Bulgaria, the Czech Republic, Hungary, Poland, Romania and Slovakia). The experience of some "older" NATO members, such as France, Germany, Italy, the Netherlands, Spain, Turkey, the United Kingdom and the United States can also be very instructive especially in cases where Ukraine shares similarities in terms of its political system and the internal security environment, or, when there is a need to consider all possible options.

The list of the most applicable best practices can be extended to a number of other countries. However, while the different security aspects of many countries were studied, the most pertinent experiences in terms of political systems, culture of security structures, heritage and tradition, were found primarily in the cases of Bulgaria, France, Poland, Romania and Slovakia. In the framework of the current study, an analysis of foreign experiences was conducted primarily in Ukraine by analysing printed and electronic data, as well as through discussions with the appropriate visiting experts and also by electronic correspondence.[52]

At the same time, in order to gain first-hand insights from the most appropriate foreign best practices, two countries were considered to be the most appropriate for a short "field trip" – France, which is an established democracy with strong presidential executive powers and a long-time member of the EU and NATO; and Bulgaria, a parliamentary republic with a popularly elected President who holds noticeable influence. Bulgaria shares many political and cultural similarities with Ukraine and is just ahead of Ukraine in terms of membership to the EU and NATO. These two countries share other important similarities with Ukraine in terms of their general balance of political powers and organisation of parliamentary control over security sector. They provided valuable lessons learned to be utilised in the future developments of Ukraine's security sector.

The study of international best practice supports the development and reform of Ukraine's paramilitary structures. Due to the vast volume of accumulated data on the one hand, and the need to keep the text as concise and relevant as possible on the other, the decision was made to structure this section not as a list of national case studies, but functionally, in parallel to the content and composition of the previous sections, through selection of pertinent examples of: a) security (paramilitary) structures, and b) aspects of democratic civilian control.

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[52] Due to the limited number of foreign languages other than English that are available to the author, as well as the difficulty in both obtaining information in English and translating documents into English, certain misunderstandings are possible. In these cases, the responsibility rests solely with the author of the study.

Foreign Security (Paramilitary) Structures

The analysis of the different organisational approaches to the security sector supports the notion that there are three key systemic indicators, which, despite the changes that are taking place in many countries, generally define the character of any particular national security system. These indicators are (de)militarisation, centralisation, and subordination.

(De)militarisation

According to the DCAF Handbook "Parliamentary oversight of the security sector"[53] the rationale against militarisation of the police and paramilitary structures is supported by the risk of abuse and politicisation: "A militarisation of the police force—the guardian of domestic law and order—blurs the distinction with the military – the guardian of external security. This is especially dangerous when such forces are underfunded and therefore are tempted to abuse the security circumstances to resort to corruption with impunity. Another danger associated with the militarisation of the police force is that those in power might use the police (and sometimes also the intelligence services and paramilitary forces) as an instrument not to protect internal security and public order, but to control and repress opposition. Additionally, frequent use of military force to control public order can lead to politicisation of the military."

The demilitarisation of paramilitary structures in the former communist countries and their subsequent reform were important outcomes of the general process of democratisation. The experience of the case studies generally supports James Sherr's suggestion that "… the militarisation of the state's security functions … is alien to the liberal, democratic tradition."[54]

Practically all new democracies under consideration, i.e., the former members of the Warsaw Pact, to varying degrees, have demilitarised their paramilitary structures in terms of eliminating the military legal status of security personnel and reducing their defence related missions during peacetime. The demilitarisation of the foreign intelligence services was the slowest development. Poland has its Gendarmerie under the Ministry of Defence, so demilitarising is not generally an issue for the structure, whose primary role is to serve as military police. French, Italian and Spanish experience reveals that the military status for Gendarmes is not a problem. Although France decided to transfer its Gendarmes to the Ministry of Internal Security, the issue of "demilitarising" the French Gendarmerie with its specific foreign missions is seemingly not on the agenda.

Another important aspect of the national demilitarisation process involves finding a resolution to the social benefits problem. In Bulgaria, the decision was made to preserve the same level of social benefits for security personnel. In some countries, the level of so-

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[53] See: Hans Born, Philipp Fluri, and Anders Johnsson, eds., *Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices (Handbook for Parliamentarians)* (Geneva: DCAF, 2003).

[54] Sherr, "Transforming the Security Sector."

cial support has even increased after demilitarising. The experience of Slovakia is most telling where, in 1998, universal and high-level social standards for all non-military security personnel were legally established (Box 10.1).

(De)Centralisation

There is no "Universal Norm" for security structure centralisation practices, but there are obvious "good rules" for a democratic state, and these are common to the majority of cases. Ukraine has either already adopted such examples or is considering their adoption. This firstly concerns the Border Guards who in practical terms throughout Europe are not a separate structure (as in Ukraine) but a distinct component of the Ministry of Interior (MOI). There is basically no indication that other MOI's structures can exert too much influence over the Border Guards, once they have a sufficient degree of independence under the general auspices of the MOI. In Bulgaria, for example, this is done by providing the Border Guards a "national" status within the MOI. In all countries, the border police are responsible for preventing illegal migrants and illegal traffic, rather than "defending" the border. In doing so, the Border Guards cooperate with other MOI structures and benefit from MOI joint intelligence and policing capabilities.

Another rather common practice concerns decentralisation in the case of co-existence of foreign intelligence and internal security/counterintelligence, which can be performed either by different agencies or by one united agency. In theory, as suggested in an anonymous DCAF publication of 2002: "It is a good rule that each intelligence function should only be carried out by one agency. This avoids wasting effort and resources, and minimises the risk of unhealthy and unnecessary competition between the various agencies … Democratic states generally separate domestic and foreign intelligence services. This is justified by the different missions and even more by the fact that different rules and laws apply to intelligence operations on national soil and abroad."[55]

However, in contrast to the Border Guards, there is no commonality of approach in this case. Indeed, the dominant practice is to decentralise both intelligence and counterintelligence. Despite the fact that some countries, such as Italy, the Netherlands, Slovakia, Spain and Turkey have kept them together, most democratic countries have established separate agencies for foreign intelligence and internal security agencies which, on occasion, even report to different political authorities.

In the context of the separation of the intelligence function, another "good rule" is for intelligence to avoid acquiring a law-enforcement function (which Ukraine's SBU inherited from the KGB and plans to abolish in its reform efforts). As a DCAF publication notes: "Law enforcement and intelligence have fundamentally different purposes. While law enforcement's goal is to get a conviction in a specific criminal case, the task of intelligence is to collect as much information as possible on potential threats to the state and society. An intelligence service thus might prefer not to arrest an identified criminal if this would reduce

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[55] "Intelligence Services and Democracy," Working Paper Series No.13 (Geneva: DCAF, April 2002).

Box 10.1. Social Benefits for Security Personnel in Slovakia

73/1998 Coll. Act from 17 February 1998 on the civil service of members of the Police Force, the Slovak Intelligence Service, the Corps of Prison and Court Guards of the Slovak Republic and the Railway Police

§ 84 *Service income, service wages and financial compensation for standby duty*

1. A police officer in the permanent civil service shall be entitled to a service income which shall be comprised of the following elements:
    a) basic wages;
    b) bonus for number of years served;
    c) rank additional payment;
    d) special bonus;
    e) bonus for management;
    f) bonus for representation or for undertaking a temporarily vacant management function;
    g) special additional payment;
    h) additional payment for civil service under adverse conditions and conditions damaging to health;
    i) additional payment for the training of police officer candidates;
    j) additional payment for care of an assigned police dog or police horse;
    k) additional payment for care and operation of a police car or motor boat;
    l) additional payment for the undertaking of diving activities;
    m) additional payment for shifts;
    n) additional payment for the undertaking of civil service in addition to basic weekly service hours;
    o) additional payment for civil service at night;
    p) additional payment for civil service on Saturdays and Sundays;
    q) additional payment for civil service on a bank holiday;
    r) other service pay;
    s) remuneration.
2. Service pay shall be comprised from the elements of service income stipulated in paragraph 1, items a) to m) and o) to r); this shall not apply if this is an additional payment pursuant to § 98 to 101 and financial compensation for standby duty pursuant to § 103 when service pay is comprised of the elements of service pay stipulated in paragraph 1, items a) to m).
3. A police officer shall be entitled to, under the conditions and in the scope of the provisions of this Act in addition to service income, financial compensation for standby duty in the civil service.

§ 141 *Conditions for the undertaking of civil service*

1. A superior shall create for a police officer conditions for the due and, as far as possible,

safe undertaking of civil service.

2. The superior shall be obliged above all to:
   a) notify police officers of internal regulations and information required for the due undertaking of civil service;
   b) attend to the continual education of police officers;
   c) arrange health care for police officers, establish and maintain health facilities;
   d) establish, maintain and improve sanitary facilities;
   e) attend to the appearance, modification and improvement of workplaces;
   f) arrange accommodation for police officers;
   g) create the conditions for the satisfaction of cultural, recreational and training requirements and of the interests of police officers;
   h) arrange catering for police officers on all shifts which complies with the principles of good nutrition directly in the service office or in its vicinity. He shall not have such an obligation with regard to police officers sent on business trips and if such is excluded by the conditions for the undertaking of service;
   i) arrange catering pursuant to item h) by the serving of hot main dishes including an appropriate beverage to a police officer during a shift in a police catering facility, in the catering facility of another employer or via a legal person or natural person who is authorised to act as an intermediary for the provision of catering services should he provide catering services via a legal or natural person authorised to provide catering services. For the purposes of catering, as a shift shall be considered the undertaking of civil service for longer than four hours. If a shift lasts longer than 11 hours, but does not last longer than 12 hours, a superior may arrange the provision of additional hot main meals; for a shift lasting for more than 12 hours he shall however be obliged to provide such. If a shift lasts longer than 17 hours, a superior may arrange the provision of a third hot main meal;
   j) contribute to catering pursuant to items h) and i) in the amount of 65 % of the price of the hot main meal, up to a maximum of 65 % of the allowance provided for a business trip of a duration of 5 to 12 hours pursuant to a special statute, and also provide a contribution pursuant to a special statute;
   k) arrange the equipping of the workplace at which civil service is undertaken at night with first aid equipment including supplying equipment for calling for emergency medical help.

3. A superior may only provide to a police officer a financial contribution in the amount stipulated in paragraph 2, letter j) if the obligation of the superior to arrange catering for the police officer is excluded by the conditions of the undertaking of civil service or the superior may not arrange catering pursuant to paragraph 2, items h) to j).

4. In the collective agreement it is possible:
   a) to amend the conditions under which a superior will provide to a police officer catering during the duration of hindrances to the undertaking of civil service;
   b) to extend the number of police officers to whom the superior arranges catering.

its capacity to collect further information."[56] The study of international best practices did not reveal any established democratic European country having intelligence with a law-enforcement function. In Europe, the focus of intelligence is more on civil liberties rather than on public order. However, in the United States, the key security structure—the FBI—retains both intelligence and law-enforcement functions despite existing arguments that such a composition is not preferable for the intelligence function of the FBI.

Traditionally, in the modern democratic state there are two major foreign intelligence organisations (civilian and military) and one major internal security/counterintelligence organisation (civilian) with parallel military, financial and security units in other agencies. However, in some cases, based on tradition or lessons learned certain countries can decide that consolidation is preferable to fragmentation thus deviating from the common approach. For instance, in Italy both foreign intelligence and counterintelligence functions are performed within the two organisations where one belongs to the Ministry of Defence and the other to the MOI. In Bulgaria, the decision was made to reconstitute in a new form the consolidated counterintelligence organisation (DANS), which includes political, financial and military counterintelligence. The new agency has combined duties of the National Security Service, the Financial Intelligence Agency, and the military counterintelligence office. A peculiar fact is that the functions of the newly created Bulgarian DANS are almost identical to the current functions of Ukraine's SBU, except for the law-enforcement function. On another hand, France has pledged to provide support in strengthening this newly born security structure.

Box 10.2. State Agency for National Security of Bulgaria (DANS)

The Law "On State Agency for National Security" adopted on 11 December 2007 defines:
Core Structures of DANS:
- Four chief directorates: Internal Security, Counterintelligence, Economic and Financial Security, and Technical Operations;
- Four directorates: Financial Intelligence, Inspectorate, Information and Archives, and Co-ordination, Information and Analysis.

Core Functions of DANS:
- Fighting corruption at the top level of state civil service, as well as fighting organised crime and trans-border crime;
- Surveillance, disclosure and counteraction to planning, preparations and implementation of the infringements of national security, including those directed against the Ministry of Defence, Bulgarian Armed Forces and structures subordinated to the Ministry of Defence;
- Security of cryptography and classified information; technical intelligence and control over radio frequencies.

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[56] Ibid.

Nonetheless, international discussion on the most effective approaches to the different aspects of (de)centralisation of intelligence and security structures is not over, especially after the 9/11 terrorist attacks. It is also argued, that "requirements of the post-Cold War security environment, where effectiveness against new threats necessitated new forms of inter-service cooperation and reorganisation. While traditional principles of separating military and civilian intelligence services may remain valid, the separation of foreign- and domestic-intelligence services and their tasks, as well as the separation of intelligence from law-enforcement bodies and their tasks, may be on less certain ground."[57]

There is also no common approach on the issue of expediency to have such an organisation as the Gendarmerie. While Ukraine has two in kind Gendarmerie equivalents (Internal Troops of the Ministry of Internal Affairs and Military Service of Law and Order of the Armed Forces of Ukraine), there are many democratic countries, which do not have any. Some countries abolished their Gendarmerie once their internal political stability was no longer questioned.

In 1989, Hungary abolished its militia-like "Worker's Guard." The Czech Republic, in 1993, abolished a corresponding paramilitary structure in the MOI. Slovakia after separating from the Czech Republic in 1993, at first kept a paramilitary structure in the MOI, but then abolished it in 2002. Bulgaria preserves its Gendarmerie, but recently downgraded its status from the distinctive "national" service to the level of MOI regular department. So far, from the studied countries of Central Europe only two kept their Gendarmeries intact: Poland in the Ministry of Defence and Romania in the MOI.

With regard to government communication protection and the VIP protection functions, though practically all those countries in the study have relevant structures responsible, the only commonality found was that they are all civilian (demilitarised). Their organisational structures, specific functions and subordination differ from country to country and reflect national political and security traditions.

Subordination

Another "good rule" of direct political responsibility for internal security in mature democracies is reflected when there is a standard of clear direct political responsibility for security (paramilitary) structures. The internal security/intelligence function in established democracies is usually the responsibility of the MOI (in France, Germany, Italy and Spain for example). The subordination practice of Foreign Intelligence is more diversified, which is natural, since it has more connection with foreign policy and outside threats, and is closer to the traditional domain of the heads of states and the military. In France, foreign intelligence is primarily the responsibility of the Ministry of Defence. In Germany and Spain, foreign intelligence is subordinated to the Federal Chancellery (to the Prime Minister in Spain), whereas the internal security agency reports to the MOI. In the UK, foreign intelligence op-

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[57] Larry L. Watts, "Intelligence Reform in Europe's Emerging Democracies," *Studies in Intelligence* 48:1 (2004): 11–24, www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/csi-studies/studies/vol48no1/article02.html.

> **Box 10.3. The Ministry of the Interior of France's General Organisation, with Indication of Units Similar to Ukraine's "Paramilitary" Structures**
>
> *General Secretariate:*
> - =   Direction of Information Systems and Communication (similar to *DSSZZI*);
> - =   ...
>
> *Directorate General of the National Police:*
> - =   Central Directorate of Interior Intelligence (similar to *SBU*);
> - =   Central Directorate of Border Police (similar to *Border Service*);
> - =   VIP Protection Service (similar to *UDO*);
> - =   Antidrug, antiriot, SWAT and others...
>
> *Direction of Defending Civil Security (similar to former Civil Defence Troops)*
>
> *General Directorate of National Gendarmerie (similar to Internal Troops)*
>
> *La Direction Generale de Collectivites Locals*
>
> *La Direction des Libertes Publiques et des Affairs Juridiques*

erates under the statutory authority of the Foreign Secretary, while internal intelligence functions under the authority of the Home Secretary, and so on. Overall, the most instructive and balanced organisational structure for security is found in the case of French MOI.

In new democracies, the issue of subordination is generally somewhat different. Of course, the case of Ukraine's security structure, which preserves many different types of subordinations, is almost unique among democratic countries. This appears to have been a response to the fears that arose in the early years after communism regarding concentrating control in a single executive hand. However, the practice of dividing responsibilities and control inside the executive to an excessive degree, primarily between the Presidents and the Governments (and with the strengthening of democratic foundations) becomes more of a liability over time rather than a safeguard. Political leaders and security services are sometimes tempted to manipulate affairs by exploiting the divided subordination. For instance, in Bulgaria, foreign intelligence is subordinated to the President, but the internal security agency reports to the Prime Minister. This element of political and functional "instability/insecurity" (because it involves contested rather than balanced control over intelligence and security between different executive institutions or because of unclear distribution of authorities) in some countries has caused scandals and additional restructuring.

Therefore, in the new democracies (Bulgaria, Poland, Hungary and the Czech Republic) the internal security/intelligence function is generally the responsibility of the Prime Minister and is assisted by security coordination/advisory committees. In some cases, there is a special ministerial position to oversee the security structures, for instance, in Poland (Minister-Coordinator of Special Services) and in Hungary (Minister without Portfolio in the Civilian National Security Services). In Romania, the major intelligence and security

structures are subordinated to the President through the Supreme Defence Council headed by the President.

Issues of Democratic Control

As far as the best practices of executive control over security structures are concerned, the "good rule" is to establish as clear a chain of command as possible. In the established democracies, there is usually a satisfactory level of clarity in terms of who is authorised to undertake certain responsibilities.

The case of France, famous for its periods of "cohabitation," is proof of the above. In France, the President of the Republic does not have directly subordinated security structures, but national legislature and national security tradition leaves no doubt that the President is the highest authority for all security matters. Moreover, to maintain the highest authority the French President does not need a huge apparatus of control and coordination. He signs the laws, issues decrees and countersigns the Council of Ministers' decisions. This is enough to consider the French executive as very strong. For instance, the Prime Minister can remove the Minister of Interior with the agreement of the President (not the Parliament). The Prime Minister (and then the Government) can be removed either by an individual decision of the President, or by the absolute majority of the members of the National Assembly (lower chamber of the Parliament).

Despite the absence of a very strong parliamentary system of intelligence oversight at present, respect for tradition and the law and justice system in France is sufficient enough to ensure a stable security governance system even during times of "cohabitation." To further balance this system, President Nicolas Sarcozy initiated the amendments to Constitution, which gave the Parliament the power to approve the candidates for key executive positions.

In new democracies, however, the abovementioned and at times justified concern over the monopolisation of control over security precipitates too much attention to the checks and balances, sometimes to the detriment of the effectiveness of the security structures and, as such, to the security of the state.

As the experience of Bulgaria (a parliamentary republic by Constitution) shows, even in the absence of direct executive authority, the popularly elected President, who is the Head of State and Supreme Commander of the military can be "de-facto" a strong centre of power and will be very likely to challenge the Government, especially on security issues. Whatever limitations are put on the institution of the President who is elected by people rather than by Parliament, the strength of a popularly elected President in most cases is not declarative: access to information, quotas in the administrative and judicial structures, political "weight" from the fact of being popularly elected, the possession of veto powers over parliamentary acts, the right to dissolve the Parliament and chairmanship in the consultative/coordinating security councils, etc.

With the creation of the Commission on Intelligence in the French Parliament in 2007, it would be fair to state that in contrast to Ukraine, all countries under consideration possess

(separate from defence) a committee/commission on intelligence/security matters. Some, like Germany, Romania and the United States have several intelligence oversight committees for domestic, foreign and military intelligence.[58]

As for the powers to control the process of key appointments in security structures, another instructive DCAF publication suggests: "Ensure cadre appointments are transparent through parliamentary ratification. The appointments of top generals and commanders in the various security and intelligence services should be subject to the approval of the relevant parliamentary committee. Such committees should have the right to give and withhold consent for appointees, not least through convening public confirmation hearings to review the qualifications of candidates. At the very least, parliament should be consulted by leaders in the executive on senior security sector appointments.

Legislation regulating security sector agencies should include a clear framework, outlining the process for appointing the most senior officials. It is vital to independently verify the relevant qualities of leadership, integrity and independence in potential appointees. The appointment process should be transparent and consultative, commensurate with the status of the position. As a minimum, it is necessary that appointments should be open to scrutiny outside the executive and the agencies concerned. For this reason, in many states the top appointments in the security sector are subject to consent by parliament. The appointment verification role may prevent unsuitable candidates being proposed in the first place and may lead to the government discussing, and in some instances, negotiating with other political actors in order to avoid political controversy and to ensure a bi-partisan approach."[59]

Poland provides the best example of a new democracy which has enacted the above recommendation and provided more generally for the "scope of activity" of the special services oversight committee.

In Romania, the powers of the parliamentary commission on foreign intelligence seemingly represent the strongest case among the new democracies in terms of access to information and influence over personnel policy. According to some Romanian security experts, the trusted and close relationship between the services and parliamentary commissions is not a problem, since in instances where problems arise certain actions can be declared to be coordinated with the commission of the Parliament. Meanwhile, such a "strong" practice runs the risk of "weakening" the oversight mechanism because of too much involvement in the day-to-day activity of the services.

A general examination of best international practice in the framework of this study demonstrates that all the countries studied have established less distributed and less atomised structures than in Ukraine. Their non-military security structures (mostly under the MOI's authority) also reveal more concentrated organisational systems. Secondly, their parliamentary commission(s)/committee(s) on intelligence/security matters are separate

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[58] For more details see: Hans Born and Ian Leigh, "Democratic Accountability of Intelligence Services," Policy Paper No.19 (Geneva: DCAF, 2007).

[59] See: Kinzelbach and Cole, eds., *Democratising Security in Transition States.*

Box 10.4. Regulations on the Activity of the Special Services Committee of the Sejm of Poland

Resolution of the Sejm of the Republic of Poland of the 30th of July 1992

Rules of the Sejm of the Republic of Poland

Chapter 12. Special Services Committee and Proceedings in the Committee

Article 137

1. The Special Services Committee may consist of no more than 9 MPs.

2. The Sejm shall define the number of members in the Special Services Committee on request from the Presidium of the Sejm by way of a resolution.

3. Applications of candidates for membership in the Committee shall be filed by chairpersons of clubs of MPs or groups of not fewer than 35 MPs. Such applications shall be filed with the Speaker of the Sejm.

4. The Sejm, on request from the Presidium of the Sejm shall choose, on request from the Presidium of the Sejm filed after consulting the Council of Senior Members, the personal composition of the Committee by way of joint vote.

Article 138

1. The first meeting of the Special Services Committee shall be presided over by the Speaker of the Sejm. At this meeting, the Committee shall elect, from among its members, the presidium of the Committee consisting of one chairman and two deputies.

2. Resolutions of the Committee shall be made by an absolute majority of votes in the presence of at least half of the members of the Committee.

3. The Committee shall determine in detail the procedure of work and decision-making.

4. The access of Committee members to information which constitutes state secrets of special importance for the State's defence, its Armed Forces and the State security shall be governed by regulations on state and official secrets; the Speaker of the Sejm files shall request the Minister of National Defence or the Minister of Interior and Administration that members of the Committee be authorised to access such information.

Article 139

1. Meetings of the Special Services Committee shall be held behind closed doors. The provision of Article 154 Para 1 shall not apply.

2. Joint meetings with other committees may be open to the public.

3. The Chairman of the Committee may invite persons other than ones specified in Article 153 Para 1 to participate in work of the Committee through or after advising the Speaker of the Sejm and the Minister of National Defence or the Minister of Interior and Administration. Persons invited shall sign before the Chairman of the Committee a written obligation to keep secrecy regarding the information to be disclosed to them and which constitutes state or official secrets.

Article 140

The Committee shall participate, on issues regarding special services, in procedures over budget bills and other financial plans of the State as well as in examination of the reports on their completion, giving its opinion to appropriate committees.

Article 141

1. Minutes of meetings of the Special Services Committee as well as reports referred to in Article 164 Para 1 and Article 168 Para 1 are state secrets with the exception of minutes and reports from open joint meetings with other committees. The Committee shall file such minutes and reports with the Speaker of the Sejm.

2. No bulletin shall be made regarding the course of meetings of the Special Services Committee; however, such bulletin as referred to in Article 166 Para 1 and 3 shall be made regarding open meetings with the participation of the Special Services Committee.

3. The Committee may agree on a statement regarding its meeting for the press, radio and TV, consulting is contents, as necessary, with the Minister of National Defence or the Minister of Interior and Administration.

Article 142

Taking into consideration amendments resulting from regulations in this Chapter, regulations of the Rules of the Sejm shall apply, as appropriate, to the Special Services Committee and MPs chosen to be members of this Committee. For the purpose of these rules, the following shall be deemed as special services: State Security Office and Military Intelligence Services.

The tasks of the Committee are as follows:

- Giving opinion on bills of laws and regulations regarding special services;

- Assessment of general normative acts with respect to the activity of such services;

- Giving opinion on the areas of work of special services based on information given by Heads of services;

- Examination of yearly reports of Heads of services;

- *Giving opinion on requests to appoint specified persons to positions of Heads and Deputy Heads of special services;*

- Giving opinion on the budget bill with respect to special services as well as the report on using the budget;

- Assessment of cooperation of special services answering to the Minister of Interior and Administration and the Minister of National Defence and the cooperation of these services with other services and military units supervised by the Minister of Interior and Administration;

- Assessment of cooperation of special services with government administration and law enforcement bodies and examination of complaints regarding the activity of special services.

from defence. While the "good rules" and democratic oversight of the security sector are generally observed by the majority of these countries, national traditions and differences in the security environment tend to shape national specifics, which nonetheless do not significantly deviate from recognised democratic standards.

Box 10.5. Romanian Commission for Overseeing the Foreign Intelligence Service

Rule No. 44 / 1998

on the Setting up, Organisation and Functioning of the Special Parliamentary Commission for Overseeing the Foreign Intelligence Service (SIE)

The Parliament of Romania
The Chamber of Deputies
The Senate
On the basis of its control prerogatives, the Parliament of Romania, under provisions of Art.61, chapter (4) and Art.64 of the Romanian Constitution, along with Art.8, chapter (3) in Law No.51/1991 regarding national security and under Art.3 of Law No.1/1998 concerning the organisation and functioning of the Foreign Intelligence Service,
The Parliament of Romania adopts the following rule:

Chapter I – General Provisions

Art. 1: On the date of the present rule, it was decided to set up a Special Parliamentary Commission for the oversight of the Foreign Intelligence Service.

The Special Parliamentary Commission for overseeing the activity of the Foreign Intelligence Service (SIE) that shall be called hereafter "the Commission," performs its mandate during the legislative mandate for which it was appointed and carries out its work according to the provisions of the current rule.

Art. 2: After being elected, the Commission members take the following oath during a joint sitting of the two Houses of Parliament:

"I, …….. , as member of the Special Commission for the oversight of the Foreign Intelligence Service, swear to uphold and defend Romania's interests and to respect the Constitution and the country's laws.

I swear that during my mandate, as well as after its expiry, I will keep the secrecy of the documents, data and intelligence information that I became acquainted with, while discharging my duties, which are considered as such by the law.

I swear, on my own responsibility, that I did not collaborate with the structures belonging to the former "Securitate" and I am not an officer of the Foreign Intelligence Service nor of any other intelligence service."

Art. 3: The nominal membership of the Commission and its bureau is voted by observing the provisions of Art.32 in the Rules of the Senate and of Art.69 in the Rules of the House of Deputies (reprinted), during the joint plenary meeting of the Senate and the House of Deputies. The nominal membership of the Commission and its bureau is laid down in Annexes no.1 and

2, which are integral part of the present rule.

Art. 4: The provisions of Art. 2 shall not be interpreted as meaning that the Commission is prevented from releasing to the public its decisions and conclusions whenever it has the agreement of the permanent bureaus of the two Houses of Parliament.

Art. 5: The cessation of membership of the Commission for Defence, Law Enforcement and National Security entails the loss of membership of the Commission.

Chapter II – The Prerogatives of the Commission

Art. 6: The Commission exercises a concrete, permanent control over the activity of the Foreign Intelligence Service and is authorized to:

a) analyse and check the respect of the Constitution and of Romania's laws by the Foreign Intelligence Service;

b) *check if the orders, the instructions and other regulations, issued by the leadership of the Foreign Intelligence Service, conform to Romania's laws and Constitution, to the decisions of the Supreme Defence Council of the Country and of the Government which were taken with a view to enforcing the decisions of the Supreme Defence Council of the Country;*

c) analyse the way in which the budget of the Foreign Intelligence Service is substantiated and check its execution on the basis of the checks conducted by the competent bodies;

d) *hear the person nominated by Romania's President for the function of Director of SIE, on which it submits a consultative approval, which shall be sent to Romania's President. The Commission can submit to Romania's President, through a written report, the revoking from his post of the Director of SIE;*

e) examine the cases when in the activity of SIE were signalled cases of breaches of the Constitution and other legal provisions and decide on the measures to be taken for enforcing the law;

f) analyse, verify and settle the complaints of citizens who think they have their legitimate rights and freedoms infringed upon, as a result of the actions undertaken by means of intelligence gathering for the national security and the defence of Romania's interests, by SIE. It examines and settles any other complaints and denunciations that are addressed to it, incriminating the breach of the law by the Foreign Intelligence Service;

g) verify the selection and promotion criteria of SIE's personnel;

h) check on the way Romania's interests are promoted and the way in which SIE's activities are directed, mainly at targeting, assessing, keeping under control and eliminating the risks to national security;

i) check on the cooperation and interoperability degree between SIE and other institutions with responsibilities in the field of national security;

j) check the way of cooperation with similar foreign institutions;

k) endorse draft laws that deal with SIE' s activity;

l) fulfil any other responsibility set through decisions of Romania's Parliament.

Art. 7: While exercising the prerogatives incumbent on it, the Commission demands from SIE, through its Director, papers, data and information and may hear persons connected to the issues being analysed.

Art. 8: SIE must answer in due time to the Commission's requests and allow the hearing of the persons called by it, with the approval of the SIE's Director.

Art. 9: *Exempted from the provisions of articles 7 and 8 are the documents, the data and the intelligence connected with the operational actions connected to national security, which are under way or are to be carried out, considered as such by the Commission, on the recommendation of the Supreme Defence Council of the Country, as well as the intelligence information that can lead to uncovering the real identity of operational personnel, to identifying the sources of intelligence, the concrete working means and methods used in intelligence work to the extent in which they do not run counter to the Constitution and the legislation in force.*

Art. 10: On the request of the permanent bureaux of the two Houses or whenever it is deemed necessary, the Commission draws up and submits its report to them on the findings and conclusions resulting from the exercise of the prerogatives incumbent on it.

Chapter III – The Functioning of the Commission

Art. 11: Demanding data and information necessary to the Commission, as well as any move in its relations with SIE is done by the Commission through its President.

Art. 12: While exercising its prerogatives, the Commission may call on experts within SIE, nominated by its Director.

In order to carry out the prerogatives laid down in Art.6, letter c), the Commission may call on the expertise of specialists in the field, who are employed by the public authorities in the respective field.

The persons being used according to Art.2 shall sign a pledge by which they bind themselves to observe the legal regulations on defending state and service secrets and to protect the data and intelligence information they get acquainted with.

Breaching the provisions of paragraph 3 is liable to civil disciplinary, contraventional or penal responsibility, as the case may be.

Art. 13: The Commission may invite to its meetings the permanent bureaux of the two Houses, the Presidents of the Commissions for Defence, Law Enforcement and National Security, members of the Supreme Defence Council of the Country, as well as other persons.

Art. 14: While exercising the prerogatives it has been empowered with through the present rule, the Commission passes decisions through majority vote of its members.

Art. 15: The works and the decisions of the Commission constitute state secrets, if they are considered by law as such, except the conclusions contained in its reports, which are authorised to be released to the public by the permanent bureaux of the two Houses.

The Commission members have the obligation to observe the legal provisions regarding the defence of state secrets connected with all documents, data and intelligence information that they get acquainted with, while exercising their prerogatives, by ensuring their full protection

according to the laws in force.

Non-observance of the provisions of chapters 1 and 2 may attract, according to the Rules of the two Chambers, the suspension from being a member of the Commission until the case is definitively settled, depriving of parliamentary immunity and instituting criminal proceedings against him/her according to the provisions of the law.

Art. 16: The cases of breaching the provisions of Art. 2 and 15, according to the provisions of its own programme for protection against intelligence leaking, shall be investigated by the Juridical, Disciplinary and Immunities Commission of the Chamber of Deputies, respectively by the *Juridical, Appointments, Disciplinary and Validations Commission* of the Senate, as the case may be, which will submit to the permanent bureaus of the two Houses, the conclusions and measures that need to be taken.

Art. 17: The president who chairs over proceedings of the joint meetings of the two Chambers, in which issues are being discussed pertaining to the Commission competence, may demand, from office, on the request of a parliamentary group, of the President of Commission and of SIE's Director, that the respective proceedings should take place in secret session. Such a decision shall be taken by the majority vote of the deputies and senators present.

Conclusions and Recommendations

Efforts to reform Ukraine's paramilitary security structure, which in 1991 represented an over-militarised formation, can be considered neither very good, nor very bad. Its evolution since that time has been rather positive, but slow. Culturally, the country's paramilitary structure is Ukrainian, though it still preserves to some degree a bit more Soviet culture than that which is desired, particularly in light of Ukraine's democratic European aspirations. They are slowly but steadily demilitarising themselves, but their total number as separate services is probably too large. Structurally and functionally they are nonetheless adopting best democratic practices.

Meanwhile, the current "underreformed" status of Ukraine's paramilitary security structures reflects not only the vestiges of its Soviet past, but in similar measure the incomplete and sometimes hectic reforms of the first years of independence. This "underreformed" status lowers the effectiveness of individual functioning of the "paramilitary structures" and interagency cooperation. Provided Ukraine continues to move towards achieving European and Euro-Atlantic standards and ultimate accession to NATO and the EU, there is also an evident need to reduce preconditions for their politicising and to provide for more effective democratic control over their activity.

Ukraine's neighbours to the West, particularly the former Warsaw Pact and now NATO members have already transformed their security structures. Generally characterising the current stage (by 2009) of security sector development in those countries, the established democracies—Italy, France, Germany, the Netherlands, Spain, and the United Kingdom—can be seen as going through the "mature" stage. They predominantly concentrate on improving the effectiveness of their security sector, while attempting to preserve the current

level of civil liberties despite the difficulties of fighting the threat of terrorism. As far as the new democracies are concerned, they have completed the "first generation" of reforms (with an emphasis on restructuring and re-subordination). These countries (Bulgaria, the Czech Republic, Hungary, Poland, Romania, and Slovakia) are completing the "second generation" reforms (with an emphasis on the consolidation of internal structures and procedural improvements), and with different degrees of success they are entering the stage of "maturity."

The possible models suggested by the study of international best practice are theoretically and, in appropriate cases, practically acceptable for Ukraine. However, Ukraine's adoption of a "better" model should be carefully timed and calculated. As the experience of the new democracies suggests, it is very important to avoid a counterproductive mechanical adoption of other countries' practices, which can heighten risks of reducing important local security structure capabilities.

For instance, the issue of transferring military counterintelligence from the SBU to the Ministry of Defence was discussed even before the "Orange Revolution." However, when pro-NATO Minister of Defence Anatoliy Grytsenko took office in February 2005 after the revolution, there was no rush to have military counterintelligence immediately subordinated to the MOD, as opposed to leaving it for some time in the SBU. The major reason for caution was an evident risk of losing professionals and capability due to the lack of readiness of the ministry to assume the function of human counterintelligence either by its Main Intelligence Directorate (*GUR*), or by the Military Service of Law and Order. The decision was made for the time being to strengthen cooperation between the Ministry of Defence (and the General Staff) and the SBU. In particular, while the post of security assistant to the Minister of Defence already existed, the new post of security assistant to the Chief of the General Staff was introduced.

Similar cautious considerations are possible in cases such as the transfer of the Border Service under the Ministry of Internal Affairs (presumably one of the most corrupt institutions), or the conceptual proposal to relieve the SBU from its law-enforcement function and leave the Ministry of Internal Affairs and Procurator General Office without the counterbalancing structure (presumably, SBU is a much less corrupt institution than these law-enforcement structures).

Meanwhile, Ukraine needs to reform its intelligence and security structures in accordance with the acceptable democratic standards. However, while considering the specific practical steps of the individual structure's transformation, it is important to address certain *systemic problematic issues* which were revealed by the study:

1. There is a rather *diverse and often diffused political responsibility* for different individual paramilitary structures in Ukraine. There are too many schemes related to the security structure's subordination and their leadership appointment, which results in many types of political responsibility.

    First, there is the direct example of the Internal Troops, which are subordinated to a political appointee (Minister of Internal Affairs), who is appointed by the Par-

liament and assumes direct responsibility for this structure. However, the leadership of Internal Troops is appointed by the President.

The example of the Internal Troops is similar to that of the State Special Transport Service which functions under the Ministry of Transportation and Communication, where the Head of Service is also appointed by the President, following the Minister's nomination, which according to the law has to be agreed to by the Prime Minister.

Second, there is an example of *semi-direct* responsibility in the case of the Security Service of Ukraine, which is subordinated to the President, but the Head of SBU is approved by the Parliament after nomination by the President. However, deputies of the SBU Head are appointed directly by the President following the nomination by the Head.

The next example, the State Border Service can also be termed as *another semi-direct* political responsibility, whereby the Head of State Border Service is appointed by the President following nomination by the Prime Minister.

Third, there are cases of SZR and UDO, where there is *no direct* political responsibility, *only general* political responsibility. The structure is formally subordinated to the President, and its leadership is also appointed directly by the President.

Fourth, there is a case of *mixed* responsibility. DSSZZI is subordinated both to the Cabinet of Ministers (approved by the Parliament as a result of parliamentary coalition agreement) and to the President. Its leadership is appointed by the Cabinet of Ministers in agreement with the President.

It should be noted, that *Ukraine is*, *probably*, *the only country in Europe,* both among NATO and non-NATO members, which maintains such diversity in terms of subordination and political responsibility in its security structures. The pattern for Europe is generally to establish one-two types of subordination/responsibility over individual security structures in a single country.

2. Ukraine's security sector overall and its paramilitary structures in particular are still *influenced too greatly by problems in Ukrainian society*. Of course, the processes that are taking place in Ukraine's security structures cannot be separated from broader socio-economic changes. *The level of corruption* in the country and the police force (Ministry of Internal Affairs) preserves another Ukrainian phenomenon – a separate State Border Service, which is subordinated directly to the President rather than to the Ministry of Interior as in most European countries.

Even today, when legislation on the subordination of the State Border Service to Ukraine's Ministry of Internal Affairs is submitted to the Parliament, there are serious doubts that unification of a rather professional and effective Border Service to a more corrupt and less effective police ministry should be done quickly. Major efforts are needed to improve the professionalism of the MOI cadre, to strengthen public trust in the police, and, in parallel, to ensure the professionali-

sation and demilitarisation of the Border Service. In the future, these two parallel processes will undoubtedly support the uniting of the Border Service with the Ministry of Internal Affairs, while preserving this paramilitary structure as independent within the Ministry of Internal Affairs, as in the case of the Internal Troops.

However, the low level of public trust in the courts and procurators as a result of the high corruption levels will certainly make it difficult to fight corruption in major state institutions. As the case with the court system demonstrates, it is not enough to establish good rules and intentions when a weak bureaucracy, a lack of respect for law and order, control and oversight problems, and weak mechanisms to enforce/stimulate the implementation of the law are overriding.

In the context of how the situation in Ukrainian society influences the security structures, there is also *a problem of national unity*, i.e. the questionable ability of Ukraine's elite to reach a consensus on key security issues. Political conflict over issues concerning the sharing of control led to a situation, where in the cases of SBU, the Internal Troops and UDO, the level of politicising of control over the security structures was too high. Early elections, rapid changes of governments and continuous confrontation between political parties directly and indirectly slowed down the process of democratic reform of the security sector.

3. The *lack of an effective balance of powers*—the domination of presidential control over security structures; weak parliamentary control; contradictory presidential authority vis-à-vis the Cabinet of Ministers—continues to hamper the transformation of Ukraine's security structures.

Under the Constitution, the President of Ukraine retains significant control over the security sector. However, presidential powers are too often in need of clarification by the Constitutional Court, because of their rather general formulation and broad interpretation. At the same time, in a broader sense, all the security structures to different extents are subordinated to the President. This also leads to politicising, since in reality the President cannot exercise personal control over paramilitary structures and delegates this responsibility to the presidential Secretariat, which is not politically neutral. There is a great need to build and strengthen the coordinating mechanisms both under the President and the Cabinet. There is a hope that the current Constitutional amendments will facilitate the streamlining of executive authorities and end the current *de-facto* diarchy between the President and the Prime Minister.

The current *executive dichotomy* is alien to the democratic political culture of the EU and NATO, whose membership Ukraine aspires to. It is also harmful to the core interests of Ukraine's democratic development. It creates the temptations of dangerously politicising certain structures in the course of an internal political struggle. After 18 years of independence, a number of campaigns which are

aimed at the re-subordination of certain structures or their components are ongo-ing.

4. For various reasons, the *level of security governance* on the part of the senior civilian "controllers and coordinators" is low and controversial at best.

    The influence of the key Constitutional security coordination structure—the Na-tional Security and Defence Council and its apparatus—has declined in recent years, particularly when the issue of reforming any agency (structure, functions, subordination, etc.) has been at stake. The opinions of the Council's staff on key proposals, such as the re-subordination of the Internal Troops or the Border Ser-vice, were rarely heard. The posts of the Secretary of the Council and his/her Deputies could be likened to temporary political asylum rather than responsible security offices.

    As for the other top coordinating structures in the area of national security, the role played by the Secretariat of the President is politically strong but profession-ally limited. The Secretariat of the Cabinet of Ministers is strong professionally but limited politically. At present, the Verkhovna Rada Committee on National Secu-rity and Defence is strong professionally and ambitious, but in order to increase its political influence and maintain stable control regardless of the composition of the Committee, measures should be taken to strengthen the Committee's norma-tive base (specifically through provisions on influencing personnel policy) and its expert staff.

In more specific terms, the above conclusions would probably support the following proposals for further reform of Ukraine's paramilitary structures:

For the Internal Troops – to remain under the auspices of the Ministry of Internal Af-fairs, and to demilitarise and professionalise.

For the State Border Service – in the near future: to demilitarise and professionalise. In the more distant future: to be placed under the auspices of the Ministry of Internal Affairs, while retaining the maximum degree of independence.

For the SBU – in the near future: to demilitarise; but not to rush to separate the law-en-forcement, anti-corruption and military counterintelligence functions from the SBU. Leave these controversial issues to the more distant future.

For the SZR – in the near future: to demilitarise. In the more distant future: to consider moving under the auspices of either the Ministry of Foreign Affairs, or the Ministry of De-fence, while retaining the maximum degree of independence. Another option is to introduce the post of the top official—coordinator of Ukraine's intelligence/security structures—who will oversee the SZR and similar structures.

For the UDO and DSSZZI – in the near future: to demilitarise. In the more distant fu-ture: to consider functioning under the auspices of either Ministry of Internal Affairs or SBU, while retaining the maximum degree of independence.

With regard to reforms at the senior level, it is advisable and possible in the near future for the *Verkhovna Rada National Security and Defence Committee* to focus on strength-

ening its staff of parliamentary experts, strengthening the state security subcommittee, and improving its powers to oversee top level security appointments. In the more distant future, it should consider the establishment of a separate parliamentary committee on security/intelligence matters. *For the executive branch of state power*, this study supports constitutional amendments aimed at improving the balance of power between the President and the Prime Minister; strengthening the role of the National Security and Defence Council and its apparatus; reducing duplications between the responsibilities of the Secretariat of the President and the National Security and Defence Council and its apparatus; and strengthening the internal security structures and foreign intelligence structures interagency coordination mechanisms.

In sum, the above arguments prove that Ukraine must continue to implement reforms in order to meet the criteria for EU and NATO membership. The continued transformation of Ukraine's paramilitary structures is likely to dominate the country's internal political struggle. However, if the country is successful in strengthening parliamentary, executive and other democratic oversight mechanisms, if progress is made in supporting a generation of effective and democratically-minded national security and civil servants, the reforms that Ukraine needs to implement will be achieved in time and at the appropriate level.

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Chapter 11

A Profile of the Ukrainian Defence-Industrial Complex

Valentyn Badrak and Sergey Zgurets [*]

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Overall Defence Industry Picture

The Ukrainian defence-industrial complex integrates enterprises of various patterns of ownership and subordinated to a variety of government agencies, which are already engaged or can potentially be engaged in Government-funded defence contracts, and are directly partaking in or conducting sub-contracted works under military-technological cooperation programmes with foreign countries.

After the breakup of the Soviet Union, Ukraine inherited 30 percent of the USSR's defence-industrial complex and close to 20 percent of its research and development potential. Immediately after independence, the Ukrainian defence-industrial complex was comprised of 1,840 companies employing a combined workforce of 2.7 million. Military production was the main business for seven hundred of these companies employing altogether about 1.3 million people. A gradual decrease in the number of defence companies has been seen ever since, which is mainly due to the lack of orders from the Ukrainian Ministry of Defence. The defence-industrial complex has only managed to retain the manufacturing capabilities of priority importance that were able to withstand rivalry on the competition-sensitive global market for weapons, military-technical items and defence-related services, while the defence industry's transformation is still under way.

In 2006, the Ukrainian leadership announced plans calling for the privatisation of more than 300 state-owned enterprises out of the current 462 enterprises. It was pointed out that 120 defence companies had employed a meagre one to twenty people. These very small companies, as well as those not directly involved in the production of weapons and military-technical items, were doomed to privatisation by the proposed defence industry denationalisation package, while 128 major companies of strategic importance—the manufacturers and suppliers of competitive military products—would retain their status as Government-owned.

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189

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But these plans have never been translated into reality since most defence companies still remain under state control. State-owned and federal budget-supported enterprises now account for over 85 percent of the institutional and management structure of the defence-industrial complex, while shareholder companies with Government-held controlling stakes account for about eight percent, and joint-stock companies account for around five percent, respectively.

According to a 2008 report by the Centre for Army Conversion and Disarmament Studies (CACDS), a Kyiv-based think tank, about 250 defence companies and organisations in Ukraine are partly involved in Government-funded defence orders or military production programmes. Around 170 of these companies with an aggregate workforce of 250,000 people are directly engaged in programmes for the design and development, manufacturing, upgrading, repairs or maintenance of arms and military hardware. Ukrainian defence companies altogether produce an average 1-1.5 billion USD worth of defence-related products annually, of which more than 90 percent are targeted at foreign customers and delivered for export.

There is no single 'control centre' for Ukraine's defence-industrial complex, with control being scattered among several Ministries and Government agencies. The Ukrainian Ministry of Industrial Policy, for example, runs 118 defence companies and organisations, including 36 research and development institutes and design organisations, and 14 federal budget-supported entities – employing altogether about 190,000 workers. The Ministry of Defence is responsible for four dozen military repair plants with an aggregate workforce of around 20,000 people. Ukraine's National Space Agency (known by its Ukrainian acronym NKAU) manages 27 entities, including seven scientific research institutions and design companies, 13 manufacturing plants and seven specialised enterprises with a total workforce of around 20,000 employees.

Table 11.1: Rate of the Ukrainian Defence Industry Shrinkage.

	1991	2008
Number of enterprises	700	250
Aggregate workforce	1.5 million	230,000
Total amount of military output	$10 billion	$1-2 billion

The Ukrainian defence-industrial complex can be subdivided into five main sectors:

- The aircraft sector;
- The space and missile sector;
- The shipbuilding sector;
- The defence sector;
- Precision machinery for military applications.

Table 11.2: Overall Structure of Defence Production.

Product type	Requirement
Armoured fighting vehicles	Surplus
Engines	Surplus
Electronic equipment	Surplus (selectively)
Missile weapons	Surplus (selectively)
Naval ships	Surplus (selectively)
Artillery weapons	Shortage
Combat aircraft	Shortage
Naval weapons	Shortage
Air defence weapons	Shortage

Aircraft Industry

Ukraine is believed to be a member of the elite club of nine countries having 'closed-loop' production cycles for military-transport and cargo aircraft. The aircraft industry is one of the most science-intensive sectors of Ukraine's defence-industrial complex, and it includes enterprises carrying out design and development, building, maintenance and repairs of fixed-wing aircraft, rotorcraft and unmanned aerial vehicles, as well as aircraft engines and related components and subsystems. The industry has a substantial talent pool, and it holds great scientific-technical and manufacturing potential. The fixed capital depreciation ratio in Ukraine's aircraft industry amounts to 70 percent. Ukrainian aircraft industry enterprises are to a substantial degree integrated under current co-production programmes with counterpart companies in the Russian Federation.

The aircraft industry's most urgent problems include the creation of the domestic market (by way of introducing leasing mechanisms) and the Government's launching of an aggressive protectionist policy aimed at supporting domestic transport aircraft manufacturers in their competition on export markets.

Ukraine's leading manufacturers of production aircraft are the ANTK Antonov Aeronautical Scientific/Technical Corporation and the state-run enterprise Kyiv-based Aircraft Plant 'Aviant' (a tandem that has designed, developed and built aircraft of the Antonov series, including An-32V, An-32P, An-124-100 'Ruslan', An-225 'Mria' and An-70) and KhGAPP Kharkiv-based state-owned Aircraft Production Association (which builds An-74T-200 and An-74T-300 military-transport aircraft, An-74MP-300 patrol aircraft, and has production capabilities for the patrol version of the An-140 passenger turboprop).

Design/development and building of aircraft engines are the domains of the 'Motor-Sich' engine maker and related design organisation 'Progress' (both based in South-East Ukraine in Zaporizhzhya), which have recently merged into a corporation. Upward dynamics had been seen in 2007 and 2008, largely owing to orders from the Russian Federation

that provided the market for 450 Ukrainian-made engines in 2007 and 600 engines in 2008, and supplied Ukrainian manufactures with almost 100 percent of the parts, subsystems and materials required for the engines' assembly.

Ukrainian manufacturers of components and subassemblies for military aircraft include FED Corporation in Kharkiv, a mechanical plant in Pervomaisk in the Luhansk region, Kharkiv's Assembly Design Bureau, state-owned joint-stock holding company 'Artem' in Kyiv (a manufacturer of missile launch systems and missile racks), state-owned enterprise Zhuliany's machine-building Plant 'Visar' based in Vyshneve in the Kyiv region (a manufacturer of multibomb racks), Krasyliv's assembly manufacturing plant in the Kharkiv region (supplier of missile launch systems and missile racks), Vovchansk assembly manufacturing plant based in Vovchansk in the Kharkiv region, Lebedyn engine factory of the OJSC 'Motor-Sich' (in the Sumy Region), Chuhuiv aeronautical equipment factory of Kharkiv's KhGAPP, Konotop's mechanical plant of Kharkiv's KhGAPP (based in Konotop in the Sumy region), Dnipropetrovsk-based assembly manufacturing plant, Pavlohrad mechanical plant, Snizhne machine-building plant based in Snizhne in the Donetsk region (a subsidiary of OJSC 'Motor-Sich'), Volochynsk assembly manufacturing plant in Volochynsk in the Khmelnytsky region, and Huliai-Pole factory of the OJSC Motor-Sich (in the Zaporizhzhiya region).

The Ministry of Defence provides upgrade and maintenance services for fixed-wing aircraft and related engines. These include state-owned company 'Chuhuiv's Aircraft Repair Plant' in the Kharkiv region (which undertakes major reconstruction of L-29, L-39C and MiG-23 combat-capable trainer aircraft), state-owned enterprise 'Yevpatoria Aircraft Repair Plant' (based in the Autonomous Republic of Crimea; it conducts major overhaul of aircraft of the Beriyev and Yakovlev series as well as Su-25 fighters and An-32 family aircraft), state-owned enterprise 'Lutsk Motor Repair Plant' (which focuses on the major repairs of aircraft engines), state-owned enterprise State Lviv's Aircraft Repair Plant 'LGARZ' (conducts upgrades on MiG-29s and major repairs of MiG-21/23/27 jetfighters), state-owned enterprise 'Mykolayiv's Aircraft Repair Plant NARP' (undertakes major repairs of Tu-22M3, Tu-142M and Su-24 aircraft), state-owned enterprise 'Odessaavairemservice' (conducts upgrades of Mig-21 fighters; major repairs of MiG-21/27 and L-39 aircraft), state-owned enterprise 'State Zaporizhzhya's Aircraft Repair Plant Migremont' (upgrades of Mig-25s and repairs of MiG-25 and Su-17/25/27 aircraft).

Space and Missile Industry

Ukraine's space and missile industry is well developed with capabilities for the design/development, building and maintenance of space launch vehicles, artificial earth satellites, military rockets and related engines, components and subassemblies. The industry has been relatively prosperous as its companies are engaged in international space programmes and its products are selling well on the international market.

Ukraine's space and missile industry leaders are the state-owned enterprise 'A.M.Makarov Production Association 'Yuzhny' machine-building plant' (otherwise known

as PO 'Yuzhmash') and M.K.Yangel State design bureau 'Yuzhnoye' (KB 'Yuzhnoye'). Previously a world-renowned designer and manufacturer of intercontinental ballistic missiles, the Yuzhmash/Yuzhnoye tandem has leveraged the expertise it gained in developing ICBM technologies into developing space launch vehicles Zenit-2, Zenit-3SL, Cyclone-3, Cyclone-4 and Dnepr; liquid propulsion systems and earth satellite vehicles, including earth observation satellites SICH-2, SICH-1 M and MICRON and communication satellites LYBID and LYBID-M. Pavlohrad mechanical plant (a subsidiary of PO Yuzhmash)—previously one of the premier leaders of Ukraine's space/missile industry and a manufacturer of solid-propellant missiles RT-23 (NATO reporting name SS-24 Scalpel)—still retains its capabilities for the production of solid propellant engines and related components.

The state-owned enterprise 'Nikopol's Pipe Plant' manufactures space rocket components such as ultrathin pipes of titanium, copper and titanium/copper alloys. GAHK State joint-stock holding company 'Artem' in Kyiv is renowned on the global arms market with its medium-range guided submarine-launched missiles R-27. These are available in three modifications and provide much of Ukraine's precision air-launched weapons export revenues. R-27 missiles have been assembled by Artem using Russian-supplied components and subassemblies.

A separate niche on the missile weapons market is held by precision-guided weapons designed and developed by the design bureau 'Luch' in Kyiv (KB Luch).

Shipbuilding Industry

Ukraine's shipbuilding industry has capabilities for building and repairing naval vessels, auxiliary surface ships and submarines, in addition to related propulsion systems, and could supply these to the Ukrainian Naval Force and export markets. The industry has sufficient manufacturing and technological potential for building large vessels with deadweights up to 150,000-180,000 tons.

Although the Ukrainian shipbuilding industry has great potential and sufficient capabilities for building and repairing ships in almost all categories, it has not received naval orders since 2004. This is because of the lack of 'closed-loop' manufacturing cycles for naval vessels and related weapons systems, as well as most shipboard equipment. Government defence orders for domestic shipyards have reduced dramatically over the past five years, with its engineering, research and development and testing capabilities becoming technically obsolescent and worn out, and fixed capital depreciation ratios running from 30 to 80 percent or higher.

One of the main programmes currently being handled by the Ukrainian shipbuilding industry is the building of four corvette class combatants for the Ukrainian Navy.

Shipbuilding industry leaders in Ukraine are the '61 Communards Shipbuilding Yard' and the state-owned joint-stock holding company 'Black Sea Shipbuilding Yard' (both based in Mykolayiv). They have the capabilities for building naval ships in all categories ranging from aircraft carriers to corvettes. Mykolayiv's OJSC 'Liman' Shipbuilding Yard specialises in building border outpost vessels and patrol boats. The main business for the

Feodosia-based shipbuilding company 'Morye' is building dynamically supported craft such as air cushion vehicles and hydrofoil vessels of various types and modifications, primarily for anti-submarine warfare (ASW) and amphibious applications. The 'Zaliv' shipbuilding company in Crimea's Kerch is specialised in frigate-class combatants, while 'Leninska Kuznia' in Kyiv concentrates on naval ships in the 'corvette' class.

Research and development support for domestic shipbuilding firms is provided by the federal budget-supported enterprise KP 'Research and Design Center of Shipbuilding' in Mykolayiv, OJSC Central Design Bureau 'Shkhuna' in Kyiv, state-owned enterprise central design bureau 'Chornomorets' in Crimea's Sevastopol (ship repair and upgrade projects) and design bureau 'Sudnokomposit' in Feodosia, the Autonomous Republic of Crimea (designer of materials for Surface Effect ships).

Suppliers of naval propulsion systems include 'Pervomaiskdieselmash' in Mykolayiv Region's Pervomaisk and Mykolayiv's state-owned enterprise Gas Turbine Research, Development and Production Corporation 'Zoria-Mashproekt' which specialises in the building of naval gas turbine engines.

Defence Industry

Ukraine's defence industry provides a full spectrum of the design, development, manufacturing and repair services for a wide range of armoured fighting vehicle types, special application vehicles and motor vehicles, as well as artillery weapons, small hand-held arms, ammunition, explosives and passive personal protection systems.

Armoured Fighting Vehicles, Special-Application and Motor Vehicles

The industry manufactures and repairs a comprehensive range of armoured fighting vehicles, crew transport vehicles, engineer-ground vehicles, military automobiles and military trucks.

The building of main battle tanks and armoured fighting vehicles is the only defence industry sector in Ukraine with a closed-loop manufacturing cycle. The armoured fighting vehicle sector, in terms of its structure and available manufacturing capabilities, is self-sufficient and capable of supporting the entire cycle from the design and development to full-rate series production, with only two to five percent of all the required components and subassemblies imported from foreign suppliers. The companies make use of advanced technologies in designing and building engines, armour materials and structures, gun barrels and so forth.

Kharkiv's state-owned enterprise 'Malyshev Plant' and federal budget-supported enterprise 'KP Kharkiv's A.A.Morozov Machine Design Bureau' (KhKBM Morozov) are the lead companies for Ukraine's armoured fighting vehicle industry. The two have jointly designed and built T-series main battle tanks, among them the T-64BM Bulat, T-80UD, T-84 and T-84-120, and offer upgrade packages for Soviet-vintage tanks T-55, T-64 and T-72.

Kharkiv's OJSC 'Ordzhonikidze Tractor Plant' carries out upgrades on 2C1 'Gvozdika' self-propelled howitzers. Kharkiv's engine design bureau concentrates on the manufactur-

ing of AFV engines. Tank components and subsystems come from Kharkiv's assembly design bureau, Derhachiv's machine-building plant in the Kharkiv region and some of the MoD's tank rebuilding plants, while tank tracks are supplied by Nikopol's crane factory in the Dnipropetrovsk region. MoD's enterprises, in particular Kyiv's, Lviv's and Kharkiv's machinery and repair plants conduct a significant amount of work for upgrades, major repairs and refitting of operational tanks, primarily Soviet vintage T-55/64/72s, as well as for the disposal of retired examples.

Other AFV types such as armoured personnel carriers (APCs) and armoured infantry fighting vehicles (AIFV) account for a major part of Ukraine's defence industry output, along with military trucks, armoured motor cars and military engineer vehicles. APCs are the domain of Kharkiv's Malyshev plant which conducts upgrades on the BTR-80 APC and has recently developed the BTR-3U APC equipped with the 'Shkval' remote weapons station. Kharkiv's Ordzhonikidze tractor plant has upgraded the MT-LB armoured prime mover to a more capable AIFV configuration designed for the Ukrainian Army's Joint Integrated Rapid Reaction Forces. MoD's machinery and repair plant in Mykolayiv builds battlefield ambulances based on the chassis of the BTR-70 APC. The same entity provides upgrades for BTR-60/70/80 APCs and BRDM-2 armoured reconnaissance and observation vehicles. APC engines come from the OJSC 'Yuzhdieselmash' based in Tokmak in the Zaporizhya region.

Ukraine's mainstream manufacturer of military trucks is holding company 'AutoKrAZ' based in Kremenchuk in the Poltava region. AutoKrAZ's product portfolio includes, among other truck types, towing trucks for air defence missile systems for example, as well as utility trucks for the transportation of personnel and supplies.

Artillery Systems

The youngest sector of Ukraine's defence-industrial complex artillery industry has only three players. One is the Scientific/Technical Center for Artillery and Infantry Weapons, a Kyiv-based federal budget-supported enterprise that produces KBA-105 'Shkval' weapons stations for BTR-3U APCs, KBA-101 guns for the main battle tanks armed to NATO standards (T-72-120 and T-84-120), KBA-3 125-mm guns for the T-80UD and T-84 MBTs, in addition to KBA-27 152-mm howitzers and KBA-48 82-mm infantry mortars.

The fine mechanics factory (a state-owned enterprise based in Kamyanets-Podilski in the Khmelnytsky region) focuses on the manufacture of automatic guns ZTM-1 for the BMP-1 AIFVs and ZTM for the BMP-2 AIFVs.

OJSC 'Sumy's Frunze Scientific/Production Association' manufactures and supplies barrels for installation onto the tank guns which are built in Kyiv.

Small Arms Weapons Industry

The small arms weapons industry has only existed in Ukraine since independence. Today it is a relatively well developed sector manufacturing hand-held arms of various types and calibres. The industry leader is the Ukrainian Ministry of Internal Affairs' Scientific/Production Association 'Fort', whose product portfolio includes handguns of various types and

modifications (among them the 'Fort-12/14), a pump-action rifle and a range of gun silencers.

The fine mechanics plant in Kamyanets-Podilski has reconfigured the Kalashnikov machine gun for integration with combat tanks and APCs. The Malyshev plant in Kharkiv is a supplier of tank-mounted machine guns KT-7.62 and KT-12.7 and the Special Application Technology Design Bureau KB-ST in Kyiv has designed and built several pre-prototype submachine guns and rifle-attached grenade launchers.

Ammunition and Military Chemistry Industry

The industry produces shotgun and artillery ammunition, air-dropped bombs, grenades, detonating elements, body shells and related components, as well as explosives, both for shells and for autonomous use. Ukrainian ammunition industry's mainstream enterprise is the CJSC Luhansk ammunition factory which produces cartridge cases and handgun/rifle cartridges.

Among other major ammunition industry companies are:

- Federal budget-supported enterprise "Shostka's 'Zvezda' factory" which produces 122/125-mm high-explosive, anti-armour sub-calibre and shaped-charge tank gun rounds; artillery rounds, 23-mm rounds for the ZU-23-type air defence system and 30-mm rounds for the ZTM-1/2-type guns seen on upgraded BMP-1/2 AIFVs;

- Federal budget-supported enterprise "Shostka's 'Impulse' Factory" which produces electric fuses, main fuses and blasting caps for handgun/rifle cartridges and larger-caliber ammunition types;

- State Scientific Research Institute of Chemical Products (based in Sumy Region's Shostka) which produces 30-mm fragmentation rounds fired from the AGS-17 'Plamya' anti-personnel grenade launcher, as well as smoke grenades;

- OJSC 'Tochmash' in Donetsk which produces air-dropped bomb cases and howitzer/tank-gun high-explosive fragmentation round cases;

- Federal budget-supported chemical factory in Donetsk which produces air-dropped bombs, high-explosive fragmentation and shaped-charge rounds, 82-mm mortar rounds, explosive reactive armour plates for AFV applications and hand grenades of RGN and RGO types;

- Petrovsky Chemical State Association which produces signal cartridges, flares and rocket-propelled depth charges;

- T.G. Shevchenko factory in Vilniansk in the Zaporizhzhya region which produces anti-personnel grenades.

Military Precision Engineering Industry

Ukraine is a member of an elite club of ten countries which have the potential to design, develop and manufacture radar technologies. The industry's product portfolio includes world-renowned radar technology designs such as the 'Kolchuga-M' long-range passive

electronic monitoring radar system designed and developed by the 'Topaz' state-owned joint-stock holding company, an upgraded 3D radar system 35D6, newly-designed 3D radar system 79 K6 developed as an export modification of the 80K6 'Pelican' by the federal budget-supported enterprise 'Research/Production Corporation 'Iskra,''' and a variety of upgrade packages developed for the RLS P-18 radar system by the tandem of the 'Ukrspetstechnika' Holding Company and Research/Production Association 'Aerotechnika.' The upgraded RLS P-18 effectively represents a new design with improved antijamming performance capabilities and a 3D surveillance capability.

Each of the aforementioned radar designs have been accepted as standard equipment for the Ukrainian Armed Forces, although Ukrainian Army's acquisitions of newly-made and upgraded radar systems remain insignificant.

In addition to 'Topaz' and 'Aerotechnika', radar system designs have been handled by the OJSC 'Neptun' and the Federal budget-supported enterprise "Central Design Bureau SKB 'Molniya,''' both based in Odessa (suppliers of a variety of sound ranging system designs), the holding company 'Ukrspetstechnika' which manufactures man-portable short-range ground-surveillance radar systems, and the Research and Development Institute of Radar Technologies 'NII Kvant-Radiolocation' in Kyiv.

Advantages, Disadvantages, Capabilities of and Threats Facing Ukraine's Defence-Industrial Complex

Advantages

The availability of a comprehensive range of defence and dual-use technology designs left over from the Soviet research and development school provides Ukraine with the following opportunities:

- Design, development, production and through-life maintenance of a broad range of space and missile systems, advanced space launch vehicles, spacecraft and related components and subassemblies. Ukraine has capabilities for re-establishing its closed-loop manufacturing cycles for selected space/missile technologies, among them tactical-operational missiles. It still maintains a substantial amount of competitive capability, for example in the field of rocket propulsion units. Ukraine is engaged in Europe's lightweight space launch vehicle 'Vega' project, and 65 percent of its space and missile industry output is exported;

- Design, development, production and through-life maintenance of special-application and dual-use aircraft such as the Antonov An-72/74, as well as military-transport aircraft An-70 and An-32;

- Design, development, production and through-life maintenance of a broad range of aircraft and rotorcraft propulsion systems;

- Design, development, production and through-life maintenance of naval gas turbine engines;

- Design, development, production and through-life maintenance of naval sonar systems (this sector is further developing largely due to export contracts);
- Development and building of advanced radar designs operating in all spectrums (millimeter/centimeter/meter-wave bands) and capable of operating at ranges from several meters to 2,800 kilometres; practical implementation of BVR radar designs;
- Design, development, production and through-life maintenance of passive electronic monitoring radar systems as well as electronic countermeasures systems;
- Further development of selected technologies, including naval pilots training capabilities.

A certain degree of flexibility in terms of building advanced military designs, accomplished through major companies' orientation to export markets. These companies include around three dozen manufacturing plants and design organisations from about three hundred entities currently subsumed into the country's defence-industrial complex, and they comprise the nucleus of Ukraine's defence industry. Market challenges and competition for export markets have pushed defence companies into creating more advanced and competitive military designs, among them:

- Precision-guided weapons;
- Simulator systems supporting training requirements for Soviet-vintage and Ukrainian-made weapons systems and AFV types ranging from MiG-29 fighters and Mi-24 rotorcraft to simulators supporting ground combat exercises at brigade-level-and-below;
- Lightweight AFVs and upgraded MBTs;
- Military configurations of heavy-duty trucks of the KrAZ series;
- Counter-precision weapons systems: an optoelectronic counter-precision weapons system for helicopter applications; the 'Kashtan-3' optoelectronic counter-precision weapons system that protects a potential target by way of emitting a powerful false laser beam leading an incoming laser homing guided missile away from its designated target; innovative active protection system and explosive reactive armour designs for AFV applications;
- Tactical radios; command and control computer systems (C2CS).

The availability of experience of effective collaboration with selected counterpart defence companies in the West. Ukraine's most successful contacts have been with France in its collaboration on a joint helicopter gunship upgrade project, and also with Poland which worked with Ukraine on a project relating to counter-precision weapons technologies. Joint work with some Asian partners, among them China, could also be of interest, specifically with respect to joint research and development by order from a foreign customer.

Availability of a well developed repair infrastructure in Ukraine—which has in recent years been intensively expanded at the cost of export contracts—could provide a basis for launching new production lines. This is to say that available aircraft repair capabilities, combined with available special purpose aircraft production capabilities could give birth to production lines for premises to launch the licensed assembly of foreign-designed warplanes.

Disadvantages

While Ukraine's overall defence budget has increased substantially in recent years, the amount of the Government Defence Order (GDO) has remained extremely small in the past fifteen years. The 2009 National Budget Law sets aside very little money for army rearmament and re-equipment programs. Such a low GDO level calls into question the Government's ability to provide adequate financial support for its priority objectives related to Armed Forces rearmament. As a result, Ukraine has been progressively lagging in the development of high-tech designs for defence and dual-use applications.

Critical dependence on one single weapons and military hardware supplier, specifically the Russian Federation, which results in two interwoven processes. For one, Russia is displacing Ukraine in the area of defence-industrial cooperation programs as was the case with co-production programs involving propulsion units for cruise missiles Kh-35 (NATO reporting name AS-20 'Kayak'), Kh-55 (AS-15 'Kent') and Kh-59 (AS-13 'Kingbolt'), as well as combat aircraft and gunship helicopters, with an adverse impact on Ukraine's defence industry.

The second is 'withdrawing' a partner's manufacturing capabilities into itself or fostering conditions to influence a partner's selected industry sectors or companies in exchange for transferring part of its own manufacturing capabilities to the partner country. In this context, the term 'withdrawal' implies the acquisition of stocks in Ukrainian defence companies as was the case, for example, with OJSC 'Khartron,' a supplier of missile guidance systems, or the acquisition of entire companies such as a naval ship manufacturer, the Black Sea Shipbuilding Yard.

One manifestation of market influence may be seen in drawing a foreign supplier into co-production programmes. Examples are the OJSC 'Motor-Sich,' about 80 percent of whose annual output goes to Russia, as well as OJSC 'FED' (about 60 percent), state-owned joint-stock holding company 'Artem' (80 percent of overall defence output or more) and ANTK Antonov Aeronautical Scientific/Technical Corporation (which was forced to transfer production licenses for the An-148 and An-140 aircraft to companies in the Russian Federation).

Since the Soviet era, Ukrainian defence companies have focused on the manufacturing of components and subassemblies rather than integrated systems. This finally resulted in the loss of substantial cooperation opportunities. These two factors are closely interrelated. If Ukrainian defence industry's focus on the manufacturing of parts and components for weapons systems and military hardware has facilitated dependence on the Russian Fed-

eration for supplies of integrated systems (the Ukrainian defence industry has only six percent of its weapons and military hardware manufacturing cycles 'close looped'), the partial loss of cooperation opportunities results directly from the historical factor. This trend is best exemplified by Ukraine's ammunition industry. Although Ukraine has seven enterprises involved in the manufacturing of ammunition and related components, it still lacks a national closed-loop ammunition manufacturing cycle. Experts have doubts that Ukraine will be in a position to enter a co-production program [with Russia] on a new multifunctional missile suite.

The lack of a single coordinator or a long-term development strategy for the entire defence-industrial complex. The following factors have exacerbated the imbalance in Ukraine's military-technical policy: control of the defence-industrial complex is split among three different Government agencies (the Industrial Policy Ministry, the Ministry of Defence and the National Space Agency), and defence industry companies are influenced by the state military equipment export/import company 'UkrSpetsExport' in addition to three dozen more non-state entities. Moreover, the host of domestic customers pursue different interests (the Ministry of Defence, the Ministry of Internal Affairs, the Security Service of Ukraine, the State Border Service and the Ministry of Emergency Management). This has resulted in the overall degradation of the country's security sector and undermined its defence-industrial complex, while the Ukrainian Armed Forces have found themselves among the poorest and least equipped armies of the world.

The lack of a single coordinator for the defence-industrial complex, among other things, creates a situation where defence companies have to scatter their resources and expertise across too many areas and niches, and amateur designs have often danced out as blueprints for future weapons developments.

Worn-out state of most of Ukraine's manufacturing facilities. Lack of intention to have these facilities upgraded to modern standards. These are two more interrelated factors, specifically the ever aging ex-Soviet management team and the lack of adequate technical means to conduct a large-scale transformation and modernisation.

The presence of the vast majority of defence companies under control of the State, which has more than once demonstrated the worst patterns of administration and management, as exemplified by the current domestic aircraft building industry crisis. One part of this problem stems from the lack of any concentrated effort towards having defence enterprises restructured and transformed into joint-stock companies, which has brought about insensitivity and a lack of flexibility. Some successful defence companies, for instance, are effectively blocked from launching joint projects with Western counterparts because of the absence of opportunities for establishing joint-venture partnerships with potential partners.

Some of the strategically important Ukrainian defence industry sectors have already been brought to the verge of extinction by the lack of a transparent privatisation programme and a range of evident distortions allowed in this field. Two examples are the industries supplying live cartridges and small landing air cushion vehicles.

The Government's inaptitude in introducing flexible options for the mutual settlement of accounts, money lending and advancing of money to finance defence industry projects, along with the demand that foreign currency revenues from defence exports be returned to the Government within 90 days following completion of an export contract.

The presence of a host of outstanding issues that need to be addressed legislatively. These include the adoption of legislation on offset deals and protection of intellectual property rights among other things.

Proposed Changes Necessary to Ensure Further Development of the Ukrainian Defence-Industrial Complex

Raising substantially the amount of the Government Defence Order

CACDS experts estimate that Government funding at the level of €500-600 million for army transformation and rearmament programmes during the next seven to ten years would be sufficient to provide for defence industrial complex opportunities for sustainable growth, development of advanced technologies and supporting programs for the national military forces' transformation and rearmament according to modern standards. To this end, it is necessary for the Government to assign a single coordinator for the defence-industrial complex, a Cabinet of Ministers member in the rank of deputy prime minister. This would enable a more effective distribution of Government defence orders among entities, and would allow for selecting foreign countries to work with Ukraine as partners in military-technological cooperation programs. CACDS estimates that around 60 percent of all the new weapons systems and military hardware required by the Ukrainian military forces could be supplied by the national defence industry, while the remaining 40 percent will have to be from foreign suppliers.

Opening the way for the arrival of private sector equities and cross-border capital

The transfer of a vast majority of defence companies into private hands is a necessary logical step to ensure speedy defence industry restructuring and transformation of state-owned entities into joint-stock companies. Analysis carried out by CACDS experts points to the need and practicality of a well balanced privatisation strategy. Part of defence design companies could be retained under Government control, or they could be allowed to exchange their equities with foreign counterparts (this option could be applied, for example, to aircraft companies involved in co-production programmes with the Russian Federation). The amount of defence companies' equities to be put on privatisation auction blocks should not be in excess of 25 percent for mainstream companies of strategic importance, for example, aeronautical companies, and 49 percent for companies of no strategic interest to the Ukrainian Armed Forces, while the remaining entities could be privatised in full.

At the restructuring and corporatisation stage, extra options for selected defence industry sectors/subsectors could include the setting up of integrated entities, such as state-owned corporations, with an eye to obtaining highly aggregated company groupings and making these more attractive to potential investors. The same option could be applied to

the aircraft industry (where it has already been implemented) and the defence industry sectors manufacturing ammunition, armoured fighting vehicles and short-range attack missiles.

Implementation support is also possible for some companies and defence industry sectors. Among other entities, implementation support could be provided for state-owned enterprises in the form of Government funding for selected programs or whole business areas. For example, this option has already been used in selected development projects for advanced precision-guided weapons carried out by the State Design Bureau 'KB Luch,' and in R&D on new unmanned aerial vehicles currently being pursued as a private finance initiative (PFI) project by the MoD's State Enterprise 'Chuhuiv Aircraft Repair Plant.' A greater financial involvement of Government licensed defence exporters, banking institutions, defence companies and the State Innovation Company in new arms development projects could facilitate the smooth advancement of minor projects in the field of new weapons development, as well as large-scale state programs.

Intensified cooperation with counterpart defence companies in the West could provide a strong stimulus for the development of the defence industry in general and individual defence industry sectors in particular. CACDS believes that this cooperation could be implemented in the form of Western defence technology acquisitions, co-production/co-development of advanced defence technologies and joint search of and operation on third markets.

With the introduction of modern Western-style management and administration approaches, Ukrainian defence companies could become reliable partners for Western counterparts, but this would require appropriate legislation or a Government resolution.

The defence industrial complex needs a more advanced and flexible lobbying system to be exploited at the national level, as well as on the international arena. This is about making use of state visits, diplomatic and commercial missions, as well as non-government expert entities for developing military-technological cooperation mechanisms to be applied to selected specific projects. Information support for military-technological cooperation projects is currently being provided using the old tools and procedures that are characteristic of Russian mass media dominance and a lack of Ukrainian expert community's support for the projects. Generally speaking, bureaucracy and 'foot-dragging' are inherent in Ukraine's defence-industrial complex.

Enlisting support from minor players is necessary to facilitate Ukrainian defence industry expansion and development. This means small and predominantly privately owned companies oriented to the development and manufacture of a single highly competitive military design. Examples of good performance by minor defence industry players are few, but still they exist. Research and Production Firm NPF 'Adron' has designed and built a helicopter electronic-optical IR threat protection system designated 'Adros' KT-01AV, and 'Energia 2000' firm has gained recognition for its simulation technology designs.

The introduction of unconventional options for mutual settlement of accounts between customers and suppliers of weapons, military hardware and related components. The de-

fence-industrial complex could also benefit a lot from concentrated efforts towards the introduction of more flexible and efficient leasing, money lending and offset options.

Key Threats

The Russian Federation's capabilities to wield influence on the Ukrainian defence-industrial complex could be one of the key threats to the development of cooperation in military technology between Ukraine and the Western world. For example, given the presence of a good deal of Moscow special interest lobbyists among Ukraine's political establishment, there is practically zero possibility that Kyiv will select for its military a new air defence system and a new warplane other than Russia's, even though about one and a half dozen Ukrainian companies stand ready to provide Ukrainian Armed Forces with air defence systems, and some 40 enterprises in Ukraine have the potential to supply the national Air Forces with modern warplanes, among them fighter trainers and multifunctional combat aircraft. At the start of 2009, the level of military-technical cooperation with the Russian Federation in this domain was relatively low with Russia's participation being largely restricted to providing limited support to selected partners, in particular manufacturers of some components and subassemblies for Russian-designed combat aircraft radar systems. However, Moscow seems to be set to unfold military-technical cooperation with Ukraine at any time it may deem appropriate.

Another serious threat stems from the apparent imbalance seen between the Ukrainian Armed Forces' requirements and the means of the domestic defence suppliers. The Government has for many years supported domestic suppliers of armoured fighting vehicles by way of acquiring a few dozen main battle tanks every year, while neglecting altogether the defence industry sectors that do not have the means to fully meet the requirements of the national military on their own. If a policy of this kind continues in this way for a long time, defence companies will not be able to further develop or produce new designs of weapons and military equipment.

It is inevitable that the political factor involved with the transformation, rearmament and re-equipment of the Ukrainian Armed Forces will become a 'leverage of pressure,' which any new administration may set the level of military-technical cooperation with Western nations depending on political expediency. The Ukrainian Armed Forces General Staff, mainly for political reasons, is tight-lipped on the military's real needs or required performance capabilities of future weapons and military equipment types. A particularly grave situation has developed in the fields of combat aircraft and air defence weapons – the sectors where dependence upon Russia will remain critical for many years to come. Considering that each and all Ukrainian administrations have had among their members a good deal of people fiercely lobbying for military-technological cooperation to be pursued with Russia alone, any Ukrainian government is in a constant danger of coming under the influence of respective political forces, which may result, among other things, in some or other programs being scrapped should there be delays or any kind of unforeseen problems in the implementation of the programs.

The political factor must to the extent possible be taken into account by potential Western partners. In particular, in negotiating cooperation, the agenda should include terms and conditions for Ukrainian defence companies' involvement in the joint projects being negotiated.

Risks of some kind lie in financial aspects of cooperation as well. This means to say that ever shrinking Government Defence Order, combined with decreasing defence exports and changes in the course of cooperation projects and in participating companies' financial standing will all have their impact on the State's military-technical policy, and, on most occasions, this impact will be adverse for Western partners.

Additional serious threats to the development of military-technical cooperation and the whole defence-industrial complex stem from some defence companies' inability to respect their obligations assumed under cooperative deals – for reasons ranging from lost industrial cooperative ties, obsolete engineering capabilities and worn-out state of net operating assets to ex-Soviet-style factory management and a grave staffing shortfall.

Some of the risks and threats are endemic to Ukraine – with all its political rivalries and overt scramble for influence on military-technical cooperation, hence the defence-industrial complex. Problems of this kind might be in the character of political expenses or 'force-majeure,' still they potentially can seriously impede the advancement of some specific programs.

Financial Aspects

National-budget Financing of Defence-related Expenditures

The State Program for the Transformation and Development of the Ukrainian Armed Forces for 2006-2011 has a total budget of 73.4 billion UAH, including:

- UAH44.4 bn (or 60.5%) in funding for pay and subsistence of military personnel and Army Materiel maintenance;
- UAH 8.7 bn (11.9%) in funding for military training programs;
- UAH15.2 bn (20.8%) in funding for defence acquisitions and military infrastructure development programs;
- UAH 5.1 bn (6.8%) in funding for the Ukrainian Armed Forces reform and transformation programs.

The outcome of the work done under the State Program in 2006-08 suggests that the program will not be implemented to its full extent. Table 11.3 indicates actual year-by-year appropriations for military acquisitions and defence-related R&D.

According to a MoD report, the State Program 2006-07 budget undershot by more than UAH 4.0 billion. If this trend continues through 2011, the Armed Forces will not receive UAH 10.5 billion or 14.2 percent of the UAH 73.4 billion earmarked for the Program.

Table 11.3: Actual Year-by-Year Appropriations for Military Acquisitions and Defence-Related R&D.

	2005	*2006*	*2007*	*2008*	*2009 (projected)*
Defence budget	UAH 8.2 bn	UAH 8.9 bn	UAH 8.5 bn	UAH 8.94 bn	UAH 11.5 bn
% of GDP	1.38 %	1.74 %	1.53 %	1.1 %	0.87 %
Funding for military acquisitions and defence-related R&D	UAH 411 mn	UAH 583 mn	UAH 681 mn	UAH 769 mn	UAH 1.40 bn

Meanwhile, the Ukrainian Armed Forces General Staff announced in a statement at the start of 2008 that the total budget of programs for weapons upgrades and acquisition of newly-made weapons and military equipment would have amounted to UAH 12 billion by the end of 2011 (UAH 3.0 billion in fiscal year 2008, UAH 4.0 billon in fiscal year 2009 and close to UAH 5.0 billion in fiscal year 2010) – the maximum of what the domestic defence-industrial complex would be able to absorb. But in actual fact, in 2008 the Armed Forces only got UAH 769 million in funding for weapons acquisition and R&D programs. Of the UAH 1.40 billion earmarked for the programs from the National Budget's general fund for fiscal year 2009, only UAH 164 million may actually end up on the programs' budget. Even though the Government provided for additional UAH 2.8 billion to be appropriated from the National Budget's stabilisation fund, it is highly improbable that the money will actually end up on the MoD's budget, which makes the MOD's targets in this field effectively unachievable.

Ukrainian Defence Industry Exports

According to preliminary estimates provided by the CACDS, Ukraine's 2008 defence export revenues amounted to at least $1-1.2 billion. Table 11.4 below illustrates the dynamics of Ukraine's defence export deliveries over the past decade. Then Table 11.5 shows the defence export structure in terms of key product types.

Table 11.4: Dynamics of Ukraine's Defence Export Deliveries over the Past Decade.

2000	*2001*	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*	*2008 (estimate)*
$600 mn	$575 mn	$550 mn	$714 mn	$780 mn	$800 mn	$1.0 bn	$1-1.2 bn	$1-1.2 bn

Table 11.5: Defence Export Structure in Terms of Key Product Types.

	Market niche	Share of overall defence exports, %	US dollar equivalent
1.	Aircraft engines	14	$130-150 mn
2.	Aviation materiel	13	$100-150 mn
3.	Space / missile technologies and related services	10	$100-150 mn
4.	Precision-guided missile weapons	10	$85-100 mn
5.	Combatants and naval systems	10	$100-120 mn
6.	Defence-related repair, maintenance and upgrade services	10	$90-110 mn
7.	Lightweight / heavyweight AFVs	9	$80-100 mn
8.	Lightweight small-arms weapons, MANPAD systems, ammunition	7	$50-80 mn
9.	Radar systems	5	$50 mn
10.	Air defence missile systems	3	$25-50 mn
11.	Artillery systems	3	$25-50 mn
12.	Miscellaneous	6	$50-70 mn

Joint Programs

Most of experience built up by Ukraine with programmes in the field of R&D on and the building of new weapons and military equipment types relates to military-technological co-operation with the Russian Federation. Cooperation in this field rests on the cooperative ties that developed between designers and manufacturers of weapons and military equipment back in the Soviet times. The joint programmes have been implemented under government-to-government and inter-agency agreements, which greatly facilitates the implementation process.

The following are the biggest and most renowned joint initiatives with the Russian Federation:

- Design/development and building of the Antonov An-70 military transport aircraft;

- Upgrades on the An-124 'Ruslan' airlifters;

- Ukraine's participation in a Russian program to produce a fifth-generation jet-fighter for the Russian Air Force;

- Ukrainian supplies of gas turbine engines for integration with Russian Navy's combatants;

- Modernisation of Ukrainian Armed Forces' air defence weapons arsenals;

- Ukrainian companies' provision of maintenance services to the Russian Federation's Strategic Missile Forces;

- Supplies of engines for installation in Russian Armed Forces' helicopters; and

- Supplies of air-to-air missiles for the Russian Air Force fighters.

In financial terms, the scope of Ukrainian-Russian military-technical cooperation could potentially amount up to $250 million annually.

Ukraine's experience with participating in joint defence-related projects with Western partners is insufficient and limited to a few joint initiatives so far, mostly in the field of Soviet-vintage hardware upgrades. In this respect, a joint project between 'Aviakon' and French firm 'Sagem' to upgrade the Ukrainian Army's Mi-24 helicopter fleet is most prominent. This long-term project includes refurbishment and upgrades on a fleet of about six dozen Mi-24s. Generally speaking, the helicopter niche seems to be highly promising to Ukraine, as it operates closed-loop cycles for upgrading of Mi-24 and Mi-8 series helicopters, and has the potential to absorb some of the military helicopter upgrade markets in Eastern and South-Eastern Europe.

Some of Ukrainian military designs have been adopted for production by European companies. For instance, a Polish firm, under a $90mn shared production agreement with a Ukrainian counterpart, has launched production of the AFV active protection system 'Shershen' – a variant of the active protection system 'Zaslon' built by the Kyiv-based State Enterprise "'Microtech' Base Center for Critical Technologies."

Preparations have got underway for a series of new joint initiatives with European companies, among them a project to produce a multifunctional corvette-class ship for the Ukrainian Navy. Potential partners could include France, Italy, Germany and the Netherlands whose combined workshare in the project may amount to 60 percent. European supplies may account for estimated $360 million of the $600 million cost of the initial order for four vessels.

Defence Import Financing Mechanism

Ukraine lacks any significant experience with financing military imports for the Ministry of Defence. The first project to be implemented in this field was MoD's 2008 acquisition of one Israeli unmanned aerial vehicle 'Bird Eye 400' which was selected by the MoD's Department of Acquisitions and Designs bypassing official bidding and competition procedures. The money required for the acquisition was included in 2008 GDO by a Cabinet of Ministers resolution. The State Company 'UkrSpetsExport'—which has a Government license for export/import of defence and dual-use goods—mediated the deal as the Customer.

Ukraine has short-term plans to further expand the range of its military imports under MoD's programmes for building and acquiring new weapons and military equipment types. Most substantial acquisitions are planned under the program to meet the Ukrainian Navy's

requirement for corvette-class vessels. It is foreseen that much of shipboard equipment and naval weapons systems for the project will be purchased from European suppliers – Combat Management Systems from France and the Netherlands, antiship and air defence missile systems from France, torpedo weapons from Italy and a sonar system from Germany. In addition to naval equipment and weapons systems, ASW helicopters for the Ukrainian Navy's corvette program will most probably be provided by European suppliers. Such a large-scale program requires unconventional financing mechanisms to be developed and introduced – work currently being done by the Ukrainian MoD.

Ukraine's defence project funding policy is unique among other countries in that funding for projects is appropriated in step with completion of each consecutive stage – from concept development, R&D and prototype building to trials and deployment. For the corvette project, however, the MoD may provide for an easier and more flexible procedure. One option being considered calls for establishing a joint-venture partnership through which to conduct settlement of all accounts.

Financial Standing of Selected Ukrainian Defence Companies

Company Name	Financial Indicators
OJSC 'Motor Sich'	Over the first six months of 2008, net income amounted to about $10 mn, sales output $154.8 mn and net profit $9.7 mn. Net profit for all of 2007 made up UAH 207.128 mn ($41.3 mn) and net sales equalled UAH 1.8 bn ($360 mn)
ANTK Antonov	2008 federal budget support amounted to about UAH 142 mn ($28.4 mn). The company estimates its own value at €8-10 bn. ANTK Antonov's subsidiary 'Antonov Airlines' reported a gross income of $136 mn for all of 2007, and $206 mn for the first six months of 2008
OJSC 'FED'	The company had net income for 2007 of UAH 5.041 mn ($1.008 mn) and sales output of UAH 114.065 mn ($22.813 mn)
'Aviavoenremont' Corporation (with subsidiaries)	The corporation posted the value of industrial output and repair services rendered of UAH 453 mn ($90.6 mn) for 2006
PO 'Yuzhmash'	Industrial output made up UAH 383.6 mn ($76.72 mn) over the first eight months of 2008, and UAH 1.104 bn ($220.94 mn) over 2007
GAHK 'Artem'	Net profit made up UAH 200,000 ($40,000) and sales output amounted to UAH 94.536 mn ($18.9 mn) for the July-September period of 2008
	The company reported sales output of UAH 1.206 bn ($241.2 mn), and appropriations for the national budget and

	extra budgetary funds of UAH 110.581 mn ($22.12 mn) for 2007
SE '61 Communards Shipbuilding Yard'	The company finished the January-June period of 2008 with gross incomes of UAH 55,000 ($11,000) and gross losses of UAH 6.0 mn ($1.1 mn), and posted marketable output of UAH 72.5 mn ($14.5 mn)
	Net profit of UAH 399,000 ($79,800), industrial output of UAH 56.5 mn ($11.32 mn), accounts payable of UAH 77.6 mn ($15.52 mn) and accounts receivable of UAH 13 mn ($2.8 mn) were posted for 2007.
	The company emerged from bankruptcy at the end of 2007
SE 'Zoria-Mashproekt'	Net profit for 2008 figured out to UAH 141.3 mn ($28.26 mn) and sales output made up UAH 1.266 bn ($253.2 mn) – 52% up on the previous year
SE "Malyshev Plant"	The company reported sales output for 2008 of UAH 230 mn ($46 mn), of which UAH 140 mn ($28 mn) or 61% was accounted for by defence output
	As of 31 October 2008, the enterprise balance was estimated at UAH 626.779 mn ($125.356 mn)
CJSC 'Luhansk Ammunition Factory'	The company reported net profit of UAH 16.413 mn ($3.28 mn) for 2007 and dead-weight loss of UAH 3.718 mn ($743.6 mn) for 2006. Sales outputs were reported at UAH 80.467 mn ($16.09 mn) for 2007 and UAH 12.033 mn ($2.4 mn) for 2006
OJSC 'Tochmash'	The company was declared bankrupt in 2007.
	Dead-weigh losses of UAH 20.069 mn were reported for 2007 and UAH 15.205 mn ($3.041 mn) for 2006, while sales output of UAH 73.005 mn ($14.6 mn) was reported for 2007 and UAH 58.211 mn ($11.64 mn) for 2006
GAHK 'Topaz'	Net income and sales output for the July-September period of 2008 were reported at UAH 75,000 ($15,000) and UAH 1.47 mn ($294,000), respectively.
	The company posted net profit of 78,000 ($15,600) and sales output of UAH 92.844 mn ($18.57 mn) for 2007. Sales output for 2006 made up UAH 114.241 mn ($22.85 mn)
KP "Research / Production Corporation 'Iskra'"	Aggregate export revenues for 2003-07 amounted to $55.9 mn. In 2007, the company executed Government contracts worth UAH 27 mn ($5.4 mn). In 2008 'Iskra' earned $20 mn from export contracts and UAH 91 mn (18.2 mn) from Government contracts

OJSC 'Kyiv's Radar Factory'	Net profits were reported at UAH 750,000 ($150,000) for 2007 and UAH 5.56 mn ($1.112 mn) for 2006, while sales output made up UAH 77.46 mn ($15.5 mn) in 2007 and UAH 90.536 mn ($18.1 mn) in 2006
OJSC 'NPK Kyiv's Petrovsky Automation Equipment Factory'	The company posted net profits of UAH 750,000 ($150,000) for 2007 and UAH 715,000 ($143,000) for 2006. Sales outputs were reported at UAH 27.423 mn ($5.48 mn) for 2007 and UAH 31.692 mn ($6.34 mn) for 2006

Ukrainian Defence Industry's Performance on Export Markets; Supplies of Imported Components, Subassemblies and Materials to Meet Requirements of Ukrainian Defence Suppliers

Deficient components, subassemblies and materials required by Ukrainian defence companies have been delivered by suppliers from 16 nations. 67 defence companies or more than 40 percent of the total number of companies engaged in Government-funded contracts depend on imported supplies. Most critical levels of dependence on imports have been seen in the aircraft engine, aircraft and defence electronics sectors of the defence-industrial complex. The Russian Federation accounts for more than 60 percent of overall imports required by Ukraine's defence industrial complex.

The domestic market nowadays absorbs no more than five to seven percent of the national defence industry output, while 90 to 95 percent of the output is targeted at export markets.

Ukraine's performance on overseas markets with respect to the amount of weapons/military equipment and related repair/upgrade services exported during 2008 was as successful as in the previous year, when Ukrainian defence exports were biggest on record since 1998. Preliminary estimates by analysts at the Center for Army Conversion and Disarmament Studies suggest that Ukraine earned $1-1.2 billion or more from defence exports in 2008.

However, price rises for steel, components and labour force in recent years, combined with the decreasing value of the dollar have adversely impacted on the profitability of arms and defence-related service exports – both for manufacturers and Government licensed defence exporters. As a consequence, Ukraine's share of the global arms market has dropped to less than two percent in 2008 from three percent in 2000. Global arms exports had been increasing almost in parallel with oil prices, and this trend will be directly reflected in global arms market statistics for 2008.

The list of Ukrainian enterprises that are allowed to export defence-related products and dual-use goods without mediation of Ukrainian specialised government agencies (so called 'spetsexportery' or Government licensed defence exporters) includes State Company UkrSpetsExport and its subsidiaries Ukroboronservice, Progress, Ukrinmash and

Spetstechnoexport. In addition to these five Government authorised entities, licenses for operation on overseas defence markets have been issued to 14 suppliers who have to clear all issues relating to their pricing policies and strategies with the State arms export/import authority – state company UkrSpetsExport. Most of these are systems companies controlled by the Ministry of Industrial Policy. Two examples are the gas turbine engine supplier state enterprise 'Zoria-Mashproekt' and aircraft engine maker OJSC 'Motor-Sich.' Therefore, in terms of the amount of export revenues, Ukraine's overall defence exports are comprised of the money earned by Government licensed defence exporters—UkrSpetsExport and its four subsidiaries who act as mediators in export deals—and export revenues of the 14 companies allowed to operate independently on export markets.

Ukraine delivers defence products and dual-use goods for export to 80 countries worldwide (Table 11.6), including ex-Soviet states (or the CIS), 23 in Asia and 15 in Africa, as well as the Americas. At the top of the list of the biggest recipients of Ukrainian weapons and related components is the Russian Federation, followed by India, China, Azerbaijan, Georgia, Kazakhstan, France and Algeria. In 2007, UkrSpetsExport expanded its customer base after winning contract awards from Kenya, Chad and Thailand.

Ukrainian defence exports are mainly comprised of newly-made weapons and military hardware, surplus weapons and military equipment from MoD's arsenals, military equipment upgrade and repair services, as well as contributions to joint R&D projects on advanced military technologies, with the aerospace sector dominating in most of these niches (Table 11.7).

Decision-making Procedures for Acquisitions of Foreign-Supplied Components and Subassemblies Required for Domestic Arms Production Programs

Decisions on the need for a purchase of selected arms or military equipment types from foreign suppliers to meet the requirements of the Ukrainian Armed Forces are made by the MoD's Department of Acquisitions and Designs. Purchases of selected arms and military

Table 11.6: *Geography of Ukrainian Defence Exports for 2007-08.*

Region of the world	Share, %
South-East Asia	28
Russian Federation	22
CIS countries minus Russia	14
Middle East and Northern Africa	18
Africa minus Northern Africa	12
USA, Western and Eastern Europe, Latin America	6

Table 11.7: *Ukrainian Defence Export Structure in Terms of Product Types.*

Market niche	Share of overall exports, %
Aircraft engines	14
Aviation materiel	13
Space/missile technologies and related services	10
Precision-guided missile weapons	10
Naval technologies	10
Military equipment upgrade/repair services	10
AFVs, heavyweight and lightweight	9
Lightweight small-arms weapons, MANPAD systems, related ammunition	7
Radar technologies	5
Air defence missile systems	3
Artillery systems	3
Miscellaneous	6

equipment types to meet the requirement of non-MoD military formations are carried out using similar procedures.

The request for proposals is released and a contract competition conducted to assess and compare offers available on the market. From this stage onwards, all the weapons and military equipment acquisition activities proceed under the oversight of the State Service for Export Control as well as special services.

Based on the results of a contract competition, a specific product is selected.

The Ministry of Defence takes a decision on the acquisition of the selected product. Decisions on specific products selected may require to be additionally approved by the Inter-Agency Commission on Military-Technical Cooperation Policy and Export Control under the President of Ukraine which is structurally included into the National Security and Defence Council.

Funds needed for the purchase are provided for by a Cabinet of Ministers resolution on the Government Defence Order to be included in the National Budget for the next consecutive fiscal year.

The Ministry of Defence signs a contract for the purchase of the selected product type with UkrSpetsExport – the state-owned arms import/export monopoly. UkrSpetsExport carries out all the technical and financial procedures required for purchasing the selected product from a foreign supplier.

Decision-making Procedures for the Export of Weapons and Military Equipment

The list of Ukrainian enterprises that are allowed to export defence-related products and dual-use goods without mediation of Ukrainian specialised government agencies (so called 'Government licensed defence exporters') includes the state company UkrSpetsExport and its subsidiaries Ukroboronservice, Progress, Ukrinmash and Spetstechnoexport. In addition to these five Government authorised entities, licenses for independent operation on overseas defence markets have been issued to 14 suppliers who have to clear all issues related to their pricing policies and strategies with UkrSpetsExport.

Defence-related export procedures consist of four steps. First, experts carry out the necessary market survey and research to identify potential customers. Second, consultations and pre-contract negotiations are held with potential buyers. From this stage onwards, all the weapons and military equipment export activities proceed under the oversight of the State Service for Export Control as well as the special services responsible for ensuring that the potential contract fully comply with international standards of export control.

Third, UkrSpetsExport and State Service for Export Control take a decision on the export of a specific military product. On isolated occasions, decisions made may require to be additionally approved by the Inter-Agency Commission on Military-Technical Cooperation Policy and Export Control under the President of Ukraine which is structurally included into the National Security and Defence Council. Finally, the Government licensed defence exporter signs a contract and ensures its execution.

Overall Characteristic of the Ukrainian Armed Forces' Weapons and Military Equipment Inventories

The inventories of weapons and military equipment currently deployed with the Ukrainian Armed Forces are almost wholly comprised of Soviet-vintage systems, with advanced newly-designed items having been acquired in ones or twos and therefore not making up any significant resource.

In the Army, 93% of equipment has been in operation for longer than 15 years, four percent for 5-15 years, and only three percent for 1-5 years. Actually, 93% of the Army's inventory of weapons and hardware has reached the end of its expected service life.

Wear-and-tear of the military air fleet is also critical. Of the 172 aircraft deployed with the Joined Rapid Reaction Forces—the best equipped and trained element of the Ukrainian Armed Forces—only 110 aircraft (or 63%) are battle worthy.

The situation in the naval component of the Joint Rapid Reaction Forces is close to critical, as not a single of its ten surface combatants can be considered fully combat worthy today.

According to a MoD report on wear-and-tear of its weapons arsenals and military hardware inventory as of the end of 2008, 80% of the missile and artillery weapons, 50% of

fighter and reconnaissance aircraft fleet, 60 % of bomber aircraft fleet and 20 % of strike fighters have reached the limit of their service life.

So it can be safely said that the Ukrainian Armed Forces is approaching the point where it will cease to exist as a combat worthy entity as early as by the end of 2011.

Conclusion and Recommendations

Based on the results of this study, the following trends in the evolution of Ukraine's domestic market for weapons and military hardware might be safely foreseen. First, the Ukrainian Armed Forces' overall inventory of weapons and military equipment is on the verge of retirement as service lives of virtually each and all items in the inventory will expire in 2011. On the other hand, 2011 marks the beginning of a range of large-scale programs aimed to bring the Armed Forces up to date in terms of materiel. Importantly, defence budgetary shortfalls expected up to 2015 will make the MoD refocus from acquisitions of newly-made systems to the upgrading, refurbishment, modification and improvement of already available inventories of weapons and military equipment, with acquisitions only possible for the rejuvenation of selected individual inventories.

Second, it appears very likely that the Ukrainian Government will be keen to ensure that the domestic defence industry receives the biggest possible workshare in Government-funded contracts for the upgrading, design/development and production of weapons and military equipment, even though the industry's engineering and manufacturing potential is obviously insufficient to independently implement an ambitious task such as comprehensive rearmament and re-equipment of the national military.

This opens broad vistas for foreign military-industrial entities coming into the Ukrainian market. However, potential foreign partners should orient themselves more towards flexible cooperation options ranging from co-production to broad technology exchanges, rather than direct supplies of weapons and military equipment to Ukraine. Those who propose the most interesting projects for specific individual niches will certainly have the edge on the Ukrainian market. This might be best illustrated by the project to build a new corvette for the Ukrainian Navy. In selecting potential partners from numerous European bidders, not only does the Ukrainian party compare performance capabilities of proposed naval weapons designs, but it also takes into account workshare elements of proposed offers with respect to ensuring maximum possible involvement of the domestic industry, in addition to the extent of proposed technology transfers.

At this point, there are a few potentially promising domains for Swedish defence companies looking to come into the Ukrainian market (see Table 11.8).

This list of potential joint projects with Swedish companies is far from complete. Expansion of Ukraine-Sweden cooperation potentialities in this field will require each specific niche of future cooperation to be assessed and analysed by Ukrainian and Swedish experts. The future programs should be projected into the long term, with due account taken of the obstacles that will certainly emerge along the way and require a great deal of persistent work to overcome.

Table 11.8: Promising Domains for Swedish Defence Companies in the Ukrainian Market.

	Ukrainian Interests	Potential Swedish Interests
Naval Systems		
1	Ukraine is set to fulfil its Navy's requirement for a new corvette. The first-of-class ship is to be completed in 2012. Foreign-supplied components and subsystems may amount up to 60 % of the project cost.	Given the very tight time limit allowed for the project, Sweden may propose its antiship missiles RBS-15 Mk2/Mk3 as main weapons for the ship. Saab Bofors Dynamics might offer its Tp2000-type torpedoes.
2	Work is currently underway to develop a viable maritime protection concept optimized for anti-mine protection, among other things.	Sweden could propose to the Ukrainian party a maritime protection solution employing one of 'Double Eagle' series mine countermeasures remotely-operated vehicles built by Saab Bofors Dynamics.
Radar Technologies		
3	Ukraine has a requirement for a 3D naval radar system to equip its future corvettes. The requirement could be implemented through imports or creating an indigenous design.	The Swedish company Saab could have an interest in supplying its Sea Giraffe AMB radar for installation in the prospective Ukrainian corvette.
4	Ukraine is one of the world's technology leaders in the radar field. Still, there is the need for the exchange of technology and engineering solutions to be embedded in advanced future designs.	Ericsson could have an interest in engagement with Ukraine in the development of future radar designs for its own militaries as well as for third markets.
Armoured Fighting Vehicles (AFVs)		
5	Ukraine's defence industry has a closed-loop AFV manufacturing cycle. The industry currently puts out T-84 MBTs and carries out refurbishment and upgrades on the Soviet-vintage T-64 MBTs. In addition, lightweight wheeled AFV designs BTR-3 and BTR-4 have been promoted on the domestic and export markets. Ukraine has a requirement for advanced materials and assemblies needed for improving performance capabilities of existing fire control systems for MBT, APC and	Expansion of cooperation with Ukrainian counterparts could be of interest to SAAB Systems and SAAB Training Systems – Swedish suppliers of Combat Management Systems and simulation technologies. Land Systems Hägglunds, a supplier of armoured fighting vehicles, could be interested in engagement with Ukraine.

	AIFV applications and for producing advanced AFV simulators mounted on motion electric platforms. Enhancing anti-mine performance capabilities of existing AFV types remains high on the agenda.	
Aviation Materiel		
6	Operational status of the aircraft fleet in the Ukrainian Air Force inventory has reached critical levels. Programs for upgrading and extending services life of MiG-29, Su-25 and L-39 fleets began in 2009 and are scheduled for completion in 2011. Meanwhile, after 2015 Ukraine may invite foreign bidders to compete for a potential contract to provide a new main fighter jet for the Ukrainian Air Force which has a re-quirement for about two hundred aircraft in various categories.	Gripen International Group would be well advised to draw up a long-term marketing programme for promoting its Gripen-series fighters on the Ukrainian market. Sweden's status as a non-aligned State could provide it with an additional competitive advantage in the bidding process in that it would downplay the criticism of the possible selection of the Gripen fighter on the part of detractors of Ukraine's engagement with NATO or the U.S. Sweden could provide for itself one more edge over other potential bidders by offering a substantial enough off-set package where some portion of the contract value would in-volve purchases and services contracted to Ukrainian companies.
C4I Capabilities		
7	Ukrainian Armed Forces formations at tac-tical, operational-tactical and strategic command echelons employed technically obsolescent Soviet vintage communica-tions systems based on the designs devel-oped during the 1960-80s, which have all reached the end of their expected service life. The State program for the transforma-tion and further development of the Ukrainian Armed Forces determines three strategic areas of focus in this field. These include: the upgrading, modification and improvement of existing communications facilities; the acquisition of indigenously-designed systems, and the acquisition of imported technologies together with related production licenses. Bidding and competi-tion procedures for communications tech-	SAAB Systems & Electronics has worked on a project to produce for the Swedish Armed Forces a future network-centric C4I system that is being developed as a joint information system integrating and networking all combat systems and command and control systems at all levels of command. This could be proposed to the Ukrainian party as a basic design to be employed in a joint project to the benefit of both parties. Ericsson could offer Ukraine the supply of network-centric tactical communications systems of its EriTac series, in addition to tactical communication systems supporting network-centric warfare requirements, as well as ground border protection equipment and coastal surveillance systems. In addition

	nologies are currently being developed. In selecting potential partners in pro-grammes for the upgrading, production and deployment of the national C4I system, ac-count should be taken of the country's for-eign policy direction, its overall strategy for military and commercial communications technology development, as well as exist-ing objectives related to bringing Ukraine's military/commercial communication net-work up to EU and NATO standards with an eye to ensuring its integration into communications networks operated by European and Euro-Atlantic security structures. The overall value of contracts in this field could potentially amount to more than $2 billion.	to these, it could also offer its CoordCom systems to equip emergency call processing centres in Ukraine.
8	Ukraine has a medium-term interest in ob-taining a highly efficient airspace radar control system that would include a foreign-supplied long-range radar detection system based on a domestically built aerial platform such as the An-140 or An-74.	SAAB and Ericsson might have an interest in advancing to Ukraine the EriEye project that could potentially engage aircraft designers from the ANTK Antonov Aeronautical Scientific/Technical Corporation.
Ammunition and Precision-guided Weapons Systems		
9	Ukraine has capabilities for the design and manufacture of precision-guided weapons. Most of the development effort in this field has been given to the design, development, production and supplies of ground-launched precision weapons, among them air defence missile (ADM) systems and barrel-launched anti-tank guided (ATG) missiles for MBT and AFV applications. Projects in this field have been handled by defence companies based in Kyiv. Indigenously-designed precision weapons systems have been supplied to the Ukrainian Armed Forces as well as export markets.	SAAB Bofors Dynamics could partner with some of Ukrainian ATGM weapons designers and suppliers with an eye to marketing joint designs – both in Ukraine and on third markets.

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The Geneva Centre for the Democratic Control of Armed Forces (DCAF)

DCAF was established in 2000 by the Swiss government. DCAF is an international foundation with 53 member states and the Canton of Geneva. DCAF's main divisions are Research, Operations and Special Programmes. The staff numbers over 70 employees from more than 30 countries. DCAF's head office is located in Geneva, Switzerland. The Centre also has permanent offices in Brussels, Ljubljana, Ramallah and Beirut.

The Geneva Centre for the Democratic Control of Armed Forces is one of the world's leading institutions in the areas of security sector reform and security sector governance. DCAF provides in-country advisory support and practical assistance programmes, develops and promotes appropriate democratic norms at the international and national levels, advocates good practices and conducts policy-related research to make recommendations to ensure effective democratic governance of the security sector.

DCAF's partners include governments, parliaments, civil society, international organisations and the range of security sector actors such as police, judiciary, intelligence agencies, border security services and the military.

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