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Securitizing migration in times of crisis: private actors and the provision of (in)security

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ABSTRACT

This article studies the securitization of migration in times of crisis: the 'crisification of migration'. In the past couple of decades, there have been three-time frames within the European Union in which insecurity has spread across the population due to a series of events such as terrorist threats, incoming massive refugee flows, or the spread of viruses threatening our health. These events have been marked by feelings of insecurity, reinforced by political and media discourses signaling a particular group of individuals as being the source of these threats to social and national security: migrants. The paper studies this process of 'crisification' of migration during the War on Terror, the refugee crisis, and the Coronavirus pandemic. It also studies the role of private actors in framing migration as a security threat and designing policies promoting instability, which later on justify the application of more restrictive measures and higher security controls. One of the most important consequences of these practices is the deterioration of the rights of migrants.

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1. Introduction

Securitization is not a new phenomenon, and in the field of migration this is no exception. However, in the 21st Century we have seen a new wave of securitization measures in this area due to a succession of events which have led to the categorization of immigration as a potential security threat. The first of these events was that in relation to 9/11, which amounted to what has by now been commonly known as the Global War on Terror. However, other movements have intensified the link between migration and security, such as the 'refugee crisis' of 2015 or the Covid-19 pandemic.

This paper seeks to analyse these three events within the context of the European Union, as they have been three clear moments in our century in which strong security measures have been established to contend or prevent immigration in the name of national security. Examples of these policies and actions have been related to the reinforcement of border control, harshening administrative processes to access asylum or refugee status, return or detention of immigrants, and a long etcetera. This article argues that in particular times, due to a succession of events that lead to instability, there has been a crisification of migration, understood as the treatment of migration as a security threat that can amount to what political actors call a 'crisis', a practice which has been extended over time and become an everyday practice. This then paves the way to justify the application of measures which securitize migration. Therefore, crises have become an abstract concept used to advance the interest of politicians and private actors. It is hard thence to differentiate between real threats and perceived threats, from real crises, to constructed ones.

Another important element to consider when referring to this crisification of migration is the role not only of political actors, but also of private ones. In fact, today's management of migration is strongly

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dependent on private actors (Bello, 2017; Bloom, 2014), from controlling borders to developing new surveillance technologies. In the past 30 years, the state is no longer the only actor providing security, but this is instead becoming pluralised by a range of national and transnational actors who are also managing and controlling the delivery of security (Krahmann, 2006). Today there are public authorities, non-state actors, and hybrid agents and actors in the sector. For the purposes of this article, when speaking of private actors, I will mostly be referring to private military and security companies. These are not members of national armed forces, but on the contrary are private business providing military and/or security services on a for-profit basis to paying customers. Examples of their services include the armed guarding and protection of persons, objects or places (such as detention centres or borders); the design, maintenance or operation of weapon/surveillance, or any other related technological systems; the provision of logistical support or the training of security personnel.

Therefore, the paper seeks to humbly contribute to current literature in two ways. Firstly, bringing the concept of 'crisification' to the field of migration and studying whether we can talk about the crisification of migration in today's practices at the EU level. Secondly, to analyse the role and dynamics of private actors -mainly private military and security companies- in this crisification of migration in the context of the European Union.

The urgent need to respond to a 'crisis' with wide, strong, and reinforcing measures has also helped expand the private security business, as states are incapable of providing such an important extent of defence and security operations. What is particularly interesting in this sense though is that these private actors -mainly private military and security companies (PMSCs)- do not only provide services, but they are also taking an active role framing and designing those policies and programmes which will later on foster the image of the migrant as a security threat from which societies need to protect, and which therefore need of their services to contend.

The article will start with an overview of this connection between migration, security, and emergency measures as a response to crises. It will then analyse the three-time frames in which this crisification of migration has been used, namely the War on Terror, the 'refugee crisis', and the SARS-CoV-2 Pandemic. In the fourth section, the implication of PMSCs in these three given time intervals will be presented to show that they are not only providing their services, but they are also actively framing migration as a security threat and designing policies which later on develop into needing their services and expanding their businesses and economic profits.

2. Migration, security, and emergency measures

Academic literature suggests that we have been living through an era of multiple crisis (d'Aspremont, 2021). And in light of the mobility turn that the new century has faced, a 'new mobilities' paradigm has emerged (Sheller & Urry, 2006). New places and new forms of travel are making movement easier across regions, but new technologies are also facilitating control over these movements. While there is a wide and expanding literature on the securitization of migration, this paper would like to shed some light and raise awareness on the important role that private actors have in these processes. And not just by offering their services, but also participating in negotiations and policy design. Their influence over the law-making process helps understanding their fundamental role in continuously connecting migration not just to security but to a state of crisis, and therefore promoting the 'crisification of migration' in the EU.

In this article, I will therefore focus geographically on the European Union. There are two main reasons for this. Firstly, it is in the EU context when there have been three clear timings in the 21st Century when migration has been presented as a crisis. This is not to say that other important migratory flows have not happened elsewhere. But it is in the EU context when the second of these waves (the so-called 'refugee crisis' of 2015) was designated as a crisis by the same EU institutions, which also responded with security measures that framed it as such. And while there are migrants incessantly arriving at EU borders by land or sea and we could define many other periods of potential 'crisis', this article wanted to analyse those which can generally be accepted to be the largest crisis with a strong impact for migration of the current century. Secondly, we have also seen that since the first of this crisis that are analysed here (the War on Terror) there has been both acceleration in the ways in which migration measures are approved

at the EU level, but there has also been a quantitative increase in those measures linking migration to security over time. These are both signs, as it will be explained, of this 'crisification of migration'.

The three-point time frame that will be studied in the context of a crisis are the aftermath of the 9/11 events, the 2015 migratory crisis during which millions of migrants arrived in EU's territory, and the Covid-19 pandemic. While the second of these crises has been said to be largely a construction of media and political discourse (Desmond, 2023), it was still a period of disrupted normality and stability in the EU.¹

A state of 'crisis' has somehow been normalized at the EU borders, allowing the adoption of migration measures that through humanitarian language have been, in reality, directed to preventing people from entering the EU (Davitti & Fries, 2017). The measures and practices used by the EU to control and refrain migration are thus hidden behind a humanitarian language. The EU wants the citizenry to believe that they are designing measures for the welfare and protection of migrants when, in fact, there is increased militarization, privatization and externalization of migration control.

These crises then consolidate the framing of immigrants as security threats. Whether this is due to high numbers of migration flows or other security concerns, the language used to identify, frame, and justify the need for exceptional measures contribute to dealing with migration as a security threat that needs to be contended through national security measures. During the so-called refugee crisis, migration movements were framed as a security threat that also led to an unprecedented humanitarian emergency. In other times, such as that after 9/11, immigrants were pointed at as being the cause of terrorism.

This framing of migration as a security threat is what the Copenhagen School argues that allow governments to suspend legal constraints in the name of security (Buzan et al, 1998). The process understood as the securitization of migration comes from the power to declare something -in this case, migration- as a security threat, and therefore allow the design of policies (Panebianco, 2020) and practices (Léonard & Kaunert, 2020) to contend it. There are different methodologies to analyse securitization processes. While the Copenhagen School has done so through speech acts (Buzan et al, 1998; Bourbeau, 2011), other authors have also studied the construction of threats through visual representations (Williams, 2003; Hansen, 2011), bureaucratic practices (Huysmans, 2011), or through the application of 'everyday practices' or a 'continuum of practices' (Bigo & Tsoukala, 2008; Léonard & Kaunert, 2020). Finally, there is also the idea that narratives are the ones to spread these negative perceptions and foster the idea that migration is a threat in a spiralling progression (Bello, 2020; 2022a). This paper will draw upon those theories considering both the design of policies and practices which advance the securitization process but from the analysis of the role of private businesses.

Most of the work on the securitization of migration has long been centered on the role of states or related governmental institutions or in which states play an influential role (Squire, 2015; Karamanidou, 2015). And while there have been interesting analyses of the role of non-state actors, a big part of the literature has been centred on organisms like FRONTEX (Neal, 2009; Léonard, 2010), NGO's rescue operations at sea (Cusumano, 2019), or the activities of detention centres in Southern Europe (Bello 2020; 2022b). This paper would like to contribute to the remaining gap, that in relation to the role of private actors in securitizing migration and fostering a sense of living in a continuous crisis since the events of 9/11. Since then, practices dealing with migration as a security threat have become common and have rather increased, fostering a negative image of the immigrant. The continuum in these practices has connected one crisis to another, and further spread the vision that we are living in a constant state of insecurity. There has been a 'crisification' of migration.

There are different ways to express a moment of disorder, anxiety, fear, or crisis. Ophir (2010) uses the term 'catastrophization' from cognitive psychology and which designates a 'specific, mildly negative event having global and negative implications for one's view of the self and/or one's future' (Stope & Clark, 2000) to describe an interval between a catastrophe occurs and which allows the appearance of moral urgency and political manipulation. More specifically, he refers to the governance based on the prevention of an imminent disaster (Ophir, 2010). While securitization often describes the management of specific risks (Serres, 2019), catastrophization is an entire policy-framework designed to monitor the unfolding of a single existential disaster. It is invoking an issue out of the normal democratic debate and to a life-and-death level (Warner et al, 2022). This is not the case of the present study. While migration has been presented as a security threat over time, it has not reached the level of a catastrophic condition

for the state. However, studies like the one of Warner (2013) or Ophir (2010) also show this intent by state and non-state actors to advance security measures and increase the public's perception of insecurity and instability.

While Buzan et al. (1998) introduced securitization theory as that process by which an existential threat is presented and therefore allows the application to extraordinary measures to deal with it, as it has been said, the understanding of this process has varied over time and through different views. However, the idea of securitization as a security frame that presents an issue as a threat is maintained. Surprisingly, security studies and crisis studies have not been often connected. It was not until Narby (2010) and Paglia (2018) connected securitization to crises, that the term 'crisification' emerged. As explained by Warner and Boas (2019, p. 1474) 'Crisis is an important 'signifier of threat': labelling situations as crises and emergencies, using the rhetoric of calamity, lifts them out of the ordinary and signals the need for quick action, bypassing customary political avenues'. Under this view, a crisis can be used as an opportunity to push policies that were at the queue of an agenda and therefore welcome a change that would otherwise be harder or take longer to progress. However, they can also be used to serve political instrumentality, and thus advance measures that escape normal democratic procedures in the name of security.

Rhinard (2019) explains this idea very clearly. He argues that the European Union is now following a crisis-oriented methodology that is seen in its everyday policy-making. As times of crisis allow for faster policy speed, tools like early-warning systems, special protocols or abbreviated procedures are becoming more common. And every time there is a potential emergence of a disturbance or risk, these are the measures used to address them. Rhinard further argues that these changes are what amounts to a 'crisification of European policy-making', a change in the nature and way in which collective decisions are made at the EU level (Rhinard, 2019) and which shows how urgency and crisis can become the norm rather than the exception (Huysmans, 2006). This literary framework is the basis of the understanding of crisification for this paper and will be useful to further contextualise the ideas expressed in this article.

Following up on Rhinard's definition, for the purposes of this paper, the crisification of migration can be understood as the ways in which decisions are made in the field of migration to respond to an emergency, applying exceptional measures to contend the 'threat' that is migration, on a routine basis. This continuous sense of insecurity, connecting one crisis to another, further legitimizes the application of fast-track measures. In sum, the crisification of migration becomes a vicious circle in which discourses create a sense of insecurity which then practices try to address. And this crisis-oriented response, connecting one crisis to another, ends up becoming a routinary *modus operandi*.

Terrorism has become one of the main justifications to securitize migration in the past twenty years. The EU has systematically highlighted the 'ever-increasing cross-border/cross-sectorial dimension of the threat' (European Commission, 2020), securitizing both terrorism and migration to protect from these so-called 'external threats' that have preoccupied both national and international agendas for the past years. The framing of terrorism and counterterrorism measures as a transboundary security threat have blurred the distinction between internal and external security (Shepherd, 2021).

The attacks of 9/11 were the start of a new wave of securitization measures in the field of migration. But they also changed the traditional understanding of terrorism as a national security threat managed by domestic authorities to an international, more global one. These events, along with those attacks in Madrid in 2004 and in London in 2005, led to a 'collective securitization of terrorism as an international threat affecting all EU states' (Shepherd, 2021). And as over the years these attacks continued in Western countries, the EU consolidated its discourse of making terrorism a transboundary threat. In fact, some will argue that the commercialization of security reached its summit in Iraq, as a result of both the events of 9/11 and globalization (Bryden, 2006).

These discourses have resulted in a process of externalization and privatization of migration (Davitti, 2019). The externalization of European border control can be understood as the process by which states or supranational actors complement their policies to control migration across their territorial borders with operations that want to reinforce such control beyond their territories (Boswell, 2003). What seems to be clear then is that European countries have framed migration as a security issue, externalizing borders and making them militarized sites to control and impede the entrance of those escaping conflict amid humanitarian circumstances. The EU and its member states have masked these practices through

a double-faced discourse. From the one hand, the need to protect from an external security threat -migration-, camouflaged behind terrorism. And terrorism is such an evident and catastrophic danger, that it makes it easy to convince the population that restricting measures are needed to protect the citizenry and the nation against it. From the other hand, a humanitarian discourse in the name to protect refugees from abuse by smugglers and traffickers, that camouflages the real intention of states which is to keep this group of migrants away from its borders.

An example of this is the way the EU has exploited the idea of a 'safe third country' and of making readmission agreements with non-EU countries of transit and origin, showing the EU's power to externalise borders and keep unwanted migration outside of its territory. And the language used to frame these situations as 'emergencies' also fosters the idea that immediate action is required, leaving no time for the analysis of the appropriateness of some of these solutions and no room for identifying long-term solutions.

When it comes to privatization, what we see in the EU is that private companies have a strong influential role in setting the migration control agenda. They have long played an important part in developing surveillance technologies and offering services to control migration, but they are also participating in this border externalization. An example are private contracts with North and Sub-Saharan African actors that are helping keep migrants far from EU shores (Naranjo & Molnar, 2020). The practices of private businesses are raising complex legal and ethical issues on migratory control, but these companies should ensure that their technologies do not violate international human rights law. As their influence in policy-making is reinforced, the interests of vulnerable groups seems to be more overlooked.

In the following section, I will explain the ways in which the EU has securitized migration in times of crisis, through a political discourse that fosters the 'need' to protect from this 'external threat'.

3. Threefold temporal comparative study

This section will explore the process of securitizing migration in the context (or under the justification) of a particular 'crisis' in the European context. The three cases -that of the War on Terror, the 'refugee crisis', and the Covid-19 Pandemic- have been recent moments in time in which there has been a clear treatment of immigration from a security perspective. As it will be seen, following different justifications such as for instance the need to protect from the terrorist threat, political actors have willingly established a connection between migration and security. This way, the advancement of higher control measures has taken place, increasing the control of the state over the population and in particular over immigration, and diminishing their rights in the name of national security.

3.1. The war on terror

The events of September 11 changed not only the security strategies of the US, but also of the European Union. As Kauner and Léonard point out, the EU had almost no engagement with counterterrorism activities, but the 9/11 attacks were a turning point as there was an impressively fast reaction from the EU and its member states which included emergency meetings, the start of counterterrorism cooperation with the US, and a wide-range plan of action for combatting terrorism (Kauert & Léonard, 2021).

As the International Organization for Migration (IOM) states, after the 9/11 attacks, 'migration became more strongly linked to national security issues. In the wake of the 9/11 attacks, measures aimed at preventing terrorism were often explicitly linked to immigration policies' (IOM, 2010). Politicians and extreme right political actors have linked terrorist attacks to mass immigration. And although they blame immigration for other economic, criminal, and social problems of their countries, the terrorist discourse has been an especially forceful one as it strongly arises fear among the population, which can lead to justifying the application of extraordinary measures. Therefore, these discourses pave the way to securitize migration and legitimise the state to introduce restrictive policies. The terrorist discourse, and especially when used after terrorist attacks have taken place, is as a strong one to reach this goal.

Immediately after the September 11 attacks, the members of the EU called an extraordinary meeting at the European Council in which they classified terrorism as a 'real challenge to the world and Europe'

(European Council, 2001). Their policy response constructed this clear link between the terrorist threat and migration, asylum, and border control, focusing on seven key 'measures at borders' (European Council, 2001). Later on, the Madrid Declaration on Combating Terrorism further contributed to reinforcing this connection (European Council, 2004). The EU Counter-Terrorism Strategy (Council of the European Union, 2005) launched in November 2005 continues on the same line, defining the 'openness' of the EU as problematic, as it set an environment that terrorist used in their advantage to pursue their objectives. Border controls were signalled as one of the most appropriate responses to the terrorist threat, and other policies in relation to enforcing migration and asylum control were designed, again, as a response to the terrorist threat (Baker-Beall, 2009).

One of the measures which was later on approved to control immigration was the Return Directive 2008/115/EC (hereafter Return Directive). This was reframed in 2018 with a new Return Directive. However, I will shortly discuss some of the critiques of the first document, as that was the one designed before the refugee crisis and just a few years after the 9/11 attacks, in a time when migration was already being securitized in the European Union, establishing this nexus between the migrant and criminality.

The Return Directive was approved in June 2008 by the European Parliament with the intent to lay down a set of rules and procedures for all Member States to return illegal immigration to countries outside the EU. For the first time at the EU level, this Directive established mandatory return decisions. After an initial voluntary departure period, if the deportee has not left the country, a removal order can be issued by a judicial authority and then place the individual in custody before being deported. The time in custody is also one of the other policies that changed, as there is a maximum period of six, but extendable to another twelve months. This led to Member States changing their domestic laws. France, for instance, extended its maximum length of detention of 32 days to 45 through Law No. 2003-1119 of 26 November 2003,² after the Return Directive was passed. This Directive also included additional grounds for detention in Article 18 and the risk of absconding in Article 6. The latter has allowed Member States to include open-ended lists of criteria which allow easier means to justify the detention of migrants.

When examining the private sector, intervention in Afghanistan was also one of the landmarks of the time. Private security companies started having an important role in the War on Terror and have since then been used to deal with terrorism, border control, and to deal with migration. Blackwater and Dyncorp went to Afghanistan to guard the CIA headquarters and US Embassies respectively (Brooking, 2011). And since the post-9/11 surge, Pentagon spending on security has only risen. US weapons contractors Lockheed Martin, Raytheon, General Dynamics, Boeing, and Northrop Grumman alone have received one-quarter to one-third of all Pentagon contracts between the fiscal years of 2019 and 2020, worth \$286 billion (Hartung, 2021). However, other companies have besides weapons manufacturers have also benefited from the build-up of the War on Terror in the past twenty years. Logistics and reconstruction firms like Kellogg, or private security companies like Blackwater and Dyncorp have been often contracted to provide security services in the US and abroad.

But most importantly, private and military security companies have since then also increased their influence in decision-making. The industry has spent \$285 million in campaign contributions since 2001, specially for presidential and congressional candidates, and another \$2.5 billion on lobbying (Auble, 2021). As noted by Hartung, 'not only do former government personnel go into industry, but industry personnel frequently take influential positions in government' (Hartung, 2021).

After September 11, PMSC's filled two important gaps in fighting the terrorist threat. From the one hand, there was the need to rapidly respond and engage in high-intensity counterterrorism missions across the globe. From the other hand, there was a critical shortage of the resources and capabilities needed to fight the terrorist threat. PMSCs were able to fill these gaps by offering their services. Therefore, they did not only provide security for military bases or diplomatic bodies abroad, but they were also ready to offer counterterrorist services, and thence became an important instrument as part of the War on Terror (Hlouchova, 2020). And as years passed by and the need to provide services to fight terrorism was not as intense as before, but they were able to consolidate their operations through consultancy, physical security of posts, border control, and other related activities.

The terrorist threat was a powerful argument to justify the need to apply harder security measures to protect from an external threat. Since the perpetrators of 9/11 and other terrorist attacks were from a

particular ethnicity and origin, securitizing actors used these characteristics to identify those migrants with Muslim origin as an external threat from which countries needed to pay particular attention. The vulnerability and shock of the population after a terrorist attack paved the way for them to advance securitization measures, as the citizens agree with the urgent need to increase border control to prevent further 'external attacks' from happening. They are willing to lift some basic rights and especially those of migrants- in the name of national security. Altogether, this makes the perfect scenario for the discourses of right-wing parties to gain more relevance, and for private security companies to increase their benefits as they are the ones providing these security services which are urgently needed.

3.2. The refugee crisis

The death of 1850 people in the Mediterranean trying to reach European shores during the first half of 2015, led to the adoption of the European Agenda that same year, as a way to respond to the refugee 'crisis'³. However, there are different ways to understand this crisis, and more than a humanitarian crisis affecting refugees it also became a way for EU states to entrench their sovereignty and put obstacles to multilateral cooperation while weakening migrants' rights. I will hereby follow the view of Alan Desmond and consider this a 'migrants' rights crisis' more than a 'refugee crisis', as most EU politicians described it (Desmond, 2023).

As explained in [Section 2](#), and even though there have been different interpretations of the events that led to what has been subsequently called as the 'refugee crisis' of 2015, in a way there was this disruption of normality which can be seen as a crisis. It can be more of a crisis of rights than of refugees as such, but their rights were in fact impoverished after the application of emergency measures in the intent to contend migratory movements incoming in the EU. And this so-called migratory crisis was not an isolated crisis concerning only migrants, but it also existed alongside other crisis such as the earlier financial crisis, which fed and exacerbated the events of 2015. The vulnerable economic situation of Greece and Italy was made even worse since they were at the frontline and were countries that receive important numbers of migrants in 2015 through sea.

At the beginning, these two countries had the pressure to cope with migrants' arrivals, as they were their first points of entry into EU territory. However, since over a million migrants were entering the EU in 2015, Greece and Italy needed further assistance and the Council of the EU responded with two emergency temporary relocation decisions (Council of the EU 2005) on the basis of Article 78(3) TFEU. These decisions required member states to cope with the transfer of 160,000 asylum seekers. Some states declined more fiercely than others,⁴ but there was a general unwillingness by EU member states to accept migrants.

As a response to the crisis, the European Agenda of 2015 was approved, describing the necessity of 'saving lives and securing external borders' through border management. Some of the actions designed to this end were to expand both the capability and the geographical scope of operations Triton and Poseidon, reinforce Frontex, and implement the 'Smart Borders' initiative. It was also argued that the reinforcement of borders within the EU, would also make it easier 'to support third countries developing their own solutions to better manage their borders' (European Commission, 2015). And while these were part of the strategies developed by the EU, member states also started adopting unilateral measures to refrain further incoming migration. As an example, Italy and Malta began closing their ports to private rescue vessels with migrants on board in 2018 (Miner, 2018). In addition, the EU-Turkey Statement of 2016 (European Council, 2016) 'established new ways to bring order into migration flows and save lives' (European Commission, 2016) as if solely based under humanitarian justifications. The EU-Turkey deal has risen critiques on issues related to non-refoulement and other refugee rights, but as it will be seen in [Section 4](#), it has also brought concern on the way in which the EU implemented this deal following private interests.

Another measure to consider in the process of securitization of migration at the EU level is the Common Security and Defence Policy (CSDP). This instrument has been used to tackle the migration crisis as part of the 'Europeanized externalization process of migration policy, which means transferring the management of migration policy to the countries of origin and transit by the European Union' (Molnár & Vecsey, 2022). One of the objectives of the CSDP operations is to identify, capture, and destroy

vessels used by smugglers. And while the CSDP was an external military instrument up until 2015, the refugee crisis expanded its missions to manage migration besides Frontex, fitting a wider comprehensive migration policy (Biscop & Rehl, 2016). Overall, the different measures applied by the EU to handle border management have been directed towards externalizing the crisis and to reinforce military solutions to control migration.

While the situation in the southern borders of countries in the European Union was depicted as a humanitarian emergency, the peoples involved in this crisis were at the same time being portrayed as potential security threats. This may be more clearly seen in political and media discourses, rather than in the language used in official EU documents. And while some officials would still hold that these measures were designed to protect incoming refugees and asylum seekers, there are many examples of politicians across Europe showing the consideration of these very same peoples as external threats.

As an example, former French Interior minister Claude Gueant said in 2012 that immigrants are 'two to three times more likely to commit crimes than average French nationals' (Borrud, 2012). The National Front, with Marine Le Pen at its front, has also often linked migration to insecurity, presenting them as existential threats to French society.⁵ In Poland, immigrants were also presented as security threats connected to terrorism and lowering the security of the country, as suggested in the discourses of Korwin-Mikke, leader of the KORWIN party (Podgórska, 2019). In Switzerland, the Swiss People's Party (SVP for its German initials) campaigned against immigration and to change asylum law as they saw immigrants as 'threatening the very identity of the country' (Sciolino, 2007), and proposed to deny asylum to 'criminal asylum-seekers' for those who were coming from countries which were at war (Casagrande, 2012).

At the EU level, discourses linking immigration to security were also seen more often during and after the so-called refugee crisis. However, the EU has referred to this migratory crisis as 'growing flows of illegal migration' (European Council, 2015), 'unprecedented irregular border traffic' (European Commission, 2016), or 'migratory challenge' (European Commission, 2017), detaching the language from the humanitarian aspect and instead centring these movements in relation to irregular migration and insufficient control over EU borders (Stępką, 2022). The terrorist threat only aggravated these discourses, as the possibility of terrorist entry into Europe was framed as a mobility problem due to insufficient border management. Immigrants were not directly pointed as the source of terrorism, but the control of risky movements into the EU was brought up as an important security issue that needed of harder measures, and further contributed to the internal-external security axis.

The case between migrants' rights or states' sovereignty protection is therefore not easily resolved. While there have been some important rulings at European Courts to favour migrants' rights, subsequent judgements seem to be going towards the other direction. There are two important rulings from the Court of Justice of the EU (CJEU) and the European Court of Human Rights (ECtHR). The first is the *Zambrano*⁶ ruling. In this case, the CJEU ruled that Article 20 TFEU on EU citizenship obliged member states to confer legal status on unlawfully present migrants on account of the rights of their static EU citizen children. However, later on, the same Court began applying this case in a manner that favoured state power on migration control and EU citizenship (Kroeze & Van Elsuwege, 2021). The *Hirsi*⁷ ruling, on the other hand, concerned those interceptions of migrants in the high seas and forced return to the country where they had departed before they could reach European seas. In this case, it was Italian authorities the ones who captured these vessels and returned them to Libya. The ECtHR found that Article 3 ECHR had to be complied with even when migrants were intercepted in the high seas, and that there also had to be an assessment of migrants' personal circumstances before expelling them, following Article 4 of Protocol 4 to the ECHR. However, over time it has appeared that these obligations have been interpreted in a way that relieves states duties (Desmond, 2023). For instance, in the recent circumstances of 2014 in which 600 people attempted to cross Spanish borders through the fences separating this country from Morocco in Melilla, the CJEU found that the action to take these migrants and force them to return to Morocco handcuffed was not in violation of the prohibition of collective expulsion.⁸

The discussion between the proportionality of security measures to control or refrain migration from reaching EU territory and the violation of the rights of migrants is an important one when talking about a 'crisification' of migration. As in the case of terrorism, during the so-called refugee crisis, there were also many policies and measures designed to obstruct the arrival of immigrants or return them to origin or transit countries. More than the protection of the individual, what seemed to prevail was the interest

of nations to keep this 'problem' outside their borders, even though this has cost the lives of thousands along the way.

3.3. The SARS-CoV-2 pandemic

No one has forgotten the impact of the SARS-CoV-2 (Covid-19 hereafter) pandemic and the way it interrupted normality. One of the measures which was more quickly and severely implemented was the closure of borders. In this sense, scholars have argued whether these restrictions respect human rights.

In the case of the rights of migrants, Vincent Chetail has argued that 'no public health consideration can justify a denial of access to a territory without proper safeguards to guarantee the best interests of the child and to protect against *refoulement*, collective expulsion and discrimination' (Chetail, 2020). This is due to the fact that tribunals have consistently argued that general prohibitions or collective expulsions are incompatible with the principle of non-refoulement, as removals must be taken on the basis of a reasonable and objective examination of the individual case.⁹ There is, therefore, not only the principle of non-refoulement, but also a right to an individual assessment of the case, and the prohibition of collective expulsion (Chetail, 2020). Therefore, the massive closure of borders even in times of pandemic could be seen as a violation of human rights. Therefore, even though the challenges that Covid-19 brought were many, it could not nevertheless become an excuse to close borders at the expense of migrants' rights.

But one important difference to consider is that between entry restrictions and entry conditions. Entry restrictions are those entry bans for foreigners from certain countries or even total border closure. However, entry conditions are partial restrictions, that is, specific requirements which the individual must meet to be given admission in the country. These entry conditions can be medical requirements, quarantine, medical screenings, etc. It is important to differentiate between the two as entry restrictions are prohibited -as explained before- while entry conditions fall under the states' right and duty to protect public health and were consistent with the World Health Organization recommendations for international traffic during the pandemic (WHO, 2020). With entry conditions, countries could still carry out immigration and asylum processing, as interference in the rights of migrants would be proportional and due to a justified cause, and not fall on a discriminatory basis.

Nevertheless, what we have seen many times is a border orientation based on restriction which was already in place before the outbreak of the Covid-10 pandemic, but which has been in part reinforced during this health crisis through externalization. The War on Terror and the refugee crisis were already contexts in which states externalized migration, reinforced border control, and placed immigration as a security threat. The Covid pandemic did precisely the same, only that now migration was a security threat related to health, but still closely related to the security of the state. As put by Michael Kenwick and Beth Simmons, 'the pervasive use of external border controls in the face of the coronavirus reflects growing anxieties about border security in the modern international system' (Kenwick & Simmons, 2020).

This closure of borders in times of security crisis -due to the terrorist threat, health viruses, etc.- seem to be characterized by political calculations. They are a response to a perceived threat, a reaction to a feeling of fear, but it is not clear that they are grounded on the most adequate measures to respond to them. Instead, politicians seem to increase their power over areas over which they feel they have lost control. The citizenry, feeling insecure after an immediate attack or surge, are more willing to give up part of their freedom in exchange of higher security means. And while during times when fighting against terrorism, the security threat was placed among migration -and specially directed towards refugees and asylum seekers-, now this narrative of a 'dangerous other' was being used for those coming from abroad again.

An example of this externalization through border control or border restrictions is the fact that 186 countries responded to the Covid-19 outbreak through border restrictions, while only 127 countries enacted social distancing provisions (Cheng et al., 2020). Countries have increased their border orientation and are using more often this means to defend themselves from external threats rather than coordinating and cooperating internationally. There is a tendency towards unilateralism, and all of these issues like international terrorism or pandemics -which have a clear international approach- are dealt with as a national security matter. There are multilateral measures in place, but unilateral ones are most prominent

and more quickly adopted. This does not mean that certain control over migratory movements was not necessary or useless during the pandemic. However, the argument of this paper is that this 'crisification' at given times in history has been used to further the control of particular groups such as migrants and justify the application of restrictive measures, going beyond what would be strictly necessary or proportional.

Furthermore, the Covid-19 pandemic overlapped with the still ongoing refugee crisis, two elements which combined formed an important part of the discourses of right-wing populist political parties. For instance, Viktor Orbán, the Prime Minister of Hungary, spoke of a 'two-front war (...) one front is called migration, and the other one belongs to the coronavirus' (Al Saba, 2020). He further argued that there is a strong connection between the two, as migration is the movement spreading the virus. This fosters the idea that the foreign, the migrant, the 'other' is an external threat from which the country needs to protect. Migration has thence again been labelled as an existential threat to public health and economic stability (France24, 2020). And this designated existential threat set the grounds for securitization. The Coronavirus pandemic was therefore no exception to these cases in which political actors use feelings of insecurity to pass policies that would not otherwise be agreed upon.

4. Conclusions

When the immigrant was presented as a potential terrorist, society had to be protected from this transnational movement that could contaminate and attack our societies. During the refugee crisis, the migrant could take advantage of healthcare and other public services. And in the times of Covid-19, they were the ones to spread the virus across borders. These ideas, presented in political and media discourses, have extended the perception that migrants are security threats. They have also justified the application of security measures, restricting the rights of these groups with the argument to secure national security.

These discourses alone are not the only element leading to the securitization of migration. These events are usually accompanied by financial difficulties such as economic crises or new terrorist attacks. It is in the context of a combination of factors that lead to insecurity that the notion of 'crisis' is constructed. In the European Union, we have seen how this crisification of migration has 'succeeded' in times of hardship and uncertainty, and when the population was feeling at risk.

Some of the measures to contend immigration are passed after declaring a state of emergency as a response, for instance, to a terrorist attack. In times of emergency, there can be restrictions on certain rights. Nevertheless, the principles of proportionality and necessity need to be balanced. Instead, what is seen in some cases is an extension of this state of emergency risking international human rights law. In the case of France, for instance, the state of emergency was declared after the November 2015 attacks and was extended five times until two years later. Instead of protecting the population, in this case, what we see is an increase of stigmatization and political and social marginalization of certain groups of immigrants or peoples of migrant origin (Kilpatrick, 2020). And the portrayal of terrorism or the coronavirus as a security threat, when supported by public acceptance, results in emergency measures like border or even internal mobility controls which can become longer-term aspects upon which future securitization measures on migration can be constructed (Byaruhanga, 2020).

But even when the state is not in the context of a state of emergency, there is a continuous externalization of borders, meaning that forcibly displaced persons are confronted with harder security measures that refrain them from seeking refuge. And even when they do, they then face detention and deportation. Nevertheless, their lives in their countries of origin are so threatening, that refugees and asylum seekers will continue trying to reach a safe place, showing that closing migration routes will not refrain them from trying. Instead, they end up shifting to other even more unsafe alternatives. They move through more dangerous routes and they are driven into the hands of smugglers looking for help to cross borders, which in turn increases the creation of criminal networks. Since 2014, there have been almost 27,000 missing migrants recorded in the Mediterranean (Missing Migrants Project, 2023).

As this paper shows, the privatization of migration has had a great impact on the design and implementation of migratory measures. The European Security Research Programme was very much influenced by PMSCs, making their vision of security dominant in the programme, from which they have continuously benefited. At the core of the EU, it is still believed that these companies are necessary to provide

'solutions' to 'security threats' like migration or terrorism. As long as the market is open to private providers of security, good governance must be ensured at the local, regional, and international levels (Bryden, 2006). We need to ensure democratic supervision of the EU's security research programmes, projects, and policies, and those participating in them is crucial to ensure that the outcomes of these initiatives is designed to benefit the individual and society, and not the private sector.

Instead, what we see is that there has been a normalization of the use of PMSCs in the context of migration, as the increased need to provide security services and improve technologies has paved the way for these companies to expand throughout and reinforce their role as security guarantor. As it has been explained earlier, PMSCs include a broad variety of providers and services ranging from armaments corporation to risk consulting, and only a limited section of these businesses are subject to specific legislation (Krahmann, 2006). States use PMSCs to provide an important amount of security services under the umbrella of national security. Defence budgets also increase and, in turn, the benefits that these companies perceive has also seen major expansion. However, one may wonder whether these new surveillance technologies and border control equipment really make us safer or, on the contrary, only serve to instil fear and suspicion, making it harder for immigrants to integrate in host societies.

If we think of security as a common good that is shared between the public and private sector, we may fall into a dangerous privatization of security which promotes the enhancement of higher security controls and growing feels of insecurity rather than the aspirations of a life without threats. Using private services in the field of security and defence is not necessarily a bad thing. But when these companies participate in the design of laws and policies, they will very likely push for measures that result in higher economic profits. And instead of tackling social phenomenon like migration and terrorism with economic and social policies, trying to redress the root causes of these movements, PMSCs will prefer to qualify them as 'security threats' and advance in higher security mechanisms to prevent them.

The current article wanted to analyse the idea of 'crisification' in the field of migration and see the influence of private actors in these practices in the context of the European Union. As explained in a report by Statewatch and the Transnational Institute, 'the EU is always keen to proclaim its origins in and ongoing commitment to upholding peace, human rights, democracy and the rule of law, and promoting diplomacy and soft power over militarism and war. Upon closer examination, however, the bloc's spending priorities make clear that its identity as a political project is shifting' (Jones et al, 2022). Since 9/11, there has been a noticeable expansion of national and international security mechanisms which has by now been normalized. The intensification of externalisation and privatization measures has been used in the name of the War on Terror, as a contention response to the refugee crisis, the latest case being the Covid-19 pandemic. Today, these measures have become everyday policies integrated in our societies and which many believe to be necessary for the normal functioning of the state. Instead of focusing only in ways to increase national security, we should also be finding ways to secure the rights of the most vulnerable groups in our societies.

Notes

1. This will be further discussed in [Section 3.2](#).
2. Law 2011-672 of June 16, 2011, on Immigration, Integration and Nationality, published in the country's official gazette on June 17, 2011 (Loi n. 2011-672 du 16 juin 2011 relative à l'immigration, à l'intégration et à la nationalité).
3. Some authors have argued whether the situation at the time amounted to a crisis. They believe that the situation was mainly self-induced and was a way to justify the application of the securitization measures that this paper describes. In this paper, I will not discuss whether there was in fact a refugee crisis or not, but I will analyse the measures that were designed and applied as a result of treating incoming refugee flows as such. To read further on the discussion on the declaration of the situation as a crisis, see Roth, K. 'The Refugee Crisis that Isn't', *Human Rights Watch*, 3 September 2015. Available at: <https://www.hrw.org/news/2015/09/03/refugee-crisis-isnt> and Andersson, R., 'The European Union's migrant "emergency" is entirely of its own making', *The Guardian*, 23 August 2015. Available at: <https://www.theguardian.com/commentisfree/2015/aug/23/politics-migrants-europe-asylum>
4. Slovakia and Hungary advanced legal arguments to the Grand Chamber of the Court of Justice of the EU contesting one of the Decisions, and Hungary, Poland, and Czechia disregarded international obligations even after the decision of the Court of Justice which rejected the claims of Slovakia and Hungary.

5. See for instance: Radio France Internationale (2015). Marine Le Pen calls for end to legal immigration to France', 29 August. Available at: <https://www.rfi.fr/en/africa/20150829-marine-le-pen-calls-end-legal-immigration-france>; Dearden, L. (2017). French elections: Marine Le Pen vows to suspend immigration to 'protect france', *The Independent*, 18 April. Available at: <https://www.independent.co.uk/news/world/europe/french-election-s-latest-marine-le-pen-immigration-suspend-protect-france-borders-front-national-fn-a7689326.html>; Agnew, H. and Chassany, A. (2017). Le Pen steps up anti-immigration rhetoric ahead of French election', *Financial Times*, 18 April. Available at: <https://www.ft.com/content/967daaae-2412-11e7-8691-d5f7e0cd0a16>
6. Gerardo Ruiz Zambrano v. Office national de l'emploi (ONEm), (2011) ECR I, Case C-34/09, at 1177.
7. Hirsi Jamaa and Others v. Italy, Judgment of 23 February 2012, no 27765/09[GC], [2012] ECHR.
8. N.D. and N.T. v. Spain, Judgment of 13 February 2020, nos. 8675/15 & 8697/15[GC], [2020] ECHR.
9. See for instance: IACtHR, *Nadege Dorzema et al. v. Dominican Republic*, Series C No 251 (2012), para 172; ECtHR, *ECtHR, Hirsi Jamaa, and Others v. Italy*, Application no. 27765/09 (2012), para 184.

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