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**EU-Belarus border crisis (In)definitions: A case study of Poland**

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## Zadání bakalářské práce

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### Cíl, metody, literatura, předpoklady:

**Introduction** This is an exploratory research on the EU-Belarus border crisis. The goal is to define the EU-Belarus borders crisis and understand what some definitions can actually imply to the crisis. The study case will be carried out through an extensive literature research concerning official documents from the EU and Poland, official discourses from the EU and Poland. In this case, analyzing official documents and discourses from Poland and EU can give a better understanding if there are any violations against human rights and international law. This method will be used because it is a current topic and therefore there is not much literature about this specific concern, so this Bachelor's thesis should create a ground for future research on the same topic. Furthermore, this research should contribute to the theorization of the EU-Belarus migration crisis and its practical implications, in other words, does the definition of events legitimate the State to use more violence in Poland? The purpose of the dissertation and practical context The main goals of this research is to give a definition to the EU-Belarus border crisis and understand what are the implications when the International Organizations or States consider the border crisis conflictive using the narrative of 'Hybrid War'. Thus, taking the extension of the EU and its hard and soft power around the globe, how 2000 unarmed people trapped under sub-zero temperature in the forest are considered a threat to the EU. To fill this gap between securitization of borders and the European Union community, the concept of anxiety geopolitics will be introduced in order to stem the discourse that 'emerges to relieve the subjects from the uprooting experience of anxiety by anchoring both the self and the alleged source of danger within a familiar 'mental map'. However, as anxiety can never be fully resolved or repressed, discursive fixes, including geopolitical ones, are always temporary and eventually failing.' (DANIEL, EBERLE, 2022). To analyze how this securitization discourse is legitimate, efficient and productive, the narrative of 'hybrid warfare' may legitimize the use of force and suspension of human rights, as this research should go further on the specificities of Polish official discourse and policies. General Research Questions To achieve the goal of this research, the following research question should be answered: "how has the narrative of Hybrid Warfare in the context of the EU-Belarus crisis impacted the violation of international norms and human rights in Poland?". A complementary question to answer the general research question is: "what are possible definitions for the EU-Belarus crisis?". Methodology and data The methodology applied to this research corresponds to an exploratory research focused on the EU-Belarus border crisis. It is carried out primarily as an exploratory research regarding the conceptualization of the EU-Belarus border crisis and later as a case study on Poland. For the conceptualization of the EU-Belarus border crisis, peer-reviewed articles are going to be the ground for defining characteristics. Later on, when analyzing the case of Poland, the discursive analysis method concerning official government press releases will be important together with analyzes on recent policy changes, and if these policy changes had violated human rights or international law.

Eberle, J., & Daniel, J. (2022). Anxiety geopolitics: Hybrid warfare, civilisational geopolitics, and the Janus-faced politics of anxiety. *Political Geography*, 92, 102502. Sarah Léonard & Christian Kaunert (2020) The securitisation of migration in the European Union: Frontex and its evolving security practices, *Journal of Ethnic and Migration Studies*, DOI: 10.1080/1369183X.2020.1851469 Van Puyvelde, D. (2015). Hybrid war-does it even exist?. *NATO Review* [online]. Punda, Y., Shevchuk, V., & Veebel, V. IS THE EUROPEAN MIGRANT CRISIS ANOTHER STAGE OF HYBRID WAR?. *Estonian Journal of Military Studies*, 116. Veebel, V. (2020). Is the European Migration Crisis Caused by Russian Hybrid Warfare?. *Journal of Politics and Law*, 13(2), 44-53. Šteinbuka, I., & Avetisyan, S. (2021). THE EFFECTIVENESS OF THE EU SANCTIONS: THE CASES OF RUSSIA AND BELARUS. *LATVIAN FOREIGN AND SECURITY POLICY*, 110. Karliuk, M. (2021). The EU and Belarus. Current and Future Contractual Relations. In *EU External Relations Law* (pp. 273-284). Springer, Cham.

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I declare that I have written this Bachelor's thesis independently (under the supervision of the head supervisor of the thesis) and stated all employed sources and literature.

In Hradec Králové 26.06.2022

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## **Annotation**

Olegario, G. (2022). *Hraniční krize mezi EU a Běloruskem (Ne)definice: Případová studie Polska*. (Bachelor's thesis). Univerzita Hradec Králové.

Po hraniční krizi mezi EU a Běloruskem, která byla zahájena v červenci 2021, byl Minsk obviněn z vysílání tisíců migrantů, aby vyvíjeli tlak na vnější hranice EU. Vzhledem k hlášeným porušením mezinárodního práva je hlavním cílem tohoto výzkumu zjistit vliv sekuritizačního diskursu na krizi na hranicích mezi EU a Běloruskem a pochopit, jaké jsou důsledky v polsko-běloruské hranici s ohledem na použití narativu „Hybridní válka“. Aby bylo možné analyzovat, jak je tento sekuritizační diskurz legitimní, účinný a produktivní a jak může narativ „hybridní války“ legitimizovat použití síly a pozastavení lidských práv, jde tento výzkum dále o specifikách polského diskursu a politik. Metodika aplikovaná na tento výzkum odpovídá explorativnímu výzkumu zaměřenému na hraniční krizi mezi EU a Běloruskem. Provádí se především jako explorativní výzkum týkající se konceptualizace hraniční krize mezi EU a Běloruskem a později jako případová studie o Polsku. Tento výzkum by se proto měl zaměřit na dva různé přístupy, z politologického pohledu na konceptualizaci hraniční krize mezi EU a Běloruskem a později na právní hledisko s přihlédnutím k tomu, že oficiální diskurzy, stejně jako novely zákonů, mohou vytvořit omezující účinek na společnost. Dílčí výsledky se týkají článků mezinárodního práva, které Polsko porušilo.

**Klíčová slova:** hybridní válčení, migrace, Polsko-Běloruská hranice

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## **1. Introduction**

Following the EU-Belarus border crisis that was initiated in July 2021, Minsk was accused of sending thousands of migrants to pressure the EU's external borders (Reuters, 2021). Despite the high amount of definitions for the crisis, the incidents on the eastern border of the EU are far from the standard categorization of Hybrid Warfare, a term that has been used by EU officials and mass media to report the incident. The EU and Poland have been using the Hybrid Warfare Discourse at the border and enforcing quick and unlawful practices, securitizing migration, and weaponizing migrants (Reuters, 2021). At present, scholars are researching both securitization and externalization of migrants (Klaus, 2020), but there are just a few pieces of research done related to the Hybrid Warfare discourse in the context of the EU-Belarus border crisis and the increase of human rights violations.

The first push to start this research is due to the recent news circulating the globe related to the precarious management that Poland had with refugees on the EU-Belarus border. With that being said, it is a civil duty to ask what kind of "values and principles" Europe wants to promote abroad. In other words, how can one feel protected by European Lawfare if there is uncertainty about whether violations against international law are happening?

From these preliminary thoughts, the main goal of this research is to find the influence of the securitization discourse on the EU-Belarus border crisis and understand what are the implications in the Polish-Belarus border considering the use of the narrative of "Hybrid War". Thus, taking the extension of the EU and its hard and soft power around the globe, how 2000 unarmed people trapped under sub-zero temperature in the forest are considered a threat to the EU (Reuters, 2021). To analyze how this securitization discourse is legitimate, efficient, and productive, and how the narrative of "hybrid warfare" may legitimize the use of force and suspension of human rights, this research goes further on the specificities of Polish discourse and policies. Other typologies will be analyzed,

for example, the difference between hybrid warfare and hybrid threat, taking into account that a multilevel analysis is required in such a migration crisis.

To achieve the goal of this research, the following problematization should be answered: “how has the securitization discourse in the context of the EU-Belarus crisis impacted the violation of international norms and human rights in Poland?”. A complementary objective is to identify by subsection what types of violations Poland has done. The hypothesis to satisfy the conduct of this research is that “Poland violates the international law using the securitization discourse that has been emerging from the EU context and policies to manage migration crises”.

In the first chapter, the Copenhagen school is the ground of the theoretical framework to explain how speech acts are crucial to securitize any issue in the contemporary world (Buzan & Hansen, 2009). After a proper understanding of how the securitization process works, two main peer-reviewed articles are discussed regarding the categorization of the 2021 EU-Belarus border crisis (Łubiński 2022; Berzins 2022). A differentiation between Hybrid Warfare and Hybrid Threat is a must, as the concepts are still vague, however, some conceptualization can be retrieved from the current state of research.

In the second chapter, this bachelor’s thesis tracks an ongoing process of securitizing migration in the EU, and therefore an adjacent development to externalize migration (Aslan, 2022; Kmak & Klaus, 2021). The securitization and externalization of migration are different processes, however, they follow the same logic to *protect* the nation-state (Tilly, 1990). The reason for this chapter is that after the 2015 European migrant crisis, migration has been dealt with on two different levels (Aslan, 2022). First, it is analyzed how the EU process at the supranational level functions and the other is the process within the nation-states themselves - more specifically, the developments of migration policies in Poland.

The third chapter gives a brief context of the crisis, and it analyzes the official discourse on how Poland perceives the crisis and the reasons for naming it a Hybrid Warfare. To contrast the Hybrid Warfare Discourse, the 2021 EU-Belarus crisis is described and it is applied the concepts discussed in the first

chapter to categorize the crisis. Thus, after defining how this bachelor's thesis perceives the crisis, a historical track is important to peer the Hybrid Warfare Discourse to the traits of the deeds in Poland.

The last sub-section is the study case in Poland, analyzing official discourses from Poland and the EU can give a better understanding if there are any violations of international law and consequently, human rights through new amendments and policies during an "emergency state" or "exceptional times".

The methodology applied to this research corresponds to exploratory research focused on the EU-Belarus border crisis. It is carried out primarily as exploratory research regarding the conceptualization of the EU-Belarus border crisis and later as a case study on Poland. For the conceptualization of the crisis, peer-reviewed articles are going to be the ground for defining characteristics. Later on, when analyzing the case study of Poland, the discursive analysis method concerning official government press releases will be important together with an analysis of recent policy changes, and if these policy changes violated human rights or international law.

The study case will be carried out through extensive literature research concerning official documents and discourses from the EU and Poland. This method will be used because it is a current topic and therefore there is not much literature about this specific concern, so this Bachelor's thesis should create a ground for future research on the same topic. Furthermore, this research should contribute to the theorization of the EU-Belarus migration crisis and its practical implications, in other words, does the hybrid warfare discourse by the Polish Government legitimate the violation of international norms?

Therefore, this research should focus on two different approaches, from a political science perspective looking at the conceptualization of the EU-Belarus border crisis, and later on a legal perspective, taking into account that official discourses, as well as law amendments, can create a bounding effect on society. To be more specific, this research will comprehend how the discourse of hybrid

warfare has been vivid and legitimized, even though handling a possible *hybrid threat* as hybrid warfare has negative consequences.

As expected, and according to Eberle and Daniel (2022), the creation of a state of “hybrid warfare” not only misplaced the concept of warfare, but also the idea that human rights can also become hybrid. In their words “Yet, at the same time, the discourse simultaneously subverts itself by portraying ‘hybrid threats’ as too insidious, invisible and constantly shifting to be ever possibly durably resolved” (Eberle & Daniel 2022, p. 1). The expected partial result is to identify the violations that Poland has done in international law.

## **2. Securitizing migration: theoretical framework**

### **2.1 Securitization theory and Copenhagen school**

To continue with the research problem, it is necessary to consider the recent perspectives on securitization and the *fons et origo* of the securitization of migration in the contemporary world. Therefore, this chapter should bring to light the expanding scope of the securitization process that has been happening since the end of the cold war. To conceptualize the securitization theory (Hammerstad, 2014), the evolution of the scholarship on the matter and the widening of the threats are going to be described.

This theoretical framework is relatively recent, as forced migrants were mostly ignored by Security Studies during the Cold War (Hammerstad, 2014, p. 1). With this being said, it is evident that the theoretical approach in this bachelor's thesis is timelined after the Cold War due to the systematic inclusion of refugees, asylum seekers, and other categories of migrants on the research agendas of security scholars. According to Wæver et al. (1993), traditional preoccupations of the state were replaced by alternative perspectives, adding refugee and migrant flows as potential threats to all these “new” types of insecurity.

The main question that developed the debate within security studies was “what is security”. It did not take long for the conceptual debate to take a constructivist turn, revealing that the answer is not an objectively given fact (Hammerstad, 2014, p. 2-3). According to constructivist scholars,

“friend/enemy distinctions are intersubjectively constituted, built on a community's sense of history, identity, and values. Security threats are not objectively given, either. Even the threat of nuclear weapons depends at least to some extent on the horizon of the beholder: whether one state views another state's nuclear arsenal as threatening or unthreatening depends on past relations, present perceptions of amity/enmity, and assumptions of behavior” (Hammerstad, 2014, p. 2).

When it comes to the constructivist turn that happened in the social sciences, this research focuses on the *securitization* approach, developed by the Copenhagen School in the 1990s (Buzan, Wæver, and de Wilde, 1998). The Copenhagen school can be categorized in a grey zone between different main epistemological theories, but it has a lot of constructivist characteristics. This specific school is crucial for the theoretical framework of this bachelor's thesis due to the preoccupation with the construction of refugees and asylum seekers as security threats, or a more contemporary concept, the securitization of forced migration.

If before the constructivist turn the question that developed the field of study was “what is security”, the development of the constructivist approach relies on the question “what are the processes through which security threats are constructed?” (Buzan, Wæver & de Wilde 1998, p. 26).

The post-cold war shaped the way people perceive security, and the securitization studies by Buzan and Hansen (2009) let clear that,

“Such things as the peaceful ending of the Cold War, the growth in intra-state conflicts, Western societies’ fear of immigration, the decaying environment and the acceleration of the HIV/AIDS epidemic demonstrated that traditionalism was unable to meet the challenges of the post-Cold War era. Moreover, wideners and deepeners held that the 1990s failed to produce a constitutive military event or a defining great power problematic that traditionalists could claim should take center-stage” (Buzan & Hansen, 2009, p. 187).

The replacement of such scholarship, or in this case, the expanding scope of securitization happens due to this gap that traditionalists could not explain, giving space for the Copenhagen school to fill this gap between the diversification of threats and securitization. In this current theory, the process of securitization is built-in which in language theory is called a speech act. A securitizing speech act attempts to present an issue as an existential security threat to a chosen referent

object (Hammerstad, 2014, p. 267-270). In our case, the securitizing speech act done by the EU and the Polish government will be analyzed in accordance with migrants on the eastern border (the selected referent object). Therefore, bringing speech act theory into this thesis is important to analyze the Polish discourse in legitimizing the use of emergency measures outside of the usual political processes to deal with it.

Two main points from the scholar Michael C. Williams (2015, p. 114-118) are important to set the theoretical ground, the first one is the explanatory power of Securitization Theory and the second is the representation of the securitization *per se*. Therefore, when we analyze the Polish discourse through the explanatory power of Securitization Theory, the main objective is not only to insist on speech act alone but to focus on other powerful practices such as gesture, the production of the image, and the use of symbols, creating the image of the “self” and the “other” regarding when securitizing immigration.

To substantiate the representation of the securitization *per se*, Williams (2015, p. 114-118) summarizes it as “issues become ‘securitized’, treated as security issues, through these speech-acts which do not simply describe an existing security situation, but bring it into being as a security situation by successfully representing it as such”. This representation process is related to the “weaponization” of the migration, creating a common “otherness” and successfully using the Hybrid Warfare discourse against undesired migration flows (Kmak & Phillips, 2022).

One of the key questions that could summarize this chapter could be the following “how does securitizing migration happen” to get ahead to the next chapter on how the EU and Poland securitize migration. In other words, how States can create a legitimate discourse toward the securitization of migration. As Bourbeau (2015, p. 45) maintains “A security speech act does not constitute a securitization; it only represents an attempt to present an issue as a security threat”.

The reason for choosing the Copenhagen School for this bachelor's thesis is related to conducting with the securitization theory an analysis of why and how migration has become a security problem for western countries. As mentioned above, securitization defined by the Copenhagen school is a constructed process, or it means, the referred subject is first drawn to the field of security and thus perception is created that it poses a danger. Therefore, this process can explain the rationale behind the externalization of immigration and security-oriented approaches of the states, and consequently evaluate immigration within the framework of security policies can be clearly explained. To follow the European context and as Aslan (2022) maintains, the Copenhagen School gives a satisfactory answer when looking at why the EU has advanced in anti-democratic immigration policies that do not reconcile with its democratic values. Overall, the Copenhagen School considers that the securitization of migration has negative consequences for the refugees, mostly by identifying immigration as a security threat that affects the behavior of states (Aslan, 2022, p. 155).

When selecting the securitization theory by the Copenhagen school, my objective is not to present an alternative framework for the study of the securitization process, I do not seek to propose an analysis that would stand in opposition to securitization theory. Rather, this thesis intends to show through the securitization theory that migration has been securitized in the Polish-Belarus border crisis, consequently violating international law and human rights. Yet, this thesis would propose an alternate view on the topic, which is the idea that sending military troops to the borders and enforcing a "security" approach to the problem that does not represent itself in reality, culminates in an inefficient response from the State to secure people's rights and an inefficient response can lead to precarious living standards and even deaths at the EU-Belarus border (Overhaus, 2021).

According to Overhaus (2021),

"The fact that the boundaries between war and peace are becoming increasingly blurred is not only due to abstract security policy developments and structural international changes, but it is also

very much the result of the language and actions of political actors, including in the West. Politicians, therefore, have a responsibility to continue to define the boundaries between war and peace. The migration crisis on the Polish-Belarusian border is not yet a war. It cannot safely be ruled out that it will escalate militarily” (Overhaus, 2021, pp. 13).

From this statement, it gets clearer that EU and Polish officials that wish to escalate military are responding to the provocations from Minsk and Moscow the way both countries expected. When analyzing a possible military de-escalation, the EU and Poland could meet the challenge posed by migration and refugees with political means (Overhaus, 2021). In addition to further economic sanctions by the EU against Belarus, the establishment of a functioning asylum policy in the European Union would be an essential step in this direction (see chapter 2.2).

### **2.1.1 Hybrid Warfare and hybrid threats**

To continue the chapter, the importance of defining Hybrid Warfare Discourse is to comprehend what Poland has been expressing to violate international law. The situation is complicated also to the fact, that the concept of hybrid warfare or hybrid threats has no legal definition (Łubiński, 2022; Berzins, 2022). As Hoffman referred to in his pivotal work: “Hybrid Wars incorporates a range of different models of warfare, including conventional capabilities, irregular tactics and formations, terrorist acts including indiscriminate violence and coercion, and criminal disorder” (Hoffman, 2007, p. 14). Thus, hybrid warfare presumes a combination of civilian and military activity, which reaches significant intensity and could result in some level of violence. Interestingly, it has to be noted that many non-western international relations scholars oppose the existence of such a concept, for example, when Russian scholars talk about the same topic they use terms such as new generation warfare and non-linear warfare (Wither, 2016). Due to the complexity of the phenomenon, how can the EU and Poland recognize that the definition has been matched? One of the advantages to have

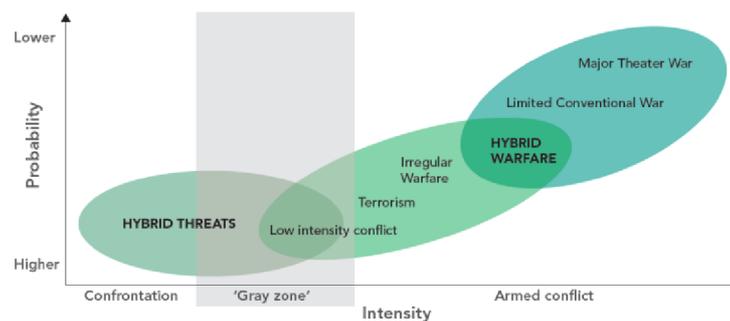
such a wide concept is that it can be used in favor of the State, being or not a hybrid war.

The rationale behind this section is to grasp the idea that calling any situation a hybrid war has concrete consequences because war is justified politically and legally under different rules and means than peace (Overhaus, 2021). Thus, using the framework of the speech act described above, using the term “war” increases the danger that it will be used to justify the treatment of refugees in violation of human rights in the case of the Polish-Belarus Crisis. According to Overhaus (2021), two points are important to highlight: War creates an urgency to act while at the same time the political room for maneuver dwindles.

The same problem has the definition of the term “hybrid threats”. As for hybrid threats, the European Centre of Excellence for Countering Hybrid Threats refers to: “An action conducted by state or non-state actors, whose goal is to undermine or harm a target by combining overt and covert military and non-military means” (Hybrid CoE, 2022). In other words, the threats could be any phenomenon that could undermine or harm the interests and values protected by the State. Furthermore, due to the hybrid aspect diminishing boundaries between civilian tools and military weapons, hybrid threats have a lower intensity and take place in the “grey zone” far from war (Filipec, 2022, p. 5).

The image below differentiates both concepts visually, conceptualizing the probability and intensity of a conflict in those terms. Therefore, as visually discernible, there is a difference between managing a hybrid threat and hybrid war, the same way terrorism and irregular warfare are in the same continuum of conflict, however, they require different tactics to tackle it.

Figure 1 - Hybrid threats and Hybrid Warfare



Source: (Hoffman, 2007).

According to Filipec (2022, p. 6), migration could be categorized as one of those tools, mainly when deployed together with a disinformation campaign, that could alienate the population against the EU or NATO in a target country, and at the same time lead to changes in politics, redirecting foreign policy and increasing or cutting military spending. The main difference between Hybrid warfare concerns active measures taken by an actor towards another actor. In contrast, hybrid threats are passive, being real or imagined threats from possible future actions against oneself. Due to the passive situation that has been encountered at the Belarus-EU border, this bachelor's thesis comprehends that the Belarus-EU border crisis is in between a hybrid threat and a humanitarian crisis, and therefore addressing the situation as a "hybrid warfare" can have negative consequences handling the crisis.

The hybrid warfare discourse has been misused many times by the EU and Polish politicians as when the Polish government accused Minsk of using migrants as "living weapons" in a "hybrid war" (Vox, 2021). In the same way that hybrid warfare does not have a legal definition, a commonly-accepted definition of hybrid warfare also is not fully agreed upon by any scholars as a separate category of war. It is possible to analyze the character of hybrid warfare as a new phenomenon, in *statu nascendi*, and retrieve some patterns and common threads in most definitions.

This implies that the concept of "hybrid warfare" is adaptable depending on the situation and current needs. What makes it so versatile and dangerous is that the strategy can be implemented on different frontiers at the same time,

effectively striking a state's weakest links. As this approach can be both regular and irregular, it can be hard to counterfeit.

The Hybrid Warfare Discourse ends up following the logic of the nation state, as Charles Tilly (1990) wrote "War made the state, and the state made war". With this short sentence, Tilly (1990) develops his main thought that the history of the nation state is bound up with the history of European Warfare. Furthermore, when the states make war, it drives further changes in the shape of the State itself and the relationship between individuals and the State. So, to complete the thought, the analysis of how the European States use the Hybrid Warfare discourse can be understood as a means to create a stronger relationship between Poland and Polish people.

Rosa Brooks (2016) brings a very interesting perspective in her book "how everything became war and the military became everything" when she quotes

"War is whatever powerful states say it is. From an institutional perspective, it is the state, through the apparatus of government, that decides which tasks to assign to civilian entities and which tasks to assign to the military, And from a legal perspective, it is the state that defines what will be considered a war and what will not" (Brooks, 2016, p. 244).

To conclude Brooke's main ideas, humanity always tried to set limits that would differentiate war and peace, however, contemporaneity blurred the boundaries and it gets more difficult to identify the presence or absence of conflicts (Brooks, 2016, p. 244-250). Brooks (2016) criticizes the security in the contemporary world due to the overstretching of the concept of warfare, so to her everything became war and the military became everything. To Brooks (2016), this is a problem because the contemporary world has a wide range of different threats and it becomes more difficult to live in society. Furthermore, it is logical that if everything became war, Hybrid Warfare Discourse in the matter of the EU-Belarus border crisis is a natural path for Western European countries to try to set different violations against international law.

Furthermore, it can be inferred that hybrid warfare and hybrid threats are synchronized and systematic, and so should the EU and Polish responses. According to the most recent literature (Cullen, Wegge 2021, Van Puyvelde, 2015), governments and supranational institutions should coordinate *hybrid* analysis, detection, and responses against hybrid warfare/threat.

Moreover, multinational approaches could have an effective response, as Belarus is conducting its operation against Latvia, Lithuania, and Poland, so a joint counter-response and the development of cooperation and collaboration are appropriate (Łubiński, 2022).

To conclude this subsection, a partial conclusion is that the EU and Poland have several options to protect the refugees on the eastern border and, to reconstitute their international reputation find legal options to redress against Belarus, and agree with Łubiński (2022),

“illegal actions by one state may and should not lead to illegal actions on the part of the affected states. Illegal actions undermine the international and supranational legal order, which is at the core of the security of Poland and neighboring countries Łubiński (2022, p. 10).

## **2.2. Partial conclusions**

The first chapter sets the theoretical framework to embody the bases of the research. Therefore, the Securitization theory by the Copenhagen School is the main postulation to continue the research, as this bachelor's thesis finds the connection between securitization and speech acts (or in this case, how language is associated with weaponizing migrants). The main idea is to understand how the EU and Poland have been using the Hybrid Warfare discourse, so the chapter above deals with the concepts of Hybrid Warfare and Hybrid Threat and their differences. After the explanation and comparison of hybrid warfare and hybrid threats, this bachelor's thesis considers the EU-Belarus border crisis into the category of hybrid threats. After the definitions of concepts, finding the

developments of migration Policy in the EU is the next step, analyzing the previous attempts to securitize migration by the EU and Poland (next chapter).

### **3. Securitizing migration: practical implications**

#### **3.1 Developments of Migration Policy in the EU**

Migration has always been part of the history of societies. Caused by various reasons, people have moved over the years voluntarily or not to different parts of the world. With the formation of the National States and the delimitation of their borders, the processes of nationalism, and the creation of national identities, societies began to identify and recognize themselves by similar characteristics. In this way, migration started to follow the logic of the nation state, as well as the principle for the understanding of the impacts in different countries (European Commission, 2015).

The “antipode of war” concept could be considered the foundational narrative of the European Union, opposing the bloody European context in the Second World War. Under this specific concept, human rights have been playing an important role in the EU to be promoted abroad. Furthermore, the 2012 Nobel Peace Prize was awarded to the EU “for over six decades contributed to the advancement of peace and reconciliation, democracy and human rights in Europe” (The Nobel Prize, 2012, pp. 5). The discourse of promoting human rights in its internal and external policies clashes with the practices of the UE and its member

states, particularly in migration and refugee protection (Kmak & Phillips 2021). However, the EU does not have the best reputation internationally regarding the same Nobel Peace Prize anymore, as this chapter uncovers.

Not differently from the global tendencies, Europe has seen the emergence of international migration as a national security problem in the post-Cold War period. Before the collapse of the Soviet Union, Europe was mostly concerned about military issues that could occur in Europe within a bipolar world (Aslan, 2022, p. 156).

Recalling from history, it is not the first time migration is encouraged or discouraged, as countries that suffer great economic losses usually follow 'zero migration policies'. However, not just economic depressions are events to contribute to these restrictive policies, as one of the last deeds that dragged immigration to the field of security was the 9/11 attacks in the U.S. in 2001, which affected EU immigration policy into different confused, uncertain and insecure atmosphere (Aslan, 2022, p. 155). After the attacks, the European internal security system was activated and the matter of migration was handled as a threat and started to be mentioned within the security discourse. When it comes to the European context, the terrorist attacks that took place in Madrid in 2004 and London in 2005 had a reconsideration in the context of securitizing migration and designation as an international crime in Europe (Aslan, 2022, p. 156-160).

According to Aslan (2022), it is possible to analyze the development of migration into a security area in Europe on two levels. Thus, one of them is the EU process at the supranational level, and the other is the process within the nation-states themselves. In other words, following the same logic above, migration was mostly evaluated on a national basis until the 1990s, and after this time, supranationalization began and the migration has been handled on a global basis.

The valuation of migration concerning security priorities indicates in terms of politics and strategic importance that the European States hesitate to lose control over their lands. According to the European Commission (2004), States

believe that measures taken at the EU level are more effective in cooperating on the issue of migration to ensure their security. That is an interesting point to note that States were willing to give certain sovereignty parcels to technically deal with migration flows (European Commission, 2004).

A key point to analyze this increase in migration as a security issue started with the Schengen Agreement (European Commission, 2021), which emerged largely for political and symbolic reasons, and gave the right to free movement among European nation-states while building walls for others. The concept of Europe as a fortified fortress emerged after the agreement, changing the image of the EU in the outside world due to the internal borders removed but external walls rising (Aslan, 2022, p. 156).

In mid-2017, Eurobarometer (2017) conducted a survey asking EU citizens about the most important issues facing the EU, and the main two concerns were terrorism and immigration. Also, since the 2015 European migrant crisis, the continuous widespread concern among the public by media discourses and politicians to increase the anti-immigration sentiment has been an issue (Krzyzanowski, Triandafyllidou & Wodak, 2018).

The 2015 European migrant crisis tested the European Union's ability to respond to the migratory crisis that took on major proportions. Media attention with images of the refugees, public appeals, and political discussions put great pressure on European institutions and national governments to respond to the event (Carrera et al 2015, p. 1-3). In this case, migration has become a priority in the European Union and the member states. The European Agenda on Migration was the most important policy among the numerous legislative initiatives to deal with the crisis (Carrera et al 2015, p. 1). The European Commission, in May 2015, established this document with the main priorities in migration, asylum, and borders for the coming years. The Agenda recognized that migration is part of human history and that people migrate for a variety of reasons, through legal as well as illegal means, primarily to escape political oppression, war, and poverty and to find better living conditions (Carrera et al, 2015).

According to the European Agenda (2015), no country is in a position to deal with the migration issue in isolation, because all actors (member countries, European institutions, international organizations, civil society, local authorities, and developing countries) need to work together to make a common European migration policy possible. The Agenda proposed four pillars or levels of action, each with its specific actions, to guide the migration issue in Europe. These pillars are a response not only to immediate concerns but corresponding to the European institutional limitations that were exposed by the crisis (Carrera et al 2015, p. 4). To summarize the four pillars, the SOLIDAR (2015) fact sheet writes

“1) Reduce incentives for irregular migration. Some of the actions foreseen are: intensification of the fight against trafficking; improvement of the EU’s return system; 2) Better management of external borders. Some of the actions foreseen are: Strengthening Frontex’s role and capacity; Improving the use of IT systems and technology to improve the efficiency of border crossing control; Strengthening the capacity of countries in North Africa to intervene and save lives of migrants in distress; 3) A strong common asylum policy. Some of the actions foreseen are: Establishing a new monitoring and evaluation system for the Common European Asylum System and guidance to improve standards on reception conditions and asylum procedures; Guidelines to fight against abuses of the asylum system; Measures to promote systematic identification and fingerprinting and improve biometric identifiers; An Evaluation of the Dublin Regulation in 2016 to assess whether a revision of the legal parameters will be needed to achieve a fairer distribution of asylum seekers in Europe; 4) A new policy on legal migration. Some of the actions foreseen are: Modernisation and overhaul of the Blue Card scheme; A platform for dialogue with social partners on economic migration; Stronger action to link migration and development policy; Re-prioritising funding for integration policies; Cheaper, faster, and safer remittance transfers” (Solidar, 2015, p. 3).

Regarding the Dublin system, the Agenda recommended the sharing of responsibilities among the Member States. In 2014, for example, five member countries were responsible for 72% of asylum applications. It is necessary to improve the registration of applicants as soon as they apply so that it is possible to identify the places with the greatest flows and direct help to them. In 2016, the Commission intends to assess and update the Dublin Regulation to address these issues that have been revealed with the crisis (European Crisis, 2015). In 2016, the European Commission put forward proposals to reform the asylum system, and those proposals have been under consideration ever since. In addition to this initial proposal, on 23 September 2020, the European Commission proposed a new migration and asylum pact, with several legislative proposals to improve the management of asylum applications. According to the website of the Council of the European Union, the reform of the Common European Asylum System aims to establish the following proposals: “Establish a common framework that contributes to a global approach to the management of asylum and migration; Make the system more efficient and more resistant to migratory pressure; Eliminate attraction factors and secondary movements; Combat abuses and provide greater support to the most affected Member States.” (European Council, 2021).

Concomitantly with the migration policy in the EU, as mentioned above, the anti-migrant sentiment has been growing, securitizing migration and legitimizing countries such as Poland to violate human rights and the rule of law regarding policies on “pushbacks, hot returns, detention, and expedited expulsions” (Carrera 2020, p. 6). The EU response, followed by Poland, fits within a broader global externalization trend that has been emerging since the 2015’ European migrant crisis. The trend could be summarized as “where migrant-receiving states in the Global North enact measures beyond their territorial borders to prevent access to their territories by migrants from the Global South” (Kmak & Phillips, 2022).

The new European Commission, elected in 2019, dramatically shifted the official migration discourse. The securitization discourse can be analyzed in one

of the portfolios of the new College of Commissioners, renamed “Promoting our European way of life” (European Commission, 2019). The portfolio was officially named “Protecting our European way of life” which caused controversy both within and outside of EU institutions (European Commission, 2019; Kmak & Phillips, 2022). The portfolio (which encompasses several important and acute issues relating to labor markets, education, climate change, and the integration of migrants and refugees, as well as various aspects of security) is constructed and argued in a way that directly links irregular migration with threats to the security of the EU, and uses these threats to foster solidarity between member states (European Commission, 2019).

The European Commission has been taking the externalization even further when a comprehensive package of the draft EU legislation on the Common European Asylum System, or in other words, the New Pact on Migration and Asylum was published in September 2020. As stated by Kmak and Phillips (2022),

“Even though the Pact introduces the provisions for setting up an independent monitoring mechanism to safeguard fundamental rights in cases of detention and expulsions, other provisions question the intention of the EU to improve the rights of migrants and asylum seekers” (Kmak & Phillips, 2022, pp. 8).

It emphasizes border procedures and effective expulsions contributing to the further securitization of migration. For Carrera (2020), the formal articles and statements of the New Pact on migration comply with fundamental rights, and border procedures, however, they are characterized by reduced procedural safeguards leading to arbitrariness and discrimination.

As stated above, the “Promoting European Way of Life” portfolio and the New Pact on migration follow the logic of the nation state, seeking solidarity only between member states and not towards individuals, including undocumented migrants and applicants for international protection (Kmak & Phillips, 2022). The COVID-19 pandemic also results in restrictive measures in force, the effective

right to seek asylum in EU member states is severely limited (Kmak & Phillips 2022).

### **3.2. Developments of Migration Policy in Poland**

This subsection goes towards the securitization of migration in Poland for two reasons, the first one is the lack of focus on the countries in Central Europe regarding the securitization of migration, and the second is related to how significantly different the migration development or the development law and migration policy is in Central Europe than other countries from the Global North (Klaus, 2020). Therefore, the logic behind this subsection is to bring to light points concerning the evolution of (anti)immigration sentiments and the issue of (anti)immigration by politicians (mainly from right-wing and populist parties) and the developments in legislation. This subsection focus on the period after the 2015 European migrant crisis, which concomitantly take place with the new right-wing government in Poland, formed in the late autumn of 2015 by the Law and Justice Party [Prawo I Sprawiedliwosc].

To outline the Polish context, throughout most of its history, Poland was for a long time, a country of emigrants, or in other words, far more people left the country than arrived in it (Klaus, 2020). Only in 2016, did this trend shift, when the inflow of immigrants began to reach over one million people per year. In this case, a feature of the inflows in Poland is related to geographical proximity (cultural and ethnic likeness of the new arrivals, with the dominant share of Ukrainians) (Gorny, 2017).

According to Klaus (2020)

“The mainly emigration-oriented profile of Poland is very well reflected in the country’s policy on migration or, more accurately, its absence—that is, the nonexistence of a document that would describe the policy. Although the policy itself manages without it, the lack of interest of decision-makers in migration, leaving the

policy without official guidelines, could be understood as a form of policy. Additionally, the policy is in fact run on the administration level by street-level bureaucrats” (p. 299).

Even though Klaus maintains that there is a lack of policies concerning migration, Kicinger, Weinar, and Górný (2007, p. 181-183) wrote that Poland joined the European migration policies after the final liberalization of its passport law in 1990, and in the mid-1990s Polish migration law was subject to a Europeanization process. As described above, the EU legislation was based on the idea of securitization, closing borders, and treating foreigners with suspicion and reluctance.

According to Kicinger, Weinar and Górný (2007, p. 182), the Europeanization of policy and politics is a multidimensional process. For politics to be Europeanized, a diffusion of 'soft' elements such as European (EU) norms, shared beliefs, and 'ways of doing things' is necessary (Radaelli, 2003, p. 30). To follow this desire to access the EU and later the Schengen Area, Poland adopted regulations, however, they were often maladapted to the Polish migration context, as was the case with introducing visas to Ukrainians.

A cornerstone for the anti-Islamic rhetoric in Poland and a proper shift in the migration policy was the terrorist attacks of 9/11, as it sought to strengthen its ties to NATO, it was the fear of terrorism (as exemplified by 9/11), no matter how remote, that led the country to allow secret interrogation camps and even missiles to be placed on its soil. In the first decade of the new millennium, terrorism became one bridge between Poland and the West, first through NATO and then by joining the EU in 2004 (Kossowska et al, 2016).

The situation deepened the tendency above in the summer of 2015 and the so-called Refugee Crisis in Europe affected the public debate around migration, politicizing it and giving it a populist slant. Even though Poland hardly saw Syrian refugees (only 889 Syrians applied for international protection between 2011 and 2018), the election campaign of the spring and summer of 2015 featured “the process of othering” of refugees (Klaus, 2020). Furthermore, refugees were

depicted as aliens, as strangers, as not belonging, and also as threatening and dangerous. Three threats set the awareness of the environment in 2015: a physical threat as perpetrators of crimes, including against women and as terrorists; an economic threat (degrading the welfare system and stealing jobs from Poles), and a symbolic threat to Polish religion and culture (Jaskułowski, 2019). At the end of 2015, the term “migrant” has concretely become a concept for the public.

Thomas Nail (2015, p. 253) observes that “the figure of the migrant is a political concept that defines the conditions and agencies by which various figures are socially expelled as a result of, or as the case of, their mobility”. As mentioned above, this labeling of migrants as nonmembers of society is a departing point for further practices undertaken by governments.

According to Geddes (2003),

'policy in the Central and Eastern European Countries has arisen almost entirely as a result of the requirements of EU accession and [...] EU policy models and ideas about borders, security and insecurity have been exported to CEE countries' (p. 173).

That is a factor to understand the maladaptation of the EU policies, but at the same time, as explained by Geddes, how the EU policy models exported perspectives and, even further, securitization processes on migration to CEE countries.

According to Krasmann (2007) and his concept of “enemy criminal law”, possibly has reached Poland, and the main effects are anti-terrorist regulations or attempts to change migration policies. Weber and McCulloch (2007) warned that one of the consequences of the steady advance of the securitization agenda threatens the very foundations of the European social and legal order, a legacy that has been built on liberal rights. But first and foremost, it undermines the human and humanitarian values of European society that are so proudly presented as the cornerstone of European identities.

In the end, once the governing party had finally created “the other” and labeled migrants (and particularly refugees) as “enemy aliens” and “dangerous enemies of the state”, more specifically and accordingly to the Polish case - *enemies of the nation*, it was time to draft legislation reflecting this approach to foreigners. As a result, in 2016, the Act on Anti-Terrorist Activities was drafted and entered into force. Unlike other countries, Poland had never had a separate anti-terrorism act (Klaus, 2020).

What is more, nationalism was built around the notion of unspecified “others”, who are intent on obliterating Poles as a nation. As Peter Vermeersch (2019) observes, “when nationalist ideas of victimhood are translated into a policy that seeks to establish both ethnocultural homogeneity and historical “justice,” certain target groups run the risk of becoming the subject of further oppression and exclusion. In other words, the political power holders who think of themselves as representatives of a victimized majority seeking justice may become responsible for instigating new injustices themselves” (p. 125).

### **3.3 Partial conclusions**

To conclude this chapter, this bachelor’s thesis understands that the securitization of migration is a structural effect of a multiplicity of practices. In other words, there are so many factors and variables inside and outside the Polish state, that it is difficult to track down and interpret how this structural effect has been produced by the political, professional, and social actors involved. Therefore, this research does not ignore the magnitude and the infinite amount of different actors that play a role in (des)securitizing migration. However, this chapter demonstrated the logic of securitization and how the European integration process has been implicated in its reproduction. To continue to the last chapter, I am primarily interested in the way the government has been securitizing migration and if so, how the Hybrid Warfare Discourse has been vivid and circulating among the Polish society.

#### **4. Study case: Polish-Belarus border crisis 2021**

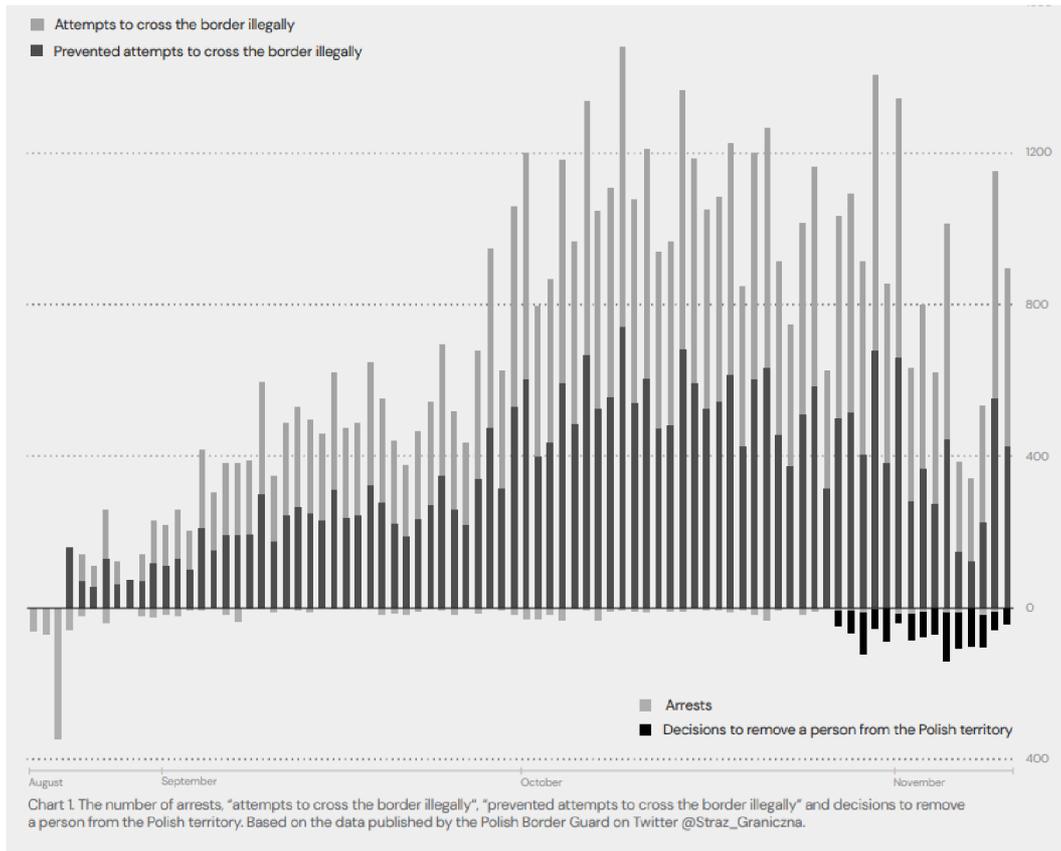
##### **4.1. Polish-Belarus border crisis 2021 context**

To outline a brief background to the study case, the situation between the Polish and Belarus border has been always less porous since the end of the cold war, and one concrete example is the barbed wire fence rendering the crossing almost impossible. Important to remember that the fence is on the Belarusian side and is guarded by the Belarusian military. According to Follis and Klaus (2017), this is a remnant of Soviet time, also called *systema* (heavily guarded fence) was erected along the borders of the former empire. The Polish border looks different, and technologically speaking the border is tighter. As mentioned above, the “*European fortress remains impenetrable*” for refugees or anyone who would like to illegally cross (Klaus, 2020).

According to the most recent reports and scholars, indeed Lukashenka's regime has facilitated the arrival of thousands of prospective migrants to Minsk (from visas to logistics). After the arrival of the invited migrants, the Belarusian authorities make sure that the migrants reach the border and do not return to Minsk. Returnees are often met with violence from Belarussian uniformed service members. The crisis has been nicknamed a game of humanitarian ping-pong, with each side blaming the other for the tragic events that are happening on the Polish-Belarus Border (Human Rights Watch, 2021).

The context was a very specific one, mainly during the post-election unrest in Belarus and the second COVID-19 pandemic year, groups of undocumented migrants started crossing the woods from Belarus into Poland and the Baltic States. It is an agreed statement in migration studies that there is a challenge to obtain precise estimates of illegal crossings, so there is always a possibility of higher numbers than the official data (Fajfer, 2021). Below there are official numbers based on the data published by the Polish Border Guard on Twitter.

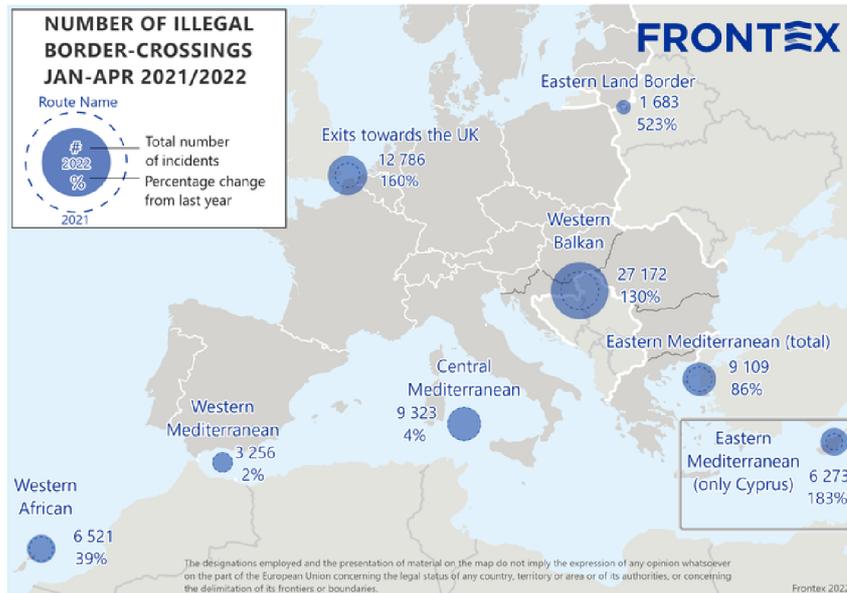
Chart 1 - Number of attempts to cross the border illegally



Source: Granica (2021).

The crisis intertwines global and regional politics, so to describe the context those two levels are analyzed. The 2021 Polish-Belarusian border crisis refers to the occurrence of violent incidents that accompanied the mass movement of people via 'the Belarusian route' since the summer of 2021 (Fajfer, 2021, p. 83).

Figure 2 - Number of illegal border-crossings



Source: Frontex (2022).

As explained above, the Eastern land border had a dramatic increase, comparing the years 2021 and 2022. Also, it is possible to visualize that after the Mediterranean and Greek routes lost their capacity, the Belarusian route became a viable alternative for undocumented migrants from countries that are in conflict such as Afghanistan, Iraq, Syria, and Kongo (Granica, 2021).

From the migrant's point of view, the violence committed by the Polish and Belarusian governments is almost identical: neither respects the dignity and rights of these people. Irregular migrants are stopped by the Polish officers and forcibly pushed back to the Belarusian side, where they are forced by the Belarusian border guards to enter again Poland. The result of being pushed back by both the Polish and Belarusian officers is that “female and male migrants spend weeks stranded in the forests near the border, exposed to cold and rain, without access to food, clean water, and medical assistance” (Granica, 2021, p. 12).

In conclusion, migrants have become trapped in the border area between barbed wire and military soldiers, or in this case, between Lukashenko’s regime and political game on one side, and Poland perpetrating violation of rights on the other. The Belarusians prevent migrants from returning to Minsk or their home

countries, while the Poles prevent migrants from entering and applying for international protection (Reuters, 2021).

#### **4.2. Securitization discourse by the Polish government**

Using the securitization theory described in the theoretical framework, this subsection gives a glimpse of the official EU and Polish discourse. To start analyzing, the official government's discourse to securitize migration has not started with the EU-Belarus border crisis, but a gradual development after the 2015 European Migrant Crisis, for example, in 2016 the Minister of Interior stated

“We will not succumb to pressure from those who wish to precipitate a migration crisis. Our policy is demonstrably different. The Polish border is sealed off completely. There is no war in Chechnya, unlike several years ago. . . . I perceive it as an attempt to create a new migration route for the influx of Muslims into Europe. . . . As long as I'm the minister of interior, as long as Law and Justice is in power, we will not expose Poland to terrorist risk” (TVN24, 2016, translated, pp. 5).

From the quote, it is possible to illustrate the attitude of the Polish government towards migration, refugees and asylum-seekers, who are depicted as Muslim terrorists threatening Poland. According to Klaus (2020), already in 2016, a clear (though informal) order for the Border Guard officers, subordinate to the Ministry of the Interior, to protect the borders from the menace by not letting in asylum seekers.

When it comes to the EU-Belarus border crisis, the official discourse is related to a crisis that has been happening at the border, "*The situation on the border with Belarus is a crisis*" the Polish prime-minister Morawiecki told a news conference in August 2021 (Reuters, 2021). However, in September is already possible to find the development of such a crisis on the official website of the Polish government confirming in September that the conflict "*is hybrid warfare*

*where the Belarusian state apparatus is cynically using the migrants, staging dangerous provocations against the Polish border guards and soldiers and conducting aggressive disinformation campaigns. EU and NATO, whose borders with Belarus are in fact the very borders of Poland, Latvia and Lithuania have with Belarus, share this assessment” (Poland, 2021).*

On 11th November, Paris, the Polish prime minister accused Belarus of “State terrorism” over its strategy in the influx of migrants on the EU-Belarus border (Politico, 2021). Mateusz Morawiecki made the comments during a joint news conference with European Council President Charles Michel in Warsaw. Interesting to note that a week later, Mateusz Morawiecki tweeted that Belarusian President Alexander Lukashenko,

“launched a hybrid war against the EU. This is the greatest attempt to destabilize Europe in 30 years [...] I want to assure you Poland will not yield to blackmail ... Let us stand together, let us defend Europe”. In a video entitled “we defend Europe”, Morawiecki assures that “For centuries, Poland has been guarding our common home. When invaders, tyrants, and later totalitarian dictatorships had to be confronted, we always stood on the frontline. This was Polish solidarity with other free world countries long before the EU and NATO were born” (Youtube, 2021, transcription).

The President of the European Commission, Ursula von der Leyen has described the influx of migrants on Belarus' borders with EU countries as a "hybrid attack" by an authoritarian regime on its neighbors. "This is a hybrid attack. Not a migration crisis" the Commission chief said on Twitter (Euronews, 2021, pp. 4)

On Twitter, at the beginning of the year 2022, the Spokesperson of the Minister-Special Services Coordinator, Stanisław Żaryn, stated that “The situation on the Polish-Belarusian border remains tense. The first days of the new year have shown that the Lukashenko regime continues its aggressive hybrid operation against Poland and the EU” (Twitter, 2022).

On 21st March, the same discourse continued, however at this time using the term hybrid operation. Stanisław Żaryn tweeted that “Stones, attacks on the Polish borderline, constant instability in the border area - (Belarusian President Aleksander - PAP) Lukashenko's hybrid operation is continuing” (Twitter, 2022). An important point here is to understand that the securitization and weaponization of migration are still in progress, mainly due to the idea that he inflicts that the border is being attacked by stones, creating instability in the border area.

### **4.3. International Law violations by the Polish government**

Before entering more details regarding the international law violations by the Polish government, this bachelor’s thesis will focus on the English term “pushback”, however in this context, the Granica Report (2021) uses the term “expulsion” (wywózka) to refer to mass and illegal expulsions of people rounded up in forests. A description of what is legal or illegal is below, together with a set of different violations at the border. The two main sources for this subsection are an Amnesty International report using digital technology confirming pushback practices by Polish authorities (Amnesty International, 2021). The Polish Helsinki Foundation for Human Rights concluded in a report that Polish authorities are engaged in pushback practices at the Polish-Belarus border (Helsinki Foundation for Human Rights, 2021).

During the rhetoric by the Polish government that said that on the Polish-Belarus border a crisis was happening, the Polish Minister of Internal Affairs and Administration issued on August 20th an implementation at “legalizing” expulsion (Human Rights Watch, 2021). According to the new regulation, people who have crossed the Polish border illegally are to be delivered back to the border, no exceptions would be tolerated, even people declaring they want to ask for international protection (asylum-seekers). An interview with Abdul, 20 years old, from Daraa, Syria stated that “I crossed many times to Poland but was pushed back to Belarus every time [by Polish border guards]. I was in the forest for eight days, in this no man’s land... I didn’t have food or

water for four days...” (Human Rights Watch, 2021). The statement above is evidence of the situation of the refugees that have been in this so-called ping-pong game between Belarus and Poland.

According to European Law, if any person is on the border, they should be allowed to enter the country’s territory, regardless of whether they are on the border, as long as they make a declaration in the presence of a Border Guard officer. This is referred to as “making an application for international protection” (Article 6(1)-(3) of the EU Directive on common procedures for granting and withdrawing international protection).

The same idea resonates in the so-called non-refoulement principle. This rule states that

“The principle of non-refoulement forms an essential protection under international human rights, refugee, humanitarian and customary law. It prohibits States from transferring or removing individuals from their jurisdiction or effective control when there are substantial grounds for believing that the person would be at risk of irreparable harm upon return, including persecution, torture, ill-treatment, or other serious human rights violations. Under international human rights law, the prohibition of refoulement is explicitly included in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED)” (OHCHR, 2018, pp. 1).

Also, the law prohibits sending a foreigner back to his country of origin (where his basic rights may be violated in other ways than the 1951 Geneva Convention persecution). On August 24th, the Polish Ombudsman concludes in a statement that the Polish border guards have violated the Geneva Convention Relating to the Status of Refugees, mainly by failing to accept an oral declaration of will from people wishing to apply for international protection (Granica, 2021). According to the Polish Commissioner for Human Rights, refugees came under

the jurisdiction of the Border Guard the moment its officers initiated any actions involving these persons, regardless of whether they were on the territory of Poland or not.

The crisis had been escalating and the Polish government was constrained regarding the management of the situation, not providing food and shelter for those people in need. On the 25th of August, the European Court of Human Rights stated that

“The Court decided, without prejudice to any duties that Belarus may have under international law regarding the situation of the applicants, to apply Rule 39 and request that the Polish and Latvian authorities provide all the applicants with food, water, clothing, adequate medical care and, if possible, temporary shelter. It clarified, at the same time, that this measure should not be understood as requiring that Poland or Latvia let the applicants enter their territories. The Court also noted that this decision was taken following the fact that the Contracting States have the right, as a matter of well-established international law and subject to their treaty obligations, including the Convention, to control the entry, residence, and expulsion of aliens” (Hudoc, 2021, pp. 1).

Moreover, the Polish Parliament passed an amendment to the Act of Foreigners and Certain Other Acts, which came into force on October 26, 2021 (the so-called “expulsion law”) that effectively gives legal cover for pushbacks. The Office for Democratic Institutions and Human Rights, OSCE (ODIHR OSCE), the Polish Commissioner for Human Rights, and the UNHCR publicly stated their discontent and negative reviews, regardless the expulsion law was approved (Granica, 2021). The European Council of refugees and exiles mentioned that

“Amendments approved by Poland’s parliament on 14 October allow for the ordering of a person entering “illegally” to be ordered to leave Polish territory based on a decision by the local Border

Guard chief. The legal changes are a response to the situation at the border with Belarus, where Poland has declared a state of emergency. While an appeal of such a decision can be launched to the commander of the Border Guard, potential appeals would not mean the suspension of the execution of the order to leave” (The European Council of Refugees and Exiles, 2021, pp. 3).

The provision enables the expulsion of migrants from Poland, even if they apply for international protection. This specific provision does not require authorities to examine applications for international protection submitted by migrants apprehended immediately after irregularly crossing the EU’s external border (Poland, 2021).

Furthermore, since October 27, the Border Guard data has included a new category: the number of decisions to remove a person from the Polish territory. From October 27 to November 10, such decisions were issued for 1098 people. It is clear the shreds of evidence related to the violation of international law regarding pushbacks, as official statistics are available on the internet (Human Rights Watch, 2021).

The new category is linked to entry into power of the Act of October 14, 2021, a statement by the spokeswoman of the Podlasie Border Guard, Katarzyna Zdanowicz shows that before October the Polish government also had statistics related to the number of expelled migrants, as she affirms

“In September, we recorded over 3.5 thousand attempts to illegally cross the border. In total, since the beginning of September, we detained 120 illegal migrants who crossed the Polish-Belarusian border. [...] [These persons] are instructed that they are illegally in our country and are returned to the borderline” (Granica, 2021, p. 18).

The Polish government policy violates the ECHR’s Art 2 (right to life) and Art 3 (freedom from torture), which may lead to procedures before the ECHR. It also includes a violation in the Charter of Fundamental Rights, article 18, related

to the Right to Asylum, expressing that any intent to seek asylum should be forwarded to the competent authorities (Human Rights Watch, 2021).

As mentioned above, the use of violence by the Polish border guards during the pushbacks and the ill-treatment is prohibited under article 3 of the European Convention on Human Rights (ECHR), and article 4 of the Charter (ECHR, 2021). The ECHR in article 3 and the Charter in article 19 also prohibit the expulsion of any person to a place where they face a serious risk of torture or other prohibited ill-treatment (ECHR, 2021).

The Polish pushback practices violate article 19 of the Charter and Protocol 4 of the ECHR, which both state unequivocally that collective or mass expulsions of aliens are prohibited (ECHR, 2021). The European Court of Human Rights has defined collective expulsions as “any measure compelling aliens, as a group, to leave a country, except where such a measure is taken based on a reasonable and objective examination of the particular case of each alien of the group” (Andric v. Sweden, 1999).

Another violation is the EU Returns Directive, which provides in articles 6 and 8 that expulsions can only occur if a return decision has been issued. According to the Human Rights Watch was a return decision issued by a competent authority before expulsion (Apnews, 2021). In addition, since Belarus suspended its readmission agreement with the EU, it is not possible to return migrants there lawfully (Apnews, 2021).

Furthermore, the right to family unity and the principle that any action involving children must prioritize the child’s best interest have been violated. In this case, the forcible separation of families and children under age has been happening due to the *deterrence* approach to migration (Human Rights Watch, 2021).

It follows the core principle of international law that every internationally wrongful act of a State entails the international responsibility of that state. It is well settled that an act of a State that breaches an international obligation will be

internationally wrongful, even if it does not contravene the state's own internal law (Gallagher & David, 2014, p. 281).

## **5. Conclusion**

This bachelor's thesis addressed the Polish government discourse on the Polish-Belarus border crisis and consequently the securitization of migration. The securitization of migration did not start with the crisis, however, the research outlined the ways Western countries have been securitizing migration and how this is connected to the current Polish discourse. Therefore, the hypothesis chosen to conduct the research answers the research question considering that "Poland violates the international law using the securitization discourse that has been emerging from the EU context and policies to manage migration crises".

To answer the problem of the research, the first chapter describes the theoretical framework to set the ground to continue the research. Therefore, the Securitization theory proposed by the Copenhagen School is the main theoretical postulation for the research (linking speech acts to securitization). The main conclusion in the first chapter is to show that the crisis would need to escalate much more to become a Hybrid Warfare, a concept that Poland has been often misusing.

The second chapter delineates the securitization and externalization process that has been happening in the EU and Poland since 2015. Due to the multiplicity of practices and the infinite variables inside and outside Poland, the chapter concludes that the ongoing securitization process happens on two levels: the supranational level and the national level. To continue to the third and last chapter, the research concludes that the main investigation is in the way the government has been securitizing migration and if so, how the Hybrid Warfare Discourse has been vivid and circulating among the Polish society.

The last chapter is the study case *per se*. The first subsection gives a background to the conflict and official statistics using technology to situate the gravity of the problem. The second subsection tracks down the discourses used by the Polish government, analyzing the use of hybrid warfare discourse. The last

subsection analyzes and describes the international law violations by Poland, mainly possible by the use of technology at the border and the engagement of different organizations to get a glimpse of the issue. The research shows that it is clear that the Polish government is using pushback against the refugees and violating specific articles that guarantee basic human rights. According to the ECHR, the mass expulsions of aliens are prohibited, however at the same time the only way to legitimize such action is through securitizing migration.

This research brings to light that Poland might have been under a hybrid threat, however, it should not be considered a hybrid warfare *per se*. According to the Hybrid CoE, the opposition to hybrid threats should have been based on utilizing the existing multilateral international law and legal order. Possibly when dealing with such a new concept, political and legal instruments, especially in the international environment are tools to counteract hybrid threats and protect refugee and asylum-seeker lives. It follows the core principle of international law that every internationally wrongful act of a State entails the international responsibility of that state. It is well settled that an act of a State that breaches an international obligation will be internationally wrongful, even if it does not contravene the state's own internal law (Gallagher & David, 2014, p. 281).

Meanwhile, Polish authorities have used the language of "hybrid war" to describe Belarus state actions in encouraging migration, and other EU states and institutions have followed suit. This rhetoric is used to justify a militarized response to a hybrid threat, legitimizing violence and pushbacks at the Polish-Belarus border. Unfortunately, it seems that the whole apparatus of the state gives legal cover for pushbacks (the legislative, the executive, and the judiciary). As stated in the methodology of the research, due to the lack of categorization and literature on the topic, this research entails further being the ground of specific research problems that the securitization of migration includes. Soon, the violation of refugee rights is about to increase due to the lack of compliance on an international level.

Unfortunately, what is often lost amid this politicized context is the fate of the human beings who are suffering as a result of the actions of both states. To

prevent further loss of life, and intolerable human misery, political and legal instruments are possibly more efficient than weaponizing unarmed migrants at the border. If the portfolio “Promoting our European way of life” is the European Union’s main goal, the institution should rethink the European way of life that should be promoted abroad.

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