

Fostering Economic Development Through Ukraine's Border Guard Service: Administrative and Legal Perspectives on Contemporary Issues and Future Prospects

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ABSTRACT:

The article is devoted to the study of administrative and legal aspects of the State Border Guard Service of Ukraine during martial law. The article examines the legislative framework of the State Border Guard Service of Ukraine and the administrative and legal aspects of its functioning, which include control over compliance with customs requirements, national security, and compliance with the requirements of the law on legal border crossing. The author examines the changes in legislation that have affected the expansion of the powers of border guards and their activities, which is also due to the martial law. The author analyzes the legal aspects of border guards' control over compliance with the rules of border crossing during martial law. The author describes the functions of border guards in controlling the departure of military personnel and persons liable for military service from the State. Attention is drawn to modern devices and systems that allow identifying those crossing the border, which allows border guards to carry out their work effectively. The role of international organizations and partners in improving the functioning of the Service is also considered. The article also examines the current problems of the State Border Guard Service of Ukraine, which are caused by discrepancies in legislation and the use of illegal border crossing by violators, and also identifies bureaucracy as one of the problems of the Service's development. At the same time, the author identifies the prospects for the development of the State Border Guard Service of Ukraine, which allows us to talk about ways to improve the activities of the State Border Guard Service.

Keywords: administrative and legal aspect, martial law, State Border Guard Service of Ukraine, legislation, border, offender, Service

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1. Introduction

The presence of each state's own State Border Guard Service is a factor in ensuring national security, which allows to curb the increase in the flow of transportation of prohibited items and substances, reduce the volume of illegal trade, and prevent terrorist attacks and crimes against humanity (Volyanska, 2020). Border guard services are mainly engaged in preventing illegal border crossings by migrants, as illegal border crossings often pose a danger to the life and health of those crossing the border, as well as negatively affect the economic, political, and social situation in the state with which the border is crossed illegally (Andrushko, 2017).

In European countries and the United States, where illegal migration, smuggling, and terrorism are the main targets of border violators, border services are united into single groups that conduct comprehensive operations to detain violators and prevent crimes against citizens of their states. Such operations are carried out both on land, in water and in the air, which allows to effectively combat border violators and ensure national security (Vychavka, 2017). In addition, systematic training is conducted for border guards from different countries to help them quickly identify dangers and counter national threats, and the training is useful for mastering the use of new devices and information technologies in the work of the border guard service (Dodonova, 2017).

Given the above, the work of the State Border Guard Service is key to ensuring national security for our country (Onishchenko, 2019). Thus, ensuring the state border and the inviolability of Ukraine's sovereign rights in its economic and adjacent zones is the direct responsibility of the State Border Guard Service (Torichny, Bratko & Zakharchuk, 2021). According to the legislation, the State Border Guard Service of Ukraine (SBGS) is a special body that ensures the inviolability of the state border, and in its structure is a body of the Ministry of Internal Affairs of Ukraine (Bratko, 2021a).

Currently, the State Border Guard Service of Ukraine is guided in its activities mainly by such legal acts as the Law of Ukraine "On the State Border Guard Service of Ukraine: Law of Ukraine" (Verkhovna Rada of Ukraine, n.d.), the Law of Ukraine "On Mobilization Training and Mobilization: Law of Ukraine of October 21, 1993, No. 3543-XII (Verkhovna Rada of Ukraine, 1993, October 21), Order of the Ministry of Internal Affairs of Ukraine "On approval of the Regulation on the State Border Guard Body of the State Border Guard Service of Ukraine" (Ministry of Internal Affairs of Ukraine, 2018, November 30), Resolution of the Cabinet of Ministers of Ukraine "On approval of the Rules for crossing the state border by citizens of Ukraine: Resolution of the Cabinet of Ministers of Ukraine dated January 27, 1995 No. 57 (Cabinet of Ministers of Ukraine, 1995, January 27)). Compliance with these regulations allows the SBGS to effectively carry out its work and maintain the legal framework for border crossing in our country.

The legal regulation of border crossing is the main administrative aspect of the SBGS activities, which is due to the martial law, during which there are restrictions on traveling abroad for men aged 18 to 60, which is also related to the state's mobilization policy. This also affects the tightening of control over border crossings and ensuring that Ukrainian citizens cross the border legally. In addition, the powers of border guards have been expanded due to the war in the country, which leads to the risk of smuggling illegal

goods and prohibited substances. As a result, the administrative and legal aspects of the SBGS activities require a more detailed study.

2. Theoretical Background

The issue of administrative and legal support for the activities of the State Border Guard Service of Ukraine is currently being considered by a number of domestic researchers. In the works of such researchers as R. Hrynko, N. Demchyk, and A. Mota, one can notice a focus on the issue of administrative and legal aspects of the use of coercion by SBGS employees in view of martial law. The researchers point out that in connection with the full-scale attack by Russia and the deployment of troops from Belarus, our state must resort to self-defense and repel armed aggression by any means. Accordingly, under these conditions, border guards must also ensure military security and protect the state border more intensively. However, it is emphasized that border guards are not legally authorized to use firearms unless it is self-defense or a situation of mortal danger (Hrynko, Demchik & Mota, 2022).

Scientists I. Kushnir, N. Demchyk, S. Adamchuk consider the concept of “administrative activity of the SBGS” as “the provision of services to public authorities in the exercise of their powers”. Such services may include granting permits to cross the border during martial law to Ukrainian citizens and granting permits to cross the border to citizens of other states or stateless persons. It also includes the preparation of documents and their verification for citizens to cross the border under a simplified procedure, to cross the border in case of emergency, to issue entry permits and border passes, and to cross the border for vehicles. In addition, the Service provides requests for public information, issues individual acts, and controls administrative proceedings (Kushnir, Demchik, & Adamchuk, 2023).

Scholars O. Hluzdan and V. Fedorchuk emphasize that the effectiveness of the management of the State Border Guard Service of Ukraine is influenced by a significant number of factors. First of all, it is a large number of tasks that border guards have to perform in modern conditions. For example, employees of the State Border Guard Service now have to not only control the legality of border crossings by citizens, but also ensure military security. All this is complicated by the hierarchy of the SBGS, where decision-making takes place at the strategic and tactical levels of management. At the same time, researchers draw attention to the time factor, which is due to the fact that little time is allocated for border guard training and the level of training itself needs to be improved. In addition, the activity of a border guard significantly depends on the level of automation of all processes related to border crossing (Gluzdan & Fedorchuk, 2022).

It can be argued that the short training cycle negatively affects the effectiveness of the State Border Guard Service. In particular, during short training, the military does not have time to master practical skills and gain valuable knowledge about actions in various situations. Therefore, it would be advisable to introduce automation systems that would allow for full-fledged training of the military. This includes the formation of skills for working with the internal computerized system "Gart-1P".

Researcher Y. Melnychuk believes that a promising aspect of the SBGS development today is the use of the Service's reserves in modern conditions. In particular,

reserve units can take part in armed conflicts on the territory of our state, participate in repelling attacks by armed groups on our territory, participate in joint operations with other services of our state, and counteract criminal and administrative offenses on the border of our state. Reserve units can also counteract non-standard situations on the border, fight terrorism, participate in the protection of certain areas on the border, be part of military intelligence, counteract sabotage and reconnaissance groups, and ensure a special regime for the movement of transport. The administrative activity of such reserve units should be to obtain reliable and accurate information that should prevent the commission of a possible offense (Melnychuk, 2022).

Researcher O. Denysiuk believes that one of the forms of administrative activity of a border guard is to provide the media with information that preparations are underway for a criminal offense or that such an offense has already occurred, which allows to find the offender or prevent the commission of a crime. This allows the border guard service to reduce the number of violations, and, accordingly, the SBGS employees are provided with a financial incentive to prevent violations. If a SBGS employee receives information about a possible violation from an anonymous source, he or she must ensure the safety of the person concerned.

In addition, information technology and software are now sufficiently developed, which makes it possible for a SBGS employee to quickly check the person crossing the border using information databases, determine the risk of illegal border crossing or smuggling, and determine the authenticity of the person's documents and supporting documentation. In addition, the risk of a person committing a crime may also be evidenced by contact with this person, which allows to determine his or her emotional state (Denysiuk, 2022).

According to the researcher V. Vintsyk, the current situation in our country under martial law requires the SBGS to work in a coordinated manner and expand the main powers of this Service. Thus, in addition to the main functions, such as ensuring trade, economic development of the state, crossing the border by private vehicles and trucks, movement of people across the border and ensuring migration processes, the Border Guard Service of Ukraine must also comply with the requirements of the legislation on national security and mobilization policy. As a result, the State Border Guard Service of Ukraine must ensure the rights and freedoms of a citizen of Ukraine, promote the interests of society, ensure national security, and effectively manage the operational and service activities of the SBGS (Vintsuk, 2022).

It is worth noting that the state should improve the mechanisms of control over the performance of its own direct functions by the State Border Service. Legislative acts should be introduced that determine the procedure for subordination of the service to other agencies in specific situations, as well as instructions regarding interaction with other services when performing tasks related to state security. In particular, the legislation stipulates that only prosecutorial supervision is carried out over the activities of the State Border Service of Ukraine in the case of carrying out search and investigative actions, however, it would be advisable to determine the need for supervision by the Ministry of Internal Affairs and the Security Service of Ukraine, since these agencies closely cooperate and have organizational ties.

Therefore, an analysis of the literature on the administrative and legal aspects of the State Border Guard Service of Ukraine has revealed that this issue is widely considered by domestic researchers. However, it requires more detailed consideration in connection with changes in the legal framework for the SBGS activities.

The purpose of the article is to study the administrative and legal aspects of the State Border Guard Service of Ukraine during martial law, and this is related to the prospects and problems of the State Border Guard Service's functioning. The article focuses on the legislative activities of the SBGS related to the introduction of martial law and the implementation of mobilization policy in our country. The article reveals the theoretical foundations of the SBGS activities with practical aspects.

3. Methods

The research methodology involves determining the administrative and legal aspects of the activities of the State Border Guard Service of Ukraine under martial law. To achieve this goal, the functions and tasks of the SBGS, its main activities, management and structure were studied in the period of 2022-2024, when the SBGS was restructured in connection with the full-scale invasion. This period was due to the fact that the beginning of the full-scale invasion required changes to the legal framework of the SBGS, which is related to the threat to national security and the need for enhanced protection of the state borders.

The material for the analysis was the official website of the State Border Guard Service of Ukraine and the statistical indicators of the border guards' activities posted on it. Using the content analysis method, it was determined that the SBGS website contains information that fully informs citizens about the rules of border crossing and various aspects of the SBGS activities. According to the content analysis, the SBGS actively cooperates with other law enforcement agencies of the state, which helps the Service to comply with the law.

The article also draws attention to the legal framework of the State Border Guard Service and the measures taken by border guards to ensure that citizens of the state comply with the legal basis for crossing the border. Additionally, the author analyzed statistical information confirming the increase in the flow of citizens seeking to cross the border, and therefore may have criminal intentions to illegally move across the state border. In addition, attention is drawn to other indicators that confirm the need to expand the powers of the SBGS.

The Border Guard Service of Ukraine actively cooperates with other international organizations, which allows it to effectively counteract international crime, prevent terrorism, and make it impossible for representatives of other states to carry out intelligence work. In particular, the SBGS has a long-standing cooperation with the border guard services of neighboring European countries, which facilitates the timely exchange of important information and the establishment of relations with other countries. The assistance of partners is important for our country, due to the need to improve the technical condition of the software and information systems with which the SBGS cooperates.

At the end of the study, the problems related to the administrative and legal aspects of the SBGS activities were identified. The disclosure of these problems made it possible to determine what problems exist in the work of the Service and, accordingly, to establish the prospects for the development of the State Border Guard Service of Ukraine in the future. Accordingly, the study was based on the theoretical and applied basis of the SBGS border guards' activities.

4. Results

At the current stage of the State Border Guard Service of Ukraine, there are significant changes in the management and structure of the Service, its tasks and functions, and its main activities. This is due to the fact that the administrative and legal aspects of the Service's activities, which are related to the organization of legal border crossing and cargo transportation, have been supplemented by functions related to the participation of border guards in hostilities and the protection of borders from enemy attacks. At the same time, martial law has significantly affected the powers of border guards, who must now counter new threats and dangers. In particular, there is a clear need to protect the state from the internal enemy, which seeks to illegally cross the border, organize criminal activities, and carry out provocations. Today, border guards are actively cooperating with the military and other law enforcement agencies to prevent the expansion of threats to international security, as well as to regulate the transportation of humanitarian goods, the import of military equipment and weapons, and the import of medicines and medical equipment. This allows to provide timely assistance to those categories of the population that need it first (State Border Service of Ukraine, n.d.).

It is worth noting that before the full-scale invasion, the main legislative act regulating the activities of the SBGS was the Law of Ukraine "On the State Border Guard Service of Ukraine", which regulated aspects of the SBGS in peacetime and was used to regulate the transportation of people and goods across the border. According to this legal act, all citizens were subject to the same requirements for crossing the border (Verkhovna Rada of Ukraine, n.d.).

In addition, following the laws of peacetime, border checkpoints were limited by technical devices and had a minimum number of vehicles to counter possible threats. At the same time, border guards used those information databases and devices that allowed them to identify individuals and determine the authenticity of documents, without using specific programs to determine whether individuals were involved in certain types of crimes. In addition, checks for smuggling and transportation of illegal goods were carried out mainly through a regular search and with the use of specially trained dogs (Bratko, 2021b).

In connection with Russia's full-scale invasion in 2022, other regulations were added to the law governing the main aspects of the Border Guard Service, which changed the regulation of customs control and travel outside the country. In particular, men between the ages of 18 and 60 are now prohibited from traveling abroad, with certain exceptions, which suggests that border guards are paying more attention to those crossing the border. In addition, some goods, including those of humanitarian value and essential goods, are imported with minimal duties or in accordance with duty-free legislation. In

addition, military personnel may travel outside the country with authorization documents or during the period of leave.

As a result, we can talk about the connection between the legislation related to customs control and crossing the state and other regulations that are in line with the state policy and may affect compliance with security rules during the war. In particular, border guards pay great attention to mobilization legislation, which is primarily related to border crossings by men and other categories of the population.

It can also be argued that there have been changes in the SBGS activities since 2022. In particular, to the traditional areas such as integrated state border management, capacity building of aviation and maritime security, improvement of the personnel training system, organization of logistics, which were inherent in peacetime service, were added such areas as repulsing Russia's armed aggression, ensuring the legal regime of martial law, ensuring the restoration of control over the border after the liberation of the temporarily occupied territories, building the capacity of units on the Russian-Ukrainian and Belarusian-Ukrainian borders. In other words, current directions reflect a greater focus on preventing armed groups of other states from crossing the border (State Border Service of Ukraine, n.d.).

In addition, if we pay attention to the tasks of the State Border Guard Service of Ukraine, the main tasks until 2022 were those aimed at preserving the inviolability of the state border, while since 2022, the tasks of preserving the sovereign rights of Ukraine have been added. In addition, the following main functions of the SBGS after 2022 can be identified, as shown in Figure 1.

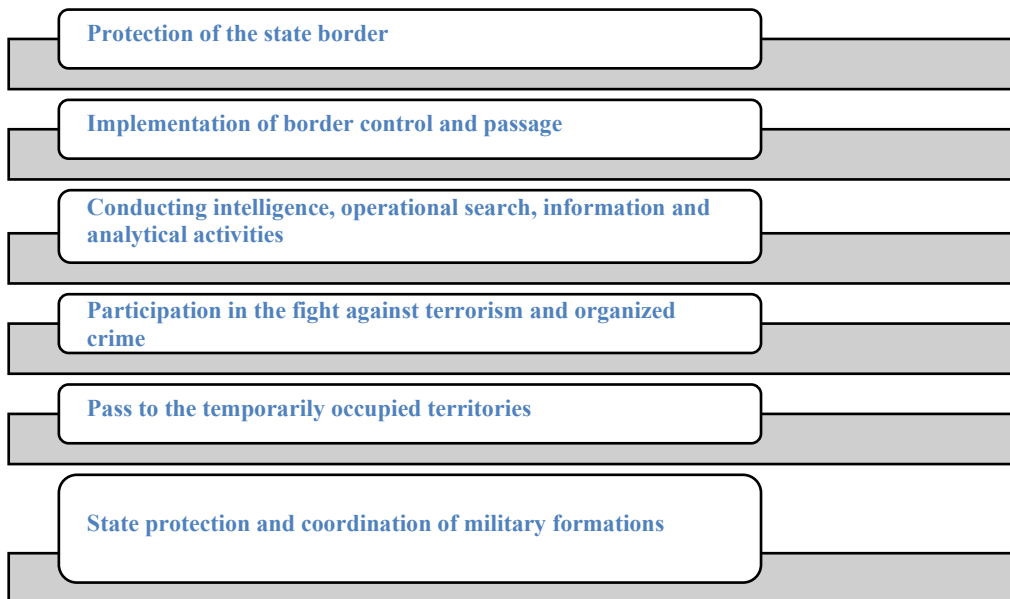


Figure 1: Main functions of the State Border Guard Service after 2022

Source: State Border Service of Ukraine (n.d.)

According to the figure, the service has retained the functions it had until 2022, but with the beginning of the full-scale invasion, such functions as “access to the temporarily occupied territories” and “state protection and coordination of military formations” were added. The function of passage to the temporarily occupied territories is due to the increase in the volume of the occupied territory, which requires its separation from the areas where no hostilities are taking place; this includes the de-occupied zone and the combat zone. At the same time, state protection and coordination of military formations as a function related to the increased need for protection of diplomatic representatives and representatives of international organizations, as well as coordination of representatives of various law enforcement agencies

The leadership consists of the following agencies: the Management, the SBGSU Administration, Regional Departments and State Border Guard Bodies, the Maritime Guard, Support Bodies, and Educational Institutions. Since the outbreak of war in 2022, there have been virtually no changes in the management hierarchy. At the same time, the structure was expanded to include such bodies as the Central Military Medical Commission, the Kyiv Separate Checkpoint, and the 10th Mobile Border Guard Detachment. Border guard detachments were also added to the structure, which were later partially assigned to the Armed Forces of Ukraine. This suggests that the service has expanded in structure and in the number of employees, which makes it possible to speak of the importance of the Service's activities (State Border Service of Ukraine, n.d.).

Another indicator of the SBGS performance is the number of people who crossed the border. Here we can demonstrate the results for 2021-2024, as shown in Figure 2.

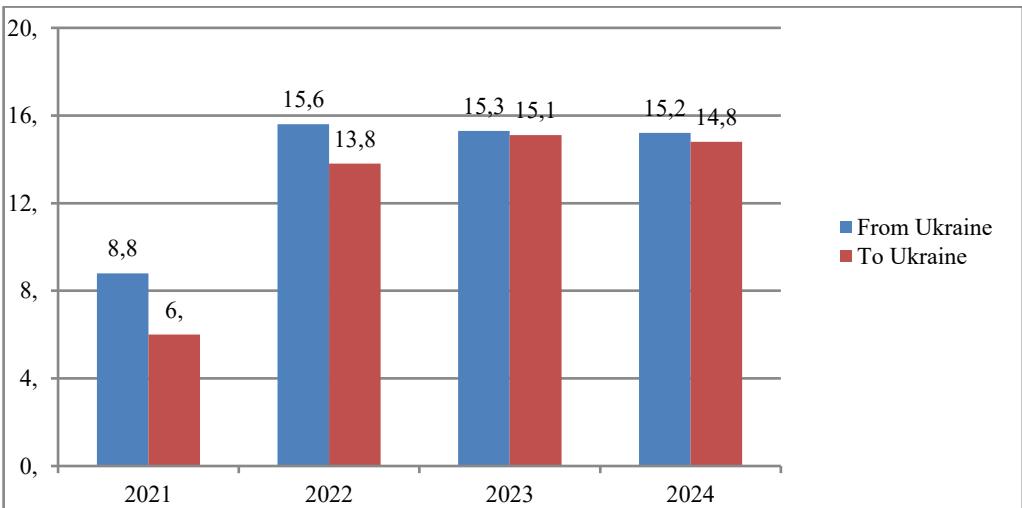


Figure 2. Number of people who crossed the border of Ukraine (in millions) in 2021-2024

Source: State Statistical Service of Ukraine. (n.d.)

According to these results, compared to 2021, the number of people crossing the border with Ukraine doubled in 2022. Accordingly, security measures have been strengthened, and the number of cases of violations of customs rules and border crossing rules has decreased. At the same time, the number of violations of illegal border crossings

has decreased. Thus, while in 2022 this figure amounted to 7,600 cases of illegal border crossing, in 2023 it was only 1,033 cases. So, in fact, the volume of border crossing violations decreased by 7 times. In addition, according to border guards' reports, every day about 100-120 people are denied entry because they do not have permits to cross the border (State Statistical Service of Ukraine, n.d.).

If we compare the obtained indicators with other countries, then 15.0 million people crossed the border with Poland for entry in 2021, and 23.0 million people in 2024; 14.8 million people crossed for exit in 2021, and 20.0 million people in 2024. A similar situation exists in the USA, where 90.0 million people crossed the border for entry in 2021-2024, and 70.0 million people for exit. This indicates that, unlike other countries, the number of people who left Ukraine is greater than the number of those who entered. This indicates problems not only political, but also regulatory regulation of the border service. It should be emphasized that such a study is a reflection of official statistics and cannot reproduce real indicators. Therefore, to improve its activities, the State Service of State Statistics of Ukraine should conduct comprehensive surveys among employees to determine their real attitude to modern legislative innovations and take into account real practical experience.

Therefore, we can say that the workload of border guards has increased due to mobilization legislation and martial law. However, the number of cases of illegal transportation of goods across the border has decreased due to a more thorough check of documents and letters of transit.

In addition to the increased need to verify the legal component of border crossing, the workload of border guards in responding to requests for public information has also increased. For example, due to the martial law, citizens began to receive many requests related to the border crossing procedure, the specifics of leaving the country for certain categories of citizens, the availability of permits for border crossing, and permits for the transportation of certain categories of goods.

In particular, in 2023, the SBGS administration received 1,600 such requests, while in 2024, 2,168 information requests were received. According to the reported data, about 180-200 requests are received every month. Moreover, inquiries account for 93% of the correspondence received by this structural unit. This suggests that the amount of administrative work associated with processing citizens' requests has only increased, and as a result, border guards must be well versed in the law and know the changes to it in order to correctly inform citizens about changes in the legal regulation of border crossing (State Border Guard Service of Ukraine, 2023).

In addition, in 2023, the SBGS held 20 events in the form of trainings and seminars to familiarize employees with legislative changes in the SBGS activities and the administrative and legal framework for citizens to cross the border, testing personnel on their knowledge of anti-corruption legislation, the procedure for border guards to act in case of attempts by citizens to illegally cross the border or smuggle prohibited goods, the procedure for acting in case of receiving a prohibited gift, combining other activities, and conflict management. At the same time, until 2023, such events were held infrequently and mostly in the format of video lectures, while now such events have become systematic, which indicates the need for a comprehensive familiarization of border guards with changes to current legislation.

Given the constant changes in legislation on the rules for crossing the border and leaving the country for certain categories of people, the requirements for border guards to check people leaving the country have increased. For example, in 2024, 670 attempts to illegally cross the border under the Shlyakh system were recorded, which led to an increase in the number of checks on carriers crossing the border under this program. In addition, border guards are now more thoroughly checking permits for military personnel to leave the country and export cargo, which is an aspect of the administrative and legal framework for border guards to perform their functions.

At the same time, the service is increasing its active cooperation with international organizations, which allows for timely detention of violators and simplified access to the import of certain categories of goods. In addition, cooperation with other organizations allows the import of essential goods without duties, which is important for our country (Vitrovchak & Kushnir, 2022).

As a result, the employees of this body not only detain violators, impose fines, refuse certain categories to cross the border, but also implement the mobilization policy of the state and prevent possible crimes under martial law, which is an administrative and legal aspect of the SBGS activity (State Statistical Service of Ukraine, n.d.).

5. Discussion

The results of the study of the administrative and legal aspects of the State Border Guard Service of Ukraine during martial law in 2022-2024 revealed a significant link between the regulatory and legal norms of the service and the mobilization policy of Ukraine, as well as military legislation. This suggests the need to introduce new technologies that would help to better control border crossings and check the cargo they export. However, it should also be remembered that the structure and management, areas of activity, tasks, and functions have changed since 2022, as the main functions related to customs control and border crossing have been supplemented by those related to the defense of peaceful territory and the preservation of the safety of citizens.

At the same time, we can talk about the existence of modern problems related to the activities of the service. In particular, researcher O. Hahnba emphasizes the problem of public distrust in this body. This problem is due to the fact that systemic reforms in the structure and the use of various regulations in the activities of border guards lead to the fact that the population, unable to understand these aspects, believes that the activities of the service are not effective (Hanba, 2022).

The next problem, according to A. Basalyk, is the insignificant use of strategic communications for the activities of the service. In particular, the body operates with regulations that are in force under martial law, but the population is not always aware of this, so it does not have sufficient information on how the passage of the population is organized in wartime, how to transport goods, and which categories have the right to leave the state. Accordingly, in our opinion, the service's management should make more active use of mass media in its work, which will overcome the problem of communication gaps with other bodies and the population (Basalyk, A., 2024).

The issue of citizens' distrust of the State Service of Ukraine for State Statistics is quite acute. It is worth developing an effective communication policy that will increase the

percentage of the population that will have a positive attitude towards the service. This can be done by launching social advertising in social media and on television, conducting surveys among citizens, and informing the population about the results of work on certain cases.

Another problem is that the population is not always aware of the specifics of the tasks performed by the service. For example, the SBGS management does not inform the public about its participation in special operations, so the population perceives the service as a body that protects the border in border areas without participating in hostilities. This often leads to a negative attitude towards it as a body of the Ministry of Internal Affairs, as it is believed that border guards should help the Armed Forces of Ukraine. This opinion is also proposed by Lutsky (2022) and Nerez (2022).

In addition, the use of different legal acts leads to the fact that employees of the service can interpret the existing instructions at their own discretion, which again reduces the level of public trust in the body. Accordingly, we can say that the existence of problems in functioning is a demonstration that the administrative and legal aspect of the service needs to be improved.

6. Implications and further research

Thus, the administrative and legal aspect of the SBGS requires a more detailed study, as it shows the need to improve the ways in which the body ensures national security. At the same time, the service is guided by the following regulations that require compliance with border crossing rules and customs legislation. Compliance with these regulations helps ensure the effective work of border guards at all levels.

The analysis of statistical indicators revealed that the volume of work of the service before the full-scale invasion had increased significantly compared to the present. Over the past 3 years, the number of border crossings by citizens and non-residents has almost doubled, and the number of requests has also increased. Accordingly, the administrative part of the border guards' work has begun to take up more of their time, as standard regulations and instructions have been supplemented by those related to other aspects of state policy. All this confirms the importance of regulating the activities of border guards through the administrative and legal aspect of their functioning.

Having examined the existing problems in the activities of the service, we can offer the following recommendations for improving the service's activities in the future. First of all, it is necessary to increase public confidence by demonstrating systemic performance indicators. Thus, the body should constantly take measures to improve the performance of its personnel and report to the public on the work done. At the same time, it should also establish cooperation with other authorities, which will allow it to demonstrate its real participation in combat operations and special tasks. In addition, it is important to develop strategic communication channels to support its activities, in particular, to confirm the administrative aspect of its work.

Cooperation between different departments of the State Border Guard Service is possible by conducting joint operations and involving employees of different levels in work on certain cases. Accordingly, a strategy should be developed for working in certain situations and interacting between employees. The positive implementation of such a strategy can

already be seen during the State Border Guard Service training at the Orshanets training center, but there should be more such centers. In addition, the system for assessing the effectiveness of border guards' work should be changed. In particular, rating indicators can be introduced, and to stimulate the work of border guards, additional payments should be made to those who received the highest scores based on the results of qualification checks and citizen surveys.

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