Opening in times of crisis? Examining NATO and the EU's support to security sector reform in post-Maidan Ukraine

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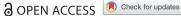
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ABSTRACT

Security sector reform has remained largely disconnected from the broader debate on societal transition in the literature thus far. We conceptualise how external support to security sector reform could potentially facilitate socio-political order opening in a limited access order. Based on two dimensions, we examine the case of NATO and EU's support to Ukraine's security sector reform between 2014 and 2019. NATO's support to the military and the EU's support to the police and state security service (SBU) appear unlikely to cause opening of the social order, while NATO's support to the military-industrial complex is more likely to cause opening.

Introduction

External support to security sector reform in third countries has become a prevalent tool of state-building by the international community (Jackson 2018). Yet, the relationship between support to security sector reform from external actors and the development of socio-political orders in host countries remains under-developed in the literature. In this article, we apply North, Wallis, and Weingast's (2009) conceptualisation of social order transition to security sector reform (SSR) support. We theorise the aspects of SSR support that could facilitate "opening" of the social order in countries in which elites dominate access to political and economic resources. These hypothetical links are illustrated by examining the North Atlantic Treaty Organization (NATO) and the European Union (EU)'s support to SSR in Ukraine between 2014 and 2019. We ask, how do NATO and EU policies for SSR support fit with what North, Wallis, and Weingast (2009) stipulate as necessary for opening? Put differently, to what extent do external SSR policies appear to have the potential to cause opening?

There has been some debate on the definition of security sector reform (Ansorg and Gordon 2019), but it is commonly understood as a reform process with "the goal of creating effective and efficient state security forces, capable of providing security for the state and its people, within a framework of democratic civilian control, rule of law, and respect

for human rights" (Schröder and Chappuis 2014, 133). This process, usually supported by external actors, inherently aims to promote democratic opening of socio-political orders.

In the wake of Ukraine's "Revolution of Dignity", which began in 2013 and continued into 2014, and during an ongoing conflict in Eastern Ukraine, the Ukrainian government requested assistance for its SSR process. Based on theoretical conceptualisation of how opening could be promoted by external actors, we examine the case of the EU and NATO's support to SSR in Ukraine. We theorise that NATO's support to the military as well as the EU's support to the police and state security service (SBU) look unlikely to cause opening of the social order, while NATO's support to the military-industrial complex is more likely to cause opening.

The organisation of the article is as follows: we begin with a literature review on SSR, noting evident gaps in the literature. We proceed by outlining North, Wallis, and Weingast's (2009) theoretical concept and link it to further concepts from the literature on SSR and Europeanisation beyond the EU, putting forth two dimensions for evaluating whether support to SSR could promote opening. Moving into our empirical case study, we introduce the dynamics of Ukraine as a limited access order. We then analyse NATO and the EU's support to SSR in light of our dimensions for facilitating opening, before making concluding remarks.

Conceptual discussion

Studying security sector reform: current debates and shortcomings

Although reform to a country's security sector is technically a domestic process, security governance has become highly internationalised with the presence of foreign donors (Schröder 2018). The post-cold war period has been characterised by numerous international engagements in SSR. This type of reform has been seen as an essential part of state-building, as "the provision of security and justice sits at the core of what states are, as providers of legitimacy … and the social contract" (Jackson 2018, 3). Thus, SSR has been put forth as a contributor to the development of sustainable peace (Jackson and Bakrania 2018).

Yet, the development of this process has largely come from "experience on the ground" rather than "conceptual development" (ibid., 11). The literature has typically focused on policy studies assessing the "success" (or lack thereof) of SSR support missions engineered by external actors (Albrecht 2019). Overall, the literature studying SSR and its external support has largely lacked in theory (Dursun-Ozkanca and Vandemoortele 2012; Jayasundara-Smits and Schirch 2015; Jackson and Bakrania 2018).

Furthermore, SSR literature has largely focused on the state receiving assistance as a "black box", without considering the agency and power of different domestic actors (Schröder and Chappuis 2014; Jayasundara-Smits and Schirch 2015, 16). Jackson and Bakrania (2018) note that the domestic division of power and the control of institutions remain the crucial factors underlying success in international peacebuilding. They posit the lack of interrogation of the relationship between actors within domestic security structures as highly problematic to the continued practice of external support to SSR.

We argue that new theoretical conceptualisations are needed for studying how SSR support fits into the broader context of socio-political development. In this regard,

North, Wallis, and Weingast's conceptual framework, which particularly emphasises the role of local security, political, and economic elites in socio-political development, could shed light on the dynamics behind a limited access order receiving support.

The EU and NATO as SSR external actors

Juxtaposing the SSR support given by NATO and the EU offers the opportunity to analyse the potential of different approaches to influence social order transformation. The EU and NATO have both become major actors in the field of SSR. Despite the evident shortcomings of "Western" assistance,[1] their engagement continues to be sought by countries on the European continent interested in cooperation or membership. Yet, there is a "distinct difference of institutional political logic" between NATO and the EU (Bynander 2011, 157), which may have implications for their SSR assistance. The EU has been considered a "civilian power" (Whitman 2002) or "trade power" (Meunier and Nicolaïdis 2006), which has added security to its policy portfolio over time, whereas NATO was convened as a political-military alliance to deal with hard security issues, although it is also transforming in light of new threats perceptions (Bynander 2011, 157–158).

Conceptualisation of the potential influence of NATO and the EU as SSR actors, particularly towards post-Soviet transition states, has remained limited. The literature evaluating NATO or EU SSR missions from a policy studies perspective has largely focused on the Middle East or Africa (Sedra 2006, 2013; Schröder et al. 2013; Schröder 2014), rather than on Eastern European transition states (Simons 2012 on Georgia is an exception). In the "eastern neighbourhood", NATO and the EU appear to approach SSR support differently in light of the geopolitical context (Tytarchuk and Khylko 2016; Jayasundara-Smits 2018). Studies of EU and/or NATO demands or assistance related to SSR has primarily focused on Central European membership accession countries (see Jacoby 2004; Dowling 2008; Melnykovska and Schweickert 2011). Ultimately, support to SSR – sometimes not under this official label – has been an important part of the EU's transformation, partnership, and enlargement policy (Buxton 2008) and could benefit from further study.

Linking security sector reform to social order transition

To remedy the theoretical shortcomings of the literature on SSR and link this reform to social order transition, we first build on North, Wallis, and Weingast's (hereafter referred to as NWW, 2009) conceptual framework. As NWW's concept is relatively broad and focused on internal dynamics, we complement this with insights from the literature on SSR as well as literature on Europeanisation beyond the EU's borders.

NWW (2009, 2011) put forth the internal logic of two social orders: the limited access order (LAO), in which privileged elites control violence through distributing political and economic resources amongst themselves, and the open access order (OAO), in which a legitimate state monopoly on violence allows open competition for political and economic resources amongst wider society. For a LAO to transition into an OAO, the "dominant coalition" of elites in society, must first meet "doorstep conditions": establish impersonal rule of law amongst themselves, adopt sustainable public and private institutions across sectors that exist independent of the identity of their members, and consolidate political control over violence (NWW 2009, 26).

Yet, NWW do not discuss the security sector in-depth. Giustozzi (2011, 3) has also critiqued that the historically-based conceptual framework may not necessarily shed light on all the dynamics facing LAOs in modern times. We aim to fill this gap by applying NWW's logic to the SSR support deployed by external actors.

Dimensions of opening facilitated by external SSR support

SSR has been considered to encompass a wide range of reforms, from those that seek to strengthen the state's "enforcement capacities" in the traditional security sense, to those that are more rule of law-oriented governance reforms, which aim to restrict the state (Schröder and Kode 2012, 31). So-called security assistance or military aid belonging to the first grouping has often been called SSR support by international donors or in the literature, although this is increasingly seen as separate from SSR's comprehensive or development aims (Wulf 2011).

Unlike Tilly (1992), NWW (2009) do not credit military advancements driven by warfare, to which external actors might provide traditional military aid, as a main driver of social order transition. There is some support for this view in the SSR literature, based on empirical evidence that building up state enforcement capacity without adequate institutional governance measures could be used to stabilise a limited access order (Krieg 2017), could exacerbate conflict, or institutionalise existing cleavages in a society (Schröder and Kode 2012, 32–33). The literature on the EU and NATO's SSR assistance to conflict countries in Africa and the Middle East has shown privileging "train and equip" missions to tackle immediate threats over longer-term security governance reforms has often perpetuated insecurity or damaged wider institution-building efforts (Sedra 2006, 2013; Schröder 2014; Jayasundara-Smits and Schirch 2015). Ultimately, while the primary task of the military is providing national security (Sherr 2001), in the logic of NWW, assistance focused solely on military aid would likely promote the status quo, rather than social order opening.

Drawing on NWW's framework and the Europeanisation beyond the EU literature, we theorise that to promote transition to an open socio-political order, SSR support would need to address two dimensions. First, it would need to target support to specific criteria based on NWW's doorstep conditions: political control over agents of force, specialised, impersonal institutions, and impersonal rules governing the use of force. Second, there would need to be an incentive for elites to accept support if it directly targets the criteria, taking into consideration the logic of the LAO.

First dimension: criteria for transition

Political control

Privileged elites in LAOs only agree to consolidate the use of force to designated agents (i.e. police and military organisations) if political control can be exercised over them under credible conventions, preventing the risk "of the state using violence for its own ends" (NWW 2009, 21–22). A major concern here is ensuring that "the military is out of politics" and "out of power" (Sherr 2001, 1). Yet, "control" should be understood as supporting measures associated with "checking" or "oversight", rather than political actors giving "direction" or dictating security professionals (ibid., 2). This can be exercised through relevant political authorities determining the amount of resources allocated to the military

(NWW 2009, 171) through effective parliamentary oversight (Wulf 2011). While meeting this criterion is necessary for opening, impersonal institutions and rules tend to be the drivers of transition, with effective political control following (Gollwitzer Franke and Quintyn 2014, 229). Institution of political control does not necessarily drive the other conditions (ibid.).

Specialised, impersonal institutions

In order for political control to be effectively exercised, elites must develop organisations that specialise in different functions – public and private institutions across sectors – and are granted the authority to make decisions in these areas on an impersonal basis (NWW 2009, 171). This aims to severe the "close links among economics, politics and military" resources, which are controlled by the dominant coalition (ibid., 169). Agents of violence in particular should become more specialised and complex (ibid., 46). Delineation of competences between different security forces aims to prevent force from being used illegitimately (Wulf 2011, 344).

Impersonal rules governing the use of force[2]

Transition is not only about whether the security sector is supervised by the political system, but about how the use of force is restricted with "appropriate rules governing the use of violence" that are first agreed upon by elites and then extended to wider society (ibid., 114). These rules "must be impersonal" (ibid., 121) and codify how, when, and by whom violence can be used (Sherr 2001). Members of the dominant coalition are thereby prevented from "translating their control of security and organised violence into personal or institutional gain" through political power or economic resources (Luckham and Kirk 2013, 15).

Second dimension: incentives

Targeting the above criteria would challenge the informal linkages between political, economic, and security elites and resources and thus the balance of power in the LAO as well as their ability to collect rents. We can therefore anticipate resistance from elites in these same areas. Building on NWW, we theorise that SSR support is more likely to promote opening if it both targets the criteria and also provides incentives for the elites involved to accept support in these areas. As NWW conceptualise, elites may grant access when it appears in "their [own] interest to move towards impersonal intra-elite [institutional] arrangements" (NWW 2009, 25, see also 26, 143, 150). These initial changes must be "consistent with the interests" of the dominant coalition, though the "results … may be unintended" and cause greater opening than expected (ibid., 150).[3]

NWW do not provide assumptions about the relationship between external support and domestic change, aside from cautioning that external actors must heed the logic of the LAO (ibid., 264; NWW 2011, 4). The literature on Europeanisation beyond the EU provides a basis for theoretical assumptions in this regard. This literature has confirmed that "despite EU membership aspirations and pro-Western foreign policy orientations", EU standards may indeed meet resistance (Delcour 2016, 61). External actors can influence the interests or "cost–benefit considerations" of domestic actors through a variety of different measures Langbein and Börzel 2013; (Schimmelfennig and Sedelmeier

Table 1. Theoretical conceptualisation of how dimensions of SSR support hypothetically relate to social order opening.

	SSR support provided by external actor	
	Focuses on criteria relevant to transition	
	Yes	No
Presence of incentives	Opening likely	Reform possible, but may not cause opening
No or limited presence of incentives	Reform unlikely, will not cause opening	Opening unlikely

Source: Authors' own compilation.

2004), or what we consider broadly as "incentives". The cost of change may be mitigated by either policy conditionality, which links rewards to complying with certain standards, or targeted capacity-building towards key actors (Ademmer and Börzel 2013). Capacity-building can be broadly understood as activities "intended to strengthen the target state institution to perform its specified functions", including technical or financial aid (Radin 2020). We conceptualise that the presence of incentives appearing in the interest of the dominant coalition makes SSR support more likely to cause opening (Table 1).

Empirical case study

We use the case of NATO and the EU's SSR assistance to post-Maidan Ukraine in order to illustrate empirically the hypothetical links between external SSR support and social order opening. This provides an interesting case due to the assessment of Ukraine as a LAO that is likely for transition as well as the heightened SSR support provided by NATO and the EU since 2014.

We chose to focus on support from NATO and the EU as these two international organisations have had a highly visible role in SSR in Ukraine across military and civilian security institutions. We nevertheless recognise the important presence of many other domestic, bilateral, and international actors in the SSR process.[4] The EU and NATO have engaged in the reform of Ukraine's security sector on an unprecedented level since 2014,[5] throughout the presidencies of Petro Poroshenko (2014–2019) and Volodymyr Zelensky (2019-). This article limits its focus to the time of Poroshenko, although a few empirical examples from Zelensky's time are included.

Ukraine

Ukraine could be classified as a LAO with relatively high political and economic access as compared to other countries in the region, leaving some room for "domestic hooks" that external actors could use to promote opening (Ademmer, Langbein, and Börzel 2019, 205). Relative to other LAOs in the region, it is one of the most likely cases for opening (ibid.; Vilpišauskas et al. in this volume). Yet, despite repeated political upheavals and formal changes of the government in the last decades, Ukrainian political and economic elites have largely replicated a model of oligarchic governance (Kostiuchenko and Melny-kovska 2019). Transition to an OAO in this case would require targeted and extensive effort on behalf of external actors, as the LAO is otherwise likely to remain stable (Ademmer, Langbein, and Börzel 2019, 205). Ukraine's security sector in particular is known to offer a major

source of rent-seeking for elites in terms of potential political power and ability to collect economic resources (Ivashchenko-Stadnik et al. 2018). Hence, reform to Ukraine's security sector could be a key aspect of its transition to an OAO.

The context

A LAO government choosing to initiate extensive reform of its security sector might be considered unlikely to begin with, considering that this could undermine "the power bases of the elite" (Jackson 2018, 3) and challenge the mechanisms that sustain the LAO. In Ukraine, the government's decision to increase SSR efforts in 2014[6] was prompted by the reaction to brutal suppression during the "Revolution of Dignity" protests and the outbreak of the conflict in eastern Ukraine. After President Viktor Yanukovych's decision to end talks on a Ukraine-EU Association Agreement in November 2013, pro-European Ukrainians demonstrated for months on Kyiv's Maidan square. These protests were largely against the corruption of President Yanukovych's regime (Fluri and Badrack 2016). Berkut forces, an elite riot police run by the Ministry of Interior, violently tried to disperse the demonstrators on multiple occasions, resulting in over a hundred fatalities and around a thousand injuries (ibid.; *BBC* April 4, 2014).

In the power vacuum that occurred after President Yanukovych fled the country in February 2014, Russia annexed Crimea in March 2014. Pro-Russian separatists then made several bids to overthrow local government institutions in eastern Ukraine, resulting in the ongoing conflict between these forces and the Ukrainian armed forces. The Ukrainian security institutions that existed in March 2014 "were unable to respond effectively to the emerging conflict in Eastern Ukraine" (Oliker et al. 2016, xiv) and also fell short in terms of legitimate use of force during the Revolution of Dignity (Litra, Medynskyi, and Zarembo 2017, 28). This context prompted Ukraine to launch a comprehensive review of its security sector and to ask for increased foreign assistance.

NATO's approach: a brief overview

Ukraine was the first post-Soviet country to join NATO's Partnership for Peace programme in 1994. During the time in which Ukraine was officially non-aligned, cooperation remained primarily on the level of professional trainings for the military.[7] This changed after the conflict in Eastern Ukraine broke out in 2014. In 2017, Ukraine's law on foreign policy officially declared desire for Euro-Atlantic integration, and in 2019, the *Verkhovna Rada*, Ukraine's parliament, officially backed amending the constitution to explicitly state Ukraine's path towards NATO and the EU (*Unian,* February 7, 2019).

Since 2014, NATO has increased its presence in Ukraine. The NATO Representation to Ukraine now encompasses both the NATO Liaison Office and the NATO Information and Documentation Centre.[8] The former is part of the Political Affairs and Security Policy division of NATO, while the latter is engaged in strategic communication towards Ukrainian elites and public and facilitates stakeholder meetings. At the onset of its increased assistance in 2014, NATO primarily focused on the armed forces and Ministry of Defence.[9] In 2016, it increased its engagement to the security sector more broadly,[10] providing support to the National Guard, Border Guard Service, parliament, the Ministry of Interior, State Security Service of Ukraine, and civil society.[11]

The EU's approach: a brief overview

Ukraine's relationship with the EU was formalised with a Partnership and Cooperation Agreement in 1994 (EEAS 2019) and in 2009 it became part of the EU's Eastern Partnership programme. However, the EU only began to factor a clear security dimension into its approach to Ukraine after the events of 2014 (Litra, Medynskyi, and Zarembo 2017), despite the 2009 Eastern Partnership's declared aims of delivering security and prosperity to the country (European Commission 2009). The 2015 European Neighbourhood Policy review proposed stronger security cooperation, portraying the EU's Common Security and Defence Policy (CSDP) missions to Ukraine as an important part of this (European Commission 2017a). While the EU has emphasised the importance of both civilian and military capabilities in its strategic documents about SSR support (European Commission 2016), all assistance provided to Ukraine has been civilian.

The EU's support to SSR in Ukraine has primarily occurred through the European Union Advisory Mission in Ukraine (EUAM), which launched in 2014 and is under the CSDP.[12] These efforts should complement the EU's wider state-building support to other sectors through the Association Agreement and Support Group for Ukraine. EUAM has been engaged in assistance to the Ministry of Interior, National Police, SBU, State Border Guard Service, General Prosecutor's Office, local courts, the parliament and civil society (EUAM 2020).

Empirical analysis

The following sections analyse NATO and the EU's support to SSR in light of the dimensions that we conceptualise as relevant to social order opening.[13] Looking at the SSR support the EU and NATO have provided, we selected four areas receiving support. Based on an empirical analysis of these four areas using our theoretical dimensions, we present the least through most likely areas where external support to SSR may cause opening in Ukraine's LAO: the military, the police, the SBU, and the military-industrial complex (Table 2).

The data was gathered through interviews carried out in Kyiv in September and October 2017, October and November 2018, and October 2019 as well as remotely, with independent security experts, government and non-government think tank members, representatives of the Ukrainian government, European diplomats and

Table 2. Classification of empirical cases based on theoretical expectations for link between SSR support and social order opening.

	SSR support provided by external actor	
	Focuses on criteria relevant to transition	
	Yes	No
Presence of incentives	NATO: Military-industrial complex (Opening likely)	NATO: Military (Reform possible, but may not cause opening)
No or limited presence of incentives	EU: Police, SBU (Reform unlikely, will not cause opening)	

Source: Authors' own compilation.

attachés, as well as NATO and EU officials. The original data has been complemented by strategic documents and secondary sources.

NATO support to the military: unlikely to cause opening

First dimension: some political control, lots of security assistance

In the context of Ukraine, it should first be noted that the military itself has not had a pivotal role in perpetuating the nature of the LAO. Even in Soviet times, the military was largely not "politically ambitious" and was subject to "policy, rather than the master", operating with a fair degree of professionalism (Sherr 2001, 1). In Ukraine, the internal security agencies have been more problematic in terms of their lack of political control under clearly defined rules (ibid., 3). Informal control of the internal security agencies as one of multiple centres of power[14] has been one way of stabilising the LAO.

NATO has been the main external actor in support to reforming Ukraine's military. The core over-arching goals of NATO's assistance has been to "strengthen democratic and civilian control of Ukraine's armed forces and security institutions" (NATO 2019a) and boost Ukraine's ability to provide for its own security (NATO 2019b). Its strategic-level advice has been consolidated alongside technical assistance and capacity-building under NATO's Comprehensive Assistance Package (CAP) (NATO 2016).[15] Enacted in 2016, the CAP has aimed to support the objectives of Ukraine's Strategic Defence Bulletin, which was drafted with NATO assistance and states Ukraine's aspiration to reform its armed forces according to NATO standards and achieve interoperability with NATO forces by 2020. This also includes "trust funds" worth 14 million euro to help Ukraine upgrade its defence system.[16] These trust funds are voluntary, nationally-led and funded projects in vital areas such as C4 (Command, Control, Communications, and Computers). On a bilateral level but within the NATO framework, the United States (US), Canada, Poland, and Lithuania, have also provided training and military aid to the Ukrainian armed forces.[17]

A vast amount of overall support provided by NATO concerns security assistance to the conflict in Ukraine's east, rather than SSR targeting the criteria for transition. Given the relative lack of utility of the military to the dominant coalition prior to 2014, military reform and funding were neglected during the presidency of Viktor Yanukovych from 2010 to 2014 (Melnyk and Sungurovsky 2013). Circa 2014, the armed forces were largely ill-equipped to effectively combat a military threat to the central Ukrainian government on the country's territory (Oliker et al. 2016). This has been a focal point of NATO's assistance due to its own security interest in preventing further escalation of the conflict or loss of further Ukrainian sovereign territory.

In terms of SSR support, NATO consulted heavily on the drafting of Ukraine's "Law on National Security",[18] towards the aim of installing civilian control measures and defining the relationship and competences of Ukraine's security institutions within a legal framework. While Ukraine already established a parliamentary committee in the 1990s with the purview of overseeing the defence budget – the Committee for Security and Defense – in actuality it has not been performing this function effectively.[19] The committee has often lacked expertise, faced resistance from the executive, and lacked access to detailed information regarding defence expenditures due to current over-classification (Bugriy and Maksak 2016).[20] NATO advised that specification of the parliament's role in supervision

be included in the new national security law (National Institute for Strategic Studies 2018). It also stipulated the need for a civilian defence minister by 1 January 2019.

NATO's support has been invaluable in terms of supporting Ukraine's military as regards immediate threats to its national security, but this aspect has dominated its focus. Such superficial attempts at refining political control over the military look unlikely to cause opening in light of the military's relatively weak role in the LAO and due to the lack of impersonal, specialised institutions, which would allow for more effective political control in practice. In this case, it looks unlikely that this aspect of NATO's SSR support will cause opening.

It should be noted that part of NATO's engagement happened through the "international advisory group" to Ukraine. This informal advisory body consists of NATO, the US, and the EU (both the EU Delegation and EUAM), and has met *ad hoc*, at times on a daily basis. The group has focused on SSR, coordinating joint steps and its messaging to the Ukrainian government and public. The international advisory group consulted on the national security law[21] and supported conditioning US military aid on its passage.[22] The new national security law ultimately passed in 2018, including a clause on the need for a civilian defence minister but maintaining the hierarchy of the executive as dominant in supervision over the sector (Tregub 2018). NATO bilaterally and the advisory group have continued to call for the law's implementation and development of secondary legislature in political statements (NATO 2019b).

Second dimension: big incentives

In light of NATO's assistance to the military being primarily focused on security assistance and rather modestly playing a role in facilitating political control over security in the LAO, it is unlikely to cause opening. Nevertheless, there have been multiple incentives present in this area that still make elites prone to accept assistance, even if this merely promotes the status quo. Post-2014, NATO supported Ukraine's membership aspirations, though this was not yet what would be considered official support to NATO accession.[23] While Ukraine has not been granted a Membership Action Plan, the Annual National Programmes of Ukraine-NATO cooperation have specifically emphasised democratic reforms and "performance" is concretely assessed by allies on a yearly basis. In June 2020, NATO also granted Ukraine an "Enhanced Opportunities Partner", a further signal of deeper partnership (NATO 2020). Alignment with NATO has become increasingly attractive to the Ukrainian elite since 2014 in light of the perceived security guarantee it brings (Samokhvalov 2015).

Furthermore, NATO has linked its reform agendas on civilian control on a declaratory level and in its advisory capacity when drafting new strategic documents to its military aid.[24] As noted, conditionality was used regarding US military aid[25] through international advisory group to ensure passage of the new national security law,[26] although the law ultimately did not fully comply with all NATO recommendations. Security assistance from NATO member states has been perceived as key to reform of the Ukrainian armed forces' training system, which was particularly important in the first stage of the conflict,[27] and it has therefore been in the interest of elites go ahead with some reform linked to this. Ukrainian elites claim that military institutions and instruments should be the primary focus in light of the imminent threat posed by war in the east.[28] There has been some questioning on the Ukrainian side of whether civilian control measures

should really be a priority during a time of war.[29] In this regard, security interests also seem to predominate for the external actors, as military aid has been provided despite a lack of full compliance with NATO reform demands.

EU support to the police: unlikely to cause opening

First dimension: attempts at impersonal rules

While the military may not have typically been instrumentalised in Ukraine's LAO to maintain the balance of power or distribute rents in the dominant coalition, the predecessor to the police has played an important role. During Yanukovych's presidency, policing functions were carried out by the "militsiya", a state-protection apparatus that was integrated within the Ministry of Interior (European Commission 2017b). These forces under instruction of the Ministry of Interior were often used to "to defend the Yanukovych 'family' and protect oligarchs' businesses" (Peleschuk 2014). This marked a "tradition of regime policing" in Ukraine, where personalised decisions on the use of force were carried out in exchange for privileges (Friesendorf 2019, 111–112). The Ministry of Interior itself has historically served as a "police ministry" with a mix of security and political interests (European Commission 2017b), which were often used in pursuit of hoarding economic resources (Friesendorf 2019).

EUAM has been the external actor most involved in the reform of the Ministry of Interior and National Police. Launched in December 2014, EUAM notably presents itself as a reaction to the Maidan revolution, rather than the conflict in Ukraine's east (EUAM 2020). This CSDP mission has stipulated goals of Ukraine achieving "a civilian security sector that is efficient, accountable, and enjoys the trust of the public" (ibid.). While not stated in its official mission, EUAM has also championed "civil democratic control" at the core of its assistance, though referring to oversight of civilian rather than military institutions.[30]

During its initial operation in 2014–2015 in Kyiv, EUAM largely centred on influencing the strategic level of decision-making and institution-building (Litra, Medynskyi, and Zarembo 2017). While the US and Georgia were also highly influential in the process,[31] the EU provided instrumental strategic-level advice to prepare the final version of the law "On National Police", which the *Rada* passed in July 2015. This assistance aimed at creation of the National Police as a legal entity, designating the use of force to this institution under a defined, impersonal set of rules.[32]

EUAM's approach evolved after the mission's first review in 2015, adding more "hands on" assistance and opening up field offices in Lviv, Odesa, and Kharkiv (Zarembo 2017; Ivashchenko-Stadnik et al. 2018). It established four working groups that have provided strategic advice to assist with implementing the newly created structures, such as the patrol police and criminal investigation troops.[33] It furthermore introduced the concept of "community policing" to Ukraine, which emphasises cooperation and dialogue with citizens as well as hands on training to public order policing based on EU best practices (Bulakh 2018).

EUAM has clearly targeted support towards helping the police operate with impersonal rules, which is critical to ultimately establishing political control and especially critical given the predecessor to the police's role in perpetuating the LAO. Unfortunately, EUAM's major targeting of the criteria appears insufficient in light of the lack of incentives presented by its support and thus unlikely to cause opening.

Second dimension: few incentives

Changing the operation of policing forces in Ukraine would require significant incentives, considering how critical they have been to the functioning of the LAO and the balance of power. Despite the efforts of the EUAM, there is already empirical evidence that police reform has been superficial or rolled-back in light of the alleged continued stranglehold of the Ministry of Interior over the police (Friesendorf 2019; Bivings 2020). On the one hand, there has been more support to reform accepted in the first place than we might have expected given the lack of incentives. This may be due to the heavy engagement of the US, which might be viewed more favourably by Ukrainians as a security provider, in the early stages of police reform. On the other hand, dynamics in the LAO appear to persist. The interior ministry, with the police under it, has continued to serve as one centre of power in the LAO, while the SBU remains directly supervised by the president.[34]

While Ukraine signed an EU Association Agreement in 2014, the majority of SSR falls outside of the policy areas stipulated as needing to be in line with the EU's internal rules. In 2015, some criteria regarding border control and rule of law was necessary for Ukraine to sign its visa free agreement with the EU in 2015 (Litra, Medynskyi, and Zarembo 2017). Since then, there has been no explicit positive or negative incentives presented by the EU as linked to the security sector.

Furthermore, elites in Ukraine's dominant coalition view the EU as an economic actor, while NATO is seen as a security actor.[35] In this regard, given that the EU neither presents concrete economic benefits or military assistance in reward for continued reform implementation, it is difficult to imagine that deeper SSR support to police reform will be accepted by elites or lead to opening.

EU support to the SBU: unlikely to cause opening

First dimension: striving for impersonal institutions & rules

The SBU inherited the legal framework, resources, and facilities of the Ukrainian branch of the Soviet KBG (Gressel 2019). It has had a broad range of competences ranging from militarised counter-intelligence capabilities, which have been deployed as part of its warfighting effort in the East, to a law enforcement body (ibid.). The SBU has also had the competence of gathering counterintelligence to "protect the economic security of Ukraine" (Roslycky and Tregub 2018). According to Transparency International, amongst others, the SBU has allegedly been using its mix of force and intelligence competences to interfere in business interests and enforce monopolies of certain economic sectors (Roslycky and Tregub 2018; Transparency International 2018; Ustinova and Pifer 2019).

The political elites in Ukraine have been alleged to occasionally use the SBU to monitor opponents (Oliker et al. 2016, 14; Miller 2019), which is facilitated by the fact that it only has to report directly to the president (Gressel 2019). The existing parliamentary committee for security and defence sector has not had the purview of overseeing the activities of the intelligence community, including the security service, despite the SBU's role as an agent of force (Ustinova and Pifer 2019). In this regard, the SBU exists outside of political control and is not specialised. As a key instrument of elites in the LAO, it is highly likely to resist change.

Reform of the SBU is under the EUAM's purview, but NATO and the EU have collaborated heavily on assistance to this area through the international advisory group. They

drew up a reform proposal in 2016 to outline how the SBU could be brought in line with NATO standards (Miller 2019). This proposal centred on "transforming the SBU into a modern and effective Western-style intelligence agency concentrated only on counter-espionage, counter-terror and security analysis" (EUAM 2019). It foresaw removing the SBU's ability to additionally function as a weaponised law enforcement body fighting economic crimes and corruption, which has been one aspect of its abuse of force. The international advisory group demanded that provisions regarding further delineation of the SBU's competences be included in the new national security law and that it should foresee the creation of a new parliamentary committee on intelligence (Gressel 2019). Ultimately, the 2018 national security law noted the need for further SBU reform and excluded pursuance of economic crime from its purview, but no secondary legislature or concrete implementation of these outlined changes have taken place (ibid.).

EUAM has clearly targeted the criteria of specialised, impersonal institutions and rules in seeking to limit the SBU's purview. It has also sought to install some degree of political control by advocating for a separate parliamentary oversight committee for this unmonitored area of the security sector. Due to the critical role of the SBU in stabilising the LAO, it will likely remain highly resistant to change in this area, unless the dominant coalition faces more attractive incentives, which it presently does not.

Second dimension: few EU (or NATO) incentives

While the EU, with support from NATO, has targeted impersonal, specialised institutions and rules with its support to reform of the SBU, we expect that the approach is too weak in terms of its incentives for local elites. Aside from early pressure from the international advisory group to include language on delineating competences of the SBU in the national security law, which was successful, there has been no further conditionality attached to secondary legislature on the SBU. Even at the end of 2020, no concrete reform of the SBU has taken place. Given the dual role of the SBU as a perpetuator of the LAO through its alleged usefulness to political elites and their business interests (Roslycky and Tregub 2018) as well as its engagement in the conflict in the east due to its force capabilities (Gressel 2019), there is little incentive for domestic elites to agree to reform. Furthermore, it is evident that NATO and the EU as external actors may have their own security interests to prioritise in terms of which tools and areas they emphasise in SSR support. Given the threat posed by the conflict in Eastern Ukraine, the external actors may have chosen not to condition further military aid for Ukraine on concrete SBU reform progress. A delay in military aid for Ukraine could have had negative effects on the country's ability to defend itself, potentially resulting in spillover for European partners. Opening is thus not likely to be caused by SSR support in this area with the current approach.

NATO support to the military-industrial complex: likely to cause opening

First dimension: moving towards impersonal, specialised institutions

Defence procurement and the regulatory framework surrounding it in Ukraine have remained "critically Soviet" in that much information is classified by an opaque system without clear rules (Dieniezhna 2020). Circa 2014, there was no body within the Ukrainian government responsible for this area, although formally the Ministry of Economic Development has been responsible on a general level (Tregub 2018). In practice, the Ukrainian

state-owned defence conglomerate *Ukroboronprom* has been setting policy in this area (ibid.) and allegedly influencing defence procurement decisions of the Ministry of Defence (NAKO 2017), characteristic of the linkages between business interests and control of military resources in a LAO. *Ukroboronprom*'s ability to set policies for its own sector has also allowed it to block economic competition in the sector as it currently holds a "licensing stranglehold over military exports" (Holmov 2018).

Furthermore, Ukraine's antiquated law "On State Secret" does not stipulate clear criteria for classification of sensitive national security information. In this sense, it is still based on the Soviet model, where decisions were primarily made on a personal basis. Items like the detailed defence budget, the state defence order (the annual armaments and military equipment procurement plan), and security assistance requirements have remained classified (NAKO 2017). Without guidelines in place, roughly 90% of Ukraine's defence budget has become classified,[36] making oversight virtually impossible.[37] The lack of oversight has allegedly led to several corruption schemes related to procurement involving security officials (Roslycky and Tregub 2018).[38] In this regard, the military-industrial complex has a strong role in perpetuating the LAO, as these informal links between military and business officials enables rent distribution in the dominant coalition.

NATO has provided assistance based on its core value of competitive market economy as well as principles of accountability and transparency aimed at bringing trust and confidence to the sector.[39] It engaged in the promotion of impersonal, specialised institutions through its assistance to reform of classified information and regulation of the military-industrial complex, including defence procurement. It first provided strategic reform advice to the law on national security, encouraging a clause mandating the creation of a designated signing institution to oversee defence procurement be included. It also supported the development of secondary legislature, such as a new law on defence procurement – Law of Ukraine "On the State Defense Order" – which has been modelled on the transparent unified procedure of procurement similar to what is practiced in many NATO member nations (Ponomarenko 2020). Such a law would exclude *Ukroboronprom* as an obligatory intermediary in the procurement of arms abroad, which should instead be conducted directly by the Ministry of Defence.[40] A next tranche of US military aid was made conditional on reform progress towards transparent direct procurement of military goods (Ustinova and Pifer 2019; *CNN* June 11, 2020). In July 2020, this law passed, paving the way for an open electronic registry of suppliers and manufacturers (Piontkovsky 2020). It furthermore supported the Ukrainian government's decision in 2019 to implement an international audit of *Ukroboronprom*. This effort aimed at providing advice on corporate governance of the conglomerate in order to prevent corruption and make it more competitive (Tregub 2018).

NATO has also been the official lead on advising reform efforts to find an impartial system for determining classification of information related to national security, perpetuating specialisation in this field as well as an impersonal system. It provided strategic advice to reform of how classified information is managed based on its own standards, as NATO members typically classify only around 10–20% of their budgets.[41] Its four-tier classification system, which has concrete criteria for classification, is serving as a potential guideline for a future law on "state secrets" (Gressel 2019). The 2018 national security law ultimately stipulated the need for a new law on state secrets with concrete criteria for when information can be classified. NATO's extensive strategic advice towards Ukraine

developing an impersonal system for classified information and defence procurement should facilitate specialisation and impersonalisation of the military-industrial complex. In combination with the incentives it has provided, its support to this area looks most likely to cause opening.

Compelling incentives

Given that the military-industrial complex in Ukraine has been far from fulfilling the criteria of specialised, impersonal institutions and clear rules for the system, NATO would need to offer significant incentives to these areas in order for elites to be willing to defy the logic of the LAO. This is particularly true given the current context, whereby some elites believe you cannot be as transparent when you are at war.[42]

NATO used a range of frameworks and incentives to encourage reform in compliance with its standards. It used Ukraine's detailed Annual National Programme, which is jointly agreed with Ukraine and updated yearly, to specify aims of meeting market regulations for the defence industry in line with Euro-Atlantic standards. Within the framework of NATO, the US has also been highly engaged in encouraging reform of Ukraine's military-industrial complex, which might bring tangible security and economic benefits for external actors down the line. Demonstration of progress towards institutional reform in the sector was tied to continued US military assistance in 2020, as the US would only continue to provide this aid if sufficient criteria were met in this sector (Ustinova and Pifer 2019; *CNN* June 11, 2020). Given that Ukraine is fighting an armed conflict and relies on this aid, this was clear incentive to implement reforms in this area. The Ukrainian-Russian clash in the Kerch straight in 2018 only further drove the Ukrainian political elite to seek security assistance from NATO (Maass 2019). Because NATO has offered extensive support to an area that is highly in need and relevant to transition and has also offered attractive incentives, it is likely that its SSR support could cause opening.

NATO and the EU: promoting opening in times of crisis in Ukraine?

In this article, we theorised how external support to security sector reform could promote transition from a limited to an open access order. Building on North, Wallis, and Weingast's (2009) logics of socio-political order transition, we conceptualised two dimensions for analysing how SSR support might promote opening. First, it would need to target support to specific criteria in order to transition: political control over agents of force, impersonal, specialised institutions, and rules governing the use of force. Second, there would need to be incentives for elites to accept support that does target the criteria, taking into consideration the logic of the LAO. Depending on whether the support from external actors targets the necessary criteria and whether incentives are present, support may be more or less likely to cause opening. Deploying this framework, we analysed NATO and the EU's SSR assistance to post-Maidan Ukraine, particularly concentrating on four areas: the military, the police, SBU, and military-industrial complex. We asked, to what extent do external SSR policies appear to have the potential to cause opening?

In looking at the SSR support that NATO provided to Ukraine, we conceptualised its support to the military as not very likely to cause opening, while its support to the military-industrial complex was likely to cause opening. Incentives have been present for the dominant coalition in both areas of support targeted by NATO, which we theorise as an

important aspect of making it SSR support more likely to be accepted. US military assistance through the NATO framework has been particularly linked to progress in both areas of reform, such as the new law on national security in 2018 and "On the State Defense Order" in 2020.

NATO's support to the military largely dealt with security assistance in light of the war and rather shallowly dealt with political control, bringing about reform but not making it likely to cause opening. Its support to the military-industrial complex, however, comprehensively targeted the creation of specialised, impersonal institutions via reform to defence procurement and efforts at a more transparent system of classification for security-related data. Based on our empirical analysis of Ukraine, it looks unlikely that political control over the military will be effective until specialised, impersonal institutions are more fully in place in the military-industrial complex. In this regard, the need for an impersonal system for classification of sensitive information is urgent.

The EU's support to reform of both the SBU and the police has been largely devoid of incentives. The lack of concrete economic or security incentives attached to the EU's SSR support, particularly as compared to the military aid linked to NATO's support, provides little reason for the dominant coalition to opt out of their current system of rent-seeking. In the context of Ukraine's LAO, both the police and the SBU have played a major role in perpetuating the order and are thus likely to be particularly resistant to change. Thus, even though the EU has targeted support to impersonal, specialised institutions and rules through advisory and capacity-building efforts towards the SBU and the police, its support looks unlikely to cause opening. EU support to police reform advanced further than we would have expected and may have had some tangible security benefits for citizens, but has already shown signs of reversal.

Overall, in the unique context of Ukraine's wide-ranging reform efforts while at war, the security imperative and heightened geopolitical tension surrounding the conflict appear to have re-invigorated the attractiveness of closer cooperation with NATO and military aid in particular. The role of the US remains critical here. The EU has been less able to link its support to tangible incentives and continues to be perceived as an economic rather than security actor by the dominant coalition, which we conceptualise as harming its ability to deliver SSR support that might cause opening. There is some evidence of security interests on the part of external actors as well, given that conditionality attached to economic or military aid has not been fully applied or is not applied at all in some areas, even when reform does not occur or does not comply fully with Euro-Atlantic standards. It is clear that there is an interest in delivering military aid to Ukraine, considering that many EU and NATO member states neighbour the country and are seeking to avoid the conflict from spilling over. In any case, the international advisory group has provided a format for coordinating reform efforts, as evidenced by the joint support given by the US, EU, and NATO to the drafting of the national security law in 2018, and could be a useful channel in the future.

The empirical analysis also shed some light on NWW's theory in a modern context. It is clear that the different types of security institutions can play different roles depending on the context of the LAO. For Ukraine, as is the case for many post-Soviet countries, the internal security system appears to have a very powerful role maintaining order in the LAO through their collection and distribution of rents. Aside from the alleged abundant opportunities for rent-seeking in the military-industrial complex, the military itself does

not appear to play a large role in perpetuating the LAO. Furthermore, sequencing appears important in terms of reform targeting the criteria. Impersonal institutions and rules, which have dominated most of the support to the SBU and police as well as the military-industrial complex, are particularly important to focus on ahead of political control, which has been the main focus of assistance to the military.

While there has been criticism from the Ukrainian elite towards external actors that wider transformation cannot be effectively pursued during a conflict,[43] NWW emphasise that opening has often happened as an unintended effect of elites opting for select changes in terms of impersonal institutions. At present, NATO's support to reform of the military-industrial complex in Ukraine appears particularly likely to achieve this.

Notes

1. Empirical evidence reveals evident flaws in importing "Western" standards of democratic civil-military relations, due to shortcomings in knowledge about actual power structures (Jones and Mychajlyszyn 2002, 376). Moreover, external SSR missions have often been constructed in a way that reflected "the classical Weberian model of statehood as an exclusive template" (Schröder and Chappuis 2014, 134), which may be less fitting in fragile or conflict-affected states and over short time spans (Schröder and Kode 2012; Schröder 2018).
2. The judiciary plays an essential role in ensuring that elites are held to established credible conventions and that the rule of law more broadly is upheld (NWW 2009). While this is indisputable, this article excludes judicial reform due to space reasons, and focuses more specifically on impersonal rules for conduct of security forces.
3. Though our framework largely focuses on the interests of domestic elites, it should be noted that foreign elites/external actors should also not be considered as monolithic and may have their own potentially diverging interests. External actors may themselves be LAOs or be OAOs that inadvertently perpetuate the status quo or order closure as a result of their assistance.
4. Civil society has been particularly present in Ukraine's SSR process since the Maidan revolution (see Bulakh 2018). For a mapping of all SSR activities in Ukraine by international actors, see Hanssen (2016).
5. Interview with NATO official, Kyiv, 14 November 2018.
6. Although some degree of reform to its armed forces as well as civilian security agencies had already begun after Ukraine gained independence in 1991, these efforts were limited in pace and scope over the following decades (Bugriy and Maksak 2016; DCAF 2017).
7. Interview with NATO official, Kyiv, 14 November 2018.
8. Interview with NATO Information and Documentation Center officials, Kyiv, 14 November 2018.
9. Interview with expert at the Center for Army, Conversion and Disarmament Studies (CACDS), Kyiv, 12 November 2018.
10. Interview with expert at the Institute for World Politics, Kyiv, October 2018.
11. Interview with former Ukrainian defence ministry official via Skype, 23 October 2019.
12. While the European Union Border Assistance Mission in the Republic of Moldova and Ukraine (EUBAM) is an EU mission, it does not deal with violent agents or their control and is therefore excluded from this article.
13. Our analysis limits itself to the potential of SSR support to promote opening based on theoretical assumptions and does not attempt to fully analyse reform implementation on the Ukrainian side or measure actual opening in Ukraine as a result of this. Given the possibility of unintended consequences of SSR support, measuring actual effects of SSR support on opening would be an important area of future research.
14. Interview with non-government Kyiv-based think tank expert via Skype, 11 October 2019.
15. Interview with NATO official, Kyiv, 14 November 2018.
16. ibid.

17. Interview with EU member state diplomat and military attaché, Kyiv, 12 November 2018.
18. Interview with expert at the CACDS, Kyiv, 12 November 2018; Interview with NATO official, Kyiv, 14 November 2018.
19. Interview with EU Delegation and EUAM officials, Kyiv, 13 November 2018; Interview with NATO official, Kyiv, November 2018.
20. Interview with former Ukrainian defence ministry official via Skype, 23 October 2019.
21. Interview with EU Delegation and EUAM officials, Kyiv, 13 November 2018; Interview with non-government Kyiv-based think tank expert via Skype, 11 October 2019.
22. Interview with non-government Kyiv-based think tank expert via Skype, 11 October 2019.
23. ibid.
24. Interview with former Ukrainian ministry of defence official via Skype, 23 October 2019.
25. The US is the largest donor to security and defence reform in Ukraine (DCAF 2017), providing 1.5 billion USD in security assistance between 2014 and 2019 (Gould and Altman 2019).
26. Interview with Kyiv-based think tank expert via Skype, 11 October 2019.
27. Interview with EU/NATO member state military attaché, Kyiv, 12 November 2018.
28. Interview with official from the Ukrainian government office for European and Euro-Atlantic Integration, Kyiv, 14 November 2018.
29. Interview with government think tank expert, Kyiv, 13 November 2018.
30. Interview with EU Delegation and EUAM officials, Kyiv, 13 November 2018.
31. Interview with EUAM officials, Kyiv, 13 November 2018.
32. This ended the existence of the "militsiya" and other forces subordinated to the Minister of Interior, such as the Berkut forces that cracked down on the Maidan protest (Fluri and Badrack 2016, 14–15).
33. ibid.
34. Interview with non-government Kyiv-based think tank expert via Skype, 11 October 2019.
35. Interview with official from the Ukrainian government office for European and Euro-Atlantic Integration, Kyiv, 14 November 2018; Interview with NATO Information and Documentation Center officials, Kyiv, 14 November 2018.
36. Interview with NATO official, Kyiv, 14 November 2018.
37. Interview with expert at the CACDS, Kyiv, 12 November 2018.
38. A notable example is the allegation that a senior defence official used *Ukroboronprom* to funnel around 100 million UAH of state funds to purchase Russian contraband of unknown quality between 2015 and 2016 (Bihus.info 2019).
39. Interview with NATO official, Kyiv, 14 November 2018.
40. Interview with expert at the CACDS, Kyiv, 12 November 2018.
41. Ibid.; Interview with NATO official, Kyiv, 14 November 2018.
42. Interview with official from the Ukrainian government office for European and Euro-Atlantic Integration, Kyiv, 14 November 2018.
43. Interview with expert at the CACDS, Kyiv, 12 November 2018; Interview with government think tank expert, Kyiv, 13 November 2018.

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