

ADDRESSING SECURITY RISKS AT THE UKRAINIAN  
BORDER THROUGH BEST PRACTICES ON GOOD  
GOVERNANCE

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# Addressing Security Risks at the Ukrainian Border Through Best Practices on Good Governance

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## Preface

This volume contains selected presentations delivered at the Advanced Research Workshop on “Addressing Security Risks at the Ukrainian Border through Best Practices on Good Governance – Sources and Counter Measures” that took place in Kyiv on 25–26 February 2016. The main aim of the joint Polish-Ukrainian initiative, supported by the NATO Science for Peace and Security Programme and organised by the Kosciuszko Institute, Ukrainian Institute for Public Policy as well as the partner Pentacomp, was to discuss the possible incentives to increase the integrity and transparency of the Ukrainian border management agencies.

Border security is a pressing issue for Ukraine, given the current security crisis in the country. Both the illegal annexation of Crimea and the temporary occupation of the Donbas region are severe violations of Ukraine’s territorial integrity and the international legal order. Promoting good governance in the State Border Guard Service of Ukraine is one aspect of the problem that needs to be addressed. It is important due to the fact that the “border security of Ukraine shall be considered in a wider context – as border security of the whole Eastern flank of NATO,” as underlined by Yehor Bozhok, Acting Head of the Mission of Ukraine to NATO in his keynote speech that inaugurated the conference. “Current developments in the East are also a vivid example that NATO’s partnerships are key to Euro-Atlantic security,” added Michael Gaul, Senior Advisor in NATO’s Emerging Security Challenges Division. Therefore, providing support for institutional development and integrity building of border management agencies of Ukraine should be considered as one of the crucial tasks intended for strengthening security and the rule of law in NATO’s neighbourhood.

The Advanced Research Workshop on “Addressing Security Risks at the Ukrainian Border through Best Practices on Good Governance – Sources and Counter Measures” gathered 67 participants from 22 countries representing almost 30 different international organisations, government agencies, members of academia, and civil society. They included the Embassy of the Republic of Poland in Kyiv, the Ministry of Foreign Affairs of the Republic of Lithuania, the European Union Advisory Mission to Ukraine, the Delegation of the European Union to Ukraine, the European Union Support Group for Ukraine, Frontex (European Agency for the Management of Operational Cooperation at the External Borders), OECD, OSCE, World Customs Organization, DCAF (Geneva Centre for the Democratic Control of Armed Forces), Transparency International (from Moldova, Latvia, the UK, Ukraine chapters), the Polish Central Anti-corruption Bureau and representatives of the border management agencies from Latvia, Lithuania, Moldova, Poland, and Ukraine. Other contributors to the discussions held during the Advanced Research Workshop included members of the Ukrainian parliament. The event was awarded with the honorary patronage of the Minister of Foreign Affairs of the Republic of Poland, the Minister of the Interior and Administration of the Republic of Poland, the Head of the Polish National Security Bureau, the Main Headquarters of the Polish Border Guard, the State Border Guard Service of Ukraine, the Head of the Polish Customs Service – Deputy Minister of Finance of the Republic of Poland and the Ukrainian branch of Transparency International Transparency International – Ukraine.

The two-day event consisted of five expert panels devoted to diverse aspects of building the integrity of Ukrainian border management agencies to enhance the border security of the Eastern flank of NATO. The panel topics were:

- Integrity of the security sector of Ukraine – key to Euro-Atlantic integration of Ukraine
- Corruption as a security risk in border management
- Institutional tools to combat corruption in border management – international experiences
- Increasing preparedness for cross-border crises through enhancing the integrity and transparency of border management agencies
- Bilateral and multilateral dimensions of international cooperation to enhance the integrity of border management agencies: cross-border initiatives, international assistance, and NATO Building Integrity Programme

Twenty-eight presentations were delivered during the event. Each of the five panels was followed by an open discussion and a Q&A session. The Advanced Research Workshop was completed with a conclusive debate which was moderated by the honorary guest, Irina Friz, a member of the National Security and Defence Committee of the Ukrainian parliament.

The Advanced Research Workshop created a unique chance to hold an expert debate on a wide array of emerging border security challenges. This included both security risks resulting from the multiple violations of Ukraine's territorial integrity as well as the negative effects of the current irregular migration trends that affect the EU and NATO. It contributed to raising awareness about military and non-military dimensions of border security that are essential to the maintenance of peace and stability of the Alliance. Debates held during the event included both the diagnosis of the main border security challenges of Ukraine and its neighbouring NATO member states, as well as presented recommendations and solutions that could be applied in order to address them effectively. The format of the event enabled the local actors to present their real needs which were later assessed and discussed in diverse contexts including the sociological, criminological, and legal point of view. Finally, the wide range of border security risks presented was addressed in presentations concerning their possible solutions with recommendations delivered by experts, analysts, and practitioners. In order to increase their applicability to the Ukrainian context, the Advanced Research Workshop engaged a significant number of representatives of countries from the region (Latvia, Lithuania, Moldova, Poland, etc.) who shared similar experiences or used to face comparable challenges as Ukraine and thus could contribute with important lessons learned.

The event also contributed to rising awareness of the human and social aspects of security related to NATO's strategic objectives. It enhanced the understanding of corruption as a security risk. In Ukraine, corruption emerges as a top priority political challenge in terms of both the internal needs (the lack of integrity hinders any reforms undertaken by the authorities) and external requirements, i.e. international obligations assumed with regard to the Euro-Atlantic integration of Ukraine (e.g. EU visa liberalisation, NATO Building Integrity Programme, Ukraine-NATO annual programmes). What is more, corruption affects key institutions responsible for border management and their personnel and, as a result, undermines the security of the border. Therefore, the prevention of corruption in order to enhance security through integrity, accountability, and transparency should be considered as a key challenge Ukraine faces.

The Advanced Research Workshop contributed to a comprehensive understanding of corruption with regard to border management by providing historical, theoretical, sociological, socio-psychological, anthropological, economic, and legal-institutional perspectives. Firstly, the specific context of the post-Soviet transition must be highlighted, both in terms of the decay of the institutions of the post-totalitarian state, economic collapse, and developed informal network-oriented cultures where corruption is deeply embedded into social and organisational relationship structures and serves to reproduce socio-cultural systems in which improperly functioning state institutions trigger an informal survival mechanism of society. Given the persistence of the “shadow state” in Ukraine – i.e. a vast structure that lies beneath the formal shell of the state aiming at a specific “privatisation” of the public sector and at the same time maintaining the appearance of a functioning formal state – informality remains the realm in which society must exist.

Due to the weakness of the formal state institutions (and their dependency on the shadow state actors and rules), their limited resources in terms of providing public services, corruption might sometimes serve as a tool to increase “personal competitiveness” in order to attain the effective execution of civic rights or claims. What is more, border regions (border crossings) are the areas where law is derogatory, exceptional, and specific. As a result, a huge power and knowledge asymmetry emerges between the people and border management/customs officers. This might lead to diverse infringements as long as the actors are confronted by two contradictory constraints of border control and movement – namely, the formal demand of law enforcement and the informal demand of the seamless movement of people and goods. Therefore, the normative rules and bureaucratic procedures of the cross-border movement and control are usually negotiated (secondarily informalised) by the local actors. All this happens in an environment of structural secrecy because the centralised supervision of the usually remote border lands is difficult.

Additionally, the network aspect must also be taken into account. Here we find that the local actors (smugglers and border officers) have usually known each other for a long time as they come from the same area. What is more, corruption in border management agencies might also be fostered by the phenomenon of particularised trust. It is a specific form of trust between people, an example of which are clan-based societies, where helping each other is more important than impartial relations such as general trust towards the abstract and formal state institutions or normative rules which have proven to be less effective. This creates a potential risk of normalisation of corruption in border management and control through its institutionalisation (corruption becomes routinised), rationalisation (specific self-serving ideologies are developed to justify corruption), and socialisation (newcomers are educated to follow the established informal rules).

Due to a culture of silence which is inherent to total institutions such as “law enforcement agency of special assignments”, in this case the State Border Guard Service of Ukraine, the process might remain incomprehensible for external supervisors. Given the high level of collectiveness, complex interdependencies and an internal hierarchy of such an entity, it is necessary to underline that corruption is rarely a singular act but rather a common code of conduct that enables participants to increase the shared benefits and lower the shared costs. Such a code of conduct includes diverse forms of corruption.

On the one hand, “corruption without theft” is either the extortion of money for services that are free, or else requires extra money beyond official fees. On the other

hand, “corruption with theft” covers a wide scope of activities that lead to uncontrolled cross-border movement as a result of which the state is losing resources. Both of the above-mentioned examples refer to the corrupt “privatisation” of the border control which results in a situation where border control agencies no longer work in the interest of the state, but rather serve as a shadow state income producer whose prime aim is to earn profit, not mitigate dangers to the state. Therefore, both phenomena give rise to serious security implications on both side of the border as they affect both neighbouring countries. In the case of Ukraine, such corruption is even more dangerous because it is a neighbouring country of the EU, NATO and Russia. Additionally, corruption leads to the decrease of legitimacy and obedience to the law. Any intensification of these phenomena in neighbouring countries’ borderlands would have a very negative impact on the security environment of the Alliance.

According to Transparency International’s Government Defence Anti-Corruption Index, Ukraine is placed in Band D, which indicates a high risk of corruption. Interestingly, looking at the details of the ranking, it is evident that what Ukraine lacks the most is the very technical or practical dimensions of corruption prevention. Despite lively debate on corruption and a widely provided international assistance, the procurement procedures or financial packages are still not transparent; tenders are not open for competition; government strategies do not include measurable benchmarks and requirements to be met. Despite organised anti-corruption training, this sector still faces shortcomings in terms of the code of conduct coverage and the code of conduct breaches addressed (values and standards area). This confirms the previously discussed difficulties in implementing anti-corruption measures in the field.

When the relationships between corrupt actors are based on social bonds and interdependencies, top-down policies have major limitations. Simply increasing “formalisation” (through developed legislation, law enforcement, etc.) will rarely work in the area where “informality” serves as a well-established *modus vivendi*. As a result, the efficiency of anti-corruption measures can be increased by developing a general organisational culture which is intolerant of corruption through a bottom-up organisational approach. What is more, efficient anti-corruption measures should also refer to the socio-anthropological theory of opportunities. Under this framework, corruption occurs when in the absence of a capable guardian a motivated offender (corruptor) finds a suitable target (motivated corruptee). Therefore, in order to combat corruption, all three aspects need to be addressed. This should result in reducing marginal perceived rewards (marginal benefits) and increase the expected costs and risks (marginal costs) of corrupt behaviour at the border.

The Advanced Research Workshop on “Addressing Security Risks at the Ukrainian Border through Best Practices on Good Governance – Sources and Counter Measures” attracted meaningful media attention. The conference received media support from the leading media dealing with the Euro-Atlantic integration and a security policy such as European Pravda ([eurointegration.com.ua](http://eurointegration.com.ua)), [Euractiv.pl](http://Euractiv.pl), [defence24.pl](http://defence24.pl) or [biznesalert.pl](http://biznesalert.pl). Almost 30 articles concerning the conference were published in English, Polish, and Ukrainian, and were printed by both national press and online media. The event was also promoted in social media reaching 137,563 impressions and 521 engagements, including references made by the Embassy of the Republic of Poland in Kyiv, the Embassy of the United Kingdom in Warsaw, the Consulate of the Republic of Poland in Cologne, Polish Ministry of Foreign Affairs, Polish National Security Bureau, Polish Institute of International Affairs (PISM) and Polish Border Guard. The

Advanced Research Workshop was also featured in coverage of the official State Border Guards Service of Ukraine's TV channel.

The Advanced Research Workshop contributed to deepening the comprehensive understanding of corruption and its implications to border security of Ukraine. The issue was presented as a multi-dimensional complex phenomenon that affects the ordinary functioning of state institutions and society. Effective and enduring prevention as well as the fight against corruption were highlighted as the pre-conditions for structural reforms and a fundamental shift in security. The unique aspect of the conference was that it confronted the most recent developments in the interdisciplinary research on corruption in the context of Ukraine, Central-Eastern Europe, and border security and management. It is important to recognise that corruption in the post-communist (Soviet) states of Central and Eastern Europe is a very specific phenomenon caused by the weakness and ineffectiveness of state institutions, endemic social distrust and unsustainable economic development of the post-communist transition. Therefore, the analysis of the shortcomings of integrity, transparency, and governance of the Ukrainian border management agencies has to take into account all the above mentioned factors as well as the aggressive intervention of Russia and the occupation of Crimea and Eastern Ukraine. The Advanced Research Workshop successfully met these demands, leading to the presentation of recommendations and guidelines taking into account the Ukrainian context.

Also, the Advanced Research Workshop contributed to raising awareness of emerging border security challenges. The workshop was a great opportunity to discuss the current refugee crisis in a wider context of increased preparedness for border management crises and risk analysis. Additionally, it afforded an opportunity to discuss the possible perspectives of the development of the refugee crisis. One of the possible scenarios considered is the establishment of the new Black Sea migration route that would directly affect Ukraine, Poland, and Belarus. Also, the current changing tendencies of migration and asylum applications in Ukraine were discussed. Moreover, the current problems of Ukraine were presented as a challenge and a threat that need to be addressed by NATO.

Close cooperation with the Bureau of International Cooperation of the Main Headquarters of the Polish Border Guard during the preparation stage for the Advanced Research Workshop enabled the organisers to contact all of the border management agencies of Central and Eastern Europe (Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Moldova, Romania, and Slovakia). Some of them decided to send their representatives to the event. All of them were interested in the outcomes of the project and expressed their desire to see the guidelines and recommendations published within the NATO Science Series. This shows that the Advanced Research Workshop touched upon a very important and acute problem. The creation of a network among the relevant institutions could contribute to increasing the integrity, transparency, and security of the borders of the whole Eastern flank of NATO. As a consequence, it could also enhance cooperation among the border management agencies in the context of the establishment of the European Border and Coast Guard as well as the European Union's operational and technical strategy for European integrated border management. Finally, the participation of the respective institutions of the region safeguards the actual implementation of the Advanced Research Workshop's findings as all of them will be interested in their implementation in the partner countries.

Finally, the conference served as a meeting forum for the main international institutions involved in the reform assistance and policy advice for the Ukrainian authorities

in their relevant fields. They include the European Union Advisory Mission to Ukraine (Strategic Border Guard and Advisory Unit), Delegation of the European Union to Ukraine, European Union Support Group for Ukraine, NATO Liaison Office in Ukraine, OSCE, OECD, Frontex, DCAF, ICMPD and the representatives of the Embassy of the Republic of Poland in Kyiv. Also, the representatives of the national institutions invited to the event shared their extensive international experience in the field (e.g. the representative of the Polish Central Anti-Corruption Bureau previously served in the European Union Border Assistance Mission to Moldova and Ukraine, or the representative of the Polish Customs Service in charge of the twinning project supporting the State Fiscal Service of Ukraine). In short, the Advanced Research Workshop contributed to enhancing close cooperation and exchange of knowledge between the most relevant entities engaged in the reform process of the Ukrainian border management agencies. This should also facilitate a subsequent satisfactory continuation of the project.

Rafał Kęsek, Maxim Boroda, Ziemowit Józwik  
August 2016

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