

Chapter 1

Refugees, Mass Uncontrolled Immigration, and NATO: The Situation in the Mediterranean Sea and the Role of the Trans- Atlantic Organization in the 2020s

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ABSTRACT

The issue of migration to Europe is one which has experienced increased salience in recent years. The symbol of this is undoubtedly the image of small, often improvised, vessels attempting to cross the Mediterranean Sea. In some cases, there have even been attempts to traverse the English Channel. The issue of securitisation is one which can best be understood through the work of the Copenhagen School and particularly the work of Bary Buzan. Therefore, this chapter analyses the various legal regimes applicable to the different NATO countries whilst operating on the high seas where the application of such regimes is more questionable. Based on the analysis of relevant areas of law, it appears that the US is better situated, at least from a legal perspective, to conduct naval operations for the protection of the European southern border than the European states themselves. However, what is legally possible is only part of the consideration, as the political will is also an important consideration.

INTRODUCTION

The issue of migration to Europe is one which has experienced increased salience in recent years. The symbol of this is undoubtedly the image of small, often improvised, vessels attempting to cross the

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Mediterranean Sea. In some cases, there have even been attempts to traverse the English Channel as well. While the sources of people attempting to reach Europe tend to be the instability of, sometimes far away, regimes - clearly unable to provide stability or security to their citizens - the result has posed questions of Europe's ability to provide stability and security themselves. This has been the case for both the European Union and the nation states of Europe more generally. However, the European Union is first and foremost concerned with economic matters, the role of security for the region has, more often than not, been the domain of NATO. Therefore, this chapter considers what role NATO, especially in its trans-Atlantic format, may play in the issue of migration in the European context during the 2020s. The securitization of migration, the legal position of various NATO countries, the political situation and the prospects for the 2020s are analyzed in order to better understand the situation and the likely future developments. At this point, it should be noted that this chapter does not seek to provide normative solutions, but rather analyzes the legal limitations and possibilities, suggesting some trends which may continue and some of the most likely outcomes for the 2020s.

THE SECURITIZATION OF MIGRATION

The issue of migration to Europe should be considered through the lenses of the securitisation process. The issue of securitisation is one which can best be understood through the work of the Copenhagen School and particularly the work of Bary Buzan. "Security" is the move that takes politics beyond the established rules of the game and frames the issue either as a special kind of politics or as above politics. Securitization can thus be seen as a more extreme version of politicization (Buzan, Wæver, and Wilde 1998, 23). By claiming the existence of an existential threat, which the failure to deal with would render all other issues irrelevant, the actor '*has claimed a right to handle the issue through extraordinary means, to break the normal political rules of the game (e.g., in the form of secrecy, levying taxes or conscription, placing limitations on otherwise inviolable rights, or focusing society's energy and resources on a specific task)*' (Buzan, Wæver, and Wilde 1998, 24).

Non-politicized	Politicized	Securitized
<ul style="list-style-type: none">● The State does not cope with the issue● The issue is not included in the public debate	<ul style="list-style-type: none">● The issue is managed within the standard political system● It is part of public policy, requiring government decision and resource allocation or, more rarely, some form of communal governance	<ul style="list-style-type: none">● The issue is framed as a security question through an act of securitization● A securitizing actor articulates an already politicized issue as an existential threat to a referent object

How this securitization occurs revolves around a securitizing actor, an existential threat, a referent object and an audience. If the securitizing actor manages to convince the audience of the the priority and urgency of an existential threat, then the securitizing actor manages to break free of procedures or rules he or she would otherwise be bound by, then this is a case of securitization (Buzan, Wæver, and Wilde 1998, 25). A diagram of this process can be seen below.

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