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## **Ensuring of the state border security in Ukraine in the face of modern challenges**

### **Introduction**

Ensuring the security of the state border is the main priority and national interest, which is a key factor in the effective functioning of the state and the promotion of society. The Constitution of Ukraine as the basic law of the state enshrined the integrity and inviolability of the territory of Ukraine within the existing border and the extension of Ukrainian sovereignty to its entire territory. At the same time, the existing negative phenomena that are threats to Ukrainian border security need to be addressed: the systemic nature of the Russian Federation's aggression, the growing range of military threats from the territory of the Russian-occupied territories; threat of terrorism; sabotage and subversive activities; illegal migration; drug smuggling and illegal movement of goods and others. All this necessitates the research of scientific and methodological principles of ensuring the security of the state border of Ukraine in the face of modern challenges, which determined the purpose and methods of research on this issue.

The aim of the article is a theoretical analysis of the security of the state border of Ukraine in the face of modern challenges.

The formation of a set of research methods is determined by the purpose of the article. In particular, using the hermeneutic method, texts of scientific papers on threats to national security at the state border in modern conditions (security of the state border and armed aggression of the Russian Federation, information threats, illegal migration) are interpreted. Using the formal-legal method, the definition of the state border is analyzed. State border security and migration threats are researched using statistical methods.

## The concept of the state border and the main threats to its security

One of the main parts of Ukrainian national security is the protection of the state border of Ukraine, which is entrusted to military formations and law enforcement agencies of the state, which in coordinated activities have to ensure the proper functioning of the state. According to the researchers N. Kaminska and B. Klochkov, the concept of “state border” originated around the XI century, although its definition was formulated later, with the development of cartography, and the term “border” officially began to be actively used in documents from the first half of the XIV century<sup>1</sup>. Analyzing the scientific positions on the terminological definition of “state border”, it is necessary to give the interpretation of scientists S.V. Trokhimchuk and O.V. Fedun, who note that the state border is a line passing through the earth’s surface (land or water space) and imaginary the vertical surface that passes through it in the airspace and in the bowels of the earth, and defines the boundary of the territory of the state, separating it from other states or the high seas<sup>2</sup>. The authors of the encyclopedia of modern Ukraine define the state border as a line that establishes the boundaries of land and water territory of the state and its airspace<sup>3</sup>. In Article 1 of the Law of Ukraine “On the State Border of Ukraine”, the Ukrainian legislator defined that the state border of Ukraine is a line and a vertical surface passing along this line, which define the boundaries of Ukraine - land, water, subsoil, airspace<sup>4</sup>. Therefore, in accordance with the current legislation by the Decree of the President of Ukraine of September 14, 2020 № 392/2020, the National Security Strategy of Ukraine was approved on the basis directly related to ensuring the security of the state border:

- deterrence – development of defense and security capabilities to prevent armed aggression against Ukraine;
- resilience – the ability of society and the state to quickly adapt to changes in the security environment and maintain sustainable functioning, in particular by minimizing external and internal vulnerabilities;
- interaction – development of strategic relations with key foreign partners, first of all with the European Union and NATO and their member states,

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<sup>1</sup> Камінська Н.В., Клочков Б.І. Проблеми концептуального визначення поняття державних кордонів у сучасній юридичній науці. Юридичний часопис Національної академії внутрішніх справ, № 2 (10), 2015. С. 18.

<sup>2</sup> Чумак В.В. Державний кордон як об’єкт адміністративно-правового регулювання. Право і безпека. 2011. № 1 (38). С. 94.

<sup>3</sup> Державний кордон. Енциклопедія сучасної України, [https://esu.com.ua/search\\_articles.php?id=26176](https://esu.com.ua/search_articles.php?id=26176), дата звернення: 09.01.2022 р.

<sup>4</sup> Закон України «Про державний кордон України» від 04.11.1991 № 1777-XII <https://zakon.rada.gov.ua/laws/show/1777-12#Text>, дата звернення: 09.01.2022 р.

the United States of America, pragmatic cooperation with other states and international organizations on the basis of Ukraine's national interests <sup>5</sup>.

It should be noted that public administration in the field of national security has a significant impact on the implementation of national security policy and is a strategic component of the process of implementing national security policy within the current regulatory framework for national security; it is introduced in order to create effective mechanisms of public administration aimed at protecting the national interests of Ukraine; public administration in the field of national security is strategic and combines systemic and situational approaches in the implementation process; the strategic priority of public administration in the field of national security is to minimize and neutralize existing and potential threats to national security in various spheres of socio-political, military and socio-economic life of Ukraine <sup>6</sup>. Therefore, it is advisable to establish a clear list of threats that encroach on the security of the state border or may prevent the implementation of internal and external functions of the state.

Taking into account the whole set of regulations in the field of state border security, we agree with the researcher M.P. Plakhotny that the main obvious threats to national security at the state border in modern conditions are: smuggling; intensification of illegal migration; growth of drug trafficking; corruption; incomplete contractual and legal design of Ukrainian state borders and delimitation of exclusive (maritime) economic zones and the continental shelf of states, low level of material and technical support of border guards with military and special equipment, new generation weapons; unsatisfactory level of social protection of servicemen, citizens discharged from military service, members of their families, dangerous tendency to revise national borders outside the norms of international law, insufficient effectiveness of existing structures and mechanisms for international security and global stability, spread of international terrorism; the possibility of border conflicts and Ukrainian involvement in regional armed conflicts or in confrontation with other states; building by other states near the borders of Ukraine groups of troops and weapons that violate the balance of power; the possibility of emergencies of natural and man-made direction <sup>7</sup>.

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<sup>5</sup> Указ Президента України №392/2020 «Про рішення Ради національної безпеки і оборони України від 14 вересня 2020 року «Про Стратегію національної безпеки України», <https://www.president.gov.ua/documents/3922020-35037>, дата звернення: 09.01.2022 р.

<sup>6</sup> Гончаров Є.С., Нікітенко О.І. Сутність та особливості забезпечення безпеки в прикордонній сфері правоохоронними органами. Науковий вісник Ужгородського національного університету, Серія ПРАВО. Випуск 36. Том 2. 2016. С. 25.

<sup>7</sup> Нікіфоренко В.С. Проблеми формування механізмів державного управління у сфері забезпечення безпеки державного кордону в Україні. Юридичний науковий електронний журнал. № 3/2019. С. 294.

In a world of global threats and global interests, security depends on having an effective security system that operates on a multilateral basis, so building a stronger international community, international institutions operating under the rules of international law, is a top priority <sup>8</sup>.

We should agree with G.P. Sytnyk, who notes that the real state of national security depends on a combination of variables in the triangle that is formed by: a set of national interests, a set of factors that pose dangers to their implementation, a set of factors that determine political, economic, military, information and other capabilities of the state to respond to these threats <sup>9</sup>.

### **Armed aggression of the Russian Federation and security of the state border of Ukraine**

The main challenge that needs to be addressed today in the context of Ukrainian state border security is to stop Russian aggression. It is known that due to the uncontrolled section of the Ukrainian-Russian state border, Russia continues to supply weapons, ammunition and fuel to the occupied territory of Donbass to strengthen units of regular Russian troops. The OSCE Special Monitoring Mission has repeatedly informed about the presence in Donbass of weapons and military equipment, which is only in the service of the Russian army.

An important role in recognizing violations of the security of Ukrainian state border was played by the adoption of international legal acts in response to Russian aggression against Ukraine, among which we note the following:

1. On March 27, 2014, the UN General Assembly adopted Resolution 68/262 “Territorial Integrity of Ukraine”, which confirmed the internationally recognized borders of Ukraine and the absence of any legal grounds for changing the status of the Autonomous Republic of Crimea and Sevastopol.
2. This position was confirmed also by the UN General Assembly in Resolutions 71/205 “Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)” on 19 December 2016 and “Human rights situation in the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)” of 19 December 2017 №72/190.
3. The UN General Assembly Resolution “The problem of militarization of the Autonomous Republic of Crimea and Sevastopol (Ukraine), as well

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<sup>8</sup> Шинкарук О.М., Лисий М.І., Купрієнко Д.А., Бабій Ю.О., Ігнат'єв А.В., Ананьїн О.В. Сучасний стан прикордонного безпекового середовища України. Збірник наукових праць Харківського національного університету Повітряних Сил, 2019, 3(61). С. 140.

<sup>9</sup> Нікіфоренко В.С. Проблеми формування механізмів державного управління у сфері забезпечення безпеки державного кордону в Україні. Юридичний науковий електронний журнал. № 3/2019. С. 293.

as parts of the Black and Azov Seas”, approved on December 17, 2018, confirmed the clear position of the international community in support of Ukrainian territorial integrity, condemning the aggression of the Russian Federation, the construction and opening of the Kerch Bridge by the Russian Federation, as well as increasing the military presence of the Russian Federation in the Black and Azov Seas. The resolution was adopted in response to the direct attack and seizure on November 25, 2018 by Russian FBI border boats of Navy vessels: boats “Berdyansk”, “Nikopol” and tug “Yani Kapu” with 24 servicemen.

4. On December 22, 2018, the UN General Assembly adopted Resolution “Human Rights Situation in the Autonomous Republic of Crimea and the City of Sevastopol, Ukraine”. The General Assembly called on all international organizations and specialized agencies of the United Nations to use the wording “Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, temporarily occupied by the Russian Federation” when referring to Crimea in their official documents, communications and publications, including which are statistics of the Russian Federation.

Thus, by brutally ignoring its commitments and sponsoring international terrorism, the FBI Border Service of the Russian Federation does not pose any obstacles to criminals and terrorists and continues to allow weapons and militants across the border to Ukraine. Ukraine and the international community strongly condemn the Russian Federation’s gross violation of the Ukrainian-Russian state border regime, which continues despite the legitimate demands of the international community and the Ukrainian authorities, and demands that Russia stop violently violating all norms of international law and interstate relations <sup>10</sup>.

### **Information threats and security of the state border of Ukraine**

Today, there is no single approach to the list of information threats, although they have both general and special features for each area, including the protection of the state border. In this context, it is worth paying attention to the analysis of the features of information security, given by scientists I. Kushnir and Y. Stepanova, including:

- information security is the protection of state interests, which ensures the prevention, detection and neutralization of internal and external information threats, preservation of information sovereignty of the state and the safe development of international information cooperation;

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<sup>10</sup> Дейнеко С. В. Сучасний стан та перспективи завершення договірно-правового оформлення українсько-російського державного кордону. Інвестиції: практика та досвід № 17—18/2020. С. 140.

- information is a factor that can lead to technological accidents, military and political conflicts, disorganization of public administration, financial system;
- information security is provided in order to create normal conditions for the functioning of a particular public administration body, as well as to monitor the state of information security to develop an optimal model of functioning of the information security system;
- information security is a state free from such threats as providing information to third parties; espionage; sabotage and sabotage. Information security is also any action, system or method that is aimed at protecting information resources, collecting, processing, as well as transmitted, stored in the memory of computers and telecommunications networks; consists not only of protection against unauthorized access, data theft or destruction, but also is a component of physical, personal, organizational and IT security;
- the mechanism of security in the information sphere should take into account national interests in the information environment, internal and external dangers, risks, challenges and threats to these interests and provide a system of means of their detection, prevention, neutralization and termination. Ensuring information security involves the protection of the following elements: 1) information with limited access; 2) systems and means of transmission and storage of information; 3) information space from the dissemination of information, the content of which due to incompleteness, unreliability, etc. is contrary to the national interests of the state <sup>11</sup>.

Its specific types can reveal more specifically information threats in the research area. In her research, the scientist I. Kushnir quite accurately classified the following approaches:

- 1) threats to the impact of poor quality information (unreliable, false, misinformation) on the individual, society, state; threats of unauthorized and illegal influence of third parties on information and information resources (their production, systems of formation and use); threats to the information rights and freedoms of the individual (the right to produce information, disseminate it, search, receive, transmit and use; the right to intellectual property on information, including property);
- 2) data is intentionally intercepted, read or changed; users identify themselves incorrectly (for fraudulent purposes); the user receives unauthorized access from one network to another;

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<sup>11</sup> Кушнір І., Степанова Ю. Інформаційна безпека держави у прикордонній сфері як об'єкт державної зради. *National law journal: theory and practice*. 2018. № 4 (32). Т. 1. С. 124.

- 3) threats of breach of confidentiality of information, as a result of which the information becomes available to the subject who does not have the authority to read it; threats to the integrity of information, which includes any malicious distortion of information processed using automated systems; threats of violation of the availability of information that arise when access to some resource of automated systems for legal users is blocked;
- 4) threat of information leakage from servers and networks of information systems devices, where a large amount of information is concentrated; information systems in which the transformation (possibly through an open, unencrypted form of representation) of data is performed when negotiating exchange protocols in different parts of the network <sup>12</sup>.

### **State border security and illegal migration**

Illegal migration is one of the main and significant threats, which has been a problem not only for Ukraine but also for the EU for many years. It is worth noting that due to its geopolitical location, Ukraine has become a reliable shield of the EU's external borders over the past few decades, while preventing illegal migrants from entering its territory. After all, since the beginning of independence on the Ukrainian borders, the State Border Guard Service of Ukraine detained about 150,000 illegal migrants, 123,000 of them for illegal border crossing, denied access to almost 180,000 potential illegal migrants, and deported more than 40,000 foreign offenders from Ukraine <sup>13</sup>.

Illegal migration as a problem threatening the security of the state border is enshrined in the Concept of the State Targeted Law Enforcement Program of the State Border on the construction of engineering and fortifications, fences, border signs, border clearings, communications of the State Border Service of the Cabinet of Ministers of Ukraine of October 21, 2021 № 1362-r. In particular, the section "Analysis of the causes of the problem and justification of the need to solve it" states that the urgency of the Program is due to the need for a number of interrelated measures to improve the state border, increase the capacity of authorized authorities to counter existing and potential threats, prevention of losses of the territories of Ukraine due to the harmful effects of transboundary rivers; armed aggression,

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<sup>12</sup> Кушнір І. Інформаційні загрози в діяльності Державної прикордонної служби України. Підприємництво, господарство і право. № 7, 2019. С. 149.

<sup>13</sup> На українському кордоні затримано близько 330 тисяч незаконних та потенційних мігрантів. Офіційний сайт Державної прикордонної служби України, <https://dpsu.gov.ua/ua/news/na-ukrainskomu-kordoni-zatrimano-blizko-330-tisyach-nezakonnih-ta-potenciynih-migrantiv/> дата звернення: 09.01.2022 р.

international terrorism, intensification of the illegal circulation of weapons and means of terror across the state border, drug trafficking, illegal migration necessitate the improvement of the state border protection system <sup>14</sup>.

In general, migration is considered a security threat only since the last decades of the twentieth century. This is due, firstly, to the disintegration of the bipolar system of international relations and a change in security guidelines - a change in the perception of the nature of security threats. Of particular note are the dangerous consequences of possible local armed conflicts, which could disrupt the integrity of state borders, provoke a mass influx of refugees and illegal migrants, and the uncontrolled proliferation of both conventional and weapons of mass destruction as a result of these processes <sup>15</sup>. This seems especially relevant due to the events of November 2021, when about two thousand migrants from the Middle East and Africa tried to break through the border into Poland from Belarus. Therefore, a joint special border operation "Polissya" was conducted on the Ukrainian border with Belarus to protect the Ukrainian border and prevent a migration crisis. Ukraine was forced to urgently strengthen the protection of its border from the north due to the migrant crisis on the Belarusian-Polish border and the threat of redirection of migrant flows from Belarus to Ukraine <sup>16</sup>.

We agree with researchers N.M. Tkachev and R.A. Martyanov that the issues of combating illegal migration need radical changes. There is an urgent need for effective cooperation between public authorities to prevent illegal migration and create the image of a state capable of controlling its own territory, protecting state borders and ensuring a high level of national security in the migration sphere. Establishing and maintaining the effectiveness of the above regime is ensured through various processes and regulatory mechanisms, among which, in our opinion, the most effective is the mechanism for combating illegal migration. It contains the following elements:

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<sup>14</sup> Концепція Державної цільової правоохоронної програми облаштування державного кордону щодо будівництва інженерно-технічних і фортифікаційних споруд, огорож, прикордонних знаків, прикордонних просік, комунікацій Державної прикордонної служби України на період до 2024 року, <https://dpsu.gov.ua/ua/Koncepciya-Derzhavnoi-cilovoi-pravoohoronnoi-programi-oblashtuvannya-derzhavnogo-kordonu-shchodobudivnictva-inzhenerno-tehnichnih-i-fortifikaciynih-sporud-ogorozh-prikordonnih-znakiv-prikordonnih-prosik-komunikacij-Derzhavnoi-prikordonnoi-sluzhbi-Ukraini/>, дата звернення: 09.01.2022 р.

<sup>15</sup> Ровенчак О., Яворський М. Міжнародна міграція як виклик безпеці: особистісний, національний та глобальний виміри. Політичний менеджмент. № 1-2, 2013. С. 223.

<sup>16</sup> На кордоні з Білоруссю почалась спецоперація з армією та Нацгвардією. Що це означає. Сайт BBS NewsУкраїна, <https://www.bbc.com/ukrainian/news-59398756>, дата звернення: 09.01.2022 р.



- the system of normative legal acts that form the basis of functioning of this mechanism;
- organizational and structural formation of the mechanism;
- organizational and legal ways to combat illegal migration <sup>17</sup>.

## Conclusions

The study of the security of the state border of Ukraine in the current challenges has shown the existence of a number of aspects, insufficiently presented in the theoretical coverage, on the basis of which it becomes possible to justify relevant practical actions in this area. Current challenges in the field of security of the state border of Ukraine create numerous discussions on consolidating a set of effective actions aimed at preventing and eliminating threats to national security.

The analysis of security of the state border of Ukraine in the conditions of modern challenges allows to form the following conclusions.

1. Numerous factors affect the functioning of the national security system, but quite dangerous threats to the security of the state border are: armed aggression of the Russian Federation, the impact of poor information (inaccurate, false, misinformation) on the individual, society, state, provocation of refugees and illegal migrants.
2. In order to improve the system of measures aimed at optimizing the security of the state border of Ukraine, we consider it appropriate: to modernize the system of protection and defense of the state border in connection with new challenges and threats by increasing the effectiveness of regulatory and legal regulation of the security of the state border of Ukraine, intensification of the practice of conducting joint operations and other activities at the state border of public authorities. At the same time, overcoming threats requires not only national but also international measures, in particular: stopping Russian aggression by strengthening the coordinated influence of the international community on the Russian Federation, strengthening cooperation between EU member states and other neighboring states in the context of joint control over modern migration processes in the world.

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<sup>17</sup> Ткачова Н. М., Мартьянова Р. А. Необхідність взаємодії органів державної влади щодо протидії нелегальній міграції, як потенційній загрозі національній безпеці. Електронний журнал «Державне управління: удосконалення та розвиток», <http://www.dyu.nauka.com.ua/?op=1&z=1149>, дата звернення: 09.01.2022 р.

## Ensuring of the state border security in Ukraine in the face of modern challenges

(summary)

The aim of the article is a theoretical analysis of the security of the state border of Ukraine in the face of modern challenges. The article establishes the concept of the state border and highlights the main threats to its security. It is determined that the main challenge that needs to be addressed today in the context of security of Ukrainian state border is to stop Russian aggression. The security of the state border in connection with information and migration threats was analyzed. Applying the hermeneutic method, texts of scientific papers on threats to national security at the state border in modern conditions (security of the state border and armed aggression of the Russian Federation, information threats, illegal migration) are interpreted. Using the formal-legal method, the definition of the state border is analyzed. State border security and migration threats are researched using statistical methods.

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