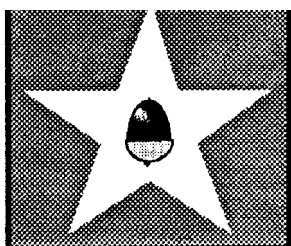


Conflict Studies Research Centre

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**SECURITY, DEMOCRACY AND
'CIVIL DEMOCRATIC CONTROL'
OF ARMED FORCES IN UKRAINE**

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SECURITY, DEMOCRACY AND 'CIVIL DEMOCRATIC CONTROL' OF ARMED FORCES IN UKRAINE

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In the former Soviet Union, control of armed forces by civilians does not guarantee 'civil democratic control', let alone guarantee that armies and security services will serve the declared aims of the state. Ukraine's 1997 National Security Concept rightly connected the growth of civil democratic control with the strengthening of civil society. Although parliament and civilian experts have gained influence in Ukraine's defence system, the trend has been towards stronger presidential control rather than democratic control. MOD armed forces are now undergoing serious and essential reform; they are also becoming more transparent and more accustomed to outside scrutiny. But until these trends embrace Internal Troops and other 'non military formations', Ukraine will not possess an integrated and properly controlled national security system.

The notion that 'civilian control over the military is a pre-requisite for the normal functioning of a civilised state' has become one of the orthodoxies of our time.¹ Since the collapse of the USSR, this orthodoxy has been given formal expression in numerous state and inter-state documents, including NATO's 1994 Partnership for Peace Framework Document. It has also assumed a contractual form in the Charter on a Distinctive Partnership between Ukraine and NATO (1997) and a quasi-legal form in the OSCE Code of Conduct Regarding Military-Political Aspects of Security (1994). Reiterated, echoed and amplified as the orthodoxy is, the fact is that it calls for more reflection than it has received. Where Ukraine and other countries of the former USSR are concerned, reflection is required for a number of reasons.

The first reason is that, until recently, 'civilian control' has been a Western orthodoxy reflecting three classic Western preoccupations: keeping the military out of politics, keeping the military out of power and subordinating military values to civilian ones. Given the number of overtly militaristic regimes in the world – and politically ambitious military establishments – these are sound preoccupations. But they are largely out of place in the former Soviet Union. In its prime, the Soviet system was militarised, but it was not militaristic. The Soviet military system was as rigorously Clausewitzian as, until recently, a Jesuit education was rigorously Christian. For all its deficiencies, this system inculcated a high degree of professionalism, anchored in the conviction that armed forces had to be the tool of policy, rather than the master. In this respect fortunately – if in several other respects sadly – the system of officer education has not changed in Ukraine. Today most Ukrainian military officers believe that their conditions of service are degrading and that the country is experiencing conditions of almost unprecedented trial, but the number of those who believe that 'Ukraine's Army can assume control

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over the situation in Ukraine and establish order in society' remains a remarkably small 10 per cent. When the selection is widened to include servicemen without an officer's education, the number rises by a noteworthy 80 per cent to a still reassuringly small total of 18 per cent.² If 'keeping the army out of politics' is the purpose of civilian control, then many will conclude that 'civilian control is effective and adequate'. This is exactly what a large number of Ukrainians have concluded, to the detriment of defence reform in the country.³

The second reason is that, as a Western concept, 'civilian democratic control' is discussed in Western terms and largely in the English language. Fatefully, Russians long ago incorporated 'control' – literally, the French equivalent, 'contrôle' – into their own language as *kontrol'*, and Ukrainians have done the same. Unhappily the Russian and Ukrainian concepts are closer to the French and even more strict. *Kontrol'* is the activity of 'monitoring' or 'checking'. At most, it corresponds to 'oversight'. But it does not correspond to 'direction' (*upravlinia*) or 'supervision' (*nadzor*). In the Ukrainian as in the Soviet military system, nearly all would concede that, if civilians make military policy, then they need to exercise *kontrol'* (oversight) over the military. But should civilians *control* it? Should they tell military professionals how to *implement* policy, let alone how to conduct military operations? Should they work in ministries of defence, cheek by jowl with serving officers, on similar issues and on an equal or even more than equal basis? The narrow notion of *kontrol'* – perpetuated by poor communication as much as by post-Soviet conservatism – is another reason why many in Ukraine have concluded that 'civilian control is effective and adequate'.

A third reason to reflect on the notion of 'civilian control' is that in post-Communist countries, it is especially important to know who the civilians are. As Françoise Thom noted at the start of the Gorbachev era, the Communist system by its very essence made war on civil society. By comparison with Poland, Hungary and the Czech lands, civil society in Russia and much of Ukraine was weak before this war even started. In what is now the former Soviet Union, it was waged on a unique scale, with a unique intensity and for an exceptionally long period of time. However democratic today's Ukrainian state might be in form, however European it might be in aspiration, this war has had far deeper and more lasting effects there than in those Central European countries which are now rejoining the mainstream of European civilisation.

The main effect of this civic deficit is that the 'collapse of Communism' did not produce a real devolution of power. In Ukraine, the fundamental divisions in the country are not between 'left' and 'right' as they are in genuinely participatory democracies (although these divisions demonstrably exist); the core issue remains the divide between 'us' and 'them' – between society and state. To this day, most ordinary people in Ukraine do not start with the Enlightenment assumption that 'man is the architect of his fortunes'. Towards the public and political order, they are more likely to start with an attitude of resignation. They no more expect to exercise control over the state than they expect to control the weather, and they expect *them*, the *vlada* ('powers') to act according to their own rules and purely in their own interests. In turn, the 'powers' themselves in substantial part comprise the descendants or associates of people who had power before, not to say the products of elite institutions and the mentalities which they instilled. In these conditions it is not surprising – indeed it is almost inevitable – that 'democracy' is limited to elections and that elections are managed and manipulated. If civilians elected by these norms have authority over armed forces, police and security services, that does not mean there is 'democratic control'; nor does it guarantee that

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these formidable institutions will be used in the interests of the country. The struggle to strengthen 'civil, democratic control' is therefore inseparable from the struggle to strengthen civil society.

The fourth reason is the need to implement 'civilian, democratic control' by means of institutions which are new, relatively untried and of still uncertain legitimacy. The 'death of the Soviet Union' might not have destroyed old elites or old mentalities, but it did demolish institutions, including the Soviet Armed Forces and their distinctive mechanisms of political supervision. As a newly independent and not simply post-Communist state, Ukraine faces the challenge of building statehood – and not only a national security system – from scratch. At the same time, Ukraine inherits the 'ruins and debris' of Soviet institutions, including military formations and infrastructure, security establishments and defence enterprises. The military establishment might have no 'lust for power', but even in the pre-Putin era, this was not so demonstrably true of other entities with a role to play in the country's security. Even where MOD subordinated Armed Forces are concerned, the absence of political ambition is simply a negative. It begs the question as to whether there is adequate authority in the military sphere, especially in those military-technical domains which military professionals consider 'the military's business'.

The fifth reason for reflection is that it is easy to forget what armed forces are for. Effectively and democratically controlled armies must be; nevertheless armed forces do not exist to promote democracy, but to defend national security. For this they must be effective, and a military establishment controlled without understanding, knowledge and judgement will prove to be as a much of a threat to national security as a military establishment which answers only to itself. This point, which sadly is not obvious to every specialist in civil-military relations, is crucial for Ukraine and other newly independent states which face chronic security problems not only because of their geopolitical position, but because of their social and institutional weaknesses. In these countries particularly, it is essential that schemes of 'civilian, democratic control' enhance military effectiveness. If they do not, both democracy and security will suffer.

Ukraine's Soviet Legacy

The former Warsaw Pact countries of Central Europe lacked the attributes of sovereignty but possessed the infrastructure of it. Ukraine was in a different position, because it had to construct the apparatus of statehood from scratch. Nowhere was the challenge more acute than in the sphere of national security and defence.

In 1991 Ukraine did not inherit an army. What it inherited was a force grouping – without a Defence Ministry, without a General Staff and without central organs of command-and-control. Moreover, this grouping, its formidable inventory of equipment and its highly trained officer corps were designed for one purpose: to wage combined arms, coalition, offensive (and nuclear) warfare against NATO on an external front and under somebody else's direction. In 1991 these formations were not equipped, deployed or trained to provide national defence. Indeed, they lacked the means to conduct integrated military operations of any kind. As they stood, they were bone and muscle without heart or brain. Since 1991, therefore, Ukraine has not merely faced the task of 'reforming' an army, but creating one. The country's unilateral nuclear disarmament (completed by June 1996) injected realism but also

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urgency into this enterprise.

Ukraine's challenges are multiplied by the fact that the country *did* inherit a relatively centralised Ministry of Internal Affairs and state security apparatus, each of them with their own substantial military forces.⁴ These and other military forces have grown substantially since independence. Today, even when the *militia* (ordinary police) are excluded, the number of armed personnel serving in what the Constitution terms 'other military formations' is more than half as great as the number of personnel serving in Armed Forces subordinated to the Ministry of Defence. The risk posed by this state of affairs is not insubordination but uncoordinated action, the diminution of transparency (which multiplies opportunities for foreign penetration) and loss of control over events. In a country devoid of adequate budgetary resources for defence, swollen security establishments and duplication are also a recipe for corruption and impoverishment.

The peculiar character of civilian control in the Soviet system has not helped those seeking to overcome these problems. In the USSR civilian control of defence was at one and the same time pervasive and narrowly focused. Commanders of the Soviet Armed Forces were accustomed to stand to attention before a closed circle of powerful civilians in the Party's Politburo. Through the Chief Political Directorate of the Communist Party Central Committee and the 'special departments' of the KGB, these civilians had mechanisms at their disposal which not only ensured the 'reliability' of the Armed Forces, but their total obedience. Paradoxically, the very effectiveness of these mechanisms persuaded the Party leadership to entrust the Armed Forces with a dominant influence in military-technical decisions and accept its monopoly of military-technical expertise.⁵ Being largely unnecessary, civilian expertise was largely absent. What expertise existed was focused in narrowly confined areas where specialist knowledge was required. This system, assiduously compartmentalised by its controllers, not only restricted the vision of its participants, it habituated these participants to regard information as power and openness as a threat to survival.

The swift collapse of Communist Party authority in 1991 created a paradoxical situation. Freed of the Party's supervisory mechanisms, armed forces in the Russian Federation did not become more open, they became more opaque. In Ukraine, the risk of such opacity was at least as great as it was in Russia, because what supervisory mechanisms and expertise existed were concentrated in Moscow. Nevertheless, in the most urgent and essential respects, Ukraine's new political authorities succeeded in bringing the newly established Ukrainian Armed Forces (December 1991)⁶ under political control, and some 11,000 unreliable officers – those who refused to take an oath to the Ukrainian state – were dismissed from service by the summer of 1992.⁷ Yet in routine, administrative terms, military officers who had custody over manpower, facilities and resources sought to control what they could control and shut out 'amateurs' who 'knew nothing about defence'. In the emphatic and almost universal view of the military establishment, these 'amateurs' included Ukraine's first (and only) civilian Minister of Defence, Valeriy Shmarov, who was replaced by the current Minister, Lieutenant General (now Colonel General) Oleksandr Kuzmuk, in July 1996.

The Bottle Half Full

In one key respect, the foundations for building an integrated defence and security system in Ukraine are far from poor, indeed rather better than they are in

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neighbouring countries which were members of the former Warsaw Pact. By comparison with most of these countries, Ukraine possesses a key attribute: defence mindedness. One readily forgets that the Warsaw Pact was not a mechanism for creating strong armies in Central Europe, but weak ones, incapable of resisting the activity of the Soviet Armed Forces on their national territories and across it. Even the most senior commanders of Warsaw Pact armies were deprived of an operational (combined arms) education and command experience. Warsaw Pact countries possessed Ministries of Defence and General Staffs, but in crisis, emergency and conflict, these entities had no authority. In their conduct of military operations (e.g. the crushing of the 'Prague spring') military commanders took orders directly from command organs established by the General Staff of the Soviet Armed Forces. In peacetime, they were trained, equipped and deployed according to Soviet (and largely Soviet General Staff) directives.

In contrast, Ukraine did not possess even the pretence of a national army in 1991, yet because Ukrainian officers formed a large proportion of senior command personnel in the Soviet Armed Forces, Ukraine's current military establishment has a collective memory and some experience in planning the operations of armies and fronts, as well as a rich military-scientific background in the 'art of war'. In content, much of this background fails to speak to Ukraine's current security challenges. But in form it has encouraged an integrated approach and a desire to engage with first principles.

A further inducement to defence mindedness arises from the fact that Ukraine is a non-aligned country, proximate to areas of tension and adjacent to a far greater country, the Russian Federation, whose commitment to its long-term independence is questionable. This position has been a salutary discipline. It has stimulated deep if not always clear thinking about the ends and means of security policy, and it has fostered habits of self-reliance on the part of much of the political and military establishment. In contrast, the expectation and eventual achievement of NATO membership have not helped to foster defence mindedness on the part of the Visegrad four. For a great proportion of the political establishments of these countries, NATO has been seen as the solution to security problems rather than a framework for resolving them. In Central Europe, this attitude has retarded defence reform and still retards it.

In 1996, non-alignment, vulnerability and defence mindedness combined to produce an official statement of first principles, the National Security Concept of Ukraine, which is a document of exemplary coherence and realism. As a state document, ratified by the *Verkhovna Rada* in January 1997, the Concept is legally binding. It dwells upon three dangers: that Ukraine's economic, civic and institutional weaknesses could become vulnerabilities; that these vulnerabilities could be exploited by actors, internal or external, with harmful political ends; that in view of these dangers, crises and 'emergency situations' – ecological, industrial or financial – could escalate in magnitude and in geographical scale into conflict.⁸ By identifying the 'strengthening of civil society' as the most important of nine national security priorities, the Concept's authors expressed their conviction that transparency was dangerously low and that both state and society were dangerously weak. In several other respects, the Concept is noteworthy.

- It articulates a conceptually rich catalogue of 'main potential threats' (political, economic, social, military, ecological, scientific and technological-informational) based on the premise that

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'situations threatening our national security are in most cases *precisely regional* and that security is likely to be threatened by the 'combination of factors' in specific regions.⁹

- It calls for a co-ordinated, cost-effective division of labour between law-enforcement, security and military bodies subordinated to the Ministry of Defence. It is understood that the latter's function is to localise an area of tension swiftly and prevent the 'combination of factors' escalating or being exploited by external actors.¹⁰
- It demands what is urgent not only in Ukraine, but throughout East-Central Europe: an understanding of the non-military dimensions of security by national armed forces and, on the part of civil agencies (health, safety, emergency services), an understanding of the defence aspects of their responsibilities.

A better expression of the need to integrate national security with civilian democratic control could hardly be found. But in this sphere as in other domains, the contrast between thinking and action in Ukraine can be deeply dispiriting. This is not to say that there has not been substantial progress in rationalising the military system, increasing political authority over that system and opening it up to democratic scrutiny. In all of these respects, there has been a steady and positive trend.

Yet even success must be set against a less than favourable context. The defence and security system of Ukraine is heavily weighted towards Presidential authority, even more so than the political system as a whole, and the equation between Presidential control and 'civilian control' – not to say 'civilian democratic control' – has been unquestioned in much of the defence and security establishment.

The series of allegations known as 'Kuchmagate' is already forcing such questioning upon them, not to say upon society at large. On 28 November 2000, Oleksandr Moroz, one of Kuchma's defeated rivals for the presidency and a former Chairman of the *Verkhovna Rada*, revealed the existence of tapes made by a former SBU officer allegedly implicating both the President and the Minister of Internal Affairs, Yuriy Kravchenko, in the murder of a journalist, Georgii Gongadze. On 7 December, Moroz added fuel to this fire with further allegations of evidence attributing the apparently accidental death of *Rukh* party leader Vyacheslav Chornovil in 1999 to a secret subunit of the MVD acting on higher authority. Doubts over the efficacy of civilian, democratic control were heightened further when three Peoples Deputies returning to Kyiv with the Gongadze tapes were searched by officers of the Ukrainian Customs Service at Borispol Airport. Well before these latter allegations, the respected independent weekly *Zerkalo Nedeli* characterised the 'Gongadze affair' as 'the biggest political scandal in the entire history of Ukraine's independence'.¹¹

Whether the allegations withstand full scrutiny or not, far fewer will now be prepared to accept that presidential control over the instruments of coercion is 'democratic', let alone adequate. Nevertheless, in this sphere like others in Ukraine the principle of the lesser evil must arbitrate judgement. Whatever its defects, codified and institutionalised Presidential authority is preferable to the authority of 'shadow structures' (who still dominate the civil economy), military 'clans' (a serious problem in the Armed Forces until 1996) and the rule of 'spontaneous processes': the plunder of military infrastructure, the suborning of military inspectors by military commanders, unregulated arms sales, *de facto* privatisations of state

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enterprises, not to say military gangsterism and the *de facto* privatisation of military units. All of these post-Communist 'negative phenomena', readily observable in the Armed Forces of the Russian Federation, have fallen below significant levels in Ukraine and continue to diminish. Moreover, so long as a Ukrainian president operates within the Constitution, his authority is far from absolute. In three areas at least, there are grounds for encouragement.

The legal and regulatory base. Unless the institutions and rules comprising the defence and security system are codified, clear and stable, 'democratic control' risks producing chaos, and 'authoritarianism' risks degenerating into arbitrary power. Even if these ills can be avoided, in societies undergoing rapid transition it is almost certain that vacuums in law and authority will be filled by intrigue and trials of strength. In Ukraine and other countries, there will be no institutional stability without clear and authoritative answers to the questions 'who commands?', 'who serves?', 'who allocates money?', 'who spends it?', 'who is accountable for what?' and 'who is answerable to whom?'

To be sure, we need to know what the laws are before we can welcome or condemn the stability they create. Adolf Hitler justifiably claimed that he had instituted a 'legal revolution' in Germany. Long before Vladimir Putin entered the scene, leaders of the CPSU and KGB venerated 'dictatorship of the law'. Where law is concerned, independent Ukraine has departed from these illiberal and totalitarian precedents. In Ukraine, the enemy of democracy has not been the country's laws, but the weakness of the legal order and the ability of the powerful to defy it. But where the Armed Forces are concerned (though not so clearly the security services), the legal framework has been progressively strengthened, and for the better. Between 1991-2000, the *Verkhovna Rada* adopted 125 laws connected with the military and security system. Particularly in recent years, the National Security and Defence Council and *Rada* have given obsessive attention to providing a detailed, normative framework for those who operate in this system. These laws, which have become more specific, realistic and internally consistent over the years, generally fall into three categories:

- *Laws promulgating security policy.* As in the former USSR, the development of security policy is deemed to require a hierarchical approach. Key 'blocks' in the modern Ukrainian hierarchy are: Constitution of Ukraine (1996), National Security Concept (1997), Military Doctrine (1993 with probable replacement 2001), State Programme on Armed Forces Reform and Development 2001-2005 (2000, superseding that of 1996), state programmes for other force ministries, State Programme for Weapons and Military Equipment Development (2000), programmes for individual armed services, branches and sectors.
- *Laws governing the roles, competencies and functioning of Armed Forces and security bodies:* 'On the Armed Forces of Ukraine', 'On the Border Troops of Ukraine', 'On the Internal Troops of the Ministry of Internal Affairs of Ukraine', 'On the Security Service of Ukraine', etc.
- *Laws governing the manning and supply of the services.*
- *Laws governing the finance and control (oversight) of military activity.*

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Well before 'Kuchmagate', the kindest thing a cynic would say is that defence and security bodies operated fully in accordance with legal norms except when they were overridden by 'higher' considerations. Yet until norms of conduct and a body of laws exist, it is impossible to speak of departures from norms and illegal acts. The growing coherence and density of the legal framework in Ukraine's defence sphere – a world apart from the incoherence which still prevails in spheres such as finance, export licensing and taxation – limit arbitrary actions and strengthen the risk that such actions will be exposed and censured. They are a precondition for lawful, accountable conduct, even if they do not guarantee it.

Institutionalisation. Like effective laws, effective institutions are not ends in themselves. A defining feature of totalitarian systems – as opposed to simple despotisms – is that they institutionalise (and often depersonalise) the power of small groups of people. On balance in Ukraine – a country in which a balance must always be struck – the core defence institutions have tended to moderate presidential authority, modifying it into executive authority.

Moreover, a core institution with limited but not insubstantial powers, the *Verkhovna Rada*, is independent of the executive and often in opposition to it. Not only does the *Rada* possess a measure of final authority (eg the right to remove the President and dismiss or declare no confidence in several officials appointed by him); it has measurable and very inconvenient authority in several respects: eg over the establishment of foreign military bases and facilities in Ukraine and the deployment of Ukrainian forces abroad. Proof that these are real powers is demonstrated by the fact that only after a pro-Presidential majority emerged in March 2000 was it possible to secure ratification of three long pending items of legislation central to Ukraine's cooperation with NATO: the Status of Forces Agreement, the Open Skies Agreement and authorisation of KFOR deployment for the Ukrainian element of the Ukrainian-Polish battalion.

But it is in the budgetary sphere where the *Rada's* authority has grown most substantially and constructively. It is also in this sphere where the challenges of establishing 'civil, democratic control' can be seen most vividly. Until recently, the prerogatives granted to the *Rada* under the Constitution to approve the defence budget did not provide a constructive check on executive power. In the absence of a transparent and disaggregated budget and sufficient corporate expertise, the *Rada's* Commission on National Security and Defence had little to scrutinise, little basis for questioning the costs and assessments presented to them, and little choice but to 'take it or leave it'. More than once they refused to take it, with the consequence that the Armed Forces suffered from ill-judged cuts. Today's realities, whilst far from encouraging, are vastly preferable to those which existed only a few years ago. The Commission's knowledge base has grown (assisted by growing collaboration with NGOs) and its prerogatives strengthened by the work of the *Rada's* Accounting Chamber. In addition, the Chamber as well as Commission members now have considerably greater possibilities to participate in state budget formation, alongside the relevant executive bodies (Presidential Administration, NSDC, General Military Inspectorate and the State Audit Chamber of the Cabinet of Ministers). Not least important, the Armed Forces have become more open and less reluctant to share information. At the same time, they are becoming more aware of the costs of their own manpower, assets and operations. As a result, the budget itself is presented in a more detailed form and in a format which is beginning to resemble western practice. In view of these improvements, one congenitally sceptical set of experts have concluded that 'budget formation is gradually improving and becoming

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transparent for the legislative branch and for the public'.¹²

State institutions, too, have become more mature with the passage of time. Again, qualifications must be entered. The National Security and Defence Council (NSDC) – that body which according to the Constitution ‘coordinates and controls (*kontroliruet*) the activity of executive bodies in the sphere of national security and defence’ – is supported by a largely civilian, 80-strong professional staff of high quality and integrity. But the NSDC illustrates the classic ambiguity present in Ukrainian institutions. Does it ‘monitor’ (*kontroliruet*) these bodies, or does it have authority over them? In practice, the answer has not depended upon the constitutional powers of the NSDC – which the authors of the constitution perhaps made deliberately ambiguous by the use of the word *kontrol*’ -- but the power of NSDC’s Secretary and his relationship with the President (who as Chairman of the NSDC not only appoints the Secretary but his deputies).¹³ Under Secretary Volodymyr Horbulin (1996-9) the NSDC tended to be a strong body, sufficiently strong to ensure that the armed services did not wield authority over the military members of its staff (some of whom felt confident enough to criticise the military leadership in open source publications). Following the appointment of one of the President’s key rivals, Yevhen Marchuk, to Horbulin’s post in November 1999, the relationship with the Presidential Administration became more competitive. Even before Marchuk’s appointment, Kuchma chose Deputy Secretaries based as much on their ability to monitor the Secretary as the defence and security bodies. In October 2000, Kuchma resubordinated the National Institute of Strategic Studies – a key research arm of the NSDC with a highly respected international profile – to the Presidential Administration. The changing fortunes of the quasi-analogous US National Security Council are a reminder that there are limits to institutional stability even in mature democracies.¹⁴ But in an immature democracy, does the personalisation of decisions about institutional prerogatives strengthen stability, let alone civilian, democratic control?

In principle, questions are also raised by the prerogatives of a second core institution, the General Military Inspectorate (GMI) under the President of Ukraine. A network of information analysis departments now exists in the Armed Forces as well as in other non-MOD subordinated military formations. On the basis of their work – and the work of subordinate inspectorates specific to each of these establishments – the GMI has powerful tools to ensure that defence and security bodies operate in accordance with executive directives. The GMI is a potent institution. It provides political authorities with an effective means of supervising military structures as well as making their activity more transparent. But GMI is also the tool of the President. An indicator of progress towards civilian *democratic* control would be greater transparency within GMI, a broader definition of Ukraine’s ‘political authorities’ and wider publication – in classified and unclassified form – of GMI’s work and findings. It could be some time before the Presidential Administration concludes that such transparency would be in the interest of Ukraine.

Overcoming the Tyranny of Theory. The Soviet military educational system was rigidly Clausewitzian. On the one hand, it instilled the notion that armed forces were a ‘tool of policy’ and that only political leaders could decide whether war was an appropriate means for achieving state objectives. On the other hand, it instilled the notion that if used at all, the military ‘tool’ would be used to implement state policy by means of war. The responsibility of the military establishment was to be up to the task. Far from being ‘unthinkable’, this task was an ever present

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possibility. To Soviet officers it was axiomatic that, even if war was not 'fatalistically inevitable', the potential of war was inherent in the international system. To the products of this system – including the majority of Ukraine's most senior officers – the notion that the state should, even for a specified period, be without armed forces designed for general war is not only profoundly misconceived, but immoral. Fortunately, both the National Security Concepts and the State Programme 2001-5, with its emphasis on complex emergencies and 'neutralising' conflict, demonstrate that this legacy is slowly being overcome. Today, it is widely accepted that 'Ukraine is unlikely to face serious threats of military aggression within the next 5-7 years'.

Yet, the rigidly Clausewitzian framework has imposed a further constraint on thought and action. The framework was oppressively theoretical, and theory ('military science') intruded into every aspect of defence policy. As Clausewitzians, members of Ukraine's military establishment draw a strict distinction between the *political leadership's* responsibility to reform the entire system ('military reform') – and the *military's* duty to work out the forces and capabilities needed ('armed forces reform'). This has encouraged the armed forces to 'plan for all contingencies' and wait for 'political will' to emerge, rather than identify clear and achievable priorities today. Here, too, the State Programme and the discussion surrounding it not only suggest that the military establishment is beginning to reconcile ends and means; they are beginning to recognise that it is their responsibility to do so and not somebody else's.

Independent Civilian Expertise. The emergence and development of NGO's with expertise in defence and security matters has been one of the most promising developments in Ukraine since 1991. There are now almost 50 non-governmental research centres in Ukraine. Although only about a dozen of these are regularly active in the defence sphere, those which exist are often of high quality and are steadily gaining influence. Amongst these are the Ukrainian Centre for Economic and Political Studies (whose President, Anatoliy Grytsenko was Director of Analysis at the NSDC until 1999), the Ukrainian Centre for International Security Studies, the Centre for Peace, Conversion and Foreign Policy, the Ukrainian Centre of Independent Political Research, and the Atlantic Council of Ukraine (whose President, Major General (Ret'd) Vadym Grechaninov, was Military Adviser to President Kuchma between 1994-6). Moreover, National Institute of Strategic Studies (which before its resubordination to the Presidential Administration in autumn 2000 was a component of NSDC) contains about 60 analysts, many of whom now write with fresh and independent perspectives. In addition a number of media outlets also cover defence issues, some quite critically and in at least one case (the prestigious Russian & Ukrainian language weekly *Zerkalo Nedeli*) with commendable seriousness. Equally promising is the extent to which the Armed Forces have overcome their former inhibition about collaboration with NGO's.

An impressive feature of the seminar and conference scene in Ukraine is that, even when attendance is restricted to small numbers and very senior official participants, representatives of the more prominent NGO's now tend to be invited as a matter of course. Although this still cannot be said of the news media, here too, shyness and hostility are disappearing. Western activity and presence by means of NATO and bilateral training programmes and the funding of NGO's has reached significant levels. A number of foreign specialists now regularly collaborate with official structures as well as NGO's on defence reform and other issues relevant to Ukraine's national security. This activity has played an instrumental role in breaking down barriers in Ukraine.

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In two other key areas, there has been demonstrable if still questionable progress.

- *Arms Sales.* During the first three years of independence, 'spontaneous processes' were the norm in this still closed and opaque area, and the persistent rumours that these processes cost the state \$20-30 billion appear to have foundation. The sphere is now formally under the control of several state bodies, with particular influence exercised by the state company *Ukrspetseksport*, the State Export Control Service and the Commission for Export Control Policy and Military-Technical Cooperation with Foreign Countries. Effectively it is under control of the State Security Service [SBU - *Sluzhba Bezpeki Ukrainiy*], and Col General Volodymyr Radchenko, head of the Commission for Export Control Policy, was head of the SBU until 1998. Presidential and SBU control do not guarantee complete correspondence between declaratory policy and state action, but it can at least be said that the activity in this sphere has become *state* activity and that it reflects the intentions of these authorities.
- *Defence Industry.* The decision of President Kuchma to establish a State Commission for Ukraine's Defence-Industrial Complex (VPK) in July 2000 under former NSDC Secretary Volodymyr Horbulin could well help to consolidate and rationalise this once excessively integrated, and now disembodied sector of Soviet power. Already the MOD Central Economic Department under Major General Valeriy Muntiyan has played a constructive role in providing a comprehensive audit of VPK assets and facilities. Despite nine years of post-Soviet turmoil, it is still questionable whether the key players in this sector understand market mechanisms and the 'art of the possible'. More questionable still is whether the closed nature of this sector is conducive to promoting such an understanding.

The Bottle Half Empty

The secular problems connected with civil society and identified at the start of this paper penetrate all spheres and elude solution. The political philosopher John Gray has defined civil society as:

the domain of voluntary associations, market exchanges and private institutions within and through which individuals having urgent conceptions and diverse and often competitive purposes may coexist in peace.

The Communist system's war on civil society was well fought. For all its failings, the system was remarkably effective in ensuring that few people possessed the knowledge, competence and self-confidence to manage public affairs, or even their own. Without a strong civil society, there will not be a civic state: the domain of state institutions governed by a coherent and transparent body of rules and subordinate to codified, limited authority, in which the ethos of professionalism and 'rightful conduct' is sufficiently developed to penalise corrupt practices, expose 'subjective agendas' and resist unlawful pressure. In Ukraine the state may be

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overbearing. But it is also weak because the ethos of 'rightful conduct', the instinct of self-regulation and the powers of resistance are deficient.¹⁵ In the defence and security sphere, the weakness of state and society has two major consequences:

Absence of Transparency. Transparency exists when we know *what* decisions are taken, *where* they are taken, *by whom* they are taken and *why* they are taken. Where the constitutional order has foes and the state has enemies, transparency is not always a virtue and secrecy may be essential to collective survival. In mature democracies, enormous efforts are taken to ensure that secrecy is confined to these urgent and unusual domains, that security services answer to institutions which are themselves accountable and that the employees of these services are a full part of the community of people and values they are sworn to protect. The laws do not classify as 'secrets' that which is merely embarrassing to state officials or that which reflects poorly upon their competence – and so long as their secrets are not compromised, the law does not shield security services from public scrutiny any more than it shields other institutions. In these respects, democracy has yet to arrive in Ukraine. In fact, the level of inhibition about conducting public and expert discussion about security services is palpably greater than it was in the post-independence period. Within recent years, NGO research on the Armed Forces and defence sector has become better, bolder 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, SBU or State Tax Administration. If the lack of transparency in these bodies makes their lives easier, does it really help them? How many of their accomplices are willing accomplices, and how many can they trust? When scandals and horrors emerge – eg the murder in May 2000 of the well known composer Ihor Bilozir by assailants tied to the MVD and SBU – will the public give these services the benefit of the doubt?¹⁶

Transparency is also injured by the hermetic quality of Ukraine's defence and security bodies. So is operational effectiveness. Proceeding from the 1997 National Security Concept, the State Programme of Armed Forces Development and Reform calls for Ukraine's three Operational Commands – strategic joint commands in all but name – to become the operational lynchpin of the defence system by 2005. Over the next five years, they must be transformed into structures capable of mobilising, commanding and supporting military forces in the tasks of responding to peacetime emergency, as well as preventing, containing and 'neutralising' armed conflict. This requires the capability to command 'multi-component' forces, including formations not subordinated to the MOD in peacetime. But this raises fundamental questions. The State Programme was drawn up by the Ministry of Defence and is binding upon MOD Armed Forces. Until a state of emergency arises, the MOD has no prerogatives over other force structures. Under the oversight of NSDC Secretary Marchuk, reform and development programmes have been drawn up by other military formations. But has NSDC used its authority to integrate these various programmes, and has it been given such authority in the first place? As Anatoliy Grytsenko has noted:

Unfortunately, amendments to the Law of Ukraine, 'On the Defence of Ukraine' of October 5, 2000 replaced the term 'Ukraine's Military organisation' with 'Ukraine's Armed Forces and other military formations'....This (seemingly purely terminological) amendment is rather important. It poses a danger of state authorities' treatment of every power structure in Ukraine (and, correspondingly, the issues of their development, reforming and funding) in isolation from the other. Therefore, the probability of revising the present non-optimal division of functions (and, correspondingly, the manpower and resources)

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between the power structures that form the Military organisation of Ukraine decreases. *None of the previous such attempts has been a success, as corporate benefits always overshadowed state interests.*¹⁷

Until state interests overshadow 'corporate benefits', will Ukraine be able to mount multi-component operations or will it merely succeed in appointing commanders of multi-component forces? If these operations are to be integrated and effective, will there not have to be compatible programmes of military development, compatible concepts of operations, common elements of training and the establishment of joint committees and other linking structures between MOD Armed Forces and other security bodies? Will there not also have to be a far greater degree of trust than exists today?

Even in the least opaque bodies of state power, the armed services subordinated to the Ministry of Defence, the hierarchical approach which prevails in Ukraine limits the flow of information and stifles initiative. In the UK Ministry of Defence and at NATO Headquarters, there is a well developed committee system straddling different administrative blocks. Most defence policy is made by such committees – inter-departmental (and civil-military) in composition, with access to all data bearing on their area of functional competence. But in the absence of such a system, blocks become compartments, and areas of relevance to the whole can be hidden from almost everyone. The General Military Inspectorate of the President was established to counter this tendency. But as an example of the top-down approach, it is also part of the problem. In Ukrainian institutions, vertical coordination has been developed to excess. There is a dearth of horizontal integration, and management from below is almost unknown.

Civilian Expertise. There is an unbreakable connection between the quality of civilian control and the quality of civilians. Where civilians are relatively ignorant about defence or, as in much of Central Europe, contemptuous of the military profession, the Armed Forces will naturally resist being controlled by them.¹⁸ Given their history and corporate upbringing, it is not surprising that Ukrainian military officers find presidential control congenial and accountability to the NSDC and other state bodies normal. After eight years of living in an independent country with a limited degree of democracy, it is also not surprising that they accept parliamentary oversight and increasingly open discussion with NGOs and other public bodies. Yet they still draw the line at having a civilian Minister of Defence. Are they wrong to do so? Valeriy Shmarov's tenure as Minister (1994-6) was injurious to all parties. If it did not prove that 'civilians know nothing about defence', it proved that inexpert civilians will not establish good working relationships with the Armed Forces. Yet the presumed shortcomings of such civilians are only part of the problem. On what basis will inexpert civilians be appointed? In the view of Oleksandr Parfionov:

The present Ukrainian practice of high-level nominations shows that they are usually the result of apparatus intrigues that are absolutely non-transparent for the public. The nominee's affiliation with a certain influential political grouping plays an important role. This practice gives reason for concern that a civilian Defence Minister appointed by the president will remain beyond the scope of control of other institutions of state power. In particular, he or she may slip beyond the control of the legislative branch, which may lead to excessive concentration of power in the President's hands.¹⁹

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As Parfionov goes on to conclude, 'the key precondition is the creation of a civil service'. Yet Ukraine does not possess a professional civil service: a corps of administrators whose political neutrality is unquestioned and who are competent and expert enough to execute government policy. Instead, it has politicised officials (many of them more interested in their careers than their work) and large numbers of *sluzhbovtsi* [functionaries]: individuals whose principal ethos is deference to bosses and 'work to rule'. Do the Armed Forces resent civilian control, or do they resent being controlled by those who are less professional than they are? Whatever the answer to this question, the Armed Forces are probably correct that the time has not yet arrived for a civilian Minister of Defence in Ukraine.

Incongruity between State Policy and State Practice. Unless there is a fundamental congruence between the goals of the state and those of its core institutions and instruments, the state will have little chance of achieving its declared goals. There is, for example, a fundamental incongruity between a national security policy based on non-alignment, integration with Europe and close partnership with NATO and the situation which O. Mykolaeva wrote about in 1996, where, 'sitting in classes, Ukrainian officers are rehearsing a situation in which a coalition of western and southern states comprising 50 divisions attacks Ukraine'.²⁰ The measure of progress in Ukraine's Armed Forces since 1996 is that this incongruity is recognised and it is gradually disappearing.

But the same cannot be said with confidence about the SBU and elements of the Ministry of Internal Affairs (MVD). The behaviour of these bodies has led many to ask themselves what state, what political order, what community and what system of values they are defending. Is the ethos of secrecy (and the related ethos of security) primarily to blame? Reflection suggests that three other factors at work.

The first is the continuity between these services and those that existed before. As noted, at Union Republican level, these bodies survived the Soviet collapse relatively intact. The custodians of independent Ukraine therefore faced a stark choice: either to dismiss the greater proportion of those who worked in these services and construct security establishments from scratch – a course pursued only in the Baltic states and post-Communist Czechoslovakia – or to do what all other successor states had done: eliminate the overtly disloyal and proceed to 'reform' the structures inherited. Ukraine made the conservative, understandable but fateful choice. It took what was available. Unlike Estonia, Ukraine could not rely upon a vigilant civil society to mount guard over 'their' state whilst a committed corps of citizens was first identified and then laboriously turned into professionals. Unlike Czechoslovakia, Ukraine faced security threats. It still faces them. The reasons which make it difficult to reform Armed Forces during a war – though unless they are reformed *by* war, they are often defeated – make it difficult to reform security services under threat. Now that the dish is cooked, the country has to eat it: security services dominated by members of the former KGB and MVD which have preserved much of the mental inheritance of these services and some of the methods, too.

The second factor is the 'objective logic' of the methods themselves in contemporary Ukrainian conditions. Unlike the FBI, MI5, Special Branch and other Western analogues, the internal services of the KGB (and much of the MVD) were instruments of administrative control over society. Today their successors remain networks of influence, not only in state structures but in partnership with regional authorities and with much of the 'private' sector.²¹ Thanks to this influence – their

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ability to advance careers or obstruct them, grant licences or deny them, provide tax privileges or send tax inspectors – these services not only moderate heterodoxy, they provide themselves with collaborators. One can certainly exaggerate this influence – or minimise the ability of groups and individuals to resist it – and one will frequently be told by Ukrainian officials that one has done both. Far less frequently will one be told such practices will be rewarded with dismissal and imprisonment. The position of Western security services could not stand in greater contrast to this. These services have no ‘presence’, let alone influence in society. Unlike SBU employees (who are paid 40% more than their military equivalents), their employees enjoy very moderate salaries and only a moderate social status. The overwhelming majority of citizens – those who are neither subversives nor candidates for jobs requiring a security clearance – will live out most of their lives without ever needing to come into contact with them. Aside from that part of their information which comes from criminal informants, the rest comes from voluntary cooperation. But if Ukraine’s special services could not exert ‘influence’ over its informants, what degree of cooperation could it expect? Until civil society is strong and self-confident in Ukraine, until ordinary people see the state as ‘their’ state, the answer is likely to be none. The conclusion is inescapable. The character of a country’s security services is inseparable from the character of a country’s state and society. The methods of the SBU and MVD reflect the weakness of civil society in Ukraine. But they also prolong its weakness. It remains to be seen whether the Gongadze affair produces a more assertive civil society or a more submissive one.

Conclusions

‘Civil democratic control of armed forces’ is a diminishing problem in Ukraine. Part of the reason for this is that in this sphere, the Soviet legacy has not been entirely harmful to Ukraine. It has produced professional armed forces with remarkably little ‘lust for power’. Another part of the reason is that the country’s leadership have not relied on the Armed Forces to keep themselves in power and, as a result, have not sought to politicise the military establishment. A third reason is the growing stature and competence of NGOs, the steady growth of civilian expertise and, correspondingly, the military establishment’s greater openness to criticism and discussion. Not least important is the fact, only briefly touched upon in this paper, that international cooperation and experience, primarily through NATO’s Partnership for Peace, has now exposed 16,000 fast track servicemen to ‘Euro-Atlantic standards’ of civil-military relations, not to say defence management, planning and ‘operations other than war’.

However, civil democratic control of the defence and security system remains a considerable problem in Ukraine. In some spheres, the problems are worsening rather than improving. Is it entirely coincidental that the MVD and SBU, largely ignored by PFP and bilateral programmes ‘in the spirit of PFP’ are not only amongst the least democratically minded, but amongst the least pro-Western institutions in the country? Yet leaving aside the problems of these services and the symbiotic relationship between security and democracy and state and society in Ukraine, an even greater problem remains. In the absence of trust between structures and ‘echelons’ of power, significant levels of transparency, horizontal (inter-departmental) integration within armed services and working level cooperation between institutions, can we speak of a defence and security system in Ukraine or merely speak of ‘Armed Forces and other formations’?

It could be harmful and not only unfortunate if current scandals and outrages

overshadowed Ukraine's accomplishments in 'Armed Forces development and reform', not to say the ground gained by civilians – and independent civilian experts – in that process. Nevertheless, these outrages are a reminder that democratisation is not inevitable in Ukraine and that the gains achieved can be eroded, even reversed.

ENDNOTES

¹ Major General Vadym Grechaninov, 'Truly Democratic Civilian Control over the Military Barely Emerges in Ukraine', in *National Security & Defence*, no. 11, 2000, pg 68 (Ukrainian Centre for Economic and Political Studies [hereafter UCEPS], Kyiv).

² The youngest officers (those with up to 5 years service) and the oldest (those with over 25 years service) scored highest in the most recent 'lust for power' poll (16.3% and 14.3% respectively). The breakdown for other years was 5-15 years service: 9.9%; 16-20 years service: 13.%; 21-25 years service 7.1%. *Ibid.*, pg 23. According to another recent poll, only 7.1% of the Ukrainian population support 'military rule'. A. Bychenko and I. Zhdanov, poll on 'Nation, Power, Referendum', *National Security and Defence*, No. 2, 2000 pg. 9 (UCEPS)

³ As cases in point, see the article of this title by Volodymyr Loginov, Lt General of the Ministry of Interior (MVS) in *Ibid.*, pg. 63.

⁴ Unlike the MVD and KGB, the Soviet Ministry of Defence and Soviet General Staff had no branches in the Union Republics. With one exception, the organisation of the Soviet Armed Forces was functional and operational, not territorial. In peacetime, they were organised into five arms of service under Commanders-in-Chief, who acted as administrative rather than operational heads of their services. In wartime, command-and-control was exercised by the General Staff through 'combined arms' commanders in individual Theatres of Military Activity (TVD) on external fronts. The one territorial component of defence organisation, the USSR's 15 Military Districts, grouped together entities responsible for conscription, training and mobilisation. But these districts were not territorially coterminous with Union Republics, and they did not possess the capabilities and command structures required to plan or conduct coordinated military operations. What Ukraine inherited in 1991 were limbs without brain or body: three Military Districts and the forces which happened to be stationed in them.

⁵ This, of course, was not true under Stalin. Moreover, the Khrushchev era was characterised by numerous – and in the eyes of the military, capricious and damaging – interventions into military-technical policy. This 'amateurism' and these inconsistencies and 'hare brained schemes' were a major reason that Khrushchev was ousted in October 1964. His successors placed a high premium on continuity, 'professionalism' and 'stability of cadres' – not only in the military sphere but in others where Khrushchev had upset established bureaucratic interests.

⁶ The right to establish national armed forces was proclaimed in the *Verkhovna Rada's* Declaration of State Sovereignty on 16 July 1990, more than a year before Ukraine declared independence on 24 August 1991. The official establishment of the Armed Forces of Ukraine did not precede but followed the establishment of a parliamentary Standing Commission for Questions of Security and Defence (26 February 1991) and a Ministry of Defence (3 September 1991). On 22 October 1991 units and formations of the Soviet Armed Forces on Ukrainian soil were nationalised.

⁷ Nevertheless, concerns about the reliability of the Armed Forces were deemed substantial enough to justify the establishment of an altogether new military formation, the National Guard, on 23 October 1991, the day after units of the Soviet Armed forces on Ukrainian territory were nationalised.

⁸ Albania provides perhaps the most virulent and extreme illustration of this paradigm – and also illustrates the role that political manipulation can play in such apparently 'accidental'

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conflicts

⁹ As paraphrased by the then director of the NSDC staff, O. Spirin. The wording of the actual document is cautiously toned down.

¹⁰ In the words of Rear Admiral Yuriy Shalyt, Deputy Commander of NATO exercise Sea Breeze 1997: 'In local conflicts or national disasters, which can also provoke conflicts, it is precisely military units with the right training that can and should set up a zone *which would make it possible to direct or influence the processes occurring outside it*, promote the consolidation of stability and order in the country or region and create the necessary conditions for the work of units from the Ukrainians Emergency Situations Ministry'.

¹¹ Mirror of the Week [*Zerkalo Nedeli*], 'Banner of Freedom – Sign of Questions' [*Gerb Svobodiy – Znak Voprosa*], 1-8 December 2000, pg. 1

¹² 'Ukraine's Gains in Forming the System of Civilian Control over the Military', UCEPS, op.cit. (No. 11, 2000), pg 19

¹³ According to the Constitution, apart from the President, the members of the NSDC comprise the Prime Minister, Minister of Defence, Head of the SBU, Minister of Internal Affairs and Minister of Foreign Affairs. The President may also appoint additional members: at present, the Head of the Presidential Administration, Chief of General Staff, Minister for Emergencies, Head of the State Committee for Protection of the State Border, Minister of Finance, Minister of Justice, Minister of Environmental Protection and Natural Resources, President of the National Academy of Sciences, as well as the Secretary of the NSDC, Yevhen Marchuk.

¹⁴ The strength of the NSDC relative to other key departments, notably State and Defence, is decided by the President, although it can also reflect competition between the personalities who head these departments. However, this writer knows of no examples where a US President appointed a rival as his National Security Advisor and then used the appointment to undermine him. Both Yel'tsin and Kuchma have done precisely this in appointing secretaries of the RF Security Council and the NSDC, respectively.

¹⁵ For a fuller discussion of the 'civic state', see James Sherr, Ukraine's New Time of Troubles, (CSRC, Sandhurst, October 1998), pp 11-15.

¹⁶ Voronov, Bilozir's assailant, was then a military officer, son of the then Deputy Chief of the Lviv department of the Ministry of Internal Affairs (MVD). The latter resigned immediately after the episode. According to several sources (eg the newspaper *Za Vilnu Ukrainu*, 3-10 July 2000), Voronov's companion was an officer in military counter-intelligence, a branch of the Armed Forces subordinated not to the Ministry of Defence, but the Security Service of Ukraine.

¹⁷ UCEPS, op.cit., No 11, 2000, pg. 3

¹⁸ For a fuller discussion of these attitudes in Central Europe, see James Sherr, NATO's New Members: A Model for Ukraine? The Example of Hungary (Conflict Studies Research Centre, Sandhurst, G86, September 2000)

¹⁹ Oleksandr Parfionov is Executive Director of the Ukrainian Centre of International Security Studies (UCISS), cited in UCEPS, op. cit., pg, 8

²⁰ O. Mykolayeva, 'Servicemen Say: He Who has not been in the Army has Lost', *Zerkalo Nedeli*, 15-21 June 1996.

²¹ For a discussion of the origins and implications of the former KGB's role in business, see James Sherr, 'Russia: Geopolitics and Crime', The World Today, vol 51, no. 2, December 1995, pp 32-6.

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