

**EXPERT REPORT**

**TAIEX EXPERT MISSION ON BORDER DELIMITATION AND DEMARCATION**

**REF: ETT IND/EXP 62765**

**DATE: 24 TO 30/09/2016**

**PLACE: MINSK, BELARUS**

Please complete this report in detail and return it electronically to: [scott.bowen@ec.europa.eu](mailto:scott.bowen@ec.europa.eu) within 2 weeks of the completion of your mission.

**INFORMATION ON THE EXPERT MISSION**

Country visited	BELARUS
Institution(s) visited	State border committee and others
Name(s) of person(s) involved in the visit	Refer to the lists prepared by the beneficiary

**DETAILS OF THE EXPERT<sup>1</sup>**

Experts taking part in the mission:	<ul style="list-style-type: none"> <li>- JF DEVEMY, senior sub-prefect, ministry of interior, chairman of French delegations in the joint demarcation commissions, France</li> <li>- Pierre VERGEZ, cartography engineer, national institute for geographical and forest information (IGN), member of French delegations in the joint demarcation commissions, France</li> </ul> <p>The report is common for the two experts.</p>
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<sup>1</sup> Data Protection

## EXPERT REPORT

1. Objective of the mission (as worded by the TAIEX unit)	Provide advice on possible amendments to the national legislation to ensure compliance with the EU legislation and best practice on border delimitation and demarcation. Provide guidance on the geodesy technology available to support the delineation; the type of equipment that would be required to undertake the physical demarcation; and the cross border cooperation and administrative issues that will need to be addressed prior to and during the delineation and demarcation of the borders of the beneficiary.
2. Observations: state of play; outcome of discussions; etc. 3. Conclusions 4. Recommendations (including possible areas and nature of future assistance)	Read hereafter.

### **Attachments:**

(download from:

<https://onedrive.live.com/?id=861B94F84F199CD8%2123093&cid=861B94F84F199CD8>)

- Overview of the Belarusian borders (English – Wikipedia)
- Presentations (French IGN; Belarus)
- On the ground photos
- Sample maps of the visited region

### **Main Issues in short:**

- **Emergency of solving the question of the Ukrainian-Belorussian border**
- **Emergency of connecting digital borders and national/transnational existing GIS.**
- **differentiate the IBM customs/immigration/police approach adopted so far and the specific needs of an ICSP/INSPIRE geographic/global territorial development initiative to be supported specifically**

The mission took place in response to a request from the Belarusian authorities for expertise and advice on delimitation and demarcation questions. Specialists of the said question are rather rare in most countries, and usually do not involve more than half a dozen civil servants at the central level and a dozen of local actors.

The mission was perfectly organised, both on behalf of the European commission and on behalf of the beneficiary. The said beneficiary invited the appropriate persons and insured a high level of participation and material conditions, thus confirming its interest in sharing concerns and appropriate experience with the corresponding experts in a European country.

Most of the foreseen and needed participants were present, with the exception maybe of the ministry in charge of regional development (probably the ministry of economics in Belarus) and local representatives of municipalities and State administration. Their absence was not an obstacle to the mission's success, but their presence or a short contact with them might have been a plus.

The agenda covered the whole scope of the questions to be addressed, and the sessions were very active. Some successful discussions took place on the working place of acting servants (directorate and division of delimitation and demarcation, State enterprise Belgiprozem). Coffee breaks, lunches and dinners, trips in a common vehicle were as well opportunities for addressing separate questions. Despite the traditions of the European Union do not usually include lunches or dinner as working time, it is indeed a time when a lot of relevant and quite significant information is delivered from both sides.

The last day was devoted to reporting and drawing conclusions and lessons with the delegation of the European Commission in Minsk. It was as well an opportunity for one of the two experts to have a new contact in Kyiv with a representative of the Ukrainian ministry of foreign affairs and of the Ukrainian ministry of finance.

It is not necessary – and would be too long – to reflect in details the whole amount of information that has been delivered and considered during these intense five working days, although a brief technical overview is given hereafter.

Basically, all the questions and topics have been openly and frankly discussed on both sides, the openness of the Belarusian partners being a real plus for a full understanding of the situation on the Ukrainian boundary. Time was lacking for a deep, comprehensive, exhaustive work on the mission's themes. Nevertheless, the following issues have been mainly touched on:

## Presentation plan : Delimitation and management of interstate immediate borders

*Component/topic 1:*

**Border life:** delimitation, material and concrete delimitation of the Interstate borders

- delimitation (theoretically defining the State boundaries according to the treaties in force)
- demarcation and on the ground indication of the boundaries – including both physical and digital demarcation

*Component/topic 2:*

**Life on the border:** organization of border areas, issues addressed by the delimitation treaties.

A/ management and development of immediate border areas (rivers, canals and roads and paths bordering)

B / management of common border resources (water, pasture, major public facilities, hospitals or other woods, quarries, mines, fishing ...)

C / exemptions and customs duty, export processing zones and local development

*component /topic 3:*

**status of the border: legal aspects** of the organization of the border:

A / international texts:

- negotiation and interpretation of treaties in territorial object,
- limits and demarcation agreements,

B / joint monitoring committees,

C / bilateral agencies and administrative boards of management and local development.

*Transversal topic/ component 4 (common to the three other and going beyond it)*

***Regional, national, European and world development based on GIS evolution and digital economy***

A/ consequences of the implementation of the INSPIRE directive on digital demarcation

B/ consequences on digital demarcation on GIS and geoportals enlargement (including connection of the western and eastern GIS and geoportals from Brest to Vladivostok through Brest(-Litovsk))

C/ consequences of GIS and geoportal connection through the development of digital economy at the regional, national, European and international level

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## Delimitation and management of interstate immediate borders

*Component/topic 1:*

**Border life:** delimitation, material and concrete delimitation of the Interstate borders

- **delimitation** (theoretically defining the State boundaries according to the treaties in force)

Although young as a clearly independent State (25 years), or thanks to it, Belarus seems to have successfully solved the main delimitation questions with its European neighbours. We were not reported about unsolved territorial disputes with Lithuania, Latvia, Poland or Ukraine, which makes the situation apparently better than in most “older” countries like France, Italia, Spain in Europe, South America and Caribbean Islands, or Africa, where a number of unsolved delimitation questions still prevent a proper demarcation. Ukraine itself, as mentioned in a previous report, cannot set a number of limited disputes with Moldavia.

As far as we could understand, some uncertainties, for example when a village was set on both sides on the previous administrative border, were solved through the way of expelling and resettling limited numbers of inhabitants. As a result, we were reported that no Belarusian border passes through urban or settlement zones, a convenient situation for border control.

It should be mentioned than given the situation of a common customs space with Russia and Kazakhstan, neither delimitation nor demarcation works were undertaken at the Belarus/Russian border, which might be a source of trouble and uncertainties in case disputes would come to arise with this neighbour.

- **demarcation** and on the ground indication of the boundaries – including both physical and digital demarcation:

Demands for a traditional, “wealthy” way of indicating physically the borders are common to all the Eastern European region. In the Western part of Europe or on other continents, the physical marks are not so numerous and uniform as in the Eastern part, due to physical, cultural or historical reasons. In Belarus and its immediate neighbourhood, the approach is much more formal and demands a lot of efforts and means (triple signs from place to place, systematic visibility of two marks from anyone of the implanted marks, systematic clearing of a 5 m strip on both sides of the border, Exclusive State property on this 5 m strip). Given the cultural, historical, sociological, political and technical situation, this can be supported in the case where it would not make a real sense in other regions<sup>2</sup>.

As the details can be seen in the below table, **from the physical point of view**, demarcation is achieved with Poland, Lithuania and Latvia, and there are no plans so far to undertake it with Russia. The state of play with Ukraine is the sole remaining question, for the works have been undertaken and approximately completed at the level of roughly 20%. But the pursuit of works is determined by a number of conditions that are not fulfilled at present: lack of funding on both sides but obviously much more on the Ukrainian side than of the Belarusian one, lack of Ukrainian

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<sup>2</sup> For example, France and Andorra are about to establish their demarcation in 2017, and it is likely that no or very few physical marks will be established.

officials in charge for corresponding with the Belarusian officials, will, necessity and so far legal obligation to fulfil a part of works in common, specific difficulties linked to the existence of a significant radiologically contaminated zone.

**From the digital point of view**, the situation seems to be settled with Poland, but needs to be achieved on the other borders. (see the table below). Poland is a member of Eurogeographics as Belarus and refers to the ETRS 89 technical reference, by the realisation ETRF 2000.

**Technical overview (refer to attachments for further details):**

Country boundary	Total km	Km marked	Number of marks	missing	notes
Ukraine	1084	404 km positioned (i.e. digital agreement exists?) 202 km marked (western side) 96 km processing (east)	Overall : almost 3000 including intermediate marks, of which 600 built in	2000/2500	Delimitation done Draft Demarcation approved on both sides Demarcation to be achieved alternatively by UA or BY according to the distributed in 7 sectors but without trespassing the border line Landmarks done on approx. 20%, more on Belarusian side than on the Ukrainian one.
Russia	1283	NONE	NONE	NONE	Delimitation and demarcation is not foreseen for the time being.(customs union). Existing barriers have been removed. Administrative borders from the soviet period are still in use.
Poland	398	100% (physical + digital)	677		
Lithuania	679	100% (physical)	1957		
Latvia	173	100% (physical)	417		
overall	3617 km of which: a third on riversides, 1250 km bordering EU	1452 physical (40%) H1: 398 digital(11%) H2: 802 (22%)	1694	2000/2500	

*Component/topic 2:*

**Life on the border:** organization of border areas, issues addressed by the delimitation treaties.

We won't specifically elaborate on this topic in the framework of a short term mission. It is usually a matter of concern in most of delimitation and/or demarcation treaties and consequently a matter to be addressed together with demarcation questions. It involves authorities in charge of local and regional development (municipal authorities, governors...) much more than customs and police officers.

A/ management and development of immediate border areas (rivers, canals and roads and paths bordering)

Demarcation involves the solution of such questions like management, maintenance and reconstructions of natural or artificial infrastructure constituting the border: who is supposed to maintain or use the bottom or banks of the rivers, the surface and bottom of the roads and paths? What are the consequences of these works – or absence of work – on the definition of the border? For example, what are the consequences of a riverbed change due to the creation of a dam by beavers? (see photos attached to the present report)

How is used the border line in terms of local development? Who is entitled to catch fish or other resources at the border? How is the tourism facilitated and developed? Polish occasional fishermen have access to the western Bug but not the Belarusian ones for example. Along the Augustowski canal, in the Grodno region, a specific short term visa facilitation has been established with the purpose of supporting touristic development and economy. These are examples of the questions directly or indirectly touched on by demarcation treaties and operations.

B / management of common border resources (water, pasture, major public facilities, hospitals or other woods, quarries, mines, fishing ...)

Experts have been short of time to develop these questions of transborder local development and public services with examples such as international Bale-Mulhouse in France (the first and only multinational airport in Europe) or the French-Spanish common hospital of Puicerdag.

C / exemptions and customs duty, export processing zones and local development

These questions have been only occasionally discussed, e.g. with the visa facilitation in the region of Grodno, above mentioned, or customs and visa facilitation for State representatives in charge of works and checks at the border. In that view the situation seems not to be ideal at the Ukrainian and/or Belarusian borders, representatives from both countries being very cautious not to step on the other country's border when visiting it in order to avoid any border incident.

*component /topic 3:*

**status of the border: legal aspects** of the organization of the border:

A / international texts:

- negotiation and interpretation of treaties in territorial object,
- limits and demarcation agreements,

B / joint monitoring committees,

C / bilateral agencies and administrative boards of management and local development.

Long developments and exchanges of views have been made in these areas that would deserve a specific report, beyond the framework of a short term mission. Further exchanges of views and assistance would be useful in this area.

*Transversal topic/ component 4 (common to the three other and going beyond it)*

***Regional, national, European and world development based on GIS evolution and digital economy***

A/ consequences of the implementation of the INSPIRE directive on digital demarcation

As mentioned below, the sound European legislation for border demarcation is the INSPIRE directive (refer to attached presentations), whose original purpose is a better access to environmental information. For that purpose, States are encouraged to produce and give common border lines where appropriate. This demand, which should be satisfied by the end of 2018, has given an impulsion in Europe to establish commonly agreed digital border lines and to settle old unsolved disputes.

B/ consequences on digital demarcation on GIS and geoportals enlargement (including connection of the western and eastern GIS and geoportals from Brest to Vladivostok through Brest(-Litovsk)

Belarus and Russia have joined the Eurogeographics group of national geographic institutes, but without providing data. As the experts could see by their own eyes, Belarus has created a complete database with the Arcgis tool, . Technics, supports and standards come from the Russian works. Involving and supporting Belarus in legislative and technical approximation at the border could allow connecting GIS from western and Eastern Europe. This would require a specific support from the EU for:

- Completion of digital border synchronisation with Latvia, Lithuania, Russia and Ukraine.
- Creation of tools for the transition between the European standards and those of Belarus from the Russian bloc, enabling connections and interoperability of geographic objects in these various GIS
- C/ consequences of GIS and geoportal connection through the development of digital economy at the regional, national, European and international level.

Geobased economy is a key to further economic development at the borders at first, and then on the whole surface of the connected space (from Brest to Vladivostok); It is the interest of Nations and Europe not to slow down the process at the moment when private digital giants from North America are already ahead in the competition towards geobased economy. The use of georeferenced data is a key to still unimagined bankable applications, including spatial planning, construction, statistics, taxes, security, etc, etc...



*Synchronising the GIS spaces in Europe means synchronising the digital border.* It is similar to connecting information network through an electric plug. *Neither the European Union nor the CIS and Ukraine should miss this urgent necessity to connect the plug in order to stay the owners of their economic fate.*

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### **Existing related initiatives and projects:**

#### **TACIS projects in the past:**

Two international technical assistance project of the European Union (TACIS) were implemented in 2002-2006: "Demarcation of the State border of Belarus and Lithuania" with a budget of 1.3 million euros and "Demarcation of the State border of Belarus, Lithuania and Latvia," with a budget of 2 million euros.

As part of the projects the strip fixing the state border was cleared on a total length of about 670 km, approximately 1,700 border pillars 850 pivot bars and 70 lake buoys were manufactured and installed

For bearing frontier service and maintenance of the state border 99.6 km of roads, 7.6 km of wooden gates and 2.2 kilometers of wooden bridges were constructed.

#### **IBM (integrated border management) flagship initiative:**

IBM has been asked several times (at least twice as far as we understood) to support the completion of demarcation works on the Belarus-Ukrainian border and has been solicited as well in supporting the completion of demarcation of the Moldova – Ukrainian border in the framework of the EUBAM project. In both cases, the support has been denied (in February 2015 in the case of Belarus, and approximately at the same period in the case of EUBAM) relying on the following bases:

- A comprehensive/global budget support for IBM has been devoted to Ukraine and might have theoretically encompassed demarcation works
- Support was essentially required for procurement and works, while the usual European approach is much more oriented towards methodological help, legal approximation and public administrative reform
- The required sums were quite significant (about 17 million Euros for both sides of the Belarus/Ukrainian border).

In fact, *IBM is probably not the most appropriate instrument to rely on for these matters.* Despite hints are made to demarcation and linked questions in the description of IBM based projects or budget support, the main focus is made on customs, police and immigration questions, and involved specialists are either customs, police or immigration officers, whose competence is far away from the questions to be addressed in demarcation. Other departments are felt concerned with the sole purpose of contributing to these missions (health and veterinary services e.g.).

In western European countries, demarcation is a matter dealt with by geographers (either from the army or civilian), specialists of cadastre, STR (State territorial representatives: prefects, governors...) and municipal or regional authorities, and of course the ministries of foreign affairs. Border guards or somehow equivalent staff devoted to immigration police (guardia di finanzia in Italy, air and border police in France for example) are in the best case involved for contributing to the main works but usually do not rule it. Hence the necessity to distinguish at least two different meanings of border management: *border as a zone where immigration, police and customs rules apply* separately depending on the country (this is *the main matter of IBM initiative*), and *border as a geographic and juridical object* on which other concerns are at stake (geography and GIS, regional planning and regional development, border disputes, etc...). The latter meaning includes demarcation stricto sensu, refers to other legislation such as the INSPIRE directive, requires a different approach, different kind of experts and probably the involvement of other instruments.

### **CBC, EaPTC:**

These European initiatives are intended to support cross border regional development questions in the regions bordering the EU (CBC) or with other regions (EaPTC). We could not assess the results of these projects (none of our Belarusian interlocutors seemed to be aware of it) but their use should be probably developed and encouraged.

**Good Environmental governance flagship initiative and Sustainable Municipal development flagship initiative:** would not it be a matter of stability and peace due to the regional situation, it would be more relevant to connect these programs to demarcation. The main European directive applicable to border, INSPIRE, was adopted in 2007 with the purpose of supporting good environmental governance. And regional development depending on /linked with border demarcation is a matter of municipal development as well more than a question of IBM, as demonstrated for example by the activities of the MOT (“operational transborder mission”) in France, based on initiatives and actions of municipalities, Euroregions and EGTC (European groups of territorial communities).

### **ICSP (initiative contributing to stability and peace):**

One of the major sources of crisis and instability in the post soviet area find its origin or results in territorial disputes (Nagornni Karabakh, Abkhasia, Transnitria, Crimea...). The Russian/Ukrainian crisis resulted in a de facto state of war in the Eastern part of Ukraine, where no stability can be reached so far. In spite of international attempts to lower the level of combats, fighting actions still go on both sides, and the number of casualties is significant (179 dead from the beginning of 2016 according to the Ukrainian ministry of defence, until the very last days).

Demarcation and uncertainty of State limits were several times a reason and/or a pretext for crossing the border in the recent years (Russian troopers appeared to “have lost their way” when found on the Ukrainian side, and a British journalist happened to have been allegedly been caught on the Russian side despite other sources consider he was then on the Ukrainian territory). Local population, at least on the Ukrainian side, expresses a strong desire, with sometime emotion that might turn as well in incidents if not controlled, for a clear border demarcation, on which depends a part of their activity (cf our report on a similar mission in Ukraine and the attached article on reactions in the ukrainian district of Liubichinski). Moreover, the specific radiologic situation in a region where the consequence of the

Chernobyl catastroph are still sensible for the coming years requires as well mitigating measures in connection to the border zone and demarcation.

All these points are directly relied to the ICSP regulation, in particular the article 5, encompassing assistance in addressing global and trans-regional threats and emerging crisis:

- Threats to law and order, to security and safety

of individuals, to critical infrastructure and to public health

- Mitigation of and preparedness against risks, whether of an intentional, accidental or natural origin, related to CBRN (chemical, biological, radiological and nuclear) materials or agents.

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- **Main observations/conclusions :**

**Main Issues in short:**

- **Emergency of solving the question of the Ukrainian-Belorussian border**
- **Emergency of connecting digital borders and national/transnational existing GIS.**
- **differentiate the IBM customs/immigration/police approach adopted so far and the specific needs of an ICSP/INSPIRE geographic/global territorial development initiative to be supported specifically**

**1/ going fast will be a strong support to stability and peace in the region and galvanize digital economic development of the whole Eurasian space**

It is obvious, both from the exchange of views and from the experts' observations on the spot, that although delimitation questions seem to be solved and do not suggest any major difficulty, the question of border's demarcation is far from being solved and closed.

There is a need to proceed rapidly and to deliver both expertise, advice and material help to enhance the improvement of/ achieve border demarcation.

While the main works are almost completed with the borders neighbouring the European Union (despite some work has still to be performed on these boundaries), the

Belarus/Ukrainian border is far from being completed and requires urgent support (both material and methodological). A real worry is expressed by the population about the uncertainty of the demarcation (where is exactly the border?). Achieving the work on the Ukrainian/Belarus border should be a priority in order to insure stability and peace. Uncertainties might lead to the same difficulties encountered in the Donetsk/Luhansk regions, either with local populations claiming for separation, or uncontrolled elements passing through Belarus “by chance” in order to enter northern Ukraine “by chance”.

The question of local development and local economic, environment, spatial planning issues etc... should be addressed more effectively as well. The experts had the feeling that in spite of existing rules, bilateral agreements, initiatives, the border is still much more a separating wall than an opportunity for common development on both sides of the borders. It should nevertheless mentioned that useful initiatives have been undertaken in the region of Grodno (Augusta canal, ...) with the purpose of touristic development and should be duplicated and encouraged in the same or other form in other border regions of Belarus.

Connecting European digital economies in Eurasia: Coordinating digital State borders is a way to connect GIS on the whole Eurasian space, from Brest (France) to Vladivostok through Brest (Belarus). It will be a major support to geobased digital economy in the coming years and an attempt to counterbalance the overwhelming influence of north American digital giants.

## **2/ differentiate IBM<sup>3</sup> and demarcation process in order to address the appropriate questions at stake**

Based on past missed opportunities on both sides, there is a concern on the choice of the implementing instrument and bodies on both the Ukrainian and Belarusian side and consequent potential success/failure of any further attempts to reach the appropriate goals.

Addressing the issue of border demarcation and its administrative and economic consequences requires a specific attempt setting aside the other issues addressed by IBM initiative (customs, immigration, border control, etc..).

## **3/ next steps**

The experts suggest the following steps for consideration:

### **1/ in the short term:**

- ***Study tour in France and/or neighbouring countries*** in order to give the involved officials in Belarus a view on the west European approach of the boundaries. It might take place at the beginning of next year, for example march 13/19<sup>th</sup>, or any other convenient time for involved actors
- ***Consideration of a specific European urgent initiative with the purpose of ensuring stability and peace.*** Such an initiative should address the four categories of above mentioned issues (technical and material aspects, regional development in the border areas, juridical aspects, connecting digital borders and GIS)
- ***Seminars in Minsk and Kyiv on the said questions, with a focus on digital demarcation and its consequences on digital and global economic development***

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<sup>3</sup> IBM : integrated border management

- *Active involvement of authorities in charge of regional development in further developments on both sides of the Ukraino-Belarusian border* (ministry of economics, local self-government and “governors” in Belarus, ministry of regional development, ministry of finance, local self-government and “governors” on the Ukrainian side).

**2/ in the mid-term:**

- *Considering the necessity of including the technical aspects of the border delimitation and demarcation in a much comprehensive system*, a general GIS (geographical information system) including other types of information (cadastre, spatial planning, etc..) able to meet the requirements of the INSPIRE directive by transformation tools, and being a support for the future economic and regional development of the borders. This might lead to another different project, including borders as an element and not being a separate topic.
- *Considering mid-term specific projects* (either twinning or service contracts) for further steps to be undertaken
- *Systematic use of existing instruments* (CBC, EaPTC), either separately or in the framework of a short term emergency initiative.

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Signature: 

Date: 18/10/2016

Signature: 

Date: \_\_\_\_\_